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**DRAFT REPORT OF
THE TEMPORARY
COMMITTEE ON RULES
AND
ADMINISTRATION
REFORM**

SENATORS DAVID J. VALESKY AND JOHN J. BONACIC

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TEMPORARY COMMITTEE ON RULES AND ADMINISTRATION REFORM

Senators David J. Valesky and John J. Bonacic, Co-Chairs

Senator Joseph A. Griffo
Senator Jeffrey D. Klein
Senator Kevin S. Parker
Senator José M. Serrano
Senator Andrea Stewart-Cousins
Senator Daniel L. Squadron
Senator George H. Winner, Jr.

ACKNOWLEDGEMENTS

Public hearings of the Temporary Committee on Rules and Administration Reform were made possible by the hard work of a number of Senate staffers who arranged four well-attended events across the state. We thank the dozens of advocates and members of the public who testified at the hearings for their thoughtful ideas and constructive criticism. In addition, the National Conference of State Legislatures deserves special recognition for its ongoing guidance and support, in particular Brenda Erickson.

INTRODUCTION

Barely over 100 days have passed since the Senate elected its new leadership in early 2009—the first time a Democrat has held the title of Majority Leader since a brief time in 1965.

This period was eventful for all Senators and staff: all 62 Senators relocated their Albany offices; the new Majority began the challenging process of building, virtually from scratch, a new central staff; and new Senate Committee Chairs hired their committee staff. The new Secretary of the Senate presided over this institutional staff transition, while ensuring that the Senate's essential functions continued to operate. Simultaneously, the Senate considered and passed a budget for the 2009-10 fiscal year during a severe recession.

We would be remiss if we did not acknowledge the shortcoming of the budget process. In the weeks leading up to passage of the budget, Chairs of standing committees and their Ranking counterparts gave crucial input that was incorporated in the budget. However, the process leading up to the final product was flawed. Next year we can and should do better.

During the tumultuous period of the new session, the Senate's Temporary Committee on Rules and Administration Reform offered the opportunity for the voices calling for change to be heard. These voices—coming from both inside and outside of the Senate—spoke directly to the Temporary Committee as it met publicly to consider how the Senate has operated in the past, and how the Senate should operate in the future.

It has been correctly noted that much of what ails the Senate is the result of “the culture”—the long-standing stranglehold of Senate leadership, resulting in rank-and-file Senators being largely shut out of the legislative process.

As Grant Reeher, Syracuse University Professor of Political Science, testified: “The Legislature has, to put it delicately, an image problem. There is a lot of anger out there about

New York State government. The media has decided, a while ago, that the Legislature simply doesn't work.”¹

The Senate did not become dysfunctional overnight, and we cannot expect to cure all of its ills overnight. We are committed, however, to building a new institution beginning now by taking dramatic steps. The effort towards Senate member participation and deliberation, and overall accountability, transparency and bipartisan cooperation in the legislative process will be ongoing—making changes where it is possible to do so now, and continuing to work toward these goals in the future. As the first recommendation in this report notes, we intend to measure the success and impact of rules changes over time. Reform of the Senate remains a work in progress.

TEMPORARY COMMITTEE

Following his election as new Senate Majority Leader,² Malcolm A. Smith sponsored a resolution creating the bipartisan Temporary Committee on Rules and Administration Reform with the charge of recommending changes to the internal operating rules of the chamber.³ On January 12, 2009, the full Senate approved the resolution.

It was the first such earnest and comprehensive approach to remaking the Senate's rules in more than a generation and only the beginning of a long-term effort. As Nassau County Executive Tom Suozzi noted in his remarks at one of the Temporary Committee's four public hearings: “The new Majority Leader has already taken the first significant step—he instituted an apparent seismic shift in culture regarding the entire concept of reform.”⁴

In creating the Temporary Committee, the Senate resolution found: “...a need for a thorough review of the legislative process in the Senate and of the administration of the Senate.”⁵ Established with bipartisan Co-Chairs, both of whom have equal authority under the rules, and nine total members, the Temporary Committee was tasked with recommending revised rules “to ensure a participatory and transparent legislative process in which each member of the house has the opportunity to influence the legislative process” and greater use of new media “to provide more legislative information to the public.”⁶ The resolution also required a written report to the Temporary President and Minority Leader of the Senate by April 13, 2009, which was subsequently extended to April 24.⁷

The resolution and the resulting Temporary Committee were initial measures in moving down the path of reform, in keeping with years of previous commitments. Over the past decade, many members of the current Senate Majority conference have put forth broad rules reform proposals including Senate Majority Leader Smith⁸, and Senators Liz Krueger,⁹ Eric Schneiderman¹⁰ and John Bonacic, Co-Chair of the Temporary Committee.

Codifying a process to reform the Senate's rules via resolution was a crucial step. Given the history of promises of reform, one might have imagined how such changes could have been delayed or indefinitely postponed, a scenario noted by several witnesses who testified. “But to extend the biblical metaphor, after a very long time in the wilderness, longer than the biblical Hebrews wandered, the temptation for a new Majority to seize the power and prerequisites of the Majority and use these to subordinate the new Minority is extraordinarily strong,” Professor Gerald Benjamin, Director of SUNY New Paltz's Center for Research, Regional Education and Outreach, said before the Temporary Committee at the New York City public hearing.¹¹

The new Senate Majority resisted the temptation of the status quo, asking for specific recommendations and requiring a report to be submitted more than two months before the scheduled end of session.

The scope of the Temporary Committee's work is clearly defined in the resolution. While "reform" is in the committee's title, its authority did not extend to traditional good government issues like redistricting, ethics and campaign finance, or budgetary issues like member items. These issues are governed by statute, and therefore also require action by the Assembly and Governor. When internal operating rules do intersect with legislative law, we make appropriate recommendations.

One issue not under the traditional rubric of the Senate's rules, nor within the present purview of the Temporary Committee, was mentioned by several witnesses who testified: the distribution of member items. The first recommendation listed later in this report is continuing the Temporary Committee to implement the new rules and assess their efficacy. We urge the Senate to task the Temporary Committee to consider reform of the member item system.

