

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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8
9 ALBANY, NEW YORK

10 March 15, 2010

11 3:51 p.m.

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13
14 REGULAR SESSION

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18 SENATOR NEIL D. BRESLIN, Acting President

19 ANGELO J. APONTE, Secretary

1 P R O C E E D I N G S

2 ACTING PRESIDENT BRESLIN: The
3 Senate will please come to order.

4 I ask all to rise and repeat with
5 me the Pledge of Allegiance.

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

8 ACTING PRESIDENT BRESLIN: The
9 invocation today will be provided by Bishop
10 Orlando Findlayter, pastor of the New Hope
11 Christian Fellowship in Brooklyn.

12 Bishop.

13 BISHOP FINDLAYTER: Shall we
14 pray.

15 Lord, we come before Your presence
16 today. We pause to say thank You for the
17 goodness that You have given unto us. We
18 thank You for life, we thank You for health,
19 and we thank You for strength.

20 Now, God, we pray for this
21 legislative body. We ask God that You will
22 give them wisdom, that You will give them
23 knowledge, You will give them understanding,
24 You will give them insight.

25 God, as they legislate, as they

1 deliberate, cause them to recognize, O God,
2 that their decisions affect every citizen of
3 the State of New York. So we ask that You
4 guide this process. We ask You that be with
5 them. As they have dedicated themselves to
6 public service, that You bless them. That,
7 O God, You provide not only for them but for
8 their families and the districts in which they
9 represent.

10 We thank You for this great State
11 of New York. We ask that You continue to
12 bless this state as we do that which You have
13 called us to do. We ask all of these
14 blessings in the name of Your son, Jesus, our
15 Lord.

16 Amen.

17 ACTING PRESIDENT BRESLIN: Thank
18 you, Bishop.

19 The reading of the Journal.

20 The Secretary will read.

21 THE SECRETARY: In Senate,
22 Sunday, March 14, the Senate met pursuant to
23 adjournment. The Journal of Saturday,
24 March 13, was read and approved. On motion,
25 Senate adjourned.

1 ACTING PRESIDENT BRESLIN:
2 Without objection, the Journal stands approved
3 as read.

4 Presentation of petitions.
5 Messages from the Assembly.
6 Messages from the Governor.
7 Reports of standing committees.
8 Reports of select committees.
9 Communications and reports from
10 state officers.

11 Motions and resolutions.
12 Can we have some quiet, please.
13 Senator Klein.

14 SENATOR KLEIN: Mr. President, on
15 behalf of Senator Savino, I move to commit
16 Senate Print Number 6660 to the Committee on
17 Judiciary.

18 ACTING PRESIDENT BRESLIN: So
19 ordered.

20 SENATOR KLEIN: On behalf of
21 Senator Serrano, on page number 15 I offer the
22 following amendments to Calendar Number 217,
23 Senate Print Number 3555, and ask that said
24 bill retain its place on Third Reading
25 Calendar.

1 ACTING PRESIDENT BRESLIN: So
2 ordered.

3 SENATOR KLEIN: On behalf of
4 Senator Aubertine, on page number 12 I offer
5 the following amendments to Calendar Number
6 170, Senate Print Number 6758, and ask that
7 said bill retain its place on Third Reading
8 Calendar.

9 ACTING PRESIDENT BRESLIN: So
10 ordered.

11 SENATOR KLEIN: On behalf of
12 Senator Duane, on page 8 I offer the following
13 amendments to Calendar Number 72, Senate Print
14 Number 1352, and ask that said bill retain its
15 place on Third Reading Calendar.

16 ACTING PRESIDENT BRESLIN: So
17 ordered.

18 Senator Klein.

19 SENATOR KLEIN: Mr. President,
20 are there any substitutions at the desk?

21 ACTING PRESIDENT BRESLIN: The
22 Secretary will read.

23 THE SECRETARY: On page 16,
24 Senator L. Krueger moves to discharge, from
25 the Committee on Health, Assembly Bill

1 Number 1138 and substitute it for the
2 identical Senate Bill Number 4529, Third
3 Reading Calendar 224.

4 On page 16, Senator Montgomery
5 moves to discharge, from the Committee on
6 Health, Assembly Bill Number 775B and
7 substitute it for the identical Senate Bill
8 Number 4645B, Third Reading Calendar 225.

