

1 NEW YORK STATE SENATE

2  
3  
4 THE STENOGRAPHIC RECORD

5  
6  
7  
8 ALBANY, NEW YORK

9  
10 January 31, 2011

11 3:07 p.m.

12  
13  
14 REGULAR SESSION

15  
16  
17  
18 LIEUTENANT GOVERNOR ROBERT J. DUFFY, President

19 FRANCIS W. PATIENCE, Secretary

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

2 THE PRESIDENT: The Senate will  
3 now come to order, please.

4 I ask everyone to please stand and  
5 join me in the Pledge of Allegiance.

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

8 THE PRESIDENT: Next we'll have  
9 the Reverend Peter G. Young, from the Mother  
10 Teresa Community Center.

11 REVEREND YOUNG: Thank you,  
12 Governor.

13 Today I'd like, if I could, to say  
14 dear Mother Nature, please be gentle as we  
15 expect two feet of snow. It's not always easy  
16 to be gentle. And in the political world  
17 we're taught to be tough, competitive and  
18 assertive. But there are times when we like  
19 to be soothed and treated gently. We treat  
20 packages with gentleness when they are labeled  
21 "Fragile, Handle With Care."

22 So we ask our compassionate God to  
23 give us the sensitivity and the courage to be  
24 gentle with other people. Help us to hear  
25 them and the anguish and the hurt in other

1 people, and to treat them with kindly care.

2 We'd like, if we could, to take a  
3 moment to remember Senator Velella, who served  
4 here for a long time, approximately 30 years  
5 of dedicated service. We pray that he will be  
6 now welcomed in heaven, as he has died this  
7 past week.

8 Amen.

9 THE PRESIDENT: Next, the reading  
10 of the Journal.

11 The Secretary will read.

12 THE SECRETARY: In Senate,  
13 Sunday, January 30, the Senate met pursuant to  
14 adjournment. The Journal of Saturday,  
15 January 29, was read and approved. On motion,  
16 Senate adjourned.

17 THE PRESIDENT: Without  
18 objection, the Journal stands approved as  
19 read.

20 Next, we'll have presentation of  
21 petitions.

22 Any messages from the Assembly?

23 Messages from the Governor.

24 Reports of standing committees.

25 The Secretary will read.

1                   THE SECRETARY:     Senator  
2     DeFrancisco, from the Committee on Finance,  
3     reports the following nomination.

4                   As superintendent of the State  
5     Police, Joseph A. D'Amico, of West Nyack.

6                   THE PRESIDENT:     Senator  
7     DeFrancisco.

8                   SENATOR DeFRANCISCO:     I'm very  
9     pleased to move the nomination of Joseph A.  
10    D'Amico, of West Nyack, as superintendent of  
11    the State Police.

12                  Mr. D'Amico went through the Crime  
13    and Corrections Committee and was unanimously  
14    referred to the Finance Committee, went to the  
15    Finance Committee and we unanimously voted to  
16    approve his nomination and bring it to the  
17    floor for a final vote.

18                  I just want to say that the  
19    Governor did a wonderful job in encouraging  
20    and making certain that we had a good person  
21    as the superintendent of State Police. In  
22    this day and age when people have not very  
23    good things to say about government and people  
24    who serve government, we're very fortunate the  
25    Governor nominated Mr. D'Amico, who has an

1       incredible, incredible career in law  
2       enforcement, and an individual who wants to  
3       participate in government and make government  
4       better.

5               He's a cop's cop and he understands  
6       the problems we've had with State Police over  
7       the last few years -- not the membership, not  
8       the rank-and-file, but a few people at the  
9       top. And he's taking -- he has indicated he's  
10      going to take that responsibility to make sure  
11      that the stature of the State Police,  
12      especially the people at the top, is restored  
13      to what it was in the past.

14             So I'm very pleased to rise and  
15      support the nomination and move the nomination  
16      of Mr. D'Amico, and I know that he's going to  
17      make an absolutely outstanding superintendent  
18      of State Police for the State of New York.

19             Thank you, Mr. President.

20             THE PRESIDENT:     Thank you,  
21      Senator.

22             Senator Nozzolio.

23             SENATOR NOZZOLIO:   Thank you,  
24      Mr. President. On the nomination.

25             Mr. President and my colleagues, in

1       the years 1995 through 2007, that 12-year  
2       period, we had one superintendent in the  
3       New York State Police. Over the last four  
4       years, with the inclusion of the nominee who  
5       is before us, we will have had four  
6       superintendents of the New York State Police.

7               One of the issues that the new  
8       nominee, Mr. D'Amico, will be bringing to this  
9       important position is to restore stability  
10      among the ranks. And I echo the comments of  
11      Senator DeFrancisco.

12             As I heard and reviewed  
13      Mr. D'Amico's qualifications and comments as  
14      he spoke before the Crime Victims, Crime and  
15      Corrections Committee and the Finance  
16      Committee, in answering that question, he did  
17      an exemplary job and it was clear and apparent  
18      that the type of police officer's police  
19      officer that Mr. D'Amico has been throughout  
20      his career is exactly what is needed now in  
21      the stewardship of the most important law  
22      enforcement unit, in my opinion, not only in  
23      New York but in the entire nation.

24             Joseph D'Amico is extremely well  
25      qualified, has had an exemplary career as a

1 police officer, as an inspector, in working  
2 with the Attorney General's office. And that  
3 I compliment Governor Cuomo on this nomination  
4 and look forward to this Senate working very  
5 hard to ensure that the challenges met by the  
6 superintendent are met and that we do not see  
7 a return from the successes that this body  
8 helped put in place in establishing the most  
9 dramatic drop in violent crime that any state  
10 experienced in the history of our union.

11 It's an excellent appointment. I'm  
12 proud to second the nomination and look  
13 forward to working with Superintendent D'Amico  
14 in meeting the challenges that our State  
15 Police will be confronting in the weeks and  
16 months ahead.

17 Thank you, Mr. President.

18 THE PRESIDENT: Thank you,  
19 Senator.

20 Senator Carlucci.

21 SENATOR CARLUCCI: Thank you,  
22 Mr. President.

23 It's an absolute honor to stand  
24 here in support of nominating Mr. Joseph  
25 D'Amico, who resides in the 38th Senate

1 District. And it's an absolute honor and  
2 privilege to have him and his family as one of  
3 my constituents in the district.

4 Mr. D'Amico has a long and  
5 distinguished career serving the community  
6 which he serves in. And I think Governor  
7 Cuomo has made a great decision in putting  
8 forth Mr. D'Amico to serve all of us as the  
9 next superintendent of the New York State  
10 Police.

11 The men and women that serve us in  
12 the New York State Police Department really  
13 deserve the best leader possible. And I am  
14 honored and privileged to support  
15 Mr. D'Amico's nomination and look forward to  
16 you serving all of us in that capacity.

17 Thank you.

18 THE PRESIDENT: Thank you,  
19 Senator.

20 Senator Golden.

21 SENATOR GOLDEN: Thank you,  
22 Mr. President.

23 I too rise in support of the new  
24 superintendent, Joe D'Amico. I had the  
25 privilege of knowing Mr. D'Amico when he



1       worked for the New York City Police Department  
2       and when he worked for the Attorney General's  
3       office. And we have seen the successes that  
4       he was able to obtain working the streets of  
5       the Bronx and working the streets of the City  
6       of New York and the State of New York. We've  
7       seen what he was able to achieve when it came  
8       to Medicaid fraud and Wall Street and other  
9       great issues that faced our great state and  
10      our nation.

11               And he was a true leader, and he  
12      had 40,000 police officers, and down to about  
13      32,000 police officers. So he did more with  
14      less.

15               And that's the type of person that  
16      we're going to need going forward: A good  
17      manager, a person that knows how the police  
18      departments are across this great city and  
19      state, and how to deal with the ever-pressing  
20      issues that will come before him over the next  
21      several years. And it's good to see a steady  
22      hand that will be leading the state troopers  
23      across this great state as we move forward.

24               I remember, as you do, the times  
25      when we had 2,200 or 2,145 homicides in the

1 State of New York. Those were outrageous  
2 days, and they weren't too long ago. They  
3 were in the early 1990s. And yes, we are in  
4 the history books of being the greatest state  
5 of being able to reduce crime. But I don't  
6 want to be in the history book that raises  
7 crime and be one of those states that will  
8 cause more homicides, more robberies and  
9 burglaries into our communities.

10 And I know that with the experience  
11 of our new superintendent that we will be able  
12 to keep crime down and to be able to keep the  
13 resources flowing that we need for our state  
14 troopers. And I will be voting aye for our  
15 new superintendent, Superintendent D'Amico.

16 THE PRESIDENT: Thanks, Senator.  
17 Senator Gallivan.

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

20 I also rise to commend the Governor  
21 on the appointment of Joseph D'Amico as the  
22 next State Police superintendent.

23 As a former New York state trooper,  
24 former sheriff of Erie County, I know full  
25 well the importance of having a true law

1 enforcement professional head such an  
2 important agency to the citizens of New York.

3 Growing up, if you will, in my  
4 professional career in the State Police, there  
5 was a time when the State Police was  
6 recognized as the premier agency across the  
7 country. And we've seen the problems in the  
8 recent past. And it will take a professional  
9 to restore it to its rightful place as a  
10 leader across the country.

11 And not only do I pledge my vote  
12 today in support of this appointment but my  
13 support, to the extent that I can, in  
14 supporting Superintendent D'Amico and keeping  
15 the citizens of New York State safe and  
16 returning the New York State Police to its  
17 rightful place as the premier agency in the  
18 country.

19 Thank you.

20 THE PRESIDENT: Thanks, Senator.

21 Any other Senators wishing to speak  
22 on the nomination?

23 (No response.)

24 THE PRESIDENT: The question is  
25 on the nomination of Joseph A. D'Amico, of

1 West Nyack, as superintendent of the New York  
2 State Police. All in favor signify by saying  
3 aye.

4 (Response of "Aye.")

5 THE PRESIDENT: Opposed, nay.

6 (No response.)

7 THE PRESIDENT: Joseph A. D'Amico  
8 is hereby confirmed as superintendent of the  
9 New York State Police.

10 Superintendent D'Amico.

11 (Standing ovation.)

12 THE PRESIDENT: I also want to  
13 congratulate Superintendent D'Amico's wife,  
14 Judith.

15 Next, reports of select committees.

16 Communications and reports from  
17 state officers.

18 Motions and resolutions.

19 Senator LaValle.

20 SENATOR LaVALLE: Mr. President,  
21 would you recognize Senator Breslin, please.

22 THE PRESIDENT: Senator Breslin.

23 SENATOR BRESLIN: Thank you,  
24 Senator LaValle. Thank you, Mr. President.

25 On behalf of Senator Squadron, I

1       move that the following bill be discharged  
2       from its respective committee and be  
3       recommitted with instructions to strike the  
4       enacting clause: Senate Print 2326.

5               THE PRESIDENT:       So ordered.

6               SENATOR BRESLIN:     On behalf of  
7       Senator Krueger, I move that the following  
8       bill be discharged from its respective  
9       committee and be recommitted with instructions  
10      to strike the enacting clause: Senate Bill  
11      432.

12              THE PRESIDENT:       So ordered.

13              SENATOR BRESLIN:     And on behalf  
14      of Senator Peralta, I move that the following  
15      bill be discharged from its respective  
16      committee and be recommitted with instructions  
17      to strike the enacting clause: Senate Print  
18      1876.

19              THE PRESIDENT:       So ordered.

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

22              THE PRESIDENT:       Senator LaValle.

23              SENATOR LaVALLE:     Mr. President,  
24      I believe there's a privileged resolution at  
25      the desk by Senator Perkins. May we please

1       have the resolution read in its entirety and  
2       move for its immediate adoption.

3               THE PRESIDENT:     The Secretary  
4       will read the resolution in its entirety.

5               THE SECRETARY:     By Senator  
6       Perkins, Legislative Resolution Number 358,  
7       honoring Howard Dodson upon the occasion of  
8       his designation for special recognition by the  
9       New York Public Library's Schomburg Center for  
10      Research in Black Culture.

11              "WHEREAS, It is the sense of this  
12      Legislative Body to recognize that the quality  
13      and character of life in the communities  
14      across New York State are reflective of the  
15      concerned and dedicated efforts of those  
16      individuals who devote themselves to the  
17      welfare of the community and its citizenry;  
18      and

19              "WHEREAS, Attendant to such  
20      concern, and in full accord with its  
21      long-standing traditions, this Legislative  
22      Body is justly proud to honor Howard Dodson  
23      upon the occasion of his designation for  
24      special recognition by the New York Public  
25      Library's Schomburg Center for Research in

1       Black Culture located in Harlem, New York; and

2               "WHEREAS, Howard Dodson, chief of  
3       the Schomburg Center for Research in Black  
4       Culture of the New York Public Library since  
5       1984, is being acknowledged for his  
6       long-standing tenure with the organization.  
7       He is a specialist in African-American history  
8       and a noted lecturer, educator, and  
9       consultant; and

10              "WHEREAS, Earning his B.S. degree  
11       in 1961 at West Chester State College and  
12       graduating from Villanova University in 1964,  
13       Howard Dodson completed the requirements for  
14       an ABD at the University of California at  
15       Berkeley in 1974. He has been awarded  
16       Honorary Doctorates of Humane Letters by the  
17       following: Widener University in 1987,  
18       Adelphi University in May of 2004, West  
19       Chester University of Pennsylvania in June of  
20       2005, the City College of New York in June of  
21       2006, and an Honorary Doctorate of Letters  
22       from Villanova University in May of 2007; and

23              "WHEREAS, Prior to assuming his  
24       position at the Schomburg Center, Howard  
25       Dodson served as a consultant in the office of

1 the chairman of the National Endowment for the  
2 Humanities in Washington, D.C., from 1979 to  
3 1982. He also served in a number of  
4 capacities from 1970 to 1979 at the Institute  
5 of the Black World in Atlanta, Georgia,  
6 including executive director from 1974 to  
7 1979; and

8 "WHEREAS, Before joining the  
9 institute, Mr. Dodson was a Peace Corps  
10 volunteer in Equador from 1964 to 1966 and a  
11 national Peace Corps office staff member from  
12 1966 to 1969, including the positions of  
13 deputy director of recruiting and director of  
14 minority and specialized recruiting; and

15 "WHEREAS, Howard Dodson has taught  
16 at California State College at Hayward, Emory  
17 University, Shaw University, the City  
18 University of New York, and Columbia  
19 University. Under his leadership, the  
20 Schomburg Center has developed into the  
21 world's most comprehensive public research  
22 library devoted exclusively to documenting and  
23 interpreting African Diaspora and African  
24 history and culture; and

25 "WHEREAS, During Howard Dodson's



1       tenure, the center's collections have more  
2       than doubled, totaling over 10 million items.  
3       Users have increased from 40,000 to over  
4       125,000 annually; and

5               "WHEREAS, In 1989, Howard Dodson  
6       completed a large capital campaign. In 1991,  
7       he completed a major physical development  
8       program which renovated the original Schomburg  
9       Center building and created the Langston  
10      Hughes Auditorium. More recently, he  
11      completed a historic 75th Anniversary Capital  
12      Campaign, raising a significant amount; and

13             "WHEREAS, Howard Dodson established  
14      a Scholars-In-Residence program which has  
15      provided six-month and one-year fellowships  
16      for the more than 108 scholars who have been  
17      provided for over the last 20 years. His  
18      aggressive educational and cultural  
19      programming agenda produces and presents 50 to  
20      75 events annually, as well as four to six  
21      exhibitions; and

22             "WHEREAS, Howard Dodson has  
23      published 10 books as well as articles and  
24      essays in newspapers, exhibition catalogs, and  
25      professional journals. His most recent

1 publication is Becoming American: The  
2 African-American Journey (Sterling Publishing,  
3 Inc., 2009). His other publications include  
4 In Motion: The African-American Migration  
5 Experience (National Geographic Press, 2005),  
6 Jubilee: The Emergence of African-American  
7 Culture (National Geographic Press, 2002) and  
8 The Black New Yorkers: Four Hundred Years of  
9 African-American History (Wiley, 2000); and

10 "WHEREAS, Howard Dodson has curated  
11 exhibitions on such diverse themes as  
12 'Censorship and Black America' and 'Lest We  
13 Forget: The Triumph Over Slavery,' and has  
14 organized and produced major performing arts  
15 events at Carnegie Hall and the Schubert and  
16 Majestic Theaters on Broadway. Most recently,  
17 he conceived, organized and directed the  
18 development of a major website entitled 'In  
19 Motion: The African-American Migration  
20 Experience'; and

21 "WHEREAS, Howard Dodson served as  
22 chair of the Federal Steering Committee on the  
23 African Burial Ground. He was a founding  
24 member of the board of directors of the Upper  
25 Manhattan Empowerment Zone, serving on its

1 executive committee and as chair of the  
2 cultural arts committee; and

3 "WHEREAS, In addition, Howard  
4 Dodson was director of the research study to  
5 establish the New York State Freedom Trail and  
6 was a member of the President's Commission on  
7 the National Museum of African-American  
8 history and culture. He was also a former  
9 member of the board of directors of the Apollo  
10 Theater and now currently serves on the  
11 Scientific and Technical Committee of the  
12 UNESCO Slave Route Project; and

13 "WHEREAS, A true asset to Harlem,  
14 New York City, the State of New York and the  
15 world, Howard Dodson's distinguished record  
16 merits the recognition and respectful tribute  
17 of this Legislative Body; now, therefore, be  
18 it

19 "RESOLVED, That this Legislative  
20 Body pause in its deliberations to honor  
21 Howard Dodson upon the occasion of his  
22 designation for special recognition by the  
23 New York Public Library's Schomburg Center for  
24 Research in Black Culture, and be it further

25 "RESOLVED, That a copy of this

1 resolution, suitably engrossed, be transmitted  
2 to Howard Dodson, Chief, Schomburg Center for  
3 Research in Black Culture of the New York  
4 Public Library."

5 THE PRESIDENT: Senator Perkins.

6 SENATOR PERKINS: Thank you very  
7 much. I will be brief.

8 I wanted to express my appreciation  
9 especially for you reading it into the record  
10 as you have.

11 This individual was very, very  
12 important in terms of my community and  
13 particularly in terms of New York City. And I  
14 think, if you know anything about Arturo  
15 Schomburg, he was a great historian who was  
16 one of the first to collect historical  
17 artifacts, historical books, historical  
18 information about the African-American and  
19 Latino experience, which includes Puerto  
20 Ricans. And he's a Puerto Rican that happens  
21 to also be black.

22 So for those of us who identify  
23 with him and his legacy, it's amazing the work  
24 that Dr. Howard Dodson did to build up his  
25 collection, to make it such a significant

1 collection, world-renowned. This is not just  
2 a neighborhood resource, but is a  
3 world-renowned resource.

4 And we wanted to take this moment  
5 to thank Dr. Dodson for the extraordinary work  
6 that he did by reading this resolution and  
7 making some brief remarks that would extend  
8 our tributes to him on a very personal level.

9 I just especially want to thank him  
10 for those young men and women who found their  
11 identity at the Schomburg and not at Rikers  
12 Island.

13 Thank you so much. And I ask that  
14 my colleagues join me in signing onto this  
15 resolution.

16 THE PRESIDENT: Thank you,  
17 Senator.

18 Any other Senators wishing to  
19 speak?

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

22 (Response of "Aye.")

23 THE PRESIDENT: Opposed, nay.

24 (No response.)

25 THE PRESIDENT: The resolution is

1       adopted.

2                   Senator Libous.

3                   SENATOR LIBOUS:     Thank you,  
4       Mr. President.

5                   I believe there is a privileged  
6       resolution by Senator Sampson at the desk.  
7       I'd ask that we would read it in its entirety  
8       and move for its immediate adoption. But  
9       before we adopt it, if you would call on  
10      Senator Montgomery, please.

11                  THE PRESIDENT:     The Secretary  
12      will read the resolution in its entirety.

13                  THE SECRETARY:     By Senator  
14      Sampson, Legislative Resolution Number 262,  
15      memorializing Governor Andrew M. Cuomo to  
16      proclaim February 2011 as Black History Month  
17      in the State of New York.

18                  "WHEREAS, Black History Month,  
19      previously known as Negro History Week, was  
20      founded by Dr. Carter G. Woodson and was first  
21      celebrated on February 1, 1926. Since 1976,  
22      it has become a nationally recognized  
23      month-long celebration held each year during  
24      the month of February to acknowledge and pay  
25      tribute to African-Americans neglected by both

1 society and the history books; and

2 "WHEREAS, The month of February  
3 observes the rich and diverse heritage of our  
4 great state and nation; and

5 "WHEREAS, Black History Month seeks  
6 to emphasize that black history is American  
7 history; and

8 "WHEREAS, Black History Month is a  
9 time to reflect on the struggles and victories  
10 of African-Americans throughout the country's  
11 history, and to recognize their numerous  
12 valuable contributions to the protection of  
13 our democratic society in war and in peace;  
14 and

15 "WHEREAS, Some African-American  
16 pioneers whose many accomplishments, all of  
17 which took place during the month of February,  
18 went unnoticed, as well as numerous symbolic  
19 events in February that deserve to be  
20 memorialized, include: John Sweat Rock, a  
21 noted Boston lawyer who became the first  
22 African-American admitted to argue before the  
23 U.S. Supreme Court on February 1, 1865, and  
24 the first African-American to be received on  
25 the floor of the U.S. House of

1       Representatives; Jonathan Jasper Wright, the  
2       first African-American to hold a major  
3       judicial position, who was elected to the  
4       South Carolina Supreme Court on February 1,  
5       1870; President Abraham Lincoln submits the  
6       proposed 13th Amendment to the U.S.  
7       Constitution, abolishing slavery, to the  
8       states for ratification on February 1, 1865;  
9       civil rights protester Jimmie Lee Jackson dies  
10      from wounds inflicted during a protest on  
11      February 26, 1965, leading to the historic  
12      Selma, Alabama civil rights demonstrations,  
13      including 'Bloody Sunday,' in which 600  
14      demonstrators, including Martin Luther King,  
15      Jr. were attacked by police; Autherine J. Lucy  
16      became the first African-American student to  
17      attend the University of Alabama on February  
18      3, 1956 -- she was expelled three days later  
19      'for her own safety' in response to threats  
20      from a mob; in 1992, Autherine Lucy Foster  
21      graduated from the university with a master's  
22      degree in education, the same day her  
23      daughter, Grazia Foster, graduated with a  
24      bachelor's degree in corporate finance; the  
25      Negro Baseball League was founded on



1 February 3, 1920; Jack Johnson, the first  
2 African-American World Heavyweight Boxing  
3 Champion, won his first title on February 3,  
4 1903; and Reginald F. Lewis, born on  
5 December 7, 1942, in Baltimore, Maryland,  
6 received his law degree from Harvard Law  
7 School in 1968. He was a partner in Murphy,  
8 Thorpes & Lewis, the first black law firm on  
9 Wall Street, and in 1989 he became president  
10 and CEO of TLC Beatrice International Food  
11 Company, the largest black-owned business in  
12 the United States; and

13 "WHEREAS, In recognition of the  
14 vast contributions of African-Americans, a  
15 joyful month-long celebration is held across  
16 New York State and across the United States,  
17 with many commemorative events to honor and  
18 display the cultural heritage of  
19 African-Americans; and

20 "WHEREAS, This Legislative Body  
21 commends the African-American community for  
22 preserving for future generations its  
23 centuries-old traditions that benefit us all  
24 and add to the color and beauty of the  
25 tapestry which is our American society; now,

1           therefore, be it

2                       "RESOLVED, That this Legislative  
3           Body pause in its deliberations to memorialize  
4           Governor Andrew M. Cuomo to proclaim  
5           February 2011 as Black History Month in the  
6           State of New York; and be it further

7                       "RESOLVED, That copies of this  
8           resolution, suitably engrossed, be transmitted  
9           to the Honorable Andrew M. Cuomo, Governor of  
10          the State of New York, and to the events  
11          commemorating Black History Month throughout  
12          New York State."

13                      THE PRESIDENT:       Senator  
14          Montgomery.

15                      SENATOR MONTGOMERY:    Thank you,  
16          Mr. President.

17                      I rise to speak on this resolution  
18          honoring and commemorating February as  
19          African-American, Black History Month for the  
20          year 2011.

21                      Thank you for reading it in its  
22          entirety. It is simply a formality, because  
23          we have been celebrating this annually for  
24          some time -- many decades, in fact -- here in  
25          New York State. But we are always reminded

1       that it is important to note the contributions  
2       of people, Americans of all classes, all  
3       communities, all groups. It's just important  
4       that we make note of the contributions as we  
5       deliberate in this chamber.

6               And so today we note the  
7       contributions to America of the group of  
8       people that I call the African Diaspora in  
9       America. And even as part of that  
10      celebration, we must also commemorate and  
11      remember and remind ourselves that it took  
12      several amendments to our Constitution, it  
13      took Supreme Court cases that said people of  
14      African descent had a right, as American  
15      citizens, to be heard in court and to have  
16      rights as other Americans. It's taken  
17      legislation, as we know.

18             So it's taken a long time to get us  
19      to this point. And let us never forget all of  
20      the major, major contributions in science, in  
21      medicine, in the arts and every other category  
22      of life where members of the African Diaspora  
23      have been extremely instrumental in building  
24      America on every possible front.

25             So I'm happy to be able to stand

1       here. There are not many other places where a  
2       person like me in the world would be able to  
3       stand in a chamber like this and speak on  
4       behalf of my people. So I'm very happy and  
5       honored about that. And I'm also honored that  
6       you in the chamber have agreed that we need to  
7       take this moment and ask the Governor to  
8       designate this month as Black History Month in  
9       the State of New York.

10               Thank you, Mr. President.

11               THE PRESIDENT:     Thank you,  
12       Senator.

13               Any other Senators wishing to  
14       speak?

15               (No response.)

16               THE PRESIDENT:     The question is  
17       on the resolution. All in favor signify by  
18       saying aye.

19               (Response of "Aye.")

20               THE PRESIDENT:     Opposed, nay.

21               (No response.)

22               THE PRESIDENT:     The resolution is  
23       adopted.

24               Senator Libous.

25               SENATOR LIBOUS:     Thank you,

1 Mr. President.

2 There will be an immediate meeting  
3 of the Finance Committee, followed by an  
4 immediate meeting of the Rules Committee in  
5 Room 332.

6 So for the time being, the Senate  
7 will stand at ease.

8 THE PRESIDENT: There is an  
9 immediate meeting of the Finance Committee,  
10 followed by a meeting of the Rules Committee,  
11 in Room 332.

12 And the Senate will stand at ease.

13 SENATOR LIBOUS: Mr. President,  
14 before we stand at ease, I would also, on  
15 behalf of Senator Sampson, say that the  
16 resolution is open to all of the members. If  
17 anyone wishes not to be on it, they should let  
18 the desk know. Otherwise, all members will be  
19 on the resolution.

20 Thank you, Mr. President.

21 THE PRESIDENT: Thank you,  
22 Senator.

23 The Senate stands at ease.

24 (Whereupon, the Senate stood at  
25 ease at 3:35 p.m.)

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

3 SENATOR LIBOUS: Madam President.

4 ACTING PRESIDENT YOUNG: The  
5 Senate will come to order.

6 Senator Libous.

7 SENATOR LIBOUS: Thank you, Madam  
8 President.

9 Can we return to the reports of  
10 standing committees and have the report of the  
11 Rules Committee, please.

12 ACTING PRESIDENT YOUNG: Reports  
13 of standing committees.

14 The Secretary will read.

15 THE SECRETARY: Senator Skelos,  
16 from the Committee on Rules, reports the  
17 following bills:

18 Senate Print 2706, by Senator  
19 Skelos, an act to amend the General Municipal  
20 Law and others;

21 And Senate Print 2707, by Senator  
22 Saland, an act to amend the General Municipal  
23 Law and the Education Law.

24 Both bills ordered direct to third  
25 reading.

1                   Also, Senator Skelos reports Senate  
2                   Resolution Number 338, "RESOLVED, That the  
3                   Rules of the Senate for the years 2011-2012  
4                   are hereby adopted."

5                   ACTING PRESIDENT YOUNG:       Senator  
6                   Libous.

7                   SENATOR LIBOUS:       Madam President,  
8                   I move to accept the report of the Rules  
9                   Committee.

10                  ACTING PRESIDENT YOUNG:       All in  
11                  favor of accepting the report of the Rules  
12                  Committee signify by saying aye.

13                  (Response of "Aye.")

14                  ACTING PRESIDENT YOUNG:       Opposed,  
15                  nay.

16                  (Response of "Nay.")

17                  ACTING PRESIDENT YOUNG:       The  
18                  report is accepted.

19                  Senator Libous.

20                  SENATOR LIBOUS:       Thank you.

21                  Madam President, if we could now go  
22                  to the noncontroversial reading of the  
23                  calendar, the supplemental calendar, please.

24                  ACTING PRESIDENT YOUNG:       The  
25                  Secretary will read.

1                   THE SECRETARY:     Calendar Number  
2     39, by Senator Skelos, Senate Print 2706, an  
3     act to amend the General Municipal Law, the  
4     Education Law, and the Municipal Home Rule  
5     Law.

6                   ACTING PRESIDENT YOUNG:     Read the  
7     last section.

8                   THE SECRETARY:     Section 26. This  
9     act shall take effect immediately.

10                  ACTING PRESIDENT YOUNG:     Call the  
11     roll.

12                  (The Secretary called the roll.)

