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# *Commission Meeting*

of

## STATE HOUSE COMMISSION

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**LOCATION:** Committee Room 1  
State House Annex  
Trenton, New Jersey

**DATE:** December 9, 2010  
9:00 a.m.

**MEMBERS OF COMMISSION PRESENT:**

Peter J. Tober, Chair  
Senator Bob Smith  
Senator Gerald Cardinale  
Assemblyman Joseph Cryan  
Assemblyman Jon M. Bramnick  
Charlene M. Holzbaur  
David A. Ridolfino



**ALSO PRESENT:**

Robert J. Shaughnessy Jr., *Secretary*

Gary A. Kotler, *Counsel*

*Meeting Recorded and Transcribed by*  
The Office of Legislative Services, Public Information Office,  
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

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(A teleconference meeting of the State House Commission was held on December 9, 2010. The member present via telephone was Assemblyman Joseph Cryan)

**PETER J. TOBER (Chair):** Let's call the meeting to order, please.

**MR. SHAUGHNESSY (Secretary):** Would you like me to provide the Open Public Meetings Act?

**MR. TOBER:** Please do.

**MR. SHAUGHNESSY:** The State House Commission is in compliance with the Open Public Meetings Act. Notice of this meeting has been given by way of notice filed with the Secretary of State, given to the State House Press Corps, and posted at the Office of the State House Commission.

The next matter would be the roll call. Special Counsel Tober.

**MR. TOBER:** Present.

**MR. SHAUGHNESSY:** Director Ridolfino.

**DIRECTOR RIDOLFINO:** Present.

**MR. SHAUGHNESSY:** Director Holzbaur.

**DIRECTOR HOLZBAUR:** Here.

**MR. SHAUGHNESSY:** Assemblyman Cryan.

**ASSEMBLYMAN CRYAN:** Here.

**MR. SHAUGHNESSY:** Thank you for your participation, Assemblyman, as well.

**ASSEMBLYMAN CRYAN:** Thank you. I appreciate it.

**MR. SHAUGHNESSY:** Assemblyman Bramnick.

ASSEMBLYMAN BRAMNICK: Present.

MR. SHAUGHNESSY: Okay. We have a quorum.

MR. TOBER: And I understand that Senator Cardinale is in transit. He got stuck in traffic, and he will be joining us in about 10 minutes.

MR. SHAUGHNESSY: Under old business -- beginning with the old business -- we have three requests by the Department of Human Services. These are annual requests that the Department of Human Services provided to the State House Commission by statute.

Item No. 1 is the county facility Rate Setting Methodology revision. The Department of Human Services is hereby recommending the following resolution for consideration of the Commission: Whereas, pursuant to N.J.S.A. 30:4-78, the State House Commission shall fix the rates to be charged to the State for clients residing in county psychiatric hospitals. Therefore, be it resolved that the proposed revision to the county psychiatric hospital State aid reimbursement methodology resulting from the language provision included in the State of New Jersey budget for Fiscal Year 2011 be adopted by the Commission.

That's the first item for consideration. Do I have a motion with respect to that matter?

ASSEMBLYMAN BRAMNICK: So moved.

MR. SHAUGHNESSY: Thank you, Assemblyman.

A second?

DIRECTOR HOLZBAUR: I'll second.

MR. SHAUGHNESSY: Thank you, Director.

Any discussion before the vote? (no response)

MR. TOBER: Seeing none, I'll ask the Secretary to call the roll.

MR. SHAUGHNESSY: Special Counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: No.

MR. SHAUGHNESSY: Assemblyman Bramnick.

ASSEMBLYMAN BRAMNICK: Yes.

MR. SHAUGHNESSY: Okay. This matter does not pass at this point.

Onto the second matter.

MR. TOBER: If we do, let's move on to Item No. 4 at the pleasure of the Chair, please. Because I see we have someone from Pensions and Benefits for the Judicial Retirement System here. So why don't we get that matter out of the way?

MR. SHAUGHNESSY: Okay. We're just going to move to new business on the agenda: Division of Pensions and Benefits requests.

First, may I have a motion by the Commission to reconvene -- or to convene, if you will, and sit as the Judicial Retirement System Board? May I have a motion?

ASSEMBLYMAN BRAMNICK: So moved.

MR. SHAUGHNESSY: Thank you, Assemblyman.

Second?

DIRECTOR HOLZBAUR: I'll second.

MR. SHAUGHNESSY: Thank you, Director.

ASSEMBLYMAN CRYAN: I apologize, it's a little hard to hear. And I'm appreciative of the Commission letting me call in. We are voting now on the judicial pensions item. Am I correct?

MR. SHAUGHNESSY: Yes, Assemblyman. We are moving to that item. There's a person here -- Mr. Gorman -- from Pensions if there are any questions.

ASSEMBLYMAN CRYAN: Okay.

MR. SHAUGHNESSY: Can you hear me?

ASSEMBLYMAN CRYAN: I heard just that we're doing judicial pensions. That's fine.

MR. SHAUGHNESSY: Yes, sir.

There's been a motion and a second to sit as the Judicial Retirement System Board. I will call the roll with regard to that.

Special Counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Bramnick.

ASSEMBLYMAN BRAMNICK: Yes.

MR. SHAUGHNESSY: Okay. We are now sitting as the Judicial Retirement System Board.

First, with regard to the Judicial Retirement System matters, Item No. 1 for us to consider is approval of the minutes of the meeting held on December 17, 2009.

May I have a motion there?

ASSEMBLYMAN BRAMNICK: So moved.

MR. SHAUGHNESSY: Second?

MR. TOBER: I'll second.

MR. SHAUGHNESSY: Okay. I will take the vote. Special Counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Abstain.

MR. SHAUGHNESSY: Assemblyman Cryan?

ASSEMBLYMAN CRYAN: I abstain, I wasn't here.

MR. SHAUGHNESSY: Abstain.

ASSEMBLYMAN CRYAN: I abstain on those minutes.

MR. SHAUGHNESSY: Assemblyman Bramnick.

ASSEMBLYMAN BRAMNICK: Yes.

MR. SHAUGHNESSY: Okay.

ASSEMBLYMAN CRYAN: Are you all right, or--

MR. SHAUGHNESSY: That matter is approved based upon the statutory provisions.

ASSEMBLYMAN CRYAN: Okay.

MR. SHAUGHNESSY: No. 2 on the Pensions and Benefits requests: confirmation of the death claims, retirements, and survivor benefits. Is there a motion on that matter?

