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NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 11, 2010

3:51 p.m.

REGULAR SESSION

SENATOR ANDREA STEWART-COUSINS, Acting President

ANGELO J. APONTE, Secretary

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P R O C E E D I N G S

ACTING PRESIDENT STEWART-COUSINS:

The Senate will please come to order.

I ask everyone present to rise and recite with me the Pledge of Allegiance to our Flag.

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

ACTING PRESIDENT STEWART-COUSINS:

During today's moment of silence, let us remember Meg Stevens, a long-time Senate administrative assistant who recently passed away after battling cancer.

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

ACTING PRESIDENT STEWART-COUSINS:

The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Monday, May 10, the Senate met pursuant to adjournment. The Journal of Sunday, May 9, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT STEWART-COUSINS:

Without objection, the Journal stands approved

1 as read.

2 Presentation of petitions.

3 Messages from the Assembly.

4 Messages from the Governor.

5 Reports of standing committees.

6 Senator Klein.

7 SENATOR KLEIN: Madam President,

8 I believe there's a report of the Finance
9 Committee at the desk. I ask that it be read
10 at this time.

11 ACTING PRESIDENT STEWART-COUSINS:

12 There is a report of the Finance Committee at
13 the desk.

14 The Secretary will read.

15 THE SECRETARY: Senator C.

16 Kruger, from the Committee on Finance, reports
17 the following nominations.

18 As President and CEO of the Empire
19 State Development Corporation, Commissioner of
20 the New York State Department of Economic
21 Development, and Director of the Urban
22 Development Corporation, Dennis M. Mullen, of
23 Pittsford.

24 ACTING PRESIDENT STEWART-COUSINS:

25 Senator Kruger.

1 SENATOR CARL KRUGER: Thank you,
2 Madam President. Will you please move the
3 nomination.

4 ACTING PRESIDENT STEWART-COUSINS:
5 Are there any Senators that wish to be heard
6 on the nomination?

7 Senator Little.

8 SENATOR LITTLE: Thank you, Madam
9 President.

10 I would just like to congratulate
11 the Governor for appointing Dennis Mullen to
12 this position. He is certainly someone who is
13 dedicated to finding companies and businesses
14 and helping grow jobs in New York State. And
15 I've had the pleasure of working with him and
16 really have witnessed his dedication and true
17 commitment to this role.

18 So congratulations. And I thank
19 the Governor for appointing Mr. Mullen to this
20 position.

21 Thank you.

22 ACTING PRESIDENT STEWART-COUSINS:
23 Thank you, Senator.

24 Senator Griffo.

25 SENATOR GRIFFO: Thank you, Madam

1 President. I would like to echo what Senator
2 Little said. I think we are very fortunate.

3 Dennis is someone who I've gotten
4 to know, and he has really traversed this
5 state tirelessly during his tenure. And quite
6 honestly, it's about time that we're getting
7 to such an important position, because his
8 role is so significant as we talk about the
9 many challenges that this state is facing.

10 When you think about economic
11 development and the importance of trying to
12 grow this economy, it is very important that
13 you get the right type of individual. And he
14 possesses those credentials, he has made
15 himself available and accessible. And I think
16 he is doing a very difficult job very well.

17 And I want to congratulate Dennis
18 and look forward to continuing to work with
19 him as we try to grow this state.

20 ACTING PRESIDENT STEWART-COUSINS:
21 Thank you, Senator.

22 Senator Breslin.

23 SENATOR BRESLIN: Thank you,
24 Madam President. I echo the remarks of
25 Senator Griffo and Senator Little.

1 Dennis Mullen, in three words, he
2 gets it. And he's crisscrossed this state,
3 and he's interested not in whether someone's a
4 Democrat or a Republican, he's interested in
5 job development, job development, job
6 development.

7 I applaud the Governor. It's good
8 to see, finally, Dennis upstairs getting ready
9 to do what he's been doing in an official
10 capacity.

11 ACTING PRESIDENT STEWART-COUSINS:
12 Thank you, Senator.

13 Senator Stachowski.

14 SENATOR STACHOWSKI: Yes, Madam
15 President, I too would like to rise and
16 congratulate the Governor on the appointment
17 of Dennis Mullen.

18 In the Economic Development
19 Committee, Senator Alesi and I took turns
20 saying what a great job he does. And of
21 course Senator Alesi goes back farther with
22 him, because he's a Rochester-area
23 representative.

24 But the fact is that Dennis Mullen
25 is -- the most important thing that a

1 commissioner can be to any of the members is
2 someone that gives you an answer. Whether
3 it's yes or no, you get an answer and you get
4 it as fast as possible. And fortunately for a
5 lot of us, he's been there with a positive
6 answer. And in my area, since he's been
7 there, we've had, from things as small as the
8 Robinson Knife project to things as big as a
9 major expansion at a General Motors plant.

10 So the job that he's done moving
11 all across the state, as mentioned by previous
12 speakers, has been terrific. The
13 responsiveness has been excellent. And I look
14 forward to working with him in the future.

