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**Waking Up the State Senate:  
34 Proposals for Reinvigorating Democracy in Albany through Rules Reform**

A Report Prepared by State Senator Liz Krueger

**Preface**

By now, it is common knowledge that "Albany is Broken" - that the process of making law in New York State is neither democratic nor deliberative. Much of the blame for this sad state of affairs is laid at the feet of the real decision-makers in Albany - the "three men in a room" who year after year negotiate out budgets and decide which issues will get addressed and which issues will be ignored, with little or no participation from the over 200 other legislators who are elected every two years to make precisely these decisions. While the Governor, the Majority Leader of the Senate, and the Speaker of the Assembly certainly bear some responsibility for allowing this undemocratic arrangement to persist, they can rightly point out that their role in the process is largely established through rules, procedures and practices that have been institutionalized for decades. One can argue that our current leaders are more or less open than their predecessors, but such variation is only a matter of degree. We find ourselves in our present predicament not because of the flaws of our current "three men," but because of institutional arrangements that work to limit democratic practice in state government, and undermine serious deliberation about solutions to the problems we face.

This report is an effort to address one part of this institutional picture - the rules of the State Senate. It is the culmination of the work I have been doing documenting the specifics of the dysfunction of Albany during my first few months in the State Senate, which have been both informative and disturbing. The impact of rules on the culture of the State Senate is profound, as they serve to create a milieu that frustrates members who attempt to take initiative and rewards members who fall in line without question behind their respective leadership.

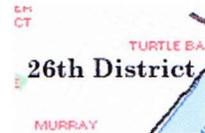
Reform of the Senate rules is only one part of the project of changing the culture of Albany, but it is clearly an important part. Furthermore, while this report does not address issues of reform in the Assembly, much of what is offered up here would be relevant to similar efforts in that body.

The pages that follow will outline a number of proposals for modifying the rules of the Senate, reforming the budget process, and offer suggestions intended to increase the effectiveness of these proposals in restoring democracy and deliberation to our state legislature. The proposals will be discussed in the context of specific examples as to how current rules and practices undermine the ability of the legislature to offer meaningful representation to the people of New York State. We can do better, and this report is an effort to invigorate the dialogue about how to build a system of representation worthy of the people of New York.

**I. Reforming the Rules of the Floor**

The central goals of rules reform should be to increase the involvement of individual legislators in meaningful deliberation over legislation. Unfortunately, neither the formal rules nor the informal practices of the Senate serve this goal. Instead, the rules reward lethargy on the part of legislators, and encourage partisan posturing rather than serious efforts to bring together majority coalitions in both houses behind legislation addressing important issues. These problems can be addressed by developing rules that demand more of our legislators, and that create room for cross party coalitions, which is all the more important in New York State given the continued domination of the Senate and Assembly by opposing parties. This first section focuses on proposals for opening up the legislative process on the floor of the Senate.

**Proposal 1: Prohibit "Empty Seat" Voting:** Senators must be on the floor to be



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recorded as having voted on any bill.

Currently, if a Senator reports to the Senate and is recorded as present in the chamber at any time during the day, he or she can then leave and will be recorded as having voted yes on every piece of legislation that is brought to the floor on that day. Senators can even check in after session is over and will still be recorded as having voted that day. This convenient arrangement helps explain why nothing ever fails to pass the Senate once introduced, since many of the legislators are not even present to hear any arguments raised against legislation. It also suggests how out of touch the Senate is with the real world - in the real world people have to work for a full day if they want a full days pay.

The current policy of allowing empty seat voting does more than encourage laziness on the part of Senators. More importantly, it undermines the possibility of meaningful debate over legislation on the Senate floor. As will be discussed in greater detail below, other arrangements have a similar impact in committees. Requiring Senators to be present when legislation is discussed would allow for serious deliberation over arguments for and against particular legislation. I know from experience debating on the floor that it is possible to change Senators minds about legislation. Requiring members to be present would open up opportunities for a majority of members to stop bad legislation being pushed through by the leadership.

