

1 NEW YORK STATE SENATE

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4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 January 23, 2013

11 3:48 p.m.

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14 REGULAR SESSION

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18 SENATOR DAVID J. VALESKY, Acting President

19 FRANCIS W. PATIENCE, Secretary

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

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

4 I ask everyone present to please  
5 rise and recite with me the Pledge of  
6 Allegiance.

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

9 ACTING PRESIDENT VALESKY: With us  
10 today is Father Peter G. Young, of Mother Teresa  
11 Community in Albany, to offer an invocation.

12 Father.

13 REVEREND YOUNG: Thank you.

14 Let us pray.

15 As we gather on this very cold day,  
16 we welcome Your blessings from You, O God.

17 We celebrate with our members by  
18 their willingness to serve our Empire State with  
19 their dedication of public service for our  
20 citizens. May our Senators enjoy good health  
21 for their very, very challenging  
22 responsibilities.

23 Amen.

24 ACTING PRESIDENT VALESKY: Reading  
25 of the Journal.

1                   The Secretary will read.

2                   THE SECRETARY:    In Senate,  
3   Tuesday, January 22nd, the Senate met pursuant  
4   to adjournment.  The Journal of Monday,  
5   January 21st, was read and approved.  On motion,  
6   Senate adjourned.

7                   ACTING PRESIDENT VALESKY:   Without  
8   objection, the Journal stands approved as read.

9                   Presentation of petitions.

10                  Messages from the Assembly.

11                  Messages from the Governor.

12                  Reports of standing committees.

13                  Reports of select committees.

14                  Communications and reports from  
15   state officers.

16                  Motions and resolutions.

17                  Senator Libous.

18                  SENATOR LIBOUS:   Mr. President, I  
19   believe Senator Gianaris has a motion.

20                  ACTING PRESIDENT VALESKY:   Senator  
21   Gianaris.

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

24                  On behalf of Senator Stavisky, I  
25   move that the following bill be discharged from

1 its respective committee and be recommitted with  
2 instructions to strike the enacting clause:

3 Senate Number 648.

4 ACTING PRESIDENT VALESKY: So  
5 ordered.

6 Senator Libous.

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

9 I move that the following bill be  
10 discharged from its respective committee and be  
11 recommitted with instructions to strike the  
12 enacting clause. And that would be Senate Print  
13 1908, by Senator Libous.

14 ACTING PRESIDENT VALESKY: So  
15 ordered.

16 Senator Libous.

17 SENATOR LIBOUS: Thank you.  
18 Mr. President, at this time could you call on  
19 Leader Stewart-Cousins for the purpose of a  
20 welcoming announcement.

21 ACTING PRESIDENT VALESKY: Senator  
22 Stewart-Cousins.

23 SENATOR STEWART-COUSINS: Thank  
24 you, Mr. President. And thank you,  
25 Senator Libous.

1                   It is my pleasure to introduce the  
2 newest member of the Democratic Conference,  
3 Senator CeCe Tkaczyk.

4                   Senator, please rise.

5                   (Standing ovation.)

6                   ACTING PRESIDENT VALESKY:    Senator  
7 Libous.

8                   SENATOR LIBOUS:    Thank you,  
9 Mr. President.

10                  With unanimous consent, I'd like to  
11 recognize Senator Espaillat to address the body,  
12 please.

13                  ACTING PRESIDENT VALESKY:    Senator  
14 Espaillat, with unanimous consent, you are  
15 authorized to speak.

16                  SENATOR ESPAILLAT:    Thank you,  
17 Mr. President. Thank you for acknowledging me.

18                  We have us with us today a  
19 distinguished group of visitors who have made it  
20 their business and a tradition to come before the  
21 State Legislature for the last 16 years to  
22 celebrate Juan Pablo Duarte Day.

23                  Juan Pablo Duarte is the founding  
24 member, the founding father of the Dominican  
25 Republic. And we are celebrating this year his

1 bicentennial, 200 years of his birth, on the 26th  
2 of this month. So we have a resolution before us  
3 today honoring his legacy.

4 And we have with us today, present  
5 here, the Honorable Consul General of the  
6 Dominican Republic, Felix Antonio Martinez, who's  
7 with us today, and also the President of the  
8 Instituto Duarteano, Mr. Caesar Romero, who's  
9 also with us today.

10 And in the galleries we have a great  
11 delegation made up of Teresa Cuevas, Angela  
12 Castillo, Lupe Fañas, Victor Compres, Pedro Pablo  
13 Zorilla, Xiomara Payano, Felix Grant, Rudys  
14 Vidal, Silvia Acosta, and a former and founding  
15 member of the Instituto Duarteano, Mr. Julio  
16 Cesar Rodriguez.

17 So we're here celebrating 200 years  
18 of Juan Pablo Duarte's birth, and we ask all of  
19 you to join in this endeavor and extend the  
20 courtesies of this house.

21 Thank you, Mr. President.

22 ACTING PRESIDENT VALESKY: Thank  
23 you, Senator Espallat.

24 We certainly welcome our  
25 distinguished guests from the Dominican Republic

1 and hope that you enjoy your stay here in  
2 Albany. Thank you for joining us.

3 (Applause.)

4 ACTING PRESIDENT VALESKY: Senator  
5 Rivera.

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

8 I also rise to welcome {in  
9 Spanish}. I am Puerto Rican, as most folks know  
10 here, but my good colleague Adriano Espaillat  
11 refers to me as "El Boricua a plátano." Now, for  
12 those that are Spanishly challenged, that just  
13 means "the plantained Puerto Rican," since it is  
14 a friendly way that we refer to our Dominican  
15 brothers and sisters, as platános.

16 So I wanted to welcome them to our  
17 house and say that I have many Dominican  
18 constituents in my district. I look forward,  
19 every time that this time of the year comes  
20 around, to see you up here. And I see you every  
21 day in my district. So {in Spanish}.

22 Thank you so much, Mr. President.

23 ACTING PRESIDENT VALESKY: Thank  
24 you, Senator Rivera.

25 Senator Diaz.

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

3                   I also join Senator Espaillat in  
4   welcoming the Honorable Felix Antonio Martinez,  
5   the General Consul of the Dominican Republic in  
6   New York, and our guests in the balcony. They're  
7   all good friends and people that we represent and  
8   have been very helpful to me and my son Ruben  
9   Diaz, Jr., in our careers.

10                  And even though Senator Gustavo said  
11   that he's the Boricua plátano, I don't know what  
12   that means. Because I'm supposed to be the  
13   Boricua plátano. So this is because I'm the only  
14   Boricua that goes {singing in Spanish}. I'm the  
15   only one.

16                  (Laughter.)

17                  SENATOR DIAZ:    So to all of you and  
18   to you, Honorable Consul, thank you. I'm honored  
19   to welcome you here and join my colleague Adriano  
20   Espaillat. Thank you.

21                  Thank you, Mr. President.

22                  ACTING PRESIDENT VALESKY:    Thank  
23   you, Senator Diaz.

24                  Senator Dilan.

25                  SENATOR DILAN:    Yes, I just rise to



1 also join the chorus of my colleagues in  
2 welcoming our Dominican brothers and sisters here  
3 to our chamber.

4 I do want to say that when we do  
5 visit their homeland, they're very gracious  
6 hosts. So for that, we want to thank you and  
7 welcome you here to the New York State Senate.

8 ACTING PRESIDENT VALESKY: Thank  
9 you, Senator Dilan.

10 Senator Libous.

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

13 There's a privileged resolution at  
14 the desk by Senator Stewart-Cousins. It's  
15 Resolution Number 249. Could we please have it  
16 read in its entirety and then move for its  
17 immediate adoption. And I'm sure there are a  
18 number of members in the chamber that would like  
19 to speak on it.

20 ACTING PRESIDENT VALESKY: The  
21 Secretary will read the resolution in its  
22 entirety.

23 THE SECRETARY: Legislative  
24 Resolution Number 249, by Senator  
25 Stewart-Cousins, memorializing the 84th Birthday

1 of the Reverend Martin Luther King, Jr., and his  
2 tremendous contributions to civil rights in  
3 American society on the 27th Anniversary of the  
4 national holiday that honors his birth and  
5 achievements.

6 "WHEREAS, Today we celebrate the  
7 life and extraordinary achievements of one of our  
8 nation's most beloved and influential leaders,  
9 Dr. Martin Luther King, Jr., and the 27th  
10 Anniversary of the holiday that honors his birth  
11 and achievements; and

12 "WHEREAS, Martin Luther King, Jr.,  
13 was born on Tuesday, January 15, 1929, at his  
14 family home in Atlanta, Georgia, and was the  
15 first son and second child born to the Reverend  
16 Martin Luther King, Sr., and Alberta Williams  
17 King; and

18 "WHEREAS, Martin Luther King, Jr.,  
19 began his education at the Yonge Street  
20 Elementary School in Atlanta, Georgia, attended  
21 the Atlanta University Laboratory School and  
22 Booker T. Washington High School, and was  
23 admitted to Morehouse College at the age of 15;  
24 and

25 "WHEREAS, At the age of 19, Martin

1 Luther King, Jr., graduated from Morehouse  
2 College with a Bachelor of Arts degree in  
3 sociology, and three years later in 1951 was  
4 awarded a Bachelor of Divinity degree from Crozer  
5 Theological Seminary in Chester, Pennsylvania,  
6 where he also studied at the University of  
7 Pennsylvania and won several awards for most  
8 outstanding student, among which was the Crozer  
9 fellowship for graduate study at a university of  
10 his choice; and

11 "WHEREAS, In 1951, at the age of 22,  
12 Martin Luther King, Jr., began doctoral studies  
13 in systematic theology at Boston University, and  
14 also studied at Harvard University, and at the  
15 age of 26 was awarded a Doctor of Philosophy  
16 degree from Boston University in 1955; and

17 "WHEREAS, During his studies at  
18 Boston and Harvard Universities, Dr. King married  
19 the former Coretta Scott of Marion, Alabama, in  
20 1953; and

21 "WHEREAS, Dr. King entered the  
22 Christian ministry and was ordained in February  
23 of 1948 at the age of 19 at Ebenezer Baptist  
24 Church, Atlanta, Georgia, and became pastor of  
25 the Dexter Avenue Baptist Church of Montgomery,

1 Alabama, from September of 1954 to November of  
2 1959, when he resigned to move home to Atlanta;  
3 and

4 "WHEREAS, Dr. King was elected  
5 president of the Montgomery Improvement  
6 Association, the organization which was  
7 responsible for the successful Montgomery Bus  
8 Boycott, which began in 1955 and lasted 381 days;  
9 and

10 "WHEREAS, Dr. King was incarcerated  
11 many times for his participation in civil rights  
12 activities, was a founder of the Southern  
13 Christian Leadership Conference, which he led  
14 from 1957 to 1968, and was the leader of the 1963  
15 March on Washington for Civil Rights, which is  
16 one of the largest peaceful demonstrations in  
17 American history and is a defining moment in this  
18 nation's civil rights movement; and

19 "WHEREAS, Dr. King was honored  
20 countless times for his leadership of the United  
21 States Civil Rights Movement, including his  
22 selection by TIME Magazine as Most Outstanding  
23 Personality of 1957 and Man of the Year of 1963,  
24 and his selection by LINK Magazine of India, the  
25 home of Mahatma Gandhi, as one of the sixteen

1 world leaders who had contributed the most to the  
2 advancement of freedom during 1959; and

3 "WHEREAS, Dr. King's receipt in 1964  
4 of the Nobel Peace Prize, at the age of 35, made  
5 him the youngest recipient of that prestigious  
6 award, and one of only three black Americans who  
7 have received that award, along with Dr. Ralph  
8 Bunche and President Barack Obama, whose journey  
9 to become President owes no small debt to the  
10 journey Dr. King and the millions of Americans  
11 who walked hand in hand with him undertook to end  
12 segregation and remind Americans of the great  
13 moral underpinnings of our federal Constitution,  
14 which provides that we are all created equal and  
15 of the incredible power of the American ideal  
16 that we all deserve to live in a free and just  
17 society; and

18 "WHEREAS, Dr. King was murdered in  
19 Memphis, Tennessee, on April 4, 1968, by James  
20 Earl Ray, and was mourned by millions of  
21 Americans of all ages, races, creeds and colors  
22 on the national day of mourning declared by  
23 President Lyndon Johnson; and

24 "WHEREAS, Dr. King's birthday was  
25 made into a national holiday in 1986, was first

1 celebrated in all fifty states in the year 2000,  
2 and is the only federal holiday to honor a  
3 private American citizen; and

4 "WHEREAS, Dr. King stands in a long  
5 line of great American leaders and represents  
6 the historical culmination and living embodiment  
7 of a spirit of united purpose, rooted in black  
8 African culture and the American Dream; and

9 "WHEREAS, Dr. King taught us that  
10 through nonviolence, courage displaces fear; love  
11 transforms hate; acceptance dissipates  
12 prejudice; and mutual regard cancels resentment;  
13 and

14 "WHEREAS, Dr. King manifestly  
15 contributed to the cause of America's freedom;  
16 his commitment to human dignity is visibly  
17 mirrored in the spiritual, economic and political  
18 dimensions of the civil rights movement; now,  
19 therefore, be it

20 "RESOLVED, That this Legislative  
21 Body pause in its deliberations to honor the life  
22 of the Reverend Dr. Martin Luther King, Jr.,  
23 whose untimely death robbed America of his  
24 leadership at too early a date, and whose deeds  
25 and words transformed America and live in our

1 homes, schools and public institutions to this  
2 day, continuing to inspire the millions of  
3 Americans whose lives of purpose and achievement  
4 might not have been possible but for Dr. King's  
5 leadership and the examples set by the millions  
6 of Americans who joined him in one of the great  
7 moral crusades of the 20th century; and be it  
8 further

9 "RESOLVED, That this Legislative  
10 Body calls upon its members and all New Yorkers  
11 to observe the day of Dr. King's birth as a day  
12 of service to our family, friends, neighbors and  
13 those less fortunate than ourselves, and to moral  
14 causes greater than ourselves, and to the great  
15 State of New York, in keeping with the ideals of  
16 the national Martin Luther King Day of Service,  
17 which was started by former U.S. Senator from  
18 Pennsylvania Harris Wofford and Congressman John  
19 Lewis from Atlanta, Georgia, who co-authored the  
20 King Holiday and Service Act, signed into law by  
21 President Bill Clinton in 1994; and be it further

22 "RESOLVED, That copies of this  
23 resolution, suitably engrossed, be transmitted to  
24 the family of Dr. King and to the King Center in  
25 Atlanta."

1                   ACTING PRESIDENT VALESKY:     Senator  
2     Stewart-Cousins on the resolution.

3                   SENATOR STEWART-COUSINS:     Thank  
4     you, Mr. President.

5                   I am just listening to this, as many  
6     of us did, remembering what Dr. King meant and  
7     still means to us. It is really important that  
8     we go beyond this day, beyond the date of his  
9     actual birth, the 15th, and reaffirm what  
10    Dr. King stands for and stood for.

11                  I, like almost a million people,  
12    traveled to the inauguration over this past  
13    weekend. And being part of the history of  
14    watching President Obama take his oath of office  
15    for the second time was really more  
16    extraordinary, on some levels, than even the  
17    first time. The first time we all embraced the  
18    history and the fact that America and only  
19    America could produce an African-American  
20    president. But this time I think we were  
21    reminded how vigilant all of us must be in order  
22    to work towards and maintain the dream.

23                  And when we talk about the dream,  
24    we're not talking about "dream," because the  
25    manifestation of the strides that not only



1 African-Americans have made but every ethnic  
2 group has made as a result of Dr. King's efforts  
3 was embodied in this inauguration. And it was  
4 embodied in the fact that if we are not vigilant,  
5 we could very easily forget.

6               We could forget that discrimination  
7 was a way of life only in the 1960s. We can  
8 forget that people were not able to sit at lunch  
9 counters. We can forget that voting was  
10 something that one had to pay a poll tax for --  
11 if you were allowed to register. And this was in  
12 our lifetimes. We can forget that people weren't  
13 allowed housing opportunities. And we can forget  
14 that education was something that was not an  
15 entitlement.

16              And now that we have the opportunity  
17 not only to remember, we can look forward and  
18 understand that we still have so much to do -- to  
19 level the playing field, to create educational  
20 opportunities, to make sure that people are given  
21 economic opportunities. So that we can provide  
22 not only the best of Dr. King's dream, which  
23 again this inaugural weekend took substance, and  
24 it reminded us that it's not in its substance,  
25 but there is still an opportunity for us to help

1     our dreamers, to help folks who, but for what  
2     happens in these chambers and other chambers,  
3     would not be part of a level playing field which  
4     indeed is America.

5                     So I know that so many of my  
6     colleagues will speak on Dr. King and so many of  
7     us will talk about what Dr. King's dream has  
8     meant to us and what the manifestation of it  
9     means and what our future means if we indeed  
10    understand that yes, we are equal. Yes, as the  
11    President brought that back to mind, from  
12    Seneca Falls to Selma to Stonewall, we are equal,  
13    and everything we do here to advance that makes  
14    America the dream for the entire world.

15                    Thank you, Mr. President.

16                    ACTING PRESIDENT VALESKY:    Thank  
17    you, Senator.

18                    Senator Larkin.

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

21                    Thank you, Andrea.

22                    You know, I've spoke on this  
23    gentleman for a number of years. My first  
24    encounter with Dr. King was in 1965. One morning  
25    I got called in by my boss, a three-star general,

1 and he said: "You ever been to Alabama?" I said  
2 "No." And he said, "Well, you're going in about  
3 two hours." I said, "Well, I've got to go  
4 pack." He said, "Don't worry, your wife is  
5 delivering stuff to the office."

