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More Voice for the People?

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By Eric Lane and Laura Seago

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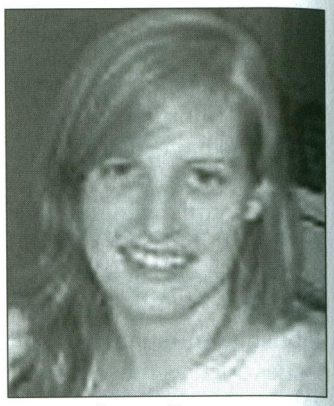
The question is whether the New York State Constitution should be amended to provide a broader and deeper voice for New Yorkers in their government. Our answer is unequivocally "yes." But any constitutional changes should directly address the failures of New York's notoriously dysfunctional legislature, including the system by which its members are elected. Specifically, we focus on the operations of the legislative chambers, the campaign finance system, and the system of legislative reapportionment. The reforms we suggest are intended to make our current institutions more democratic and to preserve the integrity of New York's system of representative democracy. If implemented, they should help to restore the voices of New Yorkers to the halls of state government. We argue against "reforms" such as initiatives and referenda and term limits, which have historically allowed factions to tighten their holds on the jurisdictions in which they have been employed.

Our conclusions reflect the perspective on public voice that informs the United States and New York Constitutions. For the Framers, freedom required the representation of the nation's broad array of voices (which would grow broader with the expansion of the franchise) in government, but also demanded that no particular voice (interest) be easily able to dominate another. "There is no maxim in my opinion," Madison wrote, "which is more liable to be misapplied and which therefore more needs elucidation than the current one that interest of the majority is the political standard of right and wrong."[1] To thwart this tyranny of the majority, bicameralism, separation of powers, and checks and balances became the hallmarks of the both the United States and New York Constitutions. History taught the Framers of the dangers of both unheard and unstrained voices and history continues to teach their lesson. From these lessons, we draw our proposals for a more accessible, less leadership- and special interest-dominated legislature, which at the same time protects a restrained lawmaking process that acknowledges the founders' justified wariness of the tyranny of the majority.

The New York State Legislature

Even the least observant New Yorkers are likely aware of the deafness of the New York State legislature to the voice of the people. Newspapers throughout the state have long reported on and editorialized against the legislature's dysfunction,[2] and three reports by the Brennan Center for Justice have provided both qualitative and quantitative support for their conclusions.[3] In Albany, only a few people are heard, typically wealthy political donors and special interests with a stake in legislative business. And in Albany, "to be heard" is to be heard by those who are in charge of virtually all decision-making, the "Three Men In A Room:" the Governor, the President Pro Tempore of the Senate, and the ultra-powerful Assembly Speaker.



Laura Seago

This is not because New York legislators do not spend time with their constituents in their home districts. They do. In fact, given the small amount of time occupied by their legislative responsibilities, they spend plenty of time at home performing constituent services. And it is not because legislators do not translate constituent concerns into legislation. In fact, New York legislators introduce more bills than members of Congress or the members of any other state legislature. In 2008, for example, members of the New York Legislature introduced more than 18,000 bills. Just 1,634, or 9%, passed both chambers.[4] In that same year, members of the United States Congress introduced fewer than 11,000 bills and members of the New Jersey legislature, the state with the next-highest bill introduction rate, introduced only one-third the number of bills introduced in New York. While the Brennan Center has cited these figures as evidence of legislative dysfunction,[5] it can also be read as evidence that bill introduction is the only point at which rank-and-file legislators are given the power to substantively weigh in on many issues. The problem is not that legislators do nothing, but rather that their attempts to represent their constituents through their policy decisions are undermined by Albany's leadership-dominated culture in which, reports the Brennan Center, "[m]ost legislators [regardless of party] are effectively shut out of the legislative process, particularly at the most significant stage, when the leadership determines which bills should be passed and in what form. As a result, New Yorkers' voices are not fully heard, and bills are not tested to ensure that they reflect the public's views."[6]

