

## Center for Judicial Accountability, Inc. (CJA)

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**From:** usher@nysenate.gov  
**Sent:** Friday, December 07, 2012 11:20 AM  
**To:** elena@judgewatch.org  
**Subject:** Reso 357

Dear Elena,

Here is the resolution you requested.

Senate Resolution No. 357

BY: Senator KRUEGER

AMENDING Rule II of the Senate rules, in relation to the appointment and duties of the Temporary President of the Senate; amending Rule VI of the Senate rules, in relation to disallowing the introduction of bill on the report of a committee; amending Rule VII of the Senate rules, in relation to the composition of committees, the report of bills out of a committee, public hearings and reports of votes on bills; amending Rule VIII of the Senate rules, in relation to bill placement on the Third Reading Calendar and final passage of bills; amending Rule IX of the Senate rules, in relation to staffing and resources available to senators and equal allocation for member-driven initiatives; and amending Rule X of the Senate rules, in relation to the number of signatures necessary on a petition to move a bill to the calendar for consideration

RESOLVED, That Rule II of the Senate rules is amended to read as follows:

### RULE II

#### THE TEMPORARY PRESIDENT

Section 1. The Senate shall choose a Temporary President who shall be the majority leader and who shall preside, or designate some other member to preside, in case of the absence from the Chamber or impeachment of the Lieutenant Governor, or when he or she shall refuse to act as President, or shall act as Governor. The temporary president may not serve in such capacity longer than eight years.

§ 2. He or she shall appoint [the Majority Leader of the Senate, who shall not serve in such capacity longer than eight years,] the Deputy Majority Leader for Legislative Operations, the chair, vice-chair and members of all committees and sub-committees, except when the Senate shall otherwise order.

§ 3. [He or she shall appoint a member to serve as the Vice President for the Senate for Urban Policy and Planning. Such member shall be responsible for the development of legislation and policy initiatives on issues of concern to the State's urban communities, including issues of housing, health and human services. Such member shall be authorized to conduct hearings, call for testimony, issue an annual report and develop a statewide agenda on policy and legislation that affect areas of housing and human services in urban areas. He or she shall be provided with the adequate resources, staff and budget, along with sufficient office space, to meet those responsibilities.

§ 4.] He or she shall be the Chair of the Committee on Rules.

[§ 5.] § 4. He or she shall appoint such officers and employees of the Senate as may be necessary for the work of the Senate.

[§ 6.] § 5. He or she shall designate the persons entitled to admission to the floor as reporters for the news media.

[§ 7.] § 6. He or she shall have general control, except as otherwise provided by law or in these rules, of the Senate Chamber and the lobbies and galleries thereof, and of the rooms, corridors and passages in that part of the Capitol and Legislative Office Building assigned to the use of the Senate, and any other property leased or utilized by the Senate.

[§ 8.] § 7. He or she shall appoint, in conjunction with the Speaker of the Assembly and the Legislative Librarian, an Assistant Legislative Librarian, to have charge and custody of all legislative documents, as defined in this section, who shall be responsible for collecting, numbering, indexing and retaining the same in the legislative library in an area designated for such use by the Legislative Librarian. At least two copies of all such documents shall be kept in such library at all times and made available to Members of the Legislature and legislative employees for public inspection and duplication during library hours.

The function of the Legislative Library is to serve the information and research needs of Members of the Legislature and legislative staff as defined by the Legislative Law. The services provided shall include professional reference, access to standard commercial online databases and the availability of records of the Library's holding on the Legislative Retrieval System (LRS). The Library is charged with the collection and custody of all Legislative and State documents as defined by this section. Access to the collection shall be provided by the Legislative Library State Documents (LLSD) database on LRS. Documents may be retained in paper, microform, laser disk or any other medium approved for archiving documents.

To effectuate the purposes of this section, the Assistant Legislative Librarian in charge of legislative documents may request from any committee, commission, task force or office of the Legislature, and the same are authorized to provide, such assistance, services and data as will enable such librarian to carry out his or her duties as prescribed in this section.

For purposes of this section, the term legislative document shall mean and include the Rules of the Senate, the Rules of the Assembly, reports of the Legislature and reports of every legislative committee, subcommittee, task force or other adjunct of the Legislature and all reports and documents required by law or regulation to be submitted to the Legislature by any department, board, bureau, commission or other agency of the State.

The provisions of this section and paragraph ten of subdivision c of section one of Rule I of the Assembly are intended to result in the appointment of a single Assistant Legislative Librarian to serve both Houses of the Legislature.