13                  ACTING PRESIDENT YOUNG:     Senator  
14     Skelos.

15                  SENATOR SKELOS:     Thank you,  
16     Madam President.

17                  I'm going to just quickly explain  
18     my vote and then indicate to the membership  
19     that cosponsorship of this legislation will be  
20     open for anybody who wishes to notify the desk  
21     appropriately.

22                  This is Governor Cuomo's Program  
23     Bill Number 1, which indicates both the  
24     Senate's desire and we have passed on a number  
25     of occasions, going back to 2008, where we've



1       passed a property tax cap proposal.

2               What this legislation does is for  
3       school districts it will establish a real  
4       property tax levy cap of 2 percent, or the  
5       CPI, whichever is less. The Big Five school  
6       districts would be excluded. The Big Four  
7       school districts would be included through the  
8       local government property tax cap.

9               When it comes to school districts,  
10       the only exception for a tax levy above the  
11       2 percent, or CPI, are funds needed to support  
12       voter approval of capital expenditures and an  
13       override of the cap.

14              A school district would be required  
15       to submit a tax levy proposition for approval  
16       by voters at district annual meetings on the  
17       third Tuesday in May. If the proposed tax  
18       levy is within the tax levy limit, then a  
19       majority would be required for approval. The  
20       override provision would require a 60 percent  
21       approval by the voters. On a second  
22       submission, if it is voted down or less than  
23       60 percent, if it is defeated a second time,  
24       then the levy would have to be that of the  
25       prior year.

1           In terms of local governments, the  
2           2 percent or the CPI apply. To override, it  
3           would require a two-thirds vote of the  
4           governing body or, in the case of a district,  
5           a fire district, a resolution.

6           There are certain exceptions for  
7           local governments. One would be large  
8           judgements in excess of 10 percent of the  
9           prior year levy. Two, levy increases  
10          resulting from municipal government  
11          consolidation. Three, voter-approved capital  
12          expenditures. And the fourth would be county  
13          costs for the Temporary Assistance for Needy  
14          Families -- TANF -- direct cash assistance and  
15          safety net assistance programs.

16          This legislation, which will  
17          hopefully pass the Senate today, will send a  
18          message that we are going to control property  
19          taxes in this state so that people can afford  
20          to be here, that we can create jobs.

21          We are also, as we go through this  
22          budget process, as we've indicated on a number  
23          of times the clear message from the voters of  
24          this state is government at all levels -- and  
25          that includes the State of New York -- has to

1 cut spending, they can't raise taxes, they  
2 want us focused on private-sector job  
3 creation, and they want local real property  
4 taxes stabilized.

5 So I thank you for the opportunity  
6 to explain my vote.

7 ACTING PRESIDENT YOUNG: Thank  
8 you, Senator Skelos. You will be recorded in  
9 the affirmative.

10 Senator Breslin.

11 SENATOR BRESLIN: Thank you very  
12 much, Madam President.

13 I rise to support this legislation.  
14 I was happy last year when I was able to be  
15 part of a majority that voted on a tax cap  
16 twice.

17 Homeowners have said enough is  
18 enough. Governor Cuomo has led the charge.  
19 Our local taxes are 78 percent above the  
20 national average. We have counties that are  
21 leaders -- not leaders in jobs, but leaders in  
22 having some of the highest property taxes in  
23 this nation.

24 So it's time to place a cap, a tax  
25 cap on property. And it's time, as the

1 Governor said, he will bring forth mandate  
2 relief, which will be coupled by this  
3 legislation.

4 And I am happy to rise and support  
5 the tax cap in New York State.

6 Thank you, Madam President.

7 ACTING PRESIDENT YOUNG: Thank  
8 you, Senator Breslin. You will be recorded in  
9 the affirmative.

10 Senator Krueger.

11 SENATOR LIZ KRUEGER: Thank you,  
12 Madam President. To explain my vote.

13 I have to respectfully disagree  
14 with my colleagues who have spoken already  
15 from both sides of the aisle. Yes, we have a  
16 property tax issue in various parts of the  
17 state. But I consistently have pointed out a  
18 tax cap is not necessarily the right way to go  
19 in solving the problem.

20 Again, property tax caps don't  
21 reduce anyone's property tax. They don't  
22 factor in the inequity and regressiveness of  
23 the property tax system by not addressing that  
24 someone might be low in income but house-rich  
25 on some scale. And this will do nothing solve

1       that problem; in fact, it will probably  
2       exacerbate the problem.

3               What we also know is the devil is  
4       in the details. And depending on the math of  
5       your school district, you might find yourself  
6       through this property tax cap, particularly  
7       poor school districts, with almost no money to  
8       meet your school obligations and realistically  
9       no way to have a 60 percent vote.

10              In a state such as New York, which  
11       still suffers from inequities in the  
12       distribution of education funds and  
13       educational outcomes, what the research shows  
14       is that a property tax cap will freeze and  
15       exacerbate the problems we already see from  
16       poor districts to wealthy districts.

17              I do believe this Legislature  
18       should be working with the Governor to solve  
19       the problem of inequitable distribution of  
20       education money and a regressive property tax  
21       model. But I don't believe, if this becomes  
22       law, we will find ourselves a year or two down  
23       the line believing this got us to the solution  
24       to our problems. I vote no.

25              Thank you, Madam President.

1                   ACTING PRESIDENT YOUNG:     Thank  
2     you, Senator Krueger.   You will be recorded in  
3     the negative.

4                   Senator Carlucci.

5                   SENATOR CARLUCCI:     Thank you,  
6     Madam President.

7                   Over the past year I've had the  
8     good fortune of speaking to thousands of  
9     residents throughout the Hudson Valley.   And  
10    unfortunately, I've heard the same thing over  
11    and over again, whether it's a young family  
12    that recently lost a job and is worrying about  
13    how they're going to pay their property tax  
14    bill or a senior citizen that's been squeezed  
15    out of the community which they've lived in  
16    for decades because of spiralling,  
17    out-of-control property taxes.

18                  This is a step in the right  
19    direction to get a handle on property taxes  
20    and stop treating property owners like a  
21    limitless ATM machine.   So I look forward to  
22    voting in the affirmative for this bill.

23                  Through you, Madam President.

24                  ACTING PRESIDENT YOUNG:     Thank  
25    you, Senator Carlucci.   You will be recorded

1 in the affirmative.

2 Senator Oppenheimer.

3 SENATOR OPPENHEIMER: Well, it  
4 looks like those outside of New York City have  
5 a very similar problem.

6 And I'm voting in favor of this  
7 because we need to do something. As many of  
8 you know, Westchester has the highest property  
9 tax, the county has the highest property tax  
10 in America. And to say that we are  
11 overburdened and it's now confiscatory is sort  
12 an understatement.

13 I have been saying that we really  
14 have to do more. Capping just says that it's  
15 going to go up each year by 2 percent or  
16 whatever. And what I've been saying is we  
17 have to really study what the costs are. We  
18 have to lower the property tax. And we can  
19 only do that if we study closely what are the  
20 costs that are driving up the property tax.

21 And that I think we must do, but we  
22 also must listen at the same time. And I'm  
23 sure many others have heard this: The schools  
24 and the municipal governments are crying out  
25 for mandate relief. Because there's no way

1       they can live with the 2 percent increase if  
2       they don't have some support from us giving  
3       them the mandate relief that will, as I said  
4       earlier, cut their costs.

5               So that is, I think, something that  
6       we must focus on in the coming year. This is  
7       a one-house bill. Clearly it will have to be  
8       negotiated. And I hope as a piece of that  
9       negotiation we will be able to discuss those  
10      costs that drive the property tax.

11             I'll be voting yes.

12             ACTING PRESIDENT YOUNG:     Thank  
13      you, Senator Oppenheimer. You will be  
14      recorded as a yes.

15             Next is Senator Peralta.

16             SENATOR PERALTA:     Thank you,  
17      Madam Speaker.

18             I am explaining my vote voting in  
19      the negative because we are here today voting  
20      on a lengthy, complex piece of legislation  
21      after being given the least amount of time  
22      possible to review it and consider its impact.

23             My question is simple. Why? With  
24      a \$10 billion budget gap to fill, why the  
25      emphasis on tax cap and tax cuts before even



1 the first dime of savings has been identified?

2 A New York Times editorial last month  
3 headlined "The Tax Cap Illusion" noted that  
4 "History shows, painfully, that caps can do  
5 more harm than good. California's Proposition  
6 13 led to the deterioration of universities,  
7 schools, and other public facilities."

8 The same editorial pointed out that  
9 Massachusetts imposed a cap in 1980 and soon  
10 police officers and firefighters were laid off  
11 and senior centers were closed. By 1991, the  
12 State Board of Education warned of a crisis  
13 with too many classrooms simply warehousing  
14 students.

15 As has been pointed out time and  
16 time again by groups advocating for lower  
17 property taxes, this tax cap will not solve  
18 the problem of high property taxes or make  
19 property taxes any more affordable. And it  
20 certainly will not lower anyone's property tax  
21 bill.

22 So again, the question is why? Why  
23 on the eve of the release of the Executive  
24 Budget are we being asked to take this vote?  
25 We're putting the cart before the horse.

1                   Whatever the answer may be, my  
2           point is this. The point is, as Democrats we  
3           must ensure that the budget is not balanced on  
4           the backs of middle- and working-class  
5           families and schoolchildren. There must be  
6           shared sacrifices. And I say why not wait  
7           until the Executive Budget comes out before we  
8           take this vote.

9                   I vote in the negative.

10                  ACTING PRESIDENT YOUNG:     Thank  
11           you, Senator. You will be recorded as a no.

12                  Senator Klein.

13                  SENATOR KLEIN:     Thank you, Madam  
14           President.

15                  I want to commend the Majority for  
16           bringing this bill forward. I think if you  
17           look at the history, one of the few things  
18           that the Democrats and the Republicans agree  
19           with is a property tax cap. In my time in the  
20           State Senate I believe we've passed a property  
21           tax cap, or a version of one, four times.

22                  This is I think is a very, very  
23           important step towards finally reducing  
24           property taxes in the State of New York. One  
25           of the things that I think is very clear is if

1 we're asking the citizens of our state each  
2 and every day to balance their checkbook, live  
3 within their means, tighten their belts, I  
4 don't think it's too much to ask local school  
5 districts as well as local governments to do  
6 the same.

7 I'm not saying that our local  
8 school districts are squandering money, or our  
9 local governments. But let face facts. If  
10 you're not required to live within a budget,  
11 you just won't. And I see what happens in my  
12 local school districts where, instead of  
13 cutting costs, moving things in the opposite  
14 direction, saving the taxpayers money, they  
15 kind of figure out what budget will be  
16 acceptable. Will a 3 percent increase do it  
17 this year? Will a 4 percent, would a  
18 5 percent? Well, that's really not the way to  
19 do business in these tough economic times.

20 I know Majority Leader Skelos  
21 alluded to the fact of sort of the ripple  
22 effects of high property taxes, which are  
23 quite true. One of the reasons why we can't  
24 attract jobs through corporations in New York  
25 State is because young families who would

1        maybe locate to New York or take those jobs or  
2        remain in New York to keep those jobs can't  
3        afford to live in the suburbs or anyplace  
4        outside of the cities because of high property  
5        taxes.

6                    So I think this is a very, very  
7        important first step. And I do believe the  
8        first way we reduce property taxes is by  
9        implementing a cap. But I don't think we can  
10       operate in a vacuum. I've said this many  
11       times on this floor, that I think it's sort of  
12       a three-pronged approach, the first and most  
13       important being the cap. Next is mandate  
14       relief, which I know we're taking up a  
15       resolution today on. And I think I would like  
16       to see the return of some type of property tax  
17       relief -- maybe a check, maybe a  
18       circuit-breaker, which I know many in this  
19       house have advocated for. But before we do  
20       that, we have to make sure we have a definite,  
21       finite funding stream to be able to accomplish  
22       that.

23                    So I'm very happy that so quickly  
24        within this new legislative session we're  
25        passing the property tax cap. Madam

1 President, I vote yes.

2 ACTING PRESIDENT YOUNG: Thank  
3 you, Senator Klein. You will be recorded in  
4 the affirmative.

5 Next we have Senator Robach.

6 SENATOR ROBACH: Yes, Madam  
7 President. I too am happy too support this  
8 bill. I think this is needed.

9 And I would concur with Senator  
10 Carlucci. Everywhere I went for the last two  
11 years, whether it was a community meeting,  
12 walking with PAC-TAC groups to keep a  
13 neighborhood safe, whether it was at a school,  
14 even at the grocery store, people talked about  
15 property taxes more than anything else on  
16 their plate. They wanted -- and let me  
17 explain to my colleagues in New York City, we  
18 do not have hundreds of thousands of people  
19 moving into our districts. People are voting  
20 with their feet and are saying it's because of  
21 high property tax.

22 You can actually afford a very nice  
23 home, but then the taxes on it are so  
24 outstanding it's not -- I have some  
25 constituents that live on the shoreline of

1 Lake Ontario, very nice homes, that pay  
2 \$24,000 a year in taxes. That's \$2,000 a  
3 month -- without paying a mortgage, turning on  
4 a light, cutting the lawn, nothing. It's a  
5 lot.

6 And why we need a cap, when people  
7 say you don't understand the time -- I don't  
8 think it's okay to have 7, 8, 9, 10 percent  
9 increases. People can't afford it. And  
10 that's what they've been getting in many  
11 places. And we need to change that. So we're  
12 doing this.

13 And the other reason why I'm so  
14 happy to support this legislation is many  
15 people talked about this during the election,  
16 and a lot of people talked about it for the  
17 last four years but it didn't come to  
18 fruition. So, number one, we're delivering on  
19 a pledge that many people made as they were  
20 running for reelection. And I think that's  
21 important, especially at this time for  
22 New Yorkers, because people lost faith that  
23 we're going to put action behind our words.  
24 Now we are.

25 Secondly, I'm more optimistic than

1       ever that with our new governor, Governor  
2       Cuomo, who has said he supports a property tax  
3       cap, that he may for the first time be able to  
4       put enough pressure, along with the voters of  
5       New York, on the Assembly to really get this  
6       passed and make it a law.

7               So I think this is an important  
8       bill, a needed bill, and a very important move  
9       sending a clear message to the people of this  
10      state, especially in Rochester and upstate  
11      New York, that we hear them and we're acting  
12      accordingly.

13             I vote in the affirmative.

14             ACTING PRESIDENT YOUNG:     Thank  
15      you, Senator Robach.   You will be recorded  
16      yes.

17             Senator Flanagan.

18             SENATOR FLANAGAN:     Thank you,  
19      Madam President.   To explain my vote.

20             The bill that we got today has a  
21      little symbolism right on it.   It says  
22      "Governor's Program Bill Number 1."   So I'm  
23      going to take that as an indication of the  
24      seriousness that our new Governor attaches to  
25      this issue, and frankly I think we all should.

1       Property taxes are just simply too high. The  
2       Governor recognizes it, we all recognize it,  
3       there's been a lot of talk about it. But we  
4       haven't crossed the finish line.

5               Now, it doesn't matter what part of  
6       the state you're from, they're still too high.  
7       I look up in the balcony, and I actually have  
8       constituents from my district here today,  
9       three young kids in the schools. Their  
10      property taxes are too high. It's getting  
11      that much more difficult to live in all of our  
12      communities across the State of New York.

13             But here's where I think, when  
14      we're going to get criticized, we can stand on  
15      firm ground. Because last week Senator  
16      Ranzenhofer introduced a bill to institute a  
17      state spending cap. We're not asking people  
18      to do something that we're not willing to  
19      impose upon ourselves. For far too long  
20      Albany has told people how to do things but  
21      has not been willing to do the same thing.

22             So we cannot have a one-dimensional  
23      approach, as Senator Klein said. We need a  
24      state spending cap. We need a property tax  
25      cap. We need true, legitimate mandate relief.



1 We need massive regulatory reform. We need  
2 real economic development. A thousand times,  
3 Senator Skelos: "Taxes, jobs, spending.  
4 Taxes, jobs, spending."

5 We have to do a lot more. This is  
6 a very important first step. And I  
7 congratulate Governor Cuomo and Senator Skelos  
8 for bringing this bill to the floor. Thank  
9 you.

10 ACTING PRESIDENT YOUNG: Thank  
11 you, Senator Flanagan. You will be recorded  
12 as a yes.

13 Next, Senator Kennedy.

14 SENATOR KENNEDY: Thank you very  
15 much, Madam President.

16 I stand here today as a cosponsor  
17 of this legislation in support of serious  
18 property tax reform, serious property tax  
19 relief, for working families, for middle-class  
20 New Yorkers. This is not just a Western  
21 New York problem, this is a New York State  
22 problem. This is an Albany problem.

23 And whether we are from Western  
24 New York, in Erie County -- Erie County, one  
25 of the top 10 highest-property-taxed counties

1 not only just in New York State but in the  
2 entire nation. Eight out of the top 10  
3 highest-property-taxed counties in the entire  
4 nation per percentage of home value are in  
5 upstate New York.

6 We have a property tax epidemic,  
7 not just a problem. And the only way we're  
8 going to solve this problem is by enacting  
9 legislation that provides serious relief and  
10 serious solutions.

11 People have been voting with their  
12 feet. In Western New York, in Erie County,  
13 100,000 people have left Erie County since  
14 1980: 100,000 people. As the Governor had  
15 articulated in his State of the State,  
16 2 million individuals have left in the last  
17 couple of decades.

18 We need serious property tax  
19 relief, and it starts today. So I'm proud to  
20 stand in support of this property tax cap. I  
21 look forward to furthering the agenda that  
22 provides relief for middle-class and working  
23 families across New York State.

24 ACTING PRESIDENT YOUNG: Thank  
25 you, Senator Kennedy. You will be recorded in

1 the affirmative.

2 Senator Valesky.

3 SENATOR VALESKY: Thank you,  
4 Madam President.

5 I rise in support of this  
6 legislation. My constituents, and I'm sure  
7 all of our constituents across the state, time  
8 and time again have complained about the  
9 property tax burden and the fact that we have  
10 to do something about high property taxes here  
11 in New York State.

12 Today, once again, in the Senate in  
13 a bipartisan fashion we're doing something  
14 about property taxes, one step in an overall  
15 comprehensive approach. I want to thank  
16 Senator Klein, who's spent a great deal of his  
17 time over the last couple of years in  
18 fashioning a proposal. I want to thank  
19 Senator Skelos for making this one of the  
20 first bills that we consider here in the new  
21 2011 legislative session.

22 I want to thank Governor Cuomo. As  
23 Senator Flanagan indicated, this is Governor's  
24 Program Bill Number 1. The Governor believes  
25 this is such a high priority that he would

1        send the legislation to the Legislature even  
2        before his Executive Budget proposal,  
3        underscoring how important this is.

4                But in the final analysis, we can  
5        continue here in the Senate year after year  
6        after year passing property tax caps, but I  
7        hope, Madam President, that this is the  
8        year -- finally, this is the year that I and  
9        the 19.5 million New Yorkers can finally thank  
10       the Assembly for doing the right thing and  
11       passing a property tax cap, Governor Cuomo  
12       signing that into law as soon as possible.

13               I vote in the affirmative.

14               ACTING PRESIDENT YOUNG:        Thank  
15       you, Senator Valesky. You will be recorded as  
16       a yes.

17               Senator Martins.

18               SENATOR MARTINS:        Good afternoon,  
19       Madam President. I also rise in support of  
20       this bill.

21               You know, I am reassured that we  
22       have the support of our colleagues on both  
23       sides of the aisle on this issue that is so  
24       important to all of our constituents back  
25       home. We've all gone through a rather

1       lengthy -- and some of us more so than  
2       others -- process getting here these last few  
3       months. And as you can see, and as we've  
4       heard from others here in the chamber, time  
5       and again people have told us: If you do one  
6       thing when you get to Albany, lower my taxes.  
7       Do something about taxes, but we simply can no  
8       longer afford to pay any more.

9               This is the first step in that  
10       road. This is the first step in our  
11       commitment to our constituents where we send a  
12       real message not only that we're committed to  
13       a spending cap, as we approved this past week,  
14       but also committed to structural change and  
15       real structural change up and down, not only  
16       affecting local governments but also affecting  
17       ourselves.

18              You know, as we have this  
19       opportunity, let's not forget also that this  
20       is also a first step. We had an opportunity  
21       today and we will have an opportunity today to  
22       vote on a tax cap. But it goes hand in glove  
23       also with the need for mandate relief. This  
24       is only a first step. And I would remind  
25       everyone to please keep that in mind as we

1 think about the necessary structural reforms  
2 that we need for local governments and those  
3 price-drivers that affect our ability on a  
4 local level to continue to provide services,  
5 not only for our villages and towns and  
6 counties but also certainly for our school  
7 districts.

8 So let's take this as an  
9 opportunity not only to send a message and to  
10 set a line in the sand, but also together to  
11 work towards those necessary mandate reliefs  
12 that our local communities so desperately  
13 need, so that they can continue to provide  
14 basic services to our constituents.

15 I vote in the affirmative. Thank  
16 you.

17 ACTING PRESIDENT YOUNG: Thank  
18 you, Senator Martins. You will be recorded as  
19 a yes.

20 Senator Alesi.

21 SENATOR ALESI: Thank you, Madam  
22 President and my colleagues.

23 As the day progresses, it seems as  
24 though many of us, if not all of us,  
25 unfortunately, should be saying the same

1        thing. And that is that this bill is good for  
2        all of New York.

3                For far too long we've heard from  
4        people upstate and downstate and all across  
5        the state, from people in the business  
6        community, people in labor, that property  
7        taxes are really at the root of what's killing  
8        our economy in New York State and, more  
9        important, what is diminishing the quality of  
10       life that we should be enjoying.

11               By capping property taxes and  
12       following the leadership of Governor Cuomo,  
13       who has made this his first program bill, with  
14       the leadership of Senator Skelos and the  
15       leadership of the previous leadership, we  
16       focused on property tax caps for the last  
17       couple of years. But now we have what I think  
18       is not only the support of the executive, the  
19       will of the people, but the hope that this  
20       will find its way into the other chambers and  
21       become reality. So that those young people  
22       who want to build their families here, those  
23       small businesses that want to stay here and  
24       thrive, for our seniors that want to stay in  
25       their homes, it will all be possible.

1                   Many more things could be done as  
2           far as tax caps or tax cuts in this state,  
3           whether for individuals, retirees, businesses.  
4           But you have to start that long journey with  
5           this one large step -- not small step, this is  
6           a large step.

7                   In order for our economy to thrive,  
8           in order for quality of life to improve, a tax  
9           cap is reality if it's passed and signed. But  
10          it's also a strong and powerful message that  
11          New York State really is the place to live, to  
12          grow a business, to grow a family.

13                  When you look at all of the quality  
14          educational facilities that we have, private  
15          and public, in this state, we're educating the  
16          best and the brightest that will go all across  
17          this country -- in fact, all across the  
18          world -- to pursue their professions, to  
19          pursue their calling, how many of them do we  
20          lose simply because they know that buying a  
21          home here will cost them too much in taxes?

22                  Now we can continue to invest in  
23          those educational facilities, we can continue  
24          to invest in our small and large businesses,  
25          and we can continue to say to those people



1       that want to buy a home or stay in a home, you  
2       can have it now, you can have it affordably,  
3       and you can enjoy your life because we do have  
4       this first key component in returning New York  
5       State to the Empire State.

6               Thank you, Madam President and my  
7       colleagues.

8               ACTING PRESIDENT YOUNG:       Thank  
9       you, Senator Alesi. You will be recorded as a  
10      yes.

11              Senator Fuschillo.

12              SENATOR FUSCHILLO:       Thank you,  
13      Madam President. I'll be voting in the  
14      affirmative on this legislation.

15              New York State has the unfortunate  
16      distinction of being number one in interstate  
17      migration. That means more people move out of  
18      our state than any other state in the nation.  
19      If this legislative body does nothing with  
20      respect to property taxes, then they fail the  
21      people of the State of New York.

22              There is nowhere that I go -- and  
23      we've heard the same song and comments from  
24      colleagues in this house, that every step they  
25      take, somebody talks about property tax

1 relief.

2 But what's significant about  
3 today's initiative and today's bill is that  
4 we're changing the direction of this state.  
5 We saw in the last couple of years reckless  
6 spending, reckless increases in taxes and  
7 fees, and a state that has drastically gone in  
8 the wrong direction. Governor Cuomo and  
9 Senator Skelos, by putting this bill in today,  
10 is pulling it back. We're saying we want to  
11 cap spending on the state level, we want  
12 two-thirds of this house if you're going to  
13 raise properties or any taxes, and we want to  
14 provide tax credits to small businesses.

15 And now property tax relief. It's  
16 the single most important issue in the State  
17 of New York, and I'll be voting in the  
18 affirmative.

19 Thank you, Madam President.

20 ACTING PRESIDENT YOUNG: Thank  
21 you, Senator Fuschillo. You will be recorded  
22 in the affirmative.

23 Senator Saland.

24 SENATOR SALAND: Thank you, Madam  
25 President.

1                   Madam President, I too rise in  
2                   support of this bill. Unfortunately, as our  
3                   business community has suffered, about the  
4                   only thing we've been exporting, if not  
5                   hemorrhaging, has been people and jobs. And  
6                   one of the principal reasons -- certainly  
7                   there are several -- but one of the principal  
8                   reasons has been the onerous burden of our  
9                   excessively high taxation, and particularly  
10                  painful and heinous within the ranks of those  
11                  taxes has been the property tax.

12                 There can be no forum that I attend  
13                 in my district in which that subject does not  
14                 come up. It comes up when I speak with  
15                 seniors, it comes up when I speak with the  
16                 business community, it comes up when I speak  
17                 with my neighbors.

18                 This tax cap has been something  
19                 that we have endeavored to accomplish over the  
20                 course of a number of prior sessions. But  
21                 never before have we had the good fortune of  
22                 having a Governor who has not only made this  
23                 Program Bill 1, working closely with Senator  
24                 Skelos, but he has asserted himself, he has  
25                 put himself on the line, he has aggressively

1       pursued this tax cap. I am optimistic that  
2       before this session is over we will have a tax  
3       cap.

4               And if you think of the things that  
5       we need to revitalize our economy, if you  
6       think of the things that we need to encourage  
7       people to stay and others to come, dealing  
8       with the property tax issue is at the top of  
9       the list. There are things that we've done  
10      previously that are critically important that  
11      send that same message, whether it's the  
12      spending cap, whether it's the package that we  
13      did to incentivize the creation of  
14      private-sector jobs, or whether it was the  
15      supermajority required for increasing taxes.

16             This is a concerted and a  
17      comprehensive effort to get out there that we  
18      want New York open for business, that we want  
19      to be the Empire State and we want people in  
20      our respective districts to know that relief  
21      is on the way.

22             Again, Madam Speaker, I vote in the  
23      affirmative.

24             ACTING PRESIDENT YOUNG:     Thank  
25      you, Senator Saland. You will be recorded in

1 the affirmative.

2 Senator Ranzenhofer.

3 SENATOR RANZENHOFER: Thank you,  
4 Madam President.

5 I also rise today in support of the  
6 property tax cap, and I want to thank the  
7 Governor for making it his number-one bill  
8 that he's introduced, and also thank Senator  
9 Skelos for his leadership.

10 I hope when people hear what we did  
11 today they finally say to themselves, Well,  
12 the Legislature finally gets it. We have  
13 members on both sides of the aisle --  
14 Democrats, Republicans, upstate, downstate --  
15 really saying the same thing, that where else  
16 are we going, how many more people do we have  
17 to lose, how many more jobs do we have to  
18 lose. And I think this sends an important  
19 message that we are moving in the right  
20 direction.

21 I'm sure for many of you this is a  
22 very personal type of vote. Because if you're  
23 like my family, many of your family members  
24 have already left the state. I have no family  
25 members left in the state other than my wife.

1                   And, you know, it used to be when  
2                   you were in your neighborhood and you'd be  
3                   walking through the neighborhood, every once  
4                   in a while someone was moving out of state.  
5                   Well, now it's somebody in every single house  
6                   that has members of their family having left  
7                   the State of New York for states where they're  
8                   paying less property taxes. Nothing is  
9                   forcing them to stay here; they have an option  
10                  of whether they want to pay \$12,000 in New  
11                  York or \$4,000 in another state.

12                  And this is a step in the right  
13                  direction that says we're not going to be  
14                  number one in highest property taxes anymore,  
15                  we're going to take a concerted effort to cap  
16                  our spending, to cap our taxes and to get this  
17                  state moving again.

18                  So, Madam President, please record  
19                  me in the affirmative. I'm very, very proud  
20                  to be voting for this today. Thank you.

21                  ACTING PRESIDENT YOUNG:     Thank  
22                  you, Senator Ranzenhofer. You will be  
23                  recorded in the affirmative.

24                  Senator Zeldin.

25                  SENATOR ZELDIN:     Thank you, Madam

1       President. I rise in the affirmative today on  
2       this tax cap legislation. Our action  
3       demonstrates that this body is serious about  
4       property tax relief.

5               I was sent here by the residents of  
6       the Third Senate District, those residents in  
7       the towns of Islip and Brookhaven. As I  
8       knocked on the 12,000 doors during this past  
9       campaign season, I had a chance to talk to  
10      many lower-income, middle-income families  
11      struggling to survive right now on Long  
12      Island. I spoke to many seniors trapped in  
13      their house on fixed incomes but, because they  
14      were living in just a regular three-bedroom,  
15      two-bath house, yet still having to pay  
16      \$15,000, \$18,000, \$20,000 a year in property  
17      taxes. They have sent me here to represent  
18      them.

