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OPEN LETTER

December 26, 2012

TO: Senate Republican Conference Leader Dean Skelos
Senate Democratic Conference Leader Andrea Stewart-Cousins

FROM: Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc. (CJA)

RE: ENSURING AN INFORMED SENATE VOTE ON SENATE LEADERSHIP & SENATE RULES: Your Response to CJA's December 7, 2012 Letter to the Independent Democratic Conference on "ACHIEVING A 'FISCALLY RESPONSIBLE, FULLY FUNCTIONAL SENATE'"

On Wednesday, January 9, 2013, the New York State Senate begins its new session. Its first order of business is the election of a Temporary Senate President and Senate rules, each to be the subject of resolutions to be voted on by the Senate's 63 members.

Would you not agree that Senate members are entitled to make informed decisions as to the fitness of any senator seeking their votes for Temporary Senate President – and as to rules which will subjugate them to the dictates of the Temporary Senate President and impede their ability to exercise independent judgment on behalf of the constituents they serve?

We have already written the five senators of the Independent Democratic Conference – Senators Jeffrey Klein, David Valesky, Diane Savino, David Carlucci, and Malcolm Smith – on both these subjects. Our December 7, 2012 letter to them, entitled "ACHIEVING A 'FISCALLY RESPONSIBLE, FULLY FUNCTIONAL SENATE'", called upon the Independent Democratic Conference:

(1) to repudiate its "historic bipartisan partnership" with a Republican Conference headed by Senator Skelos;

(2) to take steps to secure a legislative override of the second and third phases of the judicial pay raises recommended by the August 29, 2011 Report of the Commission on Judicial Compensation by referring the evidence of unconstitutionality, statutory violations, and fraud to all relevant Senate Committees having oversight responsibilities, pursuant to Senate rules;

* **Center for Judicial Accountability, Inc. (CJA)** is a national, non-partisan, non-profit citizens' organization, working to ensure that the processes of judicial selection and discipline are effective and meaningful.

(3) to revise Senate rules to embody democracy-invigorating recommendations, made in 2009, by the bipartisan Temporary Committee on Rules and Administration Reform and, in 2011, by Resolution #357 introduced by Senators Liz Krueger and Daniel Squadron.

On December 21, 2012, having received no response from the five senators of the Independent Democratic Conference, we wrote them a second letter, entitled “What is Your Response to CJA’s December 7, 2012 Letter?” – forwarding a copy to each of you, albeit without a coverletter.

This is that coverletter – and its purpose is to call upon you to also respond to our December 7, 2012 letter – beginning with our assertion that the Verified Complaint in our People’s lawsuit against Temporary Senate President Skelos and the Senate “would easily support a criminal prosecution of [Senator Skelos] for official misconduct and criminal fraud upon the taxpaying public” – as would be evident from his publicly identifying what he did:

- (a) upon receiving CJA’s May 23, 2011 letter, addressed to him and the other three appointing authorities of the Commission on Judicial Compensation – Governor Andrew Cuomo, Assembly Speaker Sheldon Silver, and Chief Judge Jonathan Lippman – apprising them that 53-days into the Commission on Judicial Compensation’s 150-day tenure, it was inoperative and inaccessible to the public; asking whether they agreed that systemic judicial corruption was an “appropriate factor” for the Commission’s consideration in determining the adequacy of judicial compensation, pursuant to the statute; and calling upon them to take steps to ensure official investigation of the evidence of systemic judicial corruption that witnesses had presented and proffered at public hearings before the Senate Judiciary Committee in 2009, which were aborted and as to which there had been no investigation, no findings, and no committee report¹;
- (b) upon receiving the dispositive document on which the Verified Complaint rests – CJA’s October 27, 2011 Opposition Report, addressed to him, Governor Cuomo, Assembly Speaker Silver, and Chief Judge Lippman, detailing the unconstitutionality, statutory violations, and fraud of the Commission on Judicial Compensation’s August 29, 2011 Report recommending 27% judicial pay raises;
- (c) upon receiving CJA’s March 2, 2012 letter, addressed to him, Governor Cuomo, Assembly Speaker Silver, and Chief Judge Lippman, calling upon them to disgorge their findings of facts and conclusions of law with respect to CJA’s October 27, 2011

¹ CJA’s May 23, 2011 letter is recited at ¶¶73-76 of the Verified Complaint and is Exhibit A-1 to the October 27, 2011 Opposition Report.

