NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 29, 2010

9:56 a.m.

REGULAR SESSION

SENATOR NEIL D. BRESLIN, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

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

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

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

ACTING PRESIDENT BRESLIN: In the absence of clergy, may we bow our heads for a moment of silence.

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

ACTING PRESIDENT BRESLIN: The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Sunday, March 28, the Senate met pursuant to adjournment. The Journal of Saturday, March 27, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Klein.

SENATOR KLEIN: Mr. President, on behalf of Senator Stachowski, on page 13 I offer the following amendments to Calendar Number 244, Senate Print Number 6816A, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT BRESLIN: So ordered.

Senator Klein.

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

ACTING PRESIDENT BRESLIN: Yes, there are, Senator Klein.

The Secretary will read.

THE SECRETARY: On page 19, Senator Sampson moves to discharge, from the Committee on Codes, Assembly Bill Number 7899A and substitute it for the identical Senate

Bill Number 3682A, Third Reading Calendar 299.

On page 19, Senator Sampson moves to discharge, from the Committee on Judiciary, Assembly Bill Number 8394 and substitute it for the identical Senate Bill Number 3680A, Third Reading Calendar 294.

And on page 19, Senator Montgomery moves to discharge, from the Committee on Codes, Assembly Bill Number 8418 and substitute it for the identical Senate Bill Number 5266, Third Reading Calendar 301.

ACTING PRESIDENT BRESLIN: Substitutions ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, can you please recognize Senator Padavan for a motion.

ACTING PRESIDENT BRESLIN: Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President.

On behalf of Senator Young, please place a sponsor's star on Calendar Number 296.

ACTING PRESIDENT BRESLIN: So ordered.

SENATOR PADAVAN: Mr. President, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause. And that's Senate Bill 6462.

ACTING PRESIDENT BRESLIN: So ordered.

Senator Klein.

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

Pending the return of the Rules Committee, may we please stand at ease.

ACTING PRESIDENT BRESLIN: There will be an immediate meeting of the Finance Committee in Room 332, and thereafter a meeting of the Rules Committee.

Pending the return of those committees, the Senate will stand at ease.

(Whereupon, the Senate stood at ease at 10:19 a.m.)

(Whereupon, the Senate reconvened at 10:40 a.m.)

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR KLEIN: Mr. President, I believe there's a report of the Rules Committee at the desk.

ACTING PRESIDENT BRESLIN: There is a report of the Rules Committee at the desk.

The Secretary will read.

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

Senate Print 6611B, Senate Budget Bill, enacts the deficiency budget for the 2009-2010 state fiscal year;

6612A, Senate Budget Bill, an act to amend the Workers' Compensation Law and Chapter 56 of the Laws of 2009;

7135, by Senator Squadron, an act to amend the Real Property Tax Law and the Administrative Code of the City of New York;

7262, by Senator C. Kruger, an act to amend Part X2 of Chapter 62 of the Laws of 2003;

7276, by the Senate Committee on

Rules, an act in relation to providing for the administration of certain funds and accounts;

7277, by the Senate Committee on Rules, an act making appropriations for the support of government; and

Senate Print 6972A, by Senator Savino, an act to provide temporary retirement incentive.

All bills ordered direct to third reading.

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR KLEIN: Mr. President, I move that we adopt the Rules report at this time.

ACTING PRESIDENT BRESLIN: All those in favor of adopting the Senate Rules Committee report please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

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

Senator Klein.

SENATOR KLEIN: Mr. President, at this time can we please move to a reading of the calendar.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 216, Senator C. Johnson moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 10096 and substitute it for the identical Senate Bill Number 6944, Calendar Number 216.

ACTING PRESIDENT BRESLIN: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 216, by Member of the Assembly Farrell, Assembly Bill Number 10096, an act to amend the Tax Law and the Administrative Code of the City of New York.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 216 are Senators Leibell, Maziarz, Montgomery and Ranzenhofer.