**Proposal 2: Open Bill Sponsorship:** Allow any legislator to join as a co-sponsor of any bill. Currently a prime sponsor can prevent a Senate colleague from adding their name to the list of co-sponsors, and they are frequently required to get approval by the Majority Leader before allowing a member of the minority party to co-sponsor legislation. In practice, this means members of the minority party are rarely allowed to cosponsor legislation. This arrangement has a number of negative effects. It discourages minority party members of the Senate from taking an active and engaged role in their duties. More importantly, limiting co-sponsorships prevents a critical mass of support for important legislation from being publicly documented, particularly if the Majority Leader opposes legislation that may have broad bipartisan support. Finally, limiting co-sponsorships undermines cooperation between the Senate and the Assembly. Since different parties control each house, minority party members in each house are in a unique position. They could serve a much greater role in working out compromises between the two houses if they were given the opportunity for more meaningful participation in the legislative process.

**Proposal 3: Moving Bills to the Floor:** Every bill that is voted out of committee should be placed on the Senate calendar in the order in which the bill was reported out of the committee and must be considered by the full Senate within 60 days of being placed on the calendar, or prior to adjournment, whichever comes first.

Under current Senate arrangements, even bills that are voted out of committee are frequently allowed to languish on the calendar endlessly, because the Majority Leader does not allow them to be placed on an active list for a vote by the full Senate. This practice is undemocratic in that legislation that has passed committees is never brought to the floor for consideration by the full Senate. It is also inefficient, because even legislation that the Majority Leader does allow to reach the floor is often held up until the last days of session, when very large numbers of bills are being brought to the floor. Requiring bills to be moved through the process on a more regular schedule would help eliminate the current situation where huge numbers of bills are considered in the last few days of session, leaving little time for serious review of each piece of legislation. As an example, in the last session, the Senate passed 20% of the legislation for the entire six-month session on the final two days. Bringing bills up for consideration earlier in the session, when the Senate frequently met for under two hours each day, would have allowed more opportunity for serious consideration of the issues at stake in each bill.

**Proposal 4: Limit Senators to 50 Bills per Session:** This limitation shall only apply as follows: a) introduction as sole, multi or prime sponsor; b) does not apply to resolutions, floor amendments, or budget bills; c) does not apply to emergency introductions at the request of the Governor; d) does not apply to bills passed by the Assembly and requested to be brought to the Senate floor for "same as" bill consideration. e) does not apply to "local bills" submitted through a Senator at the request of their county or municipal government.

While limiting the number of bills each Senator can introduce may seem unnecessarily restrictive, I believe it would serve a useful purpose by encouraging legislators to focus on legislative priorities, rather than grandstanding by introducing legislation that they know will never pass both houses. Each year hundreds, if not thousands, of bills are sponsored in the Senate that everyone knows will never receive any real legislative consideration. Both Senators and Assemblymembers introduce bills to please their

constituents, safe in the knowledge that those bills will either never get out of committee in their own house, or will die in the other house. The legislature needs to focus its priorities through a more targeted approach. Limiting the number of bills each Senator could introduce would force them to consider what their priorities really were, and also evaluate legislation that could actually be enacted.

**Proposal 5: Extend Time Limits on Debate:** Debates on legislation should be allowed to continue as long as discussion is germane to the bill. Currently, it is too easy for the majority party of the Senate to end debate before there has been any fair opportunity for important issues to be raised. While most legislation can be fully discussed in the two hours currently allotted for bills, there clearly are exceptions. In the last session, for instance, the Senate substantially limited debate on very complex measures reforming New York City school governance. This important legislation deserved the full consideration that open debate would allow. Creating a germaneness requirement serves to reduce the potential for a minority to use unlimited debate as a way to stall legislation they do not support.

**Proposal 6: Motions to Discharge a Bill to the Floor:** A motion to discharge can be submitted by either conference with five days notice. Debate on a motion is limited to two hours, one hour for each conference. There shall be no limit on the number of motions to discharge that can be offered per session (currently three per session). The vote taken on motions to discharge will be recorded as actual yes/no votes on the floor of the Senate. A current method which can be used to attempt to move a bill from committee to the Senate Calendar is a motion to discharge. In 2001, the Senate took a major step away from open process by substantially limiting motions to discharge, and by eliminating the requirement for a roll call vote on such motions. This change was put in place after Democrats attempted to bring a number of bills to the floor through motions to discharge, and even the Republican sponsors of the legislation were forced by the majority leadership to vote against the motions. A more open motion to discharge process will go a long way toward allowing legislation that has the support of a majority of the senate, but is opposed by the leadership, to have a chance of advancing.