NEW SENATE RULES 2009

On the same day the Temporary Committee was created, the Senate passed new rules updating some of the more undemocratic provisions enacted over the last decade.¹² The changes were a sign of the sincerity of the present effort.

Seymour Lachman, a member of the Senate Minority until 2004, commented on the more onerous provisions of the rules during his 12 years in the chamber at the New York City hearing:

*"Members of the Minority were generally not permitted to sign onto bills sponsored by a member of the Majority. They were restricted in their ability to call for bills to be discharged from committees to the Senate floor for a vote. The Majority limited debate and the ability of the Minority to get recorded votes on proposed amendments..."*¹³

The Senate's new rules for 2009 eliminated the canvas of agreement, under which "no" votes were not recorded and debate was not permitted when considering petitions to discharge and amendments.¹⁴ In its place a motion to discharge a bill from committee or before the full chamber was instituted where all votes are recorded and debate is permitted.¹⁵

In addition, the new rules now permit open multi-sponsorship of bills;¹⁶ require bills with secondary jurisdiction to be referred to relevant committees;¹⁷ and declare a commitment to provide the public with increased access to records and the legislative process through the Internet.¹⁸ Many witnesses who testified at the public hearings applauded these reforms.

"The rules changes announced in the Senate last month represent an important first step towards the creation of a more transparent and accountable legislative chamber," said Lawrence Norden, Senior Counsel at the Brennan Center for Justice.²⁰

While rules are typically passed for the two-year session, the Senate took the uncommon step of allowing the rules to expire at year's end in order to require that a new rules resolution be adopted before the 2010 session.²¹

In addition to changes in the operating rules, under the Senator Majority Leader's guidance, there were reforms in the Senate practices aimed at alleviating the culture of centralized control by leadership. At the opening of session, Committee Chairs were allocated budgets and the authority to hire staff, which commonly includes a counsel, director, policy analyst and clerk. Formerly, most committee staff was part of the Majority Leader's Counsel/Program budget and, thus, under the leadership's control.

Another stark shift in the Senate's culture was the treatment of the Minority conference vis-à-vis the majority conference. In the past, each conference had separate staff performing identical functions, including: media, photography, mail processing and document duplication services. Since January, the Senate has taken steps to treat all members fairly and end such redundancy by requiring central staff performing these functions to serve all 62 Senators, rather than a single conference.

PUBLIC HEARING AND MEETING PROCESS

While proposals for legislative procedural reform exist, one of the problems identified as endemic to the chamber was both a lack of Senate member participation in policy development, and public comment during hearings and meetings on bills that fall under the category of major legislation.²² The internal operating rules are not major legislation per se, although they have a significant impact on the path and progress of legislation as it moves through the Senate. Therefore, the Senate Majority and the Co-Chairs of the Temporary Committee believed it was important to seek public input about the universe of proposals for legislative reform. Instead of the leadership controlling the outcome, individual Senators were empowered to drive the process and to create new policies, all of which occurred entirely within public view during three meetings of the Temporary Committee on March 18, 24 and 25.

The Temporary Committee held four public hearings: Syracuse on February 6; Albany on February 10; New York City on February 26; and Long Island on February 27. A total of 51 witnesses, representing diverse backgrounds, testified, including: former members of the Senate, elected officials, good government advocates, policy experts and concerned citizens. (See Appendix A for complete witness list.)

Prior to drafting this report, the Temporary Committee held three public meetings in the Capitol where its Co-Chairs and members debated broad principles and specific proposals. The resulting discussion was a combination of recommendations from previously published reports, and ideas offered by the nine members of the Temporary Committee and the witnesses at the public hearings.

In keeping with the stated goals of the reform process, the Temporary Committee exercised an extraordinary degree of transparency, serving perhaps as a model for future Senate deliberation. All the hearings and meetings were webcast live, with the exception of the first. Videos of the hearings and meetings, which were promoted in advance and open to the public, are archived on the Temporary Committee's website (www.nysenaterulesreform.org), and complete transcripts of each are posted along with written testimony from witnesses (when provided).

LEGISLATIVE RULES REFORM

Evidence proving the need to reform the closed, Majority Leader-driven culture within the Senate chamber is well known. The reports and proposals from members of the former Senate Minority and policy centers like the Brennan Center for Justice, which beginning in 2004 published a 50-state analysis of legislative procedure, shined a bright spotlight on the dysfunction of the State Senate. The latest report from the Brennan Center released this January reconfirmed the unfortunate title of dysfunction—echoed in newspaper editorials throughout the state.²⁵

It is worth noting that the purpose of such reform is not often examined beyond the general principle of creating a more democratic institution. The underlying premise of rules reform is a procedure by which to produce legislation and public policy. “Process is important,” said former State Senator Franz Leichter in his testimony in New York City. “If the process is flawed, the work product—legislation—will suffer.”²⁶

Gerald Benjamin explained the specific purpose of legislative rules at the New York City hearing: “Matters of concern in the polity are considered; a properly deliberative context for decision making is established; germane evidence on a matter is assembled, and the range of views is effectively expressed, heard and fairly considered by representatives in shaping the law.”²⁷

RULES RECOMMENDATIONS

After considering the evidence presented to the Temporary Committee, areas identified for necessary Senate reform include:

- Continuing the Temporary Committee to implement the present recommendations, assess these changes over time and report on other possible reform areas;
- Transforming standing committees structure and process to encourage robust deliberation;
- Increasing the role Senate members play in the legislative process at all stages;
- Opening the public’s access to deliberation in committee and the full chamber, the products of the lawmaking process and records in general;
- Increasing fairness in the asymmetrical distribution of resources and services between the Majority and Minority conferences.

Following are the recommendations in detail:

1. CONTINUE THE TEMPORARY COMMITTEE ON RULES AND ADMINISTRATION REFORM

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,²⁸ Blair Horner, Legislative Director of the New York Public Interest Research 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.”²⁹

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.

