NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

January 24, 2005

3:30 p.m.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Mr. President, we are waiting for the Minority members to end their conference. And it's a little lengthier than they had expected, but we are told that they will be in the chamber momentarily. And hopefully that's the case.

Unlike being in school, you don't get marked late or absent when they're not here at 3:00 o'clock. So for the students that are here, I apologize. We usually start pretty promptly at 3:00, but today we are doing some rule changes that take a lot of discussion, a lot of debate, and people are preparing for that.

So thank you, Mr. President. We're going to start hopefully soon.

(Pause.)

ACTING PRESIDENT MEIER: The Senate will come to order. May I ask everyone present to please rise and join me in the Pledge of Allegiance to the Flag.

(Whereupon, the assemblage recited

the Pledge of Allegiance to the Flag.)

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

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

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Friday, January 21, the Senate met pursuant to adjournment. The Journal of Thursday, January 20, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT MEIER: 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 Bruno.

SENATOR BRUNO: Mr. President, I believe I have a privileged resolution at the desk numbered 172. I would ask that it be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 172, congratulating the Tamarac High School Girls Soccer Team and Coach Craig Gilbert upon the occasion of capturing the 2004 New York State Class C Championship, and on their outstanding season and overall team record.

"WHEREAS, Excellence and success in competitive sports can be achieved only through strenuous practice, team play and team spirit, nurtured by dedicated coaching and strategic planning; and

"WHEREAS, Athletic competition enhances the moral and physical development of the young people of this state, preparing them for the future by instilling in them the value of teamwork, encouraging a standard of healthy living, imparting a desire for success and

developing a sense of fair play and competition; and

"WHEREAS, It is the sense of this Legislative Body to acknowledge the prominent athletes and teams of this great Empire State who distinguish themselves through outstanding performances and exemplary athletic achievements; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to congratulate the Tamarac High School Girls Soccer Team and Coach Craig Gilbert upon the occasion of capturing the 2004 New York State Class C Championship, and on their outstanding season and overall team record; and

"WHEREAS, The Tamarac High School Bengals Girls Soccer Team defeated Mattituck High School 1 to 0 to capture the first New York State championship in the history of this remarkable program, and finished the season with an amazing record of 24 and 1; and

"WHEREAS, In the New York State Class C Championship game, Tournament MVP

Janel Van Alstyne scored the game-winning goal with 48 seconds remaining in regulation, and Marisa Abbott, selected as the Outstanding Goalkeeper of the Tournament, recorded her 17th shutout of the season and 39th of her career, to lead the Bengals to victory; and

"WHEREAS, The Tamarac High School Girls Soccer Team has won 10 Section II Championships since 1991 and advanced to the New York State Semifinals six times with Coach Craig Gilbert, who tallied his 397th career victory at the helm; and

"WHEREAS, The athletic talent displayed by this team is due in great part to the efforts of Coach Craig Gilbert and his outstanding assistant coaches, skilled and inspirational tutors, respected for their ability to develop potential into excellence; and

"WHEREAS, The team's overall record is outstanding, and the team members were loyally and enthusiastically supported by family, fans, friends and the community at large; and

"WHEREAS, The hallmarks of the

Tamarac High School Girls Soccer Team, from the opening game of the season to participation in the New York State Class C Championship game at Union-Endicott's Ty Cobb Stadium, were a sisterhood of athletic ability, of good sportsmanship, of honor and of scholarship, demonstrating that these team players are second to none; and

"WHEREAS, Athletically and academically, the team members have proven themselves to be an unbeatable combination of talents, reflecting favorably on Tamarac High School; and.

"WHEREAS, Coach Craig Gilbert and his staff have done a superb job in guiding, molding and inspiring team members toward their goals; and

"WHEREAS, Sports competition instills the values of teamwork, pride and accomplishment, and Coach Craig Gilbert and his outstanding athletes have clearly made a contribution to the spirit of excellence which is a tradition of Tamarac High School; now, therefore, be it

"RESOLVED, That this Legislative

Body pause in its deliberations to congratulate the Tamarac High School Girls Soccer Team, its members -- Marisa Abbott, Jill Benedetto, Jessie Bouchard, Meredith Campbell, Vincenza Casale, Sarah Collins, Catherine Comiskey, Kate Finan, Laura Finan, Leah Glass, Kathryne Kulzer, Alex LaCoss, Caitlin Latham, Sarah Lonergan, Kelsey Matusak, Vicki Neudecker, Cassie Petit, Lindsay Plunkett, Hanna Sloboda, Natalie Sloboda, Kellie Sullivan, Janel Van Alstyne, Chandree VanVranken, Alesha Wright -- Manager Joy Glogowski, JV Coach Bill Wood, Modified Coach Julia Thompson, and Varsity Coach Craig Gilbert on their outstanding season and overall team record; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the Tamarac High School Girls Soccer Team and to Coach Craig Gilbert."

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President and colleagues.

I'm as proud as I can be to welcome

the Tamarac Soccer Team here in our chamber. I live about a mile and a half from the school; children and grandchildren have gone to the school. And this really is a proud moment for me to welcome the championship team, their coach, Craig Gilbert, families and your friends.

We heard a resolution numbered 172 read. And for those of you that aren't aware, when that resolution passes, it becomes a permanent record of the history here in this chamber and in this state. So fifty years from now, twenty years from now, when you're out in the world, your families -- their children, your grandchildren -- can look up this date, Resolution 172, and you will hear and they will read what you have just heard and has been read. It's something to be proud of.

What is really something to be proud of is that you have won sectional championships, now the state champion, and you persevered, stayed with it, stayed committed, stayed dedicated.

As some of this was being read,

some of my colleagues were lamenting that you had beat their team. Very painful. And in the finals, here's Senator LaValle thinking that his team might win, and you beat him, with Janel Van Alstyne's goal in the last 48 seconds of the game, and they win the state championship. There's Senator LaValle. We express our sympathy to him.

(Laughter.)

SENATOR BRUNO: You've either got it, Kenny -- they've got it.

So you've got it. And what's happening in your lives as you team with each other, some of you excel individually, but that's what happens in teams. But if you weren't a team, you wouldn't be champions. And you are champions. And you know how to work together. You know how to relate.

And Marisa Abbott was the outstanding goalie of the tournament. And congratulations to Marisa.

So you have done it absolutely great, something truly outstanding. It's great to be academically proficient -- and you are, or you wouldn't be on the team. But when

you can excel in this way, you are a role model for more people than you can imagine -- other students, your own peers, people who are younger, people who are older. You're role models. And that's something to be very proud of.

Your parents, your friends, we are all extremely proud and proud to have you here in this chamber, proud that we will accept this resolution.

And again, today is kind of a special day in that we're handing up Rules changes. And the members here are still deliberating over how they will deliberate on the floor. But we're happy that Senator Schneiderman joined us here as the floor leader to be representative. So thank you.

SENATOR SCHNEIDERMAN: Soccer fan.

SENATOR BRUNO: And he is a soccer fan. And he wishes that you were in his district, but you're not. You're in mine. And I'm glad that you're there.

(Laughter.)

SENATOR BRUNO: So

congratulations to you. And I would move the passage of the resolution.

ACTING PRESIDENT MEIER: The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is unanimously adopted.

(Applause.)

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Mr. President, can we ask for an immediate conference of the Majority members in the Majority Conference Room. We estimate we'll be 10, 15 minutes. And by then we hope that the Minority will be on the floor.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Immediate conference of the Majority in the Majority Conference Room.

(Whereupon, the Senate stood at

ease at 3:50 p.m.)

(Whereupon, the Senate reconvened at 4:26 p.m.)

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time call up Resolution Number 196 and ask that it be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT MEIER: Motions and resolutions.

The Secretary will read.

THE SECRETARY: By Senators Bruno, Skelos, Padavan, Morahan, and Stavisky, Legislative Resolution Number 196, mourning the untimely death of three of New York City's bravest: Fire Lieutenant Curtis W. Meyran, Firefighter John G. Bellew, and Firefighter Richard T. Sciafani.

"WHEREAS, Citizens across our State and Nation are inspired by and indebted to our valiant firefighters who exhibit courage and bravery every day in the course of their duties; and

"WHEREAS, Firefighters exemplify

the power of human compassion and the strength of the American spirit through actions of the most heroic magnitude. Their sacrifices and their selfless dedication merit tribute and recognition by all citizens of this great country; and

"WHEREAS, This Legislative Body is deeply moved to inscribe upon its records this remembrance for Fire Lieutenant Curtis W. Meyran, Firefighter John G. Bellew, and Firefighter Richard T. Sciafani, three incredibly brave and admirable men whose memory will remain in the hearts of all those who had the honor of knowing them; and

"WHEREAS, On Sunday, January 23, 2005, Fire Lieutenant Curtis W. Meyran and Firefighter John G. Bellew died battling a three-alarm fire in a four-story apartment building in the Bronx. Firefighter Richard T. Sciafani died searching for children in a Brooklyn fire; and

"WHEREAS, Fire Lieutenant Curtis W. Meyran, 46 years old, was appointed to the FDNY on November 12, 1989, and was currently assigned to Battalion 26 in the Bronx; and

"WHEREAS, During his 16-year career with the FDNY, Fire Lieutenant Curtis W. Meyran was twice cited for bravery, in 1991, while working at Ladder 161, and in 1997, while assigned to Ladder 123, both in Brooklyn, New York; and

"WHEREAS, A resident of Malverne, New York, Fire Lieutenant Curtis W. Meyran is survived by his wife, Jeanette, and their three children, Dennis, Dineen, and Angela; and

"WHEREAS, Firefighter John G. Bellew, 37 years old, was appointed to the FDNY on July 17, 1994, and was currently assigned to Ladder Company 27 in the Bronx; and

"WHEREAS, During his 10-year career, Firefighter John G. Bellew worked at Ladder 10 and Engine Company 23; and

"WHEREAS, A resident of Pearl River, New York, Firefighter John G. Bellew is survived by his wife, Eileen, and their four children, Brielle, Katreana, Jack, and Kieran; and

"WHEREAS, A 10-year veteran,

Firefighter Richard T. Sciafani, 37 years old, was assigned to Ladder 103. He was one of the first firefighters to arrive at the scene; and

"WHEREAS, A resident of Bayside, New York, Firefighter Richard T. Sciafani, is survived by his mother, Joan, his sister, Joanne, and many extended family members; and

"WHEREAS, New York's bravest continually make sacrifices for New Yorkers and have always and will always be there when this great City needs them most; and

"WHEREAS, It is the sense of this Legislative Body to convey its grateful appreciation and heartfelt regret in recognition of the loss of these three firefighters who made the ultimate sacrifice so the residents of New York City can live safely; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to mourn the untimely death of three of New York City's bravest: Fire Lieutenant Curtis W. Meyran, Firefighter John G. Bellew, and Firefighter Richard T. Sciafani; and be it further

"RESOLVED, That copies of this

resolution, suitably engrossed, be transmitted to the families of Fire Lieutenant Curtis W. Meyran, Firefighter John G. Bellew, and Firefighter Richard T. Sciafani."

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President.

We are, colleagues, pausing in our deliberations here today as we heard the chronicle of three brave firefighters who gave their lives yesterday. And we can't help but be reminded of the courage, the bravery of those three men specifically, every firefighter throughout this state, throughout this country that responds.

The weather yesterday was about as unpleasant as it could be, and yet people are on call, on duty, and respond. These three men didn't call in sick, they didn't show up late, they were just there. They were there doing what firefighters do every day, being ready being, being on call. To do what? To help save lives, just as these people were doing. And they gave their own lives.

So we do pause. And we must remember and always remember that we do a lot of things in this chamber, a lot of good things on behalf of the people of this state. But it's so important for us to just remember the sacrifices that people like these three firefighters -- like others who are in uniform throughout the world, like the police in uniform -- they stand ready to do what we can't do for ourselves and to actually give their lives to help others.

So we're indebted to their families for having shared their lives with us all. And we will remember, all of us, not just these three that are departed from the Bronx and from Brooklyn, but all of the people who are in uniform, who are out there literally putting their lives on the line for us here and people like us throughout this state and the rest of the world.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Thank you, Mr. President. Thank you, Senator Bruno, for

sponsorship of this resolution.

One of my constituents unfortunately lost his life, Lieutenant Curtis Meyran, who lived in Malverne, a wonderful small community, with his wife, Jeanette, and three children, Dennis, Angela, and Dineen.

I did not know the lieutenant, but I can guarantee you, like with so many of our firefighters and fire officers, not only did they serve the citizens of New York City, but I guarantee you, within their home communities, whether it was in New York City or in Malverne, on Long Island, they were involved with probably coaching a Little League team, they were involved perhaps on the island, as so many firefighters, as a volunteer firefighter -- again, risking their life in the city as a paid firefighter, on the island and other communities upstate as volunteer firefighters -- involved with their church or synagogue, and just doing what they can to make their communities a little bit better.

Senator Bruno alluded to it; this really puts things in perspective. I mean, so

many things that we do in this chamber are very important, obviously, helping the citizens of the State of New York. But sometimes we get hung up on things that perhaps aren't as important in terms of quality of life and what's real. And what these gentlemen -- and I call them gentlemen -- did, these heroes, was real. They gave up their lives to protect children, by running into a house in the Bronx to see if there were any tenants in the building, running into another building in Queens to see if there were any children there. That's real. And that's what we should reflect upon, and all of us in this state, this area, should reflect upon when we think about our firefighters, our fire officers, and our policemen.

So we all thank you, Senator Bruno, for this resolution. And to these families, all we can say is our prayers, our sympathy, our hearts, and certainly whatever we can do for them as a body, I know that we will.

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Thank you, Mr. President.

I too rise in sorrow to memorialize one of my constituents, John Bellew, from Pearl River. Pearl River is a small hamlet that is peopled by people who work in volunteer services, work in the city services of police and fire. I don't know what the percentages are, but it's a great, great percentage of people who do serve the community in various ways.

John was only 37 years of age. His wife, Eileen, he met in Brielle, New Jersey. And in honor of that meeting and that coming together, they named their first daughter Brielle. Three other children; another daughter, two boys, one of whom will never know his father -- he's only five months old. And the others will have a very short memory of him.

I know in my family my wife lost her dad as a New York City police officer killed in the line of duty at age 29. And she was only 18 months, so she grew up never knowing her dad in the home.

These children will have to deal with that loss and that struggle and that mystery, if you will, of what their dad was all about.

He was a young man, he was born in Queens, came to Rockland County, he graduated from Malloy High School, went on to graduate college, went into the corporate world, if you will, the business world, stayed there for a while, didn't like it. It was something he didn't feel rewarding. And he wanted to join all his cousins and all his other relatives who were firefighter and police officers. And for that, that fateful decision, he gave his life for his community. And that is the greatest sacrifice anyone can make for their fellow human beings.