6 I got an airplane, I flew down to  
7 Maxwell Air Force Base, and I met the National  
8 Guard commander, a full colonel. And I said,  
9 "Colonel, these are orders from the President of  
10 the United States. They want Governor Wallace to  
11 activate the National Guard of Alabama to assist  
12 in providing security on the march from Selma to  
13 Montgomery."

14 Some of you probably never heard the  
15 words that he said to me. My ears were shocked  
16 that some full colonel would talk to a major that  
17 deliberate.

18 Wallace came out, and Wallace said:  
19 "Tell the President to go to hell." I said, "I  
20 won't tell him that, but I'll tell him." At  
21 midnight I was back there, and I ordered them to  
22 active duty. And he took the paper and tore it  
23 up.

24 But what bothered me was there was  
25 no respect for the President, there was no

1 respect for Dr. King. There was one individual  
2 in this time, all the others were talking about  
3 what they were doing. I'd never met King.

4           The following Friday I was back in  
5 Alabama, and I was in Selma. And we were talking  
6 to people, groups, what we can do to make sure.  
7 I must tell you that I had some Army colonels  
8 that were brought to Alabama that weekend, and  
9 they said: "I'll never speak to you again. Do  
10 you know I could not be promoted if something  
11 goes wrong?" I said "How about you, how about  
12 me?"

13           But Sunday morning Dr. Abernathy  
14 sent for me and said, "Dr. King would like to  
15 talk to you for a few minutes." So there was a  
16 crowd, maybe 1500. But Dr. King said: "You have  
17 a thankless job, and I will pray for you that  
18 everything goes okay. But Dr. Abernathy will be  
19 your in-between."

20           Don't forget we had all of the big  
21 deals from the Justice Department and this  
22 department and that department. When they found  
23 out they were going to have to walk, they didn't  
24 know what to do.

25           But I'll never forget

1 Dr. Abernathy. He was as loyal to Dr. King --  
2 where a lot of other people were doing it for me,  
3 me, me.

4 But the amazing thing I remember  
5 about Dr. King was he said, "This is not about  
6 me. This is for something of our future."

7 You know, an Army officer, you're  
8 not going to get in the middle of this here, you  
9 know. He said "What do you think about the  
10 Voting Right Acts?" And I said, "I think  
11 everybody in America should be able to vote."  
12 Not because of the termination of the pigment,  
13 their skin, but because they're Americans.

14 Something that never is talked about  
15 here, a former United States Senator from  
16 California, a Republican by the name of Bill  
17 Knowland, flew into Maxwell, wanted to find out  
18 what we thought. And he spoke to the colonels  
19 and the generals. And by the way, he come by to  
20 me and said, "If you were in the United States  
21 Senate, how would you vote on the Voting Rights  
22 Act?" I said, "I would vote yes, because this is  
23 America." We've had Americans killed in World  
24 War Two, we've had them in the Civil War, we've  
25 had them in Korea, in Vietnam and the Mideast.

1 And that blood runs the same as everybody else's.

2 For the next four days from that  
3 Sunday, the march was on. There was one little  
4 incident. Some of you might have heard the  
5 news -- I know you weren't there, you're too  
6 young, Michael. Bull Connor come out there. And  
7 I went up to him and I said, "My name is Major  
8 Larkin." And he said, "Oh, you're one of those  
9 Army brats that are here?"

10 I said, "You know, you're just a  
11 chief of police. And I'm telling you if you step  
12 on that bridge and you put those hoses on, I'll  
13 throw your" -- excuse my language, ladies and  
14 gentlemen -- "I'll throw your ass in jail for a  
15 long, long time."

16 Behind me was a six-foot-four  
17 African-American FBI man. And he looked at  
18 Connor and said, "You know, I haven't thrown a  
19 chief in jail for a long time. I need some  
20 practice." We never saw Connor again, never.

21 That march went off. The last day  
22 of that march, there were 25,000 people in it.  
23 Sure, there were a lot of people excited and  
24 scared. Was I nervous? Yes. Don't forget, I  
25 was looking to be a colonel in another two

1 weeks. But the amount of people. And, you know,  
2 if you had to be there and see all the rednecks  
3 on the side cursing at us and all -- we had a  
4 mission. The Commander in Chief said "We'll do  
5 it."

6                   On the night before we entered into  
7 Montgomery, Dr. King summoned three or four of  
8 us. And he said, "I will remember you in my  
9 prayers the rest of my life. This has been a  
10 success."

11                   And it was, until Thursday night.  
12 We told everybody "You must go back this street,  
13 you cannot go back that street." A lady by the  
14 name of Viola Liuzzo, United Auto Workers, took  
15 her group down that way. She was told by the  
16 police "You can't do it." She was buried a week  
17 later. She was killed that night.

18                   And we found out when we got back to  
19 D.C., we got the message. And Ramsey Clark, who  
20 was the Attorney General at the time, said "We've  
21 got to turn and go back." I said, "This aircraft  
22 isn't going back." Our mission was to do what we  
23 did.

24                   Later, there was a letter from  
25 Dr. King to my boss -- not the President, but my

1 boss, General Cotton. It said: "I thank  
2 everybody participating in this here."

3           You know, I learned more. I  
4 remember what Senator Knowland said. And if you  
5 will recall history -- most of you were too young  
6 to be there, Diane -- in June '65 we passed --  
7 not we, they. I was still on the active duty --  
8 the Voting Rights Act. And one of the biggest  
9 obstacles to the Voting Rights Act was a Senator  
10 from Tennessee, Mr. Gore, Al Gore's father. He  
11 tried to stop it.

12           But if you think what was done in  
13 those days, it was really a treasure. I felt  
14 good that we'd accomplished something. We'd  
15 worked together, both sides. The number of  
16 African-American troops doing this mission, we  
17 made sure there were plenty so everybody in  
18 Alabama could see that this wasn't a white drive,  
19 because we wanted people to be there.

20           In April of 1968, I was a retired  
21 young Army colonel and a message came that I was  
22 going to be recalled to active duty and that  
23 Dr. King had been killed in support of the  
24 sanitation strike in Memphis, Tennessee. I want  
25 to tell you -- {choking up}. Excuse me, I'm



1       sorry. I got on that plane to go to Detroit  
2       because the riots were starting. And I thought,  
3       this man, he didn't make you mad -- you weren't  
4       here then, right -- he didn't make you mad, he  
5       was doing something.

6                       I'm Irish. How many Irish rebels  
7       were in this country and fought for issues that  
8       belonged to Irishmen? Breslin was in one of  
9       those fights.

10                      But in reality, it was a tough day.  
11       Cyrus Vance was the Secretary of the Army, and he  
12       called the people he wanted. And that's the  
13       father of Vance, the district attorney in  
14       New York City.

15                      You know, but what bothers me  
16       today -- Dr. King spoke eloquently. I never saw,  
17       when I'd watched him on TV, him reading notes.  
18       And never did you read so, Andrea. But what I  
19       worry about is we are not doing our job in our  
20       schools.

21                      I went to a school this past week,  
22       and they were talking about essays and that. I  
23       challenged them: "What are you doing to support  
24       what Dr. King did for you?" "Oh, I don't know.  
25       What should I do?" And what about the teachers?

1 I was disappointed.

2 If we plan on a day every year in  
3 honor of Dr. King, we should, as a state and a  
4 nation, go and look at his principles. What did  
5 he speak about? What did he want to do? He  
6 talked about someday, in his dream, everybody  
7 will be alike.

8 I have two young grandchildren that  
9 have different pigments than I do. I have three  
10 grandchildren that were born in Korea. And I'm  
11 proud of them. But when we look at somebody and  
12 say, Well, they're black, they're Spanish,  
13 they're that there -- if you've ever been in  
14 combat and somebody calls you and says they've  
15 been wounded, when you see that blood come out,  
16 it doesn't come out pink, it doesn't come out  
17 black. It comes out red. And that blood from  
18 that person is just as sincere as yours is.

19 But if we're not going to stand up  
20 and say we're going to ask youngsters, we're  
21 going to ask teachers, we're going to ask  
22 business: Let's concentrate on what he said and  
23 what he stood for -- if we don't, we all should  
24 just say we don't need the day.

25 I ask you, go back to your

1 districts, plan something for next year,  
2 something that the young people who never met  
3 Dr. King, who don't really understand it, and  
4 have them understand what he stood for and what  
5 he was there for.

6 Three minutes in my life and a few  
7 minutes at the end, and I still say if we abided  
8 by his principles, a lot of the incidents that we  
9 have in our cities across the state, a lot of our  
10 criminal activities and weapons -- he didn't talk  
11 about that. He talked about us working  
12 together.

13 I ask you to join all of us in doing  
14 something next year that Dr. King will look down  
15 from heaven and say: You have answered my  
16 prayers.

17 Thank you all.

18 ACTING PRESIDENT VALESKY: Thank  
19 you, Senator.

20 Senator Parker.

21 SENATOR PARKER: Thank you,  
22 Mr. President. On the resolution.

23 Thank you, Senator Stewart-Cousins,  
24 for bringing this resolution to the floor. And  
25 certainly thank you, Colonel Larkin, for your

1 service both to this great country but also to  
2 the civil rights movement.

3 Dr. King has been a role model of  
4 mine I guess since I was very, very small. And  
5 most years when I have spoken on this I have  
6 tried to make the same point that our leader has  
7 made, which is that Dr. King is much more than a  
8 dream, that in fact the work that he did was  
9 really about constructive engagement and direct  
10 constructive engagement.

11 And people like to talk about the  
12 dream because that's polite, and people don't  
13 want to talk about, you know, him being arrested  
14 and the kind of persecution that he and many of  
15 the members of the Southern Christian Leadership  
16 Conference took in standing up for  
17 African-Americans.

18 But the work of Dr. King was much  
19 bigger than just African-American civil rights,  
20 far bigger. And in fact today we have a new  
21 Senator just elected, and part of what happened  
22 in that process of us counting and recounting  
23 those votes was brought about exactly because of  
24 the work that Dr. King was able to do.

25 We heard during the inauguration

1 speech of our 47th President a reference of  
2 Seneca to Selma to Stonewall, talking about how  
3 important all of these struggles have been in  
4 terms of making this country what it is today.

5 Dr. King was not just an exemplar  
6 for African-Americans throughout this country in  
7 fighting for public accommodation, but if you  
8 read the works of Cesar Chavez what you find is  
9 in California, amongst immigrant farmworkers, he  
10 was in fact one of the exemplars they looked to  
11 for the kind of leadership that needed to be  
12 done. And in fact he's quoted as saying that the  
13 words and the works of Dr. King leaped up out of  
14 the pages for them.

15 That when we look at the struggle of  
16 women and we talk about, you know, what happened  
17 in this great state in terms of, you know, men  
18 that don't understand -- and this is going to be,  
19 I think, an important transition for us as we  
20 talk about reproductive health rights this year,  
21 as we talk about equal pay for women. We need to  
22 do minimum wage, but we also need to do equal pay  
23 for women in this state.

24 We have to remember -- and we're  
25 going to pass Senator Savino's bill on that

1 hopefully soon. But we have to remember that the  
2 women's movement began here in this state. And  
3 so when you hear the President talking about  
4 Seneca Falls, he's talking about New York State.  
5 And we must again be at the lead. And Dr. King  
6 has continued to be a leader in this work.

7               So if we're going to talk about  
8 Dr. King, we have to talk about him in fullness.  
9 In 1966, Dr. King got the Margaret Sanger Award.  
10 Right? Some of you who don't know Margaret  
11 Sanger, she's from Brooklyn, the founder of  
12 Planned Parenthood. Right? And really for his  
13 work, his dedication to women's rights and  
14 women's particularly reproductive health rights.  
15 And so we see Dr. King making his mark there  
16 amongst women.

17               And of course he's made his mark  
18 amongst the gay rights movement. And in fact you  
19 will see that much of the work that's being done  
20 now in gay rights is directly modeled on Dr. King  
21 and the kind of model that he put forward in  
22 terms of protesting. Nonviolent engagement has  
23 been a direct association to that kind of work.

24               And so Dr. King's work really is  
25 prevalent everywhere -- with the antiwar

1 movement, the poor people's movement, the  
2 farmworkers movement, the immigrant rights  
3 movement, the women's movement.

4 And now hopefully we will take this  
5 time today to do what Dr. King said, which is  
6 understand, Mr. President, the urgency of now,  
7 and not to wait and kick the can down the road to  
8 do the great things that we know we can do as  
9 New Yorkers and as members of this body.

10 And so I'm asking you to join with  
11 me today as we not just commemorate the life and  
12 the legacy of the Dr. Martin Luther King but  
13 rededicate ourselves to his mission, to his work,  
14 and understanding the urgency of now.

15 Thank you.

16 ACTING PRESIDENT VALESKY: Thank  
17 you, Senator.

18 Senator Diaz.

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

21 I also join Senator Stewart-Cousins  
22 and congratulate her for bringing this resolution  
23 to the floor.

24 I was very moved, Mr. President,  
25 very, very moved with the words of

1 Senator Larkin. He almost cried, I think he  
2 cried. And he asked a question. Senator Larkin,  
3 Mr. President, asked a question: What are we  
4 going to do, what are we doing with what  
5 Dr. Martin Luther King taught us? That's what he  
6 asked. Beautiful speech. But then he asked,  
7 What are we going to do with what Dr. Martin  
8 Luther King taught us?

9 Well, Senator Larkin, I'll tell you  
10 what we're going to do. Or I'll tell you what  
11 you should do.

12 Senator Larkin and ladies and  
13 gentlemen, Dr. Martin Luther King fought very  
14 hard to take us out of the back seat and to put  
15 us in the front seat. In this chamber, we got 33  
16 Democratic Senators elected. And they shouldn't  
17 have taken us back to the rear seat.

18 So I think, Senator Larkin, the  
19 question should be asked to this chamber, not to  
20 send us to our districts to ask our people what  
21 we're going to do. You know, this chamber, right  
22 here, what are we going to do -- or what are you  
23 doing with what Dr. Martin Luther King taught us  
24 and all the fights that he had, that he had to  
25 take us from the back room in the bus? You here



1 in this chamber are making a mockery out of  
2 that.

3 So I suggest that if we are going to  
4 honor Dr. Martin Luther King's fight, struggle --  
5 that he even gave his life for it -- we should  
6 start here and be real and acknowledge that the  
7 people of the State of New York elected 33  
8 Democratic Senators and gave us the mandate to be  
9 in the majority, not in the back seat.

10 I have also to say that -- every  
11 year I say it to the new ones -- when I was  
12 18 years old in 1960, I joined the Army in  
13 Puerto Rico, the United States Army of America.  
14 I joined that in Bayamón, Puerto Rico, my  
15 hometown. And then they sent me in 1960, they  
16 sent me with a bunch of other Puerto Rican  
17 soldiers, all whites, I being the only black,  
18 they sent me to Columbia, to Fort Jackson in  
19 Columbia, South Carolina. Eighteen years old,  
20 1960. Puerto Rican, black, with broken English  
21 and kinky hair.

22 If you think that you know what  
23 racism is, if you think even -- there are colored  
24 people, African-American people here in New York  
25 that they don't even know what I went through and

1 they will never go through what I went through,  
2 even though they fight against racism. I was the  
3 only black in that barrack. And I learned there  
4 what to be called nigger, what to be called very  
5 Puerto Rican, and what to be called giving all  
6 the dirty words to do.

7               So now in Columbia, South Carolina,  
8 after the struggle of Martin Luther King, now you  
9 could have people moving, even black people being  
10 elected to office. Well, I was there in 1960 and  
11 I know what I know. Nobody -- I didn't read it  
12 in any books. I was there and I lived it. And I  
13 came out of that.

14               I went there proudly wearing the  
15 uniform of the United States Army, I went to a  
16 bar with my friends. The way they told me  
17 "Whatever you're looking for, we haven't got  
18 it." I had to leave the place. My friends stood  
19 there, even Puerto Rican like me, white, they  
20 stood in that bar. And they told me "You have to  
21 leave," and I had to leave.

22               And I know what it is to be alone  
23 even with people that call themselves your  
24 friends. Martin Luther King went through all of  
25 that, and he fought for us.

1                   And now I want to end by saying that  
2   today we have a new Senator, Cecilia Tkaczyk.  
3   And I have to criticize my conference. My  
4   Democratic conference, I have to criticize them.  
5   Because in the time that we are honoring Martin  
6   Luther King, I don't even know why  
7   Cecilia Tkaczyk was sworn in without the  
8   Republican side.

9                   I think that was -- that's  
10  shameful. And I think that we should have never  
11  allowed Cecilia Tkaczyk to be sworn in without  
12  every member of the Senate, for us only Democrats  
13  to be here swearing in Cecilia Tkaczyk.

14                  And then we're going to stand here  
15  now honoring Dr. Martin Luther King? Please,  
16  give me a break.

17                  Thank you, Mr. President.

18                  ACTING PRESIDENT VALESKY:   Senator  
19  Savino.

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

22                  First I want to thank  
23  Senator Stewart-Cousins for bringing the  
24  resolution to the floor.

25                  This is the ninth year that I've

1     been a member of the New York State Senate and  
2     the ninth time I've spoken on a resolution  
3     honoring Dr. Martin Luther King. And, you know,  
4     I always look forward to this resolution no  
5     matter who's the sponsor of it, because we get to  
6     hear the experiences of Senator Larkin. And we  
7     get to hear Senator Diaz talk about what it was  
8     like when he was young and experienced  
9     discrimination, something I will never ever  
10    really feel. And I think it's important that we  
11    share those stories to remind us.