See, also, CJA’s follow-up June 23, 2011 and June 30, 2011 letters, also sent to Temporary Senate President Skelos, recited at ¶¶78-83 of the Verified Complaint. They are Exhibits B-2 and C-3 to CJA’s October 27, 2011 Opposition Report.

Opposition Report²;

- (d) upon receiving CJA's March 30, 2012 Verified Complaint, served upon him, Governor Cuomo, Assembly Speaker Silver, and Chief Judge Lippman on April 5, 2012, with a letter requesting review by "independent counsel".

So as to further demonstrate your fitness for leadership, please confirm that, consistent with Senate Rule IV, §4(c), you will refer the evidence of unconstitutionality, statutory violations, and fraud, presented by the Verified Complaint to all relevant Senate Committees having oversight responsibilities – including the Senate Judiciary Committee, the Senate Finance Committee, and possibly, the Senate Committee on Investigations and Oversight, so as to secure a legislative override of the second and third phases of the judicial pay raises, scheduled, otherwise, to take effect on April 1, 2013 and April 1, 2014, as well as the other meritorious relief expressly sought and mandated by our October 27, 2011 Opposition Report:

(2) repeal of Chapter 567 of the Laws of 2010 creating the Commission on Judicial Compensation;

(3) referral of the members of the Commission on Judicial Compensation to criminal authorities for prosecution;

(4) appointment of a task force to investigate the documentary and testimonial evidence of systemic judicial corruption, infesting supervisory and appellate levels and the Commission on Judicial Conduct – which the Commission on Judicial Compensation unlawfully and unconstitutionally ignored, without findings, in recommending judicial pay raises.

With respect to the Senate's rules, our December 7, 2012 letter stated that in January 2011 Senator Liz Krueger had introduced Resolution #357, with the co-sponsorship of Senator Daniel Squadron, embodying the "salutary and sensible reform recommendations" of not only the April 21, 2009 "Draft Report" of the six Democratic members of the Temporary Committee on Rules and Administration Reform – Senators Valesky (co-chair), Klein, Stewart-Cousins, Squadron, Jose Serrano, and Kevin Parker – but of the Minority Report of its three Republican members – Senators John Bonacic, Joseph Griffo, and George Winner – which would have gone further than the Democrats in effecting rules reform to transform the Senate into a properly-functioning legislative body. As to what had become of Resolution #357, our letter recounted that it had been voted down at the January 31, 2011 meeting of the Rules Committee, presided over by Senator Skelos' second-in-command, Senator Libous, who had remarked, both before and after the committee vote, that he liked "a number of things" that Senator Krueger was proposing, that these needed "some time to flesh out", and that such would be done in "ongoing discussion in the changing of the various rules that affect the Senate". Senator Libous stated:

² The March 2, 2012 letter is annexed as Exhibit Q to the Verified Complaint and summarized at ¶¶121-125, 138-139 thereof.

“Senator Skelos has announced that, in consultation with Senator Sampson, that there will be a committee set up as we continue, a working group, if you will, to continue to look at the changes in your resolution along with the changes that some of our members still wish to propose. So I, again, I applaud you for putting this resolution before us today... I think there are some pieces that we can look at in the future. And, I would say that there are a number of things here that will take some reasonable time to flesh out and I think they can be very positive as we move forward....

I would hope that we can take these items and present them to the working group so that we will be able to hopefully at another meeting implement many of your suggestions.”

Our letter recited that:

“some days earlier, Senate Minority Leader John Sampson had written to Senate Majority Leader Skelos stating:

‘...I respectfully request you re-institute the Temporary Committee on Rules and Administration Reform. There should be a public, transparent, and bipartisan process led by Members of both Conferences, who will be charged with drafting permanent rules all 62 Members can support. In 2009, the Temporary Committee had six Majority Members and three Minority Members. Accordingly, should you agree to honor recent practice and precedent by reinstating the Temporary Committee, I will appoint Senator Jose M. Serrano, Senator Daniel L. Squadron, and Senator Andrea Stewart-Cousins to serve as the Minority Members of the Committee. ...’”.