ASSEMBLYMAN BRAMNICK: So moved.

MR. SHAUGHNESSY: Thank you.

Second?

MR. TOBER: I'll second.

MR. SHAUGHNESSY: Call the roll. Special Counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Bramnick.

ASSEMBLYMAN BRAMNICK: Yes.

MR. SHAUGHNESSY: That matter is approved.

The last matter with regard to the Division of Pensions and Benefits requests is approval -- review and approval -- of the financial statements as of May 31, 2010, as provided and contained in the members' packages.

May I have a motion to approve those financial statements?

ASSEMBLYMAN BRAMNICK: So moved.

MR. SHAUGHNESSY: Second?

DIRECTOR HOLZBAUR: I'll second.

ASSEMBLYMAN CRYAN: Can I ask a question on that?

MR. TOBER: Certainly, Assemblyman.

MR. SHAUGHNESSY: Yes, Assemblyman.

ASSEMBLYMAN CRYAN: We have someone here from the Division of Pensions, right?

MR. SHAUGHNESSY: Yes, we do.

ASSEMBLYMAN CRYAN: All right, so can they give us, in a summary context, the status of this pension system?

MR. TOBER: Certainly, Assemblyman. I'll ask the gentleman to come up in just a moment, please.

**P E T E R J. G O R M A N:** My name is Pete Gorman. I'm with the Division of Pensions and Benefits.

I don't-- I'm not sure I clearly understand your question, Assemblyman.

ASSEMBLYMAN CRYAN: Pete, do we have, in this financial statement, any indication that this system is somehow either relatively -- say within the next two decades -- going broke or has any financial concerns that should be an awareness to the Commission?

MR. GORMAN: I don't think there's any indication there of going broke in the very near future. I mean, the investments are down, obviously, as they are in all, because, basically, they were in securities. But me, personally, I wish I were in there to collect it. (laughter) Because I

think it is fairly stable. It's not as well as it was a year or two ago, but it is-- I wouldn't worry about it if I were a sitting judge or a retired judge.

ASSEMBLYMAN CRYAN: That's all I needed, Pete. Thank you.

ASSEMBLYMAN BRAMNICK: I do have a follow-up question.

MR. TOBER: Please, Assemblyman Bramnick.

ASSEMBLYMAN BRAMNICK: When you say *worry*, are you talking about worried in the short-term or worried in the long-term, or both?

MR. GORMAN: I think on both, Assemblyman. In the beginning I think it was always effective until they started basing the value on securities rather than the book value. So short-term and from the very beginning also -- which in this system was relatively short compared to the teachers' union or PERS, which go back to the '20s.

ASSEMBLYMAN BRAMNICK: So you feel comfortable even about the long-term viability of this specific plan. Is that correct?

MR. GORMAN: I personally do. I don't think they're in a bankruptcy-tomorrow kind of situation. And I think in the long run that will hold up -- the investments.

ASSEMBLYMAN BRAMNICK: Thank you.

MR. TOBER: Any more questions for the representative from the Division of Pensions and Benefits? (no response)

Seeing none, I'll ask the Secretary to call the question.

MR. SHAUGHNESSY: Okay. This is with regard to the Division of Pensions and Benefits requests, specifically the approval of the

financial statements as of May 31, 2010. I will call the roll. We've had a motion and second on this. Special Counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Bramnick.

ASSEMBLYMAN BRAMNICK: Yes.

MR. SHAUGHNESSY: That matter is approved. Thank you very much.

Now, we jumped ahead to--

Thank you very much, Counselor.

MR. GORMAN: Happy holidays.

MR. TOBER: Thank you.

MR. SHAUGHNESSY: Thank you, Mr. Gorman.

We need a motion to reconvene as the State House Commission.

SENATOR SMITH: So moved.

MR. SHAUGHNESSY: Second?

ASSEMBLYMAN BRAMNICK: Second.

MR. SHAUGHNESSY: Special Counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Bramnick.

ASSEMBLYMAN BRAMNICK: Yes.

MR. SHAUGHNESSY: We're now sitting back as the State House Commission.

Mr. Chair, we're returning to Item No. 1. Is that it? I believe--

MR. TOBER: Just for the benefit of the Senators, we had taken Item No. 1, and that matter failed by a vote of four to one, needing five votes in the affirmative. Let's go on with Items 2 and 3, and then perhaps we can revisit one if need be.

MR. SHAUGHNESSY: This is Item No. 2 on the agenda. Again, it's a Department of Human Services request for State facilities calendar year 2011 payment rates.

Pursuant to Title 30:4-78, the State House Commission shall fix the rates to be charged to counties for various clients residing in State institutions and programs. The rates are set forth in the members' agenda packets. And I will ask for a motion on Item No. 2, please.

ASSEMBLYMAN BRAMNICK: So moved.

MR. SHAUGHNESSY: Is there a second?

DIRECTOR HOLZBAUR: I'll second.

MR. SHAUGHNESSY: Okay. We have a motion and a second.

ASSEMBLYMAN CRYAN: Is there a discussion?

SENATOR CARDINALE: May I ask a question?

MR. TOBER: Absolutely, Assemblyman.

MR. SHAUGHNESSY: Yes. Thank you.

Senator.

SENATOR CARDINALE: It seems to me -- and maybe I'm misinterpreting what I've read -- that these rates would be dependent on Item 1.

MR. TOBER: Absolutely.

SENATOR CARDINALE: The formula determines how we're going to get to this. So if Item 1 hasn't yet been dealt with, how can we--

SENATOR SMITH: Why don't we go back to Item 1?

MR. TOBER: We can go back to Item 1 if that's the pleasure. Absolutely.

SENATOR CARDINALE: I'm sorry to have been late, but I hit a pocket of unexpected traffic.

MR. SHAUGHNESSY: We received your message, Senator. Thank you.

Okay. We're on Item No. 1, which is the Department of Human Services request for a county facility Rate Setting Methodology revision. I believe I previously read it into the record, but I will do it one more time.

The Department of Human Services is hereby recommending the following resolution for consideration of the Commission: Whereas, pursuant to N.J.S.A. 30:4-78, the State House Commission shall fix the rates to be charged to the State for clients residing in county psychiatric hospitals. Therefore, be it resolved that the proposed revision to the county psychiatric hospital State aid reimbursement methodology resulting from the language provision included in the State of New Jersey budget for Fiscal Year 2011 be adopted by the Commission.