9 On page 16, Senator Thompson moves
10 to discharge, from the Committee on Finance,
11 Assembly Bill Number 8558 and substitute it
12 for the identical Senate Bill Number 5991,
13 Third Reading Calendar 229.

14 On page 18, Senator Oppenheimer
15 moves to discharge, from the Committee on
16 Health, Assembly Bill Number 723 and
17 substitute it for the identical Senate Bill
18 Number 3450, Third Reading Calendar 240.

19 On page 18, Senator Parker moves to
20 discharge, from the Committee on Education,
21 Assembly Bill Number 4170A and substitute it
22 for the identical Senate Bill Number 6355,
23 Third Reading Calendar 243.

24 And on page 18, Senator
25 Hassell-Thompson moves to discharge, from the

1 Committee on Social Services, Assembly Bill
2 Number 8873 and substitute it for the
3 identical Senate Bill Number 3754, Third
4 Reading Calendar 245.

5 ACTING PRESIDENT BRESLIN:
6 Substitutions ordered.

7 Senator Klein.

8 SENATOR KLEIN: Mr. President,
9 there will be an immediate meeting of the
10 Finance Committee, followed by an immediate
11 meeting of the Rules Committee in the Majority
12 Conference Room, Room 332.

13 Pending the return of the Rules
14 Committee, can we please stand at ease.

15 ACTING PRESIDENT BRESLIN: There
16 will be an Immediate meeting of the Senate
17 Finance Committee in Room 332, followed by a
18 meeting of the Rules Committee in the same
19 room.

20 Pending their return, we will stand
21 at ease.

22 (Whereupon, the Senate stood at
23 ease at 3:56 p.m.)

24 (Whereupon, the Senate reconvened
25 at 4:52 p.m.)

1 ACTING PRESIDENT BRESLIN:

2 Senator Klein.

3 SENATOR KLEIN: Mr. President, I
4 believe there's a report of the Rules
5 Committee at the desk. I move that we adopt
6 the report at this time.

7 ACTING PRESIDENT BRESLIN:
8 Returning to the order of reports of standing
9 committees, there is a report of the Rules
10 Committee at the desk.

11 The Secretary will read.

12 THE SECRETARY: Senator Smith,
13 from the Committee on Rules, reports the
14 following bills:

15 Senate Print 3874A, by Senator
16 Oppenheimer, an act to amend the Education
17 Law;

18 4375, by Senator Griffo, an act to
19 amend the Uniform Justice Court Act;

20 5795, by Senator Valesky, an act to
21 amend the Education Law and the State Finance
22 Law;

23 6212A, by Senator Klein, an act to
24 amend the Real Property Tax Law and the
25 Tax Law;

1 6777, by Senator Oppenheimer, an
2 act to amend the Education Law;

3 6883, by Senator Serrano, an act to
4 amend the Executive Law;

5 7054, by Senator Oppenheimer, an
6 act to amend the Public Officers Law;

7 And Senate Print 7109, by Senator
8 L. Krueger, an act to amend the Public
9 Officers Law.

10 All bills ordered direct to third
11 reading.

12 ACTING PRESIDENT BRESLIN: All
13 those in favor of accepting the Rules
14 Committee report please signify by saying aye.

15 (Response of "Aye.")

16 ACTING PRESIDENT BRESLIN:
17 Opposed, nay.

18 (No response.)

19 ACTING PRESIDENT BRESLIN: The
20 report of the Rules Committee is adopted.

21 Senator Klein.

22 SENATOR KLEIN: Mr. President,
23 can we now move to a reading of the calendar.

24 ACTING PRESIDENT BRESLIN: The
25 Secretary will read.

1 THE SECRETARY: Calendar Number
2 166, by Senator Klein, Senate Print 1866, an
3 act to amend the Vehicle and Traffic Law, in
4 relation to residential parking system.

5 ACTING PRESIDENT BRESLIN: There
6 is a home-rule message at the desk.

7 Read the last section.

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

10 ACTING PRESIDENT BRESLIN: Call
11 the roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT BRESLIN:
14 Announce the results.

15 THE SECRETARY: Ayes, 58.

16 ACTING PRESIDENT BRESLIN: The
17 bill is passed.

18 THE SECRETARY: Calendar Number
19 191, by Member of the Assembly Weinstein,
20 Assembly Print Number 7805B, an act to amend
21 the Civil Practice Law and Rules and others,
22 in relation to representation of children.

