

1 NEW YORK STATE SENATE

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3  
4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 March 14, 2011

11 3:32 p.m.

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13  
14 REGULAR SESSION

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18 SENATOR JOHN J. FLANAGAN, Acting President

19 FRANCIS W. PATIENCE, Secretary

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

2 ACTING PRESIDENT FLANAGAN: The  
3 Senate will please come to order.

4 I ask all present to please rise  
5 and repeat the Pledge of Allegiance.

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

8 ACTING PRESIDENT FLANAGAN:  
9 Today's invocation will be offered by the  
10 Reverend Peter G. Young, from Mother Teresa  
11 Community.

12 REVEREND YOUNG: Thank you,  
13 Senator. Let us pray.

14 O God, the builder of all things,  
15 You have placed on us the obligation of toil.  
16 Grant that the work that we begin today on  
17 this Monday may serve to better our lives in  
18 New York State and, through Your goodness,  
19 contribute to the spread of the call of Your  
20 people.

21 As Senators, we report on this day  
22 of the session bell that calls us to hear one  
23 another for the benefit of Your New York State  
24 constituents. This invocation calls us to be  
25 true to our best work effort and to be what we

1       might become as a legislative leader. We need  
2       to heed the call of our own hearts with  
3       compassion and equity.

4               Amen.

5               ACTING PRESIDENT FLANAGAN:       The  
6       reading of the Journal.

7               THE SECRETARY:       In Senate,  
8       Sunday, March 13th, the Senate met pursuant to  
9       adjournment. The Journal of Saturday,  
10      March 12th, was read and approved. On motion,  
11      Senate adjourned.

12              ACTING PRESIDENT FLANAGAN:  
13      Without objection, the Journal stands approved  
14      as read.

15              Presentation of petitions.

16              Messages from the Assembly.

17              Messages from the Governor.

18              Reports of standing committees.

19              Reports of select committees.

20              Communications and reports from  
21      state officers.

22              Motions and resolutions.

23              Senator Breslin.

24              SENATOR BRESLIN:       On behalf of  
25      Senator Dilan, I move that the following bill,

1       Number 1352A, be discharged from its  
2       respective committee and be recommitted with  
3       instructions to strike the enacting clause.

4                ACTING PRESIDENT FLANAGAN:       So  
5       ordered.

6                SENATOR BRESLIN:       Thank you,  
7       Mr. President.

8                ACTING PRESIDENT FLANAGAN:  
9       Senator Libous.

10               SENATOR LIBOUS:       Mr. President  
11       and my colleagues, could I ask that we now  
12       take a moment and observe silence as a mark of  
13       respect for a 21-year-old sailor, Mychael  
14       Anthony Flint, a member of Senator Betty  
15       Little's district, who was killed while  
16       attending training in California.

17                If I could ask members to stand and  
18       take a moment of silence, please, for this  
19       courageous individual who was protecting our  
20       country.

21                ACTING PRESIDENT FLANAGAN:       Thank  
22       you, Senator Libous.

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

25                ACTING PRESIDENT FLANAGAN:

1 Senator Little.

2 SENATOR LITTLE: Thank you,  
3 Mr. President. And thank you to all of my  
4 colleagues who are joining me today as we  
5 recognize the loss of life and the service of  
6 EOCN Mychael Anthony Flint.

7 Mychael is from Fort Ann, New York.  
8 He had enlisted in the Navy in 2009. He was a  
9 member of the Seabee Construction Battalion,  
10 which is the Navy equivalent of the U.S. Corps  
11 of Engineers. Mychael was stationed in  
12 San Diego and was on a training mission at  
13 Camp Pendleton.

14 We recognize all of the men and  
15 women who are committed to serve our country,  
16 and we thank them for their service. We have  
17 to understand that these men and women are  
18 ready to serve in peace or in war. And as the  
19 mother of an active-duty Navy son who has been  
20 in the Navy for 20 years, I recall many times  
21 that my son would talk about someone who was  
22 killed, a good friend who was killed in a  
23 helicopter accident, another friend who was  
24 killed in the crash of two Super Hornets  
25 flying in California.

1                   We need to also recognize and thank  
2                   our men and women who are killed, who give  
3                   their lives. First of all, they spend their  
4                   time and energy training so that they will be  
5                   prepared to go into combat. But unfortunately  
6                   there are accidents, and many of them have  
7                   lost their lives.

8                   Mychael is a 2008 graduate of  
9                   Fort Ann High School. He was a member of the  
10                  2006 Class D Soccer Champions. He is survived  
11                  by his parents, Amy and Bob Pecue -- Bob is  
12                  actually a New York State correction officer,  
13                  and they live in Fort Ann -- and he also has a  
14                  sister, Kaitlyn. And on September 2nd of  
15                  2010, just a little over six months ago, he  
16                  married Heather Plude-Flint.

17                  Let us all extend our sympathy to  
18                  the family but join in recognizing him for his  
19                  service to our country and appreciate his loss  
20                  of life.

21                  Thank you very much.

22                  ACTING PRESIDENT FLANAGAN:       Thank  
23                  you, Senator Little.

24                  Senator Libous.

25                  SENATOR LIBOUS:       Thank you,

1 Mr. President.

2 At this time I'd like to hand up  
3 the following committee assignments and ask  
4 that they be entered into the Journal, please.

5 ACTING PRESIDENT FLANAGAN: So  
6 ordered.

7 Senator Libous.

8 SENATOR LIBOUS: Mr. President,  
9 at this time there will be an immediate  
10 meeting of the Rules Committee in Room 332.  
11 And I will ask that the Senate stand at ease.

12 But when we come back, we have a  
13 very, very important calendar today that deals  
14 with a lot of veterans' issues for the men and  
15 women who have served in the past and will  
16 serve us in the future.

17 So could we stand at ease at this  
18 moment.

19 ACTING PRESIDENT FLANAGAN:  
20 Senator Libous, there will be an immediate  
21 meeting of the Rules Committee in Room 332,  
22 and the Senate will stand at ease.

23 (Whereupon, the Senate stood at  
24 ease at 3:38 p.m.)

25 (Whereupon, the Senate reconvened

1 at 4:12 p.m.)

2 SENATOR LIBOUS: Mr. President.

3 ACTING PRESIDENT FLANAGAN:

4 Senator Libous.

5 SENATOR LIBOUS: Thank you,  
6 Mr. President. Can we return to reports of  
7 standing committees. I believe there is a  
8 report of the Rules Committee at the desk.  
9 May we have it read, please.

10 ACTING PRESIDENT FLANAGAN:

11 Reports of standing committees.

12 The Secretary will read.

13 THE SECRETARY: Senator Skelos,  
14 from the Committee on Rules, reports the  
15 following bills:

16 By Senator Bonacic, Senate Print  
17 3331, Concurrent Resolution of the Senate and  
18 Assembly proposing an amendment to Article 3  
19 of the Constitution;

20 By Senator Griffo, Senate Print  
21 3900, an act to amend the Military Law and the  
22 Penal Law; and

23 By Senator Zeldin, Senate Print  
24 3901, an act to amend the Military Law.

25 All bills ordered direct to third



1 reading.

2 SENATOR LIBOUS: Mr. President, I  
3 move that we accept the report of the Rules  
4 Committee.

5 ACTING PRESIDENT FLANAGAN: All  
6 those in favor of accepting the Rules report  
7 signify by saying aye.

8 (Response of "Aye.")

9 ACTING PRESIDENT FLANAGAN:  
10 Opposed, nay.

11 (No response.)

12 ACTING PRESIDENT FLANAGAN: The  
13 Rules report is accepted.

14 SENATOR LIBOUS: Can we have the  
15 reading of the noncontroversial calendar,  
16 please, Mr. President.

17 ACTING PRESIDENT FLANAGAN: The  
18 Secretary will read.

19 THE SECRETARY: Calendar Number  
20 11, by Senator Valesky, Senate Print 656, an  
21 act to amend the Environmental Conservation  
22 Law.

23 ACTING PRESIDENT FLANAGAN: Read  
24 the last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT FLANAGAN: Call  
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 59.

6 ACTING PRESIDENT FLANAGAN: The  
7 bill is passed.

8 THE SECRETARY: Calendar Number  
9 31, by Senator Larkin, Senate Print 1728, an  
10 act to amend the Penal Law.

11 ACTING PRESIDENT FLANAGAN: Read  
12 the last section.

13 THE SECRETARY: Section 7. This  
14 act shall take effect on the 180th day.

15 ACTING PRESIDENT FLANAGAN: Call  
16 the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 58. Nays,  
19 1. Senator Montgomery recorded in the  
20 negative.