**Proposal 7: Conference Committees on Similar Bills:** Once a similar bill has been passed by both houses, a Conference Committee (which is a committee comprised of members from each house) can be convened at the request of: 1) the prime sponsor from each house or 2) the Speaker and Majority Leader. When in session, conference committees must convene for a "mark-up session" (which includes open debate and consideration of amendments) within two weeks of either of the above form of request. Require that any meeting of conference committees be open to the public. The lack of a functioning conference committee arrangement contributes to stalemate and posturing in the both houses of the state legislature. Both houses know that they can pass legislation that has no chance of advancing through the other house, because there is no mechanism for resolving differences between similar bills except negotiations between the two leaders. Conference committees are a standard device used by modern legislatures to overcome this gridlock. Many of the major failures of the last legislative session, such as the inability to enact Rockefeller Drug Law Reform or sexual abuse reporting requirements for clergy, could have been resolved through conference committees, since similar legislation passed both houses. This proposed rule change would give more power to sponsors to call for conference committees than they have under current rules.

**Proposal 8: Enforce and Strengthening Existing Rules on Bill Memorandums:** All bills reported to the floor must be accompanied by a memorandum that includes, at minimum, the purpose of the bill, changes to current law proposed in this bill, a section by section analysis, procedural history and committee votes. Require that sponsors amend the explanatory memorandum when a bill is amended and brought to the floor for a vote, and that differences between the original bill and the amended version are explained in the memorandum.

Bill memorandums are a crucial tool for legislators, in that they both summarize the changes a bill makes to existing law and offer justifications for the proposed changes. Unfortunately, existing rules on bill memorandums are frequently ignored. Late in the session, when legislation is being pushed through with little review, memorandums are cursory at best and sometimes nonexistent. It is exactly at such times that detailed, accurate bill memorandums are most important, since they offer legislators an efficient way to make judgments about the usefulness of legislation. In addition, while there is an official rule requiring that memos be updated when bills are amended, this rule is rarely followed. Amended memos rarely contain details on the changes of the bill. The version of a bill finally brought to the floor for a vote maybe the 2nd, 3rd or 4th version (S

### - A, B, C, etc.), and memos must reflect the new contents of the bill. Unfortunately, the current practice frequently involves no more than adding a letter to the bill number in the memo without updating the contents of the memo. Adding a requirement that memos for amended bills include a description of the changes the amendment makes on the original bill would clarify the rules requirements.

## II. Reforming the Committee System

In most legislatures, committees play a vital role in the evaluation of legislative proposals. Because committees allow legislators an opportunity to specialize in particularly policy areas, they can offer the opportunity for the development of legislative expertise that results in better legislation emerging from committees and reaching the floor. Unfortunately, in the New York State Senate, committees are little more than rubber stamps for the will of the Majority leader. Many members do not bother to attend committee meetings at all. Committees rarely hold hearings on legislation. Legislation is not amended in committee through a deliberative process. Most of the legislation referred to committee is never even considered. Therefore, to truly develop a more democratic and deliberative legislature, rules must be put in place that will invigorate the Senate committee structure. This section offers my proposals for accomplishing this goal

**Proposal 9: Allow Majority and Minority Conferences to Elect Committee Chairs and Ranking members.** Currently, the majority and minority leaders appoint committee chairs and ranking members. This diminishes the independence of committee leadership, and contributes to the problem of committees acting as a rubber stamp for the Senate leadership. By allowing conferences to elect committee chairs, as is the practice in the United States Congress, the power of both individual members and of committee chairs and ranking minority members of committees would be strengthened relative to the Senate leadership.

**Proposal 10: Allow both the Committee Chair (majority party) and the Ranking member (minority party) to place bills on the committee agenda for discussion, debate and vote to move legislation to the floor for full consideration.** At present, only the Committee chair, with strict oversight by the majority leader, set the agenda and determine whether bills will be discussed. By allowing the ranking minority member to place bills on the agenda, a wider array of legislation will be considered, and the possibility of cross party coalitions developing on legislation not supported by the Senate leadership will be increased.