Ayes, 56. Nays, 4.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 268, by Member of the Assembly --

SENATOR KLEIN: Lay the bill aside for the day.

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

THE SECRETARY: Calendar Number 278, by Senator Oppenheimer --

SENATOR KLEIN: Lay the bill aside for the day.

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

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

SENATOR KLEIN: Mr. President, at this time can we now have a reading of Supplemental Calendar 29A.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 319, Senator C. Kruger moves to discharge, from the Committee on Finance, Assembly Bill Number 9711B and substitute it for the identical Senate Bill Number 6611B, Third Reading Calendar 319.

ACTING PRESIDENT BRESLIN: Substitution ordered.

SENATOR HANNON: Mr. President.

SENATOR LIBOUS: Excuse me, Mr. President, could you identify, what calendar are we on? The supplemental calendar? I believe the supplemental calendar. And is it 319?

ACTING PRESIDENT BRESLIN: We're on Supplemental Calendar 29A, Senator Libous.

SENATOR KLEIN: Actually, it's 30A.

ACTING PRESIDENT BRESLIN: Calendar 30A, excuse me.

Thank you, Senator Libous.

SENATOR LIBOUS: Thank you.

ACTING PRESIDENT BRESLIN: Senator Hannon.

SENATOR HANNON: No, my point that this is Calendar 30A, not 29A, is the point I wanted to make.

ACTING PRESIDENT BRESLIN: Let the record reflect that it is Calendar 30A.

SENATOR HANNON: Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Hannon.

The Secretary will read.

THE SECRETARY: Calendar Number 319, Assembly Budget Bill, Assembly Print 9711B, an act to amend Chapters 53, 54 and 55 of the Laws of 2009 enacting the Education, Labor and Family Assistance Budget.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR KLEIN: Mr. President, is

there a message of appropriation at the desk?

ACTING PRESIDENT BRESLIN: Yes, there is, Senator Klein.

SENATOR KLEIN: Mr. President, I move to accept the message of appropriation.

ACTING PRESIDENT BRESLIN: All those in favor of accepting the message of appropriation please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The message is accepted.

Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 319 are Senators Griffo, Marcellino, Ranzenhofer and

Skelos.

Ayes, 56. Nays, 4.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 320, Senator C. Kruger moves to discharge, from the Committee on Finance, Assembly Bill Number 9712A and substitute it for the identical Senate Bill Number 6612A, Third Reading Calendar 320.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number 320, Assembly Budget Bill, Assembly Print Number 9712A, an act to amend the Workers' Compensation Law and Chapter 56 of the Laws of 2009 relating to providing.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN:

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 320 are Senators Alesi, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 32. Nays, 28.

ACTING PRESIDENT BRESLIN: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: In relation to Calendar Number 321, Senator Squadron moves to discharge, from the Committee on Rules, Assembly Bill Number 10241 and substitute it for the identical Senate Bill Number 7135, Third Reading Calendar 321.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number 321, by Member of the Assembly Silver,

Assembly Print Number 10241, an act to amend the Real Property Tax Law and the Administrative Code of the City of New York.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 321 are Senators Maziarz, Ranzenhofer, Robach and Volker. Also Senator Alesi.

Ayes, 55. Nays, 5.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 322, Senator C. Kruger moves to discharge, from the Committee on Finance, Assembly Bill Number 10407 and substitute it for the identical Senate Bill Number 7262, Third Reading Calendar 322.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number 322, by Member of the Assembly Gottfried, Assembly Print Number 10407, an act to amend Part X2 of Chapter 62 of the Laws of 2003, amending the Public Health Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 323, Senator Kruger moves to discharge, from the Committee on Finance, Assembly Bill Number 10468 and substitute it for the identical Senate Bill Number 7276, Third Reading Calendar 323.

ACTING PRESIDENT BRESLIN: Substitution ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, is there a message of appropriation at the desk?

ACTING PRESIDENT BRESLIN: Yes, there is, Senator Klein.

SENATOR KLEIN: Mr. President, I move to accept the message of appropriation.