23 ACTING PRESIDENT BRESLIN: Read
24 the last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT BRESLIN: Call
3 the roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT BRESLIN:
6 Announce the results.

7 THE SECRETARY: Ayes, 58.

8 ACTING PRESIDENT BRESLIN: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 219, by Senator Foley, Senate Print 6041, an
12 act to amend the Real Property Tax Law, in
13 relation to redemption.

14 ACTING PRESIDENT BRESLIN: Read
15 the last section.

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

18 ACTING PRESIDENT BRESLIN: Call
19 the roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT BRESLIN:
22 Senator Foley, to explain his vote.

23 SENATOR FOLEY: Thank you,
24 Mr. President.

25 This very important piece of

1 legislation would allow any local government
2 entity to waive the fees, penalties and
3 interest for the redemption of foreclosed
4 residential real estate that's been caused by
5 financial hardship as a result of military
6 activation.

7 We know of a number of military
8 personnel who have served multiple tours
9 abroad, and on a number of occasions they've
10 either lost their job or they've been away
11 from their job for such a long period of time
12 that they fell behind on the payments of their
13 mortgages and in some cases threatened to lose
14 their home through foreclosure.

15 This very important piece of
16 legislation, which we also approved last year,
17 will enable those particular families to have
18 the peace of mind and to give the local
19 governmental entities the ability to waive the
20 penalties, fees and interest if in fact the
21 homes are foreclosed.

22 In a number of examples,
23 Mr. President, that will result in a savings
24 of literally thousands upon thousands of
25 dollars. And this is our way as the state

1 government to enable the localities to help
2 those particular families to save those homes.

3 Thank you, Mr. President. I vote
4 in the affirmative.

5 ACTING PRESIDENT BRESLIN: Thank
6 you, Senator Foley.

7 Senator Foley to be recorded in the
8 affirmative.

9 Announce the results.

10 THE SECRETARY: Ayes, 58. Nays,
11 0.

12 ACTING PRESIDENT BRESLIN: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 221, by Senator C. Kruger, Senate Print 823,
16 an act to amend the Elder Law and the Social
17 Services Law, in relation to provision.

18 ACTING PRESIDENT BRESLIN: Read
19 the last section.

20 THE SECRETARY: Section 3. This
21 act shall take effect on the 120th day.

22 ACTING PRESIDENT BRESLIN: Call
23 the roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 58.

1 ACTING PRESIDENT BRESLIN: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 225, substituted earlier today by Member of
5 the Assembly Paulin, Assembly Print Number
6 775B, an act to amend the Public Health Law,
7 in relation to providing parents.

8 ACTING PRESIDENT BRESLIN: Read
9 the last section.

10 THE SECRETARY: Section 2. This
11 act shall take effect April 20, 2011.

12 ACTING PRESIDENT BRESLIN: Call
13 the roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 58.

16 ACTING PRESIDENT BRESLIN: The
17 bill is passed.

18 THE SECRETARY: Calendar Number
19 226, by Senator Oppenheimer --

20 SENATOR LIBOUS: Lay it aside.

21 ACTING PRESIDENT BRESLIN: The
22 bill is laid aside.

23 THE SECRETARY: Calendar Number
24 228, by Senator Oppenheimer, Senate Print
25 5637, an act to amend the Education Law --

1 SENATOR LIBOUS: Lay it aside,
2 please.

3 ACTING PRESIDENT BRESLIN: The
4 bill is laid aside.

5 THE SECRETARY: Calendar Number
6 231, by Senator Oppenheimer, Senate Print
7 6776, an act to amend the Education Law.

8 ACTING PRESIDENT BRESLIN: Read
9 the last section.

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

12 ACTING PRESIDENT BRESLIN: Call
13 the roll.

14 (The Secretary called the roll.)

15 ACTING PRESIDENT BRESLIN:
16 Announce the results.

17 THE SECRETARY: Ayes, 58.

18 ACTING PRESIDENT BRESLIN: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 238, by Senator Dilan, Senate Print 6120, an
22 act to amend the Vehicle and Traffic Law, in
23 relation to requiring access aisles.

