

BRENNAN
CENTER
FOR JUSTICE

Brennan Center for Justice
at New York University School of Law

161 Avenue of the Americas
12th Floor
New York, New York 10013
212.998.6730 Fax 212.995.4550
www.brennancenter.org

November 11, 2009

Senator David Valesky
416 State Capitol Building
Albany, New York 12247

Dear Senators Valesky and Bonacic:

We write regarding the work of the Temporary Committee on Rules Reform. First, we congratulate the Senate on making significant strides in reforming its operating rules to distribute member resources more equitably, allow members to move legislation to the floor over the wishes of the majority leader, impose term limits on chamber leadership, and increase transparency for the actions of individual members, committees and the full chamber. All of these are significant reforms that provide the Senate with the opportunity to become a more accessible, accountable and efficient chamber. And they place the Senate far ahead of the Assembly in creating a more democratic body, where rank-and-file members will have a greater opportunity to represent their constituents and ensure that the concerns of those constituents get a public airing in the full chamber.

Our greatest reservation about the Senate's rules changes thus far has been the failure to significantly alter the committee process. Based on our studies in this area, as well as our work in other state legislatures and Congress, we believe that there is no area in the New York state legislative process in greater need of reform than the committee process. We understand from communications with Senators and legislative staff that the Temporary Committee plans to take up this important topic in the coming weeks.

As you are aware, Senators currently sit on so many committees that it is difficult for many these Senators to devote enough time to any of them. There is still no process for reading bills in committee or even for requiring committee members to show up to meetings. Committee reports are almost always perfunctory and lack any description of committees' work on bills (in addition to making it more difficult for other legislative members and members of the public really understand these bills, a lack of real committee reports -- unique to New York -- makes it exceptionally difficult for the courts to determine legislative intent in cases where the law is unclear). And while the new rules allow members to petition for hearings, it does nothing to require hearings on major legislation.

We strongly urge you to recommend the following changes to the committee process:

1. Reducing the number of legislative committees on which individual Senators may serve to no more than three to four, as is typical in other state legislatures (including such large states as California, Florida, Illinois, Michigan, Ohio and Pennsylvania);
2. Requiring committee reports issued with any bill voted out of committee to set forth the purpose of the bill, the proposed changes to existing law, section-by-section analysis, the bill's procedural history, committee or subcommittee votes, and any individual members' comments on the bill;
3. Requiring a process for reading, debating and amending any bill before it receives a vote from the committee (absent a vote by the committee to forego that process for any particular bill);¹
4. Providing each committee with explicit control over its own budget and the hiring and firing of all committee staff; and
5. Institutionalizing conference committees, so that when bills addressing the same subject have been passed by both chambers, a conference committee will be convened at the request of the prime sponsor from each chamber or the Speaker and Majority Leader.

If the Senate passes these changes, it will largely fulfill its promise to overhaul its operating rules to promote representation, deliberation, accessibility, accountability and efficiency. Given the challenges New York currently faces, we believe that such changes could not come at a better time.

Sincerely,

Lawrence Norden
Senior Counsel, Democracy Program

cc: Sen. Pedro Espada
Sen. Joseph Griffo
Sen. Jeffrey Klein
Sen. Kevin Parker
Sen. John Sampson
Sen. José Serrano
Sen. Malcolm Smith
Sen. Daniel Squadron
Sen. Andrea Stewart-Cousins
Sen. George Winner
Shelly Mayer, Counsel to the Majority
Andrew Stengel, Senior Policy Adviser for Government Reform

¹ This process could be similar to the process used by the Senate Committee on Cities on May 19, 2009.