**Proposal 11: Committees must consider placing legislation on a committee agenda if any member of the committee files a "request out" form for committee consideration.** The Chair and Ranking member may jointly determine there is a legitimate reason to not place a bill on the committee agenda, but must provide a written statement to the requesting committee member explaining why the bill fails to meet the requisite standards for placement on the committee agenda. This rule would increase the power of individual committee members to get legislation brought up for consideration, but would still allow the committee leadership to stop consideration of legislation not in keeping with a particular committee's jurisdiction. This rule can be seen as complementary to the limitation on bills listed in the previous session - the tighter restrictions on bill introduction allow for a more open process of bill consideration, since there are a smaller number of bills to be evaluated.

**Proposal 12: Committees must move legislation from committee to the floor calendar for a full Senate vote when petitioned by a simple majority of the elected members of the Senate.** This rule provides a mechanism for moving important legislation that is stalled in committee. It would have the potential to encourage the development of cross-party coalitions that could challenge leadership control of the Senate around specific issues where popular sentiment supports legislative action. This also removes a convenient excuse used by elected officials that a bill is "stuck" in committee, thereby making them more accountable to their constituents.

**Proposal 13: Proxy voting on bills at Committee meetings shall be prohibited.** Members must be present to vote on legislation in committee. Just as members are currently allowed to avoid participating in floor debates, they can vote by proxy in committees. This practice undermines the ability of committees to have meaningful debate over legislation, since it is not uncommon for only one or two committee members to be present at meetings. There is simply no justification for not requiring legislators to show up at their job. Proxy voting is already prohibited by the Assembly, and the Senate should adopt a similar rule.

**Proposal 14: Representation on each committee should be based proportionally on the party distribution of the Senate membership.** For example, if 40% of Senators are from one party, then the committee membership should reflect this ratio. This rule would ensure that minority parties are appropriately represented in the committee structure.

**Proposal 15: Staff Hiring for Committees:** Each committee shall be authorized to hire its own professional staff. A set budget for each committee's staffing and resource needs should be allocated proportional to the party distribution of the Senate membership (if the Senate is split 60%/40% by party; each committee's staff and resources should be distributed in a proportional manner). This rule would benefit committee members from both the majority and minority parties by providing them with the resources to conduct a meaningful evaluation of legislation. Currently, the centralization of staff resources with the majority and minority leadership undermines the independence of committees. Committees with professional staff would be capable of conducting investigations and holding substantive public hearings. These capabilities would put them in a much better position for fulfilling the role committees perform in more functional legislative bodies - that of experts in a particular policy arena.

**Proposal 16: Committee Chairs and Ranking Members will be authorized to schedule and hold public hearings with committee staff and resources.** All Committee members must be invited to participate in public hearings. Currently only Committee Chairs can hold public hearings, and in practice, minority party members of the committee are not permitted to participate in the hearing. When I attempted to participate in one such hearing, the committee chair cancelled the hearing and convened a "Majority Task Force Hearing" instead as a way of keeping me from participating. This current practice ensures that whatever hearings are held will be entirely partisan. By creating a rule that encourages bipartisan hearings, there will be a greater opportunity for meaningful debate rather than mere posturing over issues of importance to New York.

**Proposal 17: Absent support from the Chair/Ranking Committee member, three or more members of a committee may petition for a committee hearing, which can be over-riden by a majority vote of the committee.** This rule increases the power of individual members in cases where committee leadership opposes discussion of a particular issue.

**Proposal 18: Committee of Origin:** All bills must go through the committee of origin at a formal committee meeting, rather than relinquishing decision-making authority to the Rules Committee. All committees shall remain in operation through the legislative session. Exceptions can be made for gubernatorial messages of necessity, with the caveat that the use of such messages should be limited to clear cases where action by the legislature is needed immediately. Under current practice, committees no longer regularly meet several weeks before the end of session for all practical purposes, and all legislation is introduced to the floor through the rules committee, whether or not the bill was ever considered by the appropriate issue committee. This practice completely undermines any possibility of committee debate. While such a practice is in some ways made necessary by the end of session bottleneck that is created under the current system, many of the above listed reforms would help alleviate that bottleneck by spreading out session business, and would create the opportunity for committees to continue to function throughout the legislative session.