John will be missed by his family and wife, Eileen, his many neighbors in Pearl River. And it's a community that has already suffered so much with the loss of firefighters and police officers in 9/11. And now we will relive that tragedy.

And as Senator Skelos said, it puts things in perspective for us. When we think

we're doing a great thing up here, we think what we're doing up here is so very, very important, this is what others are doing -- without fanfare, without any bragging.

The other two fine people, one was noted for being the first one through the door at any fire, couldn't wait till they got in to rescue people. They are a tribute to the bravest, New York City's bravest, and they are a tribute to the whole department. And they're a tribute to the people of New York City and New York State.

Thank you, Mr. Chairman. Thank you, Senator Bruno, for making that wonderful resolution in memory of these three people, these three heroes. Thank you.

ACTING PRESIDENT MEIER: Senator Stavisky.

SENATOR STAVISKY: Thank you, Mr. President.

Richard Sciafani lived in my Senate district, in the Bay Terrace section of Bayside. He was 37 years old. He had been assigned to one of the elite units in Greenwich Village, and yet he sought a

transfer to the firehouse in East New York because it provided more activity, because he wanted to go out and help people. Why else do people become firefighters except to help others, to rush into buildings where everybody is trying to flee.

Today's I think it was the Daily News had a very poignant photograph on page 3 of the firefighter Sciafani being carried out of the burning building. And what was he doing there? This was a birthday party that children were having in this apartment house in East New York, in Brooklyn. And he went back to see if there were any other children who were still there at the birthday party. A birthday party, a time of celebration, a time of joy and happiness. But apparently he got entangled with some equipment or something that was on the floor, and he lost his life in that -- at that children's birthday party.

His mother, Joan, his sister, Joanne -- mothers aren't supposed to bury children. They're supposed to celebrate a full life. And this mother is without her son now. And it reminds us of what a dangerous

business it is being a firefighter -- and being a police officer as well, but particularly New York's bravest. And it seems to me that all of us mourn the passing of a New York City employee killed in the line of duty, because the city has lost one of its very, very best.

I know that everybody here will want to convey their condolences to the family and hope that this was the last tragedy to occur.

Thank you, Mr. President. And thank you, Senator Bruno, for introducing this resolution.

ACTING PRESIDENT MEIER: Senator Gonzalez.

SENATOR GONZALEZ: Thank you, Mr. President.

I too want to thank Senator Bruno for this resolution. In the Bronx, in my district, firefighters have fallen -- particularly in my district, but also in Queens. And like Senator Skelos said, it puts it in perspective as to what it's all about. And particularly in the Bronx, we always felt

that the bravest and the firefighters were the first to respond to anything that happened in the Bronx. Or if they would put calls, the firefighters were there in seconds, even if there was a crime. And as we were fighting crime, they too, along with the police officers, were part of that scene in terms of crime.

And so my heart goes to the family and to these heroes. But it does put it in perspective that we have the greatest firefighters, and not only firefighters, but the police officers. And, you know, God bless their souls. Thank you.

ACTING PRESIDENT MEIER: The question is on the resolution. All those in favor -- I'm sorry.

Senator Diaz.

SENATOR DIAZ: Thank you, sir.

Mr. President, I'll also take this opportunity to express my appreciation to Senator Bruno for this resolution, even though it is not my district where this incident happened. But it is the Bronx. And the area, Morris Heights, in the Bronx, is mainly

Hispanic and minority residents. We in the City of New York, we have a failing that we criticize, and sometime say and sometime -- most of the time we're saying that the fire department doesn't hire minorities and that the minorities are left out when they hire in the fire department. And that is true.

But today, today we are -- I'm reading in the New York Post, I'm reading, I'm looking at the tragic incident that takes our attention now. And I see that when fires and police departments in the City of New York, all over the country, all over the state, when they have to respond to their duties, they put their life in danger, then they put their life -- and when an accident like this happens, it takes everybody. It doesn't take blacks only, it doesn't take Hispanics, it doesn't take whites, it takes -- there's no color. There is no gender. Everybody goes.

And Firefighter John Bellew, leaving seven children. On behalf of the Bronx community that I represent, and on behalf of Senator González's community and all of us that is in Minority, I extend my sorrow

to the families of those two heroes, Lieutenant Curtis Meyran and Firefighter John Bellew. And to those -- to the mother and those seven children that are left without a father.

And, Senator Bruno, thank you very much. When this happens in the Bronx, anywhere in the city, it hurts. But it hurts more when it happens in a community, the minority community that I represent.

Thank you. And I appreciate this for you doing this. Thank you very much.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the resolution?

The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is unanimously adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President,

can we open the resolution to all the members here in the chamber and put their names on the resolution unless anyone would approach the desk and ask not to be included.

And can we ask, with this vote, that we all just stand in respect for the memory of these firefighters and for all of those that are in uniform putting their lives on the line every day.

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

ACTING PRESIDENT MEIER: The resolution will be opened for sponsorship by the members. Anyone not wishing to be so listed notify the desk.

Senator Bruno.

SENATOR BRUNO: Mr. President, I have Resolution 195 at the desk. I would ask that it be read, title only, and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Bruno, Senate Resolution Number 195, to adopt the Rules of the Senate for the years 2005-2006.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Bruno, Senator Paterson has requested an explanation.

SENATOR BRUNO: Thank you, Senator Paterson and colleagues.

As you all will recall, we've established a task force to review the rules of the Senate. And the resolution that we have on the floor before us changes the procedures by the way we vote in this chamber. And the bottom line is to make what we do here more open, more responsive, more public.

And one of the more important parts of what we are doing is that each member, in the controversial calendar, and any vote that is debated, members will have to be in their seats. So it eliminates empty-seat voting.

We're also establishing a task force to study the technology that's out there, with a bipartisan approach, chaired by Senator Wright, to really review what is out there in terms of opening this process, making it more responsive.

And there is something in the

neighborhood of 38 or 40 pages of rules that pertain to how we function here in this chamber. And the intent of these rules is to make the process more efficient, more open, more responsive.

Now, we will have differences here in this chamber. We'll have differences on the effect of the rules that we've handed up. I simply submit to all of you that we'll debate our differences of opinion, and we respect the differences of opinion.

And we're also very aware, all of us, that the votes that we take in this chamber, when we are out there every two years meeting with the constituency, how we vote in this chamber, we're all held accountable. And we're very aware that the competition gets very severe as to who will be in the majority when the votes are counted every two years in this chamber.

Republicans, people on this side of the aisle, have been elected to be a majority here in this chamber. And we respect every single individual in this chamber, but we must function as a majority. And that's what the

procedures that we're handing up will allow.

And I want to remind everyone in this chamber that while the Assembly has moved, a couple of weeks ago, they're adopting things that we have done in this chamber the last ten years. And they still don't have the open procedures that we have after all of the rules and the rule changes that we have here in this chamber.

Now, is that totally satisfactory to the Minority? I would be surprised if it's totally satisfactory. I would guess that these rules changes won't be, and that will be part of what we will discuss here over this next length of time.

But I just submit that the objective is to govern, and the Majority is elected to govern, and that's what these rules are all about, is together respecting every individual in this chamber, recognizing that every individual should participate in the process. And we intend that that be the case.

And we've gotten along, I think, in terms of governing, very well, Senator Paterson and all of our colleagues in this

chamber. And I just remind everyone, there's a time to campaign and there's a time to govern. This is the time for us to govern.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: The question is on the resolution.

Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, to speak on the resolution.

ACTING PRESIDENT MEIER: Senator Paterson, on the resolution.

SENATOR PATERSON: First, I'd like to thank Senator Bruno for, in the last two weeks, meeting with me personally two or three times, for the Majority's cooperation in trying to put this rules package together, for the negotiation that we had not held up until that point, and for the personal cooperation of the staff and my colleagues, the members of the Majority.

And we did reach an agreement on empty-seat voting. The Assembly, who I think did very well, reached an agreement on this three weeks ago. And we have done the same thing. And in the spirit of governance, not

campaign, I even met with the leader and some of the members of the Majority task force today, and we publicly announced our agreement on empty-seat voting.

Now, that could not have been advantageous from a political perspective, but I do believe it's important to demonstrate cooperation and negotiations in governing. And it is for that reason that we are going to present eight amendments to this proposal that we think would make it a better proposal. Because I can't vote for this proposal as it stands. I can't. And I'm going to explain why.

Under the proposal that has been presented, the rules would now go to the Rules Committee. The Rules Committee has no regularly scheduled session. In our reform package, which we made available to everybody, we want to have an open administrative Rules Committee like the one they have that governs the House and the Senate in Washington. That way, the proposal would be more acceptable.

But in any branch of government, the most elemental parliamentary procedure is

that you have the right to change the rules from the floor. Now, that has existed everywhere. And for some reason, this isn't something that I wanted to reform before this year, because this is in the rules-change proposal for this year.

So I cannot understand why, after all of the political talk that I heard about reform back in October -- and I think now that I can speak for myself, I think that people will understand why I didn't want to be part of a rules task force during a campaign. I wanted to be part of it during the actual governing phase.

But this is the problem. You can campaign and you can say you're for reform, and then the first thing you do, the first new change that you make is that you take the Rules Committee approval and take it away from the chamber and put it in the Rules Committee. So I could stop right there. That is really a core issue and an issue that I think explains what is happening.

Then we come to an issue that was changed in the rules of 2001, that on motions,

petitions and amendments there would be something called a canvass of agreement. I honestly have got to tell you I never heard of a canvass of agreement before. And it is a procedure by which we don't really record the votes. So now we have a house of government that actually is taking a canvass, is not actually recording the votes of the members in the house.

Now, is it true that sometimes on amendments the vote that some of us take that we may find out later on in an election that that vote is exploited by the adversarial party or an adversarial candidate? Absolutely. That's what we all signed up for. That's why we're in public service, to defend what we think is right. Not to keep it in secret, not to keep it stowed away from public knowledge, not to obfuscate the ability of the public to know how you actually stand on a particular issue.

Now, that is why this whole idea of canvass of agreements is wrong. And it is another core issue. You just can't have any rules or even use the word "reform" while

you're passing this kind of legislation.

The issue of messages of necessity. Now, we reached an all-time low in this chamber when the Governor sent us a message of necessity on a bill that he vetoed. So it was an emergency that we get it through the house so he could veto it?

What we want to make sure is that the message of necessity really truncates legislation coming through the session in emergencies, that it doesn't just become a regular procedure whereby there isn't the opportunity to go through the regularly scheduled reading periods and public disclosure before we pass legislation.

On the issue of committees, there are ways that we can run the committee system that do not allow for committee meetings to be held at the same time that we're on the floor, especially now that we've agreed that we won't have empty-seat voting.

So how does a person attend a committee meeting and actually wind up on the floor at the same time? This is further part of our amendment package that we're going to

introduce.

But I will just say this. I am actually surprised at my colleagues on the other side of the aisle, because they have caused myself and my colleagues a number of headaches and a number of -- and much anxiety over the years. And the year in particular that I have to take my hat off to the members of the Majority was the year 2000. It was a presidential year. We thought that we had some excellent candidates to run that year.

And we came in here and we had some issues that we thought -- we believed in and we thought that the overriding number of citizens in New York State believed in it too, issues like hate crimes legislation, women's health and wellness issues, campaign finance, lobby reform, and gun control. And every time we got some steam up, the Majority would have a press conference or pass the bill and it would kill us.

And, you know, even when you lose, sometimes you've got to tip your hat to your adversary. I don't know how many of my colleagues really believed in hate crimes.

And I think a lot of them did; 57 members of the Senate told the New York Post once that they did, but for some reason we couldn't pass this bill since it was introduced in 1987. Lobby reform was something we talked about for years. All of a sudden in that year, 2000, they passed. And we didn't win a seat.

And -- but you've got to tip your hat to your adversary, because it was very timely, it was very seasonable, and it was very well done. And I crawled out of here that year wishing that one day the Majority would make a mistake.

And it's today. It's today. Because the issue of legislative reform, how the rules are set in the legislative bodies, is sweeping this state. It was cited as a number-one issue that voters thought was the most important in this last election. So to come in here with this rules proposal, which actually reverses, really, the spirit of the way a house of government should be run, flies in the face of it.

And I'm trying to figure out how it happened. I'm trying to figure out what all

of you did wrong in 2005 that you knew five years ago. And I know that some of you sitting here right now, and you know in your heart -- wasn't that a Republican, "in your heart you know I'm right," Barry Goldwater? -- you know I'm right.

And this is a mistake. You've made a big mistake. Yes, you did. And you are going to hear about it for the next two years. And I don't think you should have done it this way. If I were a Republican consultant, I would have told you not to do it this way.

But the people of this state are speaking out on this issue. This was an issue that never polled well. Our conference used to poll it, and up until about 2001 it never polled well. All of a sudden, people have recognized that ideology is not just the only reason to vote for people. It's integrity. It's the way government is run.

And now. My colleagues, you remind me of the character in Crime and Punishment, Raskolnikov. When the investigator said to him, "You're going forward when you should stay back, you're staying back when you should

be going forward. And like a fly, you will fly right into the light and I will swallow you whole." [Gulping.] And I'm going to do it. And the funny thing is, you make it easy for me.

So now I hear we're not even -- that the Majority doesn't even want to record the votes on changing the rules. We don't even have any rules in this house right now. We're starting the beginning of the session, and we have no rules here. So why would we not record the votes on the amendments? That's a standard parliamentary procedure, isn't it?

But you know something? You can do it any way you want, because at present there are more votes on that side of the aisle than there are here. But just remember, you can win the battle and lose the war. And what I'm saying is if you really want to pass this package and call it reform, make my day. Because you know it's not reform, I know it's not reform, and the people of this state know it's not reform. And that will be proven over time.

So I'm going to give everybody a chance to think it over as we present these amendments. And we will be collegial, we will be cooperative, we will work under whatever is imposed as a result of this discussion, because that is our duty to the public. And we again thank all of you for the cooperation of at least negotiating with us.

We think that you're dead wrong on this proposal, but we'll go forward and work with you as civilly and as cooperatively as we can. However, it is impossible for us to accept the rules changes that are proposed in even the fashion in which it's going to be implemented.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: Senator Paterson, I have great respect for you. But I think that the comments you just made really show that what we're really dealing with today is a continuation of the election process.

If you are basically saying to us we have made your day because we have given you an issue that you can take over the

majority on during the next election, then I think it's pretty clear what the true motivations are on some of these bills, some of the these amendments.

Obviously there's a difference of opinion on some. But on the other hand, I would hope that whatever we come down with as final rules changes today, we would also recognize that in the past we have already changed the rules to a great extent where, as Senator Bruno mentioned, the Assembly is just catching up at this point in time.