15 Thank you.

16 ACTING PRESIDENT STEWART-COUSINS:

17 Thank you, Senator.

18 Senator Alesi.

19 SENATOR ALESI: Thank you, Madam
20 President.

21 I have the distinct pleasure of not
22 only representing Dennis Mullen as his
23 Senator, but more importantly as a personal
24 friend. And so as I listen to all of the
25 accolades bestowed upon him by my

1 colleagues -- and every one of them is true --
2 I know Dennis personally and couldn't be
3 happier for not only him but for the people of
4 the State of New York.

5 Because in Dennis Mullen, we truly
6 have someone who has no political agenda when
7 to comes to developing the economy of this
8 state. I say that from personal experience,
9 back in the greater Rochester region, where he
10 worked with the Greater Rochester Enterprise,
11 also in the private sector.

12 And a little-known secret, Dennis
13 Mullen -- you might know Darth Fagan, the
14 choreographer of the Lion King, which is down
15 on Broadway still playing -- has danced on
16 stage under the tutelage of Garth Fagan, the
17 director of that dance troupe, along with
18 myself. So anybody that can keep up with me
19 on the dance floor I think can be a great
20 representative and serve the state well. I
21 say that lightheartedly. We don't often get
22 the chance to know somebody this well.

23 But I can tell you this. When
24 we're on the floor of the Senate and we talk
25 about this side of the aisle and that side of

1 the aisle, I guarantee you as we move forward
2 here, all of us here who will look to Dennis
3 Mullen for his assistance with economic
4 development will never hear the word "this
5 side of the aisle," "that side of the aisle,"
6 "Democrat" or "Republican." We'll only hear
7 the word how can we improve the economy of
8 this state. And that's what we can look
9 forward to with Dennis Mullen.

10 ACTING PRESIDENT STEWART-COUSINS:

11 Thank you, Senator.

12 Senator Farley.

13 SENATOR FARLEY: Yes, thank you,
14 Madam President.

15 I rise to support Dennis Mullen.
16 What an outstanding appointment. Anybody that
17 was at the Finance Committee, it was totally a
18 love fest by every Senator saying things about
19 him, how he got back to them, how he
20 responded. Personally, he called me back
21 while he was on vacation.

22 And this is a man that is
23 interested in retaining the jobs that we have
24 here, not just creating new jobs. Because it
25 is so important that we retain the jobs.

1 And he's been very, very responsive
2 to everyone. And you know, it is interesting
3 to see somebody that's been so successful in
4 his own life to donate so much to our state.
5 And I think we all have to be grateful for
6 those people that give back. And he's
7 certainly giving back. And I just want to be
8 one to say that Dennis, we appreciate your
9 service.

10 Thank you.

11 ACTING PRESIDENT STEWART-COUSINS:

12 Thank you, Senator.

13 Senator Bonacic.

14 SENATOR BONACIC: Thank you,
15 Madam President.

16 I never knew Dennis Mullen till he
17 came to our district about a year ago in an
18 effort to try to save a manufacturing company
19 from leaving the State of New York. And I
20 thought he handled himself in a very
21 professional way.

22 And to me, it was refreshing,
23 because many times I see elected officials in
24 the Assembly and/or Senate that never worked
25 in the private sector. And hence sometimes

1 there's a disconnect on the talent that you
2 need in a job like that, hiring someone from
3 the private sector with CEO experience.

4 This is a talented individual that
5 talks the talk, understands all the problems
6 that businesses face, and he does it in a
7 professional way and in a way that defends
8 state government -- which at times is
9 difficult, with our taxing and regulatory
10 policies -- and at the same time, he projects
11 that he's there to help and save jobs.

12 So I think we have a good one, I
13 know we have a good one in this individual, in
14 making him permanent to this position. We
15 wish him well, and we hope that he survives as
16 we go next year and continuing.

17 And I say to Dennis,
18 congratulations, you're very deserving.

19 Thank you, Madam President.

20 ACTING PRESIDENT STEWART-COUSINS:

21 Thank you, Senator.

22 Senator DeFrancisco.

23 SENATOR DeFRANCISCO: Thank you.

24 I'm not going to repeat what everyone else
25 said, but I will just say, with respect to

1 those remarks, ditto.

2 I also want to pick up on a theme
3 that Senator Bonacic just mentioned.
4 Unfortunately, it's taken 10 months for this
5 position to be made permanent. And I'm
6 calling on all the gubernatorial hopefuls all
7 throughout the State of New York to get to
8 know this man, get to watch his work, because
9 he is clearly exactly what we need to head up
10 the economic development efforts of the State
11 of New York.

12 Secondly, I asked him a few
13 questions at the committee meeting concerning
14 whether it's a good idea to increase taxes or
15 continue increasing borrowing, and he was
16 extremely skillful in answering those
17 questions. Extremely skillful.

18 But there's another reason I'm
19 voting for him, because I know deep down, in
20 his heart of hearts, as an economic
21 development man he would love to see the State
22 of New York reduce taxes, reduce spending, and
23 reduce some of this borrowing so we can
24 compete more favorably with the other states.
25 Now, he didn't say that. I don't want to get

1 him in trouble. But I know, deep down, he
2 really feels that way. And that's another
3 reason I'm voting for this nominee.