In Congress and in most state legislatures, legislators and their staff study an issue in the course of a committee process that includes hearings, debate, and a public reading for amendments called a "mark-up." Bills reported out of committee are accompanied by reports showing the substantive work of the committee on the bill, which guide the

rest of the chamber in deciding how to cast their votes and which can be used by the courts in determining legislative intent. Members' votes on bills with budgetary implications are further informed by a fiscal analysis prepared by a qualified state employee. Legislation is then subject to an aging period to allow members adequate time to review the legislation, and debate prompts further examination of the specific language of the legislation and protects against hasty decision-making. Once a bill passes both houses, most legislatures subject it to a conference committee to collaboratively reconcile differences in each chamber's version before sending it to the governor.[7]

In New York, almost none of these things occur. This is largely attributable to New York's history of a leadership-dominated legislative process, which undercuts normal legislative procedures from the outset. A hollow committee process ensures that legislation with which the leadership does not agree—even that with broad support amongst the public and rank-and-file legislators—will never gain momentum through early exploration; instead, leadership shapes and solicits support for important legislation in closed-door party conferences that are not subject to the public disclosure requirements in the state's freedom of information or open meetings laws. Committees rarely substantively deliberate on bills and never read them for amendments, acting instead as a rubber stamp for those bills that have the support of chamber leadership and a bottleneck for those that do not. By the time a bill reaches the floor of the full chamber for a vote, its passage is a foregone conclusion, and as a result, rank-and-file members have little interest in debating or even reading the legislation on which they must vote. Members are further shut out of the process through the abuse of messages of necessity, a constitutional provision allowing the governor to circumvent the regular aging of bills for emergency legislation or non-emergency legislation that might be stymied by regular review and debate. Bills that are not guaranteed to pass almost never make it to the floor.

Leadership control over the legislative process effectively prevents the public voice from influencing or even being a part of lawmaking. In addition to weakening the rank-and-file to the extent that they cannot represent their constituents' interests, the tight control over the legislative process maintained by chamber leadership also makes it all but impossible for the public to effectively convey their views to their elected representatives in the first place. The opacity of the legislative process makes it difficult to ascertain where legislators stand on an issue, a prerequisite of an effective advocacy strategy. And the limited resources that allow a member of the public to determine where a legislator stands on a bill are available through public records requests that often take weeks or months to process.[8] Unlike many other state legislatures, the New York State Assembly does not, as of this writing, provide minutes, hearing and debate transcripts, committee voting records, and fiscal analyses to the public in an easily accessible online format. The Senate provides many of these resources, but it can take weeks to post debate transcripts. The "active list" of bills selected by chamber leadership to receive floor consideration on the following session day is often a secret, even to legislators, until the eleventh hour.[9] Other materials critical to public understanding of where a bill stands, such as written committee meeting minutes, earlier versions of amended bills, or substantive reports setting forth a committee's work on a bill do not exist at all.[10]

Examples of the impact of Albany's legislative dysfunction on public input abound, but perhaps the most egregious example in recent years is the 2008 proposal for establishing a system of congestion pricing in New York City. Although the proposal had the support of the City Council and a majority of voters statewide,[11] legislative leaders killed the bill in secret negotiations, skipping even New York's perfunctory committee process. The Assembly majority deemed a proposal to establish congestion pricing "so important that the [Democratic] conference substituted for a committee meeting."[12] In other words, the legislation was "so important" that minority party members—representing 5.5 million New Yorkers—were stripped of the opportunity to weigh in on legislation either in committee or before the full chamber. Negotiations ended when Speaker Silver emerged from a closed-door meeting and proclaimed the proposal dead. Majority party members argued that all members had the opportunity to voice their opinions by expressing them to the speaker individually or at the party conference,[13] but any such activity occurred outside the formal legislative process and away from the public eye.