Do we have a motion--

Did we have a motion before on that?

MR. KOTLER (Counsel): Yes.

MR. SHAUGHNESSY: We had a motion and a second.

SENATOR SMITH: Why don't we have a discussion?

MR. SHAUGHNESSY: Fair enough, Senator.

SENATOR SMITH: My recollection of the last meeting was that Senator Cardinale and Assemblyman Cryan had asked for additional information about the rate-setting process and some comparison. I think the one comparison that was asked for was: How do these rates compare with last year's rates, and why are there changes? So can we have the gentlemen who are witnesses on this give us those answers?

MR. TOBER: We have folks from Human Services here, Senator, so I call them up at this time, please.

MR. SHAUGHNESSY: Would you please introduce yourselves?

J O E L T E B E E S T: Joel Tebeest, Human Services, Acting Finance Director.

M A R K S T E I N: Good morning. I'm Mark Stein, from the Department of Human Services, Bureau of Rate Setting.

A C T I N G A S S T. C O M M. V A L E R I E L A R O S I L I E R E: Good morning. My name is Valerie Larosiliere. I'm the Acting Assistant Commissioner for the Division of Mental Health Services.

SENATOR SMITH: First question: How do we compare to last year's rates?

MR. TEBEEST: In the packages we passed on to you -- Package No. 2 -- regarding the county facilities-- I'm sorry, they're asking about State facilities first?

SENATOR SMITH: Yes, was this passed around today, or did we receive this--

MR. TEBEEST: This was-- Last week we sent it out.

SENATOR SMITH: Somehow we didn't bring down our package today. So I apologize for that.

Could you just describe for me how the rates differ by the institutions?

MR. TEBEEST: I'm having a very hard time hearing with the noise behind us.

SENATOR SMITH: Could we close that door?

MR. KOTLER: The door cannot be closed. This is an open public meeting, and the door must be open.

SENATOR CARDINALE: No, that's ridiculous. We close doors all the time. We don't lock them.

MR. SHAUGHNESSY: Can we put a sign on the door or something?

MR. KOTLER: I think if you had a sign on the door that would satisfy.

ASSEMBLYMAN BRAMNICK: Is that really statutory?

MR. KOTLER: Yes.

ASSEMBLYMAN BRAMNICK: It says a door must be physically opened?

SENATOR CARDINALE: Well, for 30 years I've been going to meetings where the doors have--

ASSEMBLYMAN BRAMNICK: I'm going to take that bill and amend it. That's mine. (laughter)

SENATOR SMITH: Well, maybe we'll just speak up a little bit louder.

How do the rates that are proposed this year differ from the rates last year? And I know you gave us a package. I apologize. Somehow my State House Commission package didn't end up with me today.

MR. TEBEEST: The rates for calendar year '11 for the six county psychiatric hospitals are almost entirely lower than calendar year '10.

SENATOR SMITH: And why is that true?

MR. TEBEEST: There are a few reasons for that. Our rate-setting process is a cost-basis process. For calendar year '11, we're setting an estimate of what we believe the ultimate cost will be for '11. How do we base that? According to our methodology, we use the most recent actual cost available to us. In this case it's calendar year 2009. These are cost reports prepared for Medicare. That is the starting basis of this cost. We then apply the two-year inflationary adjustment.

Right off the bat, calendar year '09 costs came in lower than calendar year '08. We believe that is associated with the larger economic downturn in New Jersey and that this has impacted all of our hospitals just as it's impacted the State of New Jersey.

SENATOR SMITH: That is counterintuitive, because you would think that the costs would be higher in a recession, that you would have more constituents in the facilities because of the downturn -- greater stress on families, that kind of stuff. So that's kind of surprising.

But it's actually based on the costs that were turned in by the institutions?

MR. TEBEEST: That's correct.

SENATOR SMITH: All right. Now, these are the reimbursement rates, right?

MR. STEIN: To answer your question, Senator, yes, the counties bill the State for these rates. And then the State--

SENATOR SMITH: And you said in almost all cases they're lower. Is there a percentage? If you averaged across the board, what would the percentage be compared to what -- last year or this year's reimbursement rates? A few percent, 10 percent, 20 percent?

MR. TEBEEST: The overall percentage.

SENATOR SMITH: Overall, and a guess.

MR. STEIN: I'm not sure that you can -- that we've computed a percentage like that. But I would say approximately 10 percent. It would vary.

SENATOR SMITH: About 10 percent lower.

MR. STEIN: If you look at a smaller facility -- might have a larger or a smaller decrease versus the larger facility that receives more State aid -- might skew the average. But generally, approximately 10 percent.

SENATOR SMITH: Okay. Which of those institutions takes the biggest hit, and how big is that hit?

MR. TEBEEST: I think Burlington took the largest decrease.

MR. STEIN: Well, I would say that Burlington being the smallest of the facilities with only 30 beds, percentagewise has the largest decrease. But in terms of dollars, it would probably be the smallest impact, financially.

SENATOR SMITH: All right, in terms of dollars, which institution takes the biggest hit?

MR. STEIN: I don't have that calculation. I can compute it. I would say that it would be one of the larger facilities like Essex County or Bergen Regional.

SENATOR SMITH: The fact that you base the rates on the actual costs is somewhat consoling. But let me ask you: Do we notify the institutions of the meeting of the State House Commission to set rates? I would love the opportunity-- I would love, if not today, in the future, to

give them the opportunity to be here so that if there's an issue with the rates, they can say, "We have an issue."

MR. STEIN: There's a process that takes several months over the summer where during the course of our review of the county cost report, there's information exchange leading up to the rate calculation which is then shared with the counties for their comment and review prior to recommending the rate to the State House Commission. So we try to ensure that they have a comfort level with the rate.

SENATOR SMITH: All right, in that process-- This time around, was there anybody -- any institution that was "uncomfortable?"

MR. STEIN: No.

SENATOR SMITH: No protests?

MR. STEIN: I received no negative feedback. They responded that they were in agreement with the rate. And in one case, they were pleased that there weren't other changes made to the sharing percentage -- the ratio where the county is responsible for 15 percent. They were glad that that didn't change. They realize that we're under some difficult financial times. And that was -- there is a mutual give-and-take understanding, I believe.

SENATOR SMITH: Right. Do we do this every year?

MR. TOBER: It's an annual request, Senator.