21 ACTING PRESIDENT FLANAGAN: The  
22 bill is passed.

23 THE SECRETARY: Calendar Number  
24 37, by Senator Ball, Senate Print 2421, an act  
25 to amend the Military Law and the Election

1 Law.

2 ACTING PRESIDENT FLANAGAN: Read  
3 the last section.

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

6 ACTING PRESIDENT FLANAGAN: Call  
7 the roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT FLANAGAN:  
10 Senator Breslin, to explain his vote.

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

13 On this day where we celebrate  
14 veterans and there are so many positive bills  
15 on the calendar that are supportive of  
16 veterans' rights, I intend to vote for S2421.  
17 But I would suggest, when we're doing this, we  
18 should consider the fact that we might be  
19 setting a bad precedent, insofar as it has  
20 always universally been accepted in our  
21 country that the only ones who are eligible to  
22 vote are those who are alive.

23 And it's an unfortunate situation  
24 that someone voted and then passed away, but  
25 we should be very wary of what we do when we

1 have legislation, legislation that allows  
2 someone who's passed away to have a vote  
3 accepted.

4 Thank you, Mr. President.

5 ACTING PRESIDENT FLANAGAN: Thank  
6 you, Senator Breslin.

7 The Secretary will announce the  
8 results.

9 THE SECRETARY: In relation to  
10 Calendar Number 37, those recorded in the  
11 negative are Senator Espaillat, Senator  
12 Gianaris, Senator L. Krueger, Senator  
13 Montgomery, Senator Perkins, Senator Rivera,  
14 Senator Squadron and Senator Stavisky. Also  
15 voting in the negative, Senator  
16 Hassell-Thompson and Senator Parker.

17 ACTING PRESIDENT FLANAGAN:  
18 Senator Larkin, to explain his vote.

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

21 You know, I'm shocked when I see  
22 people voting against this today. You know,  
23 every military unit -- if you've been with it,  
24 you know -- has a voting officer. And one of  
25 his responsibilities is to get those ballots

1       into their units so that these young men and  
2       women of our armed services can vote.

3               There will be men in battle who  
4       voted and sent their application back home,  
5       and we just want to make sure that it's  
6       counted. He gave his life, he or she gave  
7       their life -- and we stand here today and say  
8       we don't want to count them.

9               Well, I'll tell you, I'm ashamed of  
10      you, each and every one of you. I've had the  
11      terrible duty of writing home to a mother and  
12      father and saying "I regret to inform you that  
13      your son was killed this afternoon," 19 years  
14      of age. And you are sitting here today and  
15      saying we're not going to count it. What  
16      about he voted and sent his ballot home? He  
17      did everything that our country and our  
18      government and our state said has to be done.

19              It's a terrible thing. But after  
20      he did all of that, the enemy came upon them  
21      and he was killed. But he wasn't killed  
22      before he executed his absentee ballot. And  
23      you want to take it away from him.

24              I defy any of you to be in combat  
25      and tell the troops that are under your

1       command that "I don't want your ballot to  
2       count." I'm ashamed of you, and you should be  
3       ashamed of yourself.

4               I vote aye.

5               ACTING PRESIDENT FLANAGAN:       The  
6       Secretary will announce the results.

7               THE SECRETARY:       Ayes, 49. Nays,  
8       10.

9               ACTING PRESIDENT FLANAGAN:       The  
10       bill is passed.

11              THE SECRETARY:       Calendar Number  
12       98, by Senator Saland, Senate Print 1431, an  
13       act to amend the Military Law.

14              ACTING PRESIDENT FLANAGAN:       Read  
15       the last section.

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

18              ACTING PRESIDENT FLANAGAN:       Call  
19       the roll.

20              (The Secretary called the roll.)

21              THE SECRETARY:       Ayes, 59.

22              ACTING PRESIDENT FLANAGAN:       The  
23       bill is passed.

24              THE SECRETARY:       Calendar Number  
25       99, by Senator Larkin, Senate Print 1504, an

1 act to amend the General Business Law.

2 ACTING PRESIDENT FLANAGAN: Read  
3 the last section.

4 THE SECRETARY: Section 3. This  
5 act shall take effect on the 180th day.

6 ACTING PRESIDENT FLANAGAN: Call  
7 the roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 59.

10 ACTING PRESIDENT FLANAGAN: The  
11 bill is passed.

12 THE SECRETARY: Calendar Number  
13 141, by Senator Ball, Senate Print 2424A, an  
14 act to amend the Executive Law.

15 ACTING PRESIDENT FLANAGAN: Read  
16 the last section.

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

19 ACTING PRESIDENT FLANAGAN: Call  
20 the roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 59.

23 ACTING PRESIDENT FLANAGAN: The  
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 146, by Senator Ball, Senate Print 3484, an  
2 act to amend Chapter 268 of the Laws of 1996.

3 ACTING PRESIDENT FLANAGAN: Read  
4 the last section.

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

7 ACTING PRESIDENT FLANAGAN: Call  
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT FLANAGAN:  
11 Senator Ball, to explain his vote.

12 SENATOR BALL: I first would like  
13 to thank Senator Larkin for those comments,  
14 and all the veterans who are here today, and  
15 those of you who have served.

16 This is the greatest nation that  
17 this world has ever known. And the United  
18 States military serves as the greatest force  
19 for good and freedom. That flag that is on  
20 the shoulders of the men and women who are  
21 serving represents the brightest beacon of  
22 hope in communities that many of us will never  
23 visit, couldn't point out on a map, some of us  
24 couldn't pronounce. But that American flag,  
25 regardless of your political affiliation, has



1 fed more children, rebuilt more communities,  
2 liberated more people, and allowed more people  
3 to vote -- and it is nothing to be apologetic  
4 for.

5 We stand on the shoulders and the  
6 memories, the hearts, the blood, sweat and  
7 tears of those who are willing to go and fight  
8 and die. Regardless of whether you served in  
9 protocol, like I did, where the toughest  
10 combat I ever saw was a tough cocktail party  
11 in Washington, D.C., or whether you served in  
12 combat, like Senator Larkin, we all have one  
13 thing in common. We've raised our right hand  
14 and we were willing to fight and die for this  
15 great nation.

16 I only hope that this chamber can  
17 continue to serve as a fitting tribute to the  
18 men and women who serve every day, the  
19 3 percent, the 3 percent that live in ditches  
20 and trenches and are amid combat and warfare  
21 in situations that most of us could never  
22 withstand, and who fight for that concept of  
23 American democracy that we could only hope to  
24 emulate.

25 I thank all of you for your votes

1       today. Let us continue good work for the good  
2       people who make this country great.

3                ACTING PRESIDENT FLANAGAN:  
4       Senator Ball to be recorded in the  
5       affirmative.

6                The Secretary will announce the  
7       results.

8                THE SECRETARY:     Ayes, 59.

9                ACTING PRESIDENT FLANAGAN:     The  
10      bill is passed.

11               Senator Libous, that completes the  
12      noncontroversial reading of the calendar.

13               SENATOR LIBOUS:     Mr. President, I  
14      just want to note for the chamber that I  
15      believe the three bills that Senator Ball  
16      passed are his first legislation to pass the  
17      Senate. Congratulations.

18                (Appause.)

19                ACTING PRESIDENT FLANAGAN:  
20      Senator Libous.

21                SENATOR LIBOUS:     Could we please  
22      have the noncontroversial reading of the  
23      supplemental calendar, please, right now.

24                ACTING PRESIDENT FLANAGAN:     The  
25      Secretary will read.

1                   THE SECRETARY:     Calendar Number  
2     204, by Senator Bonacic, Senate Print 3331,  
3     Concurrent Resolution of the Senate and  
4     Assembly proposing an amendment to Article 3  
5     of the Constitution.

6                   SENATOR BRESLIN:     Lay it aside.

7                   ACTING PRESIDENT FLANAGAN:     Lay  
8     it aside.

9                   THE SECRETARY:     Calendar Number  
10    205, by Senator Griffo, Senate Print 3900, an  
11    act to amend the Military Law and the Penal  
12    Law.

13                  ACTING PRESIDENT FLANAGAN:     Read  
14    the last section.

15                  THE SECRETARY:     Section 4. This  
16    act shall take effect immediately.

17                  ACTING PRESIDENT FLANAGAN:     Call  
18    the roll.

19                  (The Secretary called the roll.)

20                  ACTING PRESIDENT FLANAGAN:  
21    Senator Griffo to explain his vote.

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

24                  I appreciate the support of the  
25    members of this chamber, because we know that

1 funeral ceremonies can be very stressful.  
2 They're times of grief, very solemn  
3 experiences. And I think today, as we come  
4 together to celebrate the life of an  
5 individual who has served our country in such  
6 a noble fashion, it's so appropriate that we  
7 ensure that their rights are preserved, that  
8 they have a proper environment and a  
9 respectful ceremony.

10 I want to extend my appreciation to  
11 all the members of this body for their support  
12 today. And also that we'll be able to provide  
13 these families with information to allow them  
14 to understand their rights.