24 ACTING PRESIDENT BRESLIN: Read
25 the last section.

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

3 ACTING PRESIDENT BRESLIN: Call
4 the roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT BRESLIN:
7 Announce the results.

8 THE SECRETARY: Ayes, 58.

9 ACTING PRESIDENT BRESLIN: The
10 bill is passed.

11 THE SECRETARY: Calendar Number
12 242, by Senator Oppenheimer, Senate Print
13 4634, an act to amend the Education Law, in
14 relation to authorizing Boards of Cooperative
15 Educational Services.

16 ACTING PRESIDENT BRESLIN: Read
17 the last section.

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

20 ACTING PRESIDENT BRESLIN: Call
21 the roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT BRESLIN:
24 Announce the results.

25 THE SECRETARY: Ayes, 58.

1 ACTING PRESIDENT BRESLIN: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 243, substituted earlier today --

5 SENATOR KLEIN: Lay the bill
6 aside for the day, please.

7 ACTING PRESIDENT BRESLIN: The
8 bill is laid aside for the day.

9 Senator Klein, that completes the
10 reading of the noncontroversial calendar.

11 Senator Klein.

12 SENATOR KLEIN: Mr. President,
13 can we now please go to a reading of the
14 controversial calendar.

15 ACTING PRESIDENT BRESLIN: The
16 Secretary will ring the bell.

17 Members are asked to come to the
18 chamber for the controversial reading of the
19 calendar.

20 The Secretary will read.

21 THE SECRETARY: Calendar Number
22 226, by Senator Oppenheimer, Senate Print
23 5523A, an act to amend the Education Law and
24 the General Municipal Law.

25 SENATOR LIBOUS: Explanation,

1 please.

2 ACTING PRESIDENT BRESLIN:

3 Senator Oppenheimer, an explanation, please.

4 SENATOR OPPENHEIMER: Yes, thank
5 you. Happy to provide it.

6 This is something that's very long
7 coming. And indeed, we have voted on very
8 similar legislation. There was a Saland bill,
9 I think, two years ago; much of it had -- was
10 contained in that, not all of it. And I think
11 on many occasions we have discussed these
12 bills individually.

13 And I think what we're trying to do
14 is respond to the outcry that we're hearing in
15 our neighborhoods, not just my neighborhood.
16 And I'm hearing from parents and from school
17 board members and from superintendents. And
18 everybody is saying we have to do something.

19 And we've been talking about
20 mandate relief forever, at least a couple of
21 decades. And now is the time to act. Because
22 if we don't have the revenues to send down to
23 our school districts, then we have to relieve
24 them of some of the expenses. And that is the
25 whole theory behind this bill.

1 I'll briefly go through the various
2 provisions of the bill.

3 First, it prohibits the
4 implementation of new state mandates after the
5 start of a school fiscal year unless for
6 specific reasons, like if it's an executive
7 order or to comply with a federal rule.

8 Second, it authorizes school
9 districts to get into shared contracts with
10 other school districts for transportation
11 through private contractors. That most of the
12 us commonly call piggybacking, and it's
13 certainly a way to cut costs by sharing.

14 It requires a BOCES to convene, on
15 or before July 1st of 2011, committees of
16 school and community leaders in cooperation
17 with the district superintendent -- that's the
18 BOCES superintendent -- to create a report to
19 the commissioner examining options for
20 consolidation and shared services, looking for
21 opportunities for things like regional
22 administrative costs, you know, back office
23 costs, joint transportation possibilities,
24 purchasing of health insurance, conceivably
25 purchasing of bulk supplies of prescription

1 medicines. In other words, trying to bring
2 the benefits of many groups working together
3 to reduce the costs of each of these groups.

4 Next, it has in it authorizing
5 internal and claims auditing as an aidable
6 shared service.

7 Now, you may remember that in 2002,
8 under fiscal accountability legislation, we
9 did allow schools to use BOCES for claims
10 auditing purposes. But what you probably
11 didn't focus in on is that it was never
12 aidable, so therefore it wasn't utilized
13 because it wasn't a figure that could be
14 aidable by the state, so it wasn't utilized.
15 So what we're saying here is it should be
16 aidable.

17 Next, we amend the calculation of
18 the contingency cap to use a five-year rolling
19 average of the Consumer Price Index, the CPI.
20 And that is a more accurate measure. And
21 maybe if schools had reserve funds, we
22 wouldn't need it. But what this does -- and
23 most actuarial firms use this -- the five-year
24 rolling average smooths out the variations
25 from year to year, makes it more accurate.