19             Now, I'm not here, my purpose isn't  
20      to block progress. And this is, as Senator  
21      Martins mentioned, but one step, one first  
22      step towards property tax relief for the  
23      residents of Islip, Brookhaven, throughout  
24      Long Island and across New York State. But I  
25      am proud that when I leave here today I'm able

1 to go back to them and tell them that today,  
2 on this day in the New York State Senate, I  
3 did what I could to fight for them and to  
4 provide that property tax relief that was  
5 promised to them as I left their doors and  
6 asked them for their vote.

7 I ask that when we leave here after  
8 passing this property tax cap, that we  
9 continue the dialogue about mandate relief,  
10 about how to continue to provide an even  
11 better education for our kids, more of a  
12 quality education for our students.

13 My daughters, who are 4, are about  
14 to start kindergarten in public school this  
15 year, and I want them to have the best  
16 education. And when they get older and they  
17 are ready to start their families, if they  
18 want to start their families on Long Island,  
19 they should be able to. If they want to be  
20 able to start their families here in New York,  
21 they should be able to.

22 But for all of those family members  
23 that have left from my family, Senator  
24 Ranzenhofer, as in yours, they have relocated  
25 down in Florida because they can't afford to



1 stay here in New York.

2 So this is our opportunity. And I  
3 will not block progress, and I'll continue to  
4 fight for fight for further progress when this  
5 vote is done. And tomorrow is another day and  
6 dialogue continues.

7 Please record my vote in the  
8 affirmative.

9 ACTING PRESIDENT YOUNG: Thank  
10 you, Senator Zeldin. You will be recorded as  
11 a yes.

12 Senator Espaillat.

13 SENATOR ESPAILLAT: Thank you,  
14 Madam President.

15 There are no easy solutions to many  
16 of the problems that are facing New Yorkers.  
17 Thousands of homeowners are seeking to get  
18 property tax relief. Over a million tenants  
19 will be seeking to get some kind of help this  
20 year. And yet tomorrow we will listen to the  
21 Governor propose his budget. In it I am sure  
22 he will propose deep cuts that will help gap  
23 the \$12 billion deficit affecting this state.

24 It is perhaps expedient to take  
25 this property tax vote today, but I find it to

1 be a great mistake not to wait and listen to  
2 the budget cuts that are going to be proposed  
3 tomorrow. Many of those budget cuts will be  
4 in the area of education. Many of the  
5 localities that may benefit from this tax  
6 relief would also face deep cuts in their  
7 education funding. And families vote with  
8 their feet not only because of property tax  
9 relief, but they also vote with their feet  
10 when there is crappy schools or when there is  
11 a lack of public safety.

12 When many people purchase their  
13 homes for the first time, as a young family,  
14 they look at property taxes, they look at the  
15 quality of education provided by the locality,  
16 they look at the public safety in the  
17 neighborhood. And these things are integrally  
18 connected. And not to be able to wait for  
19 tomorrow's proposal by the Governor is perhaps  
20 a little bit too expedient, if not politically  
21 expedient.

22 And I will be voting in the  
23 negative on this. I think that some of those  
24 localities will be coming back to us because  
25 they're going to be strapped for cash.

1       They're going to get cut in education, they're  
2       going to get cut in healthcare, and they're  
3       going to be capped in their property tax, a  
4       means of revenue for those localities. They  
5       will come to these chambers asking for relief.

6               This vote is premature. I am  
7       completely convinced that we need to bring  
8       property tax relief to the State of New York,  
9       but today is not the time. We should wait for  
10      the Governor's proposal tomorrow, debate it  
11      extensively, see what kinds of cuts he's  
12      proposing to education in Long Island, in some  
13      of the other counties that will otherwise  
14      benefit -- Nassau -- tremendously from this  
15      property tax cap.

16              Madam President, I will be voting  
17      in the negative.

18              ACTING PRESIDENT YOUNG:     Thank  
19      you, Senator Espaillat. You will be recorded  
20      as a no.

21              I do just want to take this  
22      opportunity to remind the members that we have  
23      a two-minute limit on explaining your vote.

24              Senator McDonald.

25              SENATOR McDONALD:     Thank you,

1       Madam President.

2                   I want to take this time to thank  
3       our new governor, Governor Cuomo, Senator  
4       Skelos, my colleagues from both sides of the  
5       aisle. Property tax has been a problem for  
6       working-class men and women for decades. If  
7       anything, we should have done this years ago.

8                   It's been mentioned about mandates.  
9       That is a problem for our schools, our county  
10      governments, our local governments. We cannot  
11      just do a property tax cap without addressing  
12      mandates. Legitimate mandates should be kept,  
13      and ones that are impractical, in the wrong  
14      place at the wrong time, should be gotten rid  
15      of. We should be dealing with our local  
16      officials, get the feedback from them.

17                  The mandates, if not addressed,  
18      won't help us at all, it will hurt us. But  
19      what we did today, we started a dialogue on  
20      capping property taxes. The comments that  
21      came from the various communities that have  
22      lost population -- many of them I know very  
23      well, like Erie County. A great county.  
24      Buffalo area, a great area. You feel so  
25      sympathetic that these people are leaving our

1 state.

2 I represent two communities, one  
3 very much like Erie County, an older  
4 industrial community that I was actually  
5 raised in. No reason that we keep on putting  
6 burdens on them. They cannot continue to  
7 carry the burden. They cannot tell people who  
8 live in houses, who come from backgrounds,  
9 blue-collar backgrounds, that we're going to  
10 take your house. It's simply not fair.

11 My other community figured this out  
12 a long time ago. Lower taxes, and people will  
13 move there. Lower taxes, the schools get  
14 better. Lower taxes, the roads, the emergency  
15 services, economic development -- something  
16 New York State used to be Number 1 in and now  
17 is Number 50.

18 It's time we start figuring out  
19 that people need jobs. If you don't come from  
20 a background where jobs are important, nobody  
21 cares. I come from a background where jobs  
22 are important. People should realize that.  
23 Jobs are important.

24 So this is part of a whole  
25 continuation that our Governor, the Senate

1 leader, Dean Skelos, a variety of all of us  
2 here have got to deal with.

3 So if you're talking to the public,  
4 they're talking property taxes, income taxes.  
5 In general, they're talking economics. Keep  
6 people working, get people working, and start  
7 bringing private sector business in. And the  
8 private-sector business here, let it grow.  
9 Let this state be what it's supposed to be,  
10 the number one Empire State.

11 We have hurt this state, we have  
12 hurt the people in it, and we've got to stop  
13 doing that. Keep the working men and women in  
14 our state and keep them working and let them  
15 pay reasonable taxes for responsible services.

16 And I think we started it today,  
17 and I'm very grateful. I am voting yes.

18 Thank you, Madam President.

19 ACTING PRESIDENT YOUNG: Thank  
20 you, Senator McDonald. You will be recorded  
21 in the affirmative.

22 Senator Marcellino.

23 SENATOR MARCELLINO: Thank you,  
24 Madam President.

25 I rise in support of this

1       legislation. I think it's a very important  
2       first step. I wish to thank, as many of my  
3       colleagues have before me, the Governor and  
4       Senator Skelos for bringing this bill to the  
5       floor.

6               But I would remind us, and it's  
7       been said before by others, that this is just  
8       a first step. By freezing taxes at no more  
9       than a 2 percent increase, we're not lowering  
10      them, we're only hoping to slow down the  
11      increase.

12             My constituents have sent me a loud  
13      message. I've got email after email and a  
14      stack of snail-mail letters that could be as  
15      tall as the snowbanks back in my district, all  
16      of them saying, You've got to cut my taxes,  
17      Senator. We sent you back to Albany this year  
18      to cut taxes, reduce spending, so that we can  
19      attract some businesses, so we can keep our  
20      young people in our state, so we can keep our  
21      businesses in our state and bring new ones  
22      here, so creating careers for our people.

23             We need to attract businesses. We  
24      need to keep our residents here. We can't do  
25      that by letting taxes increase. We can only

1 do that by decreasing taxes, by creating  
2 private-sector jobs, and by cutting spending  
3 at all levels of government.

4 This bill, as I said, is a good  
5 first step, but it's just that. I look  
6 forward to working in a bipartisan way with  
7 all my colleagues so that we can move forward  
8 and make life good for our constituents, make  
9 life affordable for our constituents. And  
10 this, as I said, is the beginning.

11 I proudly vote aye, Madam  
12 President.

13 ACTING PRESIDENT YOUNG: Thank  
14 you, Senator Marcellino. You will be recorded  
15 as a yes.

16 Senator Larkin.

17 SENATOR LARKIN: Thank you, Madam  
18 President.

19 I've been around this chamber a few  
20 days more than most people except for Johnson.  
21 And, you know, it's a happy day. My office  
22 just told me a few minutes ago that we have 20  
23 emails that say "vote for this." And the  
24 response we give to them: I'm a sponsor of  
25 it.



1                   But what are we saying with this  
2                   vote? You know, I hear people say, "Well, why  
3                   don't we wait till tomorrow when the Governor  
4                   gives us his budget." Well, the Governor  
5                   didn't wait. The Governor handed down his  
6                   number-one bill on Friday and said to  
7                   Senator Skelos, "I need this passed."

8                   So we're here today to pass this  
9                   bill so that when he talks about his budget  
10                  tomorrow, he can say we have achieved the  
11                  number-one priority that I have set for this  
12                  budget and for this state. And he'll commend  
13                  all of us who did stand up and vote for it.

14                  I have 17 grandchildren, young men,  
15                  you know. And what do they say to me? "Why  
16                  should I stay here?" Gramp, you had a home in  
17                  North Carolina, you paid \$923 a year for total  
18                  taxes. I don't remember what we lost there.  
19                  But their attitude was, that's a nice place to  
20                  live, I can afford it.

21                  Maybe it's tightening our belts.  
22                  We heard the Secretary of Defense, somebody  
23                  commented on him last week where he said  
24                  "You've got to do this and you've got to do  
25                  that" to the military. What's the difference

1 in saying it to someone else?

2 When you start to think that what  
3 we've done is said in a cooperative manner,  
4 bipartisan manner, we're going to stand up  
5 here and work together so that we can make it,  
6 as Senator Zeldin just said, the number-one  
7 state again. You know our Governor has made  
8 it very clear he wants our cooperation -- not  
9 just Republicans, but bipartisan, Republicans  
10 and Democrats -- to show the business  
11 community across this state that we want to  
12 cooperate. We are working to get it.

13 My district lost a thousand jobs on  
14 a contract by Macy's because of taxes, the  
15 payroll tax that supports New York City,  
16 because the first shovel in the ground would  
17 have cost Macy's \$34 million.

18 What we're saying here, we want  
19 business to come and stay. More importantly,  
20 we want our children to have a job here. And  
21 if you don't vote for this bill, when your  
22 children leave, tell them you're sorry.

23 ACTING PRESIDENT YOUNG: Thank  
24 you, Senator Larkin. You will be recorded in  
25 the affirmative.

1 Senator LaValle.

2 SENATOR LaVALLE: Thank you,  
3 Madam President.

4 I too rise to support this  
5 legislation. I have long been an advocate for  
6 a tax cap. And as has been mentioned, this  
7 chamber has passed a tax cap multiple times.  
8 For those who say that we are moving  
9 precipitously, I say the time has long come  
10 that we do this measure.

11 I've been listening to individuals  
12 here, and I thought about the process that we  
13 have followed to try and support our education  
14 system and our local governments. We've done  
15 it by increasing state aid to record numbers,  
16 thinking that that would lower taxes. In most  
17 of the districts it has not.

18 We passed the STAR program thinking  
19 it would lower taxes, and it did not because  
20 it ended up being a supplement state aid  
21 program.

22 We passed same-day budget vote  
23 believing that more people would be involved  
24 in the process and that involvement would  
25 bring down taxes. It has not.

1                   We have passed legislation to limit  
2                   the number of budget votes to two times. It  
3                   has not lowered property taxes.

4                   We changed the contingency budget  
5                   law to cap spending. It has failed and has  
6                   not lowered taxes.

7                   So today we stand with the last  
8                   possible choice, and that is to provide a tax  
9                   cap, property tax cap. And as has been said,  
10                  it is but a first step in a total process to  
11                  try and do two things: Deal with the  
12                  individual who pays the bill, and at some  
13                  point we will look at and ensure that our  
14                  constitutional mandate to provide a free and  
15                  appropriate education is maintained.

16                  I vote in the affirmative.

17                  ACTING PRESIDENT YOUNG:     Thank  
18                  you, Senator LaValle. You will be recorded as  
19                  a yes.

20                  Senator Nozzolio.

21                  SENATOR NOZZOLIO:     Madam  
22                  President, I ask permission to explain my  
23                  vote.

24                  Madam President and my colleagues,  
25                  skyrocketing property taxes are by far the

1        number-one concern of the constituents I serve  
2        in the Central Finger Lakes region. Property  
3        taxes are making it difficult for seniors to  
4        stay in their homes, making it virtually  
5        impossible for young people to afford the  
6        purchase of a new home, and are squeezing the  
7        budgets of families and businesses all across  
8        New York State.

9                The action we're taking today, by  
10       placing a cap on school and local government  
11       property taxes, is going to provide homeowners  
12       the relief that they desperately need.

13                Madam President, 43 other states  
14       have some type of property tax cap and they've  
15       seen reductions in property taxes across their  
16       states. It's time New York had the same type  
17       of relief, and it's time in New York, as we  
18       become the 44th state, to again try to make  
19       New York more competitive.

20                This is bipartisan. Governor  
21       Cuomo's first proposal, his very first  
22       priority is establishing this property tax  
23       cap. We support that priority. We've  
24       supported it for a number of years. We're  
25       hopeful that through the Governor's action the

1 Assembly will come on board and enact a real  
2 property tax cap.

3 Groups from all across New York,  
4 whether it be Unshackle New York, the National  
5 Federation of Independent Businesses, the Farm  
6 Bureau, they all have supported this  
7 legislation, and I'm glad we are about to do  
8 the same.

9 And lastly, Madam President,  
10 establishing a cap that accompanied with that  
11 is appropriate mandate relief, measures that  
12 will help school districts and local  
13 governments cut their costs, no longer having  
14 to burden property taxpayers with those costly  
15 mandates is also the essential ingredient in  
16 this. Together, mandate relief and property  
17 tax capping, putting New York back on the road  
18 to economic recovery, it's a measure that I  
19 wholeheartedly endorse.

20 Thank you, Madam President.

21 ACTING PRESIDENT YOUNG: Thank  
22 you, Senator Nozzolio. You will be recorded  
23 as a yes.

24 Senator Grisanti.

25 SENATOR GRISANTI: Thank you,

1       Madam President. I too support this measure.

2               But I have different reasons for  
3       this. I represent an area in Western New York  
4       that's the third poorest in the nation in  
5       regards to its size. I also represent an area  
6       in Buffalo, New York, that doesn't even have a  
7       school tax bill. The City of Niagara Falls  
8       that I represent does have a school tax bill,  
9       but yet they have not raised their school tax  
10      bill in 18 years. The reason being is they've  
11      been coping, they've consolidated, they've  
12      done what was right with regard to their  
13      educational district and their schooling.

14             I then talked to the other towns,  
15      in the City of Tonawanda and Grand Island.  
16      They know that a tax cap is coming. They know  
17      that this year is going to be very painful for  
18      New York State. It's not going to be easy  
19      this year. There's a large deficit, we all  
20      know that. I'm proud because I ran on a  
21      bipartisanship platform and we have a vote  
22      here now that's bipartisanship.

23             But when I talked to these school  
24      districts, they said to me, We know a cap is  
25      coming, just give us an override provision.

1 Which is what's in that bill. So I accept  
2 that.

3 I'm proud to have the support of  
4 this bill. Thank you very much.

5 ACTING PRESIDENT YOUNG: Thank  
6 you, Senator Grisanti. You will be recorded  
7 in the affirmative.

8 Senator Farley.

9 SENATOR FARLEY: Thank you, Madam  
10 President.

11 I come from a town called  
12 Niskayuna, which some wag once said was an old  
13 Indian word for "high taxes."

14 (Laughter.)

15 SENATOR FARLEY: This is an  
16 example of a bill that is really needed by the  
17 general population. Everywhere I go, they're  
18 demanding that we pass this tax cap. It's  
19 reasonable. It's reasonable from the point  
20 that the local taxing unit, they can raise it  
21 if they want to, with a two-thirds vote, but  
22 then they're going to have to face the  
23 taxpayer if they do that.

24 As we go forward with this bill --  
25 and I'm so pleased to see so many on the other



1 side of the aisle joining in and supporting  
2 this legislation. And our Governor, who's  
3 made it his major priority and a major plank  
4 in his campaign.

5 But I'm asking my colleagues on the  
6 other side of the aisle, you all have Assembly  
7 people. We all have one, two, three Assembly  
8 people. Lobby them to take and pass this  
9 particular bill. If this legislation goes  
10 over to the Assembly and gets emasculated and  
11 filled in with all kinds of exceptions and so  
12 forth, it will be worthless.

13 This is the legislation we need.  
14 We need to stand together and do the right  
15 thing for the New York State taxpayer. I  
16 proudly vote yes.

17 ACTING PRESIDENT YOUNG: Thank  
18 you, Senator Farley. You will be recorded as  
19 a yes.

20 Senator O'Mara.

21 SENATOR O'MARA: Thank you, Madam  
22 President. I rise in support of this bill.

23 Although I have reservations of the  
24 impact of this, if we do not proceed with  
25 mandate relief, that it will be required.

1 I look back at the old adage of  
2 what came first, the chicken or the egg. Our  
3 taxpayers demand relief from property taxes.  
4 This is one part of that that we have to move  
5 forward with, the cap. But we also have to  
6 move forward with mandate relief or this cap  
7 will not be feasible for our school districts  
8 or our local governments to contend with.

9 I'm proud of the legislation we've  
10 done in this body already this year to put  
11 forth legislation and progress for a spending  
12 cap at the state level and to require a  
13 supermajority at the State Legislature for  
14 spending and tax and fee increases as we are  
15 now looking to move forward with local  
16 governments.

17 So while I would prefer to see  
18 mandate relief come first or at the same time  
19 with this, I understand the necessity of  
20 moving forward and keeping the pressure on to  
21 proceed with mandate relief so that this cap  
22 that we move to impose today is feasible for  
23 our local governments to meet and still  
24 provide the necessary services at the local  
25 level besides what we have forced upon them

1 from this State Legislature over decades of  
2 mandates being piled on. We need to relieve  
3 those mandates in addition to this legislation  
4 today.

5 Thank you, Madam President.

6 ACTING PRESIDENT YOUNG: Thank  
7 you, Senator O'Mara. You will be recorded as  
8 a yes.

9 Senator Ball.

10 SENATOR BALL: Madam President,  
11 on the bill.

12 I know we all have stories in our  
13 district on property taxes and really what is  
14 a system in New York State that has turned  
15 what used to be the American dream into a  
16 nightmare for many. And I know that we've all  
17 gone door to door and we work all very hard in  
18 our districts. And when you knock on those  
19 doors and you go in, and many times it's a  
20 senior and they invite you in and they talk  
21 about downsizing.

22 When you're 72, 73, 74, 75 or  
23 older, you don't want to downsize. It's a  
24 polite way to say that I saved, I did the  
25 right thing -- not like my generation, people

1       who are 75 and 80, believe me they did the  
2       right thing and they saved. But they could  
3       never prepare for tax increases that were  
4       double digits compounded annually year after  
5       year after year.

6               I'm the first in my family to  
7       graduate from college. My mother went to work  
8       when she was 17, 18. She never graduated from  
9       high school. We talk about reforming  
10      pensions, as if pensions and overtime are a  
11      bad thing. My mother is retired. She made  
12      \$29,000 a year. If it wasn't for overtime,  
13      she wouldn't have been able to raise us kids.  
14      She worked nights at Harlem Valley Psychiatric  
15      Center, she came home and she worked in the  
16      rich people's house up on Quaker Hill. She  
17      literally would work 18 hours a day. That  
18      wasn't one day, one week, that was a way of  
19      life.

20             I watched my parents, who were  
21      caretakers -- which they did during the day,  
22      during their free time -- save enough money,  
23      paycheck by paycheck, and we built the family  
24      home, literally. My brothers, my mom, my  
25      dad -- my mom, yes. My mom can outwork any

1 man I've ever met in my life. And they built  
2 that home. And when I went off to college at  
3 the United States Air Force Academy, I came  
4 back and they said, "You know what, we're  
5 going to sell. Because we know we're not  
6 going to be able to afford the property  
7 taxes."

8 That reality, that reality plays  
9 itself out each and every day. And it's not  
10 just residential. I met somebody, a local  
11 business owner, a commercial property owner.  
12 They said that when they moved into  
13 Westchester County, there were over 60  
14 businesses that were in that corporate park.  
15 He's the last one there today. And last year  
16 every penny he made from leasing out that  
17 property, every single penny went to pay his  
18 property tax bill. Folks, even organized  
19 crime just takes a taste.

20 The New York State Legislature is  
21 breaking the back of working people,  
22 blue-collar people and small business owners  
23 in this state. If we want people to be able  
24 to stay here, if we want to have a state we  
25 can be proud of, and if we want a tax base --

1 and if for no other reason than to be able to  
2 fund the social programs that many of us  
3 support -- we'd better get our act in gear.

4 And somebody said, "Well, why do we  
5 have to do it now?" Because it isn't needed  
6 now, it was needed 20 years ago, and we have  
7 no more time to waste.

8 Madam President, I'll be voting in  
9 the affirmative. Thank you.

10 ACTING PRESIDENT YOUNG: Thank  
11 you, Senator Ball. You will be recorded as a  
12 yes.

13 Does any other Senator wish to  
14 speak?

15 The Secretary will record the vote.

16 THE SECRETARY: Those recorded in  
17 the negative on Calendar Number 39 are  
18 Senators Addabbo, Avella, Diaz, Dilan, Duane,  
19 Espaillat, Hassell-Thompson, L. Krueger,  
20 C. Kruger, Montgomery, Parker, Peralta,  
21 Perkins, Rivera, Serrano, Squadron and  
22 Stavisky.

23 Ayes, 45. Nays, 17.

24 ACTING PRESIDENT YOUNG: The bill  
25 is passed.

1                   The Secretary will read.

2                   THE SECRETARY:     Calendar Number  
3                   40, by Senator Saland, Senate Print 2707, an  
4                   act to amend the General Municipal Law and the  
5                   Education Law.

6                   ACTING PRESIDENT YOUNG:     Read the  
7                   last section.

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

10                  ACTING PRESIDENT YOUNG:     Call the  
11                  roll.

12                  (The Secretary called the roll.)

13                  SENATOR SALAND:     To explain my  
14                  vote.

15                  ACTING PRESIDENT YOUNG:     Senator  
16                  Saland, to explain his vote.

17                  SENATOR SALAND:     Thank you, Madam  
18                  President.

19                  Madam President, this a mandate  
20                  relief bill which effectively says there shall  
21                  be no mandates imposed by the state on any  
22                  lower level of government -- be it a school  
23                  district, be it a county, be it a  
24                  municipality -- unless the state is providing  
25                  the funding. It's a balanced bill that

1 recognizes there are certain exceptions;  
2 unexpected judgments, things of that ilk.

3 It really reflects a bill that  
4 we've seen in one or another form over the  
5 course of I'd say the last 15 years or more.  
6 It's something that we've been attempting to  
7 do. It's been really a clarion call, I think,  
8 for this house over the course of the past two  
9 decades.

10 And unfortunately, we've yet to  
11 find a response from our colleagues over in  
12 the other side of this third floor, our  
13 friends in the Assembly. They for some reason  
14 or other find the prospect of dealing with  
15 unfunded mandates to be foreign to anything  
16 and apparently everything that the majority  
17 there believes in.

18 This house again has had a long  
19 history -- and a bipartisan one, at that -- of  
20 supporting mandate relief measures. This  
21 continues that history. And in this  
22 particular case, I welcome the fact that the  
23 Governor has appointed his mandate relief  
24 reorganization team. They will be reporting  
25 on the first of March. And we hopefully at



1       that point will begin the process of  
2       supplementing this prospective legislation by  
3       starting to roll back some of these onerous  
4       mandates that have been imposed upon local  
5       governments.

6               Thank you, Madam President, for  
7       affording me the opportunity to explain my  
8       vote. Needless to say, I vote in the  
9       affirmative.

10              ACTING PRESIDENT YOUNG:     Thank  
11       you, Senator Saland. You will be recorded in  
12       the affirmative.

13              Senator Squadron, to explain his  
14       vote.

15              SENATOR SQUADRON:     Thank you,  
16       Madam President.

17              Dealing with the unfunded mandates  
18       across New York State is important, is  
19       critical. And I commend Governor Cuomo for  
20       beginning the Mandate Relief Task Force, which  
21       is so, so important.

22              The problem with this bill is it  
23       has that great title, "mandate relief,"  
24       without the process to make it work. As I  
25       read the bill, any law that would -- that any

1 local government could claim costs them  
2 \$10,000 a year would be invalidated or not  
3 become law in some other way that's not fully  
4 defined in this bill.

5 The truth is, just putting a great  
6 slogan out there and throwing a bill on the  
7 floor doesn't solve the problem of unfunded  
8 mandates across the state, particularly a bill  
9 that it seems would give near-veto power to  
10 any local government in the State of New York  
11 for any piece of legislation on any basis.

12 If you don't believe in the  
13 existence of state government or the ability  
14 to legislate, then this bill's details make a  
15 lot of sense. Otherwise, they don't.

16 Let's work together with the  
17 Governor to get real mandate relief, the sort  
18 that Senator Oppenheimer, Senator  
19 Stewart-Cousins and others have been fighting  
20 for for years. Let's get it done this year in  
21 a real way. I vote no, Madam President.

22 ACTING PRESIDENT YOUNG: Thank  
23 you, Senator Squadron. You will be recorded  
24 as a no.

25 The Secretary will announce the

1 results.

2 THE SECRETARY: Those recorded in  
3 the negative on Calendar Number 40 are  
4 Senators Avella, Diaz, Espaillat, Gianaris,  
5 Hassell-Thompson, L. Krueger, Montgomery,  
6 Parker, Peralta, Perkins, Rivera, Sampson,  
7 Serrano, Smith, Squadron, Stavisky and  
8 Stewart-Cousins. Also Senator Dilan. Also  
9 Senator Duane.

10 Ayes, 43. Nays, 19.

11 In relation to Calendar Number 40,  
12 in the negative also Senator C. Kruger.

13 Ayes, 42. Nays, 20.

14 ACTING PRESIDENT YOUNG: The bill  
15 is passed.

16 Senator Libous, that concludes the  
17 noncontroversial reading of the calendar.

18 SENATOR LIBOUS: Thank you, Madam  
19 President. Can we please return to the order  
20 of motions and resolutions.

21 And I believe there's a privileged  
22 resolution at the desk by Senator Martins.  
23 May we please have the title read and move for  
24 its immediate adoption. And I would ask you  
25 to call on Senator Martins after the

1 resolution is read.

2 ACTING PRESIDENT YOUNG: Motions  
3 and resolutions.

4 The Secretary will read.

5 THE SECRETARY: By Senator  
6 Martins, legislative resolution urging the  
7 Governor of the State of New York and his  
8 Mandate Relief and Medicaid Redesign Teams to  
9 comprehensively address a real property tax  
10 cap and mandate relief reform, in order to  
11 provide the taxpayers of the State of New York  
12 with lasting and meaningful real property tax  
13 relief.

14 ACTING PRESIDENT YOUNG: Senator  
15 Martins.

16 SENATOR MARTINS: Thank you,  
17 Madam President.

18 I rise to urge our colleagues here  
19 today to support this resolution as a  
20 reaffirmation of that which we just spoke to,  
21 and that is that the property tax cap is  
22 merely a first step in the necessary real  
23 property tax reform that we need as a state as  
24 we move forward.

25 We heard time and again during our

1        comments this afternoon that it's not enough  
2        just to cap taxes, but we also have to  
3        understand that there are consequences that  
4        are going to impact our local communities, our  
5        villages, our towns and our counties as well  
6        as our school districts, and that we should as  
7        a chamber stand together in recognizing that  
8        the tax cap was merely a first step, that we  
9        do have additional work and that we should  
10       focus on those mandate relief items that are  
11       before us.

12                    I know that the Governor has tasked  
13       a Mandate Relief Task Force, in which we are  
14       ably represented by our colleagues Senator  
15       Little and Senator Stewart-Cousins, that is  
16       tasked to come back with some recommendations  
17       by March 1st, as well as our Medicaid Relief  
18       Task Force, also due back with recommendations  
19       by March 1st.

20                    I think it's important that we send  
21       a message to our local governments, to our  
22       constituents that yes, we capped taxes today.  
23       Yes, it's an important first step. But  
24       equally as important, it's that we understand  
25       that we have an obligation as a government at

1 every level to continue to provide basic  
2 services to our local communities, wherever  
3 they may be, and that we understand that there  
4 are pressures that are placed on local  
5 communities and on school districts by state  
6 mandates that take away from their ability to  
7 meet those requirements under the restrictions  
8 that we have.

9 And that we should work together as  
10 a chamber to understand those differences, to  
11 understand those pressures, and to work to  
12 offset those pressure points that exist and  
13 those cost drivers that exist in local  
14 government today.

15 So I stand to ask our colleagues  
16 here to reinforce that message, that this job  
17 and this process is not complete by any  
18 measure, and that we're prepared to work  
19 collaboratively not only as a chamber but with  
20 the Governor and with the other chamber to  
21 make sure that real mandate relief is part of  
22 this session.