15 So I thank you all for your support  
16 today. I think this is very important as we  
17 honor and respect our veterans and what they  
18 have done on behalf of this great country. I  
19 will be voting in the affirmative.

20 ACTING PRESIDENT FLANAGAN:  
21 Senator Griffo to be recorded in the  
22 affirmative.

23 The Secretary will announce the  
24 results.

25 THE SECRETARY: Ayes, 59.

1                   ACTING PRESIDENT FLANAGAN:       The  
2       bill is passed.

3                   THE SECRETARY:       Calendar Number  
4       206, by Senator Zeldin, Senate Print 3901, an  
5       act to amend the Military Law.

6                   ACTING PRESIDENT FLANAGAN:       Read  
7       the last section.

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

10                  ACTING PRESIDENT FLANAGAN:       Call  
11       the roll.

12                  (The Secretary called the roll.)

13                  ACTING PRESIDENT FLANAGAN:  
14       Senator Zeldin to explain his vote.

15                  SENATOR ZELDIN:       It is an honor  
16       to be able to bring this legislation to the  
17       floor today. I represent a specialist named  
18       Thomas Wilwerth. He was killed near Balad in  
19       2006. He graduated from the same high school  
20       that I did. And he was part of the  
21       inspiration of bringing this legislation up to  
22       the State Senate.

23                  I'm proud to live in a county that  
24       has imposed a limit on protests at military  
25       funerals. I'm proud to live in a state that

1       now, through all of our actions, is taking the  
2       initiative to limit those protests and  
3       military funerals statewide. I disagreed with  
4       the Westboro Baptist Church's decision in  
5       their favor by the U.S. Supreme Court last  
6       week. There was eight justices in favor, one  
7       opposed. Judge Samuel Alito voted against it.

8               And, you know, there's a balance.  
9       We have to protect the free speech rights of  
10      even the Westboro Baptist Church. Yet at the  
11      same time, we also have to protect our  
12      military families as they mourn the loss of  
13      their veterans that they unfortunately have  
14      lost.

15             So I appreciate all of you that  
16      support this measure today. It's an important  
17      first step and a message that needs to get  
18      sent throughout the entire country. Because  
19      whether you live in New York or California, we  
20      all need to be protecting our military  
21      veterans and their families to provide dignity  
22      and respect at that time of mourning.

23             I want to thank both Senator Jack  
24      Martins as well as Bob Farley for all of their  
25      hard work and support bringing this measure.

1 And I'll be voting in the affirmative.

2 Thank you, Mr. Chair.

3 ACTING PRESIDENT FLANAGAN:

4 Senator Zeldin to be recorded in the  
5 affirmative.

6 The Secretary will announce the  
7 results.

8 THE SECRETARY: Ayes, 59.

9 ACTING PRESIDENT FLANAGAN: The  
10 bill is passed.

11 Senator Libous, that completes the  
12 noncontroversial reading of the supplemental  
13 calendar.

14 SENATOR LIBOUS: Thank you,  
15 Mr. President. Can we go to the controversial  
16 reading of the supplemental calendar.

17 ACTING PRESIDENT FLANAGAN: The  
18 Secretary will read.

19 THE SECRETARY: Calendar Number  
20 204, by Senator Bonacic, Senate Print 3331,  
21 Concurrent Resolution of the Senate and  
22 Assembly proposing an amendment to Article 3  
23 of the Constitution.

24 ACTING PRESIDENT FLANAGAN:

25 Senator Valesky, why do you rise?

1                   SENATOR VALESKY:     Mr. President,  
2                   on Calendar Number 204, if I may speak.

3                   First of all, I'd like to thank my  
4                   colleague and friend Senator Bonacic for  
5                   bringing this constitutional amendment before  
6                   us.

7                   This issue is a critically  
8                   important issue that each and every one of us  
9                   have heard about over the last several years,  
10                  in particular last year during our election  
11                  campaign. The people of the State of New York  
12                  I think clearly understand the importance of  
13                  the ability for them to choose us as opposed  
14                  to us choosing them by way of redrawing our  
15                  district lines.

16                  Senator Bonacic, you and I have  
17                  worked very closely over the years in terms of  
18                  bringing about true and real reform to this  
19                  State Senate. In fact, I remember only two  
20                  years ago when Senator Smith appointed you and  
21                  I to cochair a bipartisan task force on rules  
22                  reform here in the Senate. And we went around  
23                  the state holding hearings, taking testimony,  
24                  preparing what I continue to believe -- and I  
25                  think many of us do -- was the most



1 comprehensive series of rules reforms that has  
2 ever been adopted here in the State Senate.

3 And we continue to be governed by the rules  
4 that you and I wrote in a cooperative fashion.

5 So I'm very, very pleased that you  
6 are taking the lead on this issue on behalf of  
7 the Senate Majority and bringing this issue to  
8 the floor of the Senate.

9 The issue of redrawing district  
10 lines is critically important and one that we  
11 will be participating in in the very near  
12 future. But how we redraw our district lines,  
13 how we go about that process is very, very  
14 important.

15 Drawing district lines, for  
16 example, that has as their population criteria  
17 that include being as equal as practicable --  
18 extremely important. That's in this  
19 constitutional amendment. Language that  
20 requires a district to be as compact as  
21 possible, keeping communities in the State of  
22 New York whole wherever possible -- critically  
23 important.

24 Including language so that  
25 districts not be drawn for the purpose of

1 diluting the voting strength of any language  
2 or racial minority group -- critical to  
3 redistricting reform.

4 Making sure that districts are not  
5 drawn for the purpose of favoring any one  
6 political party over another -- extremely  
7 important. That language is in this  
8 constitutional amendment as well.

9 This is all or would all be  
10 accomplished through the establishment of a  
11 nonpartisan independent redistricting  
12 commission. Mr. President, I happen to have  
13 legislation, Senate Bill 660, that would  
14 accomplish all of these principles that are  
15 imposed in this constitutional amendment. The  
16 key difference is that my legislation, which  
17 I've offered as an amendment, would accomplish  
18 redistricting reform --

19 SENATOR LIBOUS: Excuse me,  
20 Mr. President.

21 ACTING PRESIDENT FLANAGAN:  
22 Senator Libous, why do you rise?

23 SENATOR LIBOUS: Did the Senator  
24 just say he offered up an amendment on this  
25 legislation?

1                   ACTING PRESIDENT FLANAGAN:        I  
2       believe that's what Senator Valesky  
3       represented.

4                   SENATOR LIBOUS:        Mr. President,  
5       pursuant to Rule 6, Section 9C, unanimous  
6       consent is required to make a motion to amend  
7       a concurrent resolution to amend the  
8       Constitution.

9                   Is the Senator asking for unanimous  
10       consent move to amend the resolution that is  
11       before the house?

12                  ACTING PRESIDENT FLANAGAN:  
13       Senator Valesky, are you requesting unanimous  
14       consent to make a motion to amend the  
15       concurrent resolution before the house?

16                  SENATOR VALESKY:       Yes, I am,  
17       Mr. President.

18                  SENATOR LIBOUS:        Mr. President, I  
19       would say that that would be out of order at  
20       this time.

21                  ACTING PRESIDENT FLANAGAN:       The  
22       Senator -- I'm sorry, Senator Libous?

23                  SENATOR LIBOUS:        I said I believe  
24       that is out of order at this time.

25                  ACTING PRESIDENT FLANAGAN:

1 Senator Libous, your point is well --

2 SENATOR LIBOUS: Is there  
3 unanimous consent to make this motion?

4 ACTING PRESIDENT FLANAGAN: There  
5 is not unanimous consent, Senator Libous.  
6 Your point is well-taken.

7 Senator Valesky, your amendment to  
8 the concurrent resolution is a violation of  
9 the rules, Rule 6, Section 9C.

10 SENATOR SQUADRON: Point of  
11 order, Mr. President.

12 ACTING PRESIDENT FLANAGAN:  
13 Senator Squadron, why do you rise?

14 SENATOR SQUADRON: Mr. President,  
15 we -- also there's a house amendment at the  
16 desk presented by Senator Gianaris, I believe,  
17 as well. And I just want to be clear that as  
18 to the question of unanimous consent as to a  
19 nonsponsor or so-called hostile amendment, we  
20 do not believe that that's in fact a correct  
21 reading of the rules.

22 So as to Senator Valesky, what he's  
23 proposed, we're happy to have Senator Valesky  
24 and the Majority work that out, but then we  
25 will address the second nonsponsor amendment

1 in due course.

2 Thank you, Mr. President.

3 SENATOR LIBOUS: Mr. President,  
4 what is -- I know the Senator stood for a  
5 point of order. I want to note that while  
6 Senator Valesky did not get unanimous consent,  
7 he still has the floor speaking on the bill.

8 So I don't know if he has given up  
9 the floor to Senator Squadron at this time.  
10 And I'm not sure what his point of order is,  
11 sir.