1 And in this case, it's essential, because the
2 CPI last year was a negative figure. And so
3 the school budgets, if they went to
4 contingency, would be required to have a
5 negative factor over the prior year's budget.

6 We really had never counted on
7 deflationary time, and we are in it, and so we
8 have to act accordingly.

9 Next, we amend the General
10 Municipal Law to authorize the creation of
11 reserve funds for future employer
12 contributions to the TRS, the Teacher
13 Retirement System.

14 As you all know, the reserve funds
15 already exist for ERS, for the Employee
16 Reserve System. And it really doesn't -- I
17 think it was just an oversight that it was not
18 done for the TRS when it was done for the ERS.

19 Well, those are the main features.
20 So I will finish.

21 ACTING PRESIDENT BRESLIN: Thank
22 you, Senator Oppenheimer.

23 Senator Libous.

24 SENATOR LIBOUS: Would you please
25 recognize Senator Saland.

1 ACTING PRESIDENT BRESLIN: Sure.

2 SENATOR LIBOUS: Thank you,
3 Mr. President.

4 ACTING PRESIDENT BRESLIN:
5 Senator Saland.

6 SENATOR SALAND: Thank you,
7 Mr. President.

8 Senator Oppenheimer, as I read this
9 bill --

10 ACTING PRESIDENT BRESLIN: Would
11 you like Senator Oppenheimer to yield to a
12 question?

13 SENATOR SALAND: Yes, thank you,
14 Mr. President. My apologies.

15 ACTING PRESIDENT BRESLIN:
16 Senator Oppenheimer, will you yield to Senator
17 Saland?

18 SENATOR OPPENHEIMER: Yes, happy
19 to do so.

20 SENATOR SALAND: Thank you.

21 Senator Oppenheimer, as you noted
22 in your opening remarks, some of the
23 derivation of this bill comes from bills that
24 I had helped draft in prior sessions.

25 But as I read this bill, I found

1 particularly interesting on the first page,
2 you talk about, beginning at line 13, the fact
3 that a mandate shouldn't be imposed during a
4 school year. And as you may well recall, the
5 genesis of that was action taken by the Board
6 of Regents, maybe it was December of '06 or
7 December of '07, when they required local
8 school districts in the midst of a school year
9 to pay for these math and science calculators,
10 which I think statewide wound up costing them
11 some \$100 million.

12 And this house has, I believe
13 unanimously, passed in response to that abuse
14 this particular language.

15 The issue which I would raise is
16 not what you intend to do with this particular
17 language, but in the absence of any other
18 qualifying language, basically this bill is
19 saying that mandates are deferred, not
20 eliminated. They're not banned, but they're
21 deferred.

22 There is no qualifying language
23 which we have seen in other bills which
24 prohibits unfunded mandates or caps them at
25 very limited amounts, such as \$10,000 per

1 municipality or some million statewide.

2 So in the absence of that language,
3 notwithstanding the fact that I believe we've
4 seen that other bill, were this bill to pass
5 both houses and get to the Governor's desk
6 without that language, additional language
7 being in here, we would not have banned
8 mandates, we merely would have deferred them
9 for a period of up to one year.

10 ACTING PRESIDENT BRESLIN:

11 Senator Oppenheimer.

12 SENATOR SALAND: Would you agree
13 with my interpretation? And I would pose that
14 as a question.

15 SENATOR OPPENHEIMER: Yes,
16 actually I would.

17 But I would put a caveat saying
18 that in this case it would probably be
19 something like a federal regulational
20 requirement that we would have to probably do.
21 In other words, it would be something that
22 would be almost mandated upon us.

23 But you're right, it would have to
24 wait -- unless it was extraordinary, it would
25 have to wait until the end of the school year.

1 SENATOR SALAND: Well, I would
2 hope that you would entertain an amendment, if
3 there's some reciprocity or interest from the
4 other house, that would basically require the
5 elimination of mandates except in those
6 exceptions where some other state body --
7 i.e., the Regents or the Ed Department --
8 attempts to impose something which would fall
9 after the start of a school year.