4 Thank you, Madam President.

5 ACTING PRESIDENT STEWART-COUSINS:

6 Thank you, Senator.

7 Senator Hassell-Thompson.

8 SENATOR HASSELL-THOMPSON: Thank
9 you, Madam President.

10 I rise to congratulate the Governor
11 on this appointment and to congratulate
12 Mr. Mullen. I had the opportunity to meet
13 with him as we began to discuss the new MWBE
14 bill that we're putting forward before this
15 Legislature. And I have to say to you that in
16 the working groups I've met very few
17 government people who really have a
18 cooperative spirit in the manner that he does.

19 When we discuss -- and I'm a
20 debater, and we debated the issues. But he's
21 not the kind of person that says what you want
22 to hear. But somehow he manages to make sure
23 that what you want and what he needs are the
24 same thing. And working for the State of
25 New York and creating the economic development

1 engine that's going to get this state back on
2 its footing is going to take that kind of
3 individual.

4 So I am very pleased to add my vote
5 to that of this body in appointing him to this
6 position that already he's hit the ground
7 running.

8 Thank you, Madam President.

9 ACTING PRESIDENT STEWART-COUSINS:

10 Thank you, Senator.

11 Are there any other Senators
12 wishing to be heard on the nomination?

13 The question is on the motion to
14 confirm the nomination of Dennis M. Mullen, of
15 Pittsford, as President and CEO of the Empire
16 State Development Corporation, Commissioner of
17 Economic Development, and Director of the
18 Urban Development Corporation. All those in
19 favor please signify by saying aye.

20 (Response of "Aye.")

21 ACTING PRESIDENT STEWART-COUSINS:

22 Opposed, nay.

23 (No response.)

24 ACTING PRESIDENT STEWART-COUSINS:

25 The motion carries. The nomination is

1 confirmed.

2 Congratulations, Mr. Mullen.

3 (Applause.)

4 ACTING PRESIDENT STEWART-COUSINS:

5 The Secretary will continue to read.

6 THE SECRETARY: As a member of
7 the Battery Park City Authority, Fernando
8 Mateo, of Irvington.

9 As a member of the Industrial Board
10 of Appeals, Jeffrey R. Cassidy, of Cohoes.

11 As a member of the Port of Oswego
12 Authority, Walter David Schemerhorn, of
13 Oswego.

14 And as director of the New York
15 State Convention Center Operating Corporation,
16 Michael J. McGuire, of New York City.

17 ACTING PRESIDENT STEWART-COUSINS:
18 Senator Kruger.

19 SENATOR CARL KRUGER: Thank you,
20 Madam President. Can we please move these
21 nominations.

22 ACTING PRESIDENT STEWART-COUSINS:
23 Are there any Senators wishing to be heard on
24 this motion to confirm the nominations?

25 The question is on the motion to

1 confirm the nominations. All those in favor
2 please signify by saying aye.

3 (Response of "Aye.")

4 ACTING PRESIDENT STEWART-COUSINS:
5 Opposed, nay.

6 (No response.)

7 ACTING PRESIDENT STEWART-COUSINS:
8 The motion carries. The nominations are
9 confirmed.

10 Returning to the order of business,
11 reports of select committees.

12 Communications and reports from
13 state officers.

14 Motions and resolutions.

15 Senator Craig Johnson.

16 SENATOR CRAIG JOHNSON: Madam
17 President, I believe there are substitutions
18 at the desk. I ask that we make the
19 substitutions at this time.

20 ACTING PRESIDENT STEWART-COUSINS:
21 The Secretary will read.

22 THE SECRETARY: On page 13,
23 Senator Addabbo moves to discharge, from the
24 Committee on Elections, Assembly Bill Number
25 8693 and substitute it for the identical

1 Senate Bill Number 6910A, Third Reading
2 Calendar 236.

3 On page 28, Senator Valesky moves
4 to discharge, from the Committee on Finance,
5 Assembly Bill Number 5220B and substitute it
6 for the identical Senate Bill Number 2056B,
7 Third Reading Calendar 487.

8 On page 28, Senator Morahan moves
9 to discharge, from the Committee on Finance,
10 Assembly Bill Number 9825A and substitute it
11 for the identical Senate Bill Number 6772A,
12 Third Reading Calendar 489.

13 On page 29, Senator Morahan moves
14 to discharge, from the Committee on Codes,
15 Assembly Bill Number 3762 and substitute it
16 for the identical Senate Bill Number 3475,
17 Third Reading Calendar 496.

18 On page 29, Senator Adams moves to
19 discharge, from the Committee on Codes,
20 Assembly Bill Number 9737 and substitute it
21 for the identical Senate Bill Number 7021,
22 Third Reading Calendar 499.

23 On page 29, Senator Schneiderman
24 moves to discharge, from the Committee on
25 Codes, Assembly Bill Number 9220A and

1 substitute it for the identical Senate Bill
2 Number 7575, Third Reading Calendar 501.

