

1 NEW YORK STATE SENATE

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3  
4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 January 24, 2005

11 3:30 p.m.

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13  
14 REGULAR SESSION

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18 SENATOR RAYMOND A. MEIER, Acting President

19 STEVEN M. BOGGESS, Secretary

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

2 ACTING PRESIDENT MEIER: Senator  
3 Bruno.

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

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

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

20 (Pause.)

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

25 (Whereupon, the assemblage recited

1 the Pledge of Allegiance to the Flag.)

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

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

7 ACTING PRESIDENT MEIER: Reading  
8 of the Journal.

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

14 ACTING PRESIDENT MEIER: Without  
15 objection, the Journal stands approved as  
16 read.

17 Presentation of petitions.

18 Messages from the Assembly.

19 Messages from the Governor.

20 Reports of standing committees.

21 Reports of select committees.

22 Communications and reports from  
23 state officers.

24 Motions and resolutions.

25 Senator Bruno.

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

6                   ACTING PRESIDENT MEIER:     The  
7     Secretary will read.

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

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

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

1 developing a sense of fair play and  
2 competition; and

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

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

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

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

1 Janel Van Alstyne scored the game-winning goal  
2 with 48 seconds remaining in regulation, and  
3 Marisa Abbott, selected as the Outstanding  
4 Goalkeeper of the Tournament, recorded her  
5 17th shutout of the season and 39th of her  
6 career, to lead the Bengals to victory; and

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

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

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

25 "WHEREAS, The hallmarks of the

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

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

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

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

25 "RESOLVED, That this Legislative

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

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

21               ACTING PRESIDENT MEIER:       Senator  
22      Bruno.

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

25               I'm as proud as I can be to welcome



1 the Tamarac Soccer Team here in our chamber.

2 I live about a mile and a half from the  
3 school; children and grandchildren have gone  
4 to the school. And this really is a proud  
5 moment for me to welcome the championship  
6 team, their coach, Craig Gilbert, families and  
7 your friends.

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

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

25 As some of this was being read,

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

9                   (Laughter.)

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

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

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

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

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

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

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

18              SENATOR SCHNEIDERMAN:     Soccer  
19      fan.

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

24              (Laughter.)

25              SENATOR BRUNO:       So

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

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

6                (Response of "Aye.")

7                ACTING PRESIDENT MEIER:       Those  
8       opposed, nay.

9                (No response.)

10               ACTING PRESIDENT MEIER:       The  
11       resolution is unanimously adopted.

12                (Appause.)

13               ACTING PRESIDENT MEIER:       Senator  
14       Bruno.

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

21                Thank you, Mr. President.

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

25                (Whereupon, the Senate stood at

1 ease at 3:50 p.m.)

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

4 ACTING PRESIDENT MEIER: Senator  
5 Bruno.

6 SENATOR BRUNO: Mr. President,  
7 can we at this time call up Resolution Number  
8 196 and ask that it be read in its entirety  
9 and move for its immediate adoption.

10 ACTING PRESIDENT MEIER: Motions  
11 and resolutions.

12 The Secretary will read.

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

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

25 "WHEREAS, Firefighters exemplify

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

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

15 "WHEREAS, On Sunday, January 23,  
16 2005, Fire Lieutenant Curtis W. Meyran and  
17 Firefighter John G. Bellew died battling a  
18 three-alarm fire in a four-story apartment  
19 building in the Bronx. Firefighter Richard T.  
20 Sciafani died searching for children in a  
21 Brooklyn fire; and

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

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

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

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

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

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

25 "WHEREAS, A 10-year veteran,

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

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

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

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

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

25 "RESOLVED, That copies of this



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

5 ACTING PRESIDENT MEIER: Senator  
6 Bruno.

7 SENATOR BRUNO: Thank you, Mr.  
8 President.

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

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

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

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

21                   Thank you, Mr. President.

22                   ACTING PRESIDENT MEIER:     Senator  
23          Skelos.

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

1 sponsorship of this resolution.

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

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

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

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

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

24 ACTING PRESIDENT MEIER: Senator  
25 Morahan.

1                   SENATOR MORAHAN:     Thank you, Mr.  
2     President.

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

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

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

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

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

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

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

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

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

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

17 ACTING PRESIDENT MEIER: Senator  
18 Stavisky.

19 SENATOR STAVISKY: Thank you, Mr.  
20 President.

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

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

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

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



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

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

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

15 ACTING PRESIDENT MEIER: Senator  
16 Gonzalez.

17 SENATOR GONZALEZ: Thank you, Mr.  
18 President.

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

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

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

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

18               Senator Diaz.

19               SENATOR DIAZ:     Thank you, sir.

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

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

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

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

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

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

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

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

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

18 (Response of "Aye.")