SENATOR SMITH: Could I throw the suggestion out to the State House Commission that, in the future -- and I understand we're under a little bit of time pressure here to get this done before the end of the year, as I understand it -- but in the future, perhaps, when we do this annually -- that we notify the institutions and say, "If there are any comments, please

come or please send them in writing.” And the only reason for that is, if I’m a county institution -- you may feel that it’s just not even worthwhile raising the objection or if -- that somehow that might hurt you.

But I’d really like to know that we’re not doing harm. When you tell me it’s based on the actual costs, like I said, that does console me that there’s reality to these numbers. But the flip side to that is there may be exceptional circumstances that are not being recognized as well. And in the future, I’d like to give the institutions the opportunity to have some input. So I’d like to suggest that for the future.

I have no further questions on this.

MR. SHAUGHNESSY: One point of clarification: I think that’s a good idea. I don’t know whether staff -- the State House Commission -- would be doing that or if DHS should be doing that.

SENATOR SMITH: DHS.

MR. SHAUGHNESSY: Or if they could provide a certified list that these are the institutions that are affected and the addresses. That’s one thing that DHS should do as part of their process beginning next year.

SENATOR SMITH: Great. I think that would improve the process.

MR. SHAUGHNESSY: Would DHS be willing to do that; either notify the institutions and provide us with the exact identities and addresses and locations?

MR. TEBEEST: Sure.

MR. SHAUGHNESSY: Which one?

SENATOR SMITH: And it’s *sure* to which one? There were two suggestions: one, that you do the notification and then show us that

you had notified; or secondly, that you would give us the list in enough time for us to do the notification.

MR. TEBEEST: This is to notify the hospitals -- the counties -- of this meeting and the opportunity to come forward.

SENATOR SMITH: Right, and say, "If you want to come forward, you're welcome to provide testimony."

MR. TEBEEST: I'm open to either possibility.

MR. STEIN: I think we'd be happy to notify. I have contact with the counties on a regular basis. And as far as when we're sharing the draft rates, I can let them know when the scheduled meeting is. That wouldn't be a problem.

MR. SHAUGHNESSY: Does that satisfy the Senator?

SENATOR SMITH: It does. You know, make sure when you come next year that you can show you did notify them. Because I'm going to ask. God willing I'm around, I'm going to ask you that question. Show me that you did notify them.

MR. STEIN: Yes, sir.

MR. TOBER: Senator Cardinale.

SENATOR CARDINALE: Thank you.

Let me see if I totally understand this before I go into my questions. We are dealing today, as I understand it, with a reimbursement rate for the past year. These costs have already been incurred, and now we are going to reimburse these facilities. Is that correct? This is not for next year's expenditures. It's for this year's expenditures.

MR. TEBEEST: This is for this coming calendar year '11 expenditures.

SENATOR CARDINALE: Oh, it's for '11 expenditures. Okay. So I did not understand.

MR. TEBEEST: We are estimating what the real costs for calendar year '11 will be. How are we doing that? We're using most-recent actual costs, which is calendar year '09; we're inflating it using standard inflationary factors available to us. And that becomes the estimated rate for calendar year '11. We reimburse at that rate all year long. Two years from now, when we're doing the calendar year '13 estimated rate, we will build in any adjustments to calendar year '13, plus or minus, based upon the cost -- real cost experience in '11.

SENATOR CARDINALE: So that if we did not approve this today, we would just create an uncertainty on the part of the counties for -- with respect to how they were going to be reimbursed -- the basis of the reimbursement. Is that correct?

MR. TEBEEST: That's correct.

SENATOR CARDINALE: Okay. Is the 85 percent -- is that established by the statute of 1990, or do we have flexibility as to the 85 percent?

MR. TEBEEST: I believe the recent State appropriation set the reimbursement rate at 85 percent for the State.

SENATOR CARDINALE: So it's the budget bill that sets the 85 percent.

MR. TEBEEST: Yes.

SENATOR CARDINALE: Okay. Looking at what has been submitted to us, it says that the cost of depreciation and interest are included as a result of the 1990 statute. Now, did that statute say we had

to include the cost of depreciation, or is that cost of depreciation a determination that was made by either the Commission or the Department based on the general principles of that statute? In other words, do we have flexibility as to whether to include depreciation and interest or a percentage of depreciation and interest, or must it be all of the depreciation and interest? I'd like to know how that works. What is our flexibility?

MR. TEBEEST: We're not sure if the statute required depreciation and interest. We do know the statute suggests reasonable cost. The methodology before us is an attempt to identify reasonable cost.

MR. STEIN: Sir, the revision in the law and methodology dates back to 1991. And at that time, depreciation and interest was added. At that time, the intent was to--

SENATOR CARDINALE: I see that you have indicated in your submission to us that going from the year 1991-- As a result of the statute, you have-- And you don't say *as a result*. It says, "In accordance with the revised legislation, the following significant changes are incorporated." And you started incorporating interest and depreciation in 1991. Now, I don't know whether the statute specifically required you to do that or whether you took the language of the statute and interpreted it, in some way, to do that. And you thought that it was reasonable.

MR. STEIN: Right, that's what we're unclear about at this point.

SENATOR CARDINALE: Okay. So I think we should get an answer to that -- whether we have the flexibility to include interest and depreciation, which are variable from one county to another. If you recall, my question at the last meeting was directed to why do we have such a wide

disparity in costs from one county to another? And we could not relate that to geographical costs of-- These costs were a very, very wide discrepancy.

You go on in your submission to say that the per capita cost rates will be developed using reasonable client-care related actual costs and statistical data without out the intervention of any capping or screening mechanism unless required by State law. Under existing law, could we have a capping mechanism or a screening mechanism with respect to these costs?

MR. TEBEEST: Well, under existing law for State Fiscal Year '11, we do have a capping mechanism. It was introduced with the fiscal '11 appropriation. And it suggested that county hospital rates should not exceed the average rate of State institutions. When we applied that new mechanism, we found that two of the six county hospitals were impacted: Hudson and Union.

MR. STEIN: That's right.

MR. TEBEEST: It was a relatively minor impact, but it was an impact.

SENATOR CARDINALE: Now, I don't know if I understood what you just said exactly. Let me see if I can ask another question to clarify it. We have a State cost for State institutions. I think you indicated just now that '11 budget requires that the counties not exceed the State cost.

MR. TEBEEST: That's right.

SENATOR CARDINALE: It seems to me that they do exceed the State cost significantly from what I see in the later items. I think one of them is around \$700 a day, whereas the State cost is less than \$400 a day.