3 And on page 29, Senator Stachowski
4 moves to discharge, from the Committee on
5 Commerce, Economic Development and Small
6 Business, Assembly Bill Number 9810 and
7 substitute it for the identical Senate Bill
8 Number 6854, Third Reading Calendar 503.

9 ACTING PRESIDENT STEWART-COUSINS:
10 Substitutions so ordered.

11 Senator Johnson.

12 SENATOR CRAIG JOHNSON: Madam
13 President, on behalf of Senator Sampson,
14 please place a sponsor's star on Calendar
15 Number 154.

16 ACTING PRESIDENT STEWART-COUSINS:
17 So ordered.

18 SENATOR CRAIG JOHNSON: Madam
19 President, on behalf of Senator Sampson, I
20 move that the following bills be discharged
21 from their respective committees and be
22 recommitted with instructions to strike the
23 enacting clause: Senate Numbers 102, 106,
24 141, 189, and 193.

25 ACTING PRESIDENT STEWART-COUSINS:

1 So ordered.

2 SENATOR CRAIG JOHNSON: Madam
3 President, on behalf of Senator Klein, on
4 page number 8 I offer the following amendments
5 to Calendar Number 106, Senate Number 6343,
6 and ask that said bill retain its place on the
7 Third Reading Calendar.

8 ACTING PRESIDENT STEWART-COUSINS:
9 So ordered.

10 SENATOR CRAIG JOHNSON: Madam
11 President, at this time I move to recall
12 Senate Resolution Number 4728, by Senator
13 Little, which was unanimously adopted by this
14 house on April 20th. I ask that the title of
15 the resolution be read and allow Senator
16 Little the opportunity to speak on the
17 resolution.

18 ACTING PRESIDENT STEWART-COUSINS:
19 The Secretary will read.

20 THE SECRETARY: By Senator
21 Little, Legislative Resolution Number 4728,
22 memorializing Governor David A. Paterson to
23 proclaim May 10 through 16, 2010, as
24 Fibromyalgia Awareness Week in the State of
25 New York.

1 ACTING PRESIDENT STEWART-COUSINS:

2 Senator Little.

3 SENATOR LITTLE: Thank you, Madam
4 President.

5 The Governor has proclaimed this
6 week, May 10 to 16, as Fibromyalgia Awareness
7 Week by virtue of this resolution. And the
8 purpose of proclaiming this week is to develop
9 a better awareness of actually what
10 fibromyalgia is. It is a disease where there
11 is no known cause and there is no known cure,
12 and over 10 million people in this country are
13 affected by that.

14 What this disease is is a chronic
15 disorder that causes fatigue and debilitating
16 pain, and it affects women, men and children.

17 I have a close friend who has been
18 diagnosed with fibromyalgia. And in the
19 recent years, through some different types of
20 treatment, she has been able to learn to live
21 with this and to be able to still function and
22 do many, many things with her family.

23 It frequently takes up to five
24 years to get a good diagnosis and to know that
25 you have fibromyalgia, and then what you hear

1 from the doctor is that you need to learn to
2 live with it.

3 Our hope in this resolution is that
4 we will increase awareness and expand
5 knowledge about this disease. We are joined
6 today by Sue Shipe, who is the executive
7 director of the International Institute for
8 Human Empowerment. They are the publisher of
9 Fibromyalgia Aware, which is a magazine that
10 helps people to learn to live with this, makes
11 them more aware of things that they can do to
12 help them be more comfortable, and also shows
13 family members how can you support people with
14 fibromyalgia.

15 So therefore I hope that all of us
16 as we go forward today will listen to people
17 who come into our office, those who are
18 affected by fibromyalgia, that we will have a
19 better awareness of it, that we will support
20 those people, and that we will support the
21 search for a cure for those who are afflicted
22 with it. I thank you all for considering this
23 resolution.

24 Thank you.

25 ACTING PRESIDENT STEWART-COUSINS:

1 Thank you, Senator Little.

2 Are there any other Senators that
3 wish to be heard on the resolution?

4 This resolution was previously
5 adopted on April 20th.

6 Senator Johnson.

7 SENATOR CRAIG JOHNSON: Madam
8 President, at this time can we go to a reading
9 of the calendar.

10 ACTING PRESIDENT STEWART-COUSINS:
11 Senator Johnson.

12 SENATOR CRAIG JOHNSON: Madam
13 President, will you first please recognize
14 Senator Flanagan for a motion.

15 ACTING PRESIDENT STEWART-COUSINS:
16 Senator Flanagan.

17 SENATOR FLANAGAN: Thank you,
18 Madam President.

19 On behalf of Senator Volker, on
20 page number 17 I offer the following
21 amendments to Calendar Number 344, Senate
22 Print 7170, and ask that said bill retain its
23 place on the Third Reading Calendar.

24 ACTING PRESIDENT STEWART-COUSINS:
25 So ordered.

1 SENATOR FLANAGAN: Thank you.

2 ACTING PRESIDENT STEWART-COUSINS:

3 Thank you.

4 Senator Johnson.

5 SENATOR CRAIG JOHNSON: Madam

6 President, can we now at this time go to a

7 reading of the calendar.