Our letter then continued:

“Whether, under Senate Majority Leader Skelos, there was a ‘working group’ or any committee formed or reinstated to further proposed rule changes, consistent with what the Republicans had articulated when they were in the minority, or what the Democrats articulated, when they were in the minority, we do not yet know. Our website will post the video of the January 31, 2011 meeting, as likewise such other materials pertaining to Senate rules changes as we are able to locate.

As there appears to be no centralized place where historical, contextual information about the evolution of the Senate’s rules can be obtained so as to get an accurate picture of who has stymied democracy-enhancing rule changes – and their reasons for doing so – we request that the Independent Democratic Conferences develop such site, in cooperation with both the Republican and Democratic Conferences.”

Please advise whether, as heads of your respective Conferences, you will take steps to ensure that such website is created so that all 63 senators – and the public – can better understand which senators are responsible for the Senate’s failure to approve good-government rule reforms that would divest the Temporary Senate President and majority party of their strangleholds over the legislative process – rule reforms so nonpartisan and salutary that both the Republican and Democratic parties champion them when they are in the minority.

Suffice to say, in the nearly three weeks since our December 7, 2012 letter, we have been unable to find any trace of Senator Skelos’ appointment of a “working group” or committee to examine the rule reforms embodied by Resolution #357. Indeed, neither the Senate floor debates of January 31, 2011 nor March 28, 2011 pertaining to the Senate’s current rules have the slightest reference to such “working group” or committee. We, therefore, request that Senator Skelos identify whether, in fact, he appointed a “working group” or committee to examine rules reform; whether it included Democratic members such as Senator Stewart-Cousins, and, if not, why not.

Because the Senate rules determine the ability of senators to properly represent their constituents, discharge their legislative duties, and promote accountability of the senators and the Senate as a whole, we call upon each of you to promptly and publicly release the rules you will be proposing for the upcoming Senate session, with an accompanying memorandum identifying the extent to which they change the current Senate rules to incorporate the recommendations of the April 21, 2009 Republican Minority Report of the Temporary Committee on Rules and Administration Reform and of Resolution #357 of Senators Krueger and Squadron.

The important comments of Senator Stewart-Cousins at the January 25, 2011 Rules Committee meeting (at 31:43 mins.), presided over by Senator Libous, deserve to be recalled, including the following exchange:

Senator Stewart-Cousins: “...clearly as someone who was part of the rules reform and the work that we did, it was really, I thought, important that the process be transparent, that we hear all sides, that we move into a way where we can, in a collaborative way, get to where we needed to go as a legislative body.... The other thing that I was looking at was the report of the then republican senator and I heard you say that there was some incorporation of their Minority Report into these new rules and I was just wondering if you could point those out to me. Because I have here their Minority Report ...I think I’m at a loss to find out where these, these rules...

Senator Libous: That’s an excellent question. That’s an excellent question. I think it goes back to Senator Perkins’ good faith question. We recognize that there are other changes that need to be made those changes are not before us today, but there will be other changes and recommendations made as we move forward...

Senator Stewart-Cousins: Okay, so, in other words, then, then the current rules then do not really incorporate the Minority Report rules as such –

Senator Libous: I think, that's not entirely true. I think it did incorporate some of the minority report when we passed it initially and then the Minority Report when we were in the minority also said that we would like to go further. We are looking at those, we are having those discussions with Senators Bonacic and Senator Griffo and we are looking to see how we might incorporate some other ideas. Again, this is a work in progress. Don't misinterpret the word permanent."

Notably, the Republican Minority Report of Senators Bonacic and Griffo – like the Democratic majority "Draft Report" – proposed that there be a continuing Senate committee to evaluate rule reforms already made and develop further reforms.³

³ This recommendation was THE FIRST of the Democratic majority's "Draft Report" (pp. 6-7), which stated, in full:

"Although there is no formal end date for the Temporary Committee, its final charge is to submit this written report to the Temporary President and Minority Leader of the Senate by April 24, 2009. However, several of the recommendations contained in this report require further steps, in some cases further study and explanation, by November 1, 2009.

Separately, there were several issues addressed in oral and written testimony that were not covered under the Temporary Committee's mandate. While these areas do not fall under the rules as they are currently contemplated, and, in fact, likely require changes in law, the Temporary Committee could make new recommendations if tasked to do so.