MR. STEIN: The language provision that requires that comparison also requires that we remove the cost of depreciation and interest, as well as prior-year carry-forward adjustments that are included in the rates for both so -- to get more of a net comparison between the two. So a rate that you see for the county facility that is higher may have higher depreciation or higher carry-forward cost. In the case of Essex County, when those costs were removed and then compared to the State facility rates, the Essex rate was no longer above the State average rate. So it depends on how you look at it.

SENATOR CARDINALE: I got it. So then, pretty much, this is all going to be dependent on the first question we were addressing, which is whether we have any flexibility with respect to -- in existing law -- with respect to whether or not depreciation and interest are going to be included. Is that accurate? That's the defining factor as to how these rates are going to differ from one another in these institutions.

MR. TEBEEST: Well the depreciation and interest is included in their rate.

SENATOR CARDINALE: I understand. I understand that that's the present methodology. My basic question really was: Does it have to be that way under existing statute? My overall problem with this formula is that it results in widely disparate rates from one institution to another. And my impression, as a general impression of all governmental costs, is where someone else is paying the bill -- namely the State paying most of the bill -- we do not encourage the more local units of government to act in the most cost-efficient manner. So my suggestion was going to be: Could we develop -- or my question was going to be -- could we develop a

formula that reimbursed the county facilities or any other facilities that we're reimbursing on the basis of a rate that was calculated as the reasonable cost -- perhaps with some regional adjustments -- of providing these services in a facility that was run adequately? And if the Department could develop that kind of cost, and reimburse at that rate to everyone, then we would be encouraging efficiency -- cost efficiency on the part of the other institutions that are receiving the reimbursement.

Is such a thing permissible within existing statutes, or do we have to pass another law to do that?

MR. TEBEEST: I guess we're not sure. I do have a few thoughts on that. Number one, when it comes to depreciation and interest, certainly a hospital like Essex has much higher depreciation. They also just bought a -- built a hospital at current costs. Do we want to discourage that type of activity, which is a hospital's need to upgrade or rebuild? And that creates quite different scenarios from one facility to the next.

Also, in terms of efficiency, I thought a little bit-- I know you brought this up at the last meeting. I thought a little bit about what does motivate efficiency with these hospitals. And a few things come to mind. Although the State picks up 85 percent of the cost of the large part of the county facility caseload, the remaining 15 percent of the cost does represent a significant county expense. Also, in recent years, the county sharing participation has increased from 10 percent to 12.5 percent, and then most recently 15 percent. This has likely impacted county facility spending practices. Then there's the general economic downturn in the State. We think that has impacted county spending decisions. We've seen evidence of various cost-cutting measures, like overtime reduction initiatives, hiring

freezes. We note that calendar year '09 actual combined cost of all six facilities was less than calendar year '08. We suspect that a good part of that was an effort by the counties to reduce costs. And then now, in State Fiscal Year '11, we've introduced a rate-capping mechanism, so yet another incentive to try and curb spending. So there are a number of reasons why counties need to think about cost. So I'm not suggesting that we shouldn't do more and we don't need to think about it from other angles. But I wanted to make sure you understood what's been done so far. And certainly we can research the issue of whether depreciation and interest must be included in the rate according to State law or whether we have some flexibility.

SENATOR CARDINALE: Your answer is very helpful. I greatly appreciate the fact that you're thinking about some of these items. It does occur to me that even if depreciation and interest are to be included-- And I think you make a very valid point that those facilities -- we don't want to discourage upgrading facilities where it's appropriate -- that somehow there could be a mechanism for the reimbursing party -- namely the State -- to make a determination as to whether facilities need to be upgraded; and to what extent and what kinds of costs should be legitimately involved, so that someone doesn't just build a palace while some other place, perhaps, builds a less-palatial facility. And I am not criticizing any facility that has been built, nor am I categorizing any existing facility as a palace. I just worry about-- When I see costs that are 70 percent more in one place than another, it triggers my interest in getting to the bottom of why that is so. And that's what prompts all of these questions.

ACTING ASSISTANT COMMISSIONER LAROSILIERE: If I might respond to your comments, Senator. As it relates to new facilities, the Department is involved in-- If a hospital would like to build a new hospital or have some capital improvements, there is a process that that has to be approved through the Department so that it's not -- so that the counties don't just have the prerogative to do that without the Department's involvement if they want participation as it relates to the cost. So there are some controls there.

SENATOR CARDINALE: Thank you.

ACTING ASSISTANT COMMISSIONER LAROSILIERE: We're involved in the planning process. We review the plans, and we determine whether or not it's reasonable and necessary.

SENATOR CARDINALE: Thank you.

I think you already answered Senator Smith's question that you come before us each year to get approval of the formula which will-- We're at December, and these costs are going to start to be incurred in January. I would hope that next year the process can be closer to the beginning of the year. Is that possible for you to come to the Commission before we're under the gun of creating chaos if we don't act?

MR. STEIN: Typically we're prepared to come before the Commission sometime during the fourth quarter of the calendar year. And I guess in previous years that's typically been in December, although it was earlier, initially, this year. But because of the process that goes on with counties reporting by June 1 and the review -- and the whole process doesn't allow the rates to be ready before later in the year. So I don't know how--

SENATOR CARDINALE: I thought you said that these rates are based on an upgrade of '09 actual costs.

MR. TEBEEST: That's right.

SENATOR CARDINALE: Is that not correct? So when will you have '10 actual costs from the counties?

MR. STEIN: They would be due June 1 of 2011.

SENATOR CARDINALE: I see.

MR. TEBEEST: Then we need time to review them, need time to interact with the counties. A question and answer process takes place. So, I mean, we could certainly attempt to come to you earlier than we have in the past, but I don't know how much earlier. How often does the Commission meet?

SENATOR CARDINALE: We can meet any time at Mr. Tober's suggestion.

MR. TEBEEST: I mean, this year we came to you in November. That seemed to work okay. I don't know if October is at all possible. But we'd certainly consider that.

SENATOR CARDINALE: The suggestion that I was going to make, which I am going to hold until next year -- because I do not want to create chaos, and I realize that it would create chaos -- is that the Department develop a formula, if it's permissible under the existing statutes, that reimburses every hospital at a regionally-adjusted rate; but the same rate for all the hospital and reimburses a percentage of that rate in the alternative -- develop a formula where you have a declining reimbursement as the costs go beyond a rate which you have determined to be a reasonable rate.