8 ACTING PRESIDENT STEWART-COUSINS:

9 The Secretary will read.

10 THE SECRETARY: Calendar Number

11 215, by Senator C. Johnson, Senate Print --

12 SENATOR CRAIG JOHNSON: Lay it

13 aside for the day, please.

14 ACTING PRESIDENT STEWART-COUSINS:

15 The bill is laid aside for the day.

16 THE SECRETARY: Calendar Number

17 406, by Member of the Assembly Magee, Assembly

18 Print Number 6687, an act to amend the

19 Agriculture and Markets Law.

20 ACTING PRESIDENT STEWART-COUSINS:

21 Read the last section.

22 THE SECRETARY: Section 2. This

23 act shall take effect immediately.

24 ACTING PRESIDENT STEWART-COUSINS:

25 Call the roll.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT STEWART-COUSINS:

3 Announce the results.

4 THE SECRETARY: Ayes, 57.

5 ACTING PRESIDENT STEWART-COUSINS:

6 The bill is passed.

7 THE SECRETARY: Calendar Number
8 419, by Member of the Assembly Peoples-Stokes,
9 Assembly Print Number 8489A, an act to amend
10 the Environmental Conservation Law.

11 ACTING PRESIDENT STEWART-COUSINS:

12 Read the last section.

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

15 ACTING PRESIDENT STEWART-COUSINS:

16 Call the roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT STEWART-COUSINS:

19 Announce the results.

20 THE SECRETARY: Those recorded in
21 the negative on Calendar Number 419 are
22 Senators Bonacic, DeFrancisco, Farley,
23 Flanagan, Golden, Griffio, O. Johnson, Larkin,
24 Libous, Little, Ranzenhofer, Robach, Seward,
25 Skelos, Volker, Winner and Young. Also

1 Senator Saland. Also Senator Nozzolio.

2 Ayes, 39. Nays, 19.

3 ACTING PRESIDENT STEWART-COUSINS:

4 The bill is passed.

5 The Secretary will continue to
6 read.

7 THE SECRETARY: Calendar Number
8 423, by Member of the Assembly Abbate,
9 Assembly Print Number 9174A, an act to amend
10 the Public Authorities Law.

11 ACTING PRESIDENT STEWART-COUSINS:
12 Read the last section.

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

15 ACTING PRESIDENT STEWART-COUSINS:
16 Call the roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT STEWART-COUSINS:
19 Announce the results.

20 THE SECRETARY: Ayes, 57. Nays,
21 1. Senator Ranzenhofer recorded in the
22 negative.

23 ACTING PRESIDENT STEWART-COUSINS:
24 The bill is passed.

25 THE SECRETARY: Calendar Number

1 429 --

2 SENATOR KLEIN: Lay the bill
3 aside for the day, please.

4 ACTING PRESIDENT STEWART-COUSINS:
5 The bill is laid aside for the day.

6 THE SECRETARY: Calendar Number
7 432 --

8 SENATOR KLEIN: Lay the bill
9 aside for the day, please.

10 ACTING PRESIDENT STEWART-COUSINS:
11 The bill is laid aside for the day.

12 THE SECRETARY: Calendar Number
13 434, by Senator Valesky --

14 SENATOR LIBOUS: Lay it aside.

15 ACTING PRESIDENT STEWART-COUSINS:
16 The bill is laid aside.

17 THE SECRETARY: Calendar Number
18 436, by Member of the Assembly Dendekker,
19 Assembly Print Number 10750, an act to amend
20 the Criminal Procedure Law.

21 ACTING PRESIDENT STEWART-COUSINS:
22 Read the last section.

23 THE SECRETARY: Section 3. This
24 act shall take effect on the same date and in
25 the same manner as a chapter of the Laws of

1 2010.

2 ACTING PRESIDENT STEWART-COUSINS:

3 Call the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 58.

6 ACTING PRESIDENT STEWART-COUSINS:

7 The bill is passed.

8 THE SECRETARY: Calendar Number
9 437, by Member of the Assembly Gottfried,
10 Assembly Print Number 8498A, an act to amend
11 the Public Health Law.

12 ACTING PRESIDENT STEWART-COUSINS:

13 Read the last section.

14 SENATOR HANNON: Lay it aside.

15 ACTING PRESIDENT STEWART-COUSINS:

16 The bill is laid aside.

17 The Secretary will continue to
18 read.

19 THE SECRETARY: Calendar Number
20 438, by Member of the Assembly Gottfried,
21 Assembly Print Number 10664, an act to amend
22 the Public Health Law and the State Technology
23 Law.

24 ACTING PRESIDENT STEWART-COUSINS:

25 Read the last section.

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

3 ACTING PRESIDENT STEWART-COUSINS:
4 Call the roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT STEWART-COUSINS:
7 Announce the results.

8 THE SECRETARY: Ayes, 59.

9 ACTING PRESIDENT STEWART-COUSINS:
10 The bill is passed.

11 THE SECRETARY: Calendar Number
12 445, by Senator Oppenheimer, Senate Print
13 6152B, an act to authorize the Village of
14 Mamaroneck, in the County of Westchester.