19 ACTING PRESIDENT MEIER: Those  
20 opposed, nay.

21 (No response.)

22 ACTING PRESIDENT MEIER: The  
23 resolution is unanimously adopted.

24 Senator Bruno.

25 SENATOR BRUNO: Mr. President,

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

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

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

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

16              Senator Bruno.

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

21              ACTING PRESIDENT MEIER:     The  
22       Secretary will read.

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

1                   SENATOR PATERSON:     Explanation.

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

5                   SENATOR BRUNO:     Thank you,  
6     Senator Paterson and colleagues.

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

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

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

25                  And there is something in the

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

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

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

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

1 procedures that we're handing up will allow.

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

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

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

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



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

4 Thank you, Mr. President.

5 ACTING PRESIDENT MEIER: The  
6 question is on the resolution.

7 Senator Paterson, why do you rise?

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

10 ACTING PRESIDENT MEIER: Senator  
11 Paterson, on the resolution.

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

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

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

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

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

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

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

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

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

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

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

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

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

1       you're passing this kind of legislation.

2               The issue of messages of necessity.

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

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

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

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

1       introduce.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

16                 ACTING PRESIDENT MEIER:       Senator  
17                 DeFrancisco.

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

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

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

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

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

21 Thank you.

22 ACTING PRESIDENT MEIER: Senator  
23 Diaz.

24 SENATOR DIAZ: Thank you, Mr.  
25 President.

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

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

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

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

1 days or not making my days.

2 But I wish you could make my day  
3 today, ladies and gentlemen. Make my day when  
4 you do a real reform and distribute the  
5 resources with equal share. I have read the  
6 New York Post, and I read that the  
7 distinguished gentleman from Yonkers has 30,  
8 30 staff members. Thirty staff members. And  
9 this distinguished member from the South Bronx  
10 only has four.

11 So if we really want to talk about  
12 reform, make my day. Share. Give me a piece  
13 of the pie. Let me serve my community with  
14 dignity. Give me the necessary resources for  
15 me to take care of my community, my  
16 constituents, five days a week from 9:00 to  
17 5:00 and sometimes even Saturdays.

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

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

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

7 Thank you, ladies and gentlemen.

8 ACTING PRESIDENT MEIER: Senator  
9 Oppenheimer.

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

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

15 SENATOR DeFRANCISCO: Sure.

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

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

1       like the League of Women Voters?

2               SENATOR DeFRANCISCO:     Yes, I am  
3       saying that.

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

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

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

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

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

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

1                   The chair recognizes Senator  
2       Saland.

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

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

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

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



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

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

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

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

1       given us a golden calf.

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

9                   Do you recall debating that bill?

10                  SENATOR OPPENHEIMER:     Point of  
11       order.

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

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

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

1       legislation.

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

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

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

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

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

11             SENATOR OPPENHEIMER:     Let me  
12      thank Senator Saland.

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

15             (Multiple speakers.)

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

18             Are you claiming the floor,  
19      Senator?

20             SENATOR OPPENHEIMER:     Yes, thank  
21      you.

22             ACTING PRESIDENT MEIER:   Senator  
23      Oppenheimer.

24             SENATOR OPPENHEIMER:     But I do  
25      thank Senator Saland.

1                   And I think maybe we're focusing  
2           too much on the Brennan report when we should  
3           be focusing on -- no, no, no. Let me explain  
4           what I'm saying. I want you to know that  
5           20 years ago, when I came into this body, I  
6           wrote a lot of reform legislation because I  
7           had come from the presidency of the League of  
8           Women Voters and I saw a lot of things that  
9           were wrong here. And it's in our structure  
10          and it's in our process.

11                  And so I was just using the Brennan  
12          Center because that seems to be a genesis of  
13          what a lot is happening now, because it has  
14          finally come into the awareness of the general  
15          public. When I first wrote this legislation  
16          20 years ago, nobody was interested. Not the  
17          least bit interested. I ran on these issues  
18          and, even in talking in debates, nobody was  
19          interested in what I was saying. So I stopped  
20          talking about it.