23 Thank you.

24 ACTING PRESIDENT YOUNG: Thank  
25 you, Senator Martins.

1                   On the resolution, Senator  
2           Carlucci.

3                   SENATOR CARLUCCI:     Thank you,  
4           Madam President.

5                   I'd like to thank Senator Martins  
6           for putting forth this resolution. As was  
7           just spoken about, a property tax cap is an  
8           important first step in the right direction  
9           towards ultimately lowering property taxes in  
10          New York State and bringing real relief to our  
11          neighbors.

12                  The most important thing here in  
13          this resolution is giving municipalities and  
14          school districts the tools that they need to  
15          make the decisions, to make smart decisions  
16          that cut costs.

17                  Right in here is exactly what I was  
18          talking about last week when I put forth a  
19          bill to allow municipalities to pool their  
20          employees together under one healthcare plan,  
21          to allow them and give them the tools to share  
22          services when needed. And that will bring the  
23          relief that we need that we can pass that  
24          savings on to property taxpayers.

25                  So again, I want to thank Senator

1       Martins for putting this bill forward. And I  
2       look forward to many of these issues becoming  
3       a reality when we have bipartisan support here  
4       in the Legislature.

5                So, Madam President, thank you so  
6       much. I look forward to voting in the  
7       affirmative on this resolution.

8                ACTING PRESIDENT YOUNG:       Thank  
9       you, Senator Carlucci.

10               Senator Klein.

11               SENATOR KLEIN:       Thank you, Madam  
12       President. I too would like to rise in  
13       support of this resolution.

14               In reading through it, I hope a lot  
15       of what Senator Martins has contained in this  
16       resolution ultimately is passed in both the  
17       Senate and the Assembly. Because as I said  
18       earlier, there really needs to be a very  
19       comprehensive approach if we're really serious  
20       about reducing property taxes.

21               I too introduced a piece of  
22       legislation, and I just want to remind my  
23       colleagues not all mandates are what they call  
24       unfunded mandates. But sometimes the state  
25       just isn't allowing localities to do very



1        simple things which would generate money for  
2        individual localities. My legislation would  
3        allow the localities to be able to turn tax  
4        arrears and other fines into municipal liens.

5                Right now what we're having in  
6        municipalities all over the state is a lot of  
7        people who own homes, most of them owned by  
8        corporations, are running up huge, huge tax  
9        bills, and the localities do not have the  
10       ability to turn around and get them to pay.

11               By actually turning them into  
12       municipal liens will allow our localities  
13       throughout the State of New York to really  
14       cash in and get potentially millions and  
15       millions of dollars.

16               So of course I vote yes and support  
17       this resolution as well, Madam President.

18               ACTING PRESIDENT YOUNG:        Thank  
19       you, Senator Klein.

20               Any other Senator wishing to speak?

21               (No response.)

22               ACTING PRESIDENT YOUNG:        Then on  
23       the resolution, all those in favor signify by  
24       saying aye.

25               (Response of "Aye.")

1                   ACTING PRESIDENT YOUNG:     Opposed,  
2     nay.

3                   (Response of "Nay.")

4                   ACTING PRESIDENT YOUNG:     The  
5     resolution carries.

6                   Senator Libous.

7                   SENATOR LIBOUS:     Madam President,  
8     Resolution Number 338 is at the desk. I ask  
9     that the title be read and we move for its  
10    immediate adoption.

11                  ACTING PRESIDENT YOUNG:     The  
12    Secretary will read.

13                  THE SECRETARY:     By Senator  
14    Skelos, Senate Resolution Number 338,  
15    Resolved, That the Rules of the Senate for the  
16    years 2011-2012 are hereby adopted.

17                  ACTING PRESIDENT YOUNG:     Senator  
18    Breslin.

19                  SENATOR BRESLIN:     Thank you,  
20    Madam President.

21                  I believe there is an amendment at  
22    the desk. I ask that the reading of the  
23    amendment be waived and the sponsor be given  
24    an opportunity to be heard. And that would be  
25    Senator Squadron.

1                   ACTING PRESIDENT YOUNG:     Waive  
2                   the reading on the amendment, and you may be  
3                   heard on your amendment, Senator Squadron.

4                   SENATOR SQUADRON:     Thank you,  
5                   Madam President. On the nonsponsor amendment  
6                   to the Rules resolution put forward by Senator  
7                   Skelos.

8                   It has long been held in this body  
9                   and long been agreed on both sides of the  
10                  aisle that the rules need to be fixed. And  
11                  that the reason the rules need to be fixed  
12                  isn't so we feel good about ourselves here in  
13                  this august chamber or around the halls of the  
14                  Capitol, but the rules need to be fixed  
15                  because that is the best way to deal with the  
16                  pressing issues before the State of New York.

17                  Today we have spent some time  
18                  talking about some of the issues that are  
19                  incredibly important across the state. There  
20                  are any number of others. We're about to see  
21                  a budget tomorrow that is likely to be the  
22                  worst budget in terms of the pain of cuts that  
23                  we've ever seen proposed.

24                  And the truth is for this body to  
25                  be prepared to debate it, to look at that

1 budget in the best possible way to ensure the  
2 best possible outcome, we need rules that are  
3 fair, that allow each of us to represent our  
4 constituents. Our constituents don't care  
5 whether we're in the majority or the minority.  
6 They don't care whether we win an argument on  
7 the floor or lose an argument on the floor.  
8 What they care about is that we as a body are  
9 able to get results on the things that matter  
10 to them. And the rules are the number-one way  
11 that we do that.

12 As Senator Bonacic said a little  
13 over a year ago, good process makes good  
14 policy. And I couldn't agree with him more.  
15 In fact, Senator Bonacic, Senator Griffo,  
16 former Senator Winner together, close to two  
17 years ago, put out a report. This report came  
18 at the end of the work of the Temporary  
19 Committee on Rules and Administration which  
20 Senator Smith had put together at the  
21 beginning of the 2009 session.

22 That bipartisan committee,  
23 cochaired by Senators Bonacic and Valesky,  
24 including myself, Senator Parker, Senator  
25 Stewart-Cousins, Senator Serrano and Senator

1 Klein, went all around the state. We were in  
2 Syracuse -- we shared a bipartisan meal at the  
3 Great Dinosaur Barbeque in downtown  
4 Syracuse -- we were out on Long Island, we  
5 were here in Albany, we were in New York City  
6 having a deliberative process to figure out  
7 the best rules for the house.

8 At the end of that process, the  
9 minority members of that committee put out a  
10 report. And it was called, I believe, the  
11 "Minority Report of the Temporary Committee on  
12 Rules and Administration," authored by  
13 Senators Bonacic, Griffo and former Senator  
14 Winner.

15 That minority report had a lot of  
16 good recommendations in it. Some of those  
17 recommendations were in fact adopted in the  
18 last session. Not all of them were. As we  
19 have long said -- as we said in January of  
20 2009, again in April of 2009, again in July of  
21 2009 -- the rules in this house have  
22 historically been so bad, so unequal, so  
23 nontransparent, so difficult to allow each  
24 member to represent their constituents that we  
25 need many steps to make those rules fair. We

1        had those conversations on the floor, we had  
2        those conversations off the floor.

3                Senator Bonacic, Senator Griffo and  
4        Senator Winner put out that minority report,  
5        and it had some great components. In fact,  
6        the first suggestion quoted Senator Klein, in  
7        the spirit of bipartisanship. Quoting Senator  
8        Klein in that report, "I would like to make a  
9        recommendation that we allow the ranker of  
10       committees to be able to hire their own  
11       committee or committee staff person, have a  
12       counsel as well as a director, the same as the  
13       chair." The report then says, "Senator Klein  
14       further pointed out that the chair should have  
15       an additional allocation for a clerk. The  
16       minority adopts Senator Klein's position."

17               The report also banned the  
18       existence of what it so appropriately termed  
19       "Senator Rules," the fact that the Rules  
20       Committee can just put a bill in without a  
21       sponsor.

22               It suggested, among other things,  
23       equal access to Senate services so that things  
24       like mailings to our constituents and  
25       technology equipment and access to all of the

1       nuts and bolts of the place would be  
2       nonpartisan and equal.

3               It suggested that we publish  
4       committee agendas a week in advance so that  
5       members have the time to really study the  
6       bills ahead of time, advocates and those  
7       outside have a time to weigh in.

8               It suggested civil-service-type  
9       procedures for the staff of the Senate that  
10      isn't political, that isn't partisan.

11              It also suggested that we develop  
12      an amendment process in committee and that we  
13      make it easier to create conference  
14      committees.

15              None of those suggestions,  
16      unfortunately, were adopted in the last two  
17      years. Some of the other suggestions in here  
18      were. But I stand here today with this  
19      amendment to suggest that those suggestions  
20      made by that minority report from the  
21      temporary committee, made in a bipartisan  
22      spirit, quoting a member from the other side  
23      of the aisle, should be adopted as part of  
24      these rules.

25              We all agreed the rules started

1 way, way back. Step by step by step, they are  
2 getting better. The point today is to  
3 continue to make them better, not to stop the  
4 progress in its tracks.

5 For decades the rules only got  
6 worse or they got a little cosmetic change.  
7 Then, for two years, we worked together, all  
8 of us -- I remember working with Senator  
9 Libous and others -- we worked together to  
10 improve the rules. And this amendment is  
11 about continuing that progress so that  
12 together we can continue to build the best  
13 possible body here in Albany, so that across  
14 the state our constituents can be well served  
15 and we can get results that make a difference  
16 in this time of crisis across the state.

17 You know, earlier today in the  
18 Rules Committee there was a brief debate on a  
19 resolution put forward by Senator Krueger.  
20 Now, that was, in my view, the gold standard  
21 of what we could do with rules, Senator  
22 Krueger's resolution. And unfortunately, it  
23 did not pass through the Rules Committee. And  
24 perhaps as a body we're not yet there, we're  
25 not yet ready for that.



1           But certainly today we are ready to  
2       adopt the recommendations made 20 months ago  
3       by members of the current Majority. Certainly  
4       we can come together and say the next step is  
5       to join both sides of the aisle -- those who  
6       authored this report, those who participated  
7       in that temporary committee -- and take the  
8       next step for reform instead of stopping  
9       reform in its tracks. Which is unfortunately  
10      what this resolution does.

11           In fact, this resolution doesn't  
12      even do that, unfortunately. This resolution,  
13      like so many other rules resolutions over the  
14      years, actually takes a step backwards.  
15      Because this resolution, out of nowhere -- and  
16      I've got to tell you, I've read the minority  
17      report, I've read a number of the previous  
18      rules resolutions going back a number of  
19      years. I haven't read every one of them, but  
20      I've got to tell you, in every rules  
21      resolution I've read, there was never this  
22      provision, the provision that would strip the  
23      Lieutenant Governor of his or her ability to  
24      ensure that the Senate keeps moving forward,  
25      the provision that makes it impossible for the

1 Senate to devolve into the kind of gridlock  
2 that we had for 31 days in June and July of  
3 2009.

4 And yet these rules, rather than  
5 taking the next step for progress -- and in  
6 this case, in the case of this amendment, a  
7 very measured step for progress but one that  
8 hopefully we can all come together around --  
9 these rules take a step backward and in fact  
10 take a step backward towards the kind of chaos  
11 we had. If you remember during that period,  
12 sometimes called the coup, the reason that it  
13 was impossible to move forward was because  
14 there was no Lieutenant Governor. In fact,  
15 the Governor at the time went to great lengths  
16 to appoint a Lieutenant Governor so that we  
17 could break that gridlock.

18 Unfortunately, the members of this  
19 house were not able to come together for 31  
20 days. We did in fact come into the chamber at  
21 one point simultaneously, but it was certainly  
22 not a session and certainly not productive,  
23 certainly not any of our finest hours.

24 And that entire gridlock was  
25 because we didn't have a Lieutenant Governor

1       who could move the process of the Senate  
2       forward. That, by the way, is exactly the  
3       reason that constitutional scholars going back  
4       to 1777 have given for the casting vote for  
5       the power of the Lieutenant Governor: To move  
6       the process forward, to ensure that we don't  
7       get stuck in a tie that stops the business of  
8       the Senate.

9               So unfortunately today we have a  
10       resolution before us that's no better in  
11       reform than where we got as we were moving  
12       forward over the last couple of years. It  
13       freezes reform in its tracks and then,  
14       unfortunately, turns it right around and takes  
15       a couple of steps backwards.

16              Now, this amendment I'm putting  
17       forward, in the interest of bipartisanship and  
18       in the sincere hope that it actually can get a  
19       majority of Senators, does not strike that  
20       Lieutenant Governor clause, though I think  
21       it's unconstitutional and frankly  
22       unconscionable. What it does is it takes only  
23       provisions put forward in the minority report  
24       from the Temporary Committee on Rules and  
25       Administration, and only takes those which I

1 think are most likely to find unanimous or  
2 near unanimous support in this house. And it  
3 would propose to amend the rules put forward  
4 by the majority in that way, in the following  
5 ways.

6 It would limit the number of  
7 committees on which a Senator may serve to not  
8 more than four committees and one  
9 subcommittee. It would eliminate "aye without  
10 recommendation," so that everyone has to vote  
11 up or down in committee. It would require the  
12 Journal Clerk to date and time-stamp each bill  
13 upon introduction. It would call for regional  
14 prebudget hearings to solicit input from  
15 various areas in the state.

16 I would point out that the current  
17 rules before us change the previous rules by  
18 doing away with postbudget hearings. So this  
19 would certainly correct for that.

20 It specifies that additional  
21 funding should go to ranking members on  
22 committees to allow them to hire necessary  
23 staff. It specifies that the administration  
24 and operations of the Senate shall be provided  
25 equitably to majority and minority Senators.

1                   It requires committee agendas to be  
2                   submitted one week prior to the scheduled  
3                   committee meeting. It requires the Secretary  
4                   of the Senate to develop nonpartisan  
5                   civil-service-based procedures to hire staff.  
6                   And it takes Senator Rules out of the picture  
7                   by taking the ability of the Rules Committee  
8                   to introduce legislation.

9                   Every one of those provisions was  
10                  in the minority report authored by three  
11                  Republican Senators. Every one of those  
12                  provisions is a reasonable next step in  
13                  reform. And for that reason, I urge you to  
14                  vote for this amendment that I put forward for  
15                  this resolution.

16                  Thank you.

17                  ACTING PRESIDENT YOUNG:     Senator  
18                  DeFrancisco, would you yield for a question?

19                  SENATOR SQUADRON:     Senator  
20                  DeFrancisco, I'd be happy to.

21                  SENATOR DeFRANCISCO:     Just -- my  
22                  question is, in view of all the benefits of  
23                  this minority report and how terrific it was,  
24                  when you were in the majority and had the  
25                  votes to adopt all of these, you must have had

1 a reason why not to adopt them. Can you give  
2 us that reason?

3 SENATOR SQUADRON: Senator  
4 DeFrancisco, I think that I was trying to  
5 describe -- in fact, I thought I had hit it on  
6 repeatedly, but I'm happy to do it again --  
7 the process by which we went from rules that  
8 were pretty much the worst rules under the two  
9 previous majorities ago, that were pretty much  
10 the worst rules in the nation in terms of  
11 openness -- in fact, the only legislative body  
12 in the nation I believe that had in effect a  
13 nonoverrideable veto for the leader, who had  
14 sole control over what bills went to the  
15 floor, under the old rules, through the active  
16 list and the starring system. And so we were  
17 starting at a very, very low point.

18 And, look, my view was, and I said  
19 this every step of the way -- and the  
20 transcripts will reflect that -- every step of  
21 the way, I said we should be going a little  
22 bit farther and a little bit quicker. But the  
23 truth is in January 2009 we put the best rules  
24 in the history of this Senate into effect in  
25 terms of bipartisanship, in terms of

1       empowering members. In April we put forward a  
2       report that took the next --

3                ACTING PRESIDENT YOUNG:       Senator  
4       DeFrancisco, why do you rise?

5                SENATOR SQUADRON:       -- step. In  
6       July, the rules went even farther. And what  
7       I'm saying is this is the appropriate next  
8       step.

9                Do I wish we had done more in the  
10       last two years? Absolutely.

11               ACTING PRESIDENT YOUNG:       Senator  
12       DeFrancisco.

13               SENATOR SQUADRON:       Should we take  
14       this opportunity right now? Without a doubt.

15               SENATOR DeFRANCISCO:       Would you  
16       yield to another question?

17               ACTING PRESIDENT YOUNG:       Would  
18       you yield, Senator?

19               SENATOR SQUADRON:       I'd be happy  
20       to.

21               SENATOR DeFRANCISCO:       So from  
22       December of 2009 to December of 2010, you  
23       couldn't find time to get around to these  
24       rules that are so important to pass at this  
25       moment, is that the idea? There was no time

1 to do it or you were going slowly or -- you  
2 know, I'm not quite sure the reason. You  
3 haven't given me the reason why you didn't get  
4 back to these rules.

5 SENATOR SQUADRON: Senator  
6 DeFrancisco, I'm surprised to hear you say,  
7 just based on having been here for a number of  
8 debates over the last couple of years, that  
9 you wish we had spent more time in process  
10 over the last two years.

11 As I say, I do believe that we need  
12 to be going farther and we need to be going  
13 farther faster. What I don't understand is  
14 why today we would freeze the progress that  
15 we've made in its tracks. The truth is,  
16 Senator DeFrancisco, there were new rules in  
17 January of 2009; they were better than the  
18 previous rules. There were new rules in July  
19 of 2009; they were better than the previous  
20 rules. And now it is January of 2011, and  
21 these rules should be better than the previous  
22 rules, not worse.

23 ACTING PRESIDENT YOUNG: Senator  
24 DeFrancisco.

25 SENATOR DeFRANCISCO: One last



1 question, and one last attempt.

2 ACTING PRESIDENT YOUNG: Senator  
3 Squadron, do you yield to Senator DeFrancisco?

4 SENATOR SQUADRON: I do, even if  
5 it's not the last question or the last  
6 attempt.

7 SENATOR DeFRANCISCO: Senator,  
8 can you tell me why the prior majority freezed  
9 the process from January of 2009 to December  
10 of 2010?

11 SENATOR SQUADRON: Senator  
12 DeFrancisco, I actually wouldn't say that we  
13 froze the process. In fact -- I don't know if  
14 you are on the Rules Committee; I am not. But  
15 I know that Senator Krueger's, as I put it,  
16 gold standard of rules was put forward there.  
17 A lot of those provisions actually have been  
18 developed over the last year and a half.

19 Again, Senator DeFrancisco, over  
20 the last couple of years ago we did a whole  
21 lot. We created a new temporary committee.  
22 We unfortunately, because of the lack of a  
23 Lieutenant Governor, the inability to break an  
24 awful, awful stalemate, had some of the  
25 darkest 31 days in this Senate's history.

1                   And the truth is, as I said before,  
2                   the January 2009 rules were better than any  
3                   that had come before. The July 2009 rules  
4                   were better than any that had come before.  
5                   And now, unfortunately, in January of 2011 we  
6                   have before us rules that are worse. And that  
7                   is the wrong direction. That is the end of  
8                   progress here.

9                   And I think I'll close by quoting  
10                  Senator DeFrancisco from January of 2009. And  
11                  he was standing on this side of the aisle and  
12                  looking across to that side, and so I will do  
13                  the same. "You can do now with your vote  
14                  exactly what you claimed was necessary for  
15                  many years. All I want to do is basically set  
16                  the record straight. Conduct is a heck of a  
17                  lot more important than words touting  
18                  reforms."

19                  And so, Senator DeFrancisco, in  
20                  that spirit, I hope that these rules will not  
21                  be worse than the rules that we had in July  
22                  and in January over the last term. I hope  
23                  these rules will be better.

24                  Thank you.

25                  ACTING PRESIDENT YOUNG:       Senator

1       Saland.

2                   SENATOR SALAND:       I was about to  
3 ask Senator Squadron if he might yield.

4                   ACTING PRESIDENT YOUNG:       Senator  
5 Squadron, do you yield?

6                   SENATOR SQUADRON:       I'd be happy  
7 to.

8                   SENATOR SALAND:       Senator  
9 Squadron, are you aware, in your review of the  
10 rules that you undertook, whether or not the  
11 members of this chamber could vote on bills,  
12 as distinguished from resolutions, by voice  
13 vote? Has this chamber ever been able to  
14 vote --

15                   SENATOR SQUADRON:       I'm sorry,  
16 would you repeat -- under which rules are  
17 you --

18                   SENATOR SALAND:       Has there ever  
19 been a set of rules in this chamber -- you  
20 said you studied the rules, you went back and  
21 looked at the rules. And I'm asking if you're  
22 aware if there -- however lengthy or brief  
23 your study was, did the rules ever permit a  
24 voice vote on a bill as distinguished from a  
25 resolution?

1                   ACTING PRESIDENT YOUNG:     Senator  
2     Squadron, before you respond, I would like to  
3     remind the members to go through the chair,  
4     please.

5                   Senator Squadron.

6                   SENATOR SQUADRON:     Thank you,  
7     Madam Chair. I think I am interested in  
8     hearing Senator Saland's reasoned analysis of  
9     that question, because it doesn't seem to be a  
10    simple yes or no.

11                  SENATOR SALAND:     I think the  
12    question requires a simple yes or no. Have  
13    you -- well, let me ask you, can you think of  
14    a perhaps more inappropriate, less transparent  
15    and more undemocratic means by which to govern  
16    than to permit voice votes on bills as  
17    distinguished from resolutions?

18                  ACTING PRESIDENT YOUNG:     Senator  
19    Squadron.

20                  SENATOR SQUADRON:     If the  
21    question is can I think of a less democratic,  
22    less transparent and more -- perhaps  
23    "dysfunctional" was the word you used; I don't  
24    recall -- way of operating than to permit  
25    voice votes on bills rather than resolutions,

1       yes, I can imagine significantly less  
2       democratic, less transparent, and more  
3       dysfunctional rules than that.

4                SENATOR SALAND:       So if --

5                ACTING PRESIDENT YOUNG:       Again,  
6       Senator Saland, if you would go through the  
7       chair, please.

8                SENATOR SALAND:       If he'll  
9       continue to yield.

10               ACTING PRESIDENT YOUNG:       Will you  
11       yield?

12               SENATOR SALAND:       Senator  
13       Squadron, so then you would find it acceptable  
14       to --

15               ACTING PRESIDENT YOUNG:       One  
16       moment.

17               Senator Squadron, do you yield?

18               SENATOR SQUADRON:       I do. Thank  
19       you, Madam President.

20               ACTING PRESIDENT YOUNG:       Thank  
21       you, Senator.

22               SENATOR SALAND:       So you would  
23       find it an acceptable practice that members  
24       would not be recorded on votes on bills and  
25       would merely vote aye or no and have the

1       ability to say that they did whatever it is  
2       that they would want to tell their  
3       constituents that they did?

4               SENATOR SQUADRON:       Through you,  
5       Madam President --

6               ACTING PRESIDENT YOUNG:       Yes,  
7       Senator.

8               SENATOR SQUADRON:       -- I actually  
9       don't find that acceptable. I said that I  
10      could imagine less democratic, less  
11      transparent and more dysfunctional procedures  
12      than that one. And in fact the one that gives  
13      the majority leader of either party the  
14      executive ability to in effect veto any  
15      legislation in the State of New York I think  
16      is all of those things.

17              But this also is problematic. As,  
18      by the way, was the long tradition in this  
19      house of so-called empty-seat voting, where  
20      folks could check in and then did not need to  
21      appear in the chamber at all and were able to  
22      have their votes recorded.

23              ACTING PRESIDENT YOUNG:       Thank  
24      you, Senator.

25              Senator.

1                   SENATOR SALAND:     Well, if Senator  
2 Squadron would continue to yield.

3                   ACTING PRESIDENT YOUNG:     Senator  
4 Squadron, do you yield?

5                   SENATOR SQUADRON:     I do, yes.

6                   ACTING PRESIDENT YOUNG:     The  
7 Senator yields.

8                   SENATOR SALAND:     If in fact,  
9 again, you are in attendance and you are  
10 permitted to vote by voice, as distinguished  
11 from a show of hands or some electronic  
12 device, is that not terribly undemocratic and  
13 would that fit under a definition of  
14 dysfunctional?

15                   SENATOR SQUADRON:     If you're  
16 present and allowed to vote by a show of --  
17 excuse me. Through you, Madam President. If  
18 you're present and allowed to vote through a  
19 show of hands --

20                   SENATOR SALAND:     Senator  
21 Squadron, perhaps I didn't express myself  
22 appropriately.

23                   Will the Senator continue to yield?

24                   ACTING PRESIDENT YOUNG:     Will you  
25 yield to Senator Saland?

1                   SENATOR SQUADRON:     I will, Madam  
2     President.

3                   ACTING PRESIDENT YOUNG:     Thank  
4     you.

5                   SENATOR SALAND:     I said if you're  
6     present and -- as distinguished from voting by  
7     a show of hands or in those chambers that  
8     might have electronic devices -- you were  
9     permitted by the rules of this house to cast a  
10    voice vote on the bills we did today, for  
11    example, would that not trouble you as being  
12    undemocratic and dysfunctional?

13                  SENATOR SQUADRON:     Yes. Yes, it  
14    would, Madam Chair. And this is one reason  
15    that -- and I'm not sure if this is what  
16    Senator Saland is referring to, but it's one  
17    reason that this house under these rules,  
18    under the rules adopted in the last session,  
19    no longer has a canvass of agreement.

20                  SENATOR SALAND:     I'm sorry, I  
21    didn't hear Senator Squadron's last --

22                  ACTING PRESIDENT YOUNG:     Senator  
23    Squadron, could you please repeat what you  
24    just said?

25                  SENATOR SALAND:     I caught



1 everything up to "That's one of the reasons  
2 why this house," and then --

3 SENATOR SQUADRON: It's one  
4 reason why this house no longer has a canvass  
5 of agreement, thanks to the last term.

6 ACTING PRESIDENT YOUNG: Thank  
7 you, Senator.

8 Senator Saland, would you like to  
9 ask another question?

10 SENATOR SALAND: You, in your --  
11 if you'll continue to yield.

12 ACTING PRESIDENT YOUNG: Will you  
13 yield, Senator?

14 SENATOR SQUADRON: Through you,  
15 Madam President, I will.

16 ACTING PRESIDENT YOUNG: Go  
17 ahead, Senator Saland.

18 SENATOR SALAND: With regard to  
19 your earlier comment -- and I think it had  
20 something to do with the ability of the  
21 Majority Leader to take a bill off the  
22 calendar. That was something which was  
23 referred to, before you came here, as starring  
24 a bill. Which a member may still be able to  
25 do, but a leader cannot do.

1                   That was a practice that certainly  
2                   was decried, and appropriately so, and really  
3                   hadn't been used in a number of years. I  
4                   don't quite recall when I saw it, if I saw it  
5                   at all during my 20 years here.

6                   And the purpose of my question is  
7                   just to establish some relativity. As  
8                   offensive as the practice of starring is, at  
9                   least you know who the individual is who was  
10                  the culprit who starred the bill. I would  
11                  find far more egregious the fact that a member  
12                  could vote on a bill and go home and claim  
13                  that he or she voted either yes or no and  
14                  there would be no record other than a voice  
15                  vote.

16                  ACTING PRESIDENT YOUNG:     Senator  
17                  Squadron.

18                  SENATOR SQUADRON:     Through you,  
19                  Madam President. I believe that both are  
20                  highly problematic.

21                  As I say, the rules in the last  
22                  term eliminated the canvass of agreement which  
23                  in effect did that. And I'm glad it did.

24                  And just briefly, what I was  
25                  referring to when I keep referring to the

1 nonoverrideable veto of the Majority Leader  
2 was not just the ability of the leader to  
3 star, but also the fact that the active list  
4 was exclusively controlled by the leader  
5 without any procedures that could otherwise  
6 get a bill to the floor, procedures that did  
7 get put in place last term: the petition for  
8 chamber consideration, the motion for chamber  
9 consideration.

10 ACTING PRESIDENT YOUNG: Thank  
11 you, Senator Squadron.

12 Senator Saland, do you ask that  
13 Senator Squadron continues to yield?

14 SENATOR SALAND: No.

15 Thank you, Senator Squadron.

16 ACTING PRESIDENT YOUNG: Do you  
17 continue to yield, Senator?

18 SENATOR SQUADRON: I believe  
19 Senator Saland is speaking on the amendment.

20 SENATOR SALAND: May I conclude?  
21 Do I have the floor? I believe I do. I think  
22 Senator Squadron is --

23 ACTING PRESIDENT YOUNG: Senator  
24 Saland, on the amendment.

25 SENATOR SALAND: Thank you.

1           The purpose of the exercise was not  
2           merely to engage in semantics. And the reason  
3           for the reference to relativity, at least five  
4           or so years ago, the last time I checked this  
5           data, there were somewhere in the area of two  
6           dozen houses, out of 99 -- so approximately  
7           25 percent of the state legislative houses in  
8           this nation permitted voice votes on  
9           legislation. A practice which in and of  
10          itself would certainly seem to be one of the  
11          least transparent, most undemocratic, and  
12          certainly, I think, grossly inappropriate  
13          means by which members have the opportunity to  
14          not merely cast their votes but to provide  
15          themselves with the political good fortune of  
16          saying whatever they want back home, depending  
17          upon how the winds shift.

18                 And the only reason I bring this up  
19                 is simply because in the course of your  
20                 comments you had characterized some of the old  
21                 rules as being particularly dysfunctional. I  
22                 find that to be -- and again, as recently as  
23                 five years ago, 25 percent of the houses in  
24                 this country permitted voice voting. I find  
25                 that, in fact, to be far more troubling.