Among the many who advocated that the Temporary Committee remain in place^[fn], Blair Horner, Legislative Director of the New York Public Interest Group, suggested that it continue to assess the application of new rules:

'Things will not work out the way they're supposed to. That I can almost guarantee you because that's been the history of reform no matter what happens. And, so if you have an ongoing mechanism to review how things are working, you have an ongoing effort to continually achieve success. I think that will create its own momentum and be satisfying to those members who are particularly interested in it.'^[fn]

RECOMMENDATIONS

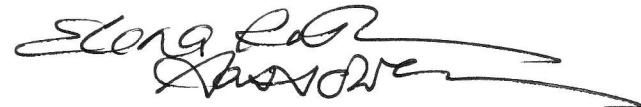
1. Adopt a new resolution to keep the Temporary Committee in place at least through the end of 2010 to implement the recommendations contained in this report, research additional reform areas that may be of interest and assess the operation and measure the success of the chamber's new rules annually after the end of the 2009-10 legislative session.
2. Task the Temporary Committee to study, and before the next legislative year, recommend proposals to reform the system of member item distribution, including a formal request for proposal process and a more equitable distribution of funds."

The Republican Minority Report stated this recommendation, in its conclusion (at p. 6), which was, in full:

Meantime, we have posted the January 31, 2011 and March 28, 2011 floor debates on the Senate's current rules on our website, www.judgewatch.org, on a special "Rules Reform Resource Page", accessible *via* the top panel "Latest News". Senator Stewart-Cousins was one of three Democratic senators who took to the floor on January 31, 2011 to respectively introduce three amendments to Senator Skelos' rules. All three senators – Senators Stewart-Cousins, Squadron, and Serrano – were Senator Sampson's pick for a reinstated Temporary Committee on Rules and Administration Reform, having been members of that body in 2009. Their three amendments, embodying reforms of the 2009 Republican Minority Report⁴, were voted down by the Republicans, then in the majority, aided and abetted by Independent Democratic Conference Senators Klein, Valesky, Savino, and Carlucci⁵, for no seeming reason other than to ensure the stranglehold and dominance of the majority party. Indeed, neither Senate Republicans nor the Independent Democratic Conference gave any reason for opposing the second and third amendments which Senators Serrano and Stewart-Cousins had introduced. As for the trivial Republican debate on Senator Squadron's first amendment, it is pretty much summed up by Senator John DeFrancisco's opening salvo:

"Just -- my question is, in view of all the benefits of this minority report and how terrific it was, when you were in the majority and had the votes to adopt all of these, you must have had a reason why not to adopt them. Can you give us that reason?"

The 2011-2012 Republican majority, having had a greater amount of time than the 2009-2010 Democratic majority had to enact the beneficial reforms of the 2009 Republican Minority Report, no longer has that excuse for delaying their adoption. We, therefore, expect that both your proposed new Senate rules will be quite similar in finally embodying the 2009 Republican Minority Report so that the People of New York may finally have the "fiscally responsible, fully functional Senate" that is their right.



Enclosures: CJA's December 7, 2012 and December 21, 2012 letters

Excerpt from Senate transcript of January 31, 2011 Senate floor proceedings

cc: All Senate Members
Assemblyman Steve Katz

"We agree the Committee should be continued and unfinished business should be addressed as soon as possible. We further suggest that ongoing reviews occur in public of the treatment of Members and their access to resources.

We suggest that an ombudsperson be appointed by the Secretary of the Senate immediately to resolve differences when Members allege they are being treated unfairly.

Enacting the reforms above will ensure that Senators can be representatives of their constituency and of the State, not just 'elected officials'."

⁴ Annexed hereto are the descriptions of those amendments by Senators Squadron, Serrano, and Stewart-Cousins, from the Senate transcript of the January 31, 2011 Senate floor proceeding – and the comment thereafter made by Senator Bonacic.

⁵ It appears that Senator Smith was absent.

**THE THREE AMENDMENTS INTRODUCED
BY SENATORS SQUADRON, SERRANO, & STEWART-COUSINS
TO SENATOR SKELOS' RESOLUTION
OF SENATE RULES FOR 2011-2012,
& COMMENT BY SENATOR BONACIC**

*Excerpted from the Senate transcript
of the Senate floor proceedings for January 31, 2011
<http://www.nysenate.gov/event/2011/jan/31/senate-session-01-31-11>*

AMENDMENT #1:
(at 1:44:25 mins.)

SENATOR SQUADRON:

...On the nonsponsor amendment to the Rules resolution put forward by Senator Skelos.