2. STANDING COMMITTEES

The *sine qua non* of sound legislative procedure is a robust committee process. The core function of committees should be “to enable legislators to develop, examine, solicit public and expert feedback upon, and improve bills in a specific area of expertise and to convey the results of their work to the full chamber and second, to oversee certain administrative agencies to ensure that they fulfill their statutory mandates.” In contrast to many state legislatures and the U.S. Congress, the Senate's standing committee system in New York “rarely includes significant deliberation, policy development, drafting, or amendments to legislation, even for major bills that become law.”³¹

As Susan Lerner, Executive Director of Common Cause New York said in her public hearing remarks: “We believe that strengthening standing committees, allowing them greater independence and encouraging meaningful participation by rank-and-file members and bill sponsors, opens up the legislative process at a crucial juncture so that the people can see and participate as well as allows members to more effectively represent the interests of their districts.”³²

For context, it is important to understand the reasons why Senate committees have been rendered weak. During his testimony, Eric Lane, a Senior Fellow at the Brennan Center for Justice, asked the rhetorical question: Why don't we have working committees?

“One reason we don’t have them, obviously, is in the history of legislatures, everywhere in the country, committees are always challenges to leadership, right? Because there are the Committee Chairs. And once you get momentum on a piece of legislation... that becomes a challenge to leadership....So the idea that you would have a committee that would work is totally inconsistent with the legislative model we have.”³³

At the opening of session, Senate Majority Leader Malcolm A. Smith took several steps to change the culture of leadership control. The following recommendations codify those intentions with several specific rules.

ISSUE: STANDING COMMITTEE STRUCTURE AND PROCESS

One of the areas where there was consensus during the public hearings is both the high number of standing committees and assignments for members. According to the most recent research, only one state Senate, (Mississippi) had more than New York’s 32 standing committees.³⁴ As a result, the proportion of members to the number of committees leads to high number of committee assignments. In the New York State Senate, members are assigned to eight committees, more than any other legislative chamber in the country.³⁵

Gerald Benjamin addressed the possible outcome of rethinking the structure of standing committees: “Fewer committees, and fewer committee assignments for members will facilitate member attendance and participation at the committee level, and will raise the value of committee membership and leadership.”³⁶

RECOMMENDATIONS

1. Reduce the number of standing committees by one-third through consolidating similar subject areas and jurisdiction.
2. Create subcommittees in areas of comparatively narrow jurisdiction and for less active committees.
3. Reduce committee assignments to a maximum of four standing committees and one subcommittee per member.
4. Institute eight-year term limits on committee Chairs and Rankers.
5. Make committees proportionate to Majority and Minority members.
6. Allow for “Abstain Due to Conflict of Interest” vote.
7. Stamp bills with time and date upon submission to the Revision Clerk for introduction.

If extended, the Temporary Committee will issue specific recommendations for consolidation of standing committees and subcommittees by November 1, 2009.

ISSUE: ABSENTEE VOTING IN COMMITTEES

In 2005, the new Senate rules eliminated language that allowed proxy voting in standing committees.³⁷ By not explicitly stating that members had to be physically present to vote, proxy voting gave way to a different problem—absentee voting. Attending committee meetings in order to debate and vote on bills is challenging considering the high number of assignments.

Many witnesses at the four public hearings testified for the need for members to be able to contribute to what should be a deliberative process.³⁸ Among the testimony that stands out is Reginald Neale of Citizens For a Better New York, who cited Woody Allen: “Eighty percent of success is showing up.”³⁹

RECOMMENDATIONS

1. Require members to be physically present to vote in committees.
2. Record attendance of standing committee meetings on a single committee voting sheet.

Rule to take effect following committee consolidation.

ISSUE: COMMITTEE REPORTS

Detailed reports accompanying bills that are favorably moved out of committees are important. For one, they educate legislators who do not sit on the committee of origin about the bill prior to the bill’s consideration on the floor. Committee reports should explain the impact on existing law and any regulatory impact, and include testimony considered by the committee, debate and the opinions of various members.⁴⁰

State Senate rules require reports to be filed from both the majority of members and the minority of members when bills are reported from committee.⁴¹ In recent years, the spirit of the rule has been ignored. Committee reports are routinely limited to a bill summary, votes and whether a fiscal note was attached, all of which is available elsewhere.⁴²

In addition, once a bill becomes law, committee reports can offer crucial guidance to courts as to legislative intent.

RECOMMENDATION

Develop specific guidelines for detailed committee reports for significant legislation.

If extended, The Temporary Committee will issue standards for committee reports by standing committees and subcommittees by November 1, 2009.

ISSUE: COMMITTEE HEARINGS

The purpose of committee hearings, especially on specific legislation, is for members to learn about issues and to receive input from the public and from experts. Since the start of session, the Senate has already held a number of public hearings on bills concerning important matters.⁴⁴

Hearings also help to identify potential flaws in legislation and improve the final product. As Lawrence Norden explained, “[at hearings] in other states and in Congress, problems with legislation are sometimes brought out that legislators haven’t thought about. And that can result in changes to legislation and in changes on -- in the positions of legislators on that legislation.”⁴⁵

Some states mandate hearings on bills. In 25 state chambers, either hearings are required to be held on all bills before being voted out of committee, or members are allowed to force them.⁴⁶

Due to the high number of bills introduced in the Senate each year, requiring a hearing on each would not be feasible. The question is then to determine what types of bills merit hearings. Several advocates who came before the Temporary Committee expressed the need for an explicit rule that would allow, short of a full public hearing, witness testimony before meetings of standing committees.⁴⁷ This is already happening informally on some committees.⁴⁸

RECOMMENDATIONS

1. Encourage Chairs to hold hearings on legislation they believe is of important public interest, where, outside of the budget, significant public money is allocated, where conduct is regulated or where the proposal would have a broad impact among the public.
2. Allow, at the discretion of the Chair, parties who are interested in legislation before a committee, to speak for a given amount of time, so long as the Ranking Member is afforded an equal number of speakers and duration, and notice will not be less than 72 hours in advance.
3. Allow a petition of one-third members of a standing committee to hold a hearing on a specific bill within the jurisdiction of a committee, scheduled no less than two weeks in advance, unless rejected by a majority of the members of a committee.