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

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

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

14 Thank you.

15 ACTING PRESIDENT MEIER: Senator  
16 Connor.

17 SENATOR CONNOR: Thank you, Mr.  
18 President.

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

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

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

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

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

3 Well, believe me, we were convinced  
4 25 and 20 and 15 years ago that this entire  
5 house would function with absolutely  
6 unadulterated democracy if we could only  
7 eliminate the provision in the rules that gave  
8 the Majority Leader the power to star a bill.

9 And what that meant, for those who  
10 are looking at me saying what's a star, it  
11 meant -- to place a star on the bill meant the  
12 bill was killed. Even though it had gotten  
13 through the committees, even though it had  
14 gotten to the floor, even though it might have  
15 been cosponsored by 40 members and commanded  
16 50 votes here. If the Majority Leader or his  
17 designee said "Star the bill," it meant it was  
18 dead and it could not be voted on by this  
19 entire house.

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



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

3 But today we're eliminating it from  
4 the rules. And how come nobody seems to care  
5 or address that? There were editorials,  
6 20 years ago there were editorials in all the  
7 newspapers demanding that the rules be changed  
8 to eliminate the Majority Leader's power to  
9 star a bill. There were.

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

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

25 And if you look at all the

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

9               And by the way, since in the last  
10       14 years the Majority Leader has not used his  
11       power to star a bill on the calendar, is there  
12       a soul in Albany, is there a soul in the State  
13       of New York that thinks that resulted in  
14       legislation passing this house that the  
15       Majority Leader didn't want? I don't think  
16       so. I don't think the power of the Majority  
17       Leader to control legislation disappeared  
18       because he stopped using the star.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

18                  Yes, the Majority rules. I have  
19                  talked, I talked 15 or 20 years ago to a very  
20                  old gentleman in Brooklyn, a gentleman in his  
21                  90s who once served here and then went on to a  
22                  distinguished judicial career. I don't  
23                  know -- he was a judge, anyway, for a lot of  
24                  years, I don't know how distinguished. But he  
25                  had served here.

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

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

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

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

12                   ACTING PRESIDENT MEIER:       Senator  
13          Skelos.

14                   SENATOR SKELOS:        Thank you, Mr.  
15          President.

16                   Perhaps, Senator Connor, I can put  
17          1984 a little bit more in perspective other  
18          than the way that you did it. In 1984,  
19          Senator Mega defeated an incumbent Democrat,  
20          Senator Skelos defeated incumbent Democrat  
21          Carol Berman.

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

1                   SENATOR CONNOR:     I wasn't.

2                   SENATOR SKELOS:     You weren't.

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

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

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

22                  ACTING PRESIDENT MEIER:     Senator  
23                  Connor.

24                  SENATOR CONNOR:     Thank you, Mr.  
25                  President.

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

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

12 Thank you.

13 ACTING PRESIDENT MEIER: Senator  
14 Liz Krueger.

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

21 Thank you, Mr. President.

22 ACTING PRESIDENT MEIER: Senator  
23 Volker.

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

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

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

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

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

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

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

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

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

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

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

1       that.

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

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

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

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

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

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

25               The reason I'm saying this is we're

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

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

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

16 ACTING PRESIDENT MEIER: Senator  
17 Schneiderman.

18 SENATOR SCHNEIDERMAN: Thank you,  
19 Mr. President.

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



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

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

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

1       and that. The Brennan Center studied five  
2       years. Five years. They didn't talk about  
3       major bills in this portion of their report.  
4       7,109 bills came to the floor of this house;  
5       7,109 bills passed.

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

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

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

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

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

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

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

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

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

1 sponsor a bill.

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

12 Thank you, Mr. President.

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

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

19 Senator Bonacic.

20 SENATOR BONACIC: Thank you, Mr.  
21 President.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

1       tempest-in-a-teapot rules debate.

2                   Thank you, Mr. President.

3                   ACTING PRESIDENT MEIER:       Senator  
4       Saland.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 Now, does that constitute analysis?

1       How anybody could have considered that to be  
2       major legislation, and let me go over some of  
3       it, to debate it -- now, who here in this  
4       chamber would have found cause to debate that  
5       bill? If you want, I'll give you another 20,  
6       30, or 40 of them.