1                   And the rules that we will deal  
2                   with once the vote has been had on the  
3                   amendment effectively are the rules that were  
4                   adopted last year, with several minor changes  
5                   and one change that you alluded to as being  
6                   unconstitutional or unconscionable -- for  
7                   which there certainly is no authority, and  
8                   perhaps we can address that when we get to  
9                   that particular rule or resolution.

10                   Thank you, Madam President.

11                   ACTING PRESIDENT YOUNG:       Thank  
12                   you, Senator Saland.

13                   Senator Duane.

14                   SENATOR DUANE:       Thank you, Madam  
15                   President. If Senator Saland will yield.

16                   ACTING PRESIDENT YOUNG:       Senator  
17                   Saland, do you yield?

18                   SENATOR DUANE:       I'm sorry, I'm  
19                   sorry. If Senator Squadron will yield.

20                   ACTING PRESIDENT YOUNG:       Oh, I'm  
21                   sorry. Excuse me. Senator Squadron, do you  
22                   yield to Senator Duane?

23                   SENATOR SQUADRON:       I do, Madam  
24                   President.

25                   ACTING PRESIDENT YOUNG:       Senator

1 Duane, Senator Squadron yields.

2 SENATOR DUANE: Thank you, Madam  
3 President.

4 Is it true that before the  
5 now-majority invited Senators Monserrate and  
6 Espada into their conference, that you were  
7 particularly strong in your advocacy for rules  
8 reform?

9 SENATOR SQUADRON: Through you,  
10 Madam President, I certainly focused on it  
11 quite a bit and pushed as hard as I could  
12 while in the majority, both before and after  
13 those 31 days.

14 SENATOR DUANE: Thank you, Madam  
15 President. If the Senator will continue to  
16 yield.

17 ACTING PRESIDENT YOUNG: Senator  
18 Squadron, do you yield?

19 SENATOR SQUADRON: I do.

20 ACTING PRESIDENT YOUNG: Go  
21 ahead, Senator Duane.

22 SENATOR DUANE: And is it not  
23 true that after Senators Espada and Monserrate  
24 joined the now-majority that the  
25 then-majority, now minority, with a steady

1 hand was able to keep at least the operations  
2 of the Senate functioning?

3 ACTING PRESIDENT YOUNG: Senator  
4 Squadron.

5 SENATOR SQUADRON: Through you,  
6 Madam President. Absolutely. And in fact,  
7 though not everything we wanted to do was  
8 done, a lot of significant legislation passed  
9 in that period.

10 SENATOR DUANE: And, Madam  
11 President, if the Senator will continue to  
12 yield.

13 ACTING PRESIDENT YOUNG: Do you  
14 yield?

15 SENATOR SQUADRON: I do.

16 SENATOR DUANE: And is it true  
17 that even after Senators Espada and Monserrate  
18 decided to leave the now-majority,  
19 then-minority, that you, with Senators from  
20 both sides of the aisle, continued to advocate  
21 strongly for continued rules reform?

22 ACTING PRESIDENT YOUNG: Senator  
23 Squadron.

24 SENATOR SQUADRON: It absolutely  
25 is.

1                   SENATOR DUANE:     And --

2                   ACTING PRESIDENT YOUNG:     Senator  
3     Duane, are you asking Senator Squadron to  
4     yield?

5                   SENATOR DUANE:     Yes, Madam  
6     President, I am.

7                   ACTING PRESIDENT YOUNG:     Do you  
8     yield, Senator Squadron?

9                   SENATOR SQUADRON:     I do.   Thank  
10    you.

11                  ACTING PRESIDENT YOUNG:     Go  
12    ahead.

13                  SENATOR DUANE:     And was it your  
14    impression that -- or is it your belief that  
15    in order to have lasting rules reform you need  
16    buy-in from both sides of the aisle and  
17    bipartisan agreement on rules reform?

18                  ACTING PRESIDENT YOUNG:     Senator  
19    Squadron.

20                  SENATOR SQUADRON:     I absolutely  
21    do.   And in fact, that's what -- subsequent to  
22    those two Senators helping to freeze the  
23    chamber for 31 days, that's what we had.

24                                 And in fact, to just briefly go  
25    back to a question of Senator DeFrancisco's,



1 in fact we had that agreement and had been  
2 asked by the then-minority to commit to not  
3 changing the rules through the rest of that  
4 session so as not to get into any other  
5 procedural battles of that sort so we could do  
6 the people's business for the rest of the  
7 session.

8 SENATOR DUANE: And through you,  
9 Madam President, if the Senator will yield.

10 ACTING PRESIDENT YOUNG: Senator  
11 Squadron, do you yield?

12 SENATOR SQUADRON: Yes.

13 SENATOR DUANE: And if the  
14 Senator will tell us what was the result of  
15 that request at that time.

16 SENATOR SQUADRON: Through you,  
17 Madam President, the result of the request  
18 from the minority at the time that the Senate  
19 did get back to business, and did pass the  
20 most significant rules changes that Albany has  
21 seen in decades, was that rules were adopted,  
22 rules were followed, the chaos and the fights  
23 over rules and procedure melted away.

24 The house voted on bills; sometimes  
25 they got passed, sometimes they didn't. I

1 wish more had gotten passed, but I'm glad the  
2 process worked as it did. Members of both  
3 parties were empowered. Members of both  
4 parties were able to serve their constituents.  
5 There were still procedural issues that needed  
6 to be fixed, but the body worked. And the  
7 majority, the Democratic majority at the time  
8 kept its commitment to the Republican minority  
9 not to change those rules within that session.

10 SENATOR DUANE: And through you,  
11 Madam President, if the Senator will continue  
12 to yield.

13 ACTING PRESIDENT YOUNG: Senator,  
14 do you yield?

15 SENATOR SQUADRON: I do.

16 ACTING PRESIDENT YOUNG: Go  
17 ahead.

18 SENATOR DUANE: Is it not your  
19 belief, which is actually factually correct,  
20 that there were numerous bills introduced by  
21 members of both sides of the aisle that passed  
22 with bipartisan support?

23 SENATOR SQUADRON: Through you,  
24 Madam President, that did happen.

25 And in my understanding -- again, I

1       wasn't here, and I know that Senator Duane was  
2       here previously and experienced a time when it  
3       seemed that many fewer bills sponsored by  
4       members of both parties passed. And during  
5       that time, Senator Duane also was fighting  
6       enormously hard for an open process, for an  
7       improved rules process. And I know that  
8       Senator Duane and others commented to me how  
9       different it seems -- by the way, Senator  
10      Duane and members on the other side of the  
11      aisle -- how different it was after those  
12      rules were passed.

13                    SENATOR DUANE:     And through  
14      you --

15                    ACTING PRESIDENT YOUNG:     Thank  
16      you, Senator.

17                    Senator Duane, do you ask Senator  
18      Squadron to continue to yield?

19                    SENATOR DUANE:     You're getting  
20      ahead of me. But you did anticipate, yes,  
21      Madam President, through you if the Senator  
22      would --

23                    ACTING PRESIDENT YOUNG:     It's  
24      always good to be on your toes, Senator.

25                    Senator Squadron, do you yield?

1                   SENATOR SQUADRON:     I will, yes.

2                   ACTING PRESIDENT YOUNG:     Thank  
3     you.

4                   SENATOR DUANE:     And was it your  
5     intention and, to the extent possible, your  
6     actions to continue to work with the other  
7     side of the aisle on furthering what good  
8     government groups and so many of us would call  
9     more rules reform in our body?

10                  ACTING PRESIDENT YOUNG:     Senator  
11     Squadron.

12                  SENATOR SQUADRON:     Through you,  
13     Madam President, absolutely.

14                  SENATOR DUANE:     And, Madam  
15     President, if the Senator would continue to  
16     yield.

17                  ACTING PRESIDENT YOUNG:     Do you  
18     yield?

19                  SENATOR SQUADRON:     I do.

20                  SENATOR DUANE:     And without --  
21     with yielding that we wouldn't be going back  
22     to the hideous days of the invention of the  
23     onerous canvass of agreement which the  
24     then-majority had us operate under, is it your  
25     belief, Senator, that the rules that are being

1       presented not by us but, sadly, by the other  
2       side of the aisle are a regression of the  
3       reforms that we had been able to enact this  
4       body thus far?

5                ACTING PRESIDENT YOUNG:       Senator  
6       Squadron.

7                SENATOR SQUADRON:       Through you,  
8       Madam President, I think that Senator Duane  
9       articulates it very, very well.

10               The Senate rules before us now,  
11       unlike both sets of rules that were passed  
12       over the last two years under the Democratic  
13       majority, goes back in terms of reform and  
14       goes back in terms of clarity of the sort that  
15       would prevent the kind of stalemate that we  
16       had because of the provision that makes it  
17       very unclear how is it, in the event of a tie,  
18       that we would move forward by choosing that  
19       all-important title in this house of Temporary  
20       President and Majority Leader.

21               SENATOR DUANE:       And through you,  
22       Madam President, if the Senator would continue  
23       to yield.

24               ACTING PRESIDENT YOUNG:       Senator  
25       Squadron.

1                   SENATOR SQUADRON:     Yes, thank  
2     you, Madam President.

3                   ACTING PRESIDENT YOUNG:     Go  
4     ahead, Senator.

5                   SENATOR DUANE:     Is it true that  
6     the way the Senate had operated and in fact  
7     the way it continued to operate last year  
8     actually would make a coup like the one  
9     precipitated by Senators Monserrate and Espada  
10    when they joined the then-Republican minority,  
11    is it not true that that continued to be  
12    possible?

13                  ACTING PRESIDENT YOUNG:     Senator  
14    Squadron.

15                  SENATOR SQUADRON:     Through you,  
16    Madam President, there were a couple of  
17    reasons it wasn't. One was -- a couple of  
18    reasons that the sort of coup that Senators  
19    Espada and Monserrate began and that led to  
20    the 31-day stalemate wouldn't happen. One of  
21    those was that we had a Lieutenant Governor in  
22    place who was there to fulfill his  
23    constitutional duty of providing a casting  
24    vote whenever there was a procedural deadlock.

25                         But also, secondarily, a process of

1 rules that had been developed together in a  
2 bipartisan way, which those rules we were  
3 operating under from July of 2009 through  
4 December of 2010 are much less likely to  
5 create that kind of deadlock -- that kind of  
6 all-out power struggle that too often we see  
7 in Albany where substance, even perception  
8 fall by the wayside because power becomes  
9 all-important -- because both sides had  
10 participated at the table in developing those  
11 rules and had agreed to operate under them for  
12 a certain period of time.

13 SENATOR DUANE: And through you,  
14 Madam President, if the Senator would continue  
15 to yield.

16 ACTING PRESIDENT YOUNG: Thank  
17 you, Senator Duane.

18 Senator Squadron, do you continue  
19 to yield?

20 SENATOR SQUADRON: Yes, thank  
21 you.

22 ACTING PRESIDENT YOUNG: Go  
23 ahead, Senator Duane.

24 SENATOR DUANE: Is it correct to  
25 say that at the time of the -- that traumatic

1       time when Senators Espada and Monserrate  
2       joined the then-Republican minority, that the  
3       then-Republican minority voted to elevate  
4       Senator Espada to the position of temporary  
5       president, which was in effect the acting  
6       lieutenant governor?

7                ACTING PRESIDENT YOUNG:     Senator  
8       Squadron.

9                SENATOR SQUADRON:     Through you,  
10      Madam President, that did happen. I believe  
11      that 30 members of the then-Republican  
12      minority, with Senators Espada and Monserrate,  
13      intended to vote in that way.

14               ACTING PRESIDENT YOUNG:     Thank  
15      you, Senator.

16               SENATOR DUANE:     And finally --

17               ACTING PRESIDENT YOUNG:     Senator  
18      Duane, are you asking Senator Squadron to  
19      yield?

20               SENATOR DUANE:     Yes, I am, Madam  
21      President.

22               ACTING PRESIDENT YOUNG:     Very  
23      good.

24               SENATOR DUANE:     You say it so  
25      much more succinctly than I do.



1                   ACTING PRESIDENT YOUNG:     Thank  
2     you.   Would you like to yield, Senator?

3                   SENATOR SQUADRON:     Yes, thank  
4     you.

5                   ACTING PRESIDENT YOUNG:     Go  
6     ahead, please.

7                   SENATOR DUANE:     I'm not sure more  
8     correctly, but more succinctly.

9                   ACTING PRESIDENT YOUNG:     Thank  
10    you.

11                  SENATOR DUANE:     So I just want to  
12    ask one final time, is it your belief that it  
13    would be best for us to move forward with  
14    rules that are agreed upon by both sides of  
15    the aisle so that they would be less likely to  
16    be undone is a better route to follow? And is  
17    it also your belief that what we're trying to  
18    avoid by putting forward our rules reform now  
19    is to deter the regression that would occur if  
20    the rules put forward by the other side of the  
21    aisle were to be approved today?

22                  SENATOR SQUADRON:     Through you,  
23    Madam President, I think that Senator Duane  
24    makes a very, very important point. And that  
25    is that when you look at all of the different

1        sorts of dysfunction that this house has been  
2        accused of, that certainly during that 31-day  
3        stalemate I think we all were chagrined by,  
4        the idea that it was impossible or very, very  
5        difficult for the two sides of the aisle to  
6        work together collaboratively was one of the  
7        big challenges. And working together on rules  
8        has all the benefits that I talked about in my  
9        opening statement on these rules.

10                But the point Senator Duane is  
11        making is such an important one, which is the  
12        process of generating the rules and doing that  
13        in a bipartisan way, doing that in a way that  
14        way that puts our ability to work together  
15        because we all represent New Yorkers ahead of  
16        the sort of old-style partisan bickering is in  
17        and of itself an important reform for this  
18        house and I think is an important reason to  
19        vote for this resolution and was, in fact --  
20        and I thank you for articulating it much more  
21        clearly than I was able to -- one of the  
22        important reasons that this resolution I'm  
23        putting forward today doesn't take everything  
24        I would necessarily want to do, everything  
25        that was in Senator Krueger's resolution, but

1       actually builds on ideas, builds on rules  
2       reforms that were generated on the other side  
3       of the aisle.

4               This is not about ramming something  
5       down the other side of the aisle or having a  
6       conversation here and asking the other side to  
7       vote on something they can't vote on, it's  
8       about working together on something that both  
9       sides of the aisle have previously endorsed  
10      and that in fact was generated by the other  
11      side.

12             And accepting that process in and  
13      of itself, as Senator Duane said, will change  
14      the tone of this debate.

15             ACTING PRESIDENT YOUNG:     Thank  
16      you, Senator Squadron.

17             Senator Kruger.

18             SENATOR CARL KRUGER:     Yes, Madam  
19      President -- I apologize.

20             ACTING PRESIDENT YOUNG:     The  
21      question is on Senator Squadron's amendment to  
22      the resolution. All those in favor signify by  
23      saying aye.

24             (Response of "Aye.")

25             ACTING PRESIDENT YOUNG:     All

1       those opposed signify by saying no.

2                       (Response of "No.")

3                       ACTING PRESIDENT YOUNG:       The  
4       amendment is defeated.

5                       Senator Breslin.

6                       SENATOR BRESLIN:       Madam  
7       President, I believe there is another  
8       amendment at the desk. I ask that the reading  
9       be waived and that Senator Serrano be allowed  
10      to speak on the amendment.

11                      ACTING PRESIDENT YOUNG:       The  
12      reading is waived, and Senator Serrano can be  
13      heard on the amendment.

14                      SENATOR SERRANO:       Thank you,  
15      Madam President.

16                      This amendment will call for an  
17      equal allocation for each member in this  
18      house -- allocations for staff so that we will  
19      be able to have adequate staff in our offices  
20      both here and in our districts, equal  
21      allocation for newsletters and other printed  
22      materials, postage, and travel, with  
23      exceptions for Senators in leadership  
24      positions as well as serving as chairs or  
25      ranking committees.

1                   Now, we all know why this is  
2                   important. I think all of us can agree in a  
3                   very bipartisan fashion why this is of  
4                   enormous importance. And very similar to the  
5                   Congressional model, which I think says  
6                   regardless of the party that's in power,  
7                   individual members will be able to represent  
8                   their constituents in a way that's meaningful.

9                   Over the years I've had the good  
10                  fortune of working with many Senators on both  
11                  sides of the aisle on issues such as this,  
12                  issues of reform. I want to thank Senator  
13                  Bonacic. We've worked together on a number of  
14                  these issues on the Temporary Committee on  
15                  Rules Reform as well as, most recently, on  
16                  creating a C-SPAN type channel for the state  
17                  to cover our legislative proceedings.

18                 These are really good issues, and I  
19                 want to thank my colleagues for all that  
20                 they've done to make this a reality and to  
21                 make our house run better.

22                 So again, this is not a partisan  
23                 discussion, in my mind. This is not something  
24                 that is Democrat or Republican. This is  
25                 something I believe that will make this entire

1 house better, that will make our constituents  
2 that much more informed of the issues that we  
3 care about and the issues that we're working  
4 on, and I think will also help to alleviate a  
5 lot of the crisis of confidence that we see  
6 amongst our constituents throughout the state.

7 Another component of this  
8 amendment, I should add, is that it will add a  
9 mandatory secondary reference to the Codes  
10 Committee that will ensure that if a bill,  
11 some sort of legislation has any criminal  
12 component to it or criminality component to  
13 it, that the bill will get referred to the  
14 Codes Committee so that there can be proper  
15 deliberation amongst those experts on that  
16 issue, on the penalty portion of that bill.

17 So again, my appeal is to members  
18 of both sides of the aisle to consider this as  
19 a way to make our rules better. There's been  
20 a lot of progress over the years, but again,  
21 it hasn't gone far enough. I'll be the first  
22 to admit that. And I think that this could  
23 help us continue to move the ball down the  
24 field. So I hope that all of my colleagues  
25 join me in supporting this amendment.

1 Thank you.

2 ACTING PRESIDENT YOUNG: Thank  
3 you, Senator Serrano.

4 The question is on the amendment to  
5 the resolution by Senator Serrano.

6 Senator Breslin, why do you rise?

7 SENATOR BRESLIN: Yes, Madam  
8 President. I would request a show of hands on  
9 the amendment, please.

10 ACTING PRESIDENT YOUNG: Senator  
11 Breslin's request is that the members who  
12 support this do so by a show of hands.

13 So the question is on Senator  
14 Serrano's amendment to the resolution. All  
15 those in favor signify by raising their hands.

16 (Members raised their hands.)

17 SENATOR DUANE: Point of  
18 clarification, Madam President.

19 ACTING PRESIDENT YOUNG: Go  
20 ahead, Senator Duane.

21 SENATOR DUANE: Madam President,  
22 I just want to try to clarify. Under what  
23 rules are we operating at this moment?

24 ACTING PRESIDENT YOUNG: Senator,  
25 right now we're operating under the temporary

1 rules that were extended earlier this month.

2 SENATOR DUANE: And through you,  
3 Madam President, just a further point of  
4 clarification.

5 Is it correct that we bipartisanly  
6 agreed that we would follow the old rules  
7 until midnight? Is it tonight or tomorrow  
8 night? I'm not -- I don't know.

9 ACTING PRESIDENT YOUNG: Senator,  
10 I do believe that the rules expire on  
11 February 1st, so they would expire as of  
12 tomorrow.

13 SENATOR DUANE: So tonight at  
14 midnight, there would have to be another  
15 extension beyond tonight at midnight to go  
16 forward, is that -- I ask it with no ulterior  
17 motives, just of clarification.

18 ACTING PRESIDENT YOUNG: Right.  
19 If I could clarify on your behalf.

20 It's my understanding that once  
21 these rules pass today, they supersede any  
22 kind of rules that were in place until  
23 tomorrow. So when we pass these rules, those  
24 would be the rules.

25 SENATOR DUANE: You don't mean



1       these, Madam President.

2               ACTING PRESIDENT YOUNG:     No, but  
3       the ones that I believe we will be passing  
4       shortly, if we could get to those, will be the  
5       ones that will supersede the extension that we  
6       passed earlier this year.

7               SENATOR DUANE:     Thank you, Madam  
8       President, for your answers and your  
9       clairvoyance.

10              (Laughter.)

11              ACTING PRESIDENT YOUNG:     The  
12       Secretary will announce the results.

13              THE SECRETARY:     Ayes, 23.   Nays,  
14       39.

15              ACTING PRESIDENT YOUNG:     The  
16       amendment is defeated.

17              Senator Breslin.

18              SENATOR BRESLIN:     First, Madam  
19       President, could you announce the results in  
20       detail, if you would.

21              ACTING PRESIDENT YOUNG:     The  
22       Secretary will call the roll.

23              SENATOR LIBOUS:     Point of order.

24              ACTING PRESIDENT YOUNG:     Senator  
25       Libous.

1                   SENATOR LIBOUS:     Senator Breslin,  
2     I'm sorry, could you be clear in what you're  
3     asking for?

4                   SENATOR BRESLIN:     I would like to  
5     know what Senators voted for it.

6                   SENATOR LIBOUS:     What Senators  
7     voted for it?

8                   SENATOR BRESLIN:     For it. For  
9     the amendment.

10                  ACTING PRESIDENT YOUNG:     Those  
11     recorded in the affirmative.

12                  SENATOR LIBOUS:     Would you let  
13     Senator Breslin know who voted in the  
14     affirmative, please.

15                  ACTING PRESIDENT YOUNG:     The  
16     Secretary will announce those results.

17                  THE SECRETARY:     Those members  
18     recorded in the affirmative on Amendment  
19     Number 2 to Resolution 338 are Senators  
20     Addabbo, Avella, Breslin, Diaz, Dilan, Duane,  
21     Espaillat, Gianaris, Hassell-Thompson,  
22     Kennedy, L. Krueger, C. Kruger, Montgomery,  
23     Oppenheimer, Parker, Peralta, Perkins, Rivera,  
24     Sampson, Serrano, Squadron, Stavisky and  
25     Stewart-Cousins.

1                   ACTING PRESIDENT YOUNG:     Senator  
2     Breslin.

3                   SENATOR BRESLIN:        Thank you,  
4     Madam President.

5                   I believe there's a final amendment  
6     at the desk. I ask that the reading of the  
7     amendment be waived and that Senator  
8     Stewart-Cousins be allowed to speak on the  
9     amendment.

10                  ACTING PRESIDENT YOUNG:     Thank  
11     you, Senator Breslin.

12                  The reading of the amendment is  
13     waived, and I'd like to recognize Senator  
14     Stewart-Cousins.

15                  SENATOR STEWART-COUSINS:     Thank  
16     you, Madam President.

17                  This third amendment speaks to I  
18     think all of our desire as rank-and-file  
19     members to be more effective for our  
20     constituents, to be able to bring forth the  
21     concerns that they have. And also the second  
22     part of this amendment speaks to more  
23     transparency and more accountability.

24                  And again, I know what this is what  
25     we've spent so many of the past few months

1       trying to do. Clearly, the rules reform that  
2       Senator Squadron referred to and I was able to  
3       share in that rules reform committee with so  
4       many of my colleagues on this side of the  
5       aisle and across the aisle, in coming up with  
6       rules all of which would empower rank-and-file  
7       members and which would make things more  
8       transparent for the residents of New York.

9               That being said, this amendment  
10       will allow any member of a committee to call  
11       for a public hearing unless a majority of the  
12       committee members say they don't want it.  
13       This amendment would also require for the  
14       Senate stenographer to keep a transcript of  
15       the public hearings. Thirdly, it requires  
16       that at least two members of the committee be  
17       present in order for the committee to take a  
18       testimony at a public hearing. And it also  
19       requires prior notice of the public hearing to  
20       be formally filed with the Journal Clerk, LRS,  
21       and the Temporary President. And such notice  
22       shall contain the subject matter, date and  
23       place of hearing. That's the public hearing,  
24       the transparency part.

25               Also -- which I think is extremely

1 relevant, certainly, to some of the things  
2 that have been said over the past few  
3 months -- we talk about accountability. And  
4 another part of this amendment would require  
5 for the Senate budget to be detailed and  
6 itemized for inclusion in the legislative and  
7 judiciary budget bill.

8 Also, it requires a detailed and  
9 itemized inclusion of member items. And I  
10 know we're not really talking about member  
11 items. But when and if they should happen  
12 again, certainly requiring a detailed and  
13 itemized inclusion of the member items in the  
14 state budget would be helpful.

15 And lastly, it requires detailed  
16 and simplified itemization of all  
17 appropriations and reappropriations in the  
18 revenue and the source of such funds.

19 Again, we've done a lot of good  
20 things after having done almost nothing in  
21 terms of rules reform. And when we put our  
22 heads together, both sides of the aisle, we  
23 were able to progress and to make this a more  
24 inclusive, a more responsive, a more  
25 transparent body. And again, this is why we

1 stand here saying don't go back.

2 And as my colleague Senator  
3 Squadron referenced the minority report and  
4 talked about the legislators who were part of  
5 that report, I can claim no pride of  
6 authorship for this particular amendment  
7 because this amendment -- prophetically, I  
8 imagine, because it was January 12th of  
9 2009 -- was put forth by Senator Flanagan.  
10 And it was important at that time and  
11 continues to be important as we move forward  
12 for a more transparent body, a more  
13 accountable body, and certainly a body that  
14 includes our constituency as we do the  
15 business of New York.

16 So of course I would urge my  
17 colleagues on both sides of the aisle, again,  
18 to adopt this amendment and let's continue our  
19 progress.

20 ACTING PRESIDENT YOUNG: Thank  
21 you, Senator Stewart-Cousins.

22 Senator Carl Kruger would like to  
23 speak on the amendment to the resolution.

24 SENATOR CARL KRUGER: No, Madam  
25 President, I will speak on the actual

1 resolution.

2 ACTING PRESIDENT YOUNG: Thank  
3 you, Senator.

4 Senator Bonacic.

5 SENATOR BONACIC: I'd like to  
6 speak on the original resolution, please.

7 ACTING PRESIDENT YOUNG: Okay,  
8 thank you.

9 Any other member wishing to be  
10 heard?

11 Senator Breslin.

12 SENATOR BRESLIN: No, just again,  
13 Madam President, I would request a show of  
14 hands on the amendment.

15 ACTING PRESIDENT YOUNG: Thank  
16 you.

17 The question is on Senator  
18 Stewart-Cousins' amendment to the resolution.  
19 All those in favor signify by raising your  
20 hands.

21 (Members raised hands.)

22 ACTING PRESIDENT YOUNG: The  
23 Secretary will announce the results.

24 THE SECRETARY: Ayes, 23. Nays,  
25 39.

1                   ACTING PRESIDENT YOUNG:     The  
2       amendment is defeated.

3                   Senator Breslin.

4                   SENATOR BRESLIN:     Yes, thank you,  
5       Madam President.   Would you also read the  
6       names of the people voting in the affirmative  
7       for us, please.

8                   ACTING PRESIDENT YOUNG:     The  
9       Secretary will read.

10                  THE SECRETARY:     Those Senators  
11       recorded in the affirmative on Amendment 3 to  
12       Resolution Number 338 are Senators Addabbo,  
13       Avella, Breslin, Diaz, Dilan, Duane,  
14       Espaillat, Gianaris, Hassell-Thompson,  
15       Kennedy, L. Krueger, C. Kruger, Montgomery,  
16       Oppenheimer, Parker, Peralta, Perkins, Rivera,  
17       Sampson, Serrano, Squadron, Stavisky and  
18       Stewart-Cousins.

19                  ACTING PRESIDENT YOUNG:     The  
20       amendment is defeated.

21                  The resolution is before the house.  
22       All those in favor signify by saying aye.

23                  (Response of "Aye.")

24                  ACTING PRESIDENT YOUNG:     Opposed,  
25       nay.



1 (Response of "Nay.")

2 SENATOR SQUADRON: Excuse me,  
3 Madam President. I believe Senator Kruger was  
4 wanting to speak on the resolution before the  
5 vote was called.

6 ACTING PRESIDENT YOUNG: Oh,  
7 that's right.

8 Excuse me, Senator Kruger. Go  
9 ahead.

10 SENATOR CARL KRUGER: Thank you  
11 very much, Madam President.

12 I see that Senator Skelos is not in  
13 the chamber. Who would I address my question  
14 to?

15 SENATOR LIBOUS: Senator Kruger,  
16 it would be indeed an honor for me --

17 SENATOR CARL KRUGER: I'm sure it  
18 would. I'm sure it would.

19 SENATOR LIBOUS: -- to try, and  
20 only try, to address your questions.

21 SENATOR CARL KRUGER: And I'll  
22 try to keep mine as simple as I can put  
23 through my old head.

24 When we're talking about rules  
25 changes in this resolution, what to me seems a

1       glaring deviation is the question of the  
2       powers of the Lieutenant Governor in this  
3       chamber, and as the Lieutenant Governor -- of  
4       western New York, a Democrat -- would be sort  
5       of stripped of his right to cast a deciding  
6       vote. How come?

7                SENATOR LIBOUS:       Madam President,  
8       through you.

9                ACTING PRESIDENT YOUNG:       Yes,  
10       Senator.

11               SENATOR LIBOUS:       First of all,  
12       Senator Kruger, as I answer your question I  
13       would prefer not to talk about the personality  
14       but talk about the position. I think it's not  
15       fair to talk about any individual man or woman  
16       who may or may not be Lieutenant Governor.

17               Let's talk about the position. Our  
18       position is pretty clear that we believe there  
19       are 62 elected Senators in this chamber and  
20       that in order to pick a Majority Leader and  
21       Temporary President, that the 62 elected  
22       Senators should have a right to do that. And  
23       that the Lieutenant Governor, who runs with a  
24       Governor or whomever is elected Governor, is  
25       not an elected Senator. Therefore, we don't

1 believe -- and we believe the Constitution  
2 backs us up -- that that position has a vote  
3 to elect a leader.