15 ACTING PRESIDENT STEWART-COUSINS:
16 There is a home-rule message at the desk.

17 Read the last section.

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

20 ACTING PRESIDENT STEWART-COUSINS:
21 Call the roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT STEWART-COUSINS:
24 Announce the results.

25 THE SECRETARY: Ayes, 59.

1 ACTING PRESIDENT STEWART-COUSINS:

2 The bill is passed.

3 THE SECRETARY: Calendar Number
4 448, by Senator --

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

7 ACTING PRESIDENT STEWART-COUSINS:
8 The bill is laid aside for the day.

9 THE SECRETARY: Calendar Number
10 449, by Member of the Assembly Pheffer,
11 Assembly Print Number 10260, an act to amend
12 the Public Authorities Law.

13 ACTING PRESIDENT STEWART-COUSINS:
14 Read the last section.

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

17 ACTING PRESIDENT STEWART-COUSINS:
18 Call the roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT STEWART-COUSINS:
21 Announce the results.

22 THE SECRETARY: Ayes, 59.

23 ACTING PRESIDENT STEWART-COUSINS:
24 The bill is passed.

25 THE SECRETARY: Calendar Number

1 459, by --

2 SENATOR KLEIN: Lay the bill
3 aside for the day, please.

4 ACTING PRESIDENT STEWART-COUSINS:
5 The bill is laid aside for the day.

6 THE SECRETARY: Calendar Number
7 460, by Senator Dilan, Senate Print 7191, an
8 act to amend the Transportation Law.

9 ACTING PRESIDENT STEWART-COUSINS:
10 Read the last section.

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

13 ACTING PRESIDENT STEWART-COUSINS:
14 Call the roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT STEWART-COUSINS:
17 Announce the results.

18 THE SECRETARY: Ayes, 60.

19 ACTING PRESIDENT STEWART-COUSINS:
20 The bill is passed.

21 THE SECRETARY: Calendar Number
22 469, by Senator Huntley, Senate Print 5833, an
23 act to amend the Mental Hygiene Law.

24 ACTING PRESIDENT STEWART-COUSINS:
25 Read the last section.

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

3 ACTING PRESIDENT STEWART-COUSINS:
4 Call the roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT STEWART-COUSINS:
7 Senator DeFrancisco, why do you rise?

8 SENATOR DeFRANCISCO: I just lost
9 track. What bill are we on now?

10 ACTING PRESIDENT STEWART-COUSINS:
11 Calendar Number 469.

12 SENATOR DeFRANCISCO: Okay, thank
13 you. All set.

14 ACTING PRESIDENT STEWART-COUSINS:
15 Announce the results.

16 THE SECRETARY: In relation to
17 Calendar Number 469: Ayes, 60. Nays, 0.

18 ACTING PRESIDENT STEWART-COUSINS:
19 The bill is passed.

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

22 SENATOR KLEIN: Madam President,
23 at this time can we please go to a reading of
24 the controversial calendar.

25 ACTING PRESIDENT STEWART-COUSINS:

1 The Secretary will ring the bell.

2 Members are all asked to come to
3 the chamber for the controversial reading of
4 the calendar.

5 The Secretary will read.

6 THE SECRETARY: Calendar Number
7 434, by Senator Valesky, Senate Print 4302, an
8 act to amend the Criminal Procedure Law and
9 the Education Law.

10 SENATOR DeFRANCISCO:

11 Explanation.

12 ACTING PRESIDENT STEWART-COUSINS:

13 Senator Valesky, an explanation has been
14 requested by Senator DeFrancisco.

15 SENATOR VALESKY: Thank you,
16 Madam President.

17 This bill was introduced at this
18 request of the University police officers, and
19 it would repeal -- or actually would expand
20 the geographical area of employment for SUNY
21 police officers by repealing provisions in the
22 Criminal Procedure and Education Law that
23 limit jurisdiction for enforcement of
24 violations and infractions to SUNY property
25 only.

1 It is supported by the police
2 officers union, New York State Troopers PBA,
3 SUNY Police Chiefs Association, and many other
4 law enforcement agencies.

5 ACTING PRESIDENT STEWART-COUSINS:
6 Thank you, Senator Valesky.

7 Senator Saland.

8 SENATOR SALAND: Thank you, Madam
9 President. Madam President, would Senator
10 Valesky yield to a question.

11 ACTING PRESIDENT STEWART-COUSINS:
12 Senator Valesky, will you yield?

13 SENATOR VALESKY: Certainly.

14 SENATOR SALAND: Senator Valesky,
15 you amend a couple of sections of law -- you
16 repeal a couple of sections of law. You
17 repeal CPL Section 34A, subsection D, which
18 makes specific reference to the geographical
19 area of employment.

20 SENATOR VALESKY: Correct.

21 SENATOR SALAND: Before I ask you
22 to yield, I actually chaptered the legislation
23 which gave the University police police
24 authority. And I'm quite troubled by the
25 memos that I have seen and, quite candidly,

1 find them to be seriously misleading.