Recommended Amendments

Although many of the problems that silence New Yorkers' voices in the legislature could be solved with reforms to both chambers' operating rules, constitutional reforms may be the best solution to the most critical problems that the legislature has proven itself too obstinate to solve. Despite the New York State Constitution's commitment to legislative discretion in adopting their own rules of behavior, historically poor legislative processes have resulted in constitutional amendments that imposed narrow operating rules on the legislature. Examples of this include the rules that require all bills to be printed and all bills to remain on the desks of the members at least three days before they can be acted upon. Constitutional amendments that would ameliorate the leadership's stranglehold on the legislative process should include:

- Eight-year limits on the terms of legislative leadership.
- A requirement that all bills enacted into law pass through standing committees and are accompanied by a report showing staff analysis of the bill, transcripts of hearings, statements of support for and opposition to the bill received by the committee, the minutes of committee debate on the bill and, where

appropriate, copies of amendments and technical changes introduced in committee.

- A requirement that no bill shall be reported out of committee of first reference until it is subject to a public hearing, unless 2/3 of the membership of that committee votes to dispense with a hearing.
- A requirement that all party conferences be open to the public unless a 2/3 supermajority of the conference votes to close them.
- A requirement that legislative committees keep a journal of their proceedings, as the full house is currently required to do under the constitution.
- An explicit statement that New York is a full-time legislature and a ban on legislators collecting secondary income in excess of 35% of their legislative base salaries.

The Voice of Money

New York's byzantine campaign finance laws also obscure New Yorkers' ability to participate in government and have their voices heard by amplifying the voice of the wealthy few at the expense of the majority. Individuals in New York are allowed to contribute up to $94,200 annually to political parties; a total of $55,900 to cover the primary and general election campaigns of statewide candidates; a total of $15,500 to state senate candidates and $7,600 to assembly candidates. By contrast, contributions to candidates for President of the United States are limited to $4,800 for both the primary and general election. New York's astronomically high contribution limits aren't limits at all. Donors can also give an unlimited amount of money to party "housekeeping" accounts, and parties can transfer unlimited funds from their accounts to the candidates of their choice. This effectively shrinks legislators' constituencies to a few wealthy individuals whose donations vastly overshadow those given by average voters.

New York's campaign finance laws also favor special interests. While twenty-nine other states impose restrictions on campaign fundraising during the legislative session and on lobbyists' involvement in campaigns,[14] New York's combination of high contribution limits and the commonplace practice of incumbents holding fundraisers near the Capitol during the legislative session promotes a heavy reliance on donations from special interests, typically those with business before the government. Moreover, since first campaign filings are due July 15th, there is no way to know who is making contributions while the legislature is in session. As the New York State Commission on Government Integrity wrote in 1991, "the central purpose of New York's disclosure requirements—informing the public in a timely fashion of the nature and extent of sponsorship of candidates for public office—is defeated."[15] Since the commission concluded its work, the only improvement in campaign finance disclosure laws has been the introduction of electronic filing; many donors remain obscured by the nondisclosure of business affiliations or corporate subsidiaries, and many contributions are not disclosed at all. As the trial of former Senate Majority Leader Joseph Bruno this fall revealed, lawmakers are able to collect significant amounts of money from individuals who do business with the state without disclosing that income. When policy choices affecting these entities arise, lawmakers are far more beholden to their special interest donors than to the people of New York.

Recommended Amendments

It is entirely possible to set stricter campaign finance requirements through statutory remedies, but as with rules reform, it may be prudent to codify the basic outlines of these remedies through constitutional requirements in order to shore against the political whims of the legislature. While specific dollar limits and expenditure requirements needn't be constitutionally mandated, a constitutional amendment could create a new public financing system in New York, as was done in the New York City charter:

- Establish a voluntary system of public financing of elections that provides matching funds for small contributions. Authority over the specific rules of this system, including the ceiling on the size of donations matched and the matching ratio, should be given to the State Board of Elections.

Redistricting

One of the most pernicious ways in which New York's leaders undermine the voice of the people is by limiting their opportunities to vote their representatives out of office, thereby removing voters' key failsafe for circumstances in which elected officials do not represent their interests. Legislators are responsible for drawing the districts from which they are elected, rendering meaningful challenges extraordinarily difficult. Incumbents create districts that provide them with the maximum electoral advantage, distorting the democratic process: neighborhoods are split, competing candidates are drawn out of contention, groups of voters are "cracked" or "packed" to manipulate their voting power.