10 ACTING PRESIDENT BRESLIN:
11 Senator Oppenheimer, do yield to an additional
12 question from Senator Saland?

13 SENATOR OPPENHEIMER: Yes, we
14 will be happy to discuss that with you.

15 Now, is there another question?

16 SENATOR SALAND: So you would be
17 amenable to that?

18 SENATOR OPPENHEIMER: Yes, I
19 would be happy to sit down and talk with you.

20 SENATOR SALAND: Over on page 3
21 of the bill --

22 ACTING PRESIDENT BRESLIN: Are
23 you asking Senator Oppenheimer to yield again?

24 SENATOR SALAND: No, I haven't
25 gotten to my point yet. Then I'll ask her to

1 yield. I'm bringing her attention to where
2 I'm going.

3 Through you, Mr. President, if you
4 would take a look at Section 6, the language
5 added at line 32, under "aidable shared
6 services, claims auditing or internal auditing
7 services."

8 The intent of the bill is one which
9 I certainly -- this section, I certainly
10 wholeheartedly agree with. And the question
11 which I have -- and I believe I may have seen
12 another bill, either today in committee or
13 perhaps through the Education Committee, which
14 is an SED bill that makes claims auditing
15 state aidable.

16 Is there a separate bill that does
17 that as well?

18 SENATOR OPPENHEIMER: That's a
19 stand-alone bill. There were two bills that
20 involved auditing. And one was the permitting
21 deputy claims auditors within school
22 districts, and the other is to have a
23 centralized, regionalized center for claims
24 auditing through BOCES. And then having that
25 service, which was permitted as of '05, then

1 having that purpose aidable. As all other
2 BOCES services are.

3 SENATOR SALAND: Thank you,
4 Senator Oppenheimer.

5 On the bill, Mr. President.

6 ACTING PRESIDENT BRESLIN:
7 Senator Saland, on the bill.

8 SENATOR SALAND: Mr. President, I
9 certainly would not want to suggest that
10 there's anybody who should, for the reasons
11 that I've discussed, have problems with this
12 bill or not support this bill.

13 But nonetheless, there are problems
14 with this bill that require being addressed.
15 Because when we act on this bill, assuming it
16 were to become law, we will have not banned
17 unfunded mandates, we merely would have
18 deferred them for one year.

19 And what I find particularly
20 interesting with regard to making the claims
21 auditing state aidable, when this bill was
22 negotiated -- at that time I believe the
23 comptroller was Comptroller Hevesi -- there
24 were negotiations involving the Executive, the
25 Comptroller and the Assembly as well. I had

1 insisted that the claims auditing function be
2 state aidable and was assured by the State
3 Education Department that it was state
4 aidable. And I had told them that there was
5 no way that I would attempt to move the bill
6 unless that function was state aidable. And
7 based upon their assurances, we moved the
8 bill.

9 Subsequently, they took the
10 position -- for reasons known only to them --
11 that this was not a function that could be
12 state aidable.

13 So I'm certainly pleased once again
14 to try and impress upon everybody the
15 importance of this being state aidable. And
16 notwithstanding the tardiness of the State
17 Education Department in coming to a conclusion
18 that they previously had come to and
19 abandoned, I welcome their support, if in fact
20 they're supporting this, and believe it's long
21 overdue.

22 Thank you, Mr. President.

23 ACTING PRESIDENT BRESLIN: Thank
24 you, Senator Saland.

25 Are there any other Senators

1 wishing to be heard?

2 Senator Oppenheimer.

3 SENATOR OPPENHEIMER: I just want
4 to corroborate what Senator Saland said.

5 The commitment that was made, you
6 are absolutely right, has not been followed
7 through. And that's why we are putting this
8 in this bill, and hopefully we can see that
9 commitment honored.

10 Thank you.

11 ACTING PRESIDENT BRESLIN: Are
12 there any other Senators wishing to be heard?

13 Hearing none, the debate is closed.
14 The Secretary will please ring the bells.

15 Read the last section.

16 THE SECRETARY: Section 9. This
17 act shall take effect immediately.

18 ACTING PRESIDENT BRESLIN: Call
19 the roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT BRESLIN:
22 Announce the results.