12                 Dr. King is important to many of us  
13    for many different reasons. I always like to  
14    stand and speak on Dr. King because of his  
15    commitment to that other movement -- he was a  
16    movement person -- and that was the labor  
17    movement.

18                 Senator Larkin, when you spoke to  
19    some of those kids the other day, I guarantee you  
20    none of them knew what he was doing in Memphis,  
21    Tennessee, the day he was killed. They don't  
22    know that he went down there to lead a strike of  
23    striking sanitation workers. Who to this day the  
24    City of Memphis still does not acknowledge and  
25    does not treat them with the respect and dignity

1     that they deserved. And they were not striking  
2     for money. They were striking to be treated with  
3     dignity and respect. In fact, their signs were  
4     very simple. They said "I am a man."

5             Dr. King understood how important  
6     the ability of workers to band together for  
7     mutual aid and protection to demand dignity in  
8     the workplace, how important that constitutional  
9     right was.

10            And so today, as Senator Larkin  
11     said, what are we doing to honor Dr. King's  
12     legacy? Well, let's look at where we've come  
13     since 1968, when the rate of organized workers in  
14     this country was somewhere around 30 percent, and  
15     in some sectors even higher. We are now at about  
16     7 percent across the country. Highest in the  
17     public sector, very low in the private sector.

18            In the past two years we've seen a  
19     number of state legislatures introduce and pass  
20     right-to-work statutes stripping workers of the  
21     right to belong to their unions, to have a real  
22     say in their work life, to be able to demand  
23     dignity and respect. So if we're worrying about  
24     are we living up to his legacy, on this one we  
25     are not.

1                   But I am proud to say that here in  
2 New York State we have not fallen for that.  
3 We've had to tighten our belts sometimes and some  
4 of you, you know, have had to take some hard  
5 votes. But we have not treated our workers or  
6 organized workers the way other states are. And  
7 we should be proud of that.

8                   Dr. King would be proud of that.  
9 But he would not be proud of the fate of  
10 organized workers or workers in general in this  
11 country. And until we live up to his commitment,  
12 we won't be honoring his legacy the right way.

13                  So I hope next year when we bring  
14 this resolution to the floor again and we share  
15 these moments that we're able to report that one  
16 of the things that was so important to Dr. King,  
17 the fate of organized workers and the labor  
18 movement, is in a much better place than it is on  
19 this anniversary.

20                  Thank you, Mr. President.

21                  ACTING PRESIDENT VALESKY:    Thank  
22 you, Senator.

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

25                  (Response of "Aye.")

1                   ACTING PRESIDENT VALESKY:    Opposed,  
2    nay.

3                   (No response.)

4                   ACTING PRESIDENT VALESKY:    The  
5    resolution is adopted.

6                   Senator Libous.

7                   SENATOR LIBOUS:    Mr. President, I  
8    believe that Senator Stewart-Cousins would like  
9    to open up the resolution for sponsorship.

10                  And I would ask that the desk put  
11   every member on the resolution.  And if there's a  
12   member who for whatever reason wishes not to be  
13   on, that they should just let the desk know that  
14   at some point in time today.  Okay?

15                  ACTING PRESIDENT VALESKY:    Thank  
16   you, Senator.  The resolution is open for  
17   cosponsorship.  Anyone not wishing to be a  
18   cosponsor should notify the desk.

19                  Senator Libous.

20                  SENATOR LIBOUS:    At this time,  
21   Mr. President, there will be an immediate meeting  
22   of the Rules Committee in Room 332, an immediate  
23   meeting of the Rules Committee in Room 332.

24                  ACTING PRESIDENT VALESKY:    There is  
25   an immediate meeting of the Rules Committee in

1 Room 332. The Senate will stand at ease pending  
2 the report of the Rules Committee.

3 (Whereupon, the Senate stood at ease  
4 at 4:33 p.m.)

5 (Whereupon, the Senate reconvened at  
6 4:45 p.m.)

7 ACTING PRESIDENT VALESKY: Senator  
8 Libous.

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

11 May we please return to reports of  
12 standing committees. I believe there's a report  
13 of the Rules Committee at the desk, and I would  
14 ask that it be read at this time.

15 ACTING PRESIDENT VALESKY: Reports  
16 of standing committees.

17 The Secretary will read.

18 THE SECRETARY: Senator Skelos,  
19 from the Committee on Rules, reports the  
20 following bills direct to third reading:

21 Senate Print 2133, by Senator  
22 Martins, an act to amend the Alcoholic Beverage  
23 Control Law;

24 And Senate 2320, by Senator Golden,  
25 an act to amend the Real Property Tax Law.



1 Both bills reported direct to third  
2 reading.

3 ACTING PRESIDENT VALESKY: Senator  
4 Libous.

5 SENATOR LIBOUS: Mr. President, I  
6 move to accept the report of the Rules Committee.

7 ACTING PRESIDENT VALESKY: All in  
8 favor of accepting the report of the  
9 Rules Committee signify by saying aye.

10 (Response of "Aye.")

11 ACTING PRESIDENT VALESKY: Opposed,  
12 nay.

13 (No response.)

14 ACTING PRESIDENT VALESKY: The  
15 Rules Committee report is accepted.

16 Senator Libous.

17 SENATOR LIBOUS: Mr. President, at  
18 this time could we read the noncontroversial  
19 calendar. We'll read the active list for today.

20 ACTING PRESIDENT VALESKY: The  
21 Secretary will proceed with the noncontroversial  
22 reading of today's calendar.

23 THE SECRETARY: On page 4, Senator  
24 Skelos moves to discharge, from the Committee on  
25 Rules, Assembly Bill Number 2086 and substitute

1     it for the identical Senate Bill Number 2107,  
2     Third Reading Calendar 2.

3             ACTING PRESIDENT VALESKY:  
4     Substitution ordered.

5             The Secretary will read.

6             THE SECRETARY:    Calendar Number 2,  
7     by Member of the Assembly Silver, Assembly Print  
8     2086, Concurrent Resolution of the Senate and  
9     Assembly proposing an amendment to Article 3 of  
10    the Constitution.

11            SENATOR GIANARIS:   Lay it aside.

12            ACTING PRESIDENT VALESKY:    The  
13    concurrent resolution is laid aside.

14            Senator Libous.

15            SENATOR LIBOUS:    Mr. President,  
16    could we take up the noncontroversial reading of  
17    Supplemental Calendar Number 3A at this time.

18            ACTING PRESIDENT VALESKY:    The  
19    Secretary will proceed with the noncontroversial  
20    reading of Supplemental Calendar 3A.

21            THE SECRETARY:    In relation to  
22    Calendar Number 3, Senator Martins moves to  
23    discharge, from the Committee on Rules, Assembly  
24    Bill Number 1075 and substitute it for the  
25    identical Senate Bill Number 2133, Third Reading

1 Calendar 3.

2 ACTING PRESIDENT VALESKY:

3 Substitution ordered.

4 The Secretary will read.

5 THE SECRETARY: Calendar Number 3,  
6 by Member of the Assembly Heastie, Assembly Print  
7 1075, an act to amend the Alcoholic Beverage  
8 Control Law.

9 ACTING PRESIDENT VALESKY: Read the  
10 last section.

11 THE SECRETARY: Section 2. This  
12 act shall take effect on the same date and in the  
13 same manner as a chapter of the Laws of 2012.

14 ACTING PRESIDENT VALESKY: Call the  
15 roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT VALESKY: The  
18 Secretary will announce the results.

19 THE SECRETARY: Ayes, 62. Nays,  
20 1. Senator Diaz recorded in the negative.

21 ACTING PRESIDENT VALESKY: The bill  
22 is passed.

23 The Secretary will continue to read.

24 THE SECRETARY: Calendar Number 4,  
25 by Senator Golden, Senate Print 2320, an act to

1 amend the Real Property Tax Law.

2 SENATOR GIANARIS: Lay it aside.

3 ACTING PRESIDENT VALESKY: The bill  
4 is laid aside.

5 Senator Libous, that completes the  
6 noncontroversial reading of the supplemental  
7 calendar.

8 SENATOR LIBOUS: Thank you,  
9 Mr. President.

10 Now could we go back to the active  
11 list and do the controversial reading of Senate  
12 Calendar Number 2.

13 ACTING PRESIDENT VALESKY: The  
14 Secretary will ring the bells.

15 SENATOR LIBOUS: Mr. President,  
16 let's start whatever debate would be on the bill,  
17 and we can still ring the bells so the members  
18 will come to the chamber. And put the bill  
19 before the house, please.

20 ACTING PRESIDENT VALESKY: The  
21 bells are ringing, and the Secretary will place  
22 the concurrent resolution before the Senate on  
23 the controversial calendar.

24 THE SECRETARY: Calendar Number 2,  
25 by Member of the Assembly Silver, Assembly Print

1 Number 2086, Concurrent Resolution of the Senate  
2 and Assembly.

3 ACTING PRESIDENT VALESKY: Senator  
4 Gianaris.

5 SENATOR GIANARIS: Mr. President,  
6 would the sponsor or a designated Senator answer  
7 a few questions?

8 ACTING PRESIDENT VALESKY: Senator  
9 Nozzolio.

10 SENATOR NOZZOLIO: Thank you,  
11 Mr. President.

12 Senator Skelos and Senator Klein are  
13 the prime sponsors of this legislation, but I'll  
14 be addressing any questions of Senator Gianaris  
15 or members of this house.

16 ACTING PRESIDENT VALESKY: Senator  
17 Gianaris.

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

20 Would the sponsor explain to us why  
21 it is in this resolution that there are different  
22 vote totals required to pass a piece of  
23 legislation out of this chamber depending on  
24 which party is in control of the chamber?

25 SENATOR NOZZOLIO: Mr. President

1 and my colleagues, just for everyone's  
2 edification, the measure before us is a  
3 constitutional amendment that requires passage of  
4 two consecutively elected Legislatures. The  
5 Legislature elected in 2011-2012 engaged in first  
6 passage. This now is before this house for  
7 second passage. It has already passed the  
8 New York State Assembly. And in order for it to  
9 be on the ballot for consideration by the public  
10 this year, it needs to be enacted before the end  
11 of this month.

12 That the portion of the measure that  
13 Senator Gianaris is referring to requires a  
14 standard for the execution of the process, a  
15 standard that changes when one party controls the  
16 Senate, the Assembly and the Governor's office.  
17 The intention of the drafters was to ensure,  
18 Mr. President and my colleagues, that there  
19 wouldn't be rode roughshod over the interests of  
20 the minority party, whatever that minority party  
21 may be. And in order to protect the sentiments  
22 of the minority party, that this standard would  
23 be risen if there was complete control by one  
24 party of both branches of the Legislature and the  
25 Governor.

1                   SENATOR GIANARIS:    Would Senator  
2   Nozzolio continue to yield.

3                   ACTING PRESIDENT VALESKY:    Senator  
4   Nozzolio?

5                   SENATOR NOZZOLIO:    Mr. President,  
6   I'd be happy to yield.

7                   ACTING PRESIDENT VALESKY:    The  
8   Senator yields.

9                   SENATOR GIANARIS:    The answer just  
10   given is a noble goal, but my question is why is  
11   that protection for the minority party only  
12   provided in one circumstance, when one party is  
13   in the minority as opposed to the other? Why are  
14   not both parties afforded that protection?

15                  SENATOR NOZZOLIO:    The example,  
16   Mr. President, in response to the Senator's  
17   question, is that there are conferences  
18   established and that the leadership of those  
19   conferences is delegated and delineated in both  
20   the Assembly and the Senate by having a  
21   majority leader and minority leader. That's the  
22   delineation made in this legislation.

23                  SENATOR GIANARIS:    Would  
24   Mr. Nozzolio continue to yield, Mr. President.

25                  ACTING PRESIDENT VALESKY:    Senator,

1 do you continue to yield?

2 SENATOR NOZZOLIO: Yes,  
3 Mr. President.

4 ACTING PRESIDENT VALESKY: The  
5 Senator yields.

6 SENATOR GIANARIS: I understand  
7 that each house has a majority leader and  
8 minority leader.

9 But my question is, why is a  
10 different vote total required to pass a  
11 redistricting bill when a particular party is in  
12 the minority? Why is it not a blanket two-thirds  
13 vote, which is what this provides in a certain  
14 circumstance, why is not a two-thirds vote  
15 required to pass a redistricting bill, period,  
16 end of story, regardless as to which party is in  
17 the majority or minority?

18 Because this legislation says if a  
19 particular party -- and practically speaking,  
20 it's the Republican Party -- is in the majority,  
21 a simple majority vote is needed; if the  
22 Democrats are in the majority, a two-thirds vote  
23 is needed.

24 SENATOR NOZZOLIO: Mr. President,  
25 the question is a very fair one. I think the



1     answer is that this is a logical extension of  
2     what is established here. And when one party  
3     controls, the protections of the minority in  
4     effect can be run over roughshod by a vote. And  
5     that this vote is to set a different standard.

6                 For instance, in the Assembly now  
7     where the Republicans have, I believe, less than  
8     a third of the chamber as representatives, this  
9     measure would require the standard to be set  
10    higher for the passage and final enactment -- and  
11    I really should say enactment, slash, acceptance  
12    of the commission's report. That this measure  
13    delegates to a commission the responsibility to  
14    draft legislation, legislation that would create  
15    Congressional, State Senate and State Assembly  
16    districts.

17                This legislation, under the  
18    constitutional amendment, could not be amended by  
19    the Legislature. There would be no opportunity  
20    by the Legislature whatsoever to amend. It would  
21    be either an up vote or a down vote, a yes or a  
22    no.

23                And to have a minority in effect  
24    protection by having, when one party does control  
25    all branches, that this does have a check and a

1 balance, an attempt at establishing that check  
2 and balance in this process.

3 SENATOR GIANARIS: Would Senator  
4 Nozzolio continue to yield, Mr. President.

5 ACTING PRESIDENT VALESKY: Senator  
6 Nozzolio, do you yield?

7 SENATOR NOZZOLIO: Yes,  
8 Mr. President.

9 ACTING PRESIDENT VALESKY: The  
10 Senator yields.

11 SENATOR GIANARIS: Thank you. I  
12 heard that last answer. And I guess my question  
13 to Senator Nozzolio is, does he believe that  
14 because we had a divided Legislature last year,  
15 with Democrats in control of the Assembly and  
16 Republicans in control of the Senate, that the  
17 interests of the minority party in the Senate at  
18 the time were not run roughshod by the  
19 redistricting process?

20 SENATOR NOZZOLIO: Mr. President, I  
21 believe that this measure is a measure to  
22 establish an independent redistricting process  
23 and establish that independence as much as  
24 possible within the frameworks of the  
25 Constitution and the authority granted to the

1 commission and the responsibility of the  
2 Legislature to accept or reject the commission's  
3 report.

4           We say, when the delegation  
5 establishes a one-party rule -- Governor, Senate,  
6 Assembly -- the chances of there being unanimity  
7 is also an opportunity for that one party to  
8 destroy whatever fairness there is in the  
9 process.

10           Senator Gianaris references last  
11 year. If I recall, Mr. President, there was a  
12 Governor who was a Democrat, there was a New York  
13 State Assembly that had Democrat control, and  
14 there was a majority of Republicans in the  
15 New York State Senate. That created a balance, a  
16 balance that was I believe not shown in the prior  
17 two years before that, when the Senate was  
18 controlled by the Democrats, the Assembly was  
19 controlled by the Democrats, and the Governor was  
20 controlled by the Democrats.

21           This effort, this constitutional  
22 amendment, is an effort to provide a balance, a  
23 check and a counterweight when there is a  
24 one-party domination of state government.

25           SENATOR GIANARIS: Will Senator

1 Nozzolio continue to yield, Mr. President?

2 ACTING PRESIDENT VALESKY: Senator

3 Nozzolio, do you continue to yield?

4 SENATOR NOZZOLIO: Yes,

5 Mr. President.

6 ACTING PRESIDENT VALESKY: The

7 Senator yields.

8 SENATOR GIANARIS: Did Senator

9 Nozzolio believe that Democratic control of the  
10 Assembly in any way inhibited the Republican  
11 majority's desire and ability to do whatever it  
12 wanted with the Senate lines last year?

13 SENATOR NOZZOLIO: Mr. President,  
14 I'm not schooled in being a guest on talk shows,  
15 being a pundit, being a speculator, being a  
16 Democratic or Republican analyst. That question  
17 requires a political analysis that I am not  
18 qualified to make.

19 SENATOR GIANARIS: Would the  
20 sponsor continue to yield?

21 ACTING PRESIDENT VALESKY: Senator,  
22 do you yield?

23 SENATOR NOZZOLIO: Yes,

24 Mr. President.

25 ACTING PRESIDENT VALESKY: The

1 Senator yields.

2 SENATOR GIANARIS: Senator Nozzolio  
3 may not be skilled in any of those things, but he  
4 is skilled at gerrymandering, and he proved that  
5 last year very effectively.

6 (Audience response.)

7 SENATOR GIANARIS: Oh, please.

8 (Laughter; inaudible comments.)