So I think, I hope that the debate today will really be focused on whether the rules make sense, whether they are rules that we should pass, we should change, and whether or not they stand on their merits, as opposed to whether or not it's going to put us in a better position two years from now, since we have two years between now and then to govern.

Thank you.

ACTING PRESIDENT MEIER: Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

I represent an area of the Bronx, the 32nd Senatorial District. A very poor district, black and Hispanic and few others. My office receives, every single day, from 25 to 40 clients every single day. My district office is open from 9:00 to 5:00.

And the people that come to my office, they have a complaint -- housing eviction, dispossession, immigration, Social Security, welfare, fair hearings, homeless, families of inmates, et cetera, et cetera. My staff have to become social workers.

We in my community, the problem is we're different to other communities. And when we run -- some of you, when you run -- some of you are lawyers and you have your own law firms, and to come here is part-time for you. For some of us, this is it. There is no part-time. It's to serve the community 24 hours, seven days a week.

But I have to do all these things, ladies and gentlemen, with four staff and one seasonal staff a year during session. So 4½ staff, my office has to do all this. And we are here talking about reform, or making my

days or not making my days.

But I wish you could make my day today, ladies and gentlemen. Make my day when you do a real reform and distribute the resources with equal share. I have read the New York Post, and I read that the distinguished gentleman from Yonkers has 30, 30 staff members. Thirty staff members. And this distinguished member from the South Bronx only has four.

So if we really want to talk about reform, make my day. Share. Give me a piece of the pie. Let me serve my community with dignity. Give me the necessary resources for me to take care of my community, my constituents, five days a week from 9:00 to 5:00 and sometimes even Saturdays.

I need you to consider that. And tell me if it was not an aberration for somebody to have 30 staff members and for me to get only four. Aren't we all Senators? Aren't we all here to serve our communities?

So make my days, ladies and gentlemen. Give me equality. Make me part of this. Help me serve my community. I need

more staff members, and we will do it. But to have one with 30 staff members and another with four staff members, this is something that we have to take into consideration. I mean, if we are going to talk about reform, let's talk about reform.

Thank you, ladies and gentlemen.

ACTING PRESIDENT MEIER: Senator Oppenheimer.

SENATOR OPPENHEIMER: I was going to ask a question of my good friend John DeFrancisco, if he would yield.

ACTING PRESIDENT MEIER: Senator DeFrancisco, do you yield for a question?

SENATOR DeFRANCISCO: Sure.

SENATOR OPPENHEIMER: Senator DeFrancisco, you were saying that this was a continuation of the political process. But as you know, most all of the reforms that we are putting out from this side of the aisle were reforms that were mentioned in the Brennan Center for Justice package.

Now, would you say that the Brennan Center for Justice is acting politically, or in the manner of other good-government groups

like the League of Women Voters?

SENATOR DeFRANCISCO: Yes, I am saying that.

And I would like to yield the floor to Senator Saland, who has actually studied this in great detail and can give you a very detailed answer to prove the point that I just mentioned.

SENATOR OPPENHEIMER: Well -- okay. Let's --

SENATOR CONNOR: Point of order, Mr. President. This is a procedure I've never seen before in this house. I know we have no rules, but I haven't seen this procedure before.

ACTING PRESIDENT MEIER: What's your point of order?

SENATOR CONNOR: The person who is being questioned is yielding the floor when in fact Senator Oppenheimer had the floor.

ACTING PRESIDENT MEIER: Well, Senator Oppenheimer had the floor. Senator DeFrancisco indicated he would like Senator Saland to handle the matter. Senator Oppenheimer said okay.

The chair recognizes Senator Saland.

SENATOR SALAND: Thank you, Senator. And I'll be more than happy, if it will make Senator Connor -- please him, I'll sit down and wait for an appropriate time to stand up.

I just have a few things that I'd like to say, and it was your mention of the Brennan Center report that really brings them to mind.

And everybody knows what the Brennan Center report is. We've all heard about it. And I'd be willing to venture that not a single one of the editorial writers who have commented on it have read it. I'm willing to venture that few if any of the reporters who have embraced it have read it. I'm willing to venture that within the ranks of all of those sitting in this chamber and the other chamber, some 212, that, if I was generous, maybe eight to 10 of our members may have read it.

And I'd like to comment by saying I saw reported in November 29th issue of the

Albany Times Union a point about the Brennan Center. And their spokesperson was a gentleman named Scott Schell. And he dismissed criticism of the Brennan Report as distractions. He said, and I quote, "The Center stands by every finding and every proposed reform."

And certainly Brennan has set the table for what has been the reforms that you're proposing and the reforms that have been of the greatest of interest to so many.

I would suggest to you they acknowledge in that article that they're a lobbying group. I've looked at their lobbying sheets that they have filed, including the ones I guess that they filed late. And the long and the short of it is they're a lobbying group.

And yet they're a lobbying group that has been embraced in a fashion that I've never seen embraced by groups, including the media, who have become their apostles. And I would submit to you that Brennan proposes to stand before us much like a white-robed figure holding stone tablets. And I fear they've

given us a golden calf.

And let me start off by asking you if you would recall there is a bill that we did that provided for a -- bear with me one minute, if you would, Senator. It authorized the City of Elmira, in the County of Chemung, to enter an agreement with respect to confinement of detainees in such county jail.

Do you recall debating that bill?

SENATOR OPPENHEIMER: Point of order.

I think at this point it's probably safest for me just to say that I'd like to get on with the meat of this. And I can thank you very much for providing me -- we are going to disagree. And you're going to hear why we disagree and why we think the process should be more open and why we think that it should not be --

SENATOR SALAND: Let me suggest, then, that you don't have to answer the question.

And the answer to the question is no, you didn't debate the bill, nor did anybody else. But Brennan cites that as major

legislation.

And I can give you a list of dozens of bills -- because their study and their methodology, quite candidly, if the virtues they extolled among their researchers were in fact true, and if you read their acknowledgement, I would be as for it as I was when I read the acknowledgement. But let me suggest to you that their methodology is flawed.

The whole basis for their findings are 308 major legislative bills based upon a review of McKinney's. Now, of those -- and they take great pains to say that we don't debate those bills nor are there hearings on them in committee. The reason I pointed the bill out to you that I pointed is because there are dozens of bills like that. This is the major legislation for which this house and the other house have been criticized for not debating, bills for which there were extenders, they were local bills.

I mean, should we be debating a bill providing, what, distinctive license plates to members of the Arts Council? I

don't know if that was a bill that warranted being debated. But we were criticized for not debating it.

Let me suggest to you that the definition of debate -- and I have been to many legislative chambers throughout this country, and I have witnessed the same kind of debates in those chambers as I have seen in this chamber. And yet, under their definition, I didn't witness debate.

SENATOR OPPENHEIMER: Let me thank Senator Saland.

SENATOR SALAND: Well, I think I still have the floor.

(Multiple speakers.)

ACTING PRESIDENT MEIER: Wait a minute. Senator Oppenheimer has the floor.

Are you claiming the floor, Senator?

SENATOR OPPENHEIMER: Yes, thank you.

ACTING PRESIDENT MEIER: Senator Oppenheimer.

SENATOR OPPENHEIMER: But I do thank Senator Saland.

And I think maybe we're focusing too much on the Brennan report when we should be focusing on -- no, no, no. Let me explain what I'm saying. I want you to know that 20 years ago, when I came into this body, I wrote a lot of reform legislation because I had come from the presidency of the League of Women Voters and I saw a lot of things that were wrong here. And it's in our structure and it's in our process.

And so I was just using the Brennan Center because that seems to be a genesis of what a lot is happening now, because it has finally come into the awareness of the general public. When I first wrote this legislation 20 years ago, nobody was interested. Not the least bit interested. I ran on these issues and, even in talking in debates, nobody was interested in what I was saying. So I stopped talking about it.

But now I appreciate what the Brennan Center has done, I really do. Because it has the citizenry at least talking about it. And they've focused on us, and I think that's very beneficial. And I think there are

many issues here that have to be discussed. Resources is one of them. More say for all of us in this process. More openness so that people will know what's happening in our committees. Just a general more transparency and more involvement of the citizens and for all of us, as well as certainly equal resources or at least more rational, reasonable resources for everyone.

And I think there's a lot of work that we can do here. And I'm sorry that we haven't done it in the legislation, the resolution that is before us.

Thank you.

ACTING PRESIDENT MEIER: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

Mr. President, in a legislative body the rules, the fundamental principle is the rules are whatever the majority says the rules are at any given time. And you can write all the rules you want, and all the institutional changes can be put in the rules, but the fact is the rules at any given time do

not bind the majority. They bind the minority, but they don't bind the majority.

That's why we can do business by unanimous consent. There's no way you can eliminate any procedure that we customarily use on unanimous consent as long as there is unanimous consent. You can't pass a rule that says there shall no more be unanimous consent granted to do something. That's an inherent contradiction. The legislative body can move forward together, if no one objects, and do anything it wishes. Anything lawful, obviously, or within its constitutional powers.

You know, I've heard rules debates over the years, over many, many years. I see our former colleague Senator Leichter was here today. What a coincidence. I remarked -- and he's here on a visit in connection with an event tonight that his daughter is a key participant in. But the fact is I said to someone a couple of weeks ago, They're going to eliminate the provision from the written rules that allowed the Majority Leader to star any bill that's on the calendar. Most of my

colleagues here looked at me like, What's a star?

Well, believe me, we were convinced 25 and 20 and 15 years ago that this entire house would function with absolutely unadulterated democracy if we could only eliminate the provision in the rules that gave the Majority Leader the power to star a bill.

And what that meant, for those who are looking at me saying what's a star, it meant -- to place a star on the bill meant the bill was killed. Even though it had gotten through the committees, even though it had gotten to the floor, even though it might have been cosponsored by 40 members and commanded 50 votes here. If the Majority Leader or his designee said "Star the bill," it meant it was dead and it could not be voted on by this entire house.

And Senator Leichter would stand here on the rules day and point out that not even the presiding officer of the Supreme Soviet had the power to star a bill, but our Majority Leader did. Now, we all know where the Supreme Soviet ended up. I hope everybody

here at least remembers that there was a Supreme Soviet once.

But today we're eliminating it from the rules. And how come nobody seems to care or address that? There were editorials, 20 years ago there were editorials in all the newspapers demanding that the rules be changed to eliminate the Majority Leader's power to star a bill. There were.

And what happened to that issue? Well, the Majority Leader -- and I frankly can't remember, I think it may have been Senator Marino, actually, and Senator Bruno has certainly honored it since -- just made a statement saying: We're not going to change the rule, but I'm not going to do that. And so there has been no bill on the calendar starred by a Majority Leader for the last 12 or 14 years. And today the Majority proposes to take the language out of the rules.

Well, what's the point of that? The point of that is it doesn't matter. It doesn't matter what the rules say. It matters how the Majority and its leadership behave.

And if you look at all the

dissatisfaction and the editorials out there -- and, yes, the Brennan Center. I'll talk about them in a minute, because I've had my own experiences with them, Mr. President. But the fact is it's how the Majority behaves. It's how they decide the tenor and the tone of the house is going to be set. It's not what it says in the rules.

And by the way, since in the last 14 years the Majority Leader has not used his power to star a bill on the calendar, is there a soul in Albany, is there a soul in the State of New York that thinks that resulted in legislation passing this house that the Majority Leader didn't want? I don't think so. I don't think the power of the Majority Leader to control legislation disappeared because he stopped using the star.

So it doesn't -- and when you sum it up, the specific language of various rules -- and I know reformers, if you go back and you read about Teddy Roosevelt in the other house in the 1870s pushing for reforms there, reform is not a new game. It comes periodically to Albany. And there's this

fascination that if we only changed this rule or this procedure, we'd get perfect democracy. Mr. President, we get the democracy we want to have. The majority in any legislative body sets the tone.

You know, there's a proposal to have rules to basically to try and allow the minority to have a bigger role in legislation. Well, my question, Mr. President, is when did the rule pass that said minority members' substantive bills can't pass the house? There is no such rule. And don't look at me, members, colleagues. No one should look at me like, Are you crazy, that can't happen.

I came to this chamber in 1978, in my first full session here, in the Minority, sitting in that chair where Senator Savino sits. I passed 19 bills into chapter. They were not local bills. They were not local bills. Changed the statute of limitations for statutory rape. That's not a local bill. Passed the New York City school bus safety law. What did that mean? You had to stop when a school bus was loading or unloading. That never used to be the law in the city, it

was just the rest of the state. And I could go on and on. Passed kosher protection laws, since declared unconstitutional. But, hey, they were on the books for 25 years first.

Passed a first number of bills like that. Not because the rules said I could, but because the Majority in the house at the time and the Majority Leader -- and I know what his instructions to his counsels were: You may do any legislation for the Minority on the merits.

Now, did that mean I passed my legislative agenda? No. I was pretty far to the left then, and I had lots of and lots of bills that I loved, and they weren't going to pass this house with a Republican majority in it. But there were other bills, and I knew how to spot them, that I thought, I can pass this. This just makes common sense. There's no D or R. There's no philosophy in this other than what's right for the public.

And the system was, and I'd tell my colleagues, you would go to the committee chair -- and some of you are still here -- go to the committee chair and say, I have this

bill or whatever, invariably would be told to meet with my counsel. Meeting with the counsel, invariably would be told by the Republican committee chair's counsel how you should amend the bill because it wasn't drafted properly or covered more than it should or less than it ought to. You would amend it, and lo and behold, the bill would come out.

Mr. President, there was a tradition in this house in those days that I have not seen since. And that was when a new member spoke, be he or she Democrat or Republican, when they first spoke on the floor and sat down, all of our colleagues would applaud. Remember that tradition? Haven't seen that done in years.

Another tradition. When I first passed my first bill, and I didn't even know it was a tradition, all my colleagues stood and applauded. People knew it was your first bill. People kept track of that. I haven't seen that done in years.

I suggest, Mr. President, this rules fight is fine. But it's the way you run

the house, it's the respect you give colleagues.

And by the way, when it did start to change? I'd say it really started to change after 1984 when the Democrats elected three senators to this house, we won three seats, won three seats that we hadn't held before. Senator Oppenheimer was one, Senator Quattrociocchi was one, and Senator Hoffmann was the other. And all of a sudden -- nobody changed any rules, the word just passed among the Majority, don't pass any Minority bills.

Now, what has that done, by the way? Reflect upon that, Mr. President. It leaves a lot of very talented members in this Minority up here in Albany with very little legislative role to play. A lot of time on their hands. Time to plot, time to scheme.