ACTING PRESIDENT BRESLIN: All those in favor of accepting the message of appropriation please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The message of appropriation is accepted.

The Secretary will read.

THE SECRETARY: Calendar Number 323, by the Assembly Committee on Rules, Assembly Print Number 10468, an act in relation to providing for the administration of certain funds and accounts.

ACTING PRESIDENT BRESLIN: Read

the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 323 are Senators Flanagan, Griffo, Larkin, Leibell, Marcellino, Ranzenhofer, and Seward.

Ayes, 53. Nays, 7.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 324, Senator C. Kruger moves to discharge, from the Committee on Finance, Assembly Bill Number 10469 and substitute it for the identical Senate Bill Number 7277, Third Reading Calendar 324.

ACTING PRESIDENT BRESLIN: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

324, by the Assembly Committee on Rules, Assembly Print Number 10469, an act making appropriations for the support of government.

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR KLEIN: Mr. President, is there a message of appropriation at the desk?

ACTING PRESIDENT BRESLIN: Yes, there is, Senator Klein.

SENATOR KLEIN: Mr. President, I move to accept the message of appropriation.

ACTING PRESIDENT BRESLIN: All those in favor of accepting the message of appropriation please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The message of appropriation is accepted.

Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN:

Senator Griffo, to explain his vote.

SENATOR GRIFFO: Thank you, Mr. President.

Last January, when I saw the legislative calendar and I saw the holidays listed, I knew that this would be cover because we had a budget deadline looming. And this concerns me because there's an erosion of confidence because words don't seem to mean anything. Deadlines need to be abided by and met.

And when I read the Governor had said over the weekend in the Associated Press that there was no meaningful discussions or conversations, this gives the impression that it's a charade.

And there's still several days left to get this budget done, mindful of the holidays. I just think it's unacceptable and that we should continue to work and strive to meeting the objective and the responsibility that is entrusted in us.

So for that reason I vote no.

ACTING PRESIDENT BRESLIN: Senator Griffo will be recorded in the negative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 324, those recorded in the negative are Senators Flanagan, Griffo, Larkin, Marcellino, Ranzenhofer and Seward.

Ayes, 54. Nays, 6.

ACTING PRESIDENT BRESLIN: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 325, by Senator Savino, Senate Print 6972A, an act to provide temporary retirement incentive.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator Savino, to explain her vote.

SENATOR SAVINO: Thank you,

Mr. President.

This bill is an effort by the Legislature to comply with the Tier 5 legislation that was enacted by this house and the Assembly on December 2nd and signed into law.

In the bill that was voted on by every member of this house, with the exception of Senator Thompson, in Part B of the legislation, Section 15, it says clearly here the legislative intent: "The Legislature hereby finds and declares its intent, in addition to the retirement benefit changes provided for in this act, to enact legislation in conjunction with the Executive which would offer a three-month period during calendar year 2010 during which members of the collective bargaining unit of the New York State United Teachers within the New York State Teachers' Retirement System and the New York State and Local Retirement System who have reached 55 years of age and have accumulated 25 years of service as a member of either such retirement system may retire without penalty."

That was voted on by 61 members of this house. The bill that we are passing today is the completion of that legislative intent that we all adopted on December 2nd.

And I am voting aye on this bill, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Savino will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 325 are Senators DeFrancisco, Flanagan, Fuschillo, Golden, C. Johnson, Klein, Lanza, Leibell, Ranzenhofer, Saland and Skelos.

Ayes, 49. Nays, 11.

ACTING PRESIDENT BRESLIN: The bill is passed.

Senator Klein, that completes the reading of the noncontroversial supplemental calendar.

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

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

SENATOR KLEIN: There being no further business, Mr. President, I move that we adjourn at the call of the Temporary President, intervening days to be legislative days.

ACTING PRESIDENT BRESLIN: There being no further business to come before the Senate, on motion, the Senate stands adjourned at the call of the Temporary President, intervening days being legislative days.

(Whereupon, at 10:40 a.m., the Senate adjourned.)