For example, in the 2000 Democratic primary for a Brooklyn legislative seat, then-newcomer Hakeem Jeffries challenged a long-time incumbent and won more than 40% of the vote. When New York redrew its districts the next year, the legislators in charge of the redistricting process—including the incumbent whom Jeffries challenged—cut the block where Jeffries' house was located out of the district. In the 2004 election, with Jeffries out of the picture, the incumbent ran unopposed. This type of gerrymandering is a likely, even expected, outcome of a system in which legislators draw district lines with no meaningful oversight from an independent body: "the motivation usually fueling any legislatively drawn district plan is the protection of incumbents. Other goals are a gain in party advantage and

the reward or punishment of particular members."[16] Even when each house of the legislature has been controlled by a different political party, no sparks have flown. Each house has historically agreed with the other to defer to the other house's districting plan for its own members.

This incentive structure serves to diminish the voice of the people. As discussed above, the protection of incumbents dilutes voters' ability to voice their dissatisfaction with their elected representatives by voting against a challenger. Similarly, a gain in party advantage translates to a larger majority in the legislature. This is not necessarily a problem if it represents the political persuasions of voters in the state, but as the Assembly has demonstrated, large majorities entrenched through redistricting serve to stifle debate in the legislature and render dissent virtually meaningless. Finally, rewarding or punishing individual legislators is both the exercise and the further entrenchment of the leadership stranglehold of the legislative process, which, as discussed above, diminishes the voice of the people by rendering the job of rank-and-file legislators largely irrelevant.

The process by which redistricting plans are drawn also ignores the voice of the people. Redistricting plans are created and reviewed in secrecy; by the time the plans are made available to the public, the decisions have been made. While perfunctory hearings on the redistricting plans do typically occur in New York, legislators are never required to—and typically do not—revise their plans based on public input, or even justify their redistricting decisions to the public. New York's statutorily-mandated redistricting advisory commission, the Legislative Task Force on Demographic Research and Reapportionment, is appointed by legislative leadership and comprised primarily of legislators. Unsurprisingly, it does not serve as an effective check on the power of legislative leaders, who employ the same strategy in redistricting that they do with all important decisions in Albany—convening the "three men in a room" to devise a plan, and pushing it through the formal legislative process once it is set in stone.

Recommended Amendments

The New York State Constitution already provides for the apportionment of legislative districts by the legislature, based on census data. Two constitutional amendments could provide a check on the legislature's power and open the redistricting process to public view:

- Set an explicit requirement that no redistricting plan shall be enacted before a 45-day public comment period has passed.
- Establish an independent backup commission not comprised of members of the legislature and separate from the statutorily-established redistricting advisory commission, to draw the district lines if 2/3 of each chamber cannot agree on a redistricting plan. Connecticut uses this model.

Two "Reforms" to Ignore

Even the most optimistic, sage observers of New York and national politics cannot help but wonder whether New York would be better served by (here we bite our tongues) initiatives and referenda or even a term limited legislature. Such observers ask how anything could be worse than the government we already have. But these "reforms" could actually make New York's abysmal political system worse. Both are based on a view of human nature rejected as utopian by the framers and both have proven the framers wise as, in practice, they have transformed idealism into factionalism.

Initiatives and referenda. The initiative and referendum process, found in the Constitutions of twenty four states, was a product of the Progressives' "reforms" at the close of the nineteenth century. Their goal was to weaken the growing power of legislatures, which were becoming more and more active, as the nation became fully settled and industrialized: "[The Progressives'] democratic reforms were all aimed at minimizing, even spurning, the role of the representative intermediaries that stood between the public and its government—parties, legislators, private interests, ultimately politics itself." The corrupting influence of special interests on legislators was a concern then, as it is now. But behind this narrative was a darker, more accurate one, described by the historian Richard Hofstadter as a movement "to a very considerable extent led by men who suffered from the events of their time not through a shrinkage in their means but through the changed pattern in the distribution of deference and power." This ominous observation by one of the nation's premier historians rings true today. Throughout the country, groups (called "factions" by the framers), thwarted by either the pace of lawmaking or legislative outcomes, turned to initiatives to avoid the obstacles and delays deliberately built into our system of representative democracy. As the journalist David Broder observed,