Now, my second or third year up here I wasn't here sitting here figuring how to knock off the leader. I was interesting in taking the 19 votes and trying to pass 22 chapters. And I did. Because I was a legislator. And people came to me, very important unions in this state. Other

interest groups would come and say, You really know labor law. Would you carry this bill for me, for our union? And I would. It didn't mean the kiss of death to it.

The interesting thing is after the rule -- after there was no rule but a whisper not to do Minority bills, and there was a big fight here. And finally it was slightly modified. Not in writing. And it was we can do those little wonderful pieces of legislation like, you know, letting Mrs. Jones get her house back because it was wrongfully seized for nonpayment of property taxes, or you could give up almost any park in your district, the Majority let you give that away, and alienate it.

But the fact of the matter is nothing changed in the rules. And I think if you really look at the dissatisfaction out there -- and by the way, Mr. President, the Brennan Center. I recently testified not two months ago for the defendants in a lawsuit in federal court that's brought by the Brennan Center. My colleagues may not know about this, but if they win that lawsuit, there will

be no more judicial conventions, there will be direct primary elections for Supreme Court. And not to debate that now, but there's a lot of problems with that. To my mind, it's not the way to go.

So a lot of the lawsuits that they brought in election law, which I'm very familiar with, I've disagreed with. And they've won, they've often won because the state or city boards of elections settled because they really didn't have a dog in the hunt. And they settled and pay legal fees to the Brennan Center. Yeah, they're not for profit, but they have collected hundreds of thousands in legal fees as a result of these lawsuits they've brought.

So I have any disagreements with them. And I agree with some of what they do as well, and some of their positions. And I did read that report. And I do find it flawed. But I think the dissatisfaction out there -- unfortunately, the Brennan Center report became shorthand that the press could use to describe this Legislature as dysfunctional.

Now, with that, with that conclusion, albeit the evidence doesn't support the conclusion, it's hard to quibble with the conclusion that we are a dysfunctional legislature if your criteria is are members involved, does legislation pass on its merits, is everyone accorded a respectful role in it. We are dysfunctional when it comes to that. And we didn't used to be.

And if you talk about the campaigns spilling into the Senate chamber, Mr. President, as Senator DeFrancisco did, it started when the Majority decided their reaction to losing seats in 1984 ought to be shut down the Minority, don't let them pass any bills, don't let them have anything. That wasn't always the way it was done.

Yes, the Majority rules. I have talked, I talked 15 or 20 years ago to a very old gentleman in Brooklyn, a gentleman in his 90s who once served here and then went on to a distinguished judicial career. I don't know -- he was a judge, anyway, for a lot of years, I don't know how distinguished. But he had served here.

And he said, "You still have the same deal up there." And I said, "What's the deal?" And of course in the crass lexicon and political lexicon of his day, he said, "Sixty-forty. Everybody's got to eat."

I said, "What do you mean?" And he said, "Well, the deal we always had was in each house the majority gets 60 percent, the minority gets 40 percent. No matter what." I said, "Well, it is based on the percentage the minority had in the house?" "No, no, no. The minority 40 percent, majority 60 percent. Everybody's got to eat."

Why was that the rule? Because before the Voting Rights Act, before Baker v. Carr, and before really sophisticated computer programs, that's as much as you gerrymandered it. And experts like the late Don Zimmerman, up on the fifth floor here in their stocking feet, walking over maps with pins and threads, did a good job of gerrymandering, but it wasn't perfect. And each majority always recognized that in the next landslide they may go into the minority and they would like to be treated with respect as legislators.

So we can have this rules fight. But what I tell my colleagues is until there is a will and a way to change the way this house operates -- and you can take this over to the other house too -- you can change all the rules you want, it's not going to be a functional small "D" democracy in this house or in this Legislature until people make up their minds to truly end the campaign after the election and to govern together as colleagues.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Thank you, Mr. President.

Perhaps, Senator Connor, I can put 1984 a little bit more in perspective other than the way that you did it. In 1984, Senator Mega defeated an incumbent Democrat, Senator Skelos defeated incumbent Democrat Carol Berman.

And following that election, shortly thereafter, I do recall -- and I think you were the campaign chairman, so I thank you for the good job.

SENATOR CONNOR: I wasn't.

SENATOR SKELOS: You weren't.

But I would just also point out that in the aftermath of the '84 election and in particular the '86 election, there were numerous reforms enacted within the legislature based upon the indictment of the minority leader, a number of other individuals within your conference for abuse of public property, essentially, hiring of detectives to follow individuals such as myself on the public payroll. And I could go on and on and on, but that's past history.

I know that you went back to '84 and that time, so I just thought it would be important to put it in perspective that members win, members lose. But in 1984, Senator Skelos and Senator Mega defeated incumbent Democrats.

SENATOR CONNOR: Mr. President, since I've been addressed, may I respond?

ACTING PRESIDENT MEIER: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

I would also point out that another seat changed hands. Senator Winikow's seat went to the Republicans. So overall, it was a wash. It was a wash that year. Pick up three, lose three.

And I would also point out that those gentlemen who were indicted, no one was ever convicted and they were all dismissed. In fairness to their reputations, no one was found guilty of committing any crime as a result of the 1986 election.

Thank you.

ACTING PRESIDENT MEIER: Senator Liz Krueger.

SENATOR KRUEGER: Thank you, Mr. President. On the bill.

My colleagues have talked about whether or not we're fighting over parliamentary procedure or civility or politics. And the answer is, of course, all of the above.

But as the chair of the Democrats' Legislative Task Force on Rules and Budgetary Reform, I've had an opportunity to listen to the testimony of people from throughout the

State of New York, with their views not only about what is a reality, our dysfunction, but also what we can do about it.

And I've also been happily forced to start to study parliamentary procedure, because in fact the purpose of parliamentary procedure is to assure that we have both civility and fairness in moving forward on a day-to-day basis legislatively.

And Senator Connor was right when he points out that -- and Senator Bruno was right earlier today when he pointed out that the Majority rules. But the history and the purpose of parliamentary procedure throughout history in both England and the United States, of which our government is modeled after, was to assure that there were standard codes that assured that it is the right in a democracy, small "D," that in a legislature there is the right of free and fair debate, the right of the majority to decide and the right of the minority to protest and be protected. And that without dissenting voices, there is no public debate. And without vigorous public debate in all parts of the legislative

process, covered by the media to inform citizens, there is no democracy.

And that is why we are here today fighting for changes in our rules, to ensure that we no longer continue to be the dysfunctional legislature that in our hearts all of us know we sit in, and that it is the people's business we are sent here to do, and that we will not accomplish our goals and we will watch year after year more decisions being taken away from us and moved into, frankly, either the Governor's chambers or the judiciary if we fail the assignment of in fact small "D" democratizing ourselves through following fundamental parliamentary procedure.

And the New York State Open Meeting Law says it is essential to the maintenance of a democratic society that the public business be performed in an open and public manner and that citizens of the state be fully aware of and able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy. And that the people must be able to remain informed if they are to

retain control over those who are their public servants. It is the only climate under which the commonwealth will prosper and enable governmental process to operate for the benefit of those who created it.

And parliamentary procedure is relatively simple and clear once you get through all of the detail. And it talks about some fundamental principles. The purpose is to facilitate the transaction of business and to promote cooperation and harmony; to assure equality of rights, that all members have equal rights, privileges, and obligations; that the majority does vote to decide, but that these votes should be recorded; and that the minority's rights should also be protected and that there should be the right of discussion, full and free, on every proposition presented for decision and the right of information and fairness and good faith.

And my frustration here tonight is that the package that has been offered by the Majority to be the rules of the Senate for the next two years don't meet any of those

standards. And they're not my standards, they're the standards from the "Standard Code of Parliamentary Procedure," which I am advised is the definitive work on parliamentary procedure guiding and governing legislatures and other organizations throughout the United States.

So the task is to meet simple parliamentary procedure and hopefully have greater civility between us, as Senator Connor was addressing. And yet this package tonight does not reduce the near-total control of the Majority Leader over the legislative process; does not end the practice of closed-door governing on major issues; does not open the legislative process to greater public scrutiny and input; does almost nothing to improve the critical committee process, merely codifies current Senate practices; does not put into place a workable conference committee process between the two houses; does not require a recorded vote on every Senate floor action, including discharge motions and nonsponsored, also known as hostile, amendments; does not permit the Minority to put forth alternatives

to what the Majority has proposed; does not give Minority members a more equitable share of resources; and, perhaps worst of all, effectively prohibits any future efforts to reform the Senate Rules on the floor.

What the people see here is clear. What we ought to expect of ourselves is clear. We know we can do better. I would argue and will argue later that the Minority has proposed a definitive package of rules for this legislature that does do better, that does meet the standards of parliamentary procedure.

And so I am disappointed with the outcome today and hope that my colleagues on both sides will still look carefully at the package that the Democratic Minority put out over two weeks ago to the public and consider an alternative package to the one that has been presented to us today.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: Mr. President, you know, I guess having listened to Senator

Connor is one of the reasons that I wanted to speak. And I'll speak fairly quickly.

Actually, what happened is -- and clearly Senator Skelos, who was in both houses, has a good idea of this whole situation. But I will say this. I was in both houses also, but of course I was there much earlier. It was really the Assembly that changed, not us as much. When the Assembly became really so dictatorial many years ago, it had an impact on us.

And I only mention that because -- and let me just say that this house has always treated the Senate Minority with much greater respect and much greater -- and tried to deal, in many issues, with a much lighter hand than the Assembly.

I can tell you that I remember very well, and I will -- and I haven't told this story about that period when the Senator was talking about. The leader at the time was getting prepared, if I remember right, to leave. And let's just say that he sort of delegated some of the responsibilities to a few members, including myself. And we got

into the worst fight I've ever seen in my time, and it went on for about two months until finally one day we had a discussion and we said, you know, it's time to stop this. And we did.

And the reason I say that, this is democracy. You know, one of the things that really bothers me about this -- and, you know, you should be asking for more resources, and you want more power. The constitutional framers -- but on the other hand, a socialist republic does that. They give you all the stuff, and somebody else runs things. And everybody is equal, meaning they have less power. But they're equal. That's not the way it works, and they don't work that way in Congress, by the way.

I understand what you're saying, but I have to tell you -- and Senator Padavan and I have looked at this -- these rules, and I've got to tell you, these are -- and I must say to you that there was a couple of things -- contrary to maybe what Senator Saland said, there was a couple of things that were pointed out to us that needed change, in

my opinion, very much so, and some reforms that frankly -- and the Majority Leader star, yeah, it's true.

By the way, I think you were wrong, Marty, because I think that the former Majority Leader, I think, did use it a couple of times. But Joe has never done it. Just a couple of times; I don't think very much. Because, for one thing, he had a guy who pretty well watched legislation pretty heavily, and as you know, so he didn't really have to bother with the star. I admit that.

But I think our process here has been much more free than in previous years. But I think the reforms that we've set up here are reforms that keep this body moving. You talk about message of necessity. You know, most of the legislation that we deal with a message of necessity are old bills, reformed, changed, and then finally came out. And they're used because we are in a situation where either we must do it quickly -- most of the messages of necessity are right at the end of the session. They rarely come any other time. And we've tightened up the rules on

that.

But you and I know very well, if we don't like a piece of legislation and we give the ability of the minority to veto it, you'll do it, just because you don't like it. And that's not the way a democratic majority -- and I mean democracy majority -- works.

Let me say that the rule changes that we've created here do allow the legislative process to be more representative, more deliberative, more accessible. And let me point something out about dysfunctional. Of course, I'm in a county right now, Erie County, that's really dysfunctional. And, I mean, we can't even get a percent sales tax things done because the county executive and the county legislature are fighting.

Nothing in your package, nothing in our package would prevent 63 people from one house from stopping the budget. Because there was a judge's decision, by the way, by one region of the state that said that one region of the state was to get some resources and the other regions were to be shut out. This house could do the same thing. But the Assembly did

it. And they waited until August, and we were able to pass a budget.

Nothing in any of these so-called rules changes would change that. But what these rules changes do is to allow this house, much more so than the Assembly, to be more open, responsive, and to allow, I think, a greater debate.

And I've got to tell you this, as somebody who is on the Codes Committee, as I think many of you know -- by the way, just sending out a congratulatory to all the members of the Codes Committee from last year, because we had one of the best years we have ever had in criminal -- in my opinion, the best year, in criminal justice. And that thank you not only goes to Republican members, but to Democratic members, to Tom Duane and Malcolm and all the people that were on the committee. Because I think we did a pretty darn good job. Not too many people paid attention. The criminals have, by the way, and the bad people. But I'm sending that out because I think it was not noticed.

The reason I'm saying this is we're

part of the rules -- we didn't need a change in the rules to do that. We did it anyways.

Now, these rules changes that Senator Padavan was so involved in -- and debated with the Brennan people, by the way, very strongly -- I think will make our house a more effective house. Our ability will be even greater to do more things in this house.

But I would point out to you, we've still got to deal with the other house. We still have to deal with the other house, and we still have to negotiate with the Assembly and with the Governor. We can do all we want here, but we still have to deal with other people.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

We are, as Senator Paterson, noted, going make some amendments to this rule. But I just want to try and bring us back down to earth here a little bit. When Senator Paterson spoke earlier, he wasn't saying this is a political issue. What he was saying is

this is a matter of integrity. And if you are not hearing what the voters are saying, they may have to say it again. But that doesn't mean it's political.

The people in this state are losing confidence in the government. And you can talk about the Brennan Center report. But two weeks ago when Senator Bruno broke and agreed to negotiate with Senator Paterson, a list of dozens of groups sent a letter to the two leaders endorsing basic proposals that are in our amendments and some of which are in the Brennan Center report -- radical groups like the Business and Professional Women of New York State, the Citizens' Budget Commission, Edmund J. McMahon, the senior fellow at the Manhattan Institute, the National Federation of Independent Business, the Greater Binghamton Chamber of Commerce.

So this is not a matter of a few radicals or a few airheads down in Lower Manhattan coming up with proposals. Are you not listening to the voters all over this state? This is a house -- we can stand and say, oh, we're better than the Assembly, this

and that. The Brennan Center studied five years. Five years. They didn't talk about major bills in this portion of their report. 7,109 bills came to the floor of this house; 7,109 bills passed.

The people of this state do not view this as a real, deliberative legislative body, because what goes on on the floor here is viewed as preordained. It is not viewed as a serious legislature where nothing is ever in dispute, where no bills are ever amended on the floor. It is not viewed as a serious legislature where Mr. O'Clair, sitting here, he had a bill, Timothy's Law, that had over 50 sponsors and we couldn't bring it to the floor of the Senate.

So I'd like to bring this down to reality. We do have some amendments to make which I would like to get through. And maybe then we can start to consider the reality of the rules we're addressing.