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

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

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

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

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

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

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



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

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

25                  And they go on to assert that we

1        have too many committees. They say that with  
2        the exception of the State of Mississippi,  
3        which has 35, New York State has more standing  
4        committees than anybody else. Well, when I  
5        say compared apples and oranges, when you  
6        look, for instance, at California, which has a  
7        much smaller senate than we do, when you look  
8        at Wisconsin, Illinois -- Illinois, 35  
9        senators, 17 committees. Wisconsin, 33  
10       senators, 16 committees. Michigan, 38  
11       senators, 28 committees. California, 47 and  
12       26 committees.

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

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

25                Now, how does one measure the

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

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

9 Well, let me just suggest to you  
10 that going to the very sources that Brennan  
11 went to, particularly to NCSL, looking at some  
12 of the tables that they looked at -- and some,  
13 if they looked at, they chose not to use --  
14 they would have known that when it comes to  
15 logjam, given the most recent data for 1998,  
16 43 states representing 82 chambers reported  
17 frequent logjams. No state reported never  
18 having a logjam, and about a dozen reported  
19 having occasional logjam. Their disclaimer  
20 was, quite honestly, a bit disingenuous if not  
21 dishonest.

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

1       15th. I have hired every person on my  
2       committee. If I had to remove somebody, that  
3       was my responsibility. And I think that's  
4       true of everybody here. This Majority Leader  
5       has never required us to hire or fire anybody.  
6       It's a chairman's decision. It may be the  
7       case in the Assembly, but not the case in this  
8       house.

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

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

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

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

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

13             You know, and they talked about  
14      empty-seat voting. We're going to a system  
15      now where the controversial calendar, you'll  
16      vote from your seat. I assume Brennan knew  
17      this, or if not, they chose to ignore it;  
18      there are some 28 states in which they have  
19      consent calendars. Members cast one vote for  
20      the entire calendar. They vote for the first  
21      bill, and that becomes their vote for the  
22      entire calendar, or they just vote for the  
23      entire calendar en masse, one vote.

24      Additional states, such as the state of North  
25      Carolina, they'll just have a consent

1 calendar, one vote for local bills.

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

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

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

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

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

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

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

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

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

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

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

25             In 2004, in a work called "Heavy



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

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

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

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

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

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

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

17 ACTING PRESIDENT MEIER: Senator  
18 Valesky.

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

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

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

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

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

1       be enacting real reform of the State Senate  
2       here today.

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

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

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

14              SENATOR VALESKY:     Thank you, Mr.  
15       President.

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

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

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

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

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

24              ACTING PRESIDENT MEIER:       Those  
25      Senators in agreement with the amendment

1       please signify by raising your hands.

2                   SENATOR SCHNEIDERMAN:     Point of  
3       order.

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

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

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

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

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

21                   Thank you, Mr. President.

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

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

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

9                   ACTING PRESIDENT MEIER:     The  
10    amendment is not agreed to.

11                  Senator Brown.

12                  SENATOR BROWN:     Thank you, Mr.  
13    President.

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

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

22                  SENATOR BROWN:     Thank you.

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



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

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

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

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

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

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

9 ACTING PRESIDENT MEIER: Senator  
10 Padavan.

11 SENATOR PADAVAN: Will the  
12 Senator yield to a question.

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

15 SENATOR BROWN: Yes, I do.

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

19 SENATOR BROWN: Yes, I do.

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

24 SENATOR BROWN: Yes, I do.

25 SENATOR PADAVAN: Okay. So

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

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

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

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

21                      SENATOR PADAVAN:       On the  
22          proposed --

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

25                      SENATOR PADAVAN:       There is no

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

8                   SENATOR BROWN:       Yes, I did.

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

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

1       certainly on and off.

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

10               ACTING PRESIDENT MEIER:     Senator  
11       Skelos.

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

16               SENATOR BROWN:     Yes.

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

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

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

24               SENATOR SKELOS:     Thank you.

25               ACTING PRESIDENT MEIER:     Senator

1 Connor.

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

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

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

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

5 I'm not voting for this.

6 ACTING PRESIDENT MEIER: Senator  
7 Brown.

8 SENATOR BROWN: On the amendment,  
9 Mr. President.

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

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

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

1       designed to do.