[§ 9.] § 8. He or she shall represent the Senate, or engage legal representation on behalf of the Senate, in any legal action or proceeding involving the interpretation or effect of any law of the federal, state or local government or the constitutionality thereof or with regard to the enforcement or defense of any right, privilege or prerogative of the Senate.

[§ 10.] § 9. He or she shall, to the extent practicable, use the Internet and other electronic media to provide access to the public policy debates, decision-making process and legislative records of the Senate.

RESOLVED, That section 1 of Rule VI of the Senate rules is amended to read as follows:

Section 1. Introduction. Bills and resolutions shall be introduced by a Senator, [or on the report of a committee,] or by message from the Assembly, or by order of the Senate, or by the Governor pursuant to Article VII of the Constitution. Every bill introduced shall be in duplicate and shall have endorsed thereon a title and the name of the bill's sponsor and shall be accompanied by the introducer's memorandum in quadruplicate. Such memorandum shall contain a statement of the purposes and intent of the bill and, if the member deems it appropriate, may set forth such other statements that the member feels necessary including, but not limited to, statements relating to economic impact, environmental impact or the impact on the judicial system of the bill. A Committee, where it deems necessary, may require that the introducer's memorandum be amended to include such appropriate statements.

Bills introduced by Senators shall be deposited with the Revision Clerk for the purpose of having such clerk examine and correct bills to avoid repetition of introduction and ensure accuracy in the text and references. Upon introduction, each bill shall be deemed to have had its first and second reading, unless otherwise ordered and shall be given a number and immediately referred to the appropriate standing committee by the Temporary President or an officer designated by the Temporary President in accordance with a set of guidelines to be published annually by the Temporary President setting forth the respective statutes over which each of the standing committees shall have subject matter jurisdiction for purposes of referral. Such referrals shall reflect the subject matter having predominance in the bill as determined by the Temporary President.

RESOLVED, That sections 1, 2 and 3, subdivision a of section 4 and subdivision a of section 5 of Rule VII of the Senate rules are amended to read as follows:

Section 1. There shall be the following standing committees which shall serve and shall continue throughout the year:

To consist of [thirty-three] twenty-nine Senators:  
Finance

To consist of [twenty-four] twenty-three Senators:  
Rules

To consist of [twenty-three] twenty-one Senators:  
Judiciary

To consist of nineteen Senators:  
[Banks] Banking and Insurance  
Transportation

To consist of eighteen Senators:  
Education and Higher Education  
[Insurance]

To consist of seventeen Senators:  
Health, Mental Health and Aging  
Labor  
Civil Service and Pensions  
Transportation

To consist of [sixteen] fifteen Senators:  
Codes, Crime and Corrections  
[Labor]

To consist of [fourteen] thirteen Senators:

[Crime Victims, Crime and Correction]  
Environmental Conservation and Parks  
Commerce, Economic Development and  
[Cultural Affairs,] Tourism[, Parks and Recreation] Veterans, Homeland Security and Military Affairs Energy and  
Telecommunications

[To consist of twelve Senators:

Aging  
Civil Service and Pensions  
Commerce, Economic Development and Small Business Energy and Telecommunications]

To consist of [ten] nine Senators:

Agriculture  
Consumer Protection  
[Mental Health and Developmental Disabilities] Racing, Gaming and Wagering

To consist of [eight] seven Senators:

Elections  
Housing, Construction and Community Development, Ethics Investigations and Government Operations Local  
Government [To consist of six Senators:] Children [and], Families and Social Services Cities and Local Government  
Corporations, Authorities and Commissions [Ethics Social Services]

a. The Temporary President, the Vice President Pro Tempore, the Deputy Majority Leader for Legislative Operations and the Minority Leader and Deputy Minority Leader shall be nonvoting ex-officio members of all standing committees of the Senate of which they are not actual members. As far as practicable, Senators shall be appointed to no more than [seven] five standing committees.

b. Term limits for chairs and ranking members. No chair or ranking member of a committee shall serve in such capacity longer than eight years.

c. Conference membership of committees. The membership of all committees, unless otherwise provided by the act or resolution creating them, shall be composed, as nearly as may be, of majority and minority party members in the same proportion as the number of majority and minority party members in the Senate bears to the total membership of the Senate. For purposes of committee composition, in the event that the proportion of majority members would result in a fractional amount, the number of majority members shall be rounded up to the next whole number.