12 ACTING PRESIDENT FLANAGAN:  
13 Senator Squadron rose on a point of order, but  
14 whatever it was eluded me.

15 Senator Valesky has the floor, and  
16 if he wishes to speak on the concurrent  
17 resolution, he may continue to do so.

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

20 To conclude on the concurrent  
21 resolution. Again, this amendment -- and if  
22 there is ambiguity in the State Constitution,  
23 we certainly should be amending the  
24 Constitution to make sure that this issue is  
25 resolved. The important thing is this is a

1 step in reform, in the direction of reform of  
2 our redistricting process. And I appreciate  
3 the fact that we'd have an opportunity to have  
4 this conversation this afternoon.

5 Thank you, Mr. President.

6 ACTING PRESIDENT FLANAGAN: Is  
7 there any other Senator wishing to be heard on  
8 the resolution?

9 Call the roll. Oh, I'm sorry,  
10 Senator Gianaris, I apologize. On the  
11 resolution.

12 SENATOR GIANARIS: This is on  
13 Senator Bonacic's resolution, correct?

14 ACTING PRESIDENT FLANAGAN: Yes.

15 SENATOR GIANARIS: Okay. Thank  
16 you.

17 Would Senator Bonacic yield for a  
18 question on the resolution?

19 ACTING PRESIDENT FLANAGAN:  
20 Senator Bonacic, will you yield to a question?

21 SENATOR BONACIC: Absolutely.

22 ACTING PRESIDENT FLANAGAN:  
23 Senator Gianaris.

24 SENATOR GIANARIS: Thank you,  
25 Senator Bonacic.

1                   My first question is as it relates  
2                   to this concurrent resolution, when would be  
3                   the earliest point in time when this would  
4                   have an impact on the state's redistricting  
5                   process?

6                   SENATOR BONACIC:       This resolution  
7                   would take place for the elections in 2022.  
8                   It would not affect any of the redistricting  
9                   for the vote in 2012.

10                  SENATOR GIANARIS:      Thank you,  
11                  Senator Bonacic.

12                  And as it relates to the content of  
13                  the resolution, what is the permissible  
14                  population deviation between state legislative  
15                  districts that the concurrent resolution would  
16                  allow?

17                  SENATOR BONACIC:      With respect to  
18                  the state elections, it would be a deviation  
19                  of 5 percent. With respect to the  
20                  Congressional elections, it would be a  
21                  deviation of 1 percent.

22                  SENATOR GIANARIS:      And if the  
23                  Senator would continue to yield.

24                  SENATOR BONACIC:      I do.

25                  SENATOR GIANARIS:      As it relates

1 to the Congressional deviation, is the Senator  
2 aware that federal standards as laid out by  
3 the federal courts do not permit a 1 percent  
4 deviation in the case of Congressional  
5 districts?

6 SENATOR BONACIC: What I do know  
7 is that the courts have held guidelines for  
8 reapportionment both for Congressional and  
9 state seats. And there's two principles that  
10 we have to adhere to. The first is the equal  
11 protection clause, one person, one vote, in  
12 accordance with the 14th Amendment. And we  
13 have to comply with the federal Voting Rights  
14 Act. Those two are in play.

15 So whatever standards we do,  
16 whether the Legislature draws the lines or  
17 this independent commission draws the lines,  
18 it is all subject to court review whether we  
19 adhered to those two principles.

20 SENATOR GIANARIS: On the  
21 resolution, Mr. President.

22 ACTING PRESIDENT FLANAGAN:  
23 Senator Gianaris on the resolution.

24 SENATOR GIANARIS: I thank  
25 Senator Bonacic for his yielding and for his



1       answering of my questions.

2               This is an issue that's received a  
3       lot of attention in this body and throughout  
4       this state, not only during this session but  
5       during the course of the campaign season last  
6       year. The concurrent resolution before us --  
7       well, let me say this. As part of the  
8       campaign season, many of us -- just about all  
9       of this body -- promised to support an  
10      independent redistricting process that would  
11      have effect for the 2012 elections. I just  
12      want to be clear that this concurrent  
13      resolution does not satisfy that promise.

14             I think we can all agree, as the  
15      sponsor indicated, that the soonest that this  
16      concurrent resolution can have any effect  
17      whatsoever in New York would be in the year  
18      2022, which is not pursuant to the 2010  
19      census, which is the promise that so many of  
20      us have made and the promise that I made to my  
21      constituents.

22             The content of the concurrent  
23      resolution also does not deal with one of the  
24      biggest abuses of the redistricting process,  
25      which is manipulation of the population

1 deviation. It's currently set, for state  
2 legislative seats, at 5 percent, plus or  
3 minus. And what's happened both as it relates  
4 to this house and the house on the other side  
5 of the Capitol, where I previously served, is  
6 that the party in power would manipulate that  
7 deviation to its political benefit.

8 One of the great ways we can reform  
9 the redistricting process and make it fair is  
10 to lower that population deviation. It is  
11 what Governor Cuomo has proposed in his  
12 legislation, it is what I have proposed in  
13 mine, it is what Senator Valesky has proposed  
14 in his as well. It is what the advocates who  
15 have worked so hard on this issue have called  
16 for. And it is not contained in the  
17 concurrent resolution before us today.

18 So for two reasons, two primary  
19 reasons, I find the concurrent resolution  
20 before us is something that I must oppose.  
21 Number one, because it does not remedy the  
22 abuse of the redistricting process which is  
23 most commonly utilized, and that's the  
24 population deviation, which allows some  
25 districts to have 10 percent more residents

1       than others.

2                   And also, importantly, it does  
3 absolutely nothing to remedy the redistricting  
4 process for next year's elections, which is  
5 what so many in this state are asking for,  
6 which would bring accountability to our state  
7 Legislature in a way that it didn't exist in  
8 the past.

9                   I'm glad that the reelection rate  
10 of so many of my colleagues who I enjoy  
11 serving with is as high as it is. But I would  
12 rather that that happen, I think the public  
13 would rather that that happen as a result of  
14 vigorous elections where they get to make the  
15 choice of who their representative is going to  
16 be, be it in the Assembly or in the Senate.

17                   And unfortunately, competitive  
18 elections are far too lacking in this state  
19 and something that the public is asking us to  
20 fix. Because with more accountable  
21 representatives, the public has more of a say  
22 at election time and the public can have  
23 greater confidence in what goes on in the  
24 State Capitol.

25                   So, Mr. President, I thank you very

1 much for the time today. In a measured tone I  
2 have addressed my colleagues as to the reasons  
3 why I think this concurrent resolution is one  
4 on which I am compelled to vote no, and I  
5 encourage all of them to join me in voting  
6 against today's resolution.

7 Thank you.

8 ACTING PRESIDENT FLANAGAN: Thank  
9 you, Senator Gianaris.

10 Senator Oppenheimer.

11 SENATOR OPPENHEIMER: Thank you.

12 On the bill.

13 ACTING PRESIDENT FLANAGAN:  
14 Senator Oppenheimer on the resolution.

15 SENATOR OPPENHEIMER: On the  
16 resolution.

17 Well, I'm all for many more  
18 competitive elections, maybe take the focus  
19 off of me.

20 (Laughter.)

21 SENATOR OPPENHEIMER: And  
22 actually I was a cosponsor of this bill,  
23 because originally I thought maybe there were  
24 two processes here. One would be take care of  
25 something in our immediate future, and maybe

1 in the future take care of an amendment to our  
2 constitution.

3 But I see that it's now -- now is  
4 the time for immediate change and significant  
5 reform, and in no way could that happen for  
6 another 12 years. So I will be voting in the  
7 negative.

8 And I have received additional  
9 information, much of which has already been  
10 covered by Senator Gianaris, from my friends  
11 at the good-government groups, particularly --  
12 as you know, I come from the League of Women  
13 Voters, and I have received a report from  
14 them, and it points up many things that I  
15 think are additional information.

16 They particularly look at what they  
17 see as the lack of sufficient independence, in  
18 that there isn't enough space between we  
19 legislators and the commission members. For  
20 example, lobbyists can be appointed,  
21 legislative staff can be appointed, relatives  
22 can be appointed. I think we need more of a  
23 separation, not less.

24 And the Cuomo bill and the Gianaris  
25 bill both have an additional layer in there

1       which does separate the legislators from those  
2       drawing the lines.

3               And I think in particular those two  
4       bills I mentioned put in a requirement which  
5       is very important, I think, on this side of  
6       the aisle, which is the requirement to take  
7       into account diversity and ethnicity and  
8       geography and race. And that is not in the  
9       bill before us.

10              I think another point that we can  
11       say about the Cuomo and Gianaris bill that is  
12       different from this bill before us is that the  
13       deviation of 1 percent is much more likely to  
14       result in a one-person-one-vote than the  
15       deviation of 5 percent, where those with the  
16       smaller numbers in the district actually  
17       increase the power of that vote, that one  
18       vote, whereas the larger districts decrease  
19       the power of an individual's vote.