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

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

And the truth is for this body to be prepared to debate it, to look at that budget in the best possible way to ensure the best possible outcome, we need rules that are fair, that allow each of us to represent our constituents. Our constituents don't care whether we're in the majority or the minority. They don't care whether we win an argument on the floor or lose an argument on the floor. What they care about is that we as a body are able to get results on the things that matter to them. And the rules are the number-one way that we do that.

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

That bipartisan committee, cochaired by Senators Bonacic and Valesky, including myself, Senator Parker, Senator Stewart-Cousins, Senator Serrano and Senator Klein, went all around the state. We were in Syracuse -- we shared a bipartisan meal at the Great Dinosaur Barbeque in downtown Syracuse -- we were out on Long Island, we were here in Albany, we were in New York City having a deliberative process to figure out the best rules for the house.

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

That minority report had a lot of good recommendations in it. Some of those recommendations were in fact adopted in the last session. Not all of them were. As we have long

said -- as we said in January of 2009, again in April of 2009, again in July of 2009 -- the rules in this house have historically been so bad, so unequal, so nontransparent, so difficult to allow each member to represent their constituents that we need many steps to make those rules fair. We had those conversations on the floor, we had those conversations off the floor.

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

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

It suggested, among other things, equal access to Senate services so that things like mailings to our constituents and technology equipment and access to all of the nuts and bolts of the place would be nonpartisan and equal.

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

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

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

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

We all agreed the rules started way, way back. Step by step by step, they are getting better. The point today is to continue to make them better, not to stop the progress in its tracks.

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

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

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

In fact, this resolution doesn't even do that, unfortunately. This resolution, like so many other rules resolutions over the years, actually takes a step backwards. Because this resolution, out of nowhere -- and I've got to tell you, I've read the minority report, I've read a number of the previous rules resolutions going back a number of years. I haven't read every one of them, but I've got to tell you, in every rules resolution I've read, there was never this provision, the provision that would strip the Lieutenant Governor of his or her ability to ensure that the Senate keeps moving forward, the provision that makes it impossible for the Senate to devolve into the kind of gridlock that we had for 31 days in June and July of 2009.

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

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

And that entire gridlock was because we didn't have a Lieutenant Governor who could move the process of the Senate forward. That, by the way, is exactly the reason that constitutional scholars going back to 1777 have given for the casting vote for the power of the Lieutenant Governor: To move the process forward, to ensure that we don't get stuck in a tie that stops the business of the Senate.

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

Now, this amendment I'm putting forward, in the interest of bipartisanship and in the sincere hope that it actually can get a majority of Senators...takes only provisions put forward in the minority report from the Temporary Committee on Rules and Administration, and only takes those which I think are most likely to find unanimous or near unanimous support in this house. And it would propose to amend the rules put forward by the majority in that way, in the following ways.

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

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

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

It requires committee agendas to be submitted one week prior to the scheduled committee meeting. It requires the Secretary of the Senate to develop nonpartisan civil-service-based procedures to hire staff. And it takes Senator Rules out of the picture by taking the ability of the

Rules Committee to introduce legislation.

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

Thank you.

AMENDMENT #2:
(at 2:25:32 mins.)

SENATOR SERRANO:

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

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

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

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

So again, this is not a partisan discussion, in my mind. This is not something that is Democrat or Republican. This is something I believe that will make this entire house better, that will make our constituents that much more informed of the issues that we care about and the issues that we're working on, and I think will also help to alleviate a lot of the crisis of confidence that we see amongst our constituents throughout the state.

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

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

Thank you.

AMENDMENT #3:
(at 2:34:10 mins.)

SENATOR STEWART-COUSINS:

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

And again, I know what this is what we've spent so many of the past few months trying to do. Clearly, the rules reform that Senator Squadron referred to and I was able to share in that rules reform committee with so many of my colleagues on this side of the aisle and across the aisle, in coming up with rules all of which would empower rank-and-file members and which would make things more transparent for the residents of New York.

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

Also -- which I think is extremely relevant, certainly, to some of the things that have been said over the past few months -- we talk about accountability. And another part of this amendment would require for the Senate budget to be detailed and itemized for inclusion in the legislative and judiciary budget bill.

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

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

Again, we've done a lot of good things after having done almost nothing in terms of rules reform. And when we put our heads together, both sides of the aisle, we were able to progress and to make this a more inclusive, a more responsive, a more transparent body. And again, this is why we stand here saying don't go back.