For instance, the Department of Education determines each year what is the reasonable cost of providing a thorough and efficient education on average in New Jersey. And that has nothing to do with Abbott. That is just a reasonable cost. And it has always occurred to me that any reimbursement that we gave -- which we do not do -- should be based on that cost, not on actual costs. And the actual costs are, in some districts, two and three times that. Because there is no incentive on the part of any of those districts to act within what the Department has determined to be a reasonable cost.

And we have a somewhat analogous situation here. We're not dealing with numbers that are quite that large. We're not dealing with disparities of the same magnitude. But it's an analogous situation. That's what made me think of this when--

Do you think that there is some possibility that you could think about that and before you come up with actual formulas, you could report back to us whether that is feasible or not?

MR. TEBEEST: That's certainly worth considering. I think the struggle will be that when you move from a system of actual cost to what you believe to be reasonable costs, usually you look for a market that can tell you what that reasonable cost is. Now, we have a system here where we're looking at six county hospitals, so it's a relatively small number of facilities that are probably very different types of facilities.

So, absolutely, we would like to look at that and like to consider all possible ways to determine what is reasonable cost. But I think that's the struggle -- is that it's a relatively small system and very different facilities. That's where the difficulty is.

SENATOR CARDINALE: Well, only if you base what you think is reasonable on the actual experience of those facilities. But you have the ability to look at the State facilities and perhaps use them as a pattern and say, "If the State can do it for \$1,000, why can't the county do it for \$1,000." That's what's going through my head. If the State has X cost-- And you seem to have indicated that if you take out this depreciation and interest, that they are all relatively the same. I don't know whether that's true, but I've heard that that's what you said -- that that's the factor that makes the difference from one to the other. And that may make the whole case moot, especially if we don't have the authority, under the 1990 statute, to disregard that or to alter how we reimburse for that.

MR. TEBEEST: I don't think they're the same if you take depreciation and interest out. The depreciation and interest happens to be a large item that can differ quite a bit. But there are other costs that can differ.

SENATOR CARDINALE: Well, perhaps we should take a look at that. Do you think it's feasible for you to come back in three or four months with a suggestion as to whether that's doable without additional legislation, whether additional legislation might be required in order to give you the flexibility to reimburse -- on a basis that might create more, sort of, competition for being efficient?

MR. TEBEEST: Yes, I'd be willing to try that.

SENATOR CARDINALE: Thank you.

MR. TOBER: Any other discussion or questions for these witnesses?

ASSEMBLYMAN CRYAN: I do. Is that all right?

MR. TOBER: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: All right. Time wise -- and I apologize. It's a little hard to hear. So if I ask a question that was heard before, I apologize to the Commission and to the folks who are speaking.

First off, the fellow who is doing most of the talking there -- whose name I didn't catch -- did you say that the counties have responded back to your requests without any complaint? Did I get that right?

MR. STEIN: Yes, I did send out the draft rates to all the counties, and they responded that they were in agreement with those rates, or they were at least accepting that--

ASSEMBLYMAN CRYAN: So we're clear, you and I must just talk to different people. But are we -- and I have to ask this for the Commission -- are we simply dealing with still No. 1 here, or are we on two and-- Is this as a package?

MR. TOBER: We're on No. 1, Assemblyman.

ASSEMBLYMAN CRYAN: Okay. In the methodology that you use with the rates that you set, is there anywhere in this process that talks about the impacts of the rate that you set to the actual consumer in each hospital? And I guess let me preface this way: I don't believe anybody goes to a psychiatric hospital because they want to, or it's palatial, or any of those sorts of things. They go because they need treatment. Can you explain to me anywhere in this methodology that explains the impact of the rates to the actual consumer of the care? Is there any discussion of that anywhere?

MR. TEBEEST: Not in these packages.

ASSEMBLYMAN CRYAN: Okay. Because I don't see any in this package either, which is why I voted no. Can you tell me, as well, in this methodology, under the current situation-- You're back and forth, as I understood -- and correct me if I'm wrong; I'm trying to follow along -- that this process started in June and went somewhere through the third quarter or early fall, and then you were ready for the Commission. Is that correct?

MR. TEBEEST: Yes.

ASSEMBLYMAN CRYAN: Okay. Are you aware -- and this is more toward sections -- I guess Nos. 2 and 3-- Are you aware that counties have a property -- have a tax cap at this point that's been part of the Legislature's and Governor's process? Are you aware of that?

MR. TEBEEST: Yes.

ASSEMBLYMAN CRYAN: Okay. In any of these discussions with the counties, was there any mention at all of the potential impact of the fiscal situation as it's relevant to current law in terms of the cap?

MR. TEBEEST: No.

ASSEMBLYMAN CRYAN: Okay. So in the methodology process, we don't have anything that talks about the current fiscal condition to each of the consumer counties, as well as the impact to the actual consumer who needs the care at the end of the day? Is that correct?

MR. TEBEEST: Well, let me just say that we're -- we've got a system here that develops actual cost.

ASSEMBLYMAN CRYAN: Well, Senator Cardinale questioned some of that. But this isn't-- At the end of the day, this isn't-- You can talk cost all you want, this is really about people, which is what government is still about. And my problem here with this formula, so that

the Commission understands my no vote, is that it doesn't show anything to any member who is voting the actual impact to the consumer. And also in this day and age, as laws have changed and there's a fluid situation to it, I find it rather startling -- and we'll do this when we get to two and three -- where there are rate increases of 17 percent or more and no discussion back and forth on the methodology of the cap.

So I wanted to give the Commission why I voted no, what my objection is. I know it's the legislative process. It's my first time on the State House Commission. We'll see what the future brings. But that's why I vote no. I think it's wrong to just simply look at numbers and not the consumer.

ACTING ASSISTANT COMMISSIONER LAROSILIERE:  
May I respond?

MR. TEBEEST: Absolutely.

ACTING ASSISTANT COMMISSIONER LAROSILIERE:  
Assemblyman Cryan, my name is Valerie Larosiliere. I'm the Acting Assistant Commissioner.

There is a process also that we undergo at the Division of Mental Health with each of the county hospitals on an annual basis. And that is a review of the financial management plan. And in that plan we had discussions with-- The hospitals submit what their plan of services will be for the upcoming year, and we enter into dialogue with them about that. So discussions--

ASSEMBLYMAN CRYAN: Okay. Then let me formally request that you send us any document that shows the impact to the care based on this cost methodology this year.