2 This was an effort that took
3 probably at least two and perhaps three
4 sessions before we achieved a result. And
5 when I read in here, in the memo from the
6 University Police Officers and Supervisors
7 Union -- and perhaps they will want to take
8 back the honor they gave me when I passed the
9 legislation -- it talks about "this
10 legislation will correct the legislative
11 oversight over ten years ago."

12 There was no oversight. This was
13 intended to be limited. This was specifically
14 intended not to give them broad police powers.
15 They knew it at the time, and they know it
16 now, unless those who were there then have
17 simply forgotten about it.

18 Now, they have more than
19 jurisdiction over infractions and violations,
20 they have jurisdiction over felonies. Your
21 memo says they only have jurisdiction over
22 infractions and violations. In fact, they
23 have jurisdiction over felonies.

24 And I'd like to know, why would we
25 want to treat University police differently

1 than police in the City of Albany, police in
2 the Town of Poughkeepsie, police in the City
3 of Syracuse, and police in any other city or
4 village or any county sheriff in any
5 jurisdiction in this state? Why would we want
6 to elevate the University police to a status
7 higher than theirs by giving them statewide
8 authority?

9 SENATOR VALESKY: Madam
10 President, through you, I'm not sure that we
11 are elevating them to a status higher than
12 other law enforcement. My understanding is we
13 are raising them to a status and giving them
14 the ability to enforce violations and
15 infractions off university property, similar
16 to what they have under your original bill, as
17 it relates to felonies and misdemeanors.

18 SENATOR SALAND: Madam Chair,
19 would -- Madam President, would Senator
20 Valesky continue to yield.

21 ACTING PRESIDENT STEWART-COUSINS:
22 Senator Valesky, do you continue to yield?

23 SENATOR VALESKY: Yes.

24 SENATOR SALAND: Senator, if that
25 is the sole purpose of the bill, that could be

1 accomplished with very narrow language without
2 giving them the authority. And I call your
3 attention to the section that you're amending,
4 CPL Section 34A, subsection D.

5 If you look at 34A, you have
6 several different types of jurisdiction or
7 venue. The first one listed in (A) talks
8 about geographical area of employment of any
9 police officer employed by the state or a
10 statewide authority. The second one talks
11 about geographical area of employment of a
12 county, city, town or village police officer.
13 And the third one talks about geographical
14 area of employment where an authority
15 functions in more than one county.

16 By omitting the language that
17 you're omitting, you are now giving University
18 police statewide police authority. Not merely
19 the ability to enforce an infraction while
20 traveling from one campus to another, you are
21 basically giving them statewide authority.
22 That's an authority that the Syracuse police
23 don't have, that any of the police forces or
24 sheriff's offices that I named previously
25 don't have.

1 Why would you want to do that? Why
2 would you want to restrict local law
3 enforcement and give this status to University
4 police, when they knew full well from the
5 get-go that their jurisdiction was going to be
6 limited?

7 SENATOR VALESKY: Madam
8 President, through you, I'm not sure I agree
9 that this bill restricts local law
10 enforcement.

11 This bill enhances the ability of
12 SUNY police officers off-campus, in
13 arrangements that have been agreed to by the
14 president of that university and the local law
15 enforcement in that geographic area, to
16 cooperate and enter into cooperative
17 agreements as it relates to the enforcement of
18 infractions and violations.

19 SENATOR SALAND: Through you,
20 Madam President, permit me to agree and
21 disagree with you at the same time.

22 Your bill does not restrict local
23 law enforcement. The current law restricts
24 local law enforcement as it restricts
25 University police. You're removing the

1 restriction from the University police,
2 continuing the restrictions on local law
3 enforcement.

4 Right now a University policeman,
5 much like the Syracuse city policeman, can
6 leave his or her jurisdiction in hot pursuit
7 where they've observed a felony. They can do
8 that. To that extent, they're equals.

9 You're now saying that you want
10 University police to have a greater, many
11 greater jurisdiction than does any municipal
12 police force, than does any sheriff's
13 department. You are basically giving them
14 statewide authority, which flies in the face
15 of what happened and what they understood was
16 happening when they were given police officer
17 status.

18 I mean, do you want all police
19 officers to have that ability or just SUNY
20 police officers to have that ability?

21 SENATOR VALESKY: Madam
22 President, again, the intent of this
23 legislation is to allow SUNY -- the University
24 police force to be able to enforce infractions
25 and violations of the law off-campus in

1 accordance with a previously agreed-to written
2 arrangement with the local law enforcement
3 agency.

4 SENATOR SALAND: They currently
5 have the ability to do that. Where they have
6 a satellite campus, they can go to the
7 satellite campus, have the same jurisdiction
8 they have in the existing campus.

9 Your issue which I think you're
10 trying to describe is the one that says if
11 they're traveling from Campus A to Campus B, a
12 distance of a mile and a half, they cannot
13 enforce an infraction that might occur between
14 A and B.

15 And I'm saying to you that that can
16 be accomplished in a much tighter fashion than
17 to give them statewide jurisdiction. You can
18 simply put in a bill that says that, that in
19 the course of traveling from campus to campus,
20 they will have the authority to enforce
21 infractions or violations. But that's not
22 what your bill does.