> Government by initiative…is…a big business, in which lawyers and campaign consultants and signature-gathering firms and other players sell their services to affluent interest groups or millionaire do-gooders with private policy and political agendas…. These players…have learned that the initiative is far more efficient way of achieving their ends than the cumbersome process of supporting candidates for public office and then lobbying them to pass or sign the measures they seek.[17]

Of course, the attraction of factions to initiatives is to be expected. The underlying nature of humans is self interest, and self-interested groups organize themselves according to their interests (whether economic, religious, cultural) to advance their personal and factional goals which they often confuse and conflate with the common good. Initiatives provide an efficient means for their success.

Witness California. An initiative (Proposition 13) that made it nearly impossible for the legislature to raise taxes was followed by many others requiring the government to spend money on programs favored by various factions. This disparity between revenues and expenditures has basically destroyed the capacity of the California government to govern, brought its once great public university system to its knees, and nearly bankrupted the state. Journalists, policymakers, and public intellectuals have begun to refer to California as the nation's first failed state. And to make matters worse, the *New York Times* recently reported that there are now thirty different—and often conflicting—initiatives heading toward the ballot with the goal of repairing the problem.

Initiatives stand American representative democracy on its head, amplifying the voice of factions over the consensus voice of the public at large as conveyed through their elected representatives. As Professor Julian Eule put it:

> The Framers' vision...combined a deliberative idealism which inspired representative government with a pluralistic realism which prompted cautionary checks....
>
> The problem with substitutive [initiative] democracy is different. When naked preferences emerge from a plebiscite, it is not a consequence of system breakdown. Naked preferences are precisely what the system seeks to measure. Aggregation is all that it cares about. The threat to minority rights and interests here is structural. This is how the system is supposed to work.[18]

In other words, the notion that initiatives and referenda amplify the voice of the people is fallacious; they distort the chorus of voices representing all New Yorkers, amplifying the voices of some at the expense of popular consensus.

Term Limits. Term limits suffer from the same problems as initiatives and referenda, although they have been around for a lot longer. Limits were imposed on the terms of the members of the Continental Congress before the concept was rejected by the Framers at the Constitutional Convention. Term limits were also a serious point of contention between the Federalists and anti-Federalists during the ratification debate. After that, little was heard of them until the early 1990s, when a number of states changed their constitutions to mandate term limits through initiatives and referenda. As with initiatives and referenda, supporters of term limits claim that they will reintroduce the will of the people into the halls of government. Through term limits, advocates have argued, careerists would be swept from office, special interests vanquished from the capitol, and citizens returned to their rightful place in government. Cleta Deatherage Mitchell, the director of the national Term Limits Legal Institute, has argued that Americans' faith in their government, which had been "systematically destroyed by the special interests, the professional lobby groups, and career politicians working in concert against the interest of the ordinary voters,"[19] would be restored by limits on the terms of elected officials.

One, perhaps ironic, aspect of the term limit movement is how quickly it follows on the heels of another "reform" movement that supported the opposite direction. Only twenty years earlier, a national reform movement sought to professionalize state legislators. The strategy was "to recruit lawmakers who would stay around long enough to become seasoned professionals."[20] The concern was that growing demands for extensive state involvement in resolving multiple social and economic problems was outstripping the capacity of state legislatures to meaningfully respond.

Term limits have failed to deliver on the benefits promised by their advocates and, worse, they have strengthened special interests. The hope for the infusion of public life with private citizens has proven false. For example, under New York City's term limit law, one study found that "almost all of those elected since the City's term limit law became effective have had political backgrounds and intend to remain in elective politics."[21] This pattern proves true throughout the country. As a result, members of legislative bodies have become more competitive with one another, both undermining the discipline needed to build legislative consensus and creating new opportunities for special interests to promise support in return for special access. In New York City,

> many members of the City Council run against each other for mayor, comptroller or for borough president. As they do, competition among them grows to gain support (financial and otherwise) from the same core special interests—vesting in those interests unprecedented power to influence policy outcomes.[22]

Finally, term limits force newly elected members to turn to special interests for information. New legislators, regardless of their background, typically know little about particulars of subject matter on which they will now have to make decisions. They need a lot of information quickly and they will turn to various entrenched interests to find it. Nationally, interviews of lobbyists have indicated that interest groups have gained influence due to the inexperience of the newly elected in term limit states.[23] The only way to break the bond between lobbyists and newly elected members is to ensure that new members have access to more senior legislators with the knowledgeable staff and policy expertise to necessary develop their own, nuanced views of an issue.