20              Also, the bill before us does not  
21       have specific instances of how districts will  
22       be compacted, how compact they will be,  
23       another area of concern for our  
24       good-government friends.

25              And lastly, another one that's of

1 course of great importance, I think, is that  
2 there's no requirement for public hearings  
3 throughout the state. And in the case of the  
4 Cuomo bill, there's one set of hearings. In  
5 the case of Senator Gianaris's bill, there are  
6 two sets of hearings. The more the public  
7 knows, the better off we are. And we know  
8 that we have their support if they understand  
9 what we're doing.

10 And so for those reasons, I will be  
11 voting no in spite of being a sponsor of the  
12 bill. Thank you.

13 ACTING PRESIDENT FLANAGAN: Thank  
14 you, Senator Oppenheimer.

15 Senator Hassell-Thompson on the  
16 resolution.

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

19 I rise to speak on the resolution  
20 and say that those members who either were in  
21 committee or were in Rules have already heard  
22 what I'm going to say, but that doesn't  
23 encompass the rest of us that did not get to  
24 participate in either of those.

25 My concern about this bill -- and

1       let me just back up a minute and say to you,  
2       Senator Bonacic, and say that now that I  
3       recognize that clearly you are separating your  
4       attempts in this bill going forward, as  
5       opposed to a remedy for 2012, then I will  
6       reserve the concerns that I had about that.

7               But I also heard you very clearly  
8       say that this did not preclude any  
9       participation in developing something for  
10      2012. And I hope we can count on you when  
11      something does come that will address that  
12      issue.

13             But going forward, as we look at  
14      your attempts to do a constitutional change,  
15      there are some things that disturb me greatly.  
16      As someone who represents one of the very few  
17      districts that are covered under Section 5 of  
18      the Voting Rights Act -- Bronx County, Queens  
19      County, and New York County -- there are a  
20      couple of things that are very disturbing.

21             Number one, downstate New York  
22      has -- we keep using the word "compact," but  
23      we confuse that with packing. And the way in  
24      which we have gone forward continues to pack  
25      people into our districts in a way that does



1 not give the benefit of one-person-one-vote.

2 The other thing that concerns me  
3 greatly is that this bill seeks to repeal the  
4 current law that bans prison-based  
5 gerrymandering. And as somebody who worked  
6 very, very hard to do that, I'm certainly not  
7 prepared to vote for a bill that would  
8 overturn that. I think that the way in which  
9 prisoners have been counted in the prisons has  
10 done injury to those districts from which they  
11 are clearly represented.

12 The other thing that I'm concerned  
13 about is that this bill does not ensure  
14 adequate public understanding or participation  
15 in the redistricting process. And part of it  
16 I heard Senator Oppenheimer allude to, that  
17 this bill does not contain the diversity that  
18 would allow full participation based upon  
19 gender, based upon geography, linguistics, as  
20 well as ethnicity and race. And so for all of  
21 those reasons and others, I could not possibly  
22 support this bill.

23 The other thing is that if we want  
24 to make this a great bill, the ban on drawing  
25 lines -- and we want to talk about how do we

1       make this committee as truly independent as  
2       possible, the way in which this bill allows  
3       anybody, you know, including relatives of  
4       elected officials to be participatory, and yet  
5       they don't want elected officials to be  
6       participatory, I don't see how in fact this  
7       will give you the independence that you say  
8       you seek.

9               I would like to, as I have in the  
10       past, volunteer to work with you on this bill  
11       to make it a better bill. If in fact we want  
12       to truly do a constitutional amendment to  
13       eliminate the existing reapportionment and  
14       redistricting kind of wrangling that goes on  
15       here, and so that the people of the State of  
16       New York will get full and fair  
17       participation -- but I don't think that this  
18       bill will do this.

19               And I thank you very much.

20               ACTING PRESIDENT FLANAGAN:     Thank  
21       you, Senator Hassell-Thompson.

22               Senator Espaillat on the  
23       resolution.

24               SENATOR ESPAILLAT:     Thank you,  
25       Mr. President. On the resolution.

1 I want to commend Senator Bonacic  
2 for his good work in trying to bring this  
3 issue to our constitution.

4 However, I feel very strongly that  
5 this is kicking the can down the road to the  
6 next decade. And that in fact the voters of  
7 New York State, the residents of New York  
8 State have given us all a mandate to take care  
9 of this once and for all in the next couple of  
10 years. They want us to do away with the old  
11 practices of backroom gerrymandering. They  
12 want us to do away with the practices of  
13 cracking and packing that have disenfranchised  
14 communities of common interest for many, many  
15 years.

16 So we feel that we should be up to  
17 the task of preparing ourselves to do this in  
18 the next two years. We must identify those  
19 prisoners that benefited from doing away with  
20 prison gerrymandering, identify where they  
21 came from, and include them in the voting  
22 rolls for the next upcoming elections. We  
23 should not delay this process any further.

24 This resolution provides -- may  
25 provide cover for many of us who may not want

1 to take a stand on an independent  
2 redistricting commission and may want to say  
3 that in fact they'd rather vote for a  
4 constitutional amendment.

5 It is clear that, as I did, many of  
6 us signed a pledge to do this swiftly and in a  
7 transparent fashion, to do it this year and  
8 next year. And I think the voters and the  
9 residents of New York State want this to  
10 happen now and not in the next decade. That  
11 is why I will be voting in the negative.

12 ACTING PRESIDENT FLANAGAN: Thank  
13 you, Senator Espaillat.

14 Senator Bonacic to close.

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

17 First of all, I'd like to --

18 ACTING PRESIDENT FLANAGAN:

19 Excuse me, Senator Bonacic, I apologize.

20 Senator Perkins, I was unaware that  
21 you wanted to speak.

22 Senator Perkins on the resolution.

23 SENATOR PERKINS: Thank you very  
24 much. I'm going to be brief.

25 I just want to -- you know, I'm

1 concerned about the fact that this is a  
2 diversion from what the public is expecting of  
3 us to do right away, which is to redistrict in  
4 a fair way the seats and to pass legislation  
5 as quickly as possible. This puts off to  
6 another decade that which the people want us  
7 to take care of today.

8 It reminds me of the era when the  
9 term "with all due deliberate speed" was used  
10 as an opportunity for those to continue the  
11 slow pace of integration, as opposed to move  
12 forward as quickly as possible.

13 And whenever you get involved in  
14 these voting rights and these election rights  
15 issues, you have to take into consideration  
16 the fact that there are protected districts  
17 such as mine in Manhattan, one in Brooklyn,  
18 Kings County and others.

19 And so I'm concerned that we're not  
20 doing this as expeditiously as we should be  
21 doing it, that in fact that it's a delay  
22 tactic that is not providing the reform but,  
23 quite the opposite, is against reform.

24 And I therefore am going to have to  
25 vote no and encourage all my colleagues, for

1       the sake of civil rights, that we do not allow  
2       this legislation to go forward and delay that  
3       which we're supposed to be doing now.

4                   ACTING PRESIDENT FLANAGAN:       Thank  
5       you, Senator Perkins.

6                   Is there any other Senator wishing  
7       to be heard?

8                   Senator Bonacic to close.

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

11                   First I'd like to thank my  
12       colleagues for the kind words, especially  
13       Senator Valesky, and the kind words from all  
14       my colleagues.

15                   Let me just make a couple of  
16       observations. This constitutional amendment  
17       that we're proposing, that I have proposed  
18       since 1996 -- I have been consistent from 1996  
19       to the present time. There was no legislation  
20       or budget provision that dealt with census and  
21       prisoners. It's not in my legislation,  
22       because I started this in 2006.

23                   This emanated from Senator  
24       Dollinger before me. And I picked it up  
25       because I thought it was pure, it was simple,

1       it was independent, it was bipartisan. And  
2       it's as truthful as we can get when it comes  
3       to drawing lines for redistricting.

4               And along the way of this  
5       legislation as it was proposed, let me just  
6       share with you some of the people who have  
7       sponsored it which I'd like to thank, those  
8       presently and in the past. Senator Ball.  
9       Senator Grisanti. Senator Oppenheimer, who  
10      sponsored this in 2009-2010. Senator Saland.  
11      Senator Liz Krueger, who stood with me when I  
12      say my lonely two years in 2007 and 2008 over  
13      here, my only cosponsor on your side of the  
14      aisle. Senator Golden. Former Senator Mary  
15      Lou Rath. Senator Duane. Former Senator  
16      Seymour Lachman, who has really shed some  
17      light on Albany with his book. Our Senate  
18      president from 2009-2010, Senator Malcolm  
19      Smith. Our Senate majority conference leader  
20      2009-2010, Senator John Sampson. Senator  
21      Stavisky. And others.