ISSUE: AMENDMENTS IN COMMITTEE

One of the criticisms of the Senate committee process is the lack of a mechanism to report bills with amendments. Amending bills in committee would allow the potential for a better product once legislation reaches the floor. Such a process is available in 93 out of 99 state legislative chambers.⁴⁹

Furthermore, non-sponsor amendments before the full chamber are already permitted prior to the third reading.⁵⁰ In recent years the rule was significantly weakened by adding a provision that required successful non-sponsor amendments to be recommitted for at least 10 days to the committee of origin.

RECOMMENDATIONS

1. Develop a bill amendment process in committee in which the sponsor retains control.

2. Strike the rule requiring successful non-sponsor amendments to be re-committed to committee of origin.

If extended, The Temporary Committee will develop specific standards for the committee bill amendment process by November 1, 2009.

ISSUE: PETITION FOR CONSIDERATION AND PETITION TO TAKE OFF THE TABLE

The Senate rules make the process for a rank-and-file member to receive consideration of a bill more difficult than in any other state legislative chamber.⁵¹ At least 21 of 99 legislative chambers require standing committees to report all bills.

In prior sessions, the process for discharge was condemned for: an unusually long waiting period before motions are recognized; the early deadline before the end of session after which they are not allowed; the number of days they have to remain on the calendar; limited debate rules; and unrecorded votes against.⁵² Moreover, a new rule in 2001 created what known as a “canvass of agreement,” under which “no” votes were not recorded and debate was limited to 10 minutes.⁵³

At the start of session, such restrictive rules governing motions to discharge were relaxed. The time before such motions are recognized was reduced from 30 to 20 days, “no” votes are recorded and debate is not limited under a unique category.

There is no evidence to determine the effectiveness of the changes. At the time of this writing 12 discharge motions had been filed, beginning on March 26, and at least two of those bills are on committee agendas.⁵⁴

The paramount criticism of the discharge process is that it is only a procedural motion—not an up and down vote on the actual legislation. Several witnesses testified in favor of loosening the motion to discharge process further or replacing it altogether.⁵⁵

RECOMMENDATIONS

1. Allow a sponsor of a bill to file a “petition for consideration” before a standing committee of original jurisdiction, no earlier than 30 days following introduction, to schedule a vote within 60 days.
2. Create a mechanism, e.g., a signed petition by a supermajority of the members of the full chamber, enabling the sponsor to move a bill from a committee to a final vote in the Senate. The petition will be called “removing a bill from the table.”

If extended, The Temporary Committee will develop specific standards for these procedures by November 1, 2009.

ISSUE: OVERSIGHT

Another important function of standing committees is to carry out oversight of administrative agencies and programs in order to ensure statutory obligations are being met.⁵⁶ While such oversight is routine in many state legislatures and the U.S. Congress, Senate standing committees do not conduct such activities across jurisdictions, nor is there a rule

requiring it. In the U.S. Congress, for example, committees with oversight jurisdiction are required to submit a detailed plan at the beginning of every Congress.⁵⁷

RECOMMENDATIONS

1. Require standing committees to file an oversight plan annually.
2. Add explicit oversight function to standing committee on Investigations and Government Operations.
3. Require each standing committee to conduct legislative oversight of the administration of laws and programs by agencies supported entirely or partially by state funds with its jurisdiction.

3. TRANSPARENCY

Lisa Bang-Jensen of the Empire Center for New York State Policy began her testimony in Albany with an anecdote that rings true: “For years the long-standing joke in Albany was if you want to know what’s happening at the Capitol, ask an elevator operator. Now that the elevators have been automated, we’re really in the dark.”⁵⁸

New York State’s Freedom of Information Law, which was passed in the 1970s, well before the debut of the internet, places the burden on the individual to seek records from public agencies and bodies. Given today’s technological advantages, many advocates argue for proactive disclosure of documents of public interest. According to the testimony of Robert Freeman, Executive Director of the New York State Committee on Open Government and an advocate of proactive disclosure: “Many nations’ laws, several of which were enacted after the turn of the last century, have included information technology as part of their enactments. Mexico, for example requires that government agencies post various records of significant interest on their websites.”⁵⁹

As many of the witnesses testified at the public hearings, transparency and disclosure should be the government’s responsibility. However, few of the products of the Senate’s lawmaking process are made public without Freedom of Information Law (FOIL) requests. Policy institutes like the Empire Center have accepted the burden of organizing data like state expenditures and making it accessible to the public through its website www.SeeThroughNY.net. For the first time this year, the Senate made its expenditure report (April 1 to September 30, 2008) available on its website as a PDF.⁶¹

What information is made available to the public begets the question of how it is made available, i.e., the format. According to John Wonderlich, Sunlight Foundation’s Policy Director, public databases, such as expenditure reports, should allow access from “bulk data download and programmatic interfaces” that would allow the file to be manipulated⁶²

Michael Cohen, a private citizen summed up the issue in just 41 words, his entire testimony: “I respectfully propose that the New York State Senate harness the power of the Internet as a tool for educating the public and for providing transparency regarding the legislative process in the same fashion that President Obama does with federal legislation.”⁶³

ISSUE: COMMITTEE TRANSPARENCY

The results of the committee process are perhaps the most opaque of all the stages of Senate lawmaking. It is difficult, if not impossible, for the average citizen to discern how their member voted on a particular bill without filing a FOIL request. The required minutes of standing committee meetings, which are not commonly recorded, include only summaries of actions and votes during committee meetings, not a stenographic transcript of committee meetings.

It is worth repeating that the transparent manner in which the Temporary Committee proceeded may serve as a model for standing committees: all the public hearings and public meetings were webcast and video is archived to the Temporary Committee webpage. Some committees are already taking the lead by recording meetings and posting the video to YouTube.⁶⁵

RECOMMENDATIONS

1. Post online all records of committees including, but not limited to, votes, minutes, agendas, reports and attendance at the time it is available.
2. Assess the capacity to webcast meetings and the necessary technology/infrastructure.