9 SENATOR GIANARIS: My question to  
10 Senator Nozzolio is --

11 SENATOR NOZZOLIO: I'm sorry, I  
12 have trouble hearing Senator Gianaris. Did he  
13 say that this was an action that he may have or  
14 may not have heard when he walked out of the  
15 chamber last year when this measure was debated  
16 before this Legislature? Is that what Senator  
17 Gianaris said? I couldn't hear.

18 (Laughter.)

19 SENATOR GIANARIS: Mr. President,  
20 that is not what I was insinuating. In fact, I  
21 walked against the lines. I walked out on this  
22 abomination of a constitutional amendment that  
23 we're voting on for the second time today.

24 But let me continue, if Senator  
25 Nozzolio would continue to yield.

1                   SENATOR NOZZOLIO:    Mr. President,  
2   I'll continue to yield to a serious debate and  
3   serious questions.  It appears on the edge of  
4   seriousness by the proponent of these questions  
5   at this point.  Let's see what the question is  
6   before I decide to yield further.

7                   ACTING PRESIDENT VALESKY:    Senator  
8   Gianaris.

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

11                   The resolution before us outlines  
12   different scenarios depending on the political  
13   affiliation of the Speaker of the Assembly and  
14   the Temporary President of the Senate.  My  
15   question to Senator Nozzolio is, how is the  
16   political affiliation of the Temporary President  
17   of the Senate determined?  Is it by with which  
18   conference they choose to sit, by which lines  
19   they choose to run on in November, or some other  
20   factor?

21                   SENATOR NOZZOLIO:    Mr. President, I  
22   barely knew the answer this year.  I certainly  
23   can't speculate.  The laws are there, the  
24   structure is there.  The year that this would be  
25   in effect is 2020.  And that's -- the formula is

1 here. The answer can only be answered in 2020.

2 ACTING PRESIDENT VALESKY: Senator  
3 Gianaris.

4 SENATOR GIANARIS: Would Senator  
5 Nozzolio continue to yield?

6 ACTING PRESIDENT VALESKY: Senator  
7 Nozzolio, do you continue to yield?

8 SENATOR NOZZOLIO: Yes,  
9 Mr. President.

10 ACTING PRESIDENT VALESKY: The  
11 Senator yields.

12 SENATOR GIANARIS: If in 2020 we  
13 are faced with a structural situation in the  
14 Senate exactly identical to that which we have  
15 today, how would the political affiliation of the  
16 Temporary President of the Senate be determined?  
17 It's not a crazy hypothetical; we're living under  
18 it today.

19 SENATOR NOZZOLIO: Mr. President,  
20 that is a question of law that would be answered  
21 by the attorneys and the courts at that time.

22 SENATOR GIANARIS: Would Senator  
23 Nozzolio continue to yield?

24 ACTING PRESIDENT VALESKY: Senator,  
25 do you continue to yield?

1                   SENATOR NOZZOLIO:    Yes,  
2   Mr. President.

3                   ACTING PRESIDENT VALESKY:    The  
4   Senator yields.

5                   SENATOR GIANARIS:    Is Senator  
6   Nozzolio's suggestion that we would undoubtedly  
7   end up in a confusing and lengthy court  
8   proceeding if we are facing the same situation in  
9   2020 that we face today?

10                  SENATOR NOZZOLIO:    Mr. President, I  
11   think it's similar to the situation that  
12   Senator Gianaris mentioned when there was a  
13   question of who would be the next Lieutenant  
14   Governor. That he was a big proponent, if I  
15   recall. That was a question that was ultimately  
16   decided by the New York State Court of Appeals.  
17   And that certainly is a question I think similar  
18   in nature to this one.

19                  SENATOR GIANARIS:    Would the  
20   Senator continue to yield.

21                  ACTING PRESIDENT VALESKY:    Senator,  
22   do you continue to yield?

23                  SENATOR NOZZOLIO:    Yes,  
24   Mr. President.

25                  ACTING PRESIDENT VALESKY:    The



1 Senator yields.

2 SENATOR GIANARIS: Would Senator  
3 Nozzolio answer if we had a situation similar to  
4 today, where the Temporary President position  
5 alternates literally on a day-to-day basis, would  
6 the vote required on the floor of this chamber  
7 depend on what day we were taking the vote?

8 SENATOR NOZZOLIO: Again,  
9 Mr. President, I stand by my previous answer.

10 Again, it's part of the structure of  
11 this house and the determinations as to how --  
12 and, for that matter, the structure of the  
13 Assembly. These hypotheticals could occur in  
14 either house at either time.

15 That I believe we can only gauge  
16 what the law is today and what the structure is  
17 under current rule and current legislative law  
18 that establishes the organization of the Senate  
19 and the Assembly.

20 ACTING PRESIDENT VALESKY: Senator  
21 Gianaris.

22 SENATOR GIANARIS: Would the  
23 Senator continue to yield, Mr. President.

24 ACTING PRESIDENT VALESKY: Senator,  
25 do you yield?

1                   SENATOR NOZZOLIO:    Yes,  
2   Mr. President.

3                   ACTING PRESIDENT VALESKY:    The  
4   Senator yields.

5                   SENATOR GIANARIS:    I suspect I may  
6   get the same answer, but I just want to ask the  
7   question for the record.

8                   Also in this resolution is a  
9   provision that the redistricting commission  
10   itself will require different votes depending on  
11   the party affiliation of the Temporary  
12   President. And I guess my question is, would the  
13   commission itself require a different vote total  
14   depending on which day they take the vote if we  
15   have an alternating president scenario?

16                  SENATOR NOZZOLIO:    Mr. President,  
17   again, it's a speculative question that only can  
18   be answered, at the very least, eight years from  
19   now. And that it's something that certainly the  
20   Legislature at that time will have to deal with.

21                  But the essence -- and I think we're  
22   losing the essence on this track. The essence of  
23   this legislation is to have the Legislature  
24   empower a commission, a commission that would  
25   produce a product, a product that could not be

1     amended by the Legislature regardless of who the  
2     Temporary President was, a product that in effect  
3     would have to be voted on in a procedure that  
4     would hopefully protect, as a check and balance,  
5     the rights of the minority party in this  
6     Legislature.

7                     SENATOR GIANARIS:     Would the  
8     Senator continue to yield, Mr. President.

9                     ACTING PRESIDENT VALESKY:     Senator  
10    Nozzolio, do you yield?

11                    SENATOR NOZZOLIO:     Yes,  
12    Mr. President.

13                    ACTING PRESIDENT VALESKY:     The  
14    Senator continues to yield.

15                    SENATOR GIANARIS:     Could Senator  
16    Nozzolio explain to us whether he considers the  
17    commission that would be established by this  
18    resolution independent?

19                    SENATOR NOZZOLIO:     Mr. President,  
20    this commission is established within the  
21    boundaries that the Legislature has under the  
22    New York State Constitution, Article 3,  
23    Section 1. The delegation of -- that describes  
24    the legislative powers and authorities of this  
25    body and the New York State Assembly.

1           That this grant of authority is to a  
2       commission to produce a product, a product that  
3       could not be amended by the Legislature, a  
4       product that would have a higher standard of  
5       support necessary if one party was in complete  
6       control of the legislative process and the  
7       Governor's office.

8           And that this measure provides the  
9       opportunity for a commission to do its work,  
10      requires the work to be done and, under this  
11      provision, under full compliance with the Voting  
12      Rights Act and all other provisions of law  
13      governing redistricting. It requires a product  
14      to be produced, a series of hearings to be  
15      conducted. It requires the public to have  
16      significant input into the process.

17           And it does not allow the  
18      Legislature -- and I need to emphasize this --  
19      the constitutional amendment forbids the  
20      Legislature from amending this product that's  
21      ultimately produced by the commission.

22           SENATOR GIANARIS:    Would the  
23      Senator continue to yield.

24           ACTING PRESIDENT VALESKY:    Senator  
25      Nozzolio, do you yield?

1                   SENATOR NOZZOLIO:    Yes,  
2   Mr. President.

3                   ACTING PRESIDENT VALESKY:    The  
4   Senator yields.

5                   SENATOR GIANARIS:    I heard Senator  
6   Nozzolio twice indicate that the Legislature  
7   cannot amend the product.  Isn't it in fact the  
8   case that if the Legislature rejects the product  
9   of the commission once, it can amend the  
10   subsequent product as often as it likes?

11                  SENATOR NOZZOLIO:    Thank you for  
12   raising that, Senator.  Yes.

13                  I said it could not amend; I meant  
14   on the first two passages.  On the third  
15   enactment, there could be amendments under this  
16   provision.  But again, it would be the third  
17   time -- not the first time, not the second time,  
18   but the third time in order to get ultimately a  
19   product produced.

20                  SENATOR GIANARIS:    Would the  
21   Senator continue to yield, Mr. President.

22                  ACTING PRESIDENT VALESKY:    Senator  
23   Nozzolio?

24                  SENATOR NOZZOLIO:    Yes,  
25   Mr. President.

1                   ACTING PRESIDENT VALESKY:    The  
2   Senator yields.

3                   SENATOR GIANARIS:    So just to  
4   clarify, then, would Senator Nozzolio agree that  
5   the Legislature in fact has the final say and  
6   there is a process through this amendment, if  
7   enacted, where the Legislature can simply follow  
8   the exact process that was followed last year and  
9   ignore the recommendations of the commission?

10                  SENATOR NOZZOLIO:    Mr. President,  
11   I'd like to point out to my good friend and my  
12   colleagues that this measure is much akin to the  
13   judicial selection commission that was delegated  
14   authority by legislatures in the past, basically  
15   telling the governor of this state that:  Your  
16   selections as appointees to positions in the  
17   judiciary should be screened and developed and  
18   proffered to the governor by the commission,  
19   where the governor would have the opportunity to  
20   say yes or no in nominating those individuals to  
21   a particular judgeship appointment.

22                  This is very similar, in that the  
23   Legislature, under this constitutional provision,  
24   provides an opportunity, creates a commission,  
25   says to the commission:  You develop the product,

1 here are the guidelines. At the end of the day,  
2 we need to endorse that commission proposal.

3 If there cannot be agreement, if the  
4 Governor vetoes the provision twice, that that  
5 third time the Legislature would be acting. But  
6 not until that time.

7 SENATOR GIANARIS: Would the  
8 Senator continue to yield?

9 ACTING PRESIDENT VALESKY: Senator  
10 Nozzolio?

11 SENATOR NOZZOLIO: Yes,  
12 Mr. President.

13 ACTING PRESIDENT VALESKY: The  
14 Senator yields.

15 SENATOR GIANARIS: I want to give  
16 Senator Nozzolio an opportunity to -- I think he  
17 misspoke. My reading of the resolution indicates  
18 that the Legislature has the ability to amend the  
19 second plan presented. It does not have to go  
20 through a third round before the Legislature can  
21 present its amendments. I believe that's on  
22 page 3 of the resolution.

23 SENATOR NOZZOLIO: Mr. President,  
24 if that's a question -- Mr. President, would you  
25 ask Senator Gianaris to again reference the

1 provision he's discussing?

2 SENATOR GIANARIS: I'd be happy to,  
3 Mr. President. It's on page 3, lines 11 through  
4 17. It indicates that if either house shall fail  
5 to approve the second plan, each house shall  
6 introduce such legislation with any amendments it  
7 deems necessary. It's the second plan that could  
8 be amended. It doesn't have to go to a third  
9 one.

10 SENATOR NOZZOLIO: Mr. President,  
11 under this provision, that Plan 1 would have been  
12 provided by the redistricting commission and  
13 failed. Plan 2 would have had to come before the  
14 redistricting commission, and it would have to  
15 fail as well.

16 That this would provide an  
17 opportunity for that plan to be amended. But it  
18 really would be the third time that a plan would  
19 be before the body for consideration.

20 SENATOR GIANARIS: Would the  
21 Senator continue to yield, Mr. President.

22 ACTING PRESIDENT VALESKY: Senator  
23 Nozzolio?

24 SENATOR NOZZOLIO: Yes,  
25 Mr. President.



1                   ACTING PRESIDENT VALESKY:    The  
2   Senator yields.

3                   SENATOR GIANARIS:    With respect, I  
4   just want to clarify this point because I think  
5   it's an important one.  As I read the language of  
6   the resolution, it's my understanding that the  
7   Legislature would have to take -- if the  
8   Legislature was intent on passing its own plan  
9   and not what the commission recommended, it would  
10   have to vote against one plan, the first plan.  
11   On the second plan it merely says if the house  
12   fails to approve it.  Which means it could take  
13   no action whatsoever, which would constitute a  
14   failure to approve the legislation, and then  
15   amend it and pass whatever the Legislature  
16   wished.

17                  SENATOR NOZZOLIO:    I believe,  
18   Mr. President, that the intent of this resolution  
19   is to have the Legislature act and vote on such a  
20   plan.

21                  SENATOR GIANARIS:    Would the  
22   Senator continue to yield, Mr. President?

23                  ACTING PRESIDENT VALESKY:    Senator  
24   Nozzolio.

25                  SENATOR NOZZOLIO:    Yes,

1 Mr. President.

2 ACTING PRESIDENT VALESKY: The  
3 Senator yields.

4 SENATOR GIANARIS: How would the  
5 process set up by this resolution in any way, in  
6 any way differ from the process we witnessed last  
7 year, with one exception, and that is that this  
8 commission will produce a plan that can be  
9 completely ignored by the Legislature? Aren't we  
10 in fact dealing with the establishment of an  
11 advisory commission that simply leaves the power  
12 in the Legislature to do whatever it chooses at  
13 the end of that process?

14 SENATOR NOZZOLIO: Mr. President, I  
15 believe that this measure is establishing an  
16 independent process, a process that is requiring  
17 individuals to put together a product, a product  
18 that must be voted on by the Legislature. And  
19 those votes are consequences that I believe the  
20 questioner, in making the question, is  
21 discounting. That there will be an enormous  
22 amount of citizen input, an enormous amount of  
23 effort, an enormous amount of process that the  
24 public will have an opportunity to engage in.

25 For the Legislature then to -- as

1 well as the Governor -- to ignore that process in  
2 any way I believe certainly would be contrary to  
3 the public interest.

4           The divisible grant of authority,  
5 though, that -- I think the next question that  
6 Senator Gianaris may be contemplating -- is one  
7 that he raised in committee, a question about,  
8 Well, why not simply make it so that the  
9 Legislature would never had have an opportunity  
10 to vote on the process? A question that is not  
11 illogical, but it is also not within the  
12 constitutional framework of our State  
13 Constitution as it's currently presented.

14           And it would further erode any type  
15 of legislative authority to simply pick and  
16 choose what individual grants of authority the  
17 Legislature will make.

18           It is Article 3, Section 1, which  
19 I'll repeat grants an indivisible grant of  
20 authority by the people of this state to the  
21 Legislature. Having that grant of authority  
22 obliterated obliterates Article 3, Section 1, and  
23 a pick-and-choose-type approach for the ultimate  
24 decision, being the people of this state through  
25 their Legislature, would be contrary.

1                   In other words, the people of this  
2                   state, speaking through their legislators, will  
3                   ultimately decide this ultimate law or this  
4                   ultimate plan as well as others. And that for  
5                   the Legislature to -- it can't pick and choose  
6                   its opportunity to grant articles of authority or  
7                   divisions of authority on an issue-by-issue  
8                   basis.

9                   SENATOR GIANARIS:     Would the  
10                  Senator continue to yield, Mr. President?

11                  ACTING PRESIDENT VALESKY:     Senator  
12                  Nozzolio?

13                  SENATOR NOZZOLIO:     Yes,  
14                  Mr. President.

15                  ACTING PRESIDENT VALESKY:     The  
16                  Senator yields.

17                  SENATOR GIANARIS:     Is the Senator  
18                  aware that we are discussing amending the  
19                  constitution and therefore we are not bound by  
20                  any current provisions of the constitution by  
21                  what we're proposing? So in other words, the  
22                  fact that the current constitution gives the  
23                  legislature the final say does not mean that we  
24                  cannot propose removing that authority from the  
25                  legislature in a constitutional amendment.

1                   SENATOR NOZZOLIO:    Mr. President, I  
2    think that takes a very narrow tunnel view of  
3    what a constitutional amendment does. Under  
4    Senator Gianaris's logic, then you could change  
5    the state constitution or any constitution -- our  
6    national constitution -- in one way with total  
7    disregard for the other provisions of that  
8    constitution. I don't think that's something  
9    that the original drafters of either the state or  
10   federal constitution would support.

11                   That certainly the courts would not  
12   want an individual grant of some sort to be  
13   contrary to another constitutional provision.  
14   That would be certainly ripe for challenge. It  
15   would be an issue that would be fought in the  
16   courts for years. And it's something that I  
17   think certainly would not result in the type of  
18   process that this bill contemplates.

19                   SENATOR GIANARIS:    Would the  
20   Senator continue to yield.

21                   ACTING PRESIDENT VALESKY:    Senator  
22   Nozzolio?

23                   SENATOR NOZZOLIO:    Yes,  
24   Mr. President.

25                   ACTING PRESIDENT VALESKY:    The

1 Senator yields.

2 SENATOR GIANARIS: Is the Senator  
3 aware that in March of 2011 he and all of his  
4 colleagues on that side of the aisle voted for a  
5 constitutional amendment that would in fact strip  
6 the Legislature of complete authority over  
7 redistricting? And I wonder why his opinion has  
8 changed on that issue from that day to today.