ACTING ASSISTANT COMMISSIONER LAROSILIERE:  
You want a copy of each of the financial--

ASSEMBLYMAN CRYAN: I'd like to know what the impact to the actual consumer of the care is. If you have it, and you have a dialogue, I'd like to see the document. Fair enough?

ACTING ASSISTANT COMMISSIONER LAROSILIERE:  
Yes, fair enough. I can forward to you the financial and management plans.

ASSEMBLYMAN CRYAN: Great. Thank you.

That's it for my questions. Thank you, members.

ACTING ASSISTANT COMMISSIONER LAROSILIERE: Do  
I forward that to you?

ASSEMBLYMAN CRYAN: Forward it through the head of the  
Commission if he wants it -- whoever wants a copy. That's fine by me.

MR. SHAUGHNESSY: We'll disseminate it to all the  
members of the Commission.

SENATOR SMITH: Mr. Chairman, if there's no further  
testimony, I would move the issue.

MR. TOBER: Anything further, Assemblyman?

ASSEMBLYMAN CRYAN: Not from me, no.

MR. SHAUGHNESSY: Okay. We have a motion.

SENATOR CARDINALE: May I?

MR. SHAUGHNESSY: Yes, Senator.

SENATOR CARDINALE: On discussion of this-- I was  
prepared to vote no, but I understand that that will create a significant  
problem. If we can have an assurance that we will get some suggestions  
perhaps by the second quarter with respect to alternative formulas that

would be used in the future that still comply with the statute of 1990 -- and I think you know what I'm looking for in those formulas -- then I would be prepared to support this for this year. And it may be that there are no alternatives that we have. And if you determine that and we see that some legislation is needed to perhaps give you more alternatives, we can talk about introducing some other legislation that does give you more flexibility to encourage costs that are more evenly based from one county to another.

So I would be prepared to vote yes on that condition, if the sponsor of the motion accepts that addition to his motion.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. TOBER: There's been a request by Senator Cardinale that you amend your motion to approve the item to include his condition.

SENATOR SMITH: The condition being that they're reporting back on alternative methodologies?

SENATOR CARDINALE: Yes.

SENATOR SMITH: Not a problem.

MR. SHAUGHNESSY: We have a motion. Is there a second to that motion?

SENATOR CARDINALE: Second.

MR. SHAUGHNESSY: Okay. I will call the roll. Special Counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: No.

MR. SHAUGHNESSY: Assemblyman Bramnick has indicated to the Chair he votes yes on this and the remaining items. That motion is approved.

The next matter is Item No. 2 on the agenda. That is State facilities -- calendar year 2011 payment rates. Pursuant to Title 30:4-78, the State House Commission shall fix the rates to be charged to counties for various patients residing in State institutions and programs. The rates have been provided in the members' agenda materials.

Do we have a motion on that matter?

SENATOR SMITH: So moved.

MR. SHAUGHNESSY: Thank you, Senator.

Second?

DIRECTOR HOLZBAUR: I second.

MR. SHAUGHNESSY: Thank you, Director.

I'll call the roll on that.

ASSEMBLYMAN CRYAN: Are we on Item 2?

MR. SHAUGHNESSY: Yes, sir.

MR. TOBER: Yes. Discussion on Item 2?

ASSEMBLYMAN CRYAN: Can I ask a question about Item 2 particularly?

MR. SHAUGHNESSY: Absolutely, I'm sorry.

ASSEMBLYMAN CRYAN: And I apologize again if you guys are ahead of me. I'm on the page -- it's about the third one in -- it's the approved rates and the recommended rates. It's the chart with the psychiatric hospitals -- 382 to 449 are the first numbers in the first two columns. It's the third page in.

MR. STEIN: Yes, we're with you on that.

ASSEMBLYMAN CRYAN: Okay. The explanatory notes say in the first paragraph that there's a 9.6 reduction in the average patient census -- it's in the last sentence -- including 20 percent at Ancora. I don't know the population mix, but can you explain to me on the next page, on the resident days, under 8, how-- Can you explain to me how those adjustments to the base rate days are done? Because it looks like if those populations are down, are those numbers still right?

MR. STEIN: Okay. What's shown under No. 8, resident days: The FY '09 resident days base year is the actual resident days. That number is down 9.6 percent relative to the prior base year, which was a total of -- if my memory serves me -- about 173,000. So we have the decrease in the base year. What's shown as 8B, adjustments to base year resident days, represents continued decline as the Division of Mental Health tries to lower the census. That is more projections and based on reality that has occurred through the current year as we monitor our census at our facilities.

ASSEMBLYMAN CRYAN: Okay. All right, I guess I follow along with that.

And just going back to the previous page, the page with the charts, I just want to be clear. The percent change represents -- in column four -- an increase of cost per day to the county itself. Is that correct?

MR. TEBEEST: Cost per day, yes.

ASSEMBLYMAN CRYAN: And all of the-- At least the first four -- *A*, *B*, *C*, and *D* all represent a higher figure than 2 percent. Is that correct?

MR. STEIN: That's right, yes.

ASSEMBLYMAN CRYAN: Thank you.

MR. SHAUGHNESSY: Any other questions or discussion?

SENATOR CARDINALE: I would just like to observe that I have the same concerns as the Assemblyman. When I see increases of 17 percent-- Can you, in a simple way, explain why one goes down 5 percent and another one goes up 17 percent?

MR. STEIN: Largely the reason -- and our State hospitals and State developmental centers -- is decline in the census where you have fewer residents remaining in the facilities to effectively share the costs on a per diem basis. Just look at it if you were sharing your rent with two other roommates, and it was \$1,000 a month. If you lose one of your roommates, your rent goes from \$333 up to \$500. It's sort of a factor of the decline in census. Although there are some cost increases, such as the new Greystone facility that was built, the increase in depreciation and interest -- with that it's approximately \$10 million per year -- that goes into the mix of the total average cost to these facilities. And you have a total average decline in the

census. So it skews the rate increase percentage. It is a larger increase than we normally see from one year to the next.

Also playing into that as well is what we've talked about: the prior year carry-forward adjustment, where you are adjusting to actual cost. And there is an increase there. It's indicated in the explanatory notes as \$23 of the -- approximately one-third of this increase relates to an adjustment of prior-year cost. It's sort of -- you have a combination of these three things occurring where it's giving you a worst-case scenario in terms of the rate increase.