If extended, The Temporary Committee will work with the Secretary of the Senate to assess the feasibility and cost of webcasting committee meetings by November 1, 2009.

ISSUE: FLOOR/CHAMBER TRANSPARENCY

Records of the floor such as votes on legislation are not easily accessible to the public. In addition, it is difficult to find information about Senate bills through the Legislative Bill Drafting Commission site (<http://public.leginfo.state.ny.us>), which is not user friendly.

RECOMMENDATIONS

1. Post online all records of the chamber and floor as soon as available including, but not limited to fiscal notes, votes, transcripts, calendars and expenditure reports in a searchable format.
2. Create a user-friendly bill search engine with open public access.
3. Archive video of floor proceedings and post daily.

ISSUE: STATE PUBLIC AFFAIRS NETWORK

Senate sessions are broadcast live throughout the state on a legislative channel available on cable systems and via the Internet on SenNet TV. Coverage is limited to floor action and is not archived for future viewing. There are many who believe that there is a demand for a state public affairs network along the lines of C-SPAN.

As Barbara Bartoletti, League of Women Voters of New York Legislative Director, told the Temporary Committee in Albany:

*“I can’t tell you how much that would mean to my members, who sit from Buffalo to Shelter Island, are certainly involved in their communities, are involved through our state office here in Albany in lobbying efforts for all of you. It would certainly do a great deal to encourage the informed and active participation of all of your constituents.”*⁶⁶

She went on to say:

*“C-SPAN would really go a great distance, if it were independent and properly run, to actually letting people say, gee, you know, he does or she does work hard up there. And they would be a whole lot better equipped to pull that lever every two years to reelect or to elect people they think will do their bidding here in Albany.”*⁶⁷

RECOMMENDATION

Work with the Assembly to assess the cost and implementation of a state public affairs network.

If extended, the Temporary Committee will issue a recommendation by November 1, 2009.

4. CHAMBER AND ADMINISTRATION

At the start of session, Majority Leader Smith pledged to reform the rules and the culture of the Senate. One of the issues that he addressed that falls outside the traditional reach of rules was to create a \$350,000 minimum staff allowance for all 62 members of the Senate, a 75% increase from what the most junior Senators in the Minority received in previous sessions.⁶⁸

ISSUE: COMMITTEE STAFF

One of the many cultural shifts at the start of session was to create budgets for standing committee Chairs and allow them to hire their own staff. This represented a clear break with the tradition and culture of leadership control.

Lawrence Norden testified about reasons why Chairs should control their own staff:

“a number of people have already mentioned the hiring and firing of staff, and the control of the budget for committees by leadership. And certainly, it’s something that we have urged changing as—you well know right now, [committee staff] is controlled by leadership. This, again, is different than the vast majority of state legislatures. It’s different than Congress. And as Eric [Lane] mentioned, and I believe one—one of the senators mentioned, this really deprives committees and Chairs

from building their own staff to develop policy in ways that they would like. And, again, I do think it's an issue of who has control over what the agenda is, and that's been the reason for it in the past”⁶⁹

To support robust committee process, the Ranking Members from the Minority conference should similarly be able to hire staff to support their work. Part of a proposal introduced by Temporary Committee Co-Chair Senator Bonacic in 2007 addressed additional funding for Rankers, either \$30,000 or \$50,000 depending on the committee.⁷⁰

RECOMMENDATION

Create a baseline budget for Ranking Members to hire committee staff along the lines of Senator Bonacic's proposal.

ISSUE: FAIR ALLOCATION OF SUPPORT RESOURCES

Many of the services available to members should be shared in a bipartisan fashion. Those services include, but are not limited to, media, printing and technology.

RECOMMENDATIONS

1. Assess all services that will be shared in a bipartisan fashion.
2. Discuss with the Assembly the feasibility of combining services, e.g., mail, supply and telephones, as a cost-saving measure.

ISSUE: CONFERENCE COMMITTEES

When bills that pass both chambers have similar subject matter, though are not exactly the same, a conference committee can be instituted.⁷¹ These are rarely, if ever used. The alternative practice has been that one house substitutes the version of the bill from the other house. As a result, rank-and-file legislators of one chamber are denied input into the final product.

RECOMMENDATION

Allow the sponsor of a bill or Chair of the committee of the bill's original jurisdiction to call for a conference committee on behalf of the Senate with the consent of the Majority Leader.

ISSUE: REGIONAL BUDGET HEARINGS

Budget hearings are traditionally held in limited areas throughout the state depriving the public the opportunity to participate in the process.

Blair Horner referenced the process from decades ago:

“Back in the '80s, there used to be two sets of hearings. There used to be [the] kind on the governmental side [where] people

would come and testify, and then there would be kind of an advocate side of it. So the idea of having that advocacy side of it open to the public on a regional basis I think makes a lot of sense.”⁷²

RECOMMENDATION

Institute regional budget hearings with an emphasis on non-profit/community needs in eight regions: Buffalo (Western New York), Rochester (Finger Lakes), Syracuse (Central New York), Watertown (North Country), Albany (Capital District), Poughkeepsie (Hudson Valley), New York City and Long Island.

CONCLUSION

On April 21, 2009, the Temporary Committee, with all members present, met in Albany for the fourth time in nearly one month to consider and vote on this report. The discussion and vote was preceded by four public hearings conducted throughout the state during the month of February.

Following a robust conversation about the recommendations—there were many that had been agreed upon previously—the Temporary Committee voted to accept the report. The final vote was as follows: six Senators (Klein, Parker, Serrano, Squadron, Stewart-Cousins and Valesky) voted in favor of recommending the report to the Temporary President of the Senate and Majority Leader; three Senators (Bonacic, Griffo and Winner) “abstained;” however, they voted in favor of continuing the Temporary Committee.