9 SENATOR NOZZOLIO: I'm not familiar  
10 with the measure that Senator Gianaris is  
11 referring to. But whatever it was, that will no  
12 more stand the constitutional test than the other  
13 legislation that Senator Gianaris is referring  
14 to.

15 I think that the point, Senator, is  
16 this. That regardless of what votes were taken  
17 by any members of this Legislature on any other  
18 issue, the issue before us is one that we're  
19 dealing with now. The issue before us is the one  
20 you and I are addressing. And the measure before  
21 us I believe is irrelevant to that discussion of  
22 other legislation.

23 I should parenthetically ask, did  
24 that legislation pass both houses and is it  
25 before us for discussion today? I think the

1 answer to that, Mr. President, would be no.

2 SENATOR GIANARIS: Would the  
3 Senator continue to yield, Mr. President.

4 ACTING PRESIDENT VALESKY: Senator  
5 Nozzolio, do you continue to yield?

6 SENATOR NOZZOLIO: Be glad to,  
7 Mr. President.

8 ACTING PRESIDENT VALESKY: The  
9 Senator continues to yield.

10 SENATOR GIANARIS: For the  
11 Senator's and everyone's edification, it was a  
12 Senator Bonacic bill, S3331 in the last session,  
13 that was voted upon.

14 But no, it did not pass the  
15 Assembly, it is not before us today. I was  
16 merely asking because your explanation of the  
17 current resolution before us would seem to  
18 indicate that you would oppose an effort like  
19 that that you apparently voted for.

20 But let's move on from that. I want  
21 to go back for a moment to the question of the  
22 supermajority vote requirement in certain  
23 instances.

24 I heard Senator Nozzolio say that it  
25 is the will of the voters, through their

1 representatives, that will determine whether  
2 these plans get enacted or whether this amendment  
3 is adopted ultimately. But my question is, why  
4 does this resolution not trust the will of the  
5 voters in determining the composition of the two  
6 houses so that the same vote requirements would  
7 apply under any circumstances?

8 I was perhaps not as articulate as I  
9 could have been. Let me try and rephrase that.

10 Why are the supporters of this  
11 resolution concerned that the will of the voters  
12 might enable the same party to control both  
13 houses and, through their will, enact a plan like  
14 every other bill we pass that requires the same  
15 vote total regardless of which party is in  
16 charge?

17 SENATOR NOZZOLIO: Mr. President, I  
18 think the will of the voters certainly will be  
19 heard by the enactment of this constitutional  
20 amendment. That's the ultimate will of the  
21 voters.

22 My friend the distinguished Deputy  
23 Minority Leader talks about a hypothetical and  
24 somehow suggests that we have the will of the  
25 people of the state collectively voiced through



1 the actions of the Legislature.

2 The point is this, that the citizens  
3 of this state will have the opportunity to decide  
4 whether this is a provision that makes sense,  
5 that will be balanced, will provide a check and  
6 balance.

7 And I think that the hypothetical  
8 raised by Senator Gianaris is just too convoluted  
9 to matter to individual citizens, in the sense  
10 that they'll have their ultimate say in voting  
11 for this amendment or not. And that will speak  
12 louder than any action by this legislative body.

13 SENATOR GIANARIS: Would the  
14 Senator continue to yield, Mr. President?

15 ACTING PRESIDENT VALESKY: Senator  
16 Nozzolio.

17 SENATOR NOZZOLIO: Yes,  
18 Mr. President.

19 SENATOR GIANARIS: I'll begin by  
20 noting for the record that the quote, unquote,  
21 convoluted hypothetical I referenced is the world  
22 in which we're living in today. So I appreciate  
23 that you're calling it convoluted. I agree.

24 But let me ask whether you are  
25 familiar with at any point in New York State's

1 history that our constitution required different  
2 vote totals depending on which party had control  
3 of this body. Has that ever happened before?

4 SENATOR NOZZOLIO: I am not  
5 familiar with any constitutional provision.  
6 Although certainly I am with a measure that this  
7 body enacted fewer than two years ago  
8 establishing the new code of ethics for the State  
9 of New York and the legislatures and legislative  
10 members.

11 SENATOR GIANARIS: Would the  
12 Senator continue to yield, Mr. President.

13 ACTING PRESIDENT VALESKY: Senator  
14 Nozzolio?

15 SENATOR NOZZOLIO: Yes,  
16 Mr. President.

17 ACTING PRESIDENT VALESKY: The  
18 Senator yields.

19 SENATOR GIANARIS: Of course the  
20 difference in those two is one is a statute that  
21 can be changed more easily than a constitutional  
22 amendment.

23 But I guess I'll ask the question  
24 more broadly. Is the Senator aware of any  
25 example in the history of the United States of

1 America where the constitution of any state or  
2 the charter of any locality ever, ever required  
3 different vote totals depending on party  
4 advantage in a legislative body? Ever.

5 SENATOR NOZZOLIO: Mr. President, I  
6 certainly don't have the answer for  
7 Senator Gianaris. But I take his question very  
8 seriously, and I'll go home and do my homework  
9 this evening. It will probably take me all night  
10 to check every state legislative constitution as  
11 well as -- we might as well not limit it just to  
12 the United States, we can do all the countries of  
13 the world.

14 And I certainly will look forward to  
15 reporting to Senator Gianaris if I have been able  
16 to find any such provision.

17 SENATOR GIANARIS: Mr. President,  
18 on the bill.

19 ACTING PRESIDENT VALESKY: Senator  
20 Gianaris on the concurrent resolution.

21 SENATOR GIANARIS: Concurrent  
22 resolution, thank you.

23 Let me thank Senator Nozzolio for  
24 answering my questions and yielding.

25 The reason Senator Nozzolio was

1     unable to answer that last question is because  
2     this is unprecedented. The idea that we would  
3     enshrine in the constitution of our state that a  
4     particular party needs more votes than another  
5     particular party to pass legislation is  
6     outrageous in the extreme.

7                 We embarked on this effort to  
8     establish an independent process, many of us  
9     did -- some in the galleries with us today --  
10    with the idea that we would be doing something  
11    good, not that we would make things worse.

12                And in fact we're being presented  
13    with a resolution today that would take an  
14    extremely bad process and make it horrendous.  
15    The Legislature would continue to have the final  
16    say. Not a darn thing different would have to  
17    happen other than we would have to reject this  
18    commission's proposal one time and then go right  
19    back to what happened last year.

20                Worse, we might require extra votes  
21    if the Democrats are in charge of the Senate than  
22    if Republicans are in charge. Let me repeat  
23    that. We are attempting to put into the  
24    constitution a process by which, if one party  
25    wins an election, they require fewer votes than

1 if another party wins the election. In our  
2 state's governing document. If we do something  
3 like this, we are defaming the State Constitution  
4 today.

5           The Legislature would continue to  
6 have the final say, which is the one criteria  
7 that all of us said we supported. And the entire  
8 Republican majority voted for just such a  
9 proposal by Senator Bonacic. It would be  
10 establishing a commission that would mirror the  
11 setup at the Board of Elections, which is  
12 traditionally mired in gridlock because it has an  
13 equal number of appointees by both parties, even  
14 to the point of having co-directors, one from  
15 each party.

16           It doesn't take a genius to figure  
17 out what would happen. The reality is either the  
18 majority would continue to control and the  
19 Legislature would pass a plan just like it wanted  
20 to, this commission would be deadlocked five-five  
21 and nothing would come out of it, once again  
22 kicking it back to the Legislature to continue  
23 the process we've had in place for decades.  
24 There would be no addressing of the issue of  
25 reducing the population deviation. Questions

1 about whether the change to prisoner population  
2 allocation would still be in effect.

3           And a situation where, if we have a  
4 structure of the Senate like we have today, where  
5 no one is able to answer what would happen. If  
6 this was in effect right now and this was a  
7 redistricting year, no one can tell us how this  
8 would even go. Would it depend on the day which  
9 party had the temporary presidency? Would the  
10 independent commission have to wait for the right  
11 moment to call a vote, depending on which party  
12 was in charge, to make sure they only needed a  
13 simple majority instead of a two-thirds  
14 majority? What if they were in a late-night  
15 meeting and at the stroke of midnight there's a  
16 new temporary president, because all of a sudden  
17 the votes have to change again?

18           And I don't mean to make light of  
19 the current situation in this body. It exists  
20 for a number of reasons that are not relevant to  
21 this resolution. I'm merely pointing out the  
22 lunacy of requiring different vote totals  
23 depending on party advantage.

24           And yet here we are, so-called  
25 reformers talking about how this is a good thing,

1 others holding the line, and all of us having to  
2 make a decision whether we want to take one of  
3 the most maligned redistricting processes in the  
4 country and actually take a vote to make it  
5 worse. Because that's what we're doing today.

6 I encourage all my colleagues to  
7 vote no on this. If it passes, I encourage the  
8 people of this state to reject it in November and  
9 give us another crack to do this right.

10 Thank you, Mr. President.

11 ACTING PRESIDENT VALESKY: Thank  
12 you, Senator.

13 Senator Bonacic.

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

16 I want to thank Senator Nozzolio for  
17 clarifying this complicated process.

18 I want to talk what redistricting  
19 means to me. I want to share some thoughts with  
20 you. Under the constitution, the legislature has  
21 the power to decide the redistricting process.  
22 And why is that important to us? Because, for  
23 our political existence, we want to make sure  
24 that the district that is drawn every 10 years is  
25 fair.

1                   Now, if you're a member of the  
2 minority party, you want to make sure that you're  
3 not squeezed in such a way that it's harder for  
4 you to get elected. And if you're in the  
5 majority party, you want to make sure that your  
6 chances are good to get elected. A political  
7 process which the constitution empowers you to  
8 have. Okay?

9                   Every 10 years, when you're in the  
10 minority party, you say that the majority is  
11 going to stack the deck to hurt us, to hurt the  
12 minority. You have good government groups saying  
13 it's not fair, you have the media saying it's not  
14 fair. And we go through this process every  
15 10 years.

16                  So what we tried do in the Senate  
17 was make it simple and make it fair. But it's  
18 going to take courage. Because it was going to  
19 take a delegation, an authorization to an  
20 independent body to take it away from every  
21 elected official and let them draw the lines.  
22 Okay?

23                  Now, Senator Gianaris has referred  
24 to my bill three times in this discussion with  
25 Senator Nozzolio. And what we tried to do in



1     2009 was to create a commission of five. Okay?  
2     Two from the majority leader, two from the  
3     speaker, and those four would decide the fifth.  
4     They draw the lines, and we live with it. It's  
5     over, very simple. Okay?

6                 At that time Governor Cuomo, the  
7     attorney general, gave a legal opinion, he had no  
8     problems with the bill in terms of saying not a  
9     good idea.

10                We asked, when the Democrats were in  
11     power in 2009 and 2010, please run with this,  
12     because for years you've been talking about  
13     wanting independent redistricting. It doesn't  
14     get any more simpler than that.

15                When you were in the majority --  
16     Assembly, Senate, Democratic governor -- you did  
17     not touch it. You ran away from it. You did  
18     nothing. Even though there was the chatter of  
19     wanting independent districting when you were in  
20     the minority. So a lot of this discussion today  
21     is kind of hypocritical.

22                Let me continue. In 2012 we took  
23     that bill, where you wouldn't touch it, and we  
24     passed it in the Senate. And that vote was  
25     35-24. Finally, this house acted on the purest

1 of independent districting: Let those five do  
2 it, we're out of it. We couldn't get the  
3 Assembly to move on it. They didn't want to do  
4 independent redistricting.

5 This was the only product last year  
6 that we could do with a bipartisan census with  
7 the Assembly and the Senate. Again, we're  
8 striving for independent redistricting. And as I  
9 understand this bill, this commission of 10, if  
10 we reject it, it goes back to them, if we reject  
11 it a second time, we draw it. We're back to  
12 where we always were.

13 And Senator Gianaris, when he speaks  
14 of is this going to meet the constitutional  
15 muster, it remains to be seen. But that can be  
16 said of anything we do in redistricting, because  
17 we have to adhere to the 14th Amendment, we have  
18 to adhere to the federal Voting Rights Act to  
19 make sure we don't disenfranchise any minorities,  
20 any voters in any Senate district. So we always  
21 have to cut the constitutional mustard and meet  
22 those two standards.

23 And Senator Gianaris talked about  
24 this third thing of a different count for  
25 whosever in power, which is a distraction.

1                   So I commend Senator Nozzolio and  
2                   Senator Skelos for doing the best they can with  
3                   the other house to get a plan forward that tries  
4                   to do independent districting. I vote aye on the  
5                   resolution.

6                   Thank you, Mr. President.

7                   ACTING PRESIDENT VALESKY:    Thank  
8                   you, Senator.

9                   Senator Krueger.

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

12                  ACTING PRESIDENT VALESKY:    Senator  
13                  Krueger on the concurrent resolution.

14                  SENATOR KRUEGER:    So I just heard  
15                  my colleague say this is simple and it's  
16                  independent. But I listened to the debate  
17                  between my colleagues Senator Gianaris and  
18                  Senator Nozzolio, and clearly it's anything but  
19                  simple.

20                  I've also read endless analysis  
21                  since a year ago on this constitutional  
22                  amendment. And you know, it gets pretty bad  
23                  grades from the actual independent people out  
24                  there.

25                  Professor Gerald Benjamin in his

1 analysis rated it F on observance of the  
2 integrity of the state's regions. He graded it F  
3 on decisions on districting should fall to the  
4 state high court if the commission is not  
5 constituted or fails to act in a timely way. He  
6 graded it F on the criteria to be used,  
7 established in the constitution for redistricting  
8 in order of priority. He graded it F on  
9 commission decisions on districts --

10 ACTING PRESIDENT VALESKY: Excuse  
11 me, Senator Krueger.

12 Senator DeFrancisco, why do you  
13 rise?

14 SENATOR DeFRANCISCO: I'm wondering  
15 if Senator Krueger would yield to a question.

16 ACTING PRESIDENT VALESKY: Senator  
17 Krueger, do you yield to Senator DeFrancisco?

18 SENATOR KRUEGER: I will in just  
19 one minute, if that's okay with the Senator.  
20 Thank you.

21 I'm going on with Professor  
22 Benjamin's analysis. He starts to move up after  
23 he grades it F on the criteria to be established  
24 in the state constitution for redistricting in  
25 order of priority, grades it an F on the

1 commission decisions on districts being final  
2 when filed with the Secretary of State. We then  
3 get up to Ds on a series of proposals, finally up  
4 to a grade of C. And we actually get to a B and  
5 an A on a couple of minor issues at the end.

6 But a recognized independent  
7 authority on the constitution and on the  
8 districting process in New York has given it  
9 terrible grades.

10 I will happily defer to Senator  
11 DeFrancisco for questions and then get back to  
12 talking on the bill, if I might, Mr. President.

13 ACTING PRESIDENT VALESKY: Senator  
14 DeFrancisco.

15 SENATOR DeFRANCISCO: Yes, I would  
16 just have this question.

17 Senator Krueger, how would you grade  
18 the Democrat majority in 2009 and 2010 on their  
19 redistricting efforts?

20 SENATOR KRUEGER: Through you,  
21 Mr. President, the Senate Republicans controlled  
22 this house for almost 70 years straight. They  
23 never addressed the fairness of districting in  
24 any of the 10-year periods during those  
25 approximately 70 years.

1                   We did control the house for  
2 approximately one of those two years until a  
3 Republican-led coup threw us all into chaos. And  
4 I will agree during that short period of time we  
5 did not get redistricting done.

6                   So I will agree both parties in this  
7 house have been guilty of failing to get  
8 independent redistricting done in the history of  
9 this house. That, in my opinion, does not  
10 justify moving forward with a bad constitutional  
11 amendment when in fact we have no immediate  
12 deadlines, we have no redistricting schedule to  
13 go forward for nearly another decade. And we  
14 really have the time, both of us in this house,  
15 both houses, to get this right.

16                  When you're going to amend the  
17 constitution of the state, I believe you need to  
18 make sure you get it right before you change the  
19 constitution.

20                  ACTING PRESIDENT VALESKY:    Senator  
21 DeFrancisco.

22                  SENATOR DeFRANCISCO:    Would Senator  
23 Krueger yield to another question?

24                  ACTING PRESIDENT VALESKY:    Senator  
25 Krueger, do you yield?

1                   SENATOR KRUEGER:   Happily,  
2   Mr. President.

3                   ACTING PRESIDENT VALESKY:   Senator  
4   Krueger yields.

5                   SENATOR DeFRANCISCO:   Senator  
6   Krueger, I know you didn't get it done and the  
7   Republicans didn't get it done. But during the  
8   years 2009-2010, can you tell me what bills were  
9   introduced for redistricting by the majority, who  
10   would have controlled redistricting if they had  
11   kept the majority? What bills were introduced?

12                  SENATOR KRUEGER:   One moment, I'll  
13   check with counsel, please.

14                  Reminding me, Mr. President, that at  
15   that time you, Senator Valesky, carried a bill  
16   for independent redistricting that in fact  
17   Senator Gianaris, who was then an Assemblymember,  
18   carried in the Assembly.

19                  SENATOR DeFRANCISCO:   And would she  
20   yield to one last question?

21                  ACTING PRESIDENT VALESKY:   Senator  
22   Krueger, do you continue to yield?

23                  SENATOR KRUEGER:   Yes,  
24   Mr. President.

25                  SENATOR DeFRANCISCO:   Can you tell

1 me when in 2009 and 2010 Senator Valesky's bill  
2 came to the floor for a vote?

