NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 2, 2010

4:03 p.m.

REGULAR SESSION

SENATOR ANDREA STEWART-COUSINS, Acting President

ANGELO J. APONTE, Secretary

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: Today's invocation will be provided by the Reverend Peter G. Young, of Mother Teresa Community in Albany.

REVEREND YOUNG: Thank you, Senator.

As we have just celebrated Memorial Day, we must remember the symbol of our Empire State, that it is represented by our New York State in stained glass above the President's chair in this Senate chamber. I draw your attention to it as a proud New York State American.

The State Seal has the motto "Excelsior" -- "ever upward" -- and it replaced the place of the crown in 1777. Lady Liberty, with a peasant cap representing

democratic rule, has her left foot stepping on the crown, representing the rejection of royalty.

As citizens of the Empire State, we have been the leader with our constitution 12 years before the federal Constitution. As a national leader, You have given these Senators a great power and responsibility. We pray that they will always work in Your image and honor for all of our New York State citizens.

Amen.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Father.

The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Tuesday, June 1, the Senate met pursuant to adjournment. The Journal of Monday, May 31, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT STEWART-COUSINS: Without objection, the Journal stands approved as read.

May we please have order in the

chamber.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Motions and resolutions.

Senator Klein.

SENATOR KLEIN: Madam President, I have several motions.

First, on behalf of Senator Foley, I wish to call up Print Number 6139, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT STEWART-COUSINS: The Secretary will read.

THE SECRETARY: Calendar Number 312, by Senator Foley, Senate Print 6139, an act to authorize.

ACTING PRESIDENT STEWART-COUSINS: Senator Klein.

SENATOR KLEIN: Madam President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT STEWART-COUSINS: The Secretary will call the roll on

reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT STEWART-COUSINS: Senator Klein.

SENATOR KLEIN: Madam President, I now offer the following amendments.

ACTING PRESIDENT STEWART-COUSINS: The amendments are received.

SENATOR KLEIN: Madam President, on behalf of Senator Thompson, I wish to call up Print Number 3296G, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT STEWART-COUSINS: The Secretary will read.

THE SECRETARY: Calendar Number 399, by Senator Thompson, Senate Print 3296G, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT STEWART-COUSINS: Senator Klein.

SENATOR KLEIN: Madam President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT STEWART-COUSINS:

The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT STEWART-COUSINS: Senator Klein.

SENATOR KLEIN: Madam President, I now offer the following amendments.

ACTING PRESIDENT STEWART-COUSINS: The amendments are received.

SENATOR KLEIN: Madam President, on behalf of Senator Stachowski, I wish to call up Print Number 6277, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT STEWART-COUSINS: The Secretary will read.

THE SECRETARY: Calendar Number 306, by Senator Stachowski, Senate Print 6277, an act to amend the Highway Law.

ACTING PRESIDENT STEWART-COUSINS: Senator Klein.

SENATOR KLEIN: I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT STEWART-COUSINS:

The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT STEWART-COUSINS: Senator Klein.

SENATOR KLEIN: Madam President, I now offer the following amendments.

ACTING PRESIDENT STEWART-COUSINS: The amendments are received.

SENATOR KLEIN: Madam President, I believe there are substitutions at the desk. I ask that we make the substitutions at this time.

ACTING PRESIDENT STEWART-COUSINS: The Secretary will read.

THE SECRETARY: On page 6, Senator DeFrancisco moves to discharge, from the Committee on Finance, Assembly Bill Number 8462A and substitute it for the identical Senate Bill Number 3248A, Third Reading Calendar 5.

On page 30, Senator Savino moves to discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 10770 and

substitute it for the identical Senate Bill Number 7611, Third Reading Calendar 594.

On page 33, Senator Espada moves to discharge, from the Committee on Finance, Assembly Bill Number 10728 and substitute it for the identical Senate Bill Number 6843, Third Reading Calendar 627.

And on page 36, Senator Morahan moves to discharge, from the Committee on Mental Health and Developmental Disabilities, Assembly Bill Number 10790 and substitute it for the identical Senate Bill Number 7254, Third Reading Calendar 660.

ACTING PRESIDENT STEWART-COUSINS: Substitutions ordered.

Senator Klein.

SENATOR KLEIN: Madam President, can you please call on Senator Libous. I believe he has a motion as well.

ACTING PRESIDENT STEWART-COUSINS: Senator Libous.

SENATOR LIBOUS: Thank you, Madam President. I just dropped my glasses, so this will take a minute. (Pause.)

Thank you for your patience.