APPENDIX A
PUBLIC HEARING WITNESS LISTS

February 6, 2009

Syracuse City Hall
Common Council Chambers Friday
231 Washington Street
Syracuse, New York

NANCY LARRAINE HOFFMANN
Former New York State Senator
(1985 – 2005)

MARK BITZ
(delivered by SHERRY WOODS)
Former Owner
Plainville Farms

PROFESSOR GRANT REEHER
Professor of Political Science
Syracuse University

DOCTOR RAY PETERSEN
Professor of Political Science
Jefferson Community College

DEBORAH WARNER
Vice President, Public Policy
Syracuse Chamber of Commerce

REGINALD NEALE
Member
Citizens for a Better New York

MICHAEL KUNZWILER
(accompanied by DOUG MALONE
and LEE WALKER)
Legislator (Minority Whip and Legislator,
respectively)
Oswego County Legislature

ALAN OBRIST
Citizen of Rochester, Served in Monroe
County on Staff of the President
Monroe County Legislature

STEVE BOLTON
Director
North Country Library

KEVIN GALLAGHER
Private Citizen
Penfield, New York

DAVID LUM
Private Citizen
Pittsford, New York

BRIAN HUGHES
Representative
Liquor Stores of Central New York

NEYSHA ALVAREZ
Student
Syracuse University

JOAN JOHNSON
League of Women Voters of New York State,
Co-President
Syracuse Metro League

KURT SCHMELING
Member
Public Power Coalition

February 10, 2009
Hearing Room A
Legislative Office Building
Albany, New York

BLAIR HORNER
Legislative Director
New York Public Interest Research Group

LISE BANG-JENSEN
Senior Policy Analyst
Empire Center for New York State Policy

E.J. McMAHON
Senior Fellow
Empire Center for New York State Policy

SUSAN LERNER
Executive Director
Common Cause New York

BARBARA BARTOLETTI
Legislative Director
League of Women Voters of New York State

ELIZABETH LYNMAN
Department Director of Research
New York City Budget Commission

ROBERT FREEMAN
Executive Director
New York State Committee on
Open Government

LARRY PENNER
Private Citizen
Great Neck, New York

DAVID GRANDEAU
Former Executive Director
New York State Lobbying Commission

GERALD BENJAMIN
Director, Center for Research Regional
Education & Outreach
SUNY-New Paltz

JESSICA WISNESKI
Legislative Director
Citizen Action of New York

SUSAN RUBENSTEIN
Co-Chair
Common Cause New York

BAHRAM KERAMATI
Private Citizen
Galway, New York

LOREN GESINSKY
Chair, State Affairs Committee
New York City Bar Association

February 26, 2009
[New York State Senate Hearing Room](#)
[250 Broadway](#)
[New York, New York](#)

RACHAEL FAUSS
Research and Policy Associate
Citizens Union of the City of New York

FRANZ LEICHTER
Former New York State Senator
(1975 – 1998)

February 27, 2009
[William Rogers Legislative Building](#)
[The Rose Caracappa Auditorium](#)
[725 Veterans Memorial Highway](#)
[Hauppauge, New York](#)

SEYMOUR LACHMAN
Former New York State Senator
(1997– 2004)

STEVE LEVY
Suffolk County Executive

ERIC LANE
Senior Fellow
Brennan Center for Justice at
NYU School of Law

JEFF GUILLOT
Nassau Government Efficiency Project
Long Island Progressive Coalition/Citizen
Action on Long Island

LAWRENCE NORDEN
Senior Counsel
Brennan Center for Justice at
NYU School of Law

ROSE VAN GUILDER
Alliance of Independent Long Island

JEREMY CREELAN
Partner
Jenner & Block

ANDREA VECCHIO

JOHN WONDERLICH
Policy Director
Sunlight Foundation

LISA TYSON, MARK MANAS
Director, Representative
Long Island Progressive Coalition

TOM SUOZZI
Nassau County Executive

FRED GORMAN
Founder
Long Island Association for Education
Reform
Long Islanders for Educational Reform,
(TaxPac)
Member, Executive Member
East Islip Taxpac, Long Islanders for
Educational Reform

MICHAEL COHEN
Educator

JOSEPH FRITZ
Attorney

JIM McDONALD
Private Citizen

EDNA VALENTE
Member
The League of Women Voters of New York
State

DENISE KNUTSEN
Private Citizen

APPENDIX B

R8 SMITH

Resolutions, Senate

TITLE....Provides for the creation of a temporary Senate committee on rules and administration reform

01/12/09 ADOPTED

SUMMARY:

Senator Smith

SENATE RESOLUTION providing for a Temporary Senate Committee on Rules and Administration Reform

WHEREAS, The Senate finds that there is a need for a thorough review of the legislative process in the Senate and of the administration of the Senate; and

WHEREAS, The Senate is committed to reforming the rules of the Senate, as well as the administration of the Senate generally, to create a more participatory and transparent legislative process; and

WHEREAS, The effort to change the legislative process in order to ensure a more open, effective and responsive Senate should be undertaken openly, and with the input of the public and interested organizations; now, therefore, be it

RESOLVED, That the Temporary Senate Committee on Rules and Administration Reform is hereby established, to consist of nine Senators appointed by the Temporary President of the Senate, two of whom shall be designated by the Temporary President to serve as Co-Chairs; and be it further

RESOLVED, That the Temporary Committee is hereby directed to make recommendations relating to revising the Senate Rules to ensure a participatory and transparent legislative process in which each member of the house has the opportunity to influence the legislative process; and be it further

RESOLVED, That the Temporary Committee is hereby directed to make recommendations relating to improving the administration of the Senate, including greater use of the Internet and other electronic media to provide more legislative information to the public, such as live and archived coverage of Senate floor sessions, committee hearings, press conferences and special events; and be it further

RESOLVED, That all hearings and meetings of the Temporary Committee shall be subject to the provisions of article 7 of the public officers law; and be it further

RESOLVED, That the Temporary Committee is hereby directed to make a written report to the Temporary President of the Senate and the Minority Leader of the Senate no later than April 13, 2009.