3 SENATOR KRUEGER: Mr. President,  
4 may I ask you if you can answer that question?

5 (Laughter.)

6 SENATOR DeFRANCISCO: I can answer  
7 it. It didn't come to the floor.

8 ACTING PRESIDENT VALESKY: Thank  
9 you, Senator.

10 Senator Krueger, I believe you'd  
11 like to continue to speak on the concurrent  
12 resolution.

13 SENATOR KRUEGER: Thank you.

14 And I understand there was a hearing  
15 on that bill, but that did not come to the floor.

16 ACTING PRESIDENT VALESKY: Excuse  
17 me, Senator Krueger.

18 SENATOR KRUEGER: Certainly.

19 ACTING PRESIDENT VALESKY: Senator  
20 Nozzolio, why do you rise?

21 SENATOR NOZZOLIO: Mr. President,  
22 will Senator Krueger yield?

23 ACTING PRESIDENT VALESKY: Senator  
24 Krueger, do you yield to Senator Nozzolio?

25 SENATOR KRUEGER: Sure, I'm happy



1 to yield to Senator Nozzolio.

2 ACTING PRESIDENT VALESKY: The  
3 Senator yields.

4 SENATOR NOZZOLIO: Mr. President,  
5 through you. Senator Krueger, as she's quoting  
6 some --

7 SENATOR KRUEGER: Professor Gerald  
8 Benjamin.

9 SENATOR NOZZOLIO: -- professor, is  
10 she familiar with Citizens Union?

11 SENATOR KRUEGER: I am familiar  
12 with Citizens Union, yes.

13 SENATOR NOZZOLIO: Mr. President,  
14 would Senator Krueger agree that Citizens Union  
15 has been at the forefront of reform of state  
16 government throughout its history?

17 SENATOR KRUEGER: No, not at every  
18 given point in history. In fact, Citizens Union  
19 in fact I would argue was wrong on the support of  
20 the gerrymandering of the districts last year.  
21 And I believe they're wrong in their support of  
22 the constitutional amendment today.

23 SENATOR NOZZOLIO: Mr. President, I  
24 guess that is an answer to my next question,  
25 whether Senator Krueger is aware that

1 Citizens Union has supported this constitutional  
2 amendment, it has supported this measure,  
3 supported your bill and supported this measure as  
4 it's come before us.

5 SENATOR KRUEGER: Yes, I am quite  
6 aware of that. And as I pointed out, I believe  
7 they're wrong here today on this issue.

8 Does Senator Nozzolio have more  
9 questions?

10 ACTING PRESIDENT VALESKY: I don't  
11 believe so. You may continue on the concurrent  
12 resolution.

13 SENATOR KRUEGER: Thank you so  
14 much, Senator Valesky.

15 Again, for me, we could do better.  
16 We have time to do better. Again, and in  
17 fairness, unlike the deadlines we faced in 2009  
18 through 2012, where there was imminent decisions  
19 to be made around redistricting, in 2013 there  
20 are not. And there is plenty of time for this  
21 state to get a constitutional amendment correct  
22 before we submit it, before we do second passage  
23 and we submit it.

24 As we already heard during the  
25 earlier debate, there are some truly fundamental

1     flaws in this constitutional amendment. It uses  
2     the constitution to give political parties a  
3     legal and express stranglehold on redistricting.  
4     It sets up an even number on the commission --  
5     which is likely to foster gridlock, as we have  
6     seen in this house -- in order to allow the  
7     Legislature to take over from the commission. It  
8     memorializes and requires a patronage-driven  
9     system for redistricting and puts that into the  
10    Constitution of the State of New York.

11                 It leaves confusing and  
12    unconstitutional provisions of the current  
13    constitution in place, as we heard earlier in the  
14    discussions. In fact, I was quite surprised that  
15    the answers to some of Senator Gianaris's  
16    questions was, Well, if that occurs, then we'll  
17    have to take it to the courts.

18                 Should we really pass a  
19    constitutional amendment where actually we're  
20    admitting on the floor of the Senate that a bunch  
21    of this stuff might have to go to the courts for  
22    an answer before we even put it into our  
23    constitution? I think that should be reason  
24    enough to pull ourselves back and figure out how  
25    we get this right enough that we don't think it's

1 going to end up in the courts once it's attempted  
2 to be implemented.

3           It doesn't expressly prohibit  
4 gerrymandering. I actually thought that was one  
5 of the fundamental assignments in working towards  
6 independent redistricting. Last year we were  
7 accused of passing legislation that created the  
8 most gerrymandered districts in the Senate's  
9 history. Do we really want to change our  
10 constitution and not expressly prohibit  
11 gerrymandering?

12           It doesn't even establish a set  
13 number of Senate districts or clarify how the  
14 number is to be determined. Now, we've all gone  
15 back and forth in court several times around that  
16 one. You would think we would try to fix that  
17 going forward.

18           And it does encourage the  
19 malapportionment between districts and regions.

20           It might be hard to argue you could  
21 have a perfect process or even a perfect proposed  
22 amendment to the constitution. But this one  
23 doesn't pass the smell test. And it's so  
24 complicated that I really worry about how we're  
25 going to explain it to voters in a referendum,

1     what level of detail is going to be offered in  
2     the ballot to voters to decide on this.

3                 We are having trouble answering the  
4     questions here in the Senate. We are saying,  
5     Well, that might have to go court. Is that the  
6     kind of constitutional amendment we should be  
7     rushing forward where again, technically, we are  
8     not on a deadline at this point in history?

9                 I will be voting no, Mr. President.  
10    Thank you very much.

11                ACTING PRESIDENT VALESKY:    Thank  
12    you, Senator.

13                Senator Dilan.

14                SENATOR DILAN:    Yes,  
15    Mr. President. Would Senator Nozzolio yield to  
16    some questions?

17                ACTING PRESIDENT VALESKY:    Senator  
18    Nozzolio, do you yield to Senator Dilan?

19                SENATOR NOZZOLIO:    I'd be happy to  
20    yield to Senator Dilan.

21                ACTING PRESIDENT VALESKY:    The  
22    Senator yields.

23                SENATOR DILAN:    Thank you,  
24    Mr. President. Through you.

25                I have several questions, and some

1 of them I really will be asking for the purposes  
2 of clarification.

3 For Senator Nozzolio, this  
4 resolution is silent on what will happen to the  
5 current structure that we have known as LATFOR,  
6 the legislative task force. If this resolution  
7 is accepted by the voters, what will happen to  
8 LATFOR?

9 SENATOR NOZZOLIO: Mr. President,  
10 there had been no harder worker in this  
11 legislative body than Senator Dilan, as I had the  
12 experience of attending well over 23 hearings  
13 across the state with him.

14 And that his question dealing with  
15 the structure of LATFOR, Senator, as I understand  
16 the constitutional amendment, LATFOR would  
17 continue as a technical group, a technical body  
18 within the New York -- the constitutional  
19 amendment does not eliminate LATFOR's structure,  
20 a structure that's designed to, as Senator Dilan  
21 well knows, to get census data, to get the  
22 appropriate census tracts mapped, to do the  
23 technical mapping. But LATFOR would not exist  
24 for the purposes of producing the product of  
25 legislative Congressional districts.

1                   SENATOR DILAN:    Would the Senator  
2     continue to yield?

3                   ACTING PRESIDENT VALESKY:    Senator,  
4     do you yield?

5                   SENATOR NOZZOLIO:    Yes,  
6     Mr. President.

7                   ACTING PRESIDENT VALESKY:    The  
8     Senator yields.

9                   SENATOR DILAN:    Senator Nozzolio,  
10    who would be in control of LATFOR or the  
11    technical assistance unit?  Would it be under the  
12    Senate or would the independent commission, would  
13    that transfer over to them?

14                   SENATOR NOZZOLIO:    The commission  
15    itself, Mr. President, would control the work of  
16    the technical body called LATFOR or some other  
17    name as it's developed.

18                   The intention is not for LATFOR,  
19    which had -- Senator Dilan was a member, I was a  
20    member in this last cycle.  There were also two  
21    citizen members, members of the Assembly.  That  
22    legislative structure would be out the window.  
23    It would be a directed commission, members chosen  
24    under the terms of this amendment.

25                   But the technical aspects of

1 LATFOR -- the computers, whatever technology is  
2 available, the consolidation of that or  
3 collection of that -- are not eliminated by this  
4 provision. It would be up to the commission  
5 members to decide what type of technical  
6 structure they needed to have going forward.

7 And I hope this answers Senator  
8 Dilan's question sufficiently, that the structure  
9 would be chosen by the commission, be named by  
10 the commission, would be utilized by the  
11 commission, and would be in effect the technical  
12 arm of the commission.

13 ACTING PRESIDENT VALESKY: Senator  
14 Dilan.

15 SENATOR DILAN: I'd like to  
16 continue with the questions.

17 SENATOR NOZZOLIO: Yes,  
18 Mr. President.

19 ACTING PRESIDENT VALESKY: Senator  
20 Nozzolio continues to yield.

21 SENATOR DILAN: But I would like to  
22 see if I can get a simple answer in terms of  
23 would LATFOR still be under the control of the  
24 majority leader of this house and the majority  
25 leader of the State Assembly, or would they be



1 working directly for the independent commission?

2 SENATOR NOZZOLIO: It's my  
3 understanding, Mr. President, that the commission  
4 would control the technical arm, whether it's  
5 called LATFOR or something else, not the  
6 legislative body. It would be controlled by the  
7 commission, the members of the commission, but it  
8 would not be controlled by the Legislature per se  
9 under this provision.

10 SENATOR DILAN: Would he continue  
11 to answer questions?

12 ACTING PRESIDENT VALESKY: Senator  
13 Nozzolio, will you continue?

14 SENATOR NOZZOLIO: Yes,  
15 Mr. President.

16 ACTING PRESIDENT VALESKY: The  
17 Senator yields.

18 SENATOR DILAN: I will attempt to  
19 ask the same question, maybe in a different  
20 form.

21 When this body or when the  
22 Legislature allocates money for the purposes of  
23 redistricting in the future, will there then be  
24 only one budget that will be controlled by the  
25 independent commission? Will they be doing all

1 the hiring of the technical unit?

2 SENATOR NOZZOLIO: I refer  
3 Senator Dilan to the resolution that requires the  
4 appointment of the commission and the powers and  
5 duties of the commission.

6 And the technical aspects in drawing  
7 Senate districts, Assembly districts, and  
8 Congressional districts are under the total  
9 responsibility of this independent commission.  
10 Not of LATFOR, not of any variation of it. It  
11 would be the commission members who would make  
12 that decision. They would make that decision  
13 once they are chosen and convened.

14 ACTING PRESIDENT VALESKY: Senator  
15 Dilan.

16 SENATOR DILAN: Will he continue  
17 with questions?

18 ACTING PRESIDENT VALESKY: Senator  
19 Nozzolio?

20 SENATOR NOZZOLIO: Yes,  
21 Mr. President.

22 ACTING PRESIDENT VALESKY: The  
23 Senator yields.

24 SENATOR DILAN: So then my  
25 understanding, Senator, is that there will only

1 be one allocation for the purposes of  
2 redistricting, with only one staff for that  
3 purpose, not two separate staffs at all. Or the  
4 technical units will not be controlled by the  
5 respective houses, is that what you're saying?

6 SENATOR NOZZOLIO: It's my  
7 understanding, Senator, that this constitutional  
8 amendment establishes an independent body of  
9 members and that independent body of members,  
10 nonlegislators -- totally nonlegislators -- would  
11 have the authority under this constitutional  
12 amendment to establish in effect a technical  
13 staff. And that technical staff would be the  
14 body that would draw the lines that would be  
15 proffered to the Legislature and the Governor for  
16 final consideration.

17 SENATOR DILAN: So I take that to  
18 mean that there will only be one staff.

19 On a different issue, would the  
20 Senator continue to yield?

21 ACTING PRESIDENT VALESKY: Senator  
22 Nozzolio, do you continue to yield?

23 SENATOR NOZZOLIO: Yes,  
24 Mr. President.

25 ACTING PRESIDENT VALESKY: The

1 Senator yields.

2 SENATOR DILAN: This resolution is  
3 also silent on the prisoner reallocation law of  
4 2010. What will become of that law? Would that  
5 be affected at all by this resolution?

6 SENATOR NOZZOLIO: Mr. President,  
7 the law that Senator Dilan refers to, as with any  
8 other law, would have to be -- and every other  
9 law -- would have to be complied with by the  
10 drafters of the commission, the commission  
11 itself. And ultimately the final legislative and  
12 congressional lines that are drawn would have to  
13 comply with every aspect of the law in effect at  
14 the time that they are drafted.

15 That should this law continue by the  
16 legislature that Senator Dilan refers to, and  
17 that's the allocation for state legislative  
18 district lines only -- not congressional lines,  
19 but state legislative lines only -- that it  
20 requires the state to take the prisoners and  
21 count them at their last known address. That  
22 law, if it exists in 2020-2021, that it would  
23 have to be followed.

24 SENATOR DILAN: Thank you.

25 On the bill.

1                   ACTING PRESIDENT VALESKY:     Senator  
2     Dilan on the concurrent resolution.

3                   SENATOR DILAN:     Mr. President, I  
4     would just like to indicate that I will be voting  
5     no on this resolution today because I believe  
6     that it does little to reform the way legislative  
7     districts will be drawn in the State of  
8     New York.

9                   I believe that it still leaves the  
10    final say as to the outcome of the districts in  
11    the hands of the respective houses and their  
12    respective leaders.

13                  Also, I believe that it adds an  
14    additional layer of bureaucracy, I think further  
15    confusing this process.

16                  And also this resolution, last year  
17    or this year, did not have one single hearing.  
18    We did -- Senator Nozzolio and I did go out  
19    through the state to about 23 hearings on  
20    redistricting, but at no time did the public have  
21    one word to say on this resolution.

22                  So based on that, I will be voting  
23    no.

24                  ACTING PRESIDENT VALESKY:     Thank  
25    you, Senator.

1                   Seeing no other Senators who wish to  
2   be heard on the resolution, the debate is  
3   closed. The Secretary will ring the bells. I  
4   ask all Senators to proceed to the chamber so  
5   that we may continue with the roll call.

6                   (The Secretary rang the bells.)

7                   ACTING PRESIDENT VALESKY: The  
8   Secretary will call the roll on the concurrent  
9   resolution.

10                  (The Secretary called the roll.)

11                  ACTING PRESIDENT VALESKY: Senator  
12   Hassell-Thompson to explain her vote.

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

15                  Of the several hearings that  
16   transpired around the State of New York on the  
17   redistricting, I -- outside of the committee --  
18   probably attended the most of them, because it  
19   was important to me to hear something of such  
20   monumental importance to communities of color,  
21   how this Legislature was going to end up drawing  
22   these lines.

23                  My first concern came when the lines  
24   somehow did not reflect what I heard the public  
25   say that they wanted to have happen.

1           The second concern I addressed was  
2 when we began to talk about suddenly an  
3 independent commission, and yet that commission  
4 is not reflected in the language of this bill.  
5 It may appear to be to some people.

6           I was not one of those who signed  
7 onto the independent commission. And I didn't  
8 because one of the things that I understand is  
9 that there's no such thing as independent. If  
10 you are a human, you're going to have your own  
11 biases in one direction or another. And I also  
12 did not believe that we should take power away  
13 from the Legislature and give it to an  
14 independent body.

15           But I did hope that in our process  
16 that we would come up with a design that was fair  
17 and appropriate. There is nothing fair or  
18 appropriate about what you're asking us to put  
19 before the public as a constitutional amendment.  
20 And so therefore I will be voting no.

21           And I have read and listened to all  
22 of the analysis that everybody has made about  
23 this bill, and the majority of people that I  
24 respect, whose opinions I respect, say that this  
25 is not the way our constitution should reflect

1 the way in which we select a redistricting  
2 pattern that is fair and appropriate to allow the  
3 people of the State of New York to vote their  
4 conscience.

5 Thank you, Mr. President. I will be  
6 voting no.

7 ACTING PRESIDENT VALESKY: Senator  
8 Hassell-Thompson to be recorded in the negative.

9 I would just remind all Senators  
10 that we do have a two-minute time limit on vote  
11 explanation.

12 Senator Gipson to explain his vote.

13 SENATOR GIPSON: Thank you,  
14 Mr. President.

15 I'm happy to be here as a newly  
16 elected State Senator. I was not here back in  
17 2009, which was referenced many times today. I  
18 signed no pledge. I watched from a distance as a  
19 candidate to see how this body would go about  
20 drawing up fair and independent redistricting. I  
21 testified at the LATFOR hearings and spoke out on  
22 behalf of the need for a more fair process.

23 I have to say today, standing here  
24 in this chamber as a newly elected State Senator,  
25 it's disappointing. And it's even more



1     disappointing that on a day where we are  
2     commemorating a great leader who stood for  
3     fairness and justice for all and equality for  
4     all, that we are today looking at a bill that is  
5     neither fair nor just nor independent in any way,  
6     shape or form.

7                     And I have listened to many good  
8     public advocacy groups say that they believe that  
9     this is the best we can do. I've listened to  
10    many Senators on the floor today say that they  
11    believe this is the best that we can do. And as  
12    a newly elected Senator, I have to say that if  
13    this is the best that we can do, it is indeed a  
14    sad, sad day in the State of New York.