§ 2. Committee on Rules. The Committee on Rules may sit at any time and shall report bills out of committee only if they have been on a published agenda for at least twenty-four hours, except in a case where a message of necessity has been received from the governor; and only if they shall have been duly reported to the Committee on Rules from a standing committee of origin, or from a committee of secondary reference, or if the chair of such standing committee consents, or if the bill was referred to the Committee on Rules upon introduction. Other than a motion to hold, a motion to discharge, or a motion to report, no other motion shall be in order in the Committee on Rules without the consent of the Committee Chair. The reception and consideration of its report shall always be in order; debate on its adoption shall not exceed one hour, one-half hour for and one-half hour against, such time to be allotted by the Temporary President and Minority Leader; and no other motion, except a motion by the Temporary President for a call of the Senate, to adjourn or to recess, shall be in order until the vote of the Senate is had thereon. If the report be adopted, all inconsistent rules of the Senate shall automatically be suspended until the subject of such report has been disposed of, including final action thereon.

§ 3. Open Meetings of Standing Committees. a. (1) Standing committees shall hold regular meetings at such time and on such day as scheduled by the Deputy Majority Leader for Legislative Operations in consultation with the chair and such schedule shall be published one week in advance of the date of such meeting and shall be posted on the Senate committee board. The attendance of the members of the committee shall be recorded at each meeting, and a copy of such report shall be filed with the Journal Clerk of the Senate and made available to the public. Each chair of a standing committee shall, no later than 3 p.m. the Thursday preceding the regular meeting, furnish to the Temporary President and Minority Leader, and make available to each member of such committee, a copy of the agenda of such regular meeting together with a copy of the introducer's memorandum for each bill listed on such agenda for such regular meeting. In addition, copies of such agenda for such regular meeting shall be made available to representatives of the news media and to the general public. However, in case of necessity, the chair with consent of the ranking member may add no more than four items on the agenda or delete items on the agenda up to 24 hours in advance of the scheduled meeting and members shall be notified of such additions or deletions. Each standing committee chair shall decide all procedural issues which arise during meetings of standing committees.

(2) Standing committees may hold special meetings in case of necessity upon the call of the chair when the announcement is made from the floor during session, or the ranking minority member of the committee consents thereto, or upon the call of a majority of all the members thereof, entry of which fact shall be made on the records of the committee and announced by the Secretary of the Senate.

(3) All meetings of committees shall be open to authorized representatives of the news media and the general public as observers.

(4) All meetings of committees shall be recorded by video and to the extent practicable webcast live. Video of all committee meetings shall be made available on the Senate website and updated daily.

(5) Upon the personal vote of a majority of all the members of a committee, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, a committee may conduct an executive session of which only members of such committee are present for the following enunciated purposes provided, however, that no action by formal vote shall be taken to appropriate public monies:

(a) matters which will imperil the public safety if disclosed;

(b) any matter which may disclose the identity of a law enforcement agent or informer;

(c) information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;

(d) discussions regarding proposed, pending or current litigation;

(e) collective negotiations pursuant to article fourteen of the Civil Service Law;

(f) the medical, financial, credit, character or employment history of any person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of any person or corporation;

(g) the preparation, grading or administration of examinations; and

(h) the proposed acquisition, sale or lease of real property, but only when publicity would substantially affect the value of the property.

(6) Attendance at an executive session shall be permitted to any member of the committee and any other persons authorized by the committee.

b. (1) Minutes shall be taken at all open meetings of committees which shall consist of a record or summary of all motions, proposals, resolutions and any other matter formally voted upon and the vote thereon.

(2) Minutes shall be taken at executive sessions of any action that is taken by formal vote which shall consist of a record or summary of the final determination of such action, and the date and vote thereon; provided, however, that such summary shall not include any matter which is not required to be made public by "the freedom of information law" as added by Article six of the Public Officers Law.

(3) Minutes of meetings of all committees shall be available to the public in accordance with the provisions of Article six of the Public

Officers Law, "the freedom of information law", and at such time and place as prescribed by the Temporary President, provided, however, that minutes for executive session meetings shall be available to the public within one week from the date of such executive session.

c. The provisions of this section except paragraph three of subdivision a, and subdivision b shall not apply to the Committee on Rules.

d. (1) Any bill on a committee agenda may be marked up as provided for herein.

(2) All amendments to a bill or resolution placed on a committee agenda must be filed with the committee chair and ranking minority member in writing twenty-four hours in advance of the reading of the bill. Amendments must be provided in printed form to the bill's sponsor, all committee members, the clerk and the chair before the bill is considered by the committee. When amendments are filed with the chair and the ranking member, they shall be filed with the journal clerk's office and served upon the sponsor of the bill.

(3) Amendments shall be considered prior to the reading of the bill. The chair shall put the question to the bill sponsor of whether each amendment is friendly, meaning the amendment is in keeping with the sponsor's goals for the bill or unfriendly, meaning the amendment is in conflict with the sponsor's goals for the bill. If a sponsor has waived his/her right to attend the reading of the bill, all amendments are automatically deemed friendly.