ENDNOTES

- ¹ Grant Reeher, Professor of Political Science, Syracuse University, Stenographic Transcript of Record at 41, New York State Senate Temporary Committee on Rules and Administration Reform Public Hearing (Syracuse, February 6, 2009).
- ² Sen. Res. 7, 232nd Sess. (2009) provided for the meeting hours of the Senate; Sen. Res. 6, 232nd Sess. (2009) appointed Angelo Aponte to the position of Secretary. The preceding resolutions on January 9, 2009, Senate Resolution 6 provided the meeting hours and Senate Resolution 7 elected Angelo Aponte the Secretary.
- ³ Sen. Res. 8, 232nd Sess. (2009).
- ⁴ Tom Suozzi, Nassau County Executive, Stenographic Transcript of Record at 45, New York State Senate Temporary Committee on Rules and Administration Reform Public Hearing (Long Island, February 27, 2009).
- ⁵ *Supra* note 3.
- ⁶ *Id.*
- ⁷ Request via letter from Temporary Committee Co-Chairs, Senator David J. Valesky and Senator John J. Bonacic to Temporary President of the Senate Malcolm A. Smith and Senate Minority Leader Dean Skelos (April 2, 2009); reply from Senate Temporary President Malcolm A. Smith (April 6, 2009).
- ⁸ Sen. Res. 128 230th Sess. (2007).
- ⁹ Sen. Liz Krueger, *Waking Up the State Senate: 34 Proposals for Reinvigorating Democracy in Albany through Rules Reform* (Oct. 2002), available at <http://www.lizkrueger.com/wakingup.html>.
- ¹⁰ Sen. Eric Schneiderman, Albany 101 (2004), available at http://www.schneiderman.org/pdfs/Eirc_Schneiderman-Albany101.pdf.
- ¹¹ Gerald Benjamin, Director, Center for Research Regional Education & Outreach, SUNY-New Paltz, Stenographic Transcript of Record at 154, New York State Senate Temporary Committee on Rules and Administration Reform Public Hearing (New York City, February 26, 2009). [hereinafter *Gerald Benjamin Testimony Transcript*].
- ¹² Sen. Res. 9, 232nd Sess. (2009).
- ¹³ Seymour Lachman, Former New York State Senator (1993 – 2004), Stenographic Transcript of Record at 23, New York State Senate Temporary Committee on Rules and Administration Reform Public Hearing (New York City, February 26, 2009).
- ¹⁴ 2007 Sen. R. XI § 2.
- ¹⁵ 2009 Sen. R. XI 2 (e).
- ¹⁶ 2009 Sen. R. VI § 2 (d) 4.

¹⁷ 2009 Sen. R. VII § 5.

¹⁸ 2009 Sen. R. II § 10.

¹⁹ Blair Horner, Legislative Director, New York Public Interest Research Group, Oral Testimony before New York State Senate Temporary Committee on Rules and Administration Reform Public Hearing (Albany, February 10, 2009). [hereinafter *Blair Horner Oral Testimony*].

²⁰ Lawrence Norden, Senior Counsel, Brennan Center for Justice at NYU School of Law, Oral Testimony before New York State Senate Temporary Committee on Rules and Administration Reform Public Hearing (New York City, February 26, 2009). [hereinafter *Lawrence Norden Oral Testimony*].

²¹ *Supra* note 3.

²² Jeremy M. Creelan and Laura M. Moulton, Brennan Center for Justice at New York University School of Law, *The New York State Legislative Process: An Evaluation and Blueprint for Reform at 6* (2004), available at http://brennan.3cdn.net/1f4d5e4fa546eaa9cd_fxm6i-yde5.pdf [hereinafter *2004 Report*].

²³ *Id.*

²⁴ Michael Cooper, *So How Bad Is Albany? Well, Notorious*, N.Y. Times, July 22, 2004.

²⁵ See, e.g., *Still Broken After All These Years*. Editorial. N.Y. Times, January 6, 2009; *Defiantly bad: New York's Legislature stubbornly maintains position as the nation's worst*. Editorial. Daily News, January 5, 2009; *Broken Record*. Editorial. The Post-Standard, January 7, 2009.

²⁶ Franz Leichter, Former New York State Senator (1975 – 1998), Oral Testimony before New York State Senate Temporary Committee on Rules and Administration Reform Public Hearing (New York City, February 26, 2009).

²⁷ Gerald Benjamin, Director, Center for Research Regional Education & Outreach, SUNY-New Paltz, Oral Testimony before New York State Senate Temporary Committee on Rules and Administration Reform Public Hearing (New York City, February 26, 2009). [hereinafter *Gerald Benjamin Oral Testimony*].

²⁸ Seymour Lachman, Former New York State Senator (1993 – 2004), Stenographic Transcript of Record at 17, New York State Senate Temporary Committee on Rules and Administration Reform Public Hearing (New York City, February 26, 2009).

²⁹ Blair Horner, Legislative Director, New York Public Interest Research Group, Stenographic Transcript of Record at 56, New York State Senate Temporary Committee on Rules and Administration Reform Public Hearing (Albany, February 10, 2009). [hereinafter *Blair Horner Testimony Transcript*].

³⁰ 2004 Report, at 5.