23 THE SECRETARY: Those recorded in
24 the negative on Calendar Number 226 are
25 Senators Duane and Huntley.

1 Absent from voting according to
2 Rule 9: Senators Adams, Bonacic, Sampson and
3 McDonald.

4 Ayes, 52. Nays, 2.

5 ACTING PRESIDENT BRESLIN: The
6 bill is passed.

7 The Secretary will continue to
8 read.

9 THE SECRETARY: Calendar Number
10 228, by Senator Oppenheimer, Senate Print
11 5637, an act to amend the Education Law.

12 SENATOR LIBOUS: Explanation,
13 please.

14 ACTING PRESIDENT BRESLIN:
15 Senator Oppenheimer, an explanation has been
16 requested.

17 SENATOR OPPENHEIMER: Okay. This
18 bill would allow the school districts to
19 appoint a deputy claims auditor to perform the
20 same duties as the claims auditor.

21 And the reason for this I think is
22 easy to understand. If the claims auditor
23 within the district is ill or away on a
24 holiday, there is nobody that's going to
25 approve the claims. And as you know, it is

1 the school boards that are supposed to do it,
2 but in the place of school boards, now we have
3 auditors and the claims auditor certifies the
4 claims. But if something happens to the
5 original claims auditor, there's nobody to
6 approve the payment of bills.

7 So this says that there should be a
8 deputy claims auditor. It doesn't have to be
9 a separate position, it can be in addition to
10 another position that someone on staff holds.
11 But there needs to be more than one person.
12 And that's why we're putting in this request
13 for a deputy claims auditor.

14 ACTING PRESIDENT BRESLIN: Thank
15 you, Senator Oppenheimer.

16 Senator Saland.

17 SENATOR SALAND: Will Senator
18 Oppenheimer yield to one question?

19 ACTING PRESIDENT BRESLIN:
20 Senator Oppenheimer, do you yield to a
21 question from Senator Saland?

22 SENATOR OPPENHEIMER: Sure.

23 SENATOR SALAND: I notice that
24 this bill is at the request of the State
25 Education Department. And apropos of the

1 exchange that we had a bit earlier regarding
2 the auditing function being state aidable, is
3 there anything in this bill -- that, again, is
4 a program bill from SED -- that makes that
5 claims auditing function state aidable?

6 SENATOR OPPENHEIMER: Through
7 you, Mr. President. Actually, as I had
8 mentioned a moment ago, the person may not
9 necessarily have to be an additional
10 personnel; it might be someone in the same
11 department or in another department. But they
12 would be there to certify that the claims are
13 to be paid and to review them. And it doesn't
14 necessarily have to be another position.

15 So I would say the question of
16 aidability, like with BOCES, that's a
17 different issue. No.

18 SENATOR SALAND: If the Senator
19 would continue to yield.

20 ACTING PRESIDENT BRESLIN:
21 Senator Oppenheimer, would you continue to
22 yield for Senator Saland?

23 SENATOR OPPENHEIMER: Yes.

24 ACTING PRESIDENT BRESLIN: You
25 may proceed.

1 SENATOR SALAND: So the long and
2 the short of it is that there's nothing in
3 this bill that would make that function,
4 whether it be the claims auditor or an
5 appointed deputy claims auditor, a
6 state-aidable function.

7 SENATOR OPPENHEIMER: Through
8 you, Mr. President, I would think that this is
9 just another issue that comes before us in our
10 school budgets and we the voters make our
11 decision.

12 But no, I don't believe that
13 there's anything that has been written in
14 about auditors.

15 SENATOR SALAND: Thank you very
16 much, Senator Oppenheimer.

17 On the bill.

18 ACTING PRESIDENT BRESLIN:
19 Senator Saland, on the bill.

20 SENATOR SALAND: I won't repeat
21 my comments with the earlier bill. Suffice it
22 to say that the issue of state aidability for
23 this auditing function is one that continues
24 to be a rather sore spot, continues to be not
25 merely a breach of faith by the State

1 Education Department but in fact a complete
2 180-degree turnabout.

3 You could effectively say one of
4 two things. Either they were extraordinarily
5 stupid, dumb, or whatever other matter of
6 similar fashion you want to describe them when
7 they said that this function would be state
8 aidable -- perhaps duplicitous. I have no
9 idea.

10 But now we get a State Education
11 Department bill which is a relatively
12 innocuous bill if this is how they want to
13 deal with the issue. They say, okay, you can
14 have a deputy. But still they continue not to
15 benignly neglect the issue of state
16 aidability, they continue to ignore it. Is
17 there not anybody there what has the slightest
18 sensitivity to taxpayers?