ACTING PRESIDENT STEWART-COUSINS: Senator Libous, that's okay.

SENATOR LIBOUS: This is on behalf of Senator Marcellino. I'd like to call up his bill, Print Number 6705, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT STEWART-COUSINS: The Secretary will read.

THE SECRETARY: Calendar Number 252, by Senator Marcellino, Senate Print 6705, an act to amend the Highway Law.

ACTING PRESIDENT STEWART-COUSINS: Senator Libous.

SENATOR LIBOUS: Madam President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT STEWART-COUSINS: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT STEWART-COUSINS: Senator Libous.

SENATOR LIBOUS: Madam President, I offer up the following amendments.

ACTING PRESIDENT STEWART-COUSINS: The amendments are received.

Senator Klein.

SENATOR KLEIN: Madam President, there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

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

ACTING PRESIDENT STEWART-COUSINS: There will be an immediate meeting of the Rules Committee in Room 332.

Pending the return of the Rules Committee, the Senate will stand at ease.

(Whereupon, the Senate stood at ease at 4:09 p.m.)

(Whereupon, the Senate reconvened at 4:31 p.m.)

ACTING PRESIDENT STEWART-COUSINS: Senator Klein.

SENATOR KLEIN: Madam President, I believe there's a report of the Rules Committee at the desk. I ask that we adopt the report at this time.

ACTING PRESIDENT STEWART-COUSINS:

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 bill direct to Third Reading:

Senate Print 8008, by the Senate Committee on Rules, an act to amend the Economic Development Law.

ACTING PRESIDENT STEWART-COUSINS: All those in favor of adopting the Rules Committee report please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT STEWART-COUSINS: Opposed, nay.

(No response.)

ACTING PRESIDENT STEWART-COUSINS: The Rules Committee report is adopted.

Senator Klein.

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

ACTING PRESIDENT STEWART-COUSINS: The Secretary will read.

THE SECRETARY: Calendar Number

329, by Senator Huntley, Senate Print 3119B, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of November.

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

THE SECRETARY: Calendar Number 432, by Senator L. Krueger, Senate Print 4781A, an act to amend the Uniform City Court Act and others.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

THE SECRETARY: Section 12. This act shall take effect on the first of September.

ACTING PRESIDENT STEWART-COUSINS:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

THE SECRETARY: Calendar Number 542, by Member of the Assembly Canestrari, Assembly Print Number 9959, an act to amend Chapter 20 of the Laws of 1998 amending the Education Law.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

THE SECRETARY: Calendar Number

545, by Senator Espada, Senate Print 7420, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

THE SECRETARY: Calendar Number 561, by Senator Breslin, Senate Print 1803C, an act to amend the Insurance Law.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first of January.

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS:

Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

THE SECRETARY: Calendar Number 563, by Member of the Assembly --

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

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

THE SECRETARY: Calendar Number 589, by Member of the Assembly Weinstein, Assembly Print Number --

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

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

THE SECRETARY: Calendar Number 591, by Senator Savino, Senate Print 5532A, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

THE SECRETARY: Calendar Number 592, by Senator Savino, Senate Print 6966, an act to amend the Civil Service Law.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

THE SECRETARY: Calendar Number 594, substituted earlier today by Member of

the Assembly Abbate, Assembly Print Number 10770, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

THE SECRETARY: Section 5. This act shall take effect July 1, 2010.

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

THE SECRETARY: Calendar Number 595, by Senator L. Krueger, Senate Print 3853, an act to amend the Real Property Tax Law.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

THE SECRETARY: Calendar Number 599, by Senator Breslin, Senate Print 6419A, an act to amend the Town Law.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

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

SENATOR KLEIN: Madam President, can we please go to a reading of the Senate supplemental calendar.

ACTING PRESIDENT STEWART-COUSINS: The Secretary will read.

THE SECRETARY: Calendar Number 705, by the Senate Committee on Rules, Senate Print 8008, an act to amend the Economic Development Law.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

SENATOR MAZIARZ: Madam President, to explain my vote.

ACTING PRESIDENT STEWART-COUSINS: Senator Maziarz, to explain his vote.

SENATOR MAZIARZ: Thank you very much, Madam President.

This is the -- I think a two-week extender to the Power for Jobs program, a very valuable program. It provides low-cost hydropower produced at Niagara and St. Lawrence to almost 500 businesses in New York State.

And we in this Senate, there's one thing -- after a day like yesterday -- I think we could truly point to with a great deal of pride, that we in the Senate have worked together, both sides of the aisle, to come up with what the people in business, the people in labor, the people in the field of energy all agree is a very good compromise.