15                    I will be voting no. Thank you.

16                    ACTING PRESIDENT VALESKY:    Senator  
17    Gipson to be recorded in the negative.

18                    Senator Stavisky to explain her  
19    vote.

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

22                    I too testified at the LATFOR  
23    hearing. And I very carefully read the  
24    constitutional amendment. It says that there is  
25    an establishment of an independent redistricting

1 commission. This doesn't do it. The title is  
2 great; the text is not.

3 And we have nine years to get it  
4 right. There's no reason why we have to submit  
5 this to the voters. It is not a nonpartisan  
6 redistricting commission bill.

7 Secondly, Abraham Lincoln had a  
8 great quote. He said: "How many legs does a dog  
9 have if you call the tail a leg?" And the answer  
10 is "Calling a tail a leg doesn't make it a leg."

11 And calling this a nonpartisan  
12 redistricting commission constitutional amendment  
13 doesn't make it so. I vote no.

14 ACTING PRESIDENT VALESKY: Senator  
15 Stavisky to be recorded in the negative.

16 Senator Tkaczyk to explain her vote.

17 SENATOR TKACZYK: It is ironic that  
18 my first day in the Senate chamber I am voting on  
19 a bill of this nature that creates an independent  
20 commission. It's ironic because I was elected to  
21 a seat that was gerrymandered and added in the  
22 last redistricting process to favor one political  
23 party.

24 This legislation is not fair. It  
25 disenfranchises the voters. We can do better.

1 We must do better. I am voting no.

2 ACTING PRESIDENT VALESKY: Senator  
3 Tkaczyk to be recorded in the negative.

4 Senator DeFrancisco to explain his  
5 vote.

6 SENATOR DeFRANCISCO: Yes, I just  
7 wanted to explain my vote.

8 When I was listening to  
9 Senator Gianaris talking about how if one party  
10 is in control there needs to be more votes or  
11 less votes or whatever the votes are, this is  
12 party-neutral in the sense that if in 2020  
13 there's a Republican Governor and a Republican  
14 Senate and a Republican Assembly -- although it  
15 may seem unusual to expect that -- the fact of  
16 the matter is that it protects the other party,  
17 the Democratic Party, by this balance. And  
18 that's what Senator Nozzolio was saying.

19 And I just want to clarify that,  
20 because it sounded as if for Democrats the bill  
21 said one thing and Republicans another. It  
22 depends on the circumstances at the time.

23 Secondly, the reason I asked the  
24 questions of Senator Krueger, it's impossible,  
25 despite all the flowery language, to take

1 politics out of politics. When the Democrats  
2 were in control, it wasn't because they wanted to  
3 study it more, they wanted the authority to be  
4 able to draw the lines. And anybody disputes  
5 that, I will debate that. When the Republicans  
6 are in control, they want to draw the lines.  
7 "They" meaning the majority party.

8 So the point of the matter is that  
9 you can't take politics out of politics.

10 Although this is not a perfect bill,  
11 it at least puts something in between so that  
12 there's public discourse, there's public  
13 pressure, I believe there's more transparency.

14 And I think it's a better procedure  
15 than we have now, and I'm going to vote aye.

16 ACTING PRESIDENT VALESKY: Senator  
17 DeFrancisco to be recorded in the affirmative.

18 Senator Espallat to explain his  
19 vote.

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

22 Last year was a very contentious  
23 year because redistricting was at the table. And  
24 traditionally, you know, redistricting has been a  
25 process where legislators choose their

1 constituents as opposed to constituents choosing  
2 who represents them. So this was a very  
3 conflicting and adversarial process.

4           And I took a pledge last year that I  
5 would support independent redistricting and an  
6 independent redistricting commission. As a  
7 result of that pledge, we worked very hard to ask  
8 the Governor to include independent redistricting  
9 in the budget. We failed in that endeavor. When  
10 the efforts came to this floor, you know, we were  
11 also very disappointed that there wasn't a real  
12 transparent and bipartisan effort or model put  
13 before us, so we walked out of this chamber.

14           It is customary in the State  
15 Legislature that we don't always get exactly what  
16 we want. In fact, this process pushes us to  
17 reach consensus. And very often when everybody  
18 is upset, probably you have a good bill that has  
19 been approved by the Legislature.

20           So I took a pledge that I would  
21 support an independent redistricting commission.  
22 It may not be necessarily exactly the one I like,  
23 but I think it's a step in the right direction.

24           And very often we make the grave  
25 mistake of undermining the intelligence of our

1 voters. I think at the end of the day this  
2 question will come before all the voters of  
3 New York State. And I think that they are very  
4 smart. They will be able to tell and say whether  
5 this is a good initiative or a bad initiative.

6 But for us to be in silos here  
7 second-guessing the independence or the smartness  
8 of our New York State residents that we represent  
9 I think is a grave mistake.

10 I think with all its issues and all  
11 its problems -- and one of the issues that I have  
12 with it was that in the other house I had  
13 sponsored the prison gerrymandering bill, and I  
14 wanted to make sure that it did not impact  
15 dramatically on prison gerrymandering. That I  
16 believe very strongly that prisoners should be  
17 counted where they live and not where they're  
18 incarcerated.

19 There are legal opinions about it  
20 that say that this doesn't hamper that effort.  
21 So --

22 ACTING PRESIDENT VALESKY: Senator  
23 Espaillat, how do you vote?

24 SENATOR ESPAILLAT: I will be  
25 voting in the affirmative on this issue,

1 Mr. President. I think that the voters that I  
2 represent and the rest of the New Yorkers are  
3 smart enough to know if we send them a good bill  
4 or a bad bill at that. Thank you.

5 ACTING PRESIDENT VALESKY: Senator  
6 Espaillat to be recorded in the affirmative.

7 Senator Squadron to explain his  
8 vote.

9 SENATOR SQUADRON: Mr. President,  
10 I'd like to thank Senator DeFrancisco for being  
11 honest about the motives behind this bill. It is  
12 ensconcing in the constitution a process worse  
13 than the one we've had. And in fact, it looks  
14 like it has the votes to pass today.

15 The people of the State of New York  
16 on Election Day have the opportunity to vote it  
17 down, leaving us with a statute that would be the  
18 best process we've had for redistricting in this  
19 state's history, and I hope that's what we'll be  
20 doing.

21 I vote no, Mr. President.

22 ACTING PRESIDENT VALESKY: Senator  
23 Squadron to be recorded in the negative.

24 The Secretary will announce the  
25 results.

1           THE SECRETARY:   In relation to  
2   Calendar Number 2, those recorded in the negative  
3   are Senators Breslin, Dilan, Gianaris, Gipson,  
4   Hassell-Thompson, Krueger, Latimer, Montgomery,  
5   Parker, Peralta, Perkins, Rivera, Sampson,  
6   Sanders, Serrano, Squadron, Stavisky,  
7   Stewart-Cousins and Tkaczyk.   Also Senator Diaz.

8           Ayes, 43.   Nays, 20.

9           ACTING PRESIDENT VALESKY:   The  
10   concurrent resolution is adopted.

11           Senator Libous, that concludes the  
12   controversial reading of the calendar.

13           SENATOR LIBOUS:   Of that calendar,  
14   Mr. President.

15           ACTING PRESIDENT VALESKY:   Of that  
16   calendar.

17           SENATOR LIBOUS:   Now if we could go  
18   to Calendar 3A and take up the controversial  
19   reading of that calendar, please.

20           ACTING PRESIDENT VALESKY:   The  
21   Secretary will proceed with the controversial  
22   reading of Supplemental Calendar 3A.

23           THE SECRETARY:   Calendar Number 4,  
24   by Senator Golden, Senate Print 2320, an act to  
25   amend the Real Property Tax Law.



1                   SENATOR KRUEGER:   Explanation.

2                   ACTING PRESIDENT VALESKY:   Senator  
3 Golden, an explanation has been requested.

4                   SENATOR GOLDEN:   Yes, it's the  
5 normal bill that we do every several years to  
6 give our condos and coops the tax abatements that  
7 they get and that they require.

8                   This bill expired last year. This  
9 would allow that to go back to 12/31/11, and we  
10 would start from there, allowing for our condos,  
11 our coops and our rental to get their tax  
12 abatements. It would also go and allow for the  
13 J-51 benefits to be available for the conversion  
14 of commercial to condos and coops.

15                   It would also allow for the 421-a to  
16 be allowed for several properties in Manhattan.  
17 And it would also allow for the benefits of 421-a  
18 and the FAR of 15 districts to be converted from  
19 commercial properties into residential use. It  
20 would also allow the abatement again to go back,  
21 the assessment to go back to June 30th of 2012,  
22 and it would extend the provisions for  
23 abatement.

24                   It would also allow for those  
25 individuals that have three condos, it would

1 limit the amount of condos that they could own to  
2 get this abatement. You'd have to be a primary  
3 resident, and you would be allowed to get for  
4 your primary residence as well as two other  
5 dwelling units.

6           It would also allow for the loft  
7 unit to protect the renters in those loft units.  
8 It would also reduce the minimum space required  
9 to qualify for a loft apartment. And it would  
10 reduce the percent rent increase allowed coming  
11 into compliance with the fire and safety  
12 standards.

13           It would also allow for the  
14 corporations, the domestic corporations to apply  
15 against their local PIT for a benefit.

16           That's basically it. It allows for  
17 our taxes for condos and coops and assessments to  
18 go into place.

19           ACTING PRESIDENT VALESKY:    Senator  
20 Krueger.

21           SENATOR KRUEGER:    Through you,  
22 Mr. President, if the sponsor would please yield  
23 for some questions.

24           ACTING PRESIDENT VALESKY:    Senator  
25 Golden, do you yield?

1                   SENATOR GOLDEN:     I do.

2                   ACTING PRESIDENT VALESKY:     The  
3     Senator yields.

4                   SENATOR KRUEGER:     So the Senator  
5     started his explanation by saying this is the  
6     bill we do in previous years, and then he listed  
7     off that this bill impacts abatements of property  
8     tax for coop/condos, the 421-a program, the J-51  
9     program, Loft Law, and also S corporation  
10    property tax law.

11                  Have we done all of this together as  
12    one giant bill in previous years?

13                  SENATOR GOLDEN:     We have done that  
14    in the past. We've done portions of the bills in  
15    previous years. And this is again, it's a bill  
16    that's agreed to with HPD and OMB, the Mayor's  
17    office, the Assembly, the Senate and the  
18    Governor.

19                  SENATOR KRUEGER:     Through you,  
20    Mr. President, if the sponsor would continue to  
21    yield.

22                  ACTING PRESIDENT VALESKY:     Senator  
23    Golden, do you yield?

24                  SENATOR GOLDEN:     I do.

25                  ACTING PRESIDENT VALESKY:     The

1 Senator yields.

2 SENATOR KRUEGER: So my  
3 understanding is in this bill it would allow J-51  
4 to be available, which is a tax -- there's  
5 abatements and exemptions within J-51. But it  
6 would allow J-51 to be available for coop-condo  
7 conversions that are not government or  
8 assisted -- legally government-defined affordable  
9 housing.

10 Why would the state or the city --  
11 because I agree, the city is supporting this  
12 bill -- go out of their way to incentivize  
13 converting scarce rental apartments into most  
14 unlikely unaffordable coop/condos, when in fact  
15 the city's own recommendations have been to  
16 remove nongovernment-assisted coop/condos from  
17 the J-51 program? So why are we doing that in  
18 this bill today?

19 SENATOR GOLDEN: Through you,  
20 Mr. President, I believe all of these properties  
21 except for one are 80/20: 80 affordable, 20  
22 low-income. The one property has agreed with the  
23 city in an MOU or in the process of an MOU to do  
24 \$9 million in additional low-income housing.  
25 That is the only property that I'm aware of that

1 is not directly working with the 80/20 on that  
2 given address.

3 SENATOR KRUEGER: Through you,  
4 Mr. President, if the sponsor would continue to  
5 yield.

6 ACTING PRESIDENT VALESKY: Senator  
7 Golden, do you continue to yield?

8 SENATOR KRUEGER: Or let me just  
9 clarify. I believe the Senator was confusing two  
10 different sections of the bill. His answer was  
11 in response to the 421-a section of the bill, and  
12 I was going to get to that but I hadn't gotten to  
13 421-a yet.

14 So again, to J-51, there's not  
15 specific buildings that this applies to. It's a  
16 potentially universally available tax reduction.

17 SENATOR GOLDEN: You're absolutely  
18 right. And it does go forward, all properties  
19 will be 80/20.

20 SENATOR KRUEGER: Through you,  
21 Mr. President. Again, I'm certainly happy to let  
22 the sponsor double-check, but I don't believe  
23 80/20 applies to the J-51 section of this bill  
24 but rather to the 421-a.

25 SENATOR GOLDEN: Yes, I stand

1 corrected. It is the condos and coops that will  
2 need substantial government assistance.

3 SENATOR KRUEGER: Through you,  
4 Mr. President, if the sponsor would continue to  
5 yield.

6 ACTING PRESIDENT VALESKY: Senator  
7 Golden, do you continue to yield?

8 SENATOR GOLDEN: I do.

9 ACTING PRESIDENT VALESKY: The  
10 sponsor yields.

11 SENATOR KRUEGER: Again, just  
12 sticking with the J-51 section of the law, not  
13 421-a and not condo-coop abatement. Which in  
14 fact -- I appreciate this bill is very  
15 complicated, and in fact one of the concerns is  
16 that some people, including people in real  
17 estate, would confuse what's allowed simply as a  
18 property tax abatement under the formula for  
19 coop/condos, would confuse what's allowed in  
20 421-a and then what's allowed going forward in  
21 J-51.

22 So again, my concern right now with  
23 this question is since the city's own historical  
24 recommendation is to remove non-government-  
25 assisted coops and condos from the J-51 program,

1     because what the system has allowed to take place  
2     is the loss of affordable rental units  
3     transferred into coop-condo -- and actually we've  
4     seen a reduction in affordable rental units under  
5     a fairly expensive tax exception and abatement  
6     program known as J-51.

7                     So I'm wondering why in this bill  
8     we're not going forward with the city's previous  
9     recommendations to limit it only to buildings  
10    that are quote, unquote, government-assisted  
11    affordable buildings.

12                    SENATOR GOLDEN:    I believe,  
13    Mr. President, it would create a disincentive for  
14    those to continue to renovate their buildings and  
15    to be able to accomplish that and to keep our  
16    housing stock as we now have it here in the City  
17    of New York.

18                    SENATOR KRUEGER:   Through you,  
19    Mr. President, if the sponsor would continue to  
20    yield.

21                    ACTING PRESIDENT VALESKY:   Senator  
22    Golden.

23                    SENATOR GOLDEN:    I do.

24                    ACTING PRESIDENT VALESKY:   The  
25    sponsor yields.

1                   SENATOR KRUEGER:    So there was a  
2     time in history where one needed to incentivize  
3     certain types of development or redevelopment.  
4     But in fact the J-51 program -- and there's some  
5     terrific new data on this through the Community  
6     Service Society reports, that in fact most of  
7     these benefits have been going to some of the  
8     most expensive areas of the five boroughs.

9                   In fact, my district is  
10    disproportionately taking advantage of J-51. And  
11    unfortunately my district is not defined as  
12    affordable housing at this point in time.

13                  So again, since it was created to  
14    attract investment to certain areas of New York  
15    City, then amended at a time when luxury housing  
16    was concentrated in Manhattan below Harlem,  
17    that's not the case anymore.

18                  So why do we continue to want as a  
19    state to subsidize luxury developments in areas  
20    of Manhattan that in fact have been gentrifying  
21    rapidly? Why would that be good public policy  
22    for the state?

23                  SENATOR GOLDEN:    Through you,  
24    Mr. President, we still have a need for  
25    low-market housing. This incentive allows for



1 rent-stabilized units in this particular  
2 abatement. And it works.

3 And if we take a look at the housing  
4 stock in the city, we need more housing, not just  
5 in the City of New York but in the outer  
6 boroughs. Not just J-51, but 421-a, so that we  
7 can continue to create economic development we  
8 need, to create the jobs we need, and to be able  
9 to create the low-income housing that we need to  
10 be able to afford for people to come and live and  
11 stay in our beautiful city.

12 We have one million more people  
13 living in our city over the past ten years, and  
14 it's growing. And we need to be able to have  
15 that affordable housing.

16 SENATOR KRUEGER: Through you,  
17 Mr. President, if the sponsor would continue to  
18 yield.

19 ACTING PRESIDENT VALESKY: Senator  
20 Golden, do you continue to yield?

21 SENATOR GOLDEN: Yes.

22 SENATOR KRUEGER: Thank you.

23 Well, I certainly agree with the  
24 sponsor's last statement. We need to ensure  
25 there is more affordable housing, particularly in

1 areas of the city that aren't in fact, one could  
2 argue, overdeveloped.

3 The problem is this J-51 program  
4 will only ensure more overdevelopment in  
5 high-cost areas and not accomplish the sponsor's  
6 goal -- which, by the way, is my goal -- of more  
7 investment in affordable housing throughout the  
8 City of New York.

9 And in fact the J-51 program has  
10 proven to be one of the most expensive programs  
11 the city runs for housing. It's actually second  
12 only to the 421-a program. 421-a construction  
13 benefits in I believe it's 2011, 421-a  
14 construction cost the city \$912 million. And  
15 J-51 improvement tax benefits cost the city  
16 \$257 million.

17 The problem is how much of that  
18 really goes towards actual affordable housing.  
19 So perhaps I could ask the sponsor, do you know  
20 how much of the J-51 investment over pick a  
21 recent year actually goes for affordable  
22 housing?