22              So you know this is not a partisan  
23      piece of legislation. We've all embraced it.  
24      And when it comes to constitutional  
25      amendments, we kept kicking the can down the

1 road because this started back close to 2000  
2 and we didn't do it.

3 And when you say -- and I think  
4 Senator Esplata [sic] has said -- and I might  
5 not have pronounced that right, Senator, and I  
6 apologize -- he indicated that we're kicking  
7 the can down the road. You kick the can down  
8 the road, when you use that expression, when  
9 you don't provide a solution. This does  
10 provide a solution. And the public strives  
11 for an independent analysis.

12 Now I'm just going to comment a  
13 little bit of some of the concerns that you've  
14 raised. You've said that the courts require  
15 ethnicity, minorities, gender -- and I agree  
16 with all of that. But those standards have  
17 been set when there's a federal review or a  
18 state review by the judicial system. That's  
19 going to happen anyway.

20 And this commission that we're  
21 trying to establish to draw the lines, five  
22 people, one appointed by each leader and the  
23 other four pick the fifth. So there was  
24 concerns about who would qualify for these  
25 five. And that's something that we can do



1 together, working together, setting  
2 qualifications for who would qualify, whether  
3 they be a New York resident, how long you want  
4 them to be a resident, you want to ban  
5 lobbyists, you want to try to achieve  
6 ethnicity. These are all legitimate areas  
7 that we can prepare a law for as to have them  
8 the most qualified and being independent and  
9 trying to be fair. That we can do.

10 As for public hearings, in order  
11 for this to pass, we have to do this again in  
12 2013. We have a lot of time for public  
13 hearings. And again, by statute, we can  
14 require public hearings. But the ultimate  
15 public hearing is the vote of the voters on  
16 whether or not they embrace this  
17 constitutional change.

18 So my intent in doing this was not  
19 in any way to not address redistricting in  
20 2012, because I've said up front we all have  
21 to do that. But we are putting in place a  
22 process and finally making decision on a  
23 constitutional change once and for all for  
24 reforms for future legislatures down the road,  
25 where we don't have to get involved in all

1       this rhetoric and dancing.

2                   And we need the constitutional  
3       change because the Legislature says we are  
4       delegating this authority to five people.  
5       And, you know, if I could get five Solomons, I  
6       wish we could. But I think it's a truthful  
7       dialogue of the best independent process we  
8       could have that's bipartisan.

9                   And that's why I'm putting this  
10      resolution forward -- in no way, in no way to  
11      address the urgency and your concerns for  
12      2012. Governor Cuomo I said right up front  
13      this constitutional change does not do this.

14                   And, you know, I'm not playing the  
15      blame game, but let's face it. You had  
16      opportunities -- meaning your side of the  
17      aisle -- in 2009 and 2010 to do independent  
18      redistricting, to do a constitutional change.  
19      Because now, if we do it now, then we have the  
20      change and it could have gone forward in 2012.

21                   And when we do something by statute  
22      and not by constitutional change, we get  
23      nervous. Both sides get nervous. And I know  
24      that whenever you get a chance, you want to  
25      talk about the Governor's redistricting bill.

1 But I get a concern when we give a governor  
2 four appointments, four appointments. Because  
3 let me just change the dialogue. What happens  
4 if Carl Paladino was governor? Would you be  
5 concerned giving the governor four  
6 appointments for this reapportionment,  
7 redistricting committee? Sure you would. If  
8 you had a governor that was not elected, like  
9 we had four years ago, would you have a  
10 concern about the legitimacy of independence  
11 and bipartisanship? I think you would. So I  
12 try to have an honest dialogue of the best way  
13 to get there.

14 And then what really made everybody  
15 nervous was remarks by your president pro tem  
16 back in May where he said "When we are in the  
17 majority, we will put the Republicans into  
18 oblivion in terms of redistricting." Now, if  
19 that doesn't get people nervous, nothing does.

20 So that's one of the reasons why  
21 we've been going forward and giving everybody  
22 an opportunity to avoid these things that have  
23 happened in the past. And I've intentionally  
24 made it prospectively so it resolves the  
25 problem as we go out. But it certainly

1 doesn't kick the can down the road, because it  
2 is a solution. It's real reform.

3 The New York City Bar Association  
4 is on record that if you're going to do  
5 redistricting, get it out of the hands of the  
6 Legislature, do a constitutional amendment.  
7 There are 10 states now in this country  
8 looking on reforming redistricting,  
9 constitutional amendments.

10 So the time is now. And, you know,  
11 you can dance and say, well, you know, the  
12 need is imminent, it's immediate for 2012.  
13 But we're not delaying that process at all.  
14 We're asking you to be a partner with us, like  
15 all those Democrats were in sponsoring this  
16 legislation throughout the years.

17 So this is an opportunity for  
18 reform for all of us. And I ask you to  
19 support the measure, and I thank you for your  
20 consideration.

21 Thank you, Mr. President.

22 ACTING PRESIDENT FLANAGAN: Thank  
23 you, Senator Bonacic.

24 The Secretary will call the roll on  
25 the concurrent resolution.

1 (The Secretary called the roll.)

2 SENATOR SQUADRON: Point of  
3 order, Mr. President.

4 I believe this was a bill on the  
5 controversial calendar. We need to ring the  
6 bells before calling the vote, respectfully.

7 ACTING PRESIDENT FLANAGAN: The  
8 Secretary will ring the bell.

9 Thank you, Senator Squadron.

10 Senator Libous, the bell has been  
11 rung and the Secretary will call the roll  
12 momentarily.

13 (Laughter.)

14 ACTING PRESIDENT FLANAGAN:  
15 Senator Squadron, why do you rise?

16 SENATOR SQUADRON: Mr. President,  
17 I request a slow roll. I was not sure if you  
18 had forgotten to call the roll or not.

19 ACTING PRESIDENT FLANAGAN: When  
20 we get to the roll call, Senator Squadron, I  
21 will address your concern.

22 SENATOR SQUADRON: Thank you.

23 ACTING PRESIDENT FLANAGAN: The  
24 Secretary will call the roll on the concurrent  
25 resolution.

1 Senator Squadron.

2 SENATOR SQUADRON: Slow roll

3 call, please.

4 (Several Democratic members stood.)

5 ACTING PRESIDENT FLANAGAN: Thank

6 you, Senator Squadron.

7 The Secretary will call the roll

8 slowly on the concurrent resolution.

9 THE SECRETARY: Senator Adams,  
10 excused.

11 Senator Addabbo.

12 SENATOR ADDABBO: No.

13 THE SECRETARY: Senator Alesi.

14 SENATOR ALESI: Yes.

15 THE SECRETARY: Senator Avella.

16 SENATOR AVELLA: No.

17 THE SECRETARY: Senator Ball.

18 SENATOR BALL: Yes.

19 THE SECRETARY: Senator Bonacic.

20 SENATOR BONACIC: Yes.

21 THE SECRETARY: Senator Breslin.

22 ACTING PRESIDENT FLANAGAN:

23 Senator Breslin, to explain his vote.

24 SENATOR BRESLIN: Thank you,

25 Mr. President.

1 I stand to say to Senator Bonacic  
2 thank you for so much work that he's done.

3 But this is a bill that was  
4 introduced last week, rushed through  
5 Judiciary, rushed through Rules. At a time  
6 when the Governor put a bill in that couldn't  
7 really be dealt with because we had the budget  
8 to worry about.

9 I only point that out because it  
10 really points to a true diversion, as Senator  
11 Perkins has said, Senator Hassell-Thompson has  
12 said, and others have said. It's a diversion  
13 that takes our focus away from proper  
14 redistricting. Senator Bonacic's bill talks  
15 about 11 years from now -- 11 years from now.  
16 We have plenty of time for hearings, plenty of  
17 time to talk about the racial factor in this  
18 bill, about hearings, about the deviation. I  
19 believe it should be 1 percent.

20 And for that reason and others, I  
21 vote no. Thank you, Mr. President.

22 ACTING PRESIDENT FLANAGAN:  
23 Senator Breslin to be recorded in the  
24 negative.

25 THE SECRETARY: Senator Carlucci.

1                   ACTING PRESIDENT FLANAGAN:

2           Senator Carlucci, to explain his vote.

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

5                   I care deeply about independent  
6           redistricting. I think it's extremely  
7           important that we try to address it as soon as  
8           possible so that we have it in place before  
9           the next set of legislative races.

10                   With that said, I think it's  
11           important that we keep in mind just not the  
12           next election but the next generation. And we  
13           keep in mind that this is the closest that  
14           this body has come to actually approving and  
15           securing one man, one vote or one person, one  
16           vote in the New York State Constitution.

17                   So I don't want to let this  
18           opportunity go by and allow us to wait another  
19           10 years and then have this same discussion.

20                   So, Mr. President, I'll be voting  
21           in the affirmative. Thank you.

22                   ACTING PRESIDENT FLANAGAN:     Thank  
23           you. Senator Carlucci to be recorded in the  
24           affirmative.