4 ACTING PRESIDENT YOUNG: Thank  
5 you, Senator Libous.

6 SENATOR CARL KRUGER: Again,  
7 through you, Madam President, if the Senator  
8 would continue to yield.

9 ACTING PRESIDENT YOUNG: Senator  
10 Libous?

11 SENATOR LIBOUS: I'd be happy to.

12 ACTING PRESIDENT YOUNG: Thank  
13 you.

14 SENATOR CARL KRUGER: If we want  
15 to extend that logic a little further down the  
16 road, so now we're in a position where we have  
17 31-31 as a tie vote. What's the process?

18 SENATOR LIBOUS: Madam President,  
19 through you, I think the process is pretty  
20 simple, is that this body would have to  
21 collectively get together and function.

22 ACTING PRESIDENT YOUNG: Senator  
23 Kruger.

24 SENATOR CARL KRUGER: Again  
25 through you, Madam President, if the Senator

1       would continue to yield.

2                ACTING PRESIDENT YOUNG:       Senator  
3       Libous, do you yield?

4                SENATOR LIBOUS:        I will continue  
5       to yield, yes.

6                ACTING PRESIDENT YOUNG:       Thank  
7       you, Senator.

8                SENATOR CARL KRUGER:       Senator,  
9       how would we elect the leadership of the  
10      house?

11               SENATOR LIBOUS:        Well, I think,  
12      Madam President --

13               ACTING PRESIDENT YOUNG:       Yes,  
14      Senator.

15               SENATOR LIBOUS:        -- I think that  
16      would depend on the situation. Obviously if  
17      we had elected a leader, and if some for some  
18      reason we went to 31-31, the person that we  
19      had elected would still be the leader, because  
20      to elect a new leader you would need 32 votes.  
21      I think that's pretty simple.

22               SENATOR CARL KRUGER:       Again  
23      through you, Madam President.

24               ACTING PRESIDENT YOUNG:       Yes,  
25      Senator Kruger.

1                   Senator Libous, do you yield?

2                   SENATOR LIBOUS:       Yes, Madam

3                   President, I do.

4                   ACTING PRESIDENT YOUNG:       Thank  
5                   you, Senator Libous.

6                   SENATOR CARL KRUGER:       Rather than  
7                   talking about, Senator, the hypothetical  
8                   situation of an interim election, let's talk  
9                   about the absolute, the reorganization or the  
10                  organization of the chamber in a 31-31  
11                  environment. How do we elect the leadership?

12                  ACTING PRESIDENT YOUNG:       Senator  
13                  Kruger, excuse me. The stenographer cannot  
14                  hear what you're saying.

15                  SENATOR CARL KRUGER:       Oh, I'm  
16                  sorry.

17                  ACTING PRESIDENT YOUNG:       So we  
18                  would ask that you direct your comments to the  
19                  chair, and that way your microphone will pick  
20                  those up. It's very important that we hear  
21                  you.

22                  SENATOR CARL KRUGER:       I  
23                  apologize. I apologize. Okay.

24                  SENATOR LIBOUS:       Possibly, Madam  
25                  President, you could do it with 31 Republicans

1       and some independent legislators who might  
2       want to join you. Or 31 Democrats and some  
3       independent legislators who would want to join  
4       you.

5               I mean, I think -- Madam President,  
6       through you, I think there seems to be this  
7       speculation that the body cannot function at  
8       31-31. And I think we disagree with that.  
9       Obviously, if you elect a leader with 32  
10      votes, that person will remain as leader until  
11      there's another vote where 32 individuals that  
12      make up this chamber -- and I'm talking about  
13      elected Senators -- would vote again. And it  
14      seems pretty simple and matter of fact.

15             ACTING PRESIDENT YOUNG:     Thank  
16      you, Senator Libous.

17             SENATOR CARL KRUGER:       Thank you,  
18      Senator.

19             Again through you, Madam President,  
20      if the Senator would continue to yield.

21             ACTING PRESIDENT YOUNG:     Yes,  
22      Senator Kruger.

23             Do you yield, Senator Libous?

24             SENATOR LIBOUS:       I would be happy  
25      to continue to yield.

1                   ACTING PRESIDENT YOUNG:     Go  
2     ahead, Senator Kruger.

3                   SENATOR CARL KRUGER:     For a  
4     moment, let's not talk about the hypothetical,  
5     let's talk about -- let's go to past history  
6     and talk about the realities.

7                   There came a moment in time when  
8     this chamber was 31-31, last June. How come  
9     we couldn't function then?

10                  SENATOR LIBOUS:     Madam President,  
11     I think I can answer that question.

12                  Actually, Senator Kruger, there  
13     were 30 Republicans and 32 Democrats at that  
14     time. And for a brief moment, two of the  
15     Democrats decided that they wanted to become  
16     Republicans. But that was only for a brief  
17     moment. So there were still 32 Democrats in  
18     power that were controlling the chamber at  
19     that time.

20                  ACTING PRESIDENT YOUNG:     Thank  
21     you, Senator.

22                  Senator Kruger.

23                  SENATOR CARL KRUGER:     Again  
24     through you, Madam President, if the Senator  
25     would continue to yield.

1                   ACTING PRESIDENT YOUNG:     Will you  
2     yield, Senator?

3                   SENATOR LIBOUS:        I'd be happy to.

4                   ACTING PRESIDENT YOUNG:     Go  
5     ahead, please.

6                   SENATOR CARL KRUGER:       Just for  
7     historical purposes, there was a time,  
8     Senator, where then-Senator Monserrate  
9     rejoined the Democratic conference, which  
10    created 31-31. And we -- and this body did  
11    not function, by your definition. How come?

12                  SENATOR LIBOUS:        Well, Madam  
13    President, I mean I don't want to -- I'm not a  
14    historian. And I don't want to go back in  
15    history, but I will try to do so to answer  
16    Senator Kruger's question.

17                  I believe, when it was 31-31, it  
18    was the controlling party, the Democratic  
19    Party, that locked the doors of the chamber  
20    and would not let this body function. Now,  
21    having said that, I don't want to repeat  
22    history here. Senator Kruger, what finally  
23    happened, obviously, is that 32 members got  
24    together and this Senate began to function.

25                  Again, I would state as I said



1 earlier, very simply, that the Lieutenant  
2 Governor is not an elected Senator. The  
3 position of Lieutenant Governor should not  
4 have a vote in electing a leader to the  
5 Senate. It is incumbent upon the 62 members  
6 of this house to get along and figure it out,  
7 if indeed there ever was a tie.

8 ACTING PRESIDENT YOUNG: Senator  
9 Kruger.

10 SENATOR CARL KRUGER: Yes, Madam  
11 President. If the Senator would continue to  
12 yield.

13 ACTING PRESIDENT YOUNG: Senator  
14 Libous, do you yield?

15 SENATOR LIBOUS: Sure.

16 ACTING PRESIDENT YOUNG: Thank  
17 you very much.

18 SENATOR CARL KRUGER: Senator  
19 Libous, how do you feel or think or propose  
20 the constitutional issue on the role of the  
21 Lieutenant Governor in casting a tie vote in  
22 this chamber relates to the resolution as  
23 proposed?

24 SENATOR LIBOUS: Well, Madam  
25 President, I have my own opinion on that, and

1 I think I've given it several times. But I am  
2 going to ask at this point, because I think  
3 when you get into the constitutional issue  
4 itself -- I believe the answer that I gave is  
5 a sound one.

6 And like what always happens in  
7 government, if you pass legislation and  
8 someone deems that it's unconstitutional, you  
9 take it to the court system. Just as when the  
10 Democrats in this body were not happy with the  
11 fact that Richard Ravitz was going to get  
12 appointed, there was a lot of maneuvering  
13 around who they decided who the president and  
14 the temporary president and the conference  
15 leader was going to be.

16 Having said that --

17 ACTING PRESIDENT YOUNG: Senator  
18 Saland, why do you rise?

19 SENATOR SALAND: I'm wondering if  
20 Senator Libous might yield some time to me and  
21 perhaps I might be able to respond, in part,  
22 to Senator Kruger.

23 SENATOR LIBOUS: Madam President,  
24 I would be honored to defer to Senator Saland,  
25 who might be able to go further than I have on

1 the constitutional issue.

2 Thank you, Senator.

3 SENATOR CARL KRUGER: Like  
4 championship tag-team wrestling.

5 ACTING PRESIDENT YOUNG: Senator  
6 Kruger was asking a question of Senator  
7 Libous. Senator Saland, you're going to  
8 answer that question?

9 SENATOR SALAND: I will, with  
10 your permission, Madam President.

11 ACTING PRESIDENT YOUNG: Thank  
12 you very much.

13 SENATOR SALAND: If I may, before  
14 I get to the Constitution and the  
15 constitutional issues, let me say that a  
16 deadlocked house, were this house deadlocked,  
17 would not be a case of first instance. It has  
18 occurred in numerous legislative chambers  
19 throughout this country at varying and  
20 different times.

21 And it's been resolved in varying  
22 and different ways. More often than not, by  
23 interaction between the legislators, either a  
24 division of responsibility of power -- by  
25 year, perhaps. Sometimes coalitions are

1       formed, where people from one side of the  
2       aisle join people from the other side of the  
3       aisle in forging a majority. So this is not  
4       the first time something like that would be  
5       capable of happening.

6               There were a couple of things that  
7       were mentioned, one earlier by Senator  
8       Squadron and one by you, Senator Kruger. I  
9       think Senator Squadron said something to the  
10      effect of "I think the Lieutenant Governor  
11      clause is unconstitutional and  
12      unconscionable."

13             I would beg to differ. I would say  
14      that it's both constitutional and the only  
15      thing that would be unconscionable would be to  
16      permit somebody who is a member of, in effect,  
17      the executive branch to have the authority to  
18      pick a leader in this house. And it would be  
19      even more unconscionable now that the Court of  
20      Appeals has ruled that you can have a  
21      Lieutenant Governor who's not even elected but  
22      appointed and has never been through a  
23      confirmation process.

24             And it is not, as you described,  
25      stripping his right to cast a deciding vote.

1 He doesn't have a right to cast a deciding  
2 vote. The Constitution uses a particular  
3 word. It's a casting vote. And there is no  
4 dispute whatsoever anywhere, by any authority  
5 anyplace to be found in this state, currently  
6 or previously, that says he has a right to  
7 cast a vote in anything legislative.

8 And if you disagree with that,  
9 please tell me that you do and we'll engage on  
10 that, with the permission of the President,  
11 and then I'll continue my remarks with regard  
12 to what the two relevant provisions of the  
13 Constitution say.

14 ACTING PRESIDENT YOUNG: Thank  
15 you, Senator Saland.

16 SENATOR CARL KRUGER: Through  
17 you, Madam President.

18 ACTING PRESIDENT YOUNG: Senator  
19 Kruger, are you asking Senator Saland to  
20 yield?

21 SENATOR CARL KRUGER: I'm  
22 responding to Senator Saland, through you.

23 ACTING PRESIDENT YOUNG: Okay.  
24 Very good, Senator.

25 SENATOR CARL KRUGER: No, I was

1 not raising the issue of a casting vote, I was  
2 talking about a tie vote. And to clarify that  
3 even further, not on legislation but rather on  
4 organization.

5 SENATOR SALAND: So we agree that  
6 the Lieutenant Governor, whomever he or she  
7 may be, doesn't have the authority to cast a  
8 vote in the event of a tie on legislation.

9 SENATOR CARL KRUGER: That's  
10 without question.

11 SENATOR SALAND: Let me, if I  
12 may, go through the two relevant sections.  
13 Madam President, if I may, the two relevant  
14 sections are Article 3, Section 9 and Article  
15 4, Section 6.

16 And Article 3, Section 9 basically  
17 says that each house shall determine the rules  
18 of its own proceedings, the qualifications of  
19 its members, and shall choose its own officers  
20 and the Senate shall choose a Temporary  
21 President.

22 Now, I don't think that can be  
23 disputed that we have the ability to do that.  
24 That certainly was ruled on most recently in  
25 the Monserrate case by the federal court. It

1 in effect has been enshrined in New York law  
2 for over 130 years.

3 There was a Court of Appeals case,  
4 I think it was People v. Hall back in 1880,  
5 which basically cited the very language that  
6 we have now and went on to say that this was  
7 well within the realm of the Legislature to  
8 determine the qualifications of its members.  
9 And interestingly enough, it caused enough  
10 controversy that in 1892 there was a  
11 constitutional amendment that went to the  
12 people proposing to do away with that section,  
13 and it was defeated by the people.

14 So would we agree -- through you,  
15 Madam President, would we agree that there's  
16 no dispute as to the right of this house to  
17 select the qualifications of its own members,  
18 that nobody is being disenfranchised by giving  
19 this house the right that has been recognized  
20 for minimally 130-plus years?

21 SENATOR CARL KRUGER: Through  
22 you, Madam President.

23 ACTING PRESIDENT YOUNG: Senator  
24 Kruger.

25 SENATOR CARL KRUGER: In my mind,

1       that's when they're elected and they're  
2       seated, as opposed to what we're talking  
3       about.

4                SENATOR SALAND:     Please -- if  
5       he'll continue to yield.

6                ACTING PRESIDENT YOUNG:     Yes,  
7       Senator Saland. Go ahead.

8                SENATOR SALAND:     Would you please  
9       share with me your distinction?

10               SENATOR CARL KRUGER:     Through  
11       you, Madam President. I guess, Senator, when  
12       I started this dialogue it was my intention to  
13       raise issue with the election of leadership  
14       for the chamber, rather than talking about the  
15       qualification of seating of elected members.

16               SENATOR SALAND:     If Senator  
17       Kruger will yield.

18               ACTING PRESIDENT YOUNG:     Senator  
19       Kruger, will you yield?

20               SENATOR CARL KRUGER:     Yes, Madam  
21       President.

22               SENATOR SALAND:     Is the  
23       Lieutenant Governor a member of the Senate?

24               SENATOR CARL KRUGER:     Through  
25       you, Madam President, it's my understanding --



1       and the Lieutenant Governor is obviously not  
2       an elected member of the Senate.  However, he  
3       serves as the President.

4                SENATOR SALAND:       So when this  
5       section -- and I'll get to Article 4, Section  
6       6 momentarily.  When this section says each  
7       house shall determine the rules of its own  
8       proceedings, shall choose its own officers,  
9       and the Senate, the Senate, shall choose a  
10      Temporary President -- the Senate -- is the  
11      Lieutenant Governor a member of the Senate or  
12      is he a Senator?

13               SENATOR CARL KRUGER:       Through  
14      you, Madam President, we go back to the theory  
15      of the 31-31 rationale.  In that environment,  
16      if we are to function, then the use of the  
17      President of the Senate -- the Lieutenant  
18      Governor -- to break that tie would be, in my  
19      mind, and I believe in the shared belief of my  
20      colleagues on this side of the aisle at least,  
21      that that would be the appropriate mechanism.

22               SENATOR SALAND:       If you'll  
23      continue to yield, Senator Kruger, let me go  
24      to Article 4, Section 6, and then perhaps  
25      we'll revisit Article 3, Section 9.

1                   Article 4, Section 6 takes great  
2                   pains to include two terms or words that limit  
3                   or minimize the role of Lieutenant Governor.  
4                   After it talks about the Lieutenant Governor  
5                   possessing the qualifications and eligibility  
6                   for offices of the Governor, it says he shall  
7                   be the president of the Senate but shall have  
8                   only -- and I emphasize the word "only" -- a  
9                   casting vote therein. And I emphasize the  
10                  word "therein."

11                  So these would appear to be words  
12                  of limitation or minimization, clearly making  
13                  it a very limited role for the Lieutenant  
14                  Governor.

15                  SENATOR CARL KRUGER:       Through  
16                  you, Madam President.

17                  ACTING PRESIDENT YOUNG:     Senator  
18                  Kruger.

19                  SENATOR CARL KRUGER:       During that  
20                  period in time when --

21                  ACTING PRESIDENT YOUNG:     Senator  
22                  Kruger --

23                  SENATOR CARL KRUGER:       Through  
24                  you, Madam President.

25                  ACTING PRESIDENT YOUNG:     Again, I

1 know it's difficult, but we just --

2 SENATOR CARL KRUGER: I  
3 understand.

4 ACTING PRESIDENT YOUNG: What you  
5 have to say is very important, and we want to  
6 make sure that everyone can hear it.

7 SENATOR CARL KRUGER: It may be  
8 important to you; I don't know if it's  
9 important to everybody.

10 But in any event, if the Senator  
11 would continue to yield.

12 SENATOR SALAND: I'll be more  
13 than happy to yield after you respond to me.

14 SENATOR CARL KRUGER: Okay. In  
15 each instance that we're talking about, this  
16 body, when we have issues of procedure, we go  
17 to the books, as you're doing right now. One  
18 of those books that we go to is Mason's. And  
19 in that litany, it clearly defines the vote of  
20 the President in terms of breaking a tie.

21 If I can just clarify additionally,  
22 as counsel points out to me, that the  
23 definition of a casting vote is the vote that  
24 breaks the tie.

25 SENATOR SALAND: If Senator

1 Kruger would continue to yield.

2 ACTING PRESIDENT YOUNG: Do you  
3 yield, Senator?

4 SENATOR CARL KRUGER: Yes, Madam  
5 President.

6 ACTING PRESIDENT YOUNG: Go  
7 ahead, Senator Saland.

8 SENATOR SALAND: Senator Kruger,  
9 is it not in fact the rules of this house that  
10 you never reach Mason's unless, in fact,  
11 there's nothing -- the only time you reach  
12 Mason's is if there's nothing that governs in  
13 the existing law or the existing practice?

14 SENATOR CARL KRUGER: Through  
15 you, Madam President.

16 ACTING PRESIDENT YOUNG: Yes,  
17 Senator.

18 SENATOR CARL KRUGER: It's my  
19 understanding that the Constitution does not  
20 define a casting vote. So consequently, we  
21 would have to go to Mason's. After the rules,  
22 after we kick the can down the road, we wind  
23 up at Mason's.

24 SENATOR SALAND: I would  
25 respectfully beg to differ with you. Let me

1 share with you historically what has occurred  
2 where controversy has existed with regard to  
3 the ability of a Lieutenant Governor to  
4 exercise a casting vote.

5 The New York Times, in its  
6 January 1, 1892 issue, reported on a similar  
7 controversy. And there was a dispute about  
8 organizing the Senate -- it was an election  
9 dispute -- and the Democrats at that point  
10 alleged that the Lieutenant Governor could  
11 break a tie.

12 And the Republican position was  
13 that the Constitution, the relevant section --  
14 which is the one that we're talking about now,  
15 which was numbered differently at that time --  
16 stating that the Lieutenant Governor had only  
17 a casting vote therein, meant that the vote on  
18 the eligibility of a Senator or any other  
19 question other than of a parliamentary nature,  
20 as one which involved the advancement of  
21 business, was held beyond the powers of the  
22 Lieutenant Governor. The Lieutenant Governor  
23 had no authority whatsoever to cast such a  
24 vote.

25 ACTING PRESIDENT YOUNG: Senator

1 Kruger.

2 SENATOR CARL KRUGER: Once again,  
3 Madam President, through you, in responding,  
4 are we now using the New York Times of 1892 as  
5 the basis for today's dialogue?

6 SENATOR SALAND: I'm merely  
7 telling you, based on prior experience, prior  
8 actions in this house as reported by the  
9 New York Times.

10 SENATOR CARL KRUGER: So now if  
11 we can refer to the New York Times of 1892,  
12 through you, Madam President, I suspect that  
13 that was the Republican position as it was  
14 articulated in that article. That was a  
15 little bit before I was born, that edition of  
16 the paper, so I wasn't up to snuff at that  
17 moment.

18 SENATOR SALAND: Well, again,  
19 there was a similar issue that occurred in  
20 1878, and again similarly reported that the  
21 Lieutenant Governor similarly did not have the  
22 ability to cast a vote that in effect would  
23 have enabled him to be the controlling vote  
24 for purposes of establishing the leadership of  
25 the house.

1                   ACTING PRESIDENT YOUNG:     Senator  
2                   Kruger.

3                   SENATOR CARL KRUGER:     Through  
4                   you, Madam President. I'm advised that the  
5                   legislatures in both Montana and Idaho made  
6                   determinations that their presiding officer,  
7                   the lieutenant governor, could cast that  
8                   deciding vote, that leadership vote, and  
9                   citing New York law as the basis for that.

10                  ACTING PRESIDENT YOUNG:     Senator  
11                  Saland.

12                  SENATOR SALAND:     I believe the  
13                  distinction with respect to both of those  
14                  states is that both of those states permit  
15                  their lieutenant governors to cast deciding  
16                  votes on legislation as well. And that  
17                  underscored the ability of that particular or  
18                  those particular legislatures to respond as  
19                  you claim that they have responded.

20                  But you've failed to acknowledge  
21                  the fact that there are other states that very  
22                  similarly do not permit the lieutenant  
23                  governor to cast such a vote.

24                  SENATOR CARL KRUGER:     Through  
25                  you, Madam President. Once again, just to

1       reiterate, that those states -- and I'm not  
2       aware -- and there may be others that  
3       specifically used New York law as the basis  
4       for making that determination.

5                SENATOR SALAND:       I find that to  
6       be -- I'm sorry, Madam President.   Madam  
7       President, I suspect that what we are engaged  
8       in is a little bit of cherry-picking, that in  
9       fact the totality of what we're dealing with,  
10      the sections that we are dealing with are not  
11      necessarily consistent with what Senator  
12      Kruger is attempting to convey to us here.

13               It is certainly clear that the  
14      state apparently, as reported by none other  
15      than the lion of the print media, has in prior  
16      instances -- this Legislature in prior  
17      instances has said that the Lieutenant  
18      Governor's casting vote certainly did not  
19      permit him, and to date it has been a -- well,  
20      it hasn't always been a him -- him or her to  
21      have the authority that we would now be told  
22      by Senator Kruger that we're weaving  
23      apparently out of thin air.

24               ACTING PRESIDENT YOUNG:       Senator  
25      Kruger.



1                   SENATOR CARL KRUGER:     Through  
2     you, Madam President.   Senator, when I rose to  
3     speak on the --

4                   SENATOR LIBOUS:        Madam President,  
5     point of order for a second, please.   And  
6     please indulge me, both speakers.

7                   ACTING PRESIDENT YOUNG:     Yes,  
8     Senator Libous.

9                   SENATOR LIBOUS:        This is a  
10    resolution in which the Senate requires that  
11    there's an hour to have debate.   And I know  
12    that there are other and I just want to bring  
13    it to the attention of the house that there  
14    are other speakers on both sides of the aisle,  
15    or individuals who would like to speak.

16                   And I just wouldn't want Senator  
17    Kruger and Senator Saland to take up --  
18    seriously, to take up their time, because  
19    everybody -- others want to be heard on this  
20    issue.

21                   ACTING PRESIDENT YOUNG:     Senator  
22    Libous, you are totally right.   And present  
23    rules say the debates on motions or  
24    resolutions is limited to one half-hour per  
25    side.

1                   So if you could take that into  
2                   consideration, Senator.

3                   SENATOR CARL KRUGER:     Senator  
4                   Saland, when I rose on this resolution, I  
5                   wanted to keep it in very simplistic terms.  
6                   Where we have 62 members in this body, there  
7                   could come a time -- as it has -- where we  
8                   have a 31-31 standoff. We have a Lieutenant  
9                   Governor that's elected by the people of this  
10                  state with specific responsibilities.

11                  My question to you is, do we want  
12                  to go back to where we were in June of two  
13                  years ago or a year ago and talk about the  
14                  Senate as it was? Or do we want to have a  
15                  very transparent, simple, straightforward  
16                  process where we have a 31-31 standoff and  
17                  have the Lieutenant Governor cast that  
18                  deciding vote? Is that a bad thing or is that  
19                  a good thing?

20                  SENATOR SALAND:     I would think,  
21                  regardless of which party, the separation of  
22                  powers and the importance of maintaining this  
23                  chamber -- and, for that matter, the other  
24                  chamber -- as a separate and distinct entity  
25                  and not an arm of the executive branch, I

1 would say very clearly that's a bad thing.

2 The Lieutenant Governor is not a  
3 member of the Senate and I would say would be  
4 precluded, under Article 3, Section 9, from  
5 participating in the election of its officers.  
6 The Lieutenant Governor is permitted to vote  
7 on procedural issues. The election of a  
8 Temporary President is anything but a  
9 procedural issue.

10 SENATOR CARL KRUGER: Madam  
11 President, to sum up on the resolution.

12 ACTING PRESIDENT YOUNG: Senator  
13 Kruger on the resolution.

14 SENATOR CARL KRUGER: The  
15 Constitution allows the Lieutenant Governor to  
16 come in on a 31-31 logjam to cast that vote to  
17 break that tie so that this body can go  
18 forward doing its job. To treat the process  
19 in any other way is only trying to add  
20 confusion, delay, and basically put the courts  
21 in the position to once again decide how we  
22 function, rather than allow this house,  
23 through its President, the Lieutenant  
24 Governor, to decide the leadership as we would  
25 go forward in a 31-31 environment.

1                   Thank you. Thank you,  
2           Senator Saland.

3                   ACTING PRESIDENT YOUNG: Thank  
4           you.

5                   SENATOR SALAND: May I close?

6                   ACTING PRESIDENT YOUNG: Senator  
7           Saland, why do you rise?

8                   SENATOR SALAND: May I just offer  
9           some concluding remarks?

10                  ACTING PRESIDENT YOUNG: Would  
11           you like to speak on the resolution?

12                  SENATOR SALAND: Yes.

13                  ACTING PRESIDENT YOUNG: Okay.  
14           Go ahead, Senator.

15                  SENATOR SALAND: Thank you.

16                         Madam President, the Lieutenant  
17           Governor is not a member of the Senate. There  
18           is no precedent that provides him or her the  
19           ability to cast a vote other than on  
20           procedural matters. The election of a leader,  
21           a Temporary President of the Senate and  
22           Majority Leader, is far from a procedural  
23           matter.

24                         SENATOR SQUADRON: Madam  
25           President.

1                   ACTING PRESIDENT YOUNG:     Senator  
2     Squadron, why do you rise?

3                   SENATOR SQUADRON:     Would Senator  
4     Saland yield for a brief question?    I  
5     apologize for cutting off the conclusion,  
6     but --

7                   ACTING PRESIDENT YOUNG:     Again,  
8     Senator, I would like to remind all the  
9     Senators that we need to be considerate of  
10    other Senators who want to speak.

11                  SENATOR SQUADRON:     I will be very  
12    brief.

13                  ACTING PRESIDENT YOUNG:     Go  
14    ahead, Senator Squadron.

15                  SENATOR SQUADRON:     Senator  
16    Saland, do you yield for a question?

17                  SENATOR SALAND:     Yes, I will.

18                  SENATOR SQUADRON:     Senator Saland  
19    has made a case -- I don't believe it's a  
20    compelling case, but has made a case that the  
21    Lieutenant Governor doesn't now and has never  
22    had any role in terms of a casting vote in the  
23    Senate, despite the constitutional language.  
24    And I would just ask Senator Saland what's  
25    changed.

1                   SENATOR SALAND:       That's -- with  
2       all due respect, I'll answer the question by  
3       saying that's not what I said. I said he has  
4       a casting vote, but the language is only a  
5       casting vote therein. And the language is  
6       such that his role or her role is very limited  
7       and can only cast that vote on matters of  
8       process.

9                   And there is no authority, no case  
10       law to the contrary, and there is nothing that  
11       makes him a member of this body. He in fact  
12       is not a member of the Senate. And if you go  
13       back to Article 3, Section 9, each house shall  
14       determine the rules of its own proceedings.  
15       This house can determine those rules and is  
16       proposing to do it with this very proposal.

17                  SENATOR SQUADRON:       Through you,  
18       Madam President, if --

19                  ACTING PRESIDENT YOUNG:       Senator  
20       Squadron, are you asking Senator Saland to  
21       yield?

22                  SENATOR SQUADRON:       If Senator  
23       Saland will yield again, yes.

24                  ACTING PRESIDENT YOUNG:       Do you  
25       yield, Senator?

1                   SENATOR SALAND:     I will.   But  
2     then I think I've overstayed my welcome.

3                   SENATOR SQUADRON:     I'll ask one  
4     question with multiple parts, very briefly, in  
5     the interests of time.

6                   I believe Senator Saland -- and he  
7     should correct me if at any point I'm wrong --  
8     has been in this body for 24 years, has voted  
9     for certainly 13 rules resolutions in that  
10    time. I believe this is the first rules  
11    resolution with this provision. Senator  
12    Saland does seem to be building quite a case  
13    for court. And certainly if this provision  
14    passes, goodness knows we're all too likely to  
15    end up in court at some point.

16                  I would just ask what compels  
17    Senator Saland to so heartily defend this  
18    provision and this change at this moment in  
19    history. Might it be that we're at 32-30  
20    with a Democratic Lieutenant Governor? That's  
21    my final question.

22                  Thank you, Madam President.

23                  SENATOR SALAND:     It's rather  
24    basic. It's called separation of powers and  
25    the right of this institution, through its

1 members, to make the decisions as to who shall  
2 constitute its leadership and not abdicate  
3 that responsibility to another branch of  
4 government.

5 Thank you.

6 ACTING PRESIDENT YOUNG: Senator  
7 Breslin, on the resolution.

8 SENATOR BRESLIN: Thank you very  
9 much, Madam President.

10 As all of you know, the  
11 Constitution of New York State was 1777.  
12 That's over 200 years ago. And in Article 4,  
13 Section 6 it talks about the Lieutenant  
14 Governor giving the casting vote. It does say  
15 "therein," "casting vote therein."