23 SENATOR GOLDEN: This bill, Senator  
24 Krueger, is if anything revenue-neutral, if not a  
25 plus for the city.

1                   And all of the economic development  
2                   that is created by this, and the jobs that we  
3                   create and the people that we put to work and the  
4                   housing that we create, 421-a gives us that  
5                   opportunity, and we should spread that across the  
6                   boroughs. We should actually go in and try to  
7                   change that 421-a so that we could allow for more  
8                   housing to be built under 421-a.

9                   In Manhattan, 421-a is being built,  
10                  and I think it should continue to be built.

11                  SENATOR KRUEGER:    Through you,  
12                  Mr. President, if the sponsor would continue to  
13                  yield.

14                  ACTING PRESIDENT VALESKY:    Senator  
15                  Golden.

16                  SENATOR GOLDEN:    I do.

17                  ACTING PRESIDENT VALESKY:    The  
18                  sponsor yields.

19                  SENATOR KRUEGER:    Thank you.

20                  Again, for the record, J-51 is not a  
21                  revenue-neutral program. There is a section of  
22                  this bill that is defined as revenue-neutral, and  
23                  that's the S corporation section where the city  
24                  memo actually clarifies that they believe that to  
25                  be revenue-neutral.

1 I don't think anyone actually argues  
2 J-51 or 421-a is revenue-neutral, but each of  
3 them in their own structure can be of a value and  
4 good.

5 So let's jump to, if I might, the  
6 421-a section of the bill. This is not a change  
7 in the overall 421-a law but rather a section  
8 specific to five buildings only in Manhattan.  
9 Could the sponsor please explain why we would  
10 give a pretty enormous tax benefit to five  
11 selected buildings in Manhattan? I'm not sure if  
12 any of them are defined as affordable.

13 SENATOR GOLDEN: Through you,  
14 Mr. President, these properties that are being  
15 discussed by Senator Krueger were negotiated with  
16 HPD, they were negotiated with OMB and the City  
17 of New York. I'll gladly get any other  
18 information she'd like to have on them, but  
19 that's all the information I have on it.

20 SENATOR KRUEGER: Through you,  
21 Mr. President, if the sponsor would continue to  
22 yield.

23 ACTING PRESIDENT VALESKY: Senator  
24 Golden.

25 SENATOR GOLDEN: I do.

1                   ACTING PRESIDENT VALESKY:    The  
2   sponsor yields.

3                   SENATOR KRUEGER:    Thank you.

4                   You know what, I appreciate the  
5   sponsor's answers to my questions.  I'm going to  
6   speak on the bill.

7                   ACTING PRESIDENT VALESKY:    Senator  
8   Krueger to speak on the legislation.

9                   SENATOR KRUEGER:    Thank you.

10                  So this is a complicated bill, as we  
11   can see even through our short interactions --  
12   confusion over which section means what.  I  
13   actually have strong support for several sections  
14   of the bill.  There's a section specific to  
15   Loft Law.  I believe it would mostly impact lofts  
16   in Brooklyn, and I know that they are really  
17   desperate for a change that will secure and  
18   assure that people living in lofts that are  
19   attempting transition to certified legal status  
20   are able to do so.  I'm delighted to be in  
21   support of that section of the bill.

22                  The straight tax abatement on  
23   coop/condos isn't identical to what we've done in  
24   prior years.  It in fact is progress in that it  
25   is more progressive in how it applies to

1     abatements for coops and condos. And it in fact  
2     does away with allowing nonresidents of New York  
3     City who are owners of real estate for investment  
4     purposes, it cuts them out of the abatement  
5     because basically they're not living in the home,  
6     they are using it as a business investment.

7                     And that is an improvement, even  
8     though I would still challenge the City of  
9     New York to completely revise and reevaluate how  
10    they do both their assessments and their  
11    valuations of real estate throughout the five  
12    boroughs, because there are great frustrations.

13                    But I'll accept that because that  
14    section of law sunsetted, there is enormous  
15    pressure on any of us from the City of New York  
16    to make sure we address that abatement.

17                    There's the S corporation  
18    subsection, which again the City of New York  
19    assures us is a budget-neutral action by them.

20                    There's the J-51, which personally I  
21    would rather us allow to continue to be sunsetted  
22    unless we actually come forward with a rational  
23    approach to how the City of New York decides who  
24    is being exempted from taxes, who is being abated  
25    taxes.

1           The original purpose of J-51 was to  
2 assure that there was efforts to keep communities  
3 affordable, preserve housing as affordable,  
4 encourage investment while guaranteeing that  
5 those units would remain affordable for residents  
6 of the City of New York.

7           My frustration is that that program  
8 has proved to be a constantly rising cost where  
9 fewer and fewer of the units that are winning the  
10 reduction in taxes are actually affordable.

11           And in fact we are seeing throughout  
12 sections of the City of New York gentrification  
13 with the use of tax exemptions and abatements  
14 that translate into people being priced out of  
15 their own communities and their own neighborhoods  
16 with nowhere else to go, destabilizing the  
17 communities and the neighborhoods that they've  
18 worked so hard to live in, raise their families  
19 in, were hoping to age in. And they find  
20 themselves priced out of their neighborhoods  
21 specifically because of a program that no longer  
22 fits the needs of the City of New York.

23           And then on the 421-a, one could go  
24 on forever -- we have in this house before -- on  
25 the pluses and minuses of different models of

1     421-a. But this bill has just a special section  
2     of allowing five named buildings to come into the  
3     421-a program when they aren't eligible under  
4     existing law.

5                 Well, that certainly piqued my  
6     interest. Why are these five buildings being  
7     allowed into a program they wouldn't otherwise be  
8     eligible for? Were they specifically going to be  
9     large units of affordable housing, the purpose of  
10    421-a? No, it turns out not.

11                Were they going to be distributed in  
12    the boroughs and the areas where we're talking  
13    about needing to try to ensure the building of  
14    affordable housing? No, they're not. They're  
15    actually all in Manhattan.

16                Are they buildings that might not be  
17    built if not for 421-a? No, actually several of  
18    them are almost finished. And in fact one,  
19    One57, had the crane that almost fell down during  
20    Storm Sandy at the very top of the building,  
21    which was almost completely built, which has been  
22    presold and is nicknamed the Billionaire Building  
23    because apparently you have to be a billionaire  
24    to afford the apartments in there.

25                One of them used as an example in a



1 recent news story was a \$90 million,  
2 13,554-square-foot penthouse. And with 421-a  
3 exemption allowed in this bill, their taxes per  
4 year would be \$20,000. If they were not rolled  
5 into this legislation, their taxes would be  
6 \$230,000.

7 I don't think that's what any of us  
8 were talking about when we endorsed the expansion  
9 and extension of property tax exemptions that the  
10 City of New York gives out.

11 I have a dilemma, for myself,  
12 because this bill, as I said, has some important  
13 things in it, but it's also a perfect example of  
14 what goes wrong in the wheeling-dealing of the  
15 backrooms of Albany. You get some important  
16 things people need under affordable housing  
17 thrown in with some items that were clearly  
18 negotiated special-interest deals.

19 I'm going to end up voting yes on  
20 this bill, Mr. President, but very unhappily.  
21 Very unhappily because I understand some of the  
22 issues that need to be addressed -- yes, feel  
23 free to be angry at me -- but also urging my  
24 colleagues on both sides of the aisle to  
25 recognize this isn't really how you're supposed

1 to do it up here.

2 And in fact when we came to chambers  
3 tonight, this was a one-house bill. And I am  
4 hoping my colleagues in the Assembly choose to  
5 change --

6 ACTING PRESIDENT VALESKY: Can we  
7 have some order, please.

8 Senator Krueger.

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

11 I hope my colleagues in the Assembly  
12 choose to challenge the special-interest backroom  
13 dealing in this bill and will bring multiple  
14 bills to the floor, which we would then take up  
15 on this floor, and that at some point in the  
16 future in this chamber I will be able to  
17 comfortably vote yes on the good sections of this  
18 bill and vote no on the badly thought out  
19 sections of this bill.

20 Thank you, Mr. President.

21 ACTING PRESIDENT VALESKY: Thank  
22 you, Senator.

23 Senator Diaz.

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

1                   Senator Krueger, I just love you. I  
2 love you so much. You know, I love you keeping  
3 me one hour talking bad about a bill and at the  
4 end saying "I'm voting yes." I love you. I love  
5 you.

6                   (Laughter.)

7                   SENATOR DIAZ: Mr. President and  
8 ladies and gentlemen, once in a while I write a  
9 column called "What You Should Know," my way to  
10 inform my constituents and the voters of New York  
11 of what's going on.

12                  Today, I wrote one. And I call it,  
13 based on the Roman Empire old saying, I entitled  
14 it today "Caesar's wife should not only be pure  
15 but should also have the appearance of purity."

16                  And by voting for this bill, we  
17 might be sending an appearance of impurity,  
18 because this bill only benefits the rich. It is  
19 a multi-million program of rent exemption and  
20 abatement for landlords who renovate their  
21 buildings.

22                  This piece of legislation, ladies  
23 and gentlemen, does nothing to protect and  
24 strengthen tenant protection. So tenants in the  
25 City of New York will not be protected with this

1 bill. On the contrary, they might be put in  
2 danger.

3           It is just a tax benefit to  
4 developers producing luxury buildings. This  
5 bill, ladies and gentlemen -- and I'm so sorry  
6 that Liz Krueger voted for it -- this bill does  
7 nothing to prevent landlords from  
8 double-dipping. That's a word that -- a nice  
9 word, double-dipping. Meaning that a lot of them  
10 are receiving a J-51 tax credit from the  
11 government and at the same time will be  
12 increasing the tenants' rent based on a major  
13 capital improvement.

14           So this bill will allow landlords to  
15 get money from the government for the renovation  
16 based on J-51 and at the same time will allow  
17 landlords to increase tenants' rents based on  
18 something called major capital improvement for  
19 the same renovation.

20           And this bill will extend 421-a tax  
21 benefits to the owners of 15 specific plots in  
22 Midtown and downtown Manhattan which are now  
23 being developed as luxury condominiums and office  
24 buildings. Fifteen of them.

25           And according to the New York

1 Tenants and Neighbors Coalition, according to the  
2 New York Tenants and Neighbors Coalition, it  
3 seems that only five specific developer companies  
4 will benefit from this piece of legislation.

5 Number one, Extell Development Company, Extell  
6 Development Company, for their billionaire tower,  
7 One57. Silverstein Properties, the owner of the  
8 World Trade Center. Thor Equities, the company  
9 behind the controversial Coney Island  
10 redevelopment for 516-520 Fifth Avenue.

11 Number four, Steinhardt Management, who wants to  
12 develop two former Stock Exchange buildings in  
13 Lower Manhattan. Number five, Shoreham {ph}  
14 Association, Incorporated, who plans to build a  
15 30-story glass tower over the site of the  
16 original New York Times building.

17 Ladies and gentlemen, these  
18 developments do nothing to address the New York  
19 City ongoing affordable housing crisis.

20 Therefore, to vote for this bill we might be  
21 sending a message, an impure message, that we're  
22 only working for the landlords and against the  
23 tenants and the regular people in New York City.

24 So again, you can read my "What You  
25 Should Know" on my website. It's free, you don't

1 have to pay anything. And today, I'm quoting,  
2 Liz Krueger, Caesar's wife not only shall be pure  
3 but should have the appearance of purity.

4 I'm voting no with all my heart,  
5 with all my strength. And I ask all my  
6 colleagues to reject this piece of legislation,  
7 especially an irony, and guided to the rich, not  
8 to the poor.

9 Thank you.

10 ACTING PRESIDENT VALESKY: Thank  
11 you, Senator.

12 Senator Stavisky.

13 SENATOR STAVISKY: Thank you,  
14 Mr. President.

15 We have a lot of coops and condos in  
16 Queens County. And these are not rich people,  
17 these are middle class, the basis really of our  
18 city. We've had a problem with coop tax  
19 abatements since 1996. And in fact it stems from  
20 the way that coops and condos are classified.

21 Coops and condos are classified the  
22 same way as rental properties, when in effect  
23 they're really more like one- and two- and  
24 three-family homes. And in fact the New York  
25 City Independent Budget Office, the IBO, issued a

1 report in January describing in great detail the  
2 issue involving the assessments and coops and  
3 condos.

4           This bill really addresses the needs  
5 of the middle-class coops and condos throughout  
6 the city. It is a progressive form of a tax  
7 abatement which expired in June of last year. It  
8 addresses these inequalities, inequities in the  
9 bill. It's a sliding scale of abatements based  
10 upon assessments. And it benefits the people who  
11 actually live there, the owner-occupied coops.

12           So I think this is an extremely  
13 important bill. It's essential for the middle  
14 class. I've spoken to many, many people about  
15 this legislation, about the needs of casino and  
16 condos. They are truly more like single-family  
17 homes. They're not profit-making. They're  
18 struggling to pay their insurance and their  
19 heating oil bills and so forth. This bill  
20 addresses many of those needs.

21           Would we prefer separate legislation  
22 dealing with J-51 and 421-a? Of course. But  
23 that is not what we have before us. We have this  
24 bill before us, and it benefits many people  
25 living in Queens County.

1                   And I urge a positive vote on this  
2 bill. Thank you.

3                   ACTING PRESIDENT VALESKY: Thank  
4 you, Senator.

5                   Senator Young.

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

8                   First of all, I'd like to take this  
9 opportunity to commend Senator Golden for his  
10 leadership in this issue. As was pointed out,  
11 this was a bill that was negotiated at the end of  
12 the last session last year that took a lot of  
13 time and effort between the Assembly, the Senate,  
14 the City of New York. And so I want to thank  
15 you, Senator Golden, for taking this up.

16                  I also want to thank Senator Krueger  
17 for her support of this legislation.

18                  And I did want to point out  
19 something, though. The J-51 piece has been an  
20 important law since about 1955. That's when it  
21 was first implemented. And really the reason it  
22 was put in is to encourage landlords to make  
23 upgrades to their apartments. At that time many  
24 people were living in substandard situations, the  
25 old cold-water flats and so on, so they needed



1 upgraded heating systems, they needed to put in  
2 hot water in those flats. And that's really why  
3 J-51 was started.

4 Now, it expired on December 31st of  
5 2011. But really this is a important tool. And  
6 it's an important tool because it's an ability  
7 for owners to be able to afford to upgrade their  
8 buildings. And when they upgrade their  
9 buildings, what that means is that we are helping  
10 tenants, we are helping people who live in those  
11 apartments because their living conditions are  
12 provided. And I don't think we should lose sight  
13 of that fact that this helps the tenants, this  
14 improves their quality of life. So I just want  
15 to point that out.

16 But again, I want to thank the  
17 people who are voting for this. This is a very  
18 important piece of legislation. Again, thank  
19 you, Senator Krueger, for your support. Thank  
20 you, Senator Golden, for your leadership.

21 ACTING PRESIDENT VALESKY: Thank  
22 you, Senator.

23 Seeing no other Senators who wish to  
24 be heard, the debate is closed.

25 The Secretary will ring the bells.

1                   SENATOR LIBOUS:     Mr. President.

2                   ACTING PRESIDENT VALESKY:     Senator  
3     Libous.

4                   SENATOR LIBOUS:     Would you remind  
5     members they have to be in their chairs to vote.  
6     I don't know why they're leaving the chamber.

7                   ACTING PRESIDENT VALESKY:     Nor do  
8     I, Senator Libous.

9                   SENATOR LIBOUS:     Thank you.  
10                  We want to get members in the  
11     chamber. And as soon as we get them in here, we  
12     can get them out of here.

13                  ACTING PRESIDENT VALESKY:     All  
14     Senators are asked to come to the chamber  
15     immediately so that we may call the roll.

16                  (The Secretary rang the bells.)

17                  ACTING PRESIDENT VALESKY:     Read the  
18     last section.

19                  THE SECRETARY:     Section 27. This  
20     act shall take effect immediately.

21                  ACTING PRESIDENT VALESKY:     Call the  
22     roll.

23                  (The Secretary called the roll.)

24                  ACTING PRESIDENT VALESKY:     Announce  
25     the results.

1                   THE SECRETARY:   In relation to  
2   Calendar Number 4, those recorded in the negative  
3   are Senators Diaz, Espaillat, Gipson, Perkins,  
4   Rivera, Serrano and Tkaczyk.

5                   Ayes, 56.   Nays, 7.

6                   ACTING PRESIDENT VALESKY:   The bill  
7   is passed.

8                   Senator Libous, that completes the  
9   controversial reading of the supplemental  
10  calendar.

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

13                  Mr. President, in consultation with  
14  Senator Stewart-Cousins, Senator Klein,  
15  Senator Skelos, we now hand up the following  
16  minority committee assignments and ask that the  
17  assignments be filed in the Journal, please.

18                  ACTING PRESIDENT VALESKY:   So  
19  ordered.

20                  Senator Libous.

21                  SENATOR LIBOUS:   Is there any  
22  further business at the deck?

23                  ACTING PRESIDENT VALESKY:   The desk  
24  is clear.

25                  SENATOR LIBOUS:   There being no

1 further business, I move that the Senate adjourn  
2 until Thursday, January 24th, at 11:00 a.m.

3 ACTING PRESIDENT VALESKY: On  
4 motion, the Senate stands adjourned until  
5 Thursday, January 24th at 11:00 a.m.

6 (Whereupon, at 6:43 p.m., the Senate  
7 adjourned.)

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