19 There's no reason for anybody to
20 vote against this bill. It borders on being
21 mindless pap. But the simple fact of the
22 matter is that the State Education Department
23 for a period of now several years has breached
24 its promise, breached its representation,
25 continues to ignore an issue which basically

1 takes money out of the pockets of local
2 taxpayers.

3 This doesn't make it any worse. It
4 certainly doesn't make it any better. But
5 I've got to tell you something. What they're
6 doing is just grossly inept.

7 Thank you.

8 ACTING PRESIDENT BRESLIN: Thank
9 you, Senator Saland.

10 Are there any other Senators
11 wishing to be heard?

12 Hearing none, please ring the
13 bells.

14 Read the last section.

15 THE SECRETARY: Section 17. This
16 act shall take effect immediately.

17 ACTING PRESIDENT BRESLIN: Call
18 the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: In relation to
21 Calendar Number 228: Ayes, 54. Nays, 0.

22 Absent from voting according to
23 Rule 9: Senators Adams, Bonacic, McDonald and
24 Sampson.

25 ACTING PRESIDENT BRESLIN: The

1 bill is passed.

2 Senator Klein, that completes the
3 controversial reading of the calendar.

4 SENATOR KLEIN: Mr. President, at
5 this time can we please move to a reading of
6 the Supplemental Calendar 21A.

7 ACTING PRESIDENT BRESLIN: The
8 Secretary will read.

9 THE SECRETARY: Calendar Number
10 255, by Senator Oppenheimer, Senate Print
11 3874A, an act to amend the Education Law.

12 ACTING PRESIDENT BRESLIN: Read
13 the last section.

14 THE SECRETARY: Section 17. This
15 act shall take effect immediately.

16 ACTING PRESIDENT BRESLIN: Call
17 the roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 58.

20 ACTING PRESIDENT BRESLIN: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 258, by Senator Oppenheimer, Senate Print
24 6777, an act to amend the Education Law.

25 ACTING PRESIDENT BRESLIN: Read

1 the last section.

2 THE SECRETARY: Section 3. This
3 act shall take effect July 1, 2010.

4 ACTING PRESIDENT BRESLIN: Call
5 the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 58.

8 ACTING PRESIDENT BRESLIN: The
9 bill is passed.

10 Senator Klein, that completes the
11 reading of the Supplemental Calendar A.

12 SENATOR KLEIN: Mr. President, at
13 this time can we please move to a reading of
14 Supplemental Calendar 21B.

15 ACTING PRESIDENT BRESLIN: The
16 Secretary will read.

17 THE SECRETARY: Calendar Number
18 264, by Senator Griffo, Senate Print 4375, an
19 act to amend the Uniform Justice Court Act.

20 ACTING PRESIDENT BRESLIN: Read
21 the last section.

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

24 ACTING PRESIDENT BRESLIN: Call
25 the roll.

1 THE SECRETARY: Ayes, 58.

2 ACTING PRESIDENT BRESLIN: The
3 bill is passed.

4 Senator Klein, that completes the
5 reading of Supplemental Calendar 21B.

6 SENATOR KLEIN: Mr. President, at
7 this time can you please recognize Senator
8 Ruth Hassell-Thompson for an announcement.

9 ACTING PRESIDENT BRESLIN:
10 Senator Hassell-Thompson.

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

13 I rise to announce an immediate
14 meeting of the Majority in the Majority
15 Conference Room, Room 332, following session.

16 ACTING PRESIDENT BRESLIN: There
17 will be an immediate meeting of the Majority
18 Conference in Room 332 after session.

19 Senator Klein.

20 SENATOR KLEIN: Mr. President, is
21 there any further business at the desk?

22 ACTING PRESIDENT BRESLIN:
23 Senator Klein, the desk is clear.

24 SENATOR KLEIN: There being none,
25 Mr. President, I move that we adjourn until

1 Tuesday, March 16th, at 3:00 p.m.

2 ACTING PRESIDENT BRESLIN: There
3 being no further business, on motion, the
4 Senate stands adjourned until Tuesday,
5 March 16th, at 3:00 p.m.

6 (Whereupon, at 5:35 p.m., the
7 Senate adjourned.)
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