It's one thing to say these rules make things more efficient and more effective. I know we heard the same thing in January 2001 when this house voted -- and anyone who's on

the other side of the aisle who was here in January 2001 voted for this -- to stop the practice of recording votes of Senators on amendments, to stop the practice of recording votes of Senators on motions. How that makes the public more able to tell where their Senators stand, I do not know.

The rules proposal you've presented us today continues this trend. Instead of us having open debates, as we are today, on the rules of the Senate, this would require those to be referred to the Rules Committee, which is not a regular committee with published meetings and agendas that are distributed. Here's the Senate committee meeting list. You will never see the Rules Committee listed on such a list, because it operates on the fly and essentially as a sort of a shadow committee. It has its own set of rules in the section on committee rules.

So this process is going to continue the trend. So I'd like to bring this back to reality. Anyone in this house who doesn't think we have a serious credibility problem in this state I think is woefully out

of touch. And that's what Senator Paterson's point is. We have to do better than tinkering around the edges. We have to do better than passing more aggressive measures that continue the process of this not being a real, functional legislature.

I'm sorry. According to the rules of this house, it doesn't matter how many sponsors you have on a bill, it doesn't matter how many years a bill passes out of committee. Under Rule -- what's been called by some commentators "the Heart of Darkness," Rule VIII, Section 6, the Majority Leader has absolute power to determine what is on the active list, what comes to the floor for a vote and what doesn't.

And as long as every bill that comes to the floor passes, as long as that absolutely authoritarian power continues, we're not going to be taken seriously. So our proposal, embodied in our package, is to make the rules real, make the committees real. If a bill is based out of committee, it should come to the floor. If someone wants to sponsor a bill, they should be allowed to

sponsor a bill.

And I have heard no valid criticism of our report released three weeks ago based on efficiency, transparency, based on responsiveness. So I would appreciate it if we could now move forward with our amendments, and then I know we have time for further debate thereafter. But I believe that we have eight amendments, and we're going to try to do them as quickly as possible. I know there are other Senators who want to speak.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: The chair is going to finish the list of people who have asked to speak and take members in regular order and recognize them.

I know, Senator Valesky, that you have an amendment.

Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

You know, I've been listening to debate now for almost an hour and a half about the rules. And if I had come and visited this chamber for the first time, not involved in

politics or being an elected official, and I was seated up there in that audience, I would have to ask, What is everybody talking about?

How does any of these rules that we may or may not do bring a timely budget? How does it reduce property taxes? How does it bring affordable health care? How does it lower our car insurance? How does it reduce crime or create jobs? That's what the people want from us, productivity as a legislature.

Now, I served nine years in the Assembly. And I have to tell you, in the minority, as far as the policies of leadership, we were treated with disrespect and it was a tyranny.

Never disrespectful with the members on both sides of the aisle, never. And some of my best friends are over there on the Democratic side in the Assembly. Because that's the dignity and the civility we give to each other because of people putting us here.

So -- and I had to take pride for nine years that I would improve a product that improved the quality of life of the people we served. If I had a good bill, sponsored it,

it never saw the light of day. It was taken by a majority member, and it was passed. I didn't like it. But you know what? I got a satisfaction that the people would be better served. And that's what I took back to justify why I'm here. Never got sponsorships. Never got the same resources. But that's what we give.

Now, it disturbs me greatly to hear members say we are dysfunctional. We are all stained by that. I grant you that the budget process is dysfunctional, because there's no constitutional, statutory trigger to make an on-time budget. But let me just talk about some of the things that I think we've accomplished together. And never, never as a member get up here and say this Legislature is dysfunctional, because I dispute that greatly.

For example, in 1994, New York State was ranked the 6th most violent state in the nation. Today, it's the safest large state in America. There were 86,000 fewer violent crimes in 2003 than in 1994.

In the economy, with Empire Zones, Centers for Excellence and all our personal

business tax reductions, we are now ranked second in the nation in business climate and new corporate facilities by Site Selection magazine. We're ranked second in the nation in insourcing. That's attracting jobs from foreign-based companies. High-tech projects alone, this year, $2.7 billion. And we've reduced 19 different taxes, giving back the people $122 billion.

In health care, we stepped up in Family Health Plus and Child Health Plus and now a million more people in this state have insurance that they didn't have before, adults and children.

We are among the tops in education per pupil that we invest in our children, trying to bring excellence in education. And it's now estimated that 340,000 senior citizens are enrolled in EPIC, saving 20 percent on prescription drugs. Our SUNY system is the best in terms of attendance at SUNY and CUNY.

In 2003, we were ranked one in the best parks in the United States. 800,000 acres of open space we've created. And we

have the toughest acid rain standards, and we've enacted brownfields revitalization program. And today fewer families are on welfare in the last decade than ever before. We dropped nearly 600,000 people off the welfare rolls. Child poverty has declined to a 21-year low of 13 percent. And today we have the best homeland security state in the country, and we're ranked number one, the largest safe state in the country. We have done this together.

Now, if you want to stain yourself when an elected official gets up and says we are dysfunction as a Legislature because of election pandering or embracing a lobbying report, that is their privilege to say it. But they are wrong, they are wrong, they are wrong.

Can we do better? Should we do better? Absolutely. But I have only cited some things that we have done together that the vote is no, that we are not dysfunctional. And we will be judged on our policy enhancements and how we better improve the quality of life and not this

tempest-in-a-teapot rules debate.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

I would like for a moment just to pursue, if I might, something that was just discussed by Senator Bonacic. I would respectfully submit that if in fact you devised the perfect procedural system and if Brennan, however unrealistic, is perfection, then I would pose some of the very same questions that Senator Bonacic either posed or certainly implied.

Would we have an on-time budget? Would we have budget reform? Would we correct the imbalance in the processing of our budget between the Executive and the Legislature? Would we have Medicaid reform? Would we have the ability to do any number of things that we've been criticized for not being able to complete? Would we end logjam? Would the system just come marvelously through, finishing in a cohesive, organized fashion on

the last day of the session, whenever that might occur?

In the Brennan report, Brennan recommends or makes mention of our inability to obtain Wicks reform. Would we have Wicks reform?

I think the answer to each of those questions would be no. And I think those nos are the measure of our dysfunction.

I think we all should embrace procedural reform. And I think what we are doing here today certainly is a reflection of trying to agree on what constitutes that procedural reform. And I certainly concur wholeheartedly that there's room for that reform.

I do not, however, believe that procedural reform or procedure is the measure of either function or dysfunction. It's not. What has caused us to be viewed as dysfunctional, notwithstanding the comments of Brennan, is our inability to get a budget on time for some 20 years. It is our inability to deal with the issues of Medicaid reform and the others that I mentioned.

Now, in his comments a bit earlier Senator Schneiderman made passing reference to Brennan and said something about major legislation really being of no import in the scheme of what we're discussing. Well, I'm going to submit to you that basically the tone and tenor of everything that has occurred has occurred based upon the Brennan report.

And for those of you who have read the Brennan report, as Senator Connor mentioned that he has, I think you'll see that certainly the research leaves a lot to be desired. I think you will see that zealotry has replaced research.

And quite candidly, you know, I'm just a small-town lawyer who used to have a general practice. I don't practice actively any longer. And perhaps when I saw Cravath Swaine, I just should have stopped right in my tracks and said the imprimatur of Cravath Swaine is on this, how could it not possibly be gold.

So I plodded forward in my own bumbling way and just decided that there are some things here that intrigued me. So let me

share with you, I started to talk before, when they measure performance by committees or when they measure performance by this chamber, they measure it based upon major legislation and major bills.

And they cite McKinney's. And McKinney's, as you know, puts out pamphlets, Russ McKinney's [ph]. They put out about ten every session that [unintelligible]. And basically they draw, Russ McKinney's draws off of those pamphlets. And they describe things called major legislation.

And I read to you what some of those items of major legislation are. And I'll just give you just a taste. I mentioned earlier, authorize the City of Elmira, in the County of Chemung, to enter agreement with respect to confinement of detainees in such county jail. Prohibits taxicabs from imposing an additional charge for wheelchairs. Extends for an additional two years the establishment of certain water charges for hospitals and charities in New York City. Extends the statute of limitations for phenoxy herbicide actions for armed forces personnel who served

in Indochina, for an additional two years. Adds additional time to appeal a civil judgment or a judgment on order of modus of entry as delivered by mail or by delivery service. Relates to providing tax relief to individuals serving in a combat zone in the Federal Republic of Yugoslavia. Authorizes members of not-for-profit corporations to issue acts of proxy by means of an agent in facsimile signature or by means of electronic transmission. Makes technical corrections to Chapter 271 of the Laws of 1994 relating to creating a women's veterans coordinator in the Division of Veterans Affairs. Establishes the Suffolk County Judicial Facilities Agency.

Trust me, I could go on and on. This is the major legislation that we failed to debate. This is the major legislation that we were criticized for not debating. Brennan says -- and they start off right in Footnote 2 of the Executive Summary, and I'll, if you'll indulge me, quote it: "For purposes of this study, we have analyzed the major legislation passed from 1997 to 2001."

Now, does that constitute analysis?

How anybody could have considered that to be major legislation, and let me go over some of it, to debate it -- now, who here in this chamber would have found cause to debate that bill? If you want, I'll give you another 20, 30, or 40 of them.

Now, the methodology, they go on to talk about frequency of debate. I had to read through 82 pages. If you read the text and didn't read the appendices, you have no idea how they defined debate. So look at the second appendix. That's the one that contains the definition of debate.

And this is how they define it. "Frequency of debate," and I'm quoting, "This refers to a significant debate" -- I'm not quite sure what that means -- "over a bill with at least a few speeches or exchanges over the merits of the bill rather than simply an explanation of its terms by the sponsor." So mere debate isn't good enough. It has to be significant to receive the Brennan seal of approval.

Now, from this they extrapolate that 82 percent of major legislation passed

without any discussion, much less debate, in the Assembly, and 71 percent in the Senate.

Why would those bills have been debated? Why? I mean, there was no reason to debate them anyway. And as I said, I could bore you with a list far greater than that.

So according to Brennan, if I am asked to explain a bill and two or three of my colleagues ask me questions, that's not significant debate. If I rise to explain a bill, I answer two or three questions, two or three people get up to explain their votes, that is not debate.

Now, some of you may be aware I formerly was an officer in the National Conference of State Legislatures and in that capacity had the opportunity to visit a number of legislative chambers in other states. What we think of as debate, at least what I've thought of as debate, and Brennan certainly says is not debate, is routinely the kinds of debate that I've observed in the eight or so chambers that I have visited, one house or another, in both -- in both houses or one house of the states that I've attended.

And they go on to say basically the same thing about committees. There are few committee hearings on major bills. Well, why would you hold a committee hearing to figure out the needs of the Chemung County Jail, why would you hold a committee hearing to go extend payments for -- or exclusions for payments of charities for buildings in New York City or for a veterans' affairs person, a woman, in the Office of Veterans Affairs? I mean, would that require a public hearing? But yet we're criticized for not doing it; it's a measure of our dysfunction.

Let me suggest to you a little further that in some instances they've compared apples and oranges. If you've bothered to read the report, you'll see they talk about professional legislatures. We are one of I believe nine professional legislatures that they list. We're joined by California, we're joined by Michigan, we're joined by Ohio, we're joined by New Jersey, we're joined by Massachusetts and two or three others.

And they go on to assert that we

have too many committees. They say that with the exception of the State of Mississippi, which has 35, New York State has more standing committees than anybody else. Well, when I say compared apples and oranges, when you look, for instance, at California, which has a much smaller senate than we do, when you look at Wisconsin, Illinois -- Illinois, 35 senators, 17 committees. Wisconsin, 33 senators, 16 committees. Michigan, 38 senators, 28 committees. California, 47 and 26 committees.

If you apportioned those committees based on the size of a 62-member house, a number of those states would have more committees than we do. We would all be generally in the same ballpark.

And then they go on to talk about logjam. Very, very disingenuously, I thought. They state, and I'm quoting here, "Evidence is not available for this report to determine whether the New York State Legislature has faced a greater logjam than other chambers in recent years."

Now, how does one measure the

degree of logjam in 99 legislative chambers? How do you do that? And what determines the degree of logjam?

It goes on to say, "Plainly, the end-of-session logjam is one of the many practices and procedures that preclude legislators' serious consideration of final legislation prior to a floor vote."

Well, let me just suggest to you that going to the very sources that Brennan went to, particularly to NCSL, looking at some of the tables that they looked at -- and some, if they looked at, they chose not to use -- they would have known that when it comes to logjam, given the most recent data for 1998, 43 states representing 82 chambers reported frequent logjams. No state reported never having a logjam, and about a dozen reported having occasional logjam. Their disclaimer was, quite honestly, a bit disingenuous if not dishonest.

You heard earlier mention of some of the criticism about the Majority Leader hiring and firing committee staff. I've been in this house now for 14 years; this is my

15th. I have hired every person on my committee. If I had to remove somebody, that was my responsibility. And I think that's true of everybody here. This Majority Leader has never required us to hire or fire anybody. It's a chairman's decision. It may be the case in the Assembly, but not the case in this house.

Assembly Rules may have never met. Senate Rules does. And I think I speak for every chairman here, I negotiate my bills. The Majority Leader doesn't do it for me. I and my staff negotiate my bills with the Assembly and with the Governor's office.

Brennan looked at the operation of one Assembly committee. There are 70 standing committees in this house. One Assembly committee. And they based all of their astute findings with regard to how committees operate on this one Assembly committee.

They talk about, with criticism, the fact that the chairperson controls bills in committee. Does that come as a surprise to anybody? Does that not happen routinely throughout the country? Well, if you're not

aware, let me tell you -- and NCSL could have provided the information to them; they may have had it, chose not to use it -- it's a common practice. The majority of states defer to the chairman with regard to activities within the committee. A clear majority, probably somewhere about 60 percent of them.

They talk about legislators not actually consenting individually to bills that are passed. Who does not consent individually to a bill that's passed, regardless if it's a fast roll call or a slow roll call?

You know, and they talked about empty-seat voting. We're going to a system now where the controversial calendar, you'll vote from your seat. I assume Brennan knew this, or if not, they chose to ignore it; there are some 28 states in which they have consent calendars. Members cast one vote for the entire calendar. They vote for the first bill, and that becomes their vote for the entire calendar, or they just vote for the entire calendar en masse, one vote. Additional states, such as the state of North Carolina, they'll just have a consent

calendar, one vote for local bills.

And for some reason or other, they failed to note that there are 18 states that do voice votes. You have no idea what a member has done, none whatsoever. Not a word is it mentioned in the Brennan report.

It's safe to say that Brennan was probably aware that 25 chambers vote from their office. Now, why do I say they vote from their office? Well, the long and the short of it is I'm being a little tongue in cheek. Their office is in the chamber. They sit at their desk. There's no district office, there's no Capitol office. So they don't have to go too far.