- ³¹ *Id* at 6.
- ³² Susan Lerner, Executive Director, Common Cause New York, Oral Testimony before New York State Senate Temporary Committee on Rules and Administration Reform Public Hearing (Albany, February 10, 2009). [hereinafter *Susan Lerner Oral Testimony*].
- ³³ Eric Lane, Senior Fellow, Brennan Center for Justice at NYU School of Law, Stenographic Transcript of Record at 40, New York State Senate Temporary Committee on Rules and Administration Reform Public Hearing (New York City, February 26, 2009).
- ³⁴ 2004 Report, at 13.
- ³⁵ *Id.*
- ³⁶ Gerald Benjamin Oral Testimony.
- ³⁷ 2003 Sen. R. VIII § 5.
- ³⁸ Gerald Benjamin Oral Testimony.
- ³⁹ Reginald Neale, Citizens for a Better New York, Oral Testimony before New York State Senate Temporary Committee on Rules and Administration Reform Public Hearing (Syracuse, February 6, 2009).
- ⁴⁰ Lawrence Norden Oral Testimony.
- ⁴¹ 2009 Sen. R. VII § 5 (b).
- ⁴² Andrew Stengel, Lawrence Norden, and Laura Seago, Brennan Center for Justice at New York University School of Law, *Still Broken: New York State Legislative Reform 2008 Update* at 11 (2008), available at http://brennan.3cdn.net/ec21bc2f8e70edb787_j9m6b0k88.pdf.
- ⁴³ 2004 Report, at 7. At the time of the writing of the 2004 Report, the Mississippi Senate had 25 committees; today it has 41.
- ⁴⁴ Sunshine Week: Hearing on Sen. B. S1490, Sen. B. S3453 and Sen. B. S2754 Before the N.Y. State Sen. Temp. Comm. on Rules and Admin. Reform, 2009 Leg., 232nd Sess. (Albany, March 18, 2009); The Bigger Better Bottle Bill: Hearing on Sen. B. S59B Before the N.Y. State Sen. Standing Comm. on Environmental Conservation, 2009 Leg., 232nd Sess. (Albany, March 4, 2009); New York State Medication Cost Containment Program: Hearing on Sen. B. S1645A Before the N.Y. State Sen. Standing Comm. on Aging, 2009 Leg., 232nd Sess. (Albany, March 25, 2009); Progressive Changes to New York State's Personal Income Tax: Hearing on Sen. B. S2021 Before the N.Y. State Sen. Sel. Comm. on Budget and Tax Reform, 2009 Leg., 232nd Sess. (Albany, March 12, 2009).
- ⁴⁵ Lawrence Norden, Senior Counsel, Brennan Center for Justice at NYU School of Law, Stenographic Transcript of Record at 47, New York State Senate Temporary Committee on Rules and Administration Reform Public Hearing (New York City, February 26, 2009). [hereinafter *Lawrence Norden Testimony Transcript*].

- ⁴⁶ 2004 Report, at 7.
- ⁴⁷ Susan Lerner Oral Testimony.
- ⁴⁸ In March, Sen. Daniel Squadron, Vice Chair of the Social Services Committee, asked representatives of counties and New York City who were present at the committee meeting, if they had comments about a bill that would take advantage of various waivers to the federal food stamp program.
- ⁴⁹ 2004 Report, at 18.
- ⁵⁰ 2009 Sen. R. VIII § 4.
- ⁵¹ 2004 Report at 14.
- ⁵² *Id* at 15-16.
- ⁵³ 2007 Sen. R. XIII § 4; 2007 Sen. R. IX § 3 (e); 2007 Sen. R. XI § 2 (e).
- ⁵⁴ Sen. B. S582, 232nd Sess. (N.Y. 2009); Sen. B. S2988, 232nd Sess. (N.Y. 2009); Sen. B. S1989, 232nd Sess. (N.Y. 2009); Sen. B. S2927, 232nd Sess. (N.Y. 2009); Sen. B. S1510, 232nd Sess. (N.Y. 2009); Sen. B. S2404, 232nd Sess. (N.Y. 2009).
- ⁵⁵ Lawrence Norden Oral Testimony; Susan Lerner Oral Testimony; Blair Horner Oral Testimony.
- ⁵⁶ Lawrence Norden Testimony Transcript.
- ⁵⁷ John Wonderlich, Policy Director, Sunlight Foundation, Oral Testimony before New York State Senate Temporary Committee on Rules and Administration Reform Public Hearing (New York City, February 26, 2009).
- ⁵⁸ Lise Bang-Jensen, Senior Policy Analyst, Empire Center for New York State Policy, Oral Testimony before New York State Senate Temporary Committee on Rules and Administration Reform Public Hearing (Albany, February 10, 2009).
- ⁵⁹ Robert Freeman, Executive Director, New York State Committee on Open Government, Oral Testimony before New York State Senate Temporary Committee on Rules and Administration Reform Public Hearing (Albany, February 10, 2009).
- ⁶⁰ Sunlight Foundation, *Principles for Transparency in Government*, available at <http://feedback.sunlightfoundation.com/oogl/8/>; Robert Freeman Testimony.
- ⁶¹ *New York State Senate Expenditure Report* (April 1, 2008 to September 30, 2008), available at [http://www.senate.state.ny.us/SenateReports.nsf/\(\\$all\)/3121DC00F04A20518525756A00741906/\\$file/expenditure419302008.pdf?OpenElement](http://www.senate.state.ny.us/SenateReports.nsf/($all)/3121DC00F04A20518525756A00741906/$file/expenditure419302008.pdf?OpenElement)
- ⁶² John Wonderlich, Policy Director, Sunlight Foundation, Oral Testimony before New York State Senate Temporary Committee on Rules and Administration Reform Public Hearing (New York City, February 26, 2009).

⁶³ Michael Cohen, Private Citizen, Oral Testimony before New York State Senate Temporary Committee on Rules and Administration Reform Public Hearing (Long Island, February 27, 2009).

⁶⁴ Except for the first meeting in Syracuse, where the infrastructure to broadcast live was not yet in place.

⁶⁵ Senator Jose Serrano Chaired a Joint Committee on the Arts and Living Museums meeting on February 3. Senate Committee Cultural Affairs Tourism Parks and Recreation, Ranking member is Joseph Griffo.

⁶⁶ Barbara Bartoletti, Legislative Director, League of Women Voters of New York State, Stenographic Transcript of Record at 107, New York State Senate Temporary Committee on Rules and Administration Reform Public Hearing (Albany, February 10, 2009).

⁶⁷ *Id.*

⁶⁸ Total budget for staff was \$200,000 annually.

⁶⁹ Lawrence Norden Oral Testimony.

⁷⁰ Sen. B. S5088, 230th Sess. (N.Y. 2007). In addition, \$95,000 was proposed for the Ranking member of the Senate Finance Committee.

⁷¹ 2009 Joint R. II.

⁷² Blair Horner Testimony Transcript.