SENATOR CARDINALE: For me, that emphasizes all the more why we need to have something in our formula that encourages efficiency on the part of the county institutions. When Burger King determines that they're selling 30 percent less hamburgers, they take actions. Now, they probably can't change their facilities costs. They may be able to reduce some of their utility costs. They may be able to reduce some of their labor costs. But if they're getting 85 percent reimbursement in a quasi-public or public facility, there is a great reluctance to reduce staff, and we must have staff reductions. We cannot only have staff increases.

Let me tell you a little anecdote. I once served on a board of education. We had a certain number of staff and a certain number of people -- pupils. The number of pupils went down dramatically over a period of time because it was a grammar school and older families began moving into the community, which is a phenomenon that is unusual. But about 10 years later, with half the pupils, they had two-and-a-half times as many employees. Now, that didn't happen in one fell swoop. Where you had a little increase, you had an increase in employees. Where you had a

decrease, you didn't get any decrease -- concomitant decrease in employees. So you continued as you ratcheted back and forth to where you had -- and this is actual -- two-and-a-half times as many employees with half the students. I think that's a tendency in public employment, and I think that needs to be brought under control. And that's why I'm interested in a formula that reflects some of those kinds of factors. I don't think we have any alternative but to support this at the present time. But we need to look at this formula so that we don't end up with 17 percent increases.

MR. TEBEEST: Although bear in mind that these particular increases are associated with State-run hospitals. I agree with you regarding the county hospitals. We need to take a close look.

SENATOR CARDINALE: But we need to do that in the State institutions as well. The institution I'm talking about that I gave you the example of was a local municipality's school system being reimbursed at almost nothing, as it was totally their own cost. But the institutional interest in keeping all of the people who already worked there -- and adding to their staff from time to time is something we have to recognize exists in all of government. We're spending other people's money, which is very easy to do.

MR. TEBEEST: I'm not from the budget office, but I think two important factors here are: Number one, the Federal Olmstead requirement to reduce census. So census is being reduced at an unusual rate based upon a lawsuit to deinstitutionalize and move folks to the community. At the same time, you have a workforce that is a State unionized workforce. So as the institutions reduce in size by patients, it's hard to have a proportional reduction in staff for that to happen at the

same rate. But it is something I've heard from our budget office that they're attempting to achieve. But absolutely it's an issue, and absolutely we need to do the best we can to control cost.

SENATOR CARDINALE: I realize that there are many ways to accomplish it. I'm suggesting that one of those ways may be on a reimbursement formula that might cause some people to get a lot of incentive to reduce those costs, as opposed to not having anything in place that encourages that reduction. You can blame the union, but management has certain controls, even with civil service and other things in place. But it can choose to exercise those prerogatives or not.

MR. TEBEEST: Understood.

MR. TOBER: Any further discussion? (no response)

Can we call for a motion then, please?

MR. SHAUGHNESSY: I believe we have a motion and a second. Special Counsel Peter Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith has indicated a vote in the affirmative to the Chair.

Assemblyman Cryan.

ASSEMBLYMAN CRYAN: No.

MR. SHAUGHNESSY: Assemblyman Bramnick, as well, has indicated an affirmative vote to the Chair. The matter has passed.

The last item is now Item No. 3 on the agenda. It's the county facilities, calendar year 2011 payment rates. Pursuant to Title 30:4-78, the State House Commission shall fix the rates charged to the State for various patients in county psychiatric facilities. The rates established by the State House Commission shall be predicated and in compliance with the facilities certificate of need and its conditions as approved by the Department of Health and Senior Services. The rates are as provided in the members' agenda in the package.

Do we have a motion on this matter?

SENATOR CARDINALE: I'll move it.

MR. SHAUGHNESSY: Thank you, Senator.

Second?

DIRECTOR HOLZBAUR: I'll second.

MR. SHAUGHNESSY: Thank you, Director.

Any discussion, questions, or comments?

SENATOR CARDINALE: I'd just like to note for the record that there are substantial decreases in almost all of these rates, which I think is a move in the right direction. And maybe we should look at how they manage to do this.

ASSEMBLYMAN CRYAN: I'm sorry. Is that accurate? Can you -- the fellow who's there -- can you take us through that chart? Because the headers are different than the chart in No. 2. The State House Commission rate as opposed to the one in No. 2, which has a different header. Are these reduced costs?

MR. STEIN: The county psychiatric rates, for the most part, are lower.

ASSEMBLYMAN CRYAN: Okay. So can you-- The chart in No. 2 has a header that's different. The recommended county rate versus the SHC rate. Is there any difference in those two meanings?

MR. STEIN: You're looking at the two different charts?

ASSEMBLYMAN CRYAN: Right. You showed a chart for Item 2, where the header in No. 2 -- which was the baseline -- has something called *recommended county rates*. Okay? And in No. 3, it's *recommended SHC rate*.

MR. STEIN: Okay. The recommended county rate is for the State facilities. Those are county payment rates.

ASSEMBLYMAN CRYAN: But in essence, they're the same thing. Is that correct?

MR. STEIN: The other chart reflects the rates for county psychiatric hospitals where the State reimburses the counties. So we're paying the county facilities versus the other way around.

ASSEMBLYMAN CRYAN: Okay. Thank you.

So is the Senator correct in these actually reflect reduced rates?

MR. STEIN: Reduced rates for the county psychiatric facilities.

ASSEMBLYMAN CRYAN: Okay. Thank you.

MR. STEIN: That's right.

To take you through them--

ASSEMBLYMAN CRYAN: No, I'm fine. If they're reduced-- I'm obviously in a different place. Thank you.

I don't need them. If anybody else does--

MR. TOBER: Is there any further discussion from the members?

Anything else, Assemblyman Cryan?

ASSEMBLYMAN CRYAN: No, thank you.

MR. SHAUGHNESSY: Special Counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith has left, indicating to the Chair an affirmative vote on this matter.

Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: And Assemblyman Bramnick has, as well, listed an affirmative vote. So that matter is approved as well.

ASSEMBLYMAN CRYAN: Do we have anything else?

MR. TOBER: I think that's it.

ASSEMBLYMAN CRYAN: Thank you. I vote for an adjournment.

MR. SHAUGHNESSY: Okay. Thank you.

Motion to adjourn.

MR. TOBER: Second.

MR. SHAUGHNESSY: All in favor? (affirmative responses)

This meeting is concluded. Thank you very much.  
MR. TOBER: Thank you, everybody.

**(MEETING CONCLUDED)**