25                   THE SECRETARY:     Senator



1 DeFrancisco.  
2 SENATOR DeFRANCISCO: Aye.  
3 THE SECRETARY: Senator Diaz.  
4 SENATOR DIAZ: No.  
5 THE SECRETARY: Senator Dilan.  
6 SENATOR DILAN: No.  
7 THE SECRETARY: Senator Duane.  
8 SENATOR DUANE: No.  
9 THE SECRETARY: Senator  
10 Espaillat.  
11 SENATOR ESPAILLAT: No.  
12 THE SECRETARY: Senator Farley.  
13 SENATOR FARLEY: Aye.  
14 THE SECRETARY: Senator Flanagan.  
15 SENATOR FLANAGAN: Yes.  
16 THE SECRETARY: Senator  
17 Fuschillo.  
18 SENATOR FUSCHILLO: Yes.  
19 THE SECRETARY: Senator Gallivan.  
20 SENATOR GALLIVAN: Yes.  
21 THE SECRETARY: Senator Gianaris.  
22 SENATOR GIANARIS: No.  
23 THE SECRETARY: Senator Golden.  
24 SENATOR GOLDEN: Yes.  
25 THE SECRETARY: Senator Griffo.

1                   SENATOR GRIFFO:       Yes.

2                   THE SECRETARY:       Senator Grisanti.

3                   SENATOR GRISANTI:     Yes.

4                   THE SECRETARY:       Senator Hannon.

5                   SENATOR HANNON:       Yes.

6                   THE SECRETARY:       Senator

7 Hassell-Thompson.

8                   ACTING PRESIDENT FLANAGAN:

9 Senator Hassell-Thompson, to explain her vote.

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

12                  I just would like, in explaining my  
13 vote, to just say to Senator Bonacic that  
14 while I appreciate the fact that many of these  
15 you ascribe to the courts, if we have the  
16 opportunity to do a good bill, why would we  
17 wait for the courts to have to dictate what  
18 should be in it? If we know what's right,  
19 then we should ensure that we create a  
20 committee that allows for diversity, we should  
21 create a committee that allows for all of the  
22 opportunities for fairness.

23                  And I don't believe that this bill  
24 does that, and so therefore I will continue to  
25 vote no.

1 Thank you, Mr. President.

2 ACTING PRESIDENT FLANAGAN:

3 Senator Hassell-Thompson to be recorded in the  
4 negative.

5 THE SECRETARY: Senator Huntley.

6 (No response.)

7 THE SECRETARY: Senator Johnson.

8 SENATOR JOHNSON: Aye.

9 THE SECRETARY: Senator Kennedy.

10 SENATOR KENNEDY: No.

11 THE SECRETARY: Senator Klein.

12 SENATOR KLEIN: Yes.

13 THE SECRETARY: Senator

14 L. Krueger.

15 ACTING PRESIDENT FLANAGAN:

16 Senator Liz Krueger to explain her vote.

17 SENATOR LIZ KRUEGER: Thank you,  
18 Mr. President.

19 I also will be voting no on this  
20 bill today. I appreciate Senator Bonacic's  
21 long explanation of the bill. And he's  
22 correct, there was a previous year where I did  
23 cosponsor this bill. And I admit I didn't  
24 read the bill carefully enough. I didn't  
25 understand all of the ramifications of all of

1 the specific changes in this constitutional  
2 amendment.

3 But I was able to learn what I  
4 didn't like about this bill because the public  
5 came to me to lay out the details of the  
6 concerns they had with this bill. And so I  
7 didn't sponsor this year.

8 But I think the important part is  
9 we're now moving this bill through Judiciary,  
10 Rules, to the floor for a vote in one day.  
11 The Governor has -- even though we've all  
12 heard this will have an impact, if ever  
13 passed, on the next redistricting after 2021.  
14 And yet we have a desperate need to do  
15 something about independent redistricting this  
16 year in a matter of months as far as the  
17 process, and yet we can't get the Governor's  
18 program bill through to a public hearing so we  
19 could learn whether we would agree or disagree  
20 with each other on that bill.

21 So I am voting no on this bill. I  
22 will admit freely the more I learned the more  
23 I realized that wasn't the right bill.

24 And I just wish, for the record,  
25 that some all-powerful committee clerk

1       couldn't stop a public hearing on a Governor's  
2       program bill that is very timely and needs to  
3       be done or at least evaluated now.

4               So I'll be voting no,  
5       Mr. President. Thank you.

6               ACTING PRESIDENT FLANAGAN:  
7       Senator L. Krueger to be recorded in the  
8       negative.

9               THE SECRETARY:     Senator C.  
10      Kruger.

11              SENATOR CARL KRUGER:     No.

12              THE SECRETARY:     Senator Lanza.

13              SENATOR LANZA:     Aye.

14              THE SECRETARY:     Senator Larkin.

15              ACTING PRESIDENT FLANAGAN:  
16      Senator Larkin, to explain his vote.

17              SENATOR LARKIN:     You know,  
18      Mr. President, I'd like to go back a few  
19      years -- '82, '92, 2002, I heard these same  
20      comments. During the campaign of '08 I  
21      remember my opponent saying one of the first  
22      things we're going to do is we're going to  
23      take that bill in '09 and we're going to have  
24      reapportionment.

25              And I remember John Bonacic saying

1 at one of our meetings, you know, let's stop  
2 kicking the can down the road, let's do it  
3 right. Let's have a constitutional -- I heard  
4 John saying that way back when.

5 Don't sit here today like "We want  
6 a public hearing." What happened to your  
7 voices of '08? We're going to do it. You had  
8 the opportunity in '09, in '10. But as the  
9 former president, Mr. Smith, said "We're going  
10 kick them out to oblivion" -- well, the public  
11 had a different view.

12 You will make all of those excuses:  
13 You know, we should have public this, we  
14 should have a public -- do you know, this week  
15 I attended three parades. Not one person said  
16 to me about redistricting. You know what they  
17 said? "Can you find a job for me?" "When are  
18 you going to lower the taxes?" "When are you  
19 going to do your work?"

20 John Bonacic, you're to be  
21 commended. Because when others were saying  
22 "John, you're biting off too much," you said,  
23 "My priority is the people I represent, not  
24 the special interests." Thank you very much,  
25 John.

1 I vote yes.

2 ACTING PRESIDENT FLANAGAN:

3 Senator Larkin to be recorded in the  
4 affirmative.

5 THE SECRETARY: Senator LaValle.

6 SENATOR LaVALLE: Aye.

7 THE SECRETARY: Senator Libous.

8 SENATOR LIBOUS: Aye.

9 THE SECRETARY: Senator Little.

10 SENATOR LITTLE: Yes.

11 THE SECRETARY: Senator

12 Marcellino.

13 SENATOR MARCELLINO: Yes.

14 THE SECRETARY: Senator Martins.

15 SENATOR MARTINS: Yes.

16 THE SECRETARY: Senator Maziarz,  
17 excused.

18 Senator McDonald.

19 SENATOR McDONALD: Yes.

20 THE SECRETARY: Senator

21 Montgomery.

22 SENATOR MONTGOMERY: No.

23 THE SECRETARY: Senator Nozzolio.

24 SENATOR NOZZOLIO: Aye.

25 THE SECRETARY: Senator O'Mara.

1                   SENATOR O'MARA:     Aye.  
2                   THE SECRETARY:     Senator  
3       Oppenheimer.  
4                   SENATOR OPPENHEIMER:     No.  
5                   THE SECRETARY:     Senator Parker.  
6                   SENATOR PARKER:     Nay.  
7                   THE SECRETARY:     Senator Peralta.  
8                   SENATOR PERALTA:     No.  
9                   THE SECRETARY:     Senator Perkins.  
10                  SENATOR PERKINS:     No.  
11                  THE SECRETARY:     Senator  
12       Ranzenhofer.  
13                  SENATOR RANZENHOFER:     Yes.  
14                  THE SECRETARY:     Senator Ritchie.  
15                  SENATOR RITCHIE:     Yes.  
16                  THE SECRETARY:     Senator Rivera.  
17                  SENATOR RIVERA:     Nay.  
18                  THE SECRETARY:     Senator Robach.  
19                  SENATOR ROBACH:     Aye.  
20                  THE SECRETARY:     Senator Saland.  
21                  SENATOR SALAND:     Aye.  
22                  THE SECRETARY:     Senator Sampson.  
23                  (Senator Sampson recorded in the  
24       negative.)  
25                  THE SECRETARY:     Senator Savino.



1                   ACTING PRESIDENT FLANAGAN:

2           Senator Savino, to explain her vote.

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

5                   You know, I'm actually going to  
6           vote for this resolution, Senator Bonacic.  
7           But I don't think our work here is done. I  
8           agree with you that we need to solve this  
9           problem constitutionally for the next  
10          legislative body. Hopefully some of us will  
11          be here in 10 years. Some of us might not.