16 There's other sections that say the  
17 Lieutenant Governor doesn't have a vote on  
18 legislation, on bills. He does, in fact, have  
19 the vote on a tie in this house.

20 That's over 200 years ago. The  
21 Federal Constitution, which relied in part on  
22 the New York State Constitution, was developed  
23 some years later. And there are courts across  
24 this country that have used our Constitution.  
25 Idaho, which was referred to before,



1 specifically used New York State as an example  
2 in a similar situation.

3 That's the law, in my opinion. The  
4 facts, for 200 years, no one's bothered to  
5 change this. And we don't want to get into  
6 individuals, but it is probably coincidental  
7 that we happen to have a Democratic Lieutenant  
8 Governor, one from upstate who's an  
9 outstanding leader from upstate. And we went  
10 through years, my years here, when we had  
11 Lieutenant Governors who were of the other  
12 party, and there was no attempt to change  
13 this.

14 I think it's a blatant attempt to  
15 try to write the Constitution of the State of  
16 New York. And I think that it's recognized  
17 that -- when I asked questions in the Rules  
18 Committee, there was no attempt to contact the  
19 Governor or the Attorney General or the  
20 Lieutenant Governor or constitutional experts,  
21 for that matter.

22 I think there's a very important  
23 reason why that hasn't been done. It is that  
24 the words of Article 4, Section 6 are clear  
25 enough for this body to recognize that when

1       there is a tie for the choice of the President  
2       of this body, the casting vote is done by the  
3       Lieutenant Governor.

4               Thank you, Madam President. And I  
5       will vote against this resolution on the rules  
6       changes.

7               ACTING PRESIDENT YOUNG:       Thank  
8       you, Senator Breslin.

9               Senator Liz Krueger.

10              SENATOR LIZ KRUEGER:       Thank you,  
11       Madam President. On the resolution.

12              So I have listened to the  
13       discussion and even the debate going on  
14       tonight, and there seems to be a little bit of  
15       confusion over what we're arguing about  
16       vis-a-vis the one section of the new rules  
17       being proposed tonight by Senator Skelos and  
18       how it violates or doesn't violate the intent  
19       of the New York State Constitution and the  
20       language of the New York State Constitution.

21              So just to go backwards a week, in  
22       the Rules Committee on January 25th when I was  
23       making the supposition that this was  
24       complicated and that we should have a few  
25       minutes or days to review with constitutional

1 scholars, and I suggested we not have this  
2 rules debate last week, Senator Libous  
3 confirmed that the intent behind the change to  
4 Senate Rule 2, Section 1 sought to leave the  
5 vote for Temporary President exclusively to  
6 members of the Senate.

7 From the transcript. Myself: Is  
8 it possible that this rule possibly changes  
9 the role of the Lieutenant Governor vis-a-vis  
10 tie-breaking votes? Senator Libous: Yes, it  
11 require's a vote of 32. Senator Liz Krueger:  
12 So it would require the vote of 32 in a 31-31  
13 situation in the Senate? Senator Libous: We  
14 believe that only members should break the tie  
15 in a vote for President of the Senate.

16 So in fact we are arguing about the  
17 role of the Lieutenant Governor in a casting  
18 vote issue on procedure and whether the rules  
19 resolution being submitted to us tonight is in  
20 violation of the Constitution.

21 And I would argue that it is. That  
22 the State Constitution and the current Senate  
23 rules are clear that the Lieutenant Governor  
24 shall be the President of the Senate but shall  
25 have only a casting vote therein -- New York

1 State Constitution, Article 4, Section 6, and  
2 current Senate Rule 1, Section 1, current  
3 rules being the ones we're using tonight until  
4 or if we change them with this resolution  
5 tonight. A casting vote is defined many, many  
6 places -- Mason's manual, our Constitution,  
7 Black's Law Dictionary -- as a casting vote is  
8 a deciding vote by the President, presiding  
9 officer of a deliberative body, in case of a  
10 tie.

11 The only specific constitutional  
12 limitation on the Lieutenant Governor's  
13 casting of a vote is found in Article 3,  
14 Section 14, which provides that no bill can be  
15 passed or become law except by the assent of a  
16 majority of members elected to each branch of  
17 the Legislature.

18 Most constitutional scholars agree  
19 this provision prohibits the Lieutenant  
20 Governor to use his casting vote on  
21 legislation. But again, I don't believe I've  
22 heard any colleagues on this side of the aisle  
23 saying we want to recognize the Lieutenant  
24 Governor's casting vote on legislation. We  
25 want to assure his constitutionally

1       established right to have a casting vote on  
2       procedure of the floor of the Senate,  
3       including the decision over who ends up the  
4       President or Majority Leader of the Senate in  
5       situations where it may be 31-31.

6               And any number of my colleagues  
7       have referenced the fact that the history of  
8       this portion of our State Constitution goes  
9       back to the 1700s. And in fact, Alexander  
10      Hamilton, a great New Yorker who was a  
11      delegate to the U.S. Constitutional  
12      Convention, established the purpose and intent  
13      of the role of a President outside of being an  
14      elected member of the Senate, and the reason  
15      that we ought to have a situation where a  
16      casting vote can be assured, in his Federalist  
17      Papers.

18             And in fact, in the Federalist  
19      Paper Number 68, he explained the necessity of  
20      a vice president in the Senate position: "To  
21      secure definitive resolutions, the Senate  
22      President must be able to cast tie-breaking  
23      votes yet be denied a vote at all other times.  
24      Therefore, the Senate's presiding officer must  
25      not be a member of the Senate. Nor should a

1       Senator be next in line for the presidency,  
2       since the President's successor shall be  
3       chosen in the same manner as the President."

4               Now, he was referencing the U.S.  
5       Constitution, but he was in fact taking his  
6       recommendations and applying them through  
7       state constitutions as well as the Federal  
8       Constitution.

9               Now, there have been debates  
10       throughout history, in the 1700s, in the  
11       1800s, in the 1900s, and a number of them have  
12       been cited here tonight around the issue of  
13       who can vote to split a tie when. But I don't  
14       believe, Madam President, there is any debate  
15       on the powers of the Lieutenant Governor to be  
16       a casting vote, to split a tie on procedural  
17       issues here on the floor. This is a  
18       fundamental interpretation of our Constitution  
19       that we should not allow to go into the rules  
20       of our Senate without assurance that they are  
21       not intended to violate the Constitution.

22               I cannot vote for these rules  
23       tonight because we have seen in recent  
24       history, and it has been discussed already,  
25       that sometimes you may end up in a tie. You

1       may end up in a tie that it's uncomfortable  
2       for everyone, everyone on both sides of the  
3       aisle.

4               But it is critical because of that  
5       reality that we not violate our Constitution.  
6       And we should not forget the lessons of our  
7       Founding Fathers when they were creating our  
8       the U.S. Constitution to recognize the  
9       importance of having a mechanism in place to  
10      ensure the civil discourse and continuity of  
11      government.

12             And so it's a lot of debate, it's a  
13      lot of time spent here, which is a good place  
14      to have this debate, on the floor. One of my  
15      colleagues also referenced, Well, let's say we  
16      put it in the rules of the Senate and we end  
17      up in a 31-31 situation, we'll then go and  
18      litigate it. Well, we do litigate an awful  
19      lot of things, ladies and gentlemen. And I  
20      suppose you could argue, because we are the  
21      creators of laws, it's appropriate for much of  
22      what we do here to end up being the fodder and  
23      discussion of courts.

24             But I would argue we don't want to  
25      knowingly set ourselves up to have to have a

1 constitutional dispute through the courts at a  
2 time where we might find ourselves in a 31-31  
3 situation.

4 While we've been here this  
5 afternoon and this evening, according to the  
6 press, Lieutenant Governor Duffy has said he  
7 intends to vote, if there's a tie situation.  
8 He will use his casting vote authority.  
9 Governor Cuomo has said he does not agree with  
10 these proposed rules. He is clear that it is  
11 the constitutional authority of the Lieutenant  
12 Governor to use his casting vote to split a  
13 tie in situations that we are describing  
14 tonight.

15 Yes, we can wait and litigate the  
16 whole situation if and when we are in a tie  
17 situation. But I would have to argue with all  
18 my colleagues it would be far, far better for  
19 us not to make this mistake, not to write  
20 rules of the Senate that we know not only are  
21 a violation of the explicit language of the  
22 Constitution but set us up to be forced into a  
23 constitutional-challenge lawsuit if and when a  
24 time comes.

25 We've not needed to put this



1 language in the rules of the Senate ever  
2 before. Not having this language in the rules  
3 of the Senate hasn't seemingly done us harm  
4 for hundreds of years. So I suppose in urging  
5 us to not accept the rules as written, and  
6 certainly to remove this section of the rules  
7 before we move forward, we ask ourselves the  
8 question why do we need to open ourselves to  
9 this problem.

10 Our Constitution is clear. It has  
11 protected us for hundreds of years. There's  
12 no reason to mess with it here on the floor of  
13 the Senate tonight. I urge my colleagues to  
14 vote no.

15 Thank you, Madam President.

16 ACTING PRESIDENT YOUNG: Thank  
17 you, Senator Krueger.

18 Senator Diaz.

19 SENATOR DIAZ: Thank you, Madam  
20 President.

21 Madam President, would Senator  
22 Libous yield for a question or two, please.

23 SENATOR LIBOUS: I'm sorry,  
24 Senator Diaz, you would like me to yield?

25 SENATOR DIAZ: Yes, sir.

1                   ACTING PRESIDENT YOUNG:     Oh, I'm  
2       sorry.   Would you yield, Senator Libous?

3                   SENATOR LIBOUS:        Sure.   Sure.

4                   ACTING PRESIDENT YOUNG:     Go  
5       ahead, Senator Diaz.

6                   SENATOR DIAZ:        Yeah.   Thank you.

7                   Senator Libous, more than once  
8       tonight, various people, various Senators have  
9       mentioned the names of Monserrate and Espada,  
10      those times.   And you said that we are 62  
11      members in this chamber.   For the benefit of  
12      those that are viewing and listening to the  
13      TV, would you please tell me, out of those 62  
14      Senators, how many are registered Democrats  
15      and how many are registered Republicans?

16                  ACTING PRESIDENT YOUNG:     Senator  
17      Libous.

18                  SENATOR LIBOUS:        I believe there  
19      are 32 registered Republicans and 30  
20      registered Democrats at the present time,  
21      Senator.

22                  SENATOR DIAZ:        Would Senator  
23      Libous yield.

24                  ACTING PRESIDENT YOUNG:     Senator  
25      Libous, would you continue to yield?

1                   SENATOR LIBOUS:     Yeah, I would.

2                   ACTING PRESIDENT YOUNG:     Go  
3 ahead, Senator Diaz.

4                   SENATOR DIAZ:     Senator Libous,  
5 I'm going to ask my question again. Are you  
6 sure that there are 32 registered Democrats  
7 and not 31?

8                   SENATOR LIBOUS:     Mr. President, I  
9 don't have the Board of Election buff cards in  
10 front of me, but I believe there are 32  
11 registered Republicans and 30 registered  
12 Democrats in this chamber.

13                  ACTING PRESIDENT YOUNG:     Senator  
14 Diaz.

15                  SENATOR DIAZ:     Madam President,  
16 would Senator Libous continue to yield?

17                  ACTING PRESIDENT YOUNG:     Senator,  
18 do you yield?

19                  SENATOR LIBOUS:     Sure.

20                  ACTING PRESIDENT YOUNG:     Go  
21 ahead, Senator Diaz.

22                  SENATOR DIAZ:     Senator Libous,  
23 according to my knowledge -- maybe I'm wrong,  
24 but would you please clarify for me this. I  
25 understand that Senator Grisanti, from

1 Buffalo, is a registered Democrat. I  
2 understand that Senator Valesky is Democrat.  
3 I understand that Senator Jeff Klein --

4 SENATOR LIBOUS: Madam President,  
5 in all due respect to Senator --

6 SENATOR DIAZ: Could you please  
7 let me finish? I have the floor.

8 SENATOR LIBOUS: Well, in all due  
9 respect, I don't know if this is germane to  
10 the rules.

11 SENATOR DIAZ: It is. It is.  
12 Because when I finish it, you will see it is.

13 ACTING PRESIDENT YOUNG: Point of  
14 order.

15 SENATOR DIAZ: So --

16 ACTING PRESIDENT YOUNG: Senator  
17 Diaz, could you please keep your remarks to  
18 the germaneness of the --

19 SENATOR DIAZ: All right. My  
20 question is, the -- Madam President, we are  
21 deciding here the fate of the Lieutenant  
22 Governor in this chamber, that in any given  
23 time the Lieutenant Governor could decide who  
24 keeps the majority or who goes into the  
25 minority. And what I'm saying is that right

1       now this chamber has 31 Democrats and 31  
2       Republicans.

3               Now, Senator -- Senator, I'm  
4       speaking -- I'm addressing myself on the  
5       resolution now.   Okay?

6               ACTING PRESIDENT YOUNG:       So you'd  
7       like to speak on the resolution?

8               SENATOR DIAZ:       Yeah.

9               ACTING PRESIDENT YOUNG:       Thank  
10      you, Senator.   Go ahead.

11              SENATOR DIAZ:       So Senator Saland  
12      spoke about disenfranchising voters or that  
13      we're going to disenfranchise, something like  
14      that he said.

15              Now I'm saying that right now we  
16      have 31 registered Republicans in this  
17      chamber, on this floor, and 31 Democrats.  
18      Let's assume, Madam President and ladies and  
19      gentlemen, let's assume that those five  
20      registered Democrats that are voting with you  
21      now in any given time decide, okay, we are not  
22      going to disenfranchise the Democratic voters  
23      that elected us and we're going to become  
24      Democrats again.

25              So that means that then the

1 Democrat Lieutenant Governor will be the one  
2 that will decide who is going to be in the  
3 majority. If those five Democrats -- the one  
4 from Buffalo, Grisanti, Senator Klein, Senator  
5 Valesky, Senator Savino, Senator Carlucci --  
6 if those five Democrats decide to become  
7 Democrats again tomorrow, tonight, there will  
8 be 31-31 here.

9 So right now there is no reason why  
10 you'd be in the majority -- if those  
11 Democrats, five Democrats decide to be  
12 Democrats again, the Republicans will not be  
13 in the majority, because there will be 31-31.  
14 And then the Lieutenant Governor will decide,  
15 and we Democrats, together with those five  
16 Democrats that are registered Democrats that  
17 are not voting with us, we will become the  
18 majority.

19 So it is important for the people  
20 that are listening and it is important for  
21 people to know what is it we do here tonight.  
22 By taking away, by taking away the power of  
23 the Lieutenant Governor to decide in matters  
24 like this.

25 So, Madam President, it is

1 relevant, what I'm saying to -- what I was  
2 asking Senator Libous. We have -- and it's  
3 very important for everyone to know right now  
4 we have 31 Republicans and 31 Senators that  
5 are registered Democrats. And if we are  
6 disenfranchising anybody, it is those five  
7 Senators who are the ones that  
8 disenfranchising the Democratic voters that  
9 elected us.

10 Thank you, Madam President.

11 SENATOR LIBOUS: Madam President.

12 ACTING PRESIDENT YOUNG: Senator  
13 Libous.

14 SENATOR LIBOUS: Would the  
15 Senator yield for one quick question.

16 ACTING PRESIDENT YOUNG: Senator  
17 Diaz, do you yield?

18 SENATOR LIBOUS: Would you yield  
19 for one quick question?

20 SENATOR DIAZ: I will yield for  
21 three or four or five, whatever.

22 SENATOR LIBOUS: No, just one,  
23 Senator. Senator, did you or did you not have  
24 the Republican line in this past election?  
25 Did you or did you not have the Republican --

1                   SENATOR DIAZ:     But I was being a  
2 Democrat. I'm a registered Democrat.

3                   SENATOR LIBOUS:     Did he or did he  
4 not have the Republican line?

5                   SENATOR DIAZ:     Yes, I did.

6                   SENATOR LIBOUS:     Thank you, Madam  
7 President.

8                   SENATOR DIAZ:     Madam President,  
9 that's not the question. I'm asking who are  
10 registered Democrats.

11                  ACTING PRESIDENT YOUNG:     Senator  
12 Diaz -- Senator Diaz, thank you.

13                         We do have some other speakers.  
14 And I do want to remind you once again that  
15 there's a time limit. The Minority side of  
16 the house has exceeded their time limit, so we  
17 are showing some indulgence toward that. But  
18 please keep that in mind, because you are over  
19 the limit.

20                         So next we would call on Senator  
21 Parker.

22                   SENATOR PARKER:     Thank you, Madam  
23 President.

24                         And I know that the time is late  
25 and my colleagues are weary, having traveled



1 throughout the state last night and this  
2 morning. But this is an important issue.

3 People think that the rules are  
4 just simply the rules. But the reality is  
5 that, you know, government is the one of the  
6 few places where how you do things is as  
7 important as what you do. And so you kind  
8 of -- you know, garbage in, garbage out.

9 And so, you know, these rules are  
10 important because also important decisions are  
11 going to be made here. And who is able to  
12 cast a final determining vote is going to be  
13 critical.

14 And I just really want to associate  
15 myself with a number of the comments by my  
16 colleagues, particularly Liz Krueger, who  
17 cited many of the things -- and I'm not going  
18 to kind of go through all these things.

19 But I think it is important to note  
20 that the Majority's attempt to change who is  
21 able to make a casting vote is not only  
22 against the Constitution of the state but also  
23 flies in the face of both, unlike what Senator  
24 Saland says, actually case law, the  
25 Constitution, and it flies in the face of

1 really what the U.S. Constitution has created  
2 as a precedent in terms of providing casting  
3 votes.

4 The rules change that's being  
5 proposed is the Senate shall choose a  
6 Temporary President by resolution adopted upon  
7 the vote of a majority of the members of the  
8 Senate elected, unquote. And this is a  
9 proposed rules change to Section 1. Although  
10 Article 3, Section 9 of the New York State  
11 Constitution permits the Senate to determine  
12 its own rules, the State Constitution assigns  
13 the Lieutenant Governor the power to make and  
14 break deadlocks in the chamber by exercising a  
15 casting vote. And again, that's in New York  
16 City Constitution, Article 4. Sorry, check  
17 that, Article 4, Section 6.

18 So I've heard lots of people say  
19 that, you know, we're not changing the  
20 Constitution. This rule change, if voted upon  
21 tonight, would actually fly counter to what  
22 the New York State Constitution says. And  
23 consequently, the Republican Majority proposes  
24 new rules violating the Constitution and  
25 denies citizens of New York the ability to

1       participate in amending the New York State  
2       Constitution.

3               Alternatively, if one accepts the  
4       current Republican --

5               ACTING PRESIDENT YOUNG:       Senator  
6       Nozzolio, why do you rise?

7               SENATOR NOZZOLIO:       Thank you,  
8       Madam President.   Madam President, will  
9       Senator Parker yield to a question.

10              ACTING PRESIDENT YOUNG:       Senator  
11       Parker, do you yield?

12              SENATOR PARKER:       I would like to  
13       yield.   I would like to finish this, and then  
14       I'll be happy to yield.   I need two minutes.

15              ACTING PRESIDENT YOUNG:       The  
16       Senator doesn't yield at this time, but we'll  
17       revisit.

18              SENATOR PARKER:       I will yield, I  
19       just want to finish my thought and then I'll  
20       be happy to yield.

21              ACTING PRESIDENT YOUNG:       Very  
22       good.   Thank you, Senator.

23              SENATOR PARKER:       Alternatively,  
24       if one accepts the current Republican  
25       Majority's narrow interpretation of the

1 Lieutenant Governor's authority to use a  
2 casting vote only upon motions and  
3 resolutions, the proposed rule would still be  
4 unconstitutionally restricted by the  
5 Lieutenant Governor's constitutionally  
6 confirmed authority. And again, if you see  
7 the New York Attorney General's opinion  
8 83-F10, it actually confirms that.

9 Of course, the current Republican  
10 Majority's interpretation of the casting vote  
11 is the complete opposite of the historic  
12 position, which was most forcefully stated in  
13 2008 when then-Temporary President Joseph  
14 Bruno stated that because of the lack of a  
15 Lieutenant Governor, he would be able to vote  
16 twice on deadlocked votes -- some of you guys  
17 remember that, right -- including for the  
18 Senate leadership. And you can see that in  
19 the New York Times, there's an article called  
20 "In a Senate Tie, Could Bruno Vote Twice?" of  
21 March 12, 2008.

22 This has been an ongoing problem.  
23 I think that Liz talked about that, in the  
24 fact that it's really important to  
25 understand -- and not only did Alexander

1       Hamilton refer to what states were doing to  
2       start developing the U.S. Constitution, he  
3       actually was specifically talking about  
4       New York. It was actually the New York case  
5       that was actually -- the New York State  
6       Constitution was ratified in 1777, a full  
7       10 years before the Federal Constitution, and  
8       it was really the basis for what we see the  
9       around the country.

10               What we're seeing here, folks, is a  
11       simple power grab. And what would simply  
12       happen, let me just be very clear about this,  
13       in a 31-31 tie -- Senator Libous essentially  
14       said it -- that whoever is the leader will  
15       continue to be the leader. This is an attempt  
16       to make sure that in 2012, if there's a new  
17       election, that in 2013, when there's supposed  
18       to be a change, if in fact we wind up with a  
19       31-31 tie, that the Republican Majority, and  
20       presumably Senator Skelos, would continue to  
21       be the leader.

22               And this is again, I think, the  
23       wrong way for us to be going at this time. I  
24       think it's counter to what we see, again, not  
25       just in the U.S. Constitution, the State

1       Constitution, but other states. In fact, the  
2       National Council of State Legislators notes  
3       that the lieutenant governor presides over the  
4       senate in 25 states. In all but one of those  
5       states, the lieutenant governor is able to  
6       break ties.

7               More importantly, a lieutenant  
8       governor vote broke organizational deadlocks  
9       in Idaho in 1990 and in Pennsylvania in 1992.  
10      A report prepared by the Virginia State Senate  
11      Rules Committee in 1996 noted that in the  
12      reported cases, only Minnesota concluded that  
13      the lieutenant governor did not have the  
14      authority to cast a tie-breaking vote.

15             And that's Howard, it's in the Law  
16      28 -- I'll give you the citation if you want  
17      it. I'm trying to move fast.

18             Alternatively, in seven decisions  
19      the respective high courts decided that the  
20      lieutenant governor may vote to break a vote  
21      in procedural matters, including in Delaware,  
22      Idaho, Kansas, Michigan, Montana, Nebraska and  
23      North Dakota.

24             In conclusion, I really wanted to  
25      say that we're going to disenfranchise voters

1 more than anything else. Not only are we  
2 going to create a bad precedent in terms of  
3 this house and what happens here, but the  
4 voters who voted for a Governor voted for that  
5 Governor because he had a different set of  
6 powers and responsibilities than a Senator.  
7 Senators should not be in line to become  
8 Governor, and that's fine. You know, all of  
9 our aspirations aside.

10 What we ought to be doing here is  
11 having a process that is authentic and that  
12 keeps the integrity of what voters voted for  
13 when they elected us but, more importantly,  
14 when they elected the Governor and the  
15 Lieutenant Governor of the state.

16 I'll accept a question if Senator  
17 Nozzolio still has one.

18 ACTING PRESIDENT YOUNG: Senator  
19 Nozzolio passes at this time.

20 SENATOR PARKER: Thank you.

21 ACTING PRESIDENT YOUNG: Thank  
22 you, Senator Parker.

23 Again, I would ask the speakers to  
24 be brief.

25 The next speaker would be Senator

1       Gianaris.

2                   SENATOR GIANARIS:     Thank you,  
3       Madam President.   Would Senator Libous yield  
4       for a question.

5                   ACTING PRESIDENT YOUNG:     Senator  
6       Libous, do you yield?

7                   SENATOR LIBOUS:     I do, Senator.

8                   ACTING PRESIDENT YOUNG:     Thank  
9       you, Senator.

10                  SENATOR GIANARIS:     Thank you.

11                  My question to Senator Libous is  
12       simply do you believe that the State  
13       Constitution currently provides the Lieutenant  
14       Governor the power to break ties over the  
15       selection of a Temporary President in the  
16       Senate?

17                  SENATOR LIBOUS:     No, I do not.   I  
18       think I've been very clear, Madam President.

19                  SENATOR GIANARIS:     You have.

20                  Would the Senator continue to  
21       yield, Madam President.

22                  ACTING PRESIDENT YOUNG:     Senator  
23       Libous, do you yield?

24                  SENATOR LIBOUS:     I do, Madam  
25       President.



1                   ACTING PRESIDENT YOUNG:       Go  
2       ahead, Senator Gianaris.

3                   SENATOR GIANARIS:       Given that you  
4       have made that position very clear, I have one  
5       very simple question. Which is if you do not  
6       believe the Constitution provides that power  
7       currently, why is it necessary to include this  
8       provision in the rules of the Senate?

9                   SENATOR LIBOUS:       It just  
10      clarifies what we believe the Constitution  
11      says.

12                  SENATOR GIANARIS:       Exactly.  
13      Thank you, Senator Libous.

14                  On the resolution, Madam President.

15                  ACTING PRESIDENT YOUNG:    On the  
16      resolution.

17                  SENATOR GIANARIS:       What we heard  
18      Senator Libous just admit to is that it is the  
19      intent of the Senate Majority to use the  
20      Senate rules to interpret a provision of the  
21      Constitution. And that is an incredibly  
22      dangerous thing to do.

23                  It is without question that there  
24      is a difference of opinion as to what the  
25      Constitution provides in Article 4, Section 6.

1 We heard Senator Saland earlier refer to the  
2 New York Times of the 1800s -- and far be it  
3 from me not to accept the New York Times as an  
4 authority.

5 But there is also another authority  
6 from New York, from 1906, which postdates that  
7 New York Times article, from Charles Lincoln,  
8 a treatise called "The Constitutional History  
9 of New York." The author was a member of the  
10 New York Constitutional Convention. And he  
11 stated very clearly: "The power to dissolve a  
12 tie and decide the question has been properly  
13 vested in the Lieutenant Governor. This power  
14 extends to all matters not involving the  
15 passage of a bill, including the choice of its  
16 officers, including the Temporary President."

17 So at a minimum, there's a  
18 difference of opinion as to what this  
19 provides. And there are two ways our  
20 government allows for varying interpretations  
21 of the Constitution to be resolved. One is  
22 for the court system to interpret those  
23 provisions. And a situation like this  
24 ultimately would be decided by the highest  
25 court in the state, the Court of Appeals.

1 I find it rather ironic that we  
2 hear from the Majority the complaint that the  
3 Lieutenant Governor is not an elected member  
4 of the Senate and therefore is inserting  
5 himself as an elected member if he were to be  
6 given this power, yet at the same time the  
7 Senate Majority, by its own admission, is  
8 inserting itself as members of the judiciary  
9 in attempting to interpret what the  
10 Constitution of the state provides.

11 There's a second way that disputes  
12 as to constitutional interpretation can be  
13 resolved, and that way rests properly with the  
14 Legislature. That is to amend the  
15 Constitution. And that is also not what the  
16 Senate Majority is doing. They are not  
17 suggesting a constitutional amendment to  
18 further clarify Article 4, Section 6, which  
19 would be the subject of a robust debate in  
20 this chamber and in the other chamber across  
21 the hall, would have to be passed by two  
22 separately elected legislatures and,  
23 importantly, be approved by the people of the  
24 State of New York in a referendum.

25 What is not an option is for the

1 rules dictating the procedure of this house to  
2 be used to interpret the most important  
3 governmental document this state has, and  
4 that's the Constitution of the State of  
5 New York.

6 ACTING PRESIDENT YOUNG: Senator  
7 Nozzolio, why do you rise?

8 SENATOR NOZZOLIO: Madam  
9 President, will Senator Gianaris respond to a  
10 question.

11 ACTING PRESIDENT YOUNG: Do you  
12 yield, Senator?

13 SENATOR GIANARIS: I'd be happy  
14 to.

15 ACTING PRESIDENT YOUNG: Go  
16 ahead, Senator Nozzolio.

17 SENATOR NOZZOLIO: Thank you,  
18 Senator Gianaris. Thank you, Madam President.

19 Senator Gianaris, the authority you  
20 quote as the constitutional authority, who was  
21 that?

22 SENATOR GIANARIS: Let me get it  
23 exactly right. Charles Lincoln.

24 SENATOR NOZZOLIO: And, Madam  
25 President, will Senator Gianaris continue to

1       yield.

2                   ACTING PRESIDENT YOUNG:       Do you  
3       yield, Senator?

4                   SENATOR GIANARIS:       Yes, I do.

5                   ACTING PRESIDENT YOUNG:       Go  
6       ahead, Senator.

7                   SENATOR NOZZOLIO:       Thank you,  
8       Madam President.

9                   Senator Gianaris, did Mr. Lincoln  
10       in his analysis refer to any specific action  
11       taken by this body and particularly by the  
12       Lieutenant Governor? In Mr. Lincoln's  
13       analysis, did he refer to any particular  
14       action taken by the Lieutenant Governor in  
15       making certain decisions of which you are  
16       quoting from?

17                   SENATOR GIANARIS:       Just to  
18       clarify, are you asking whether he's a  
19       referring to a specific action that actually  
20       took place, as opposed to a theoretical  
21       discussion?

22                   SENATOR NOZZOLIO:       That's  
23       correct.

24                   SENATOR GIANARIS:       Not in the  
25       section that I quoted, no.

1                   ACTING PRESIDENT YOUNG:     Senator  
2       Nozzolio.

3                   SENATOR NOZZOLIO:     If Senator  
4       Gianaris would continue to yield, Madam  
5       President.