23 ACTING PRESIDENT STEWART-COUSINS:
24 Senator Saland, did you want to speak on the
25 bill or do you want Senator Valesky to

1 continue to yield?

2 SENATOR SALAND: I'd like him to
3 continue to yield.

4 Would that not be -- for purposes
5 of what you would hope to do, would that not
6 be a sounder means by which to do it instead
7 of giving them statewide police authority from
8 the tip of Montauk to Buffalo up to the
9 Canadian border?

10 SENATOR VALESKY: Madam
11 President, would Senator Saland repeat his
12 question once again, please?

13 ACTING PRESIDENT STEWART-COUSINS:
14 Senator Saland, would you repeat your
15 question?

16 SENATOR VALESKY: I'm not sure
17 how I can answer the question any differently
18 than I previously answered it, it is my
19 challenge.

20 SENATOR SALAND: My question to
21 you was if in fact your desire -- if you're
22 motivated by the desire to provide them with
23 the authority to be able to enforce a
24 violation or an infraction that they might
25 observe traveling between campuses, is there

1 not a better way to do that than to give them
2 the authority to have police authority in
3 every corner of this state? Because by
4 deleting the language that you're deleting,
5 you are effectively doing that.

6 I don't disagree with what it is
7 that you're trying to do, if in fact that is
8 the limits of what you're trying to do. But
9 there's a way to do that without opening up
10 the entire state to enforcement authority by
11 University police.

12 SENATOR VALESKY: Madam
13 President, I think Senator Saland has raised
14 some important issues here in regard to the
15 intent of this legislation. And if, as the
16 sponsor of the original law, if he believes
17 that the drafting of this bill exceeds
18 certainly my intent of this bill, I'd be more
19 than happy to work with Senator Saland to
20 constrain the language of this bill to what my
21 intent of this bill is.

22 So as a result, I'd like to lay the
23 bill aside for the day.

24 ACTING PRESIDENT STEWART-COUSINS:
25 The bill is laid aside for the day.

1 SENATOR SALAND: Thank you,
2 Senator.

3 ACTING PRESIDENT STEWART-COUSINS:
4 The Secretary will read.

5 THE SECRETARY: Calendar Number
6 437, by Member of the Assembly Gottfried --

7 SENATOR KLEIN: Lay the bill
8 aside for the day, please.

9 ACTING PRESIDENT STEWART-COUSINS:
10 The bill is laid aside for the day.

11 Senator Klein, that completes the
12 reading of the controversial calendar.

13 SENATOR KLEIN: Madam President,
14 at this time can we please go to a reading of
15 the supplemental active list.

16 ACTING PRESIDENT STEWART-COUSINS:
17 The Secretary will read.

18 THE SECRETARY: Calendar Number
19 381, by Senator Perkins, Senate Print 6066A --

20 SENATOR KLEIN: Lay the bill
21 aside for the day.

22 ACTING PRESIDENT STEWART-COUSINS:
23 The bill is laid aside for the day.

24 THE SECRETARY: Calendar Number
25 262, by Senator Morahan, Senate Print 1823B --

1 SENATOR KLEIN: Lay the bill
2 aside for the day.

3 ACTING PRESIDENT STEWART-COUSINS:
4 The bill is laid aside for the day.

5 THE SECRETARY: Calendar Number
6 313, by Senator LaValle, Senate Print 6730, an
7 act to amend Chapter 282 of the Laws of 2008,
8 relating to authorizing.

9 ACTING PRESIDENT STEWART-COUSINS:
10 There is a home-rule message at the desk.

11 Read the last section.

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

14 ACTING PRESIDENT STEWART-COUSINS:
15 Call the roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT STEWART-COUSINS:
18 Announce the results.

19 THE SECRETARY: Ayes, 60.

20 ACTING PRESIDENT STEWART-COUSINS:
21 The bill is passed.

22 THE SECRETARY: Calendar Number
23 361, by Senator Seward, Senate Print 6826, an
24 act to amend the Vehicle and Traffic Law.

25 ACTING PRESIDENT STEWART-COUSINS:

1 Read the last section.

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

4 ACTING PRESIDENT STEWART-COUSINS:
5 Call the roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT STEWART-COUSINS:
8 Announce the results.

9 THE SECRETARY: Ayes, 60.

10 ACTING PRESIDENT STEWART-COUSINS:
11 The bill is passed.

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

15 SENATOR KLEIN: Madam President,
16 is there any further business at the desk?

17 ACTING PRESIDENT STEWART-COUSINS:
18 Senator Klein, the desk is clear.

19 SENATOR KLEIN: There being no
20 further business, Madam President, I move that
21 we adjourn until Wednesday, May 12th, at
22 11:00 a.m.

23 ACTING PRESIDENT STEWART-COUSINS:
24 There being no further business to come before
25 the Senate, on motion, the Senate stands

1 adjourned until Wednesday, May 12th, at
2 11:00 a.m.

3 (Whereupon, at 4:36 p.m., the
4 Senate adjourned.)

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