It protects those industries that currently get an allocation of Power for Jobs; it expands the pool of companies in New York, particularly manufacturing companies, that will be eligible for Power for Jobs; it protects upstate residential ratepayers in the three utility districts -- National Grid, RG&E, and New York State Gas and Electric. And we did this in a very professional, bipartisan manner here.

The real problem is not in this house but over in the other house, where they just can't seem to negotiate, they don't want to, it appears to me, to negotiate any kind of a final agreement. They just want to keep extending and extending and extending.

So I think that we clearly should

do this for those almost 500 businesses. But I do think that we have to draw a line somewhere and say that we are not going to go any further with this.

So, Madam President, I vote in the affirmative. Thank you.

ACTING PRESIDENT STEWART-COUSINS: Senator Maziarz to be recorded in the affirmative.

Senator Griffo, to explain his vote.

SENATOR GRIFFO: Thank you, Madam President.

I agree with Senator Maziarz, and I do believe that we are working very hard in this house to try and find common ground.

In fact, in the first Energy Committee that we began to discuss the possibility of a short-term extender, I warned that it should be a longer version of that, because if we only go in these two-week increments that we're going to see problems, particularly in the other house.

I'm also concerned about the Governor and his position. There's some

indication that there may be an unwillingness to sign any extender. And I would hope that he would not jeopardize all of these important manufacturers who are relying upon this. And when we're at a time when we are concerned about jobs and the future of our economy, I would hope that he would continue to support this as we try to work on a product and a final bill that will bring Power for Jobs into a permanent policy.

So I will be voting yes today, and I'm hopeful that we can get everybody to continue to be focused and supportive of the initiative of Power for Jobs in a permanent perspective.

ACTING PRESIDENT STEWART-COUSINS: Senator Griffo to be recorded in the affirmative.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Thank you.

I also am going to vote aye on this bill, but there's a point that I made before and I just want to reemphasize it, is there's just so much power that's being allocated for

jobs. There's a limited number of kilowatts, and we've got to use it most effectively.

And the most effective way to use this is by assisting manufacturing companies, those that provide the greatest, the best jobs. They also provide the spinoffs for other companies that do business for the manufacturing companies.

And I would hope that as the negotiations go forward that we restrict the eligibility to manufacturing companies, as opposed to arts organizations or nonprofit organizations or universities and the like. I just don't think that with the limited amount of power that we should not use it for the biggest bang for the buck; namely, manufacturers. So I vote aye with that understanding.

Thank you, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Senator DeFrancisco to be recorded in the affirmative.

Senator Libous, to explain his vote.

SENATOR LIBOUS: Madam President,

thank you.

I stand frustrated on this piece of legislation. As I said the first time when Senator Aubertine had a bill on the floor about a month ago, I said that this was not real because there's no bill in the Assembly and we're giving false hope to businesses. Then we did an extender and the Assembly did an extender.

This is what's wrong with state government, Madam President. You know, today I would applaud Senator Maziarz because at least this house, together, is trying to move Power for Jobs forward in a permanent way. But the Assembly, Madam President, fails to negotiate, fails to work with Senator Maziarz, the chairman of the Energy Committee, to move forward on this issue.

And it seems like every time this house begins to move forward on an issue, the Assembly stalls. And that's what's wrong with state government. That's what the people outside of these walls, the people who live in New York State, are frustrated with. June 1st, no budget, and here we are again, another

Power for Jobs extender.

So I stand with my colleagues today. I'm going to support this because it's good for New York. And I say thank you to the members of this chamber for at least trying to put an initiative forward.

Madam President, the Assembly has to pay attention to what we're doing here. Because if they don't want to cooperate and negotiate, the state will continue to be dysfunctional. I will vote aye.

ACTING PRESIDENT STEWART-COUSINS: Senator Libous to be recorded in the affirmative.

Are there any other Senators wishing to explain his or her vote?

Announce the results.

THE SECRETARY: Ayes, 61. Nays, 0.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

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

SENATOR KLEIN: Madam President,

is there any further business at the desk?

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

SENATOR KLEIN: There being no further business, Madam President, I move that we adjourn until Thursday, June 3rd, at 10:00 a.m.

ACTING PRESIDENT STEWART-COUSINS: There being no further business to come before the Senate, on motion, the Senate stands adjourned until Thursday, June 3rd, at 10:00 a.m.

(Whereupon, at 4:42 p.m., the Senate adjourned.)