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

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

COMMENT BY SENATOR BONACIC:

(at 3:53:42 mins.)

SENATOR BONACIC:

It's been a long day. My name was invoked six times in discussing the amendments of reform. And I'd like to for a moment leave aside the Lieutenant Governor debate. I think good points were made on both sides, but it's going to have to be determined by a court of law. I think we have a difference of opinion.

I did not support the three amendments. I supported the spirit of all three amendments, but there were poison-pill stuff in each of those amendments that were not consistent with our rules report back in April of 2009.

Let me first thank Senator Griffo and all the members of that rules reform committee, because I think when the nine of us were at the table -- and I'm not a rules guy. Don't talk to me about Roberts, don't talk to me about Mason rules. I like policy. But we got charged with this responsibility. And the more we got into this, and the more we had public hearings and the more we listened to good government groups and the more we looked at other states and the more we heard scholars come in, and legal professors, there is something to doing good rules.

And even though in the two years when you were in the majority you did take turtle steps -- that you interpret as monumental, compared to what the majority Republicans did years before, because they basically didn't do anything. And I will say to you that that blueprint of that report is the model that we should try to get to, if we can.

And why should we try to get there? We should try to get there because the old Albany culture does not work. To the victor belongs the spoils. You see how that Assembly is run. I've come from there; many of you over there have come from that house. That is a dictatorship where the leader and staff have more power than the elected officials.

And to a great extent here, that exists, although there are steps taken now to break that culture. And it's all healthy. And why is it healthy? Because every member that gets to this seat as a Senator must have the security of a certain amount of resources to do his job. His constituents should not suffer, his or her constituents should not suffer if they're in the minority. They didn't do anything wrong.

They should have access to equal resources, they should have access to equal member items, and they should have access to equal capital. Not the Senator, but the constituents. And you should be able to communicate and have the resources so you can communicate with each other, the Senator and the constituents. Under this system now, that doesn't happen.

Our conference did not go far enough in following the rules. In my humble opinion, they did not. And I wanted them to. But there's so much distrust between each side of the aisle, there's so much partisan politics, and the stakes are so high with 32-30 and redistricting coming down the road. So the environment is toxic for people of goodwill to try to get to that comfort position that the blueprinters laid out in that report in April.

I believe that -- and I liked the chemistry of those nine members, because they were sincere, they were new, many of them, and they said this is a better way. But when it got up the flagpole, when you have the leadership has the power and they have the money and they have the control, they don't want to let go of this. Again, back to the Albany old culture.

So all I will say in conclusion is that it's very difficult when you're in the majority to move the rules reform to get to that place of comfort where Senators are treated equally and

constituents are treated fairly and equally. The only way that this is going to get done -- and this is a long shot -- is we've got to do it in statute.

So what I plan on doing is I'm going to prepare legislation that embodies the heart of those rules reform, such as a petition of 32. Because that's more democratic. If 32 of us want a bill to come to the floor, it should come to the floor and be voted on.

I remember when Nettie Mayersohn, the Assemblywoman, when we were over there in the Assembly had 108 votes and couldn't get the bill on the floor. That's not a democracy, that's a dictatorship.

And I do believe that there should be equal resources. And we can't -- you know, and I like my leader, Senator Skelos. I think he's respectful. He's benevolent. And I think by his conduct he will try to treat everybody with respect. But leaders come and go, and they could change with more power as they're in a longer time.

So it may sound utopian, it may sound not based in reality. But what I would ask each member here, when this legislation comes before you, sign the petition so we can get it on the floor. We took the best of the Brennan Institute, we took the best of the good government groups, we took the best of other states. Because process does affect the quality of the product for the people we represent.

So I will say, in conclusion, that I'm supporting this resolution because -- the Lieutenant Governor issue, that's not going to be resolved here tonight, obviously. But there are other things worth fighting for. And as this comes down the road -- now tomorrow, rules won't even be on the radar screen. We'll have economic challenges, we'll have the Governor's blueprint, and that will take all our time. But we will overcome the challenges of the Governor.

But every day you have to deal with the rules, each of us do. Every day. That's worth fighting for. That never goes away. So I say, in conclusion, don't lose it off your radar screen as we go into session.

Thank you very much, Madam Speaker.