**Proposal 19: Calling of Committees from the Floor:** Committees cannot be called from the floor without unanimous consent of committee members and a copy of the committee agenda approved by the Chair and Ranking Member. Under current rules committees are frequently called from the floor of the Senate, forcing members to choose between remaining in session and attending committee meetings (and contributing to the need for a proxy voting system). Furthermore, this frequently occurs when there is no pre-set agenda for the committee available prior to the meeting. While there may be emergency situations where committees must be called from the floor to consider urgent legislation, the rules should make clear that these situations should be the exception, and not the rule.

### III. Reforming Senate Administration and Finance

The power of the Senate majority leadership is reinforced through control of the Senate administrative apparatus. In addition, all legislators receive stipends for leadership posts and committee work based on their party and rank. Reform of the allocation of resources would help equalize the power of individual members, and ensure that the majority and minority had access to resources commensurate with their representation in the Senate. The following rules would help accomplish this:

**Proposal 20: Majority/Minority Central Staff and Resource Distribution:**

Allocation of funding for Majority/Minority Leader staff and resources should be allocated proportionally to the party distribution of the Senate membership (if the Senate is split 60%/40% by party; centralized staff and resources should be distributed in a proportional manner).

**Proposal 21: Equalize Staff Resources for Senators:**

Each Senator represents comparable numbers of constituents and should receive equivalent allotments for staffing, office equipment, postage and mailings needed to serve their districts. District Office rent costs are likely to vary based on significant variations in office rent expenses in different areas of the State.

**Proposal 22: Eliminate Stipends for Leadership Titles and Committee Chairs and Ranking Minority Committee Members:**

Every State Senator receives a stipend on top of their salary, because every single member of the Senate is given a floor or committee leadership post within their conference or ranking membership of a committee. Stipends also vary greatly depending on one's position in the hierarchy of the Senate - from \$18,000 to over \$80,000. These stipends are an unnecessary perk for Senators, and the Senate should follow the example of the New York City Council by eliminating them.

**IV. Reforming the Budget Process**

The failures of the New York State budgeting process are legendary. Even majority leader Joe Bruno has acknowledged that it is "dysfunctional." The problems with the State budget process fall into two broad categories. First, the process of budget making is not organized in a rational manner to allow for resolution of budget issues in a timely manner. Second, the budget that results from this process is extremely vague, making it hard for legislators or interest groups to know what is actually being funded, and allowing the governor far too much discretion in how monies are actually spent. The following reforms, some of which could be accomplished through rules changes, but most of which would require legislative action are designed to address these two key issues.

**Proposal 23: Move the beginning of the State Fiscal Year from April 1st to June 1st.** This is a more realistic time frame for the budget given the schedule of tax revenue projections (post-April 15th filing) and the beginning date of session.

**Proposal 24: If the Legislature has failed to pass a budget by the first day of the fiscal year, allow no legislation to be considered by any committee or on the floor of the Senate or Assembly unless the bills are specifically related to the budget.** The members shall be forced to focus on the State's fiscal circumstances and nothing else.

**Proposal 25: If the budget has failed to be enacted by the beginning of the fiscal year, amend the calendar of both the Senate and Assembly to convene every day with the exception of weekends and the observance of holidays until the budget has been adopted.** While member's paychecks are withheld when a budget is late, it is a mere inconvenience with banks readily offering lines of credit should the need arise. However, should a member be required to attend session daily in Albany, forgoing vacations and personal commitments, they may be prone to impress upon their leaders the urgency of negotiating and enacting a timely budget.

**Proposal 26: If the legislature has failed to reach agreement on the budget by the beginning of the new fiscal year, emergency appropriation bills should only be allowed to be in effect for a one week maximum, which will limit the ability to delay adoption of the budget through failure to negotiate for weeks on end.** The previous three requirements, which would require legislation, would force the legislature to focus its energies on getting the budget passed in a timely manner.

**Proposal 27: Create a nonpartisan Legislative Budget Office** to provide objective analysis of the State's budget and fiscal situation. Modeled on the Congressional Budget Office (CBO), the mission of the LBO would be to provide non-partisan budgetary, economic, and policy analysis for the residents of State and it's elected officials, and to increase New Yorkers' understanding of and participation in the State budget process. Legislation has been introduced in the Assembly (A.10419) that would accomplish this goal.