Term limits, like initiatives, do not promote a stronger bond between citizens and their government. Rather, they foster disruption in the legislature and provide greater opportunity for bureaucratic or special interest influence. Also, as the New York Times has editorialized, term limits

deny Americans their most important civic right, the right to vote for the candidates of their choosing. "Worst of all, term limits violate democracy. They deny citizens the right to vote for the candidate of their choice, whether that's someone who has served with distinction for decades, a one-term hack or challengers who seek the office."[24]

Conclusion

It is New York's debasement of representative democracy that muffles the voice of the people, not the political model itself. New York's leadership-dominated legislative process, byzantine campaign finance system, and incumbent protection-driven redistricting model all serve to undermine the ability of voters to elect the candidates of their choosing and prevail upon their representatives for their desired policy outcomes—both fundamental tenants of representative democracy. Our proposed reforms serve to remove the barriers to civic participation in government by allowing rank-and-file legislators to fully represent their constituents, preventing wealthy individuals and special interests from holding disproportionate sway over elected officials, and ensuring that competitive elections provide voters with choice and compel legislators to be responsive to their constituents. These reforms will allow New York's state government to function as the founders envisioned, rather than as the mockery of democracy that it is today. Reforms that seek to undermine the legislative process and assert the public will directly prevent this vision from becoming a reality by rendering secondary the deliberative mechanisms designed to foster sound policymaking informed by popular consensus.