And then I don't know if there's anybody here who subscribes to this, but they claim that at no time does the Legislature have to consider a vote in order to pass legislation.

So I guess nobody bothers to read bills, nobody has to concern themselves with how they voted on a bill. Because according to Brennan, you never have to consider how you're going to vote on a bill.

Now, I was particularly intrigued with regard to their comments on hearings, or lack thereof, in committees. And I was certainly surprised to see the name of -- my name and a member of my staff, which incidentally was spelled incorrectly, in the portion of the text that dealt with -- this may have been a footnote -- that dealt with the actions of hearings on major legislation.

And the person who conducted the research, the telephone interview, slash, research -- I have no idea if it was a man or a woman -- but basically this person said that I never held hearings on a bill, a bill which dealt with providing security for students in a school setting, requiring fingerprinting and criminal background checks on school employees. And the proposition that was cited was that the Senate dealt with these major bill and never held hearings.

Well, this very capable, competent, astute researcher really knew his stuff or her stuff. Had they bothered to research, what they would have known was that I held four hearings on the predecessor of that bill.

They were held during 1998. 1999 marked a new session. In 1999 that bill took a new number, and changes were incorporated based on the four hearings that I had held in the preceding year.

The depth of the research was awesome, and this person certainly did a stunning job. And they also cited several bills for which there were public hearings as not having had public hearings. I mean, the quality of research is astounding.

They offer, without support or conclusion, that voters cannot hold their representatives accountable. Now, the last time I checked, all our votes are public records. We routinely receive questionnaires by each and every advocacy group that God only knows have been created.

And they cite, several times, Al Rosenthal. Al Rosenthal has been cited by some as the dean of legislative studies. And they cite "The Decline of Representative Democracy" in numerous footnotes. It's a 1998 publication.

In 2004, in a work called "Heavy

Lifting: The Job of the American Legislature," the same Al Rosenthal states: "It is easy to second-guess the Legislature and the process. There may always be better ways to pass a bill or to defeat one. More study, more deliberation, more input and greater efficiency are frequently advocated. Editorial writers seldom hesitate to tell the public how the Legislature could better do its job. And the Legislature probably could always do better in some way. But the process is not really manageable, depending as it does on contingencies of all kinds. As long as there is disagreement among members, interest groups to deal with a member has to worry about, or a governor who wants a piece of the action, the process can take just about any course, and it does. Everyone and everything is connected, interdependent, and no one is in full control. Legislating is truly a collective endeavor, but is one in which many people pull in different ways.

"Legislatures do not look good because of the very nature of the function they perform. They channel, express and try

to settle differences and conflicts. They do so in a complicated, unprogrammed, and human fashion. The most unattractive business to the average eye, legislatures and the process come off as even less attractive as a result of their treatment in the press, in political campaigns by advocates for one side or another, and because of the misbehavior of some of their own members."

Rosenthal then goes on to make this statement: "Legislatures are not pretty, but neither is democracy." Which is not unlike the words of Winston Churchill, who said: "It's been said that democracy is the worst form of government except all those other forms that have been tried from time to time."

The reality is, ladies and gentlemen, that Brennan is a lobbying group. The stories, by the way, you know, for today have been written. And certainly to some extent this represents an exercise in futility, because I'm sure the same members in the media who didn't read the Brennan report, the same editorial writers who didn't read the Brennan report have already written their

stories and they're just inserting the quotes and the names as, you know, they're wont to do.

But the long and the short of it is if you took everything that Brennan wanted -- and some of it is just not to be found in any legislature anywhere in these 50 states of ours, in 99 chambers, so it is so beyond the pale of anything that you would find anywhere as almost borderline fairy tale. But were you to do it, it would not be the measure of dysfunction. It would not make this chamber any more functional than it was last session. It wouldn't resolve the budget gridlock. It wouldn't resolve the host of other issues that really have been the measure of dysfunction.

ACTING PRESIDENT MEIER: Senator Valesky.

SENATOR VALESKY: Thank you, Mr. President. On the resolution.

I think that in listening to members on both sides of the aisle talk this afternoon and this evening, I think we're missing one important point. The reason to do real reform of the rules of this house has

nothing to do with Democrats and Republicans. It has nothing to do with which party controls the majority of this house. It has to do with good government.

And I can tell you that perhaps more than any other member in this chamber, I was looking forward to being able to support new rules of the Senate that were in the best interests and in the spirit of good government. And in fact, two weeks ago today, when the Majority Leader announced his intent to work in a bipartisan fashion to create real reform of the rules of the Senate, that was a very encouraging sign.

Unfortunately, today we don't have real reform of the rules of the Senate. The people of New York State, certainly the people in the 49th District in Central New York that I now represent, people don't care about Democrats versus Republicans. They don't care which party controls the majority. All they care about is a government that is responsive, a government that is responsible, and a government that acts on their behalf and in their best interests. That's why we ought to

be enacting real reform of the State Senate here today.

And if I might, we have a series, I believe, of eight amendments to offer up at this time.

Mr. President, I believe you have an amendment at the desk. I ask that be reading of the amendment be waived and ask to be heard at this time on the amendment.

ACTING PRESIDENT MEIER: The amendment is at the desk, the reading is waived, and you're recognized to explain the amendment.

SENATOR VALESKY: Thank you, Mr. President.

As Senator Paterson indicated in his remarks earlier, one of the components of the new rules package that we'll be asked to vote on shortly includes a proposal that would require all future proposals to change the Senate Rules to be approved by the Rules Committee before coming to the Senate floor for a vote.

So my understanding of that rule, should it be approved today, would mean that

there would be a fairly high likelihood that we would never have a debate on the floor of this Senate again in regard to rules of the Senate.

So my amendment would alter those proposed rules changes by deleting the proposal to refer all future proposals to change Senate Rules to the Rules Committee, by eliminating the Rules Committee itself in order to return authority over legislation to the substantive committees, and creating in place of the Rules Committee a Rules and Administration Committee which would provide a forum for discussion, consideration and implementation of various Senate policies, which I think a rules committee ought to be used for, as opposed to making decisions and moving legislation to the floor, an aspect that ought to be left to the substantive committees.

So I urge support from all of my colleagues today on this amendment. Thank you.

ACTING PRESIDENT MEIER: Those Senators in agreement with the amendment

please signify by raising your hands.

SENATOR SCHNEIDERMAN: Point of order.

ACTING PRESIDENT MEIER: Senator Schneiderman, state your point of order.

SENATOR SCHNEIDERMAN: Mr. President, is there going to be a roll call recorded on this amendment?

ACTING PRESIDENT MEIER: Senator, this is governed by Rule 9-3(e) of the Senate, which provides for a canvass of agreement.

SENATOR SCHNEIDERMAN: Well, for the record, we would request a recorded vote on this, since we are in the period of two-week extension of the rules.

And let the record reflect that on our side of the aisle, we respectfully request that every Senator should be proud of the way they vote and not seek to avoid a recorded vote.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: The negatives raise your hands, please.

I'm sorry, the votes in agreement please raise your hands.

THE SECRETARY: Those recorded in agreement are Senators Andrew, Breslin, Brown, Connor, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, Klein, L. Krueger, C. Kruger, Onorato, Oppenheimer, Parker, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski, Stavisky and Valesky.

ACTING PRESIDENT MEIER: The amendment is not agreed to.

Senator Brown.

SENATOR BROWN: Thank you, Mr. President.

I believe there's an amendment at the desk. I ask that the reading of the amendment be waived, and I would like to be heard on the amendment.

ACTING PRESIDENT MEIER: The amendment is at the desk, the reading is waived, and you're recognized to explain the amendment.

SENATOR BROWN: Thank you.

The purpose of this amendment is to demonstrate that we take the budget deadline seriously. And hopefully, if this amendment

is passed, it would help lead to on-time budgets in our state. As we all know, New York has failed to adopt its budget in a timely manner every year since 1984.

Now, neither the current Senate Rules nor the proposed 2005-06 Senate Rules include any provisions to change the way the Legislature considers the budget. This amendment represents a different way of addressing budget reform. It simply requires the Legislature to remain in session after April 1st when the budget has not been acted on.

We have the power to change the process of late budgets in this state. What we're doing certainly, clearly, is not working for our community. Let's end the process of late budgets by passing this amendment.

Now, clearly the goal of this amendment is to keep us working until we get our job done, and that's to pass the budget. I believe, and my constituents have said -- and I think all of our constituents are saying all across the state -- that they want to see the budget passed on time. When the budget is

not passed, it has a negative impact on school districts, local governments and community-based organizations.

This year, our goal should be to pass a budget on time, and this amendment will help us to accomplish that. I ask my colleagues to join with me in supporting this measure.

ACTING PRESIDENT MEIER: Senator Padavan.

SENATOR PADAVAN: Will the Senator yield to a question.

ACTING PRESIDENT MEIER: Senator Brown, do you yield for a question?

SENATOR BROWN: Yes, I do.

SENATOR PADAVAN: You said "the Legislature." I assume you mean both houses when you say "the Legislature."

SENATOR BROWN: Yes, I do.

SENATOR PADAVAN: These are amendments to our rules in this house. They are not binding on the Assembly. Do you agree?

SENATOR BROWN: Yes, I do.

SENATOR PADAVAN: Okay. So

therefore, we could stay here until the cows come home, Senator.

If the Speaker of the Assembly crosses his hands and says, "I'm not going to deal with the budget until the end of July," or whatever date he picks, would that in any way, shape or form serve any purpose for us to be here every day between April 1st and the time he decides that he's going to negotiate in good faith?

SENATOR BROWN: I believe that we can break with business as usual and we can lead by example.

I think if this house takes the step of demonstrating our leadership by staying here every day, working and demonstrating our willingness to negotiate a budget agreement, that we can have an impact on the other house of the Legislature as well as on the Governor.

SENATOR PADAVAN: On the proposed --

ACTING PRESIDENT MEIER: Senator Padavan, on the proposed amendment.

SENATOR PADAVAN: There is no

doubt that we agree, Senator, that we want an on-time budget, that we want budget reform. And indeed, this house, last year and again this year, passed specific legislation that would achieve that objective. And I think you voted for it, if my memory serves me correctly.

SENATOR BROWN: Yes, I did.

SENATOR PADAVAN: Yet the Assembly refuses to join with us, to partner with us in these initiatives that would be true budget reform, not simply sitting here but putting in place those procedures and mechanism that would win the day for the people of this state. And as you properly stated, school districts and others would know what is forthcoming in our budget.

But the fact remains, we cannot do this unilaterally, that it requires the other house to act in good faith. And if there was any indication, we saw last year when the Speaker said, Until July 31st comes about, I'm not even going to talk about this. And so we came here week after week, into August, when we finally adopted a budget, if not every week

certainly on and off.

I think we demonstrated clearly our commitment, as you propose in this amendment. But I suggest to you that the amendment is faulty because it has no effect over the other house, and that a better approach would be to try and convince them, your colleagues in the majority there, to follow our lead on true budget reform.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Senator Brown, just a -- I haven't really seen the amendment at this point, but you would require all of us to be here after April 1st --

SENATOR BROWN: Yes.

SENATOR SKELOS: -- if there's no budget?

In your amendment, do you eliminate per diems for legislators that there then after April 1st?

SENATOR BROWN: No, the amendment does not eliminate per diems, Senator.

SENATOR SKELOS: Thank you.

ACTING PRESIDENT MEIER: Senator

Connor.

SENATOR CONNOR: Mr. President, I don't support this. Because I remember when Senator Marino was the Majority Leader and I spent good Fridays here, Palm Sundays. It didn't pass a budget any bit sooner. At the end of session when we had important legislation, we were here on July 4th. What did I do on July 4th? I went to the movies and I collected a per diem, as did most of the members here.

So I don't think this is going to accomplish anything. And I'm just reading it, and it says that we can't adjourn. Well, we don't adjourn. We don't adjourn. We just don't sit in session. It's faulty. The constitution says we can't adjourn without permission from the other house. So we don't adjourn.

So, you know, it's whether we're in active session. When Senator Bruno says "I move the Senate stand adjourned until next Monday, intervening days to be legislative days," it means, I don't know, Senator Farley or somebody comes up here every day and pounds

us into session, and we're in session every day. So we are in session every day or every other day. Because if we don't do that, we violate the constitution.

I'm not voting for this.

ACTING PRESIDENT MEIER: Senator Brown.

SENATOR BROWN: On the amendment, Mr. President.

You know, the reality of it is we are not here every day. We pass extenders, we go home, members go to their businesses, they go to their law practices. Some, in fact, go to their summer homes. I've seen members come back here during these extender periods with great tans.

I mean, the reality is we are not working, we are not doing the job that we were elected to do. That is the reality of it. And it's ridiculous.

And I heard the voters in my district loud and clear in 2004. They want that budget passed on time. They don't want us going on vacation. They don't want us going home. And that's what this amendment is

designed to do.

ACTING PRESIDENT MEIER: Those in agreement with the amendment please signify by raising your hand.

SENATOR SCHNEIDERMAN: Mr. President.

ACTING PRESIDENT MEIER: Senator Schneiderman, why do you rise?

SENATOR SCHNEIDERMAN: Point of order.

I don't want to have to keep repeating this, but we would like a ruling from the chair as to why we are not able to record the votes on these amendments.

ACTING PRESIDENT MEIER: Senator Schneiderman, the chair did in fact rule. I told you that it was Rule 9-3(e) of the Senate which provides for a canvass of agreement on petitions, motions and amendments. And that in fact was the way Senator Paterson articulated it when he spoke some moments earlier. That is the ruling of the chair.

Those Senators in agreement with the amendment please signify by raising your hands.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Brown, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, Klein, L. Krueger, C. Kruger, Onorato, Oppenheimer, Parker, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski, Stavisky, and Valesky.

ACTING PRESIDENT MEIER: The amendment is not agreed to.

Senator Krueger.

SENATOR KRUEGER: Thank you, Mr. President.

I believe that there is an amendment at the desk. And I'd ask that the reading of the amendment be waived and would like to be heard on my amendment.

ACTING PRESIDENT MEIER: Your amendment is at the desk. The reading is waived. You're recognized for the purpose of explaining your amendment, Senator.

SENATOR KRUEGER: Thank you.

I rise to propose Amendment Number 3, to empower communities, open bill sponsorship, and improve the legislative

record and make more information available to the public.

This amendment would alter the Majority's proposed rules for 2005-2006 in a variety of ways. One, it would allow the ranking Minority member or any three committee members of either party to place a bill on a committee agenda to be debated in the committee.

Two, it would allow the ranking Minority member or any three committee members of any party to hold a public hearing.

Three, it would authorize any Senator to join on any bill as a cosponsor.