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

5               SENATOR SCHNEIDERMAN:       Mr.  
6       President.

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

9               SENATOR SCHNEIDERMAN:       Point of  
10       order.

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

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

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



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

9                   ACTING PRESIDENT MEIER:       The  
10       amendment is not agreed to.

11                   Senator Krueger.

12                   SENATOR KRUEGER:       Thank you, Mr.  
13       President.

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

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

22                   SENATOR KRUEGER:       Thank you.

23                   I rise to propose Amendment Number  
24       3, to empower communities, open bill  
25       sponsorship, and improve the legislative

1 record and make more information available to  
2 the public.

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

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

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

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

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

25 Democracy is good. My party right

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

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

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

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

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

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

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

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

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

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

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

1 Thank you, Mr. President.

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

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

13 ACTING PRESIDENT MEIER: The  
14 amendment is not agreed to.

15 Senator Duane.

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

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

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

25 ACTING PRESIDENT MEIER: Proceed,

1 Senator.

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

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

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

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

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

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

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

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

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

25              THE SECRETARY:     Those recorded in



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

8 ACTING PRESIDENT MEIER: The  
9 amendment is not agreed to.

10 Senator Malcolm Smith.

11 SENATOR MALCOLM SMITH: Thank  
12 you, Mr. President.

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

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

21 SENATOR MALCOLM SMITH: Thank  
22 you, Mr. President.

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

1 wrong, anyone can challenge me and obviously  
2 correct me.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           their hand to this amendment.

2                     Thank you very much, Mr. President.

3                     ACTING PRESIDENT MEIER:     Senator  
4           Larkin.

5                     SENATOR LARKIN:     Will Senator  
6           Smith yield for a question.

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

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

13                    SENATOR LARKIN:     Thank you very  
14           much.

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

20                    SENATOR MALCOLM SMITH:     Yes.

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

25                    SENATOR MALCOLM SMITH:     Well, I

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

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

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

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

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

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

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

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

17 SENATOR LARKIN: Thank you.

18 SENATOR MALCOLM SMITH: Thank  
19 you.

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

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



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

6 ACTING PRESIDENT MEIER: The  
7 amendment is not agreed to.

8 Senator Hassell-Thompson.

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

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

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

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

25 Without elaborating further,

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

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

25               Senators who chair a committee or

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

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

10              Thank you, Mr. President.

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

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

22              ACTING PRESIDENT MEIER:       The  
23       amendment is not agreed to.

24              Senator Sabini.

25              SENATOR SABINI:       Mr. President, I

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

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

9 SENATOR SABINI: Thank you, Mr.  
10 President.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25              So why don't we just sort of



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

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

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

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

25 And I think it's only fair to all

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

7 Thank you, Mr. President.

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

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

19 ACTING PRESIDENT MEIER: The  
20 amendment is not agreed to.

21 Senator Schneiderman.

22 SENATOR SCHNEIDERMAN: Thank you,  
23 Mr. President.

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

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

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

7                SENATOR SCHNEIDERMAN:       Thank you,  
8       Mr. President.

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

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

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

1        what is essentially an authoritarian  
2        structure.

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

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

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

1 possible.

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

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

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

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

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

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

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

1       and shunt it off to a committee.

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

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

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

1       what's offered in this amendment.

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

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

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

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



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

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

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

17 ACTING PRESIDENT MEIER: The  
18 amendment is not agreed to.

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

21 Senator Sabini.

22 SENATOR SABINI: On the  
23 resolution, Mr. President.

24 ACTING PRESIDENT MEIER: Senator  
25 Sabini, on the resolution.

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

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

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

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

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

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

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

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

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

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

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

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

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

8 ACTING PRESIDENT MEIER: Senator  
9 Hassell-Thompson.

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

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

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

17 ACTING PRESIDENT MEIER: Senator  
18 Hassell-Thompson.

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

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

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

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

12              (The Secretary called the roll.)

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

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

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

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

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

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

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

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

6                   I vote no.

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

9                   Senator Breslin, to explain his  
10      vote.

11                  SENATOR BRESLIN:       Thank you, Mr.  
12      President.

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

25                  I think the Majority has failed. I



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

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

8 Senator Bruno, to explain his vote.

9 SENATOR BRUNO: To explain my  
10 vote.

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

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

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

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

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

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

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

22 Thank you, Mr. President.

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

25 Announce the results.

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

10                  Excuse me, Senator Brown is in the  
11     affirmative.

12                  Ayes, 33.   Nays, 24.

13                  ACTING PRESIDENT MEIER:     The  
14     resolution is adopted.

15                  Senator Bruno.

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

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

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

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

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

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

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

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