**Proposal 28: Require that the budget be sufficiently itemized and detailed to inform the public as to how the Governor and Legislature intends to spend appropriations and where the revenue will be available from to meet the targeted expenditure levels.** The current overly broad lump sum categories within budget bills do not provide for adequate transparency of government

spending. This creates a situation where projects containing hundreds of millions of dollars of expenditures are voted on in the legislature even though no legislator is able to explain what the spending will be used for. In essence, slush funds are created for the Governor to use as needed to fund pet projects, with no oversight. A more detailed budget would address this problem. These details are particularly important relating to any funds intended for distribution through off-budget authorities (such as the Empire State Development Corporation), because once these funds are approved in the budget, there is little opportunity for further public scrutiny.

**Proposal 29: Prohibit the re-appropriation of any funds not expended by the State in any fiscal year, pending reauthorization in the current year's proposed budget.** Every year billions of dollars of dollars are included in the budget that do not get spent, and then get rolled over to the following year with no assigned purpose. This has the effect of creating a rolling slush fund that the governor can spend as he pleases, with no oversight from the legislature or the public. Requiring unspent funds to be included in the budget in future years would create a way of following this money and making sure that it was being utilized in appropriate ways.

**Proposal 30: Require that budget bills be available to legislators and the public at least 10 working days prior to the scheduled full house votes.** The current budget process is effectively closed to public participation during the crucial period after the budget bills are presented, because they are presented the same day they are passed. This gives legislators and the public no chance to evaluate the full implications of the budget. This process increases the power of the "three men in a room" by ensuring that they are the only ones in a position to really know what is in the budget.

**Proposal 31: Require that the finance committee of both houses hold joint conference meetings with the relevant issue committee members (open to the public) for each of the 11 budget bills during this time period.** The legislature has only occasionally used conference committees, and even when committees have been used, they have been given the ability to consider only a small fraction of the budget. A functioning conference committee system would be a huge step to opening up the budget process to public scrutiny.

**Proposal 32: Require that Budget Conference Committees Meet at the Request of the Chair from either the Senate or Assembly** This proposal would empower either co-chair of the conference committee to unilaterally call a meeting of the committee and decrease delays. This would prevent one party from undermining the conference committee process by refusing to meet.

**Proposal 33: Prohibit Non-Budget Items be added in Conference Committees:** Bar conference committees from adding policy items to the budget that neither the original Senate nor Assembly versions of the budget contained. Currently, it is common practice to attach non-budgetary items to the budget in order to get them passed with little public scrutiny. For example, in the last session, a bill extending video poker gambling was attached to the budget, as was a bill requiring insurance companies to cover infertility treatment. Sometimes these items are worthy of being passed, sometime not, but the practice of attaching them to the budget is indefensible in any case, because it prevents legislators from evaluating these measures on the merits.

**Proposal 34: Equalize Member Item Funding:** Member item funding shall be distributed equally between the Senate Districts. No district should be penalized based on the party membership of their elected officials. All member items should be listed in a separate section of the budget with a stated purpose for the funds awarded. Member item funding is currently one of the great mysteries of the budget process - the majority and minority leadership divide up very different pots of money amongst their members, who then distribute it to (hopefully) worthwhile organizations in their community. A Republican member typically gets about 2 million dollars to distribute while a Democrat usually gets less than \$200,000. Beyond this obvious inequity, another major problem with member item funding is the difficulty in tracking them in the budget. By requiring that they be clearly identified, and linked to the member authorizing the funds, it will be much easier to evaluate the worthiness of this particular mechanism of funding.

## Conclusion

The State Senate is broken, but it can be fixed. The key is to build a coalition of legislators on both sides of the aisle who recognize the need for change. I am convinced that many of my colleagues - both Republicans and Democrats - do recognize that need. My experience in my first few months in Albany has convinced me that while some of my colleagues are satisfied with their limited

role, and minimal responsibilities, many others recognize that they are not being given the opportunity to do the job they were elected to do.

The proposals offered above are a starting point for a discussion of how we can make the Senate a more democratic, more deliberative body. I look forward to working with my colleagues and with advocates of a more open government to accomplish these goals.

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