Four, it would require detailed committee reports on each bill that is reported to the floor.

Five, it would require more information to be made available to the public through the Internet. The active list, including committee transcripts and votes, fiscal notes, and Senate expenditure reports all should be available to the public far more easily.

Democracy is good. My party right

here is prepared to have our votes counted when we do hostile amendments. We're even proposed to publicly disagree with each other and not always vote together on every bill. That is open government. That's what we're striving for.

Allowing committees to function as they do in most state legislatures, as many reports have documented -- as Congress operates -- ensures that there is public discourse, that there is public information about the bills being put forward, that there's an opportunity for the committee to actually listen to various bills and debate them and vote on them and decide whether they should move to the floor or not for a vote.

That is a radical change from how we do business today in the Senate and how we would continue to do business under the rules proposed by the Majority tonight. The simple concept of allowing ranking members or a group of members of a committee to decide whether a bill can even be put on a committee agenda for a discussion and debate, or to have a public hearing on a bill -- not every bill, but on

bills that are felt to be important enough by a certain number of committee members or the ranker for the committee -- is standard operating procedure in many legislatures throughout this country.

Open bill sponsorship is a fundamental way for the voters to see where their leaders, their legislators are on particular legislation.

Senator Schneiderman used an example earlier; I just want to clarify it. Because, in this house, Minority members are universally or, with some exception, not allowed to submit a buck slip and have it accepted to be cosponsors of bills, to say to you, our colleagues and to the world, We support this legislation, we'd like to move it, because of that last year in this chamber a bill called Timothy's Law, with 33 Republican sponsors, enough sponsors to pass the bill without one Democrat, a bill that didn't get to this floor despite the fact that 23 Democrats signed buck slips asking to cosponsor that bill -- that was 56 Senators out of 62 who were on record as saying they

wanted this bill to at least come to the floor for a debate.

Open bill sponsorship is a very simple and very clear-cut way to document democracy and the democratic process. Our amendment would allow for it.

Finally, our amendment would allow for improving the legislative record and making more information available to the public. Constituents should be able to obtain information about their Senator's views and their actions and their votes here on the floor, on motions to discharge, on hostile amendments, and on bills. The legislative process itself should be as clear and transparent as we, as legislators, and modern technology can possibly make it.

And frankly, thanks to the Internet and television, there is so much more we could do to ensure that the public knows what goes on up in our chamber and what doesn't. And they will become greater participants in the process of government and democracy for it.

So I hope that my colleagues will join me in supporting this amendment tonight.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Those in agreement with the amendment please signify by raising your hand.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Brown, Connor, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, Klein, L. Krueger, C. Kruger, Onorato, Oppenheimer, Parker, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski, Stavisky and Valesky.

ACTING PRESIDENT MEIER: The amendment is not agreed to.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President. I believe there's an amendment at the desk.

ACTING PRESIDENT MEIER: Your amendment is at the desk. Do you wish to waive the reading and be recognized to explain it?

SENATOR DUANE: I do, Mr. President. Thank you.

ACTING PRESIDENT MEIER: Proceed,

Senator.

SENATOR DUANE: This amendment would alter the proposed rules by eliminating the canvass of agreement so that the vote of every nonsponsor or hostile amendment and discharge motion would be recorded. It would also eliminate the limits on discharge motions.

As those of us who were here may recall, in 2001 the Senate Rules were amended to drastically limit the opportunity for Senators to move to discharge a bill out of committee and to provide that a roll call would take only on the final passage of a bill. Instead, a canvass of agreement is recorded.

The effect of this was to end the practice of recorded votes on hostile amendments and motions to petition a bill or resolution out of committee. Under the pre-2001 rules, a roll call vote was recorded on all hostile amendments and all discharge motions.

A canvass of agreement is a list of Senators supporting the amendment or motion.

It ensures that no Senator is recorded as voting against a proposal.

I believe the public deserves better. They should be able to find out when an alternative is offered to a legislative proposal, and they should be able to know where their Senator stands on that proposal. That is what advocates for legislative rules reform mean when they talk about openness and accountability.

Quite simply, when you take a position you should be prepared to defend that position. If you prefer one Senate bill to an alternative proposal, you should be prepared to articulate why you supported one over the other. If you feel that a bill should not be discharged from committee, then you should be prepared to answer for that position.

And it's for those reasons, Mr. President, that I urge any colleagues to vote in the affirmative on this amendment.

ACTING PRESIDENT MEIER: Those Senators in agreement with the amendment please signify by raising your hand.

THE SECRETARY: Those recorded in

agreement are Senators Andrews, Breslin, Brown, Connor, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, Klein, L. Krueger, C. Kruger, Onorato, Oppenheimer, Parker, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski, Stavisky and Valesky.

ACTING PRESIDENT MEIER: The amendment is not agreed to.

Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Thank you, Mr. President.

Mr. President, I believe there is an amendment at the desk. I ask that the reading of it be waived and I be heard on the amendment.

ACTING PRESIDENT MEIER: Your amendment is at the desk, Senator. The reading is waived, and you're recognized to explain your amendment.

SENATOR MALCOLM SMITH: Thank you, Mr. President.

I am going to be so bold as to make three assumptions about all of our behaviors and all of our beliefs. And should I be

wrong, anyone can challenge me and obviously correct me.

One, I believe as legislators we firmly believe in doing the right thing. And that is we got elected to office because we wanted to serve, we wanted to do the right thing by the people that we represent.

The second thing is we wanted to do the best that we could. And again, I say that when we got elected to office, we believed and we want to make sure that we not only do the right thing but we do the best that we can to represent the people of this state.

The third thing is something that I think we all share, and that is we try and we want to treat others the way we would like them to treat us. And I would daresay if I was to ask that question of each member in this chamber, in particular those in the Majority, if you think it is fair the way we are being treated or in fact if you would like to be treated the way we are being treated, I would daresay you would side with my opinion.

I would only ask that for a moment you think about that question. Do you really

believe that we are being treated fairly? Do you really believe or do you feel that you would like to be treated the way that we are being treated right now in this chamber?

The amendment that I have, Mr. President, is Amendment Number 5. It speaks to the messages of necessity. And I took a moment to just look up a basic definition of the word "reform." And the Oxford Dictionary says "Reform: To make or become better by the removal of faults and errors."

The message of necessity as it is now, the Governor can certify it, requested by the Speaker or the Majority Leader. The bill is voted on immediately. The rule -- or the reform that has been put forward today simply adds that a member will be required to explain or give additional information on the need for such message.

When you go to the actual rule, Rule VI, Section 1, it actually says that if the member deems appropriate, they would be required to make additional statements.

That is not any reform, Mr. President. It does nothing for or to change a

fault or an error that exists in this particular rule right now.

The amendment that I am putting forward, which is one that I think would provide some fairness to the process, simply requires a two-thirds vote to a message of necessity, allowing this full chamber to be a full partner in participating in whether or not messages of necessity can be handed down.

I think my leader, Senator Paterson, offered up a comment earlier about it which explained the, if you would, scenario that last year we experienced when the Governor sent a message of necessity down for the minimum wage, only to, after we passed the bill in this chamber, to come right behind us and veto the bill.

Therefore, it is with great pleasure that I offer this amendment. I think Senator Bonacic talked about fair treatment. I think the amendments that you heard prior to this one, as well as those that you will hear after, speak to the need for fairness.

We are not offering these up to be hostile; we are offering them up because these

are the right things to do. We were elected to do the right thing. We were elected because we wanted to do the best that we can. And we are here in office now asking for you just to be fair in what we are trying to do as legislators in this particular body.

You're in the majority. That's a fact of life. That's the way it is now. The day will come when that situation may change. And I would daresay you would want to be treated fairly, just like we are asking to be treated fairly today.

So this particular rule, this amendment that we're asking to change is just one that simply says we would like a two-thirds vote on a message of necessity. We're not asking for a lot. We're only asking that you give us the right to be treated by like decent humans and which you would like to be treated yourself.

So therefore, Mr. President, I offer this amendment. I hope that our members in this entire chamber will support this and, as you ask them to raise their hand, that in true bipartisanship they will see fit to raise

their hand to this amendment.

Thank you very much, Mr. President.

ACTING PRESIDENT MEIER: Senator Larkin.

SENATOR LARKIN: Will Senator Smith yield for a question.

ACTING PRESIDENT MEIER: Senator Smith, do you yield for a question from Senator Larkin?

SENATOR MALCOLM SMITH: Senator Larkin, as a true military man, it will be my pleasure to yield.

SENATOR LARKIN: Thank you very much.

Senator Smith, you know that the Assembly can ask for a message of necessity and this house can ask for a message of necessity or the Governor can give us a message. Right?

SENATOR MALCOLM SMITH: Yes.

SENATOR LARKIN: Could you give me an idea of how many messages of necessity in the year 2004 you voted for and how many you voted against?

SENATOR MALCOLM SMITH: Well, I

will tell you, the significance of a message of necessity, Mr. Larkin, which I'm clear you understand and I understand, is one in which there is an emergency, one in which something critical happens, like we did with 9/11, like we did if something critical comes down like what the Governor did last year on the bill for the minimum wage.

But unfortunately, it has been abused. It is simply abused. So when you ask how many have I voted for, I voted for those which I thought were messages of necessity based on the rules which you employed during that time.

Today we are asking that you change such rules. And you brought up the Assembly. What the Assembly does is their business. The Senate, we are a distinguished body of individuals, as Mr. Bruno will tell you, separate and different from all the rest, because we are the best.

So therefore, if in fact we want to continue to lead, to lead -- and I daresay your speaker, the Majority Leader, Senator Bruno, does that in tremendous fashion, just

as my colleague and friend Senator Paterson does. I daresay we have probably two of the best leaders in this particular body.

However, what needs to happen is you need to vote for this amendment, which will allow you to then put on your record that you have voted for this particular rules change regarding the message of necessity.

SENATOR LARKIN: I appreciate the dialogue about the vote. But my question is -- answer me, please -- how many did you vote for and how many did you vote against? You don't need a counsel to tell you that. You're a bright man.

SENATOR MALCOLM SMITH: I voted for as many as I needed to agree to.

SENATOR LARKIN: Thank you.

SENATOR MALCOLM SMITH: Thank you.

ACTING PRESIDENT MEIER: Those Senators in agreement with the amendment please signify by raising your hand.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Brown, Diaz, Dilán, Duane, Gonzalez,

Hassell-Thompson, Klein, L. Krueger, C. Kruger, Onorato, Oppenheimer, Parker, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski, Stavisky and Valesky.

ACTING PRESIDENT MEIER: The amendment is not agreed to.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. I believe there's an amendment at the desk. And I ask the reading of the amendment to be waived, and I would like to be heard on that amendment.

ACTING PRESIDENT MEIER: Your amendment is at the desk, the reading is waived, and you're recognized to explain the amendment.

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

Many of my colleagues have already alluded to the essence of this amendment, and that is to ensure that there is equal allocation of resources to both sides of the aisle in this house.

Without elaborating further,

because I think they've already spoken well on the issue, I will just go to the amendment and suggest that this amendment would amend Senate Resolution 195 as follows. At page 19, designate the undesignated paragraph under Section 2 as Subsection A, and insert the following at page 20 as Subsection B, which reads: "Each Senator shall be entitled to an equal allocation of staff, newsletters and other printed materials, postage, travel and prerequisites, provided that the allocation for staff may be greater for Senators holding leadership positions or for any Senator serving as the chair or ranking member of a standing committee, so long as the allocation is commensurate with the additional duties assigned to such Senator."

This amendment provides for equal resources for all Senators regardless of party affiliation. Resources include, as I've said, et cetera. The equal resources for all Senators would ensure that all constituent voices are heard and that their interests are served by the entire Legislature.

Senators who chair a committee or

serve as ranking Minority member will be entitled to additional resources required to fulfill their responsibilities.

New York can be very partisan at times, but every member of the public deserves and is entitled to equal representation. Senators must have the resources they need to do their job, which is to advocate on behalf of their constituents.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Those Senators in agreement with the amendment raise your hands.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Brown, Connor, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, Klein, L. Krueger, C. Kruger, Onorato, Oppenheimer, Parker, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski, Stavisky and Valesky.

ACTING PRESIDENT MEIER: The amendment is not agreed to.

Senator Sabini.

SENATOR SABINI: Mr. President, I

believe there's an amendment at the desk. I ask that the reading of the amendment be waived, and I'd like to be heard on the amendment.

ACTING PRESIDENT MEIER: Senator, your amendment is at the desk, the reading is waived, and you're recognized to explain your amendment.

SENATOR SABINI: Thank you, Mr. President.

I offer an amendment that will help and empower every member of this body in many ways. First of all, it would end the practice of absentee voting in committee, end the practice of holding committee meetings off the floor, which we do far too much, and require the Senate to stand at ease when a committee meeting is held off the floor.

The proposal would prohibit the recording of committee votes unless the Senator is physically present -- unless they're simultaneous committee meetings, and hopefully we'd have fewer of those. It would limit the holding of committee meetings off the floor by requiring the consent of ranking

Minority members or two-thirds of all the members of the committee and require the Senate to stand at ease when such meetings are held.

Now, right now it's mistakenly thought by some that we have proxy voting. We really don't, at least not according to our rules. But we do have absentee voting. The amendment would prohibit absentee voting and require a Senator to be present to cast their vote.

Now, this is not revolutionary. Years ago in the New York City Council, for example, you could actually have the guy who swept the floor cast your vote for you. They changed it; the committees functioned. It wasn't the end of civilization. Water still ran, bills kept getting passed, toilets still flushed. It worked.

The public deserves accurate information about a Senator's role in the law-making process and committee process, including their attendance and votes. Without legislators' participation in the legislative process and publicly available information

about what we do and how we do it, voters can't really judge what we're doing. That goes in general elections or primaries. The voters really should be able to measure what it is that we do or don't do.

The amendment would end the current practice of permitting Senators to vote on matters coming before a committee without having been there. And, you know, one of the things that strikes me, our legislative task force in the Minority on reform had a very enlightening hearing and a witness, Eric Lane, who said that many who criticize the process in Albany, particularly in the Senate, miss the point, that the most glaring malfunction of what we do is that our committee process really doesn't work properly.

That even though we have a committee structure and some of the committee chairmen work very hard, we really run most of our legislation at the end of session through the Rules Committee, most of the important stuff. So you don't develop the expertise that you should on the issue, because you don't hear the discourse. Committee meetings

are five minutes long, we don't take them very seriously, and in effect you can mail in your vote.

I'll give an example of something that was done just within the last two years. We passed a smoking ban in public places in this state. Senator Fuschillo worked very hard to keep that issue alive and succeeded in doing so. But let's doing look at the example of what happened at the city level and what happened at the state level.