6                   ACTING PRESIDENT YOUNG:     Will you  
7       continue to yield, Senator Gianaris?

8                   SENATOR GIANARIS:     Yes, Madam  
9       President.

10                  ACTING PRESIDENT YOUNG:     Go  
11       ahead.

12                  SENATOR NOZZOLIO:     It's my  
13       understanding, Senator, that the source and  
14       authority of which you quote based his  
15       decision on certain articles of the State  
16       Constitution that were actually regarding --  
17       in his argument supported by a single case in  
18       which the mayor of a city in this state voted  
19       to break a tie on a substantive matter, that  
20       he had -- the constitutional authority which  
21       you quote was not referring to the Lieutenant  
22       Governor of the State of New York but rather  
23       an action by a mayor and city council.

24                  SENATOR GIANARIS:     In discussing  
25       the action which you reference, the author,

1       who has been regularly cited as a source by  
2       our Court of Appeals, went into the  
3       theoretical discussion of the powers of a  
4       Lieutenant Governor in making the analysis as  
5       it relates to the case you're talking about.

6               My point is simply that there are  
7       authorities that are on either side of this  
8       issue, and this matter is properly resolved  
9       either by the court system itself -- which is  
10      where a constitutional interpretation should  
11      be interpreted -- or, if the Legislature is  
12      going to take this up, it should do so through  
13      the process of a constitutional amendment, not  
14      through setting the procedural rules of this  
15      house, which is what you are attempting to do  
16      tonight.

17               SENATOR NOZZOLIO:       Madam  
18      President, will Senator Gianaris continue to  
19      yield.

20               ACTING PRESIDENT YOUNG:       Will you  
21      yield?

22               SENATOR GIANARIS:       Yes, Madam  
23      President.

24               SENATOR NOZZOLIO:       That I  
25      appreciate your isolating this, although

1       certainly I recall last year or two years ago  
2       when the selection of Lieutenant Governor was  
3       made not by any constitutional authority but a  
4       combination, of which I believe you suggested  
5       be for with. Isn't that in fact the direct  
6       opposite of what you're suggesting now,  
7       that -- but let me -- let me --

8                SENATOR GIANARIS:       Is that a  
9       question, Madam President? Because I would  
10      like to answer it.

11               ACTING PRESIDENT YOUNG:       Is that  
12      a question, Senator?

13               SENATOR NOZZOLIO:       No, Madam  
14      President, it wasn't.

15               (Laughter.)

16               ACTING PRESIDENT YOUNG:       It was a  
17      statement, Senator.

18               SENATOR NOZZOLIO:       My question,  
19      Senator, is this. There is one word in the  
20      State Constitution that isolates the actions  
21      of a Lieutenant Governor from the threshold to  
22      the casting vote, and that one word is the  
23      word "therein."

24               It's my opinion and the opinion of  
25      others on our side of the aisle that the word



1       "therein" constitutes the operative time when  
2       the Lieutenant Governor can engage his  
3       authority after the body so chooses its  
4       leadership.

5               And I believe that is an issue that  
6       I did not hear you discuss. Are you not  
7       familiar with that provision of the State  
8       Constitution? Let me refer that to you. It's  
9       Article 4, Section 6.

10              ACTING PRESIDENT YOUNG:       Senator  
11       Gianaris.

12              SENATOR GIANARIS:       Yeah, I  
13       respect the Senator's position on that. And I  
14       respect that there can be differences of  
15       opinion as to how Article 4, Section 6 should  
16       be interpreted.

17              My point is simply that that is not  
18       resolved on the floor of the Senate when we're  
19       passing the rules of the Senate. That is  
20       either resolved by the Court of Appeals, after  
21       litigation -- which, to answer your previous  
22       question which you revoked, was in fact where  
23       the issue of the appointment of the Lieutenant  
24       Governor was decided, ultimately, as it should  
25       have been -- or by constitutional amendment.

1                   What is it that the Senate Majority  
2                   is afraid of? Put forward a constitutional  
3                   amendment. Let's vote for it, if that's what  
4                   you want to do. Let's see what the Assembly  
5                   does. And let's change the Constitution the  
6                   proper way, if that's what you want to do, not  
7                   through this back-door mechanism of  
8                   establishing the procedural rules of this  
9                   house in a way that by Senator Libous's own  
10                  admission is intended to interpret the  
11                  Constitution.

12                 SENATOR NOZZOLIO:       Madam  
13                  President, will Senator Gianaris continue to  
14                  yield.

15                 ACTING PRESIDENT YOUNG:     Will you  
16                  yield?

17                 SENATOR GIANARIS:       Yes, Madam  
18                  President.

19                 ACTING PRESIDENT YOUNG:     I'm  
20                  confused, Senator. The purity of which you  
21                  wish to change the Constitution was ignored  
22                  totally in the selection of Lieutenant  
23                  Governor.

24                 Your admonition that this body  
25                  change the State Constitution was a plea that

1        was totally ignored when this body put on a  
2        rider to the last year's budget that totally  
3        changed the way the census is determined in  
4        New York State, in direct contradiction to the  
5        State Constitution.

6                    I guess that's the question we had  
7        then: Why didn't the same Legislature change  
8        the State Constitution during the prison  
9        census issue or during the Lieutenant Governor  
10       issue? Neither of those constitutional  
11       questions were changed by the State  
12       Constitution but rather by this body.

13                   SENATOR GIANARIS:        It was my  
14       position, Senator Nozzolio -- I can speak most  
15       authoritatively about the Lieutenant Governor  
16       appointment issue. And it was my position and  
17       continues to be my position that the  
18       Constitution allowed that appointment. So the  
19       Constitution did not need to be changed.

20                   Others disagreed, and they took it  
21       to court and they lost. So we had a  
22       Lieutenant Governor that was appointed.

23                   The fact is that in this case the  
24       Senate Majority believes that the Constitution  
25       does not provide the Lieutenant Governor the

1 power to break a tie. I disagree.

2 But given that the Majority does  
3 not believe that power currently exists,  
4 there's no reason to insert it in the rules  
5 right now other than to try and interpret the  
6 Constitution. And that is inappropriate, and  
7 that is in contravention of the balance of  
8 powers that this state has been living under  
9 for over 200 years.

10 And I find it offensive, and I  
11 think it's the worst of what people dislike  
12 about Albany. The worst of what people  
13 dislike about this Capitol is that we are  
14 using the procedural rules of this house to  
15 interpret something as important as the powers  
16 of the Lieutenant Governor of the State of  
17 New York.

18 SENATOR NOZZOLIO: Senator, you  
19 and I respectfully --

20 ACTING PRESIDENT YOUNG: Senator,  
21 are you asking Senator Gianaris to yield?

22 SENATOR NOZZOLIO: Yes, Madam  
23 President.

24 ACTING PRESIDENT YOUNG: Do you  
25 yield?

1                   SENATOR GIANARIS:     Yes, Madam  
2     President.

3                   ACTING PRESIDENT YOUNG:     Proceed.

4                   SENATOR NOZZOLIO:     Senator  
5     Gianaris, you and I respectfully disagree  
6     about that tactic and the characterization of  
7     the motivation for placement of these rules.

8                   I appreciate you clarifying your  
9     source, your constitutional source, and I  
10    thank you for your yielding.

11                  SENATOR GIANARIS:     Thank you,  
12    Senator.

13                  And I know the time is short, so I  
14    will just conclude. I think my points have  
15    largely been made.

16                  But this is not the time and the  
17    place to be interpreting the Constitution or  
18    to be tinkering with a document as important  
19    as the Constitution. If there's a  
20    disagreement as to what the Constitution says,  
21    the courts should resolve it. If we're not  
22    happy with what the Constitution says, we  
23    should change it through the constitutional  
24    amendment process, not through setting the  
25    rules of the Senate.

1                   And with that, I conclude my  
2                   remarks and thank the President for the time.

3                   ACTING PRESIDENT YOUNG:     Thank  
4                   you, Senator Gianaris.

5                   I see Senator Duane in the chamber.  
6                   Senator Duane, I believe you had wished to  
7                   speak, and I would ask -- okay, thank you very  
8                   much. We really appreciate it.

9                   Senator Bonacic.

10                  Don't take that the wrong way.

11                  (Laughter.)

12                  SENATOR BONACIC:     It's been a  
13                  long day. My name was invoked six times in  
14                  discussing the amendments of reform. And I'd  
15                  like to for a moment leave aside the  
16                  Lieutenant Governor debate. I think good  
17                  points were made on both sides, but it's going  
18                  to have to be determined by a court of law. I  
19                  think we have a difference of opinion.

20                  I did not support the three  
21                  amendments. I supported the spirit of all  
22                  three amendments, but there were poison-pill  
23                  stuff in each of those amendments that were  
24                  not consistent with our rules report back in  
25                  April of 2009.

1                   Let me first thank Senator Griffo  
2                   and all the members of that rules reform  
3                   committee, because I think when the nine of us  
4                   were at the table -- and I'm not a rules guy.  
5                   Don't talk to me about Roberts, don't talk to  
6                   me about Mason rules. I like policy. But we  
7                   got charged with this responsibility. And the  
8                   more we got into this, and the more we had  
9                   public hearings and the more we listened to  
10                  good government groups and the more we looked  
11                  at other states and the more we heard scholars  
12                  come in, and legal professors, there is  
13                  something to doing good rules.

14                 And even though in the two years  
15                 when you were in the majority you did take  
16                 turtle steps -- that you interpret as  
17                 monumental, compared to what the majority  
18                 Republicans did years before, because they  
19                 basically didn't do anything. And I will say  
20                 to you that that blueprint of that report is  
21                 the model that we should try to get to, if we  
22                 can.

23                 And why should we try to get there?  
24                 We should try to get there because the old  
25                 Albany culture does not work. To the victor

1 belongs the spoils. You see how that Assembly  
2 is run. I've come from there; many of you  
3 over there have come from that house. That is  
4 a dictatorship where the leader and staff have  
5 more power than the elected officials.

6 And to a great extent here, that  
7 exists, although there are steps taken now to  
8 break that culture. And it's all healthy.  
9 And why is it healthy? Because every member  
10 that gets to this seat as a Senator must have  
11 the security of a certain amount of resources  
12 to do his job. His constituents should not  
13 suffer, his or her constituents should not  
14 suffer if they're in the minority. They  
15 didn't do anything wrong.

16 They should have access to equal  
17 resources, they should have access to equal  
18 member items, and they should have access to  
19 equal capital. Not the Senator, but the  
20 constituents. And you should be able to  
21 communicate and have the resources so you can  
22 communicate with each other, the Senator and  
23 the constituents. Under this system now, that  
24 doesn't happen.

25 Our conference did not go far



1 enough in following the rules. In my humble  
2 opinion, they did not. And I wanted them to.  
3 But there's so much distrust between each side  
4 of the aisle, there's so much partisan  
5 politics, and the stakes are so high with  
6 32-30 and redistricting coming down the road.  
7 So the environment is toxic for people of  
8 goodwill to try to get to that comfort  
9 position that the blueprinters laid out in  
10 that report in April.

11 I believe that -- and I liked the  
12 chemistry of those nine members, because they  
13 were sincere, they were new, many of them, and  
14 they said this is a better way. But when it  
15 got up the flagpole, when you have the  
16 leadership has the power and they have the  
17 money and they have the control, they don't  
18 want to let go of this. Again, back to the  
19 Albany old culture.

20 So all I will say in conclusion is  
21 that it's very difficult when you're in the  
22 majority to move the rules reform to get to  
23 that place of comfort where Senators are  
24 treated equally and constituents are treated  
25 fairly and equally. The only way that this is

1       going to get done -- and this is a long  
2       shot -- is we've got to do it in statute.

3               So what I plan on doing is I'm  
4       going to prepare legislation that embodies the  
5       heart of those rules reform, such as a  
6       petition of 32. Because that's more  
7       democratic. If 32 of us want a bill to come  
8       to the floor, it should come to the floor and  
9       be voted on.

10              I remember when Nettie Mayersohn,  
11       the Assemblywoman, when we were over there in  
12       the Assembly had 108 votes and couldn't get  
13       the bill on the floor. That's not a  
14       democracy, that's a dictatorship.

15              And I do believe that there should  
16       be equal resources. And we can't -- you know,  
17       and I like my leader, Senator Skelos. I think  
18       he's respectful. He's benevolent. And I  
19       think by his conduct he will try to treat  
20       everybody with respect. But leaders come and  
21       go, and they could change with more power as  
22       they're in a longer time.

23              So it may sound utopian, it may  
24       sound not based in reality. But what I would  
25       ask each member here, when this legislation

1 comes before you, sign the petition so we can  
2 get it on the floor. We took the best of the  
3 Brennan Institute, we took the best of the  
4 good government groups, we took the best of  
5 other states. Because process does affect the  
6 quality of the product for the people we  
7 represent.

8 So I will say, in conclusion, that  
9 I'm supporting this resolution because -- the  
10 Lieutenant Governor issue, that's not going to  
11 be resolved here tonight, obviously. But  
12 there are other things worth fighting for.  
13 And as this comes down the road -- now  
14 tomorrow, rules won't even be on the radar  
15 screen. We'll have economic challenges, we'll  
16 have the Governor's blueprint, and that will  
17 take all our time. But we will overcome the  
18 challenges of the Governor.

19 But every day you have to deal with  
20 the rules, each of us do. Every day. That's  
21 worth fighting for. That never goes away. So  
22 I say, in conclusion, don't lose it off your  
23 radar screen as we go into session.

24 Thank you very much, Madam Speaker.

25 ACTING PRESIDENT YOUNG: Thank

1       you, Senator Bonacic.

2                   Senator DeFrancisco to close.

3                   SENATOR DeFRANCISCO:     Just -- I  
4       wasn't going to speak on this point, but since  
5       it was just raised by Senator Bonacic, you  
6       know, it's this utopian philosophy of various  
7       policies until you're the individuals who are  
8       in control of the house.

9                   The Minority is now wanting equal  
10      resources. If you look at the numbers from  
11      last year, the total final numbers for the  
12      amount spent on the Democrat side of the  
13      aisle, the amount spent on the Republican side  
14      of the aisle, despite their philosophical  
15      desire for equality, 71 percent of the  
16      resources went to the Democrats in this house,  
17      29 percent went to Republicans. The Democrats  
18      in the house went over their budget by 10 to  
19      14 million; the Republicans went under their  
20      budget by several million.

21                  So it's one thing talking  
22      philosophy and trying to lecture one side or  
23      the other side. But if you look at the facts,  
24      what is the real reality behind what's being  
25      argued for and what was really done.

1                   But on the Lieutenant Governor  
2           issue, which I think is a very important  
3           issue, there's been some suggestion by Senator  
4           Gianaris that we are somehow interpreting the  
5           Constitution by putting it in the rules. All  
6           that's being done, if you look at the  
7           Constitution, the phrase from the Constitution  
8           is taken from the Constitution and put in the  
9           rules. There's no changes. It's taken from  
10          the Constitution and put in the rules. No  
11          interpretation of anything.

12                   And when you indicate that this is  
13          some way doing something wrong, just listen to  
14          the rules here -- the Constitution, I mean.  
15          The Constitution says this. A majority of  
16          each house shall constitute a quorum,  
17          et cetera. Each house shall determine the  
18          rules and be judge of elections and  
19          qualifications and shall choose its own  
20          officers. And the Senate, the Senate shall  
21          choose a Temporary President and the Assembly  
22          choose a Speaker. The Senate.

23                   I don't think anybody in here truly  
24          believes that the Lieutenant Governor is a  
25          member of the Senate. The Lieutenant Governor

1       does not run for the Senate. He runs -- and  
2       he's not even here tonight. The Lieutenant  
3       Governor is a presiding officer. That's all  
4       he does.

5               So all that's being done is the  
6       Constitution phrase is put right in the rules  
7       to make it very clear that this body,  
8       including Democrats and Republicans, choose  
9       who their leader is going to be, not someone  
10      who ran with the executive and is a member of  
11      the executive branch.

12             I'll answer a question as soon as I  
13      get done with this last point.

14             There's been a lot of argument  
15      about another section of the Constitution, on  
16      what a casting vote is. Whatever a casting  
17      vote is -- and you can have one interpretation  
18      from somebody who wrote something in 1902 or  
19      someone from the New York Times or whatever.  
20      The fact of the matter is it's irrelevant  
21      what's meant by a casting vote. That's a  
22      general concept. The specific section of the  
23      Constitution says the Senate shall choose.

24             So as to the choice of a Temporary  
25      President, it's very clear. The specific

1        clause overrides some possible different  
2        interpretations by pundits and treatise  
3        writers and so forth as to what a casting vote  
4        is.

5                    Now I'd be happy to answer any  
6        question that Senator Squadron might have.

7                    SENATOR SQUADRON:        Madam  
8        President, I --

9                    ACTING PRESIDENT YOUNG:        Senator  
10       Squadron, why do you rise?

11                   SENATOR SQUADRON:        Will Senator  
12       DeFrancisco yield for a question? I think he  
13       indicated he would.

14                   ACTING PRESIDENT YOUNG:        Do you  
15       yield, Senator DeFrancisco?

16                   SENATOR DeFRANCISCO:        Yes.

17                   ACTING PRESIDENT YOUNG:        Thank  
18       you.

19                   SENATOR SQUADRON:        Just two  
20       questions. The hour is beginning to get late,  
21       and we only have a couple more hours of this,  
22       so just two brief questions.

23                   First of all, Senator DeFrancisco,  
24       I'm not an attorney. I believe you are an  
25       attorney. I believe from time to time you've

1       been helpful in helping me interpret laws  
2       before the house.

3               In the case that there's a conflict  
4       between the rules of the Senate and the  
5       Constitution of the State of New York, Senator  
6       DeFrancisco, can you just describe for me  
7       which would prevail and carry the weight of  
8       law?

9               SENATOR DeFRANCISCO:       Which would  
10       prevail would be the Constitution.   Except  
11       here, as I just mentioned moments ago.   All  
12       these rules are is taking a phrase from the  
13       Constitution and putting it in the rules.   So  
14       they're going to be extremely consistent.  
15       They're going to be identical on that issue.

16              SENATOR SQUADRON:       And through  
17       you, Madam President, just a clarification  
18       question to that answer, if Senator  
19       DeFrancisco is willing to yield again.

20              SENATOR DeFRANCISCO:       Yes.

21              SENATOR SQUADRON:       Again, whether  
22       there is a conflict here or not, in the case  
23       of a conflict, the Constitution certainly  
24       would prevail over the rules of the Senate.

25              SENATOR DeFRANCISCO:       Senator



1 Squadron, I don't know how I can answer it  
2 more clearly. This will not be a conflict.  
3 So that esoteric theoretical question that may  
4 be on a law exam is immaterial here.

5 The phrase is taken out of the  
6 Constitution and put in the rules. They are  
7 the same. There is no conflict. The words  
8 are identical.

9 SENATOR SQUADRON: Thanks,  
10 Senator DeFrancisco. If he's willing to yield  
11 to just one final question.

12 ACTING PRESIDENT YOUNG: Senator,  
13 do you yield?

14 SENATOR DeFRANCISCO: Yes.

15 ACTING PRESIDENT YOUNG: Go  
16 ahead, please.

17 SENATOR SQUADRON: Senator  
18 DeFrancisco described a percentage based on  
19 some calculation, I'm not sure what the  
20 calculation was, of the distribution of  
21 resources and somehow suggested that that  
22 impugns this debate overall.

23 Just out of curiosity, what does  
24 Senator DeFrancisco think is the appropriate  
25 division of resources between conferences and

1 among members so that we can all represent our  
2 constituents?

3 SENATOR DeFRANCISCO: Well, I  
4 certainly don't think that any member should  
5 double the cost of their district office that  
6 was allocated. That's one thing I think is --  
7 you would agree with that, wouldn't you,  
8 Senator? Would you agree with me on that?

9 SENATOR SQUADRON: I believe  
10 Senator DeFrancisco is asking me to yield, so  
11 I will yield briefly and answer that question.  
12 Which, as Senator DeFrancisco knows, for  
13 better or worse, the Secretary of the Senate  
14 makes those decisions in this house.

15 Also, the question is not about  
16 that but, again, what does Senator DeFrancisco  
17 think would be fair.

18 SENATOR DeFRANCISCO: I'll be  
19 happy to answer that.

20 First of all, I think that -- I'm  
21 sorry you were forced to spend twice the  
22 amount of money by the Secretary of the  
23 Senate. But others went under their budget.

24 What I think is fair, I think  
25 what's the fairest way to do it is a base

1 amount and then committee chairs have  
2 additional funds that would be available to  
3 the committee chairs. Because obviously  
4 committee chairs have a heck of a lot more  
5 responsibility than others. That's the way I  
6 would do it. Unfortunately -- well, that's  
7 the way I would do it.

8 Thank you very much.

9 ACTING PRESIDENT YOUNG: Thank  
10 you.

11 SENATOR SQUADRON: Just for  
12 clarity, I didn't hear a percentage  
13 distribution of resources. Senator  
14 DeFrancisco clearly is quite good at  
15 calculating percentages of resources --

16 ACTING PRESIDENT YOUNG: Senator  
17 Libous, why do you rise?

18 SENATOR LIBOUS: I believe  
19 Senator DeFrancisco --

20 SENATOR DeFRANCISCO: All I  
21 wanted to say is I answered the question, and  
22 there's nothing else I could add.

23 ACTING PRESIDENT YOUNG: Thank  
24 you, Senator.

25 The debate is closed.

1                   Senator Duane, you can explain your  
2                   vote, please. Okay?

3                   SENATOR DUANE:       I think --

4                   ACTING PRESIDENT YOUNG:       Senator  
5                   DeFrancisco was the last speaker.

6                   SENATOR DUANE:       He did say he was  
7                   open to any questions, Madam President.

8                   ACTING PRESIDENT YOUNG:       Senator,  
9                   could you please explain your vote, because we  
10                  are way over. We've been very, very -- giving  
11                  a lot of leeway.

12                  SENATOR LIBOUS:       Madam President,  
13                  point of order.

14                  This is a resolution and we're --  
15                  listen. Madam President, we have gone way  
16                  over the time limit because I felt it was  
17                  important that everybody be heard. Way over  
18                  the time limit. No one got up to raise the  
19                  fact that one side or the other was speaking  
20                  too long.

21                  Madam President, Senator Duane had  
22                  an opportunity to speak before, and he turned  
23                  it down. I will be a gentleman, Madam  
24                  President, and let Senator Duane close the  
25                  debate on this issue if he would be brief,

1       please.

2                   SENATOR DUANE:       Through you,  
3       Madam President --

4                   ACTING PRESIDENT YOUNG:       Can you  
5       be brief, Senator?

6                   SENATOR DUANE:       It was -- I  
7       was -- I'm not really that interested in  
8       closing the debate. We have someone to do  
9       that. I will answer my own question -- I will  
10      answer my questions as I assume they would  
11      have been answered by the other side when I  
12      cast my vote.

13                  ACTING PRESIDENT YOUNG:       Thank  
14      you very much, Senator.

15                  The debate is closed.

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

18                  (Response of "Aye.")

19                  ACTING PRESIDENT YOUNG:       Opposed,  
20      nay.

21                  (Response of "Nay.")

22                  ACTING PRESIDENT YOUNG:       Senator  
23      Duane, would you like to explain your vote?

24                  SENATOR DUANE:       Thank you, Madam  
25      President.

1                   SENATOR DeFRANCISCO:     Point of  
2     order.

3                   ACTING PRESIDENT YOUNG:     Senator  
4     DeFrancisco.

5                   SENATOR DeFRANCISCO:     The rules  
6     that have been adopted -- and even according  
7     to the prior rules -- do not allow explanation  
8     of votes on resolutions. The rules are clear.  
9     And I would ask for a ruling of the chair.

10                  SENATOR BRESLIN:     Madam  
11     President, point of order, please.

12                  ACTING PRESIDENT YOUNG:     Senator  
13     Breslin.

14                  SENATOR BRESLIN:     Yes, Madam  
15     President. I refer you to our rules -- that  
16     would be 9.3(e), wherein it talks about that  
17     you are allowed to provide an explanation of  
18     your vote. Resolutions or motions are  
19     included.

20                  ACTING PRESIDENT YOUNG:     Senator  
21     DeFrancisco.

22                  SENATOR DeFRANCISCO:     That  
23     section says the vote shall thereupon be taken  
24     upon such bill, resolution, et cetera, but  
25     without further debate -- without further

1 debate -- except that upon a roll call any  
2 Senator may speak, not to exceed two minutes  
3 in explanation.

4 That was not a roll call vote, that  
5 was a voice vote.

6 SENATOR BRESLIN: We call for a  
7 roll call vote.

8 SENATOR DeFRANCISCO: We've had  
9 the vote, and the vote has been taken.

10 SENATOR LIBOUS: Madam President,  
11 the vote has been taken. A roll call vote on  
12 a resolution is not in order, is not in the  
13 rules of this house. And I believe the  
14 resolution was before the house, I believe a  
15 vote was taken and the resolution passed. Is  
16 that correct, Madam President?

17 SEVERAL SENATORS: No. No.

18 SENATOR BRESLIN: Madam  
19 President --

20 SENATOR LIBOUS: What do you  
21 mean, no? I've got all these critics?

22 Madam President, I believe half of  
23 the house is out of order right now.

24 UNIDENTIFIED SENATOR: Which  
25 half?

1                   SENATOR MAZIARZ:     A little less  
2     than half.

3                   ACTING PRESIDENT YOUNG:     Senator  
4     Libous, what I'd like to do, if it's okay, is  
5     that I had told Senator Duane that he could  
6     explain his vote. So I would like to make the  
7     exception this time so that he can briefly  
8     explain his vote, because I told him he could  
9     do it, and then we'll proceed from there.

10                  SENATOR LIBOUS:     Madam President,  
11     I would allow that with unanimous consent for  
12     this one time only. Do we have unanimous  
13     consent of the house? And it would be allowed  
14     for this one time.

15                  ACTING PRESIDENT YOUNG:     Is there  
16     any objection?

17                         (No response.)

18                  SENATOR LIBOUS:     There appears to  
19     have unanimous consent, Madam President, to  
20     let Mr. Duane speak.

21                  ACTING PRESIDENT YOUNG:     Senator  
22     Duane, you have two minutes to explain your  
23     vote.

24                  SENATOR DUANE:     Thank you, Madam  
25     President.



1                   Sadly, it has become clear to me  
2                   that there really are no really shining  
3                   examples of either what happened over the past  
4                   two years or what is happening now. And my  
5                   hope is, my desire is, my wish and my belief  
6                   of what we should do is to make rules that  
7                   going forward in this house will provide for  
8                   fairness, transparency, and equality, and not  
9                   make rules based on the bad behavior of some  
10                  members over the past few years.

11                  So with that, Madam President, I'm  
12                  going to vote no, but with the fervent desire  
13                  that we can take members at their word that  
14                  they actually are going to do more to improve  
15                  our rules. The people of New York State  
16                  deserve no less.

17                  Thank you, Madam President.

18                  SENATOR LIBOUS:     Announce the  
19                  results.

20                  ACTING PRESIDENT YOUNG:     Thank  
21                  you, Senator Duane.

22                  Senator Breslin.

23                  SENATOR BRESLIN:     I'd request a  
24                  show of hands, if I could, please.

25                  ACTING PRESIDENT YOUNG:     Very

1 good. The question is on the resolution.  
2 Those in favor signify by raising their hands.

3 (Senators raised their hands.)

4 SENATOR BRESLIN: As before,  
5 Madam President, I would request that we have  
6 the names of those voting in the affirmative.

7 ACTING PRESIDENT YOUNG: The  
8 Secretary will announce the results.

9 THE SECRETARY: In relation to  
10 Resolution Number 338: Ayes, 36. Nays, 24.

11 Those recorded in the affirmative  
12 on Resolution Number 338 are Senators Alesi,  
13 Ball, Bonacic, DeFrancisco, Farley, Flanagan,  
14 Fuschillo, Gallivan, Golden, Griffio, Grisanti,  
15 Hannon, Johnson, Lanza, Larkin, LaValle,  
16 Libous, Little, Marcellino, Martins, Maziarz,  
17 McDonald, Nozzolio, O'Mara, Ranzenhofer,  
18 Ritchie, Robach, Saland, Seward, Skelos,  
19 Young, Zeldin, Carlucci, Klein, Savino and  
20 Valesky.

21 ACTING PRESIDENT YOUNG: The  
22 resolution is adopted.

23 Senator Libous.

24 SENATOR LIBOUS: Madam President,  
25 is there any other business before the house?

1 I didn't say we adjourned yet. Is  
2 there any other business before the house?  
3 Madam President?

4 ACTING PRESIDENT YOUNG: There is  
5 no other business.

6 SENATOR LIBOUS: Madam President,  
7 I hand up the following committee assignment  
8 from Senator Skelos and ask that it be filed  
9 in the Journal.

10 And, Madam President, there being  
11 no further business, the Senate will stand  
12 adjourned -- could I have some order in the  
13 house?

14 ACTING PRESIDENT YOUNG:  
15 (Gaveling).

16 SENATOR LIBOUS: The Senate will  
17 stand adjourned until noon tomorrow.

18 ACTING PRESIDENT YOUNG: So  
19 ordered, Senator Libous.

20 On motion, the Senate stands  
21 adjourned until Tuesday, February 1st, at  
22 12:00 o'clock noon.

23 (Whereupon, at 8:20 p.m., the  
24 Senate adjourned.)  
25