12                   I also don't think our work is  
13          done. I think we need to do nonpartisan  
14          independent redistricting for the upcoming  
15          census. I think it's important. Sixty people  
16          in this body campaigned on that issue last  
17          year. They either signed a pledge or they  
18          signed onto a piece of legislation saying that  
19          they believed in it.

20                   But there are very few issues that  
21          come before this body that has created such a  
22          level of discomfort for people as this  
23          particular issue. And if we all wanted to be  
24          honest with ourselves and we wanted to be  
25          honest with our voters, we would tell people

1        what we really think about independent  
2        redistricting.

3                Senator Bonacic is right. He's  
4        been pushing this bill for -- 12 years now?  
5        Many of the members on this side of the aisle  
6        cosponsored your bill before. We all  
7        supported it when we were in charge, yet we  
8        couldn't get it out of committee and we  
9        couldn't bring it to the floor.

10               I don't think this is the perfect  
11        solution. I still think that we need to do  
12        independent redistricting for the upcoming  
13        legislative terms. But I know one thing is  
14        for sure. This may be the only chance in my  
15        career that I will ever get to vote on a bill  
16        that calls for independent nonpartisan  
17        redistricting in the New York State Senate,  
18        folks.

19               So for that reason, I'm going to  
20        vote for this bill, because it may be my only  
21        shot.

22               ACTING PRESIDENT FLANAGAN:  
23        Senator Savino to be recorded in the  
24        affirmative.

25               THE SECRETARY:        Senator Serrano.

1 SENATOR SERRANO: No.

2 THE SECRETARY: Senator Seward.

3 SENATOR SEWARD: Yes.

4 THE SECRETARY: Senator Skelos.

5 (Senator Skelos recorded in the  
6 affirmative.)

7 THE SECRETARY: Senator Smith.

8 SENATOR SMITH: No.

9 THE SECRETARY: Senator Squadron.

10 ACTING PRESIDENT FLANAGAN:

11 Senator Squadron, to explain his vote.

12 SENATOR SQUADRON: Thank you very  
13 much, Mr. President.

14 And I too commend Senator Bonacic  
15 for what I know has been years and years of  
16 working on this issue and being supportive of  
17 it, and his sincere belief that there is a  
18 better way to do things. And my colleagues on  
19 this side of the aisle who pointed out so many  
20 of the reasons that I think this bill still  
21 does need more work and is not fully there  
22 yet.

23 But let's be very clear. This has  
24 been a very good, genteel debate, and that's  
25 appropriate for this house. Unlike last week,

1       which really wasn't. But there's a striking  
2       similarity between last week's debate and this  
3       week's debate. In neither case have we yet  
4       dealt with the issue that 60 out of 62 of us  
5       have pledged to deal with, which is  
6       redistricting right now.

7               Let's be clear. This body has  
8       still not taken up an issue that 60 out of 62  
9       of us have pledged to take up. That's a very  
10      important issue and I think a reason right now  
11      why this bill of Senator Bonacic's that is  
12      admirable and that I think is an important  
13      piece of the puzzle shouldn't come first and  
14      shouldn't come in this rushed way, it should  
15      come in the appropriate time and the  
16      appropriate course.

17             And what we need to do right now is  
18      we need take up a bill that will solve the  
19      problem for this coming year, which is what we  
20      all pledged to do.

21             I'll be voting no, Mr. President.  
22      Thank you.

23             ACTING PRESIDENT FLANAGAN:  
24      Senator Squadron to be recorded in the  
25      negative.

1 THE SECRETARY: Senator Stavisky.

2 SENATOR STAVISKY: To explain my  
3 vote.

4 ACTING PRESIDENT FLANAGAN:  
5 Senator Stavisky to explain her vote.

6 SENATOR STAVISKY: There are a  
7 lot of things that are good with this bill,  
8 but there are some technical corrections that  
9 really have not been made. And it seems to me  
10 that we are just passing off the problem for  
11 another 10 or 11 years.

12 I hate to think that this might be  
13 the only chance we have to vote on a  
14 redistricting bill. That, to me, is a cynical  
15 scenario is that we must reject. I suggest  
16 that it's time to consider the Governor's  
17 program bill. I vote no.

18 ACTING PRESIDENT FLANAGAN:  
19 Senator Stavisky to be recorded in the  
20 negative.

21 THE SECRETARY: Senator  
22 Stewart-Cousins.

23 SENATOR STEWART-COUSINS: No.

24 THE SECRETARY: Senator Valesky.

25 ACTING PRESIDENT FLANAGAN:

1 Senator Valesky to explain his vote.

2 SENATOR VALESKY: Thank you,  
3 Mr. President.

4 Mr. President, I'm disappointed  
5 this afternoon. I'm disappointed in the no  
6 votes by my colleagues here today. I'm  
7 disappointed in the comments from  
8 organizations outside of the Senate who  
9 somehow believe that reform is not embodied in  
10 this concurrent resolution that is before us  
11 today.

12 We can go through line by line a  
13 piece of legislation that comes before us  
14 every day that we're here -- or, in this case,  
15 a concurrent resolution. We can find a clause  
16 in a bill that we might think might not go far  
17 enough. We can find a sentence that we might  
18 think might not quite fit in terms of our  
19 definition of reform.

20 But in the final analysis it seems  
21 to me that when we vote on this concurrent  
22 resolution, or when we vote on anything that  
23 comes before us in this State Senate, that we  
24 take a step back and we ask ourselves one  
25 simple question. In this case, that question

1 is: Would the State of New York and the  
2 people of the State of New York be better  
3 served by a redistricting process that is done  
4 this way as opposed to the way we've been  
5 doing it decade after decade after decade?

6 Mr. President, in my mind, there's  
7 no comparison. This is a far superior way to  
8 redraw district lines in the State of  
9 New York. And for that reason I vote yes.

10 ACTING PRESIDENT FLANAGAN:  
11 Senator Valesky to be recorded in the  
12 affirmative.

13 THE SECRETARY: Senator Young.

14 SENATOR YOUNG: Yes.

15 THE SECRETARY: Senator Zeldin.

16 SENATOR ZELDIN: Yes.

17 ACTING PRESIDENT FLANAGAN: The  
18 Secretary will call the absentees.

19 THE SECRETARY: Senator Huntley.

20 (No response.)

21 ACTING PRESIDENT FLANAGAN: The  
22 Secretary will announce the results.

23 THE SECRETARY: Ayes, 35. Nays,  
24 24.

25 ACTING PRESIDENT FLANAGAN: The

1 resolution is adopted.

2 Senator Libous, that completes the  
3 controversial reading of the supplemental  
4 calendar.

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

7 Mr. President, is there any further  
8 business at the desk?

9 ACTING PRESIDENT FLANAGAN: No,  
10 Senator Libous.

11 But I would respectfully ask that  
12 the members just wait for one moment. Senator  
13 Libous has something he'd like to ask. But  
14 there is no further official business at the  
15 desk.

16 SENATOR LIBOUS: We're going to  
17 do a couple of things, Mr. President.

18 I believe, in consultation with  
19 Senator Skelos, Senator Sampson would like to  
20 hand up the following committee assignments  
21 and note it in the Journal.

22 ACTING PRESIDENT FLANAGAN: So  
23 ordered. To be filed in the Journal Clerk's  
24 office.

25 SENATOR LIBOUS: Thank you,



1       Mr. President.

2               This weekend the people of Japan  
3       experienced some very, very horrific  
4       devastation, with not just one but several  
5       earthquakes and other tremors that followed.  
6       We pour our hearts out to the people of Japan  
7       and certainly hope that the rescue efforts --  
8       which is a humanitarian effort throughout the  
9       entire world to help those who have survived  
10      and certainly to help heal the pain of those  
11      who have lost their homes, their worldly  
12      possessions and their loved ones.

13              Mr. President, I would ask that  
14      this body join me in a moment of silence for  
15      those who unfortunately lost their lives  
16      through this devastation, and that we have a  
17      moment of silent prayer for those and the  
18      leaders in Japan and certainly those around  
19      the world who are helping this nation at this  
20      time.

21              ACTING PRESIDENT FLANAGAN:     Thank  
22      you, Senator Libous.

23              Obviously everyone has heeded your  
24      call and has risen.

25              (Whereupon, the assemblage

1       respected a moment of silence.)

2               SENATOR LIBOUS:       Mr. President,  
3       there being no further business, I move that  
4       the Senate adjourn until Tuesday, March 15th,  
5       2011, at 1:30 p.m.

6               ACTING PRESIDENT FLANAGAN:       On  
7       motion, the Senate stands adjourned until  
8       Tuesday, March 15th, at 1:30.

9               (Whereupon, at 5:22 p.m., the  
10       Senate adjourned.)