At the city level, there was nine months of hearings on the bill to ban smoking in restaurants and bars. There were over 700 witnesses -- doctors, attorneys, bar owners, restaurateurs, health experts and just plain citizens. And they came forward, and the bill was amended and reworked to address some concerns of people. But there was a process. It was open to the public. Everyone knew what was coming. You knew when the vote was going to be, and it happened.

What did we do? Two days later, I believe it was, we did it in one day. Both houses, bam. Both houses as guilty as the

other in doing it in a fast manner, in a manner that really didn't have a public process, in a manner that didn't take into account a lot of things that affected other parts of the state.

And I would submit to you that's because we really have a structure that doesn't allow the committee process to be that important. It works sometimes, as I said. And I'm sure there are committee chairmen who are going to be upset who say, My committee works. The structure doesn't engender that. If it works, it's in spite of the structure.

My amendment would also take into account a more important law that we can't ignore, and that's the law of physics. My understanding is, although we only got this proposal seconds before we got in the chamber, that we are going to require people to be in their seats to vote now. Well, if you're in your seat on the floor to vote, you can't be in a committee meeting off the floor. So the law of physics sort of trumps anything we do here.

So why don't we just sort of

reratify the law of physics and say, you can't have a meeting off the floor while we're voting on things here on the floor, especially if we're going to require people to be in their own seat.

If a Senator wants to actually participate in a committee meeting off the floor, he has to hear about it -- and if you're not in the chamber, you won't hear about it -- and he has to leave his responsibilities on the floor. And that even minimizes the debate that we carry on on the floor.

This rules change will permit committee meetings be held off the floor under appropriate circumstances. And there will be appropriate circumstances, but it would be designed to ensure that those committee meetings are the exception and not the rule.

Finally, when it's necessary for the Senate to hold a committee meeting off the floor, the rule would provide that we stand at ease. Now, we do that sometimes now, but not enough.

And I think it's only fair to all

the members, no matter what party affiliation they have, to make their jobs a little bit easier and make the debate more meaningful by ending the practice of rampant meetings off the floor. And that's what my amendment proposes to do.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Those Senators in agreement with the amendment please signify by raising your hand.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Brown, Connor, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, Klein, L. Krueger, C. Kruger, Onorato, Oppenheimer, Parker, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski, Stavisky and Valesky.

ACTING PRESIDENT MEIER: The amendment is not agreed to.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

This is the final amendment. I believe it is at the desk. I would request

that its reading be waived and ask to be heard on the amendment.

ACTING PRESIDENT MEIER: The amendment is at the desk. The reading is waived. You're recognized to explain the amendment.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

This amendment is our full package of proposed rules reforms. On January 5th, our conference, after work by Senator Krueger's task force, issued a series of proposals of comprehensive reforms to the Senate Rules.

This amendment would strike the proposed rules that have been introduced by the Majority and would replace them with our proposal. I would respectfully submit that our proposal is superior in every respect. Let me give you a couple of brief examples.

But it's superior because the essence of our proposal is to further democratize and open up the legislative process in this house. And the essence of the Senate Rules as they are now is to perpetuate

what is essentially an authoritarian structure.

Why do I say that? Let's look at a couple of examples. The current rule, Senate Rule VI, Section 1(b), the Temporary President, when a bill is introduced, has absolute unfettered discretion to say it's going to this committee and not that committee. It then is lodged in a committee under the current Senate Rules.

Our rule would provide for a Committee on Rules and Administration that would decentralize this process. It would have rules. It would have regulations. The process of a bill proceeding forward after it's introduced would not be subject to the unfettered discretion of one man or woman.

Second of all, once a bill goes to a committee, under the current Rule VII, Section 3, the committee chair has absolute unfettered discretion on what to put on the committee agenda and may add or delete right up until the committee meeting. It is suggested that perhaps 24 hours notice to committee members is appropriate where

possible.

So even if a bill goes to a committee with a responsible chair, that chair has absolute discretion over whether it actually gets voted on.

And finally, even if a bill passes a committee -- and this, for me, was the most astonishing thing about this Legislature when I got here -- under Rule VIII, Section 6, and I'm going to quote, "The Temporary President may file with the Journal Clerk a list of bills in the Third Reading Calendar which may be acted upon on that date and may lay aside any other bills." The Temporary President.

The Majority Leader has absolute, unfettered discretion to say even though a bill has 55, 62 sponsors, it doesn't matter; if it passes out of a committee twenty years in a row, it doesn't have to come to the floor for a vote. That is in the current rules.

Our rules would change that. Our rules would provide that bills can be brought from the committee to the floor. Three members of the committee or the ranker could put it on the agenda for a vote in the

committee. And once it leaves the committee, there is no provision that the Majority Leader controls the active list. It would proceed to the floor for a vote unless the sponsor pulls it back.

Our rules would open this house up, would democratize this house. We would restore, as Senator Duane just pointed out, the rule that you record votes on amendments and on motions. And we would not, as the proposed rules by the Majority would do, shunt the debate on Senate Rules that we're having here today into the black hole of the Rules Committee.

I'm sorry to say that I guess if this rule passes today, this is going to be the last debate on Senate Rules we're going to have on the floor of the Senate until there's a substantial change in the structure of this house. That is the wrong thing to do. It is wrong to reduce the recording of votes. It is wrong to end the public's ability to know. And it is certainly wrong to take the rules debate, now that the public has caught on to the fact that our rules have problems, and try

and shunt it off to a committee.

Our rules would open the house, would democratize the house, would change the house. The proposal advanced by the Majority, I'm sorry to say, would actually make things worse. It purports to do things -- we only received this, again, a few hours ago -- that I believe it doesn't do.

And I would respectfully call my colleagues' attention to the fact that in fact this does not -- the proposal by the Majority does not end absentee voting. It seems to institutionalize it. As drafted, and it was just handed to us, it states that a member's vote on any matter before the committee shall be entered by the member on a signed official voting sheet delivered to the committee chair. So I guess just being present and listening to the debate and voting doesn't work anymore. You have to -- this institutionalizes absentee voting.

So the proposal before us today by the Majority does not democratize, does not open up, does not make this house more transparent. Our proposal would, and that's

what's offered in this amendment.

And my final point to my colleagues here -- and this is meant with all sincerity. I know there are people here, particularly some of our committee chairs, who work very hard. But when I hear the argument that process doesn't matter, that it doesn't really matter, we can't do any better -- process does matter. We can change our rules. We can have a more democratic process. And it borders on un-American to say process doesn't matter.

When the Founders gathered in Philadelphia 220 years ago, they weren't writing rules of property or mortgages or marriage, they were setting up a process.

So process does matter. Let's not say, Oh, it doesn't make any difference, people are bad, people are -- if you don't have goodwill, you can't do anything. We can change our rules. We can get more bills to the floor. And maybe the results will be beneficial for our government. I think they will be.

I believe in the American system of democracy. I believe in a representative

government where legislators are empowered to represent their constituents in every aspect of the business of their house. And I respectfully submit that this amendment would carry out those goals, Mr. President.

ACTING PRESIDENT MEIER: Those in agreement with the amendment please signify by raising your hands.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Brown, Connor, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, Klein, L. Krueger, C. Kruger, Onorato, Oppenheimer, Parker, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski, Stavisky and Valesky.

ACTING PRESIDENT MEIER: The amendment is not agreed to.

The question now is on the resolution. The Secretary will call the roll.

Senator Sabini.

SENATOR SABINI: On the resolution, Mr. President.

ACTING PRESIDENT MEIER: Senator Sabini, on the resolution.

SENATOR SABINI: You know, we heard -- since we're not going to listen to any of our suggestions, let's start talking about some of the rules that are on the floor now.

You know, we listened to a very lengthy discourse about great things that have happened in the state based on what the Legislature has done. That's our job. Good God, if we hadn't done some of those things, what the hell do they pay us for? But we can do better. That's the whole point. We can do better.

I heard a lengthy book review today on the Brennan Center report. I assume the reviewer didn't like the report. That has nothing to do with these rules. Has nothing to do with the rules. I didn't hear anyone explain why it is that members can't cosponsor bills. I didn't hear anyone explain why it's a good idea why votes aren't recorded. I didn't hear any of that during debate. Didn't hear it once.

Why is it a good idea that votes aren't recorded on a canvass of agreement?

Why is it a good idea that members can't cosponsor bills? I don't know. Does that make government better? Is it making this better here? I don't think so. We can do better.

And if everyone in this building -- and it goes for the two houses -- really thinks that every editorial writer in the state, half the citizens in the state who pay attention, and the experts and the good-government groups who watch us and the reporters who watch us are all wrong -- boy, oh, boy. There was a fable about that. It's called "The Emperor Has No Clothes."

I mean, I guess if we stand here long enough and wish it, we can think we're really right about this, that we're the ones doing the right thing and everyone else is crazy. It usually doesn't work that way, though.

And, you know, I heard that the stories were written about this already and the quotes will be inserted. And you're right. Just like everything else that happens here. What happens here, it's no different

than the World Wrestling Federation, it's no different than the Harlem Globetrotters. We know the outcome when the bills come up. It's based on the rules, on the structure.

We send hundreds of thousands of people around the world -- I heard the President talk the other day about restoring democracy around the world and exporting it, those values. We're going to have an election in Iraq. And I'll bet you that the Iraq National Assembly will have better rules than we have, based on American influence.

But not here. Not in this house. We can't have that. Because instead, we get a copy of the proposal just before we walk in the door. If this proposal is so good, why didn't it see the light of day before? I don't know. Our proposal has been out there, talked about, public forums ad nauseam. And yet we get our copy of our rules here just as we walk in the door.

It's wrong. The process is wrong, and people know it. And, you know, if you want to choose to believe that it's not important, so be it. We'll all be judged

later on. But I think it's important. I think the public has figured out it's important. And until we start to realize and be a more responsive government, we're going to have to listen to these people scream at us, both in our districts and in our newspapers.

ACTING PRESIDENT MEIER: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: To explain my vote, Mr. President.

ACTING PRESIDENT MEIER: Well, we're not on the vote yet. You want to be recognized on the resolution?

SENATOR HASSELL-THOMPSON: I want to be recognized on the resolution.

ACTING PRESIDENT MEIER: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: One of the tactics that is used worldwide whenever we are in disagreement with something or someone, we vilify the messenger. Therefore, we can afford to ignore the message. You can vilify the Brennan Center. You can vilify the League of Women Voters. You can vilify any of the

good-government groups that you choose. But you will not stop the message.

The message is that this government is broken. And those of you of good conscience know it. But you will vote the way you will vote, but you will know in your heart that this is broken. So vote as you will. But the message is still a good message no matter whom the messenger may be.

ACTING PRESIDENT MEIER: On the resolution. The Secretary will call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Paterson, to explain his vote.

SENATOR PATERSON: Mr. President, we put forth rules that this conference has advocated for basically for twenty years. We advocated for it when no one would listen to us. We now find that over a period of time that a lot of people are listening to us.

So we think that this is good government. Obviously it's more enticing when it gets a lot of public approval, which it is now. So I don't mind if anybody questions my motivations.

As a matter of fact, actually my motivation was I wanted to be the head of the Republican Senate Campaign Committee. I thought this was a good way to actually present the conference's positions better.

But the reality is in the end that when you do question anybody's motivations, one of the primary requisites of receiving equity in the law is that you come to court with clean hands. And when I look at this package, I'm trying to figure out what is the motivation of having canvass of agreements, of having resources so widely disparate in this place, and of taking the Rules Committee -- the rules proposals and actually disposing of them in a Rules Committee which calls for a resolution.

And under my reading of the rules, I don't even understand how a resolution goes before the Rules Committee, that there's no real way to do that.

So I think that at the end of this vote, since it's the tone around here really more than the rules, we will try as hard as we can to cooperate, and we will go forward. But

since this may be the last time I ever speak about the rules on the Senate floor, I just didn't want to miss the opportunity to say that I always thought it was a good system and we should have kept it.

I vote no.

ACTING PRESIDENT MEIER: Senator Paterson will be recorded in the negative.

Senator Breslin, to explain his vote.

SENATOR BRESLIN: Thank you, Mr. President.

On January 10th I thought that -- I was one of the ones who thought that real reform would take place during these past two weeks. What we see in the 62 pages that have been presented to us -- and again, presented to us right before session -- are at best disingenuous. They're an attempt to do as little as possible and to not effectuate real reform, but to try to do that very small amount that hopefully will please people who aren't as interested in reading whether reform takes place.

I think the Majority has failed. I

think the people of the State of New York will realize the Majority has failed. Because this place still remains the most dysfunctional body in the United States. And for that reason, I vote in the negative.

ACTING PRESIDENT MEIER: Senator Breslin will be recorded in the negative.

Senator Bruno, to explain his vote.

SENATOR BRUNO: To explain my vote.

We're voting for this resolution that is before the floor. And I listened with great interest to the debate. And I have the greatest deal of respect for my colleague Senator Paterson and all of my colleagues here.

But reform is in the eyes of the beholder. And when it's all said and done, we're talking being a process here on the floor and a process that works and has worked. It doesn't necessarily suit every individual, but governing is governing.

And we can talk about what's going to happen two years from today when we're all together. But that's two years from today.

And we're here now, and we have to govern over these next two years.

So what we have before this conference is reform. And as you are not supportive, you're not supporting the reforms that you talk about. We took budget reform out, and you're selective as to how you support budget reform for this year.

And that's really the parents of all reform. If we don't get a budget in place on behalf of your constituency this year, shame on us. But we're going to do everything that we can in this chamber to get a budget done by April 1st. And that is a reform that we should stay focused on.

The process that we're going through is governing. And I appreciate the observations, the comments. And we are where we are. So I would urge my colleagues here to support reforming this process, making it more open, more responsive to the public.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Bruno will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Senate Resolution Number 195 are Senators Andrews, Breslin, Brown, Connor, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, Klein, L. Krueger, C. Kruger, Onorato, Oppenheimer, Parker, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski, Stavisky and Valesky.

Excuse me, Senator Brown is in the affirmative.

Ayes, 33. Nays, 24.

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President, is there any further business to come before the Senate this evening?

ACTING PRESIDENT MEIER: There's no further business at the desk, Mr. President.

SENATOR BRUNO: Can I announce that there will be a Finance Committee meeting at 9:15 in the Majority Conference Room -- tomorrow morning, not this evening. A.m.

And, Mr. President, we're handing up the following committee assignments and ask that they be recorded.

ACTING PRESIDENT MEIER: The assignments are received and will be entered in the Journal.

SENATOR BRUNO: Mr. President, there being no further business to come before the Senate, I would move that we stand adjourned until 11:00 a.m. tomorrow.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Tuesday, January 25th, at 11:00 a.m.

(Whereupon, at 7:26 p.m., the Senate adjourned.)