Endnotes

1. Letter from James Madison to James Monroe (Oct. 5, 1786).
2. *See, e.g.*, Editorial, *Bring Democracy to State Legislature*, N.Y. DAILY NEWS, Aug. 8, 2004, *available at* http://www.nydailynews.com/archives/opinions/2004/08/08/2004-08-08_bring_democracy_to_state_leg.html; Editorial, Albany's Failures, PRESS & SUN-BULLETIN (Binghamton), July 20, 2004; Editorial, *New York's Fake Legislature*, N.Y. TIMES, July 25, 2004, at 13; Editorial, *A Legislature in Denial*, TIMES UNION (Albany), July 25, 2004, at B4; Editorial, *New York's Shame*, BUFFALO NEWS, Aug. 1, 2004, at H4; Editorial, *The Trouble with Albany*, NEWSDAY (New York), July 22, 2004, at A36; Editorial, *To Fix a Broken System*, POST-STANDARD (Syracuse), July 25, 2004, at C2; Jay Gallagher, Editorial, *State in a League of its Own for Dysfunctional Legislature*, POUGHKEEPSIE J., July 25, 2004, at 7A; Editorial, *Albany Emperors*, PRESS & SUN-BULLETIN, July 25, 2004, at 14A; Editorial, *Still Broken After All These Years*, N.Y. TIMES, Jan. 15, 2009, at A24.
3. See JEREMY M. CREELAN AND LAURA M. MOULTON, BRENNAN CTR. FOR JUSTICE AT N.Y. UNIV. SCH. OF LAW, THE NEW YORK STATE LEGISLATIVE PROCESS: AN EVALUATION AND BLUEPRINT FOR REFORM (2004), *available at* http://www.brennancenter.org/programs/downloads/albanyreformfinalreport.pdf (*hereinafter* 2004 Report); LAWRENCE NORDEN, DAVID E. POZEN & BETHANY L. FOSTER, BRENNAN CTR. FOR JUSTICE AT N.Y. UNIV. SCH. OF LAW, UNFINISHED BUSINESS: NEW YORK STATE LEGISLATIVE REFORM 2006 UPDATE (2006), *available at* http://www.brennancenter.org/page/-/d/download_file_37893.pdf (*hereinafter* 2006 Report); ANDREW STENGEL, LAWRENCE NORDEN & LAURA SEAGO, BRENNAN CTR. FOR JUSTICE AT N.Y. UNIV. SCH. OF LAW, STILL BROKEN: NEW YORK STATE LEGISLATIVE REFORM 2008 UPDATE (2009), *available at* http://www.brennancenter.org/page/-/publications/Still.Broken.pdf (*hereinafter* 2008 Report). At the crux of all three of these reports is the problem of dominant leadership that stifles public and rank-and-file legislator participation in the lawmaking process.
4. 2008 Report, *supra* note 4, at 25; Jenny Lee-Adrian, *Most Bills Don't Become a Law in New York*, POUGHKEEPSIE J., Sept. 26, 2008, at A1.
5. 2004 Report, *supra* note 4, at 38.
6. 2004 Report, *supra* note 4, at 42.
7. This is not to say that there are not many exceptions to this general format. Congress and other state legislatures do occasionally stray from these typical procedures, but these instances remain the exception. In New York, deviation from the standard of legislative legitimacy is the rule.
8. 2008 Report, *supra* note 4; *see also* Cathy Woodruff, *Just Post Everything for Ease of Access*, TIMES UNION (Albany), Dec. 6, 2009; Aaron Ancel, *Agencies Fail to Obey Freedom of Information Rule*, TIMES UNION (Albany), Mar. 19, 2008.
9. 2008 Report, *supra* note 4, at 12–13 (stating that the legislative leaders "have full control over the order of bills on the calendar and whether a bill is placed on the calendar at all").
10. *Id.*
11. Lysandra Ohrstrom, *Another Congestion Pricing Poll: Support in City, Not so Much Upstate*, N.Y. OBSERVER, *available at* http://www.observer.com/2008/congestion-pricing-survey-results.
12. Azi Paybarah, *Congestion Drip: Is Sheldon Silver the Man to Blame?*, N.Y. OBSERVER, Apr. 8, 2008, *available at* http://www.observer.com/2008/congestion-drip-sheldon-silver-man-blame?page=0%2C0.
13. *Id.*
14. National Conference of State Legislature, Limits on Contributions During the Legislative Session, Apr. 8, 2009, *available at* http://www.ncsl.org/programs/legismgt/about/duringsessionchart.htm.
15. JOHN D. FEERICK, GOVERNMENT ETHICS REFORM FOR THE 1990S 22 (1991).
16. ABNER MIKVA & ERIC LANE, THE LEGISLATIVE PROCESS 431 (3d ed. 2009).
17. DAVID BRODER, DEMOCRACY DERAILED 5 (2001).
18. Julian E. Eule, *Judicial Review of Direct Democracy*, 99 YALE L.J. 1503, 1550–1551 (1990).
19. Press Release, Term Limits Legal Institute, Mar. 11, 1993 (on file with the author).
20. David H. Everson, *The Impact of Term Limitation on the States: Cutting the Underbrush or Chopping Down the Tall Timber in* LIMITING LEGISLATIVE TERMS 189 (Gerald Benjamin & Michael J. Malbin eds., 1992).
21. Eric Lane, *The Impact of Term Limits on Lawmaking in the City of New York*, 3 ELECTION L.J. 670, 670 (2004).
22. Eric Lane, *Term Limits Failed: The NYC Reform That Wasn't*, NEW YORK POST, Oct. 6, 2008, *available at* http://www.nypost.com/p/news/opinion/opedcolumnists/term_limits_failed_W6TULNF7oCQRvUJgPe9FLI#ixzz0eUa5A5LA.
23. Joel Thompson & Gary Moncrief, *Lobbying Under Limits: Interest Group Perspectives on the Effects of Term Limts in State Legislatures in* THE TEST OF TIME 211 (Rick Farmer et al. eds., 2003).
24. Editorial, *Term Limits Limit Voters' Rights*, N.Y. TIMES, Oct. 21, 1993.

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