(4) All amendments may be recommended to be incorporated into the bill by a majority vote of the committee members present and voting and

accepted by the sponsor. The sponsor of the bill, or his or her representative, including another member acting with the consent of the sponsor, or the sponsor's staff person may consent to the amendments being made. A vote shall then be taken, if the sponsor or his or her representative requests it, to report the bill in its original form or to report it in a form with such amendments. The sponsor may request the bill be held pending the sponsor's consideration of the amendments and a vote shall then be taken on the bill, with or without the amendments, at the next committee meeting.

(5) The texts of all amendments proposed and a note as to whether or not they are incorporated into the bill shall be made available on the senate website within fourteen days of the date that the committee concludes with reading the amendments and puts the bill to a vote.

(6) No committee member shall vote on any amendment coming before the committee unless the member is physically present to cast his or her vote.

e. Committee presentations. The chair of a committee may invite interested persons to offer a presentation for a given amount of time on a bill on the meeting agenda with notice provided to the ranking member no less than 72 hours in advance. Where a committee chair makes such an invitation, the ranking member shall be afforded an equal



number of speakers who may speak for an equal amount of time. In addition, the ranker, without consent of the chair, shall be able to schedule 3 committee presentations with notice provided to the chair at least 72 hours in advance. The chair shall be afforded an equal number of speakers who may speak for an equal amount of time.

[e.] f. Motion for committee consideration. No motion for committee consideration shall be in order after the first Monday in May. The sponsor of any bill may file, through the Journal Clerk, a motion for

committee consideration [forty-five] thirty days after the bill has been referred to such committee. Once a motion for committee consideration is filed, the chair of the committee shall place the bill on a committee agenda and schedule a vote on the bill within [forty-five] thirty days.

In the case of a bill that is referred to a standing committee having secondary reference, the bill shall be considered within the next two committee meetings.

a. Committee hearings. Chairs of standing committees may call public hearings to permit interested persons, groups or organizations the opportunity to testify orally or in writing on legislation or issues pending before such standing committee. Chairs are encouraged to hold public hearings on legislation of important public interest, where, outside of the budget, significant public money is allocated, broad conduct is regulated or where the proposal has a broad public impact.

Chairs and rankers may request that the Official Stenographer make a stenographic record of a public hearing. Official hearings may be conducted in accordance with procedure established by law. No committee may take testimony at a hearing unless at least two of its members are present at such hearing. Prior notice of all public hearings shall be filed by the chair or his or her designee with The Legislative Bill Drafting Commission and the Temporary President and such notice shall contain information as to subject matter, date and place.

a. No committee shall vote to report a bill or other matter unless a majority of all the members thereof vote in favor of such report. All committee members must be present in order to vote on any bill or matter before the committee. Each report of a committee upon a bill shall have the vote of each Senator attached thereto and such report and vote shall be available for public inspection. A member's vote on any matter before the committee shall be entered by the member on a signed official voting sheet delivered to the Committee Chair. All votes in committee shall be recorded as "yes" or "no".

Any standing committee having secondary subject matter jurisdiction over a bill may request the chair of the committee having primary subject matter jurisdiction over said bill (which is the committee to which the said bill has been referred by the Temporary President pursuant to Rule VI) to commit the bill to the committee with secondary subject matter jurisdiction either when the bill is still in the primary committee or after it has been reported to the calendar. If the chair of the primary committee refuses said request, then the committee having secondary jurisdiction, through its chair, may request the Temporary President to consider such secondary referencing. If a secondary reference is so made, the secondary committee shall consider the bill forthwith and return said bill to the primary committee or the calendar, as the case may be, along with the secondary committee's recommendations.

Any bill which is referred to a standing committee other than the Committee on Codes and which imposes or changes any fine, term of imprisonment, forfeiture of rights or other penal sanction, or relates to the procedure by which such fine, term of imprisonment, forfeiture of rights or other penal sanction is imposed or changed, shall, if favorably reported by the committee having original jurisdiction, be referred to the Committee on Codes for the purpose of reviewing and considering the penalty or procedural provisions of such bill. In the event that such a bill is not referred to the Committee on Codes, the

chairperson of such Committee may require such referral, subject to the approval of the Temporary President.

All committee reports, after the second Friday in June, shall be made directly to the Committee on Rules. Notwithstanding any provision of Rule VI, the Committee on Rules shall have the authority to introduce and refer bills to itself and shall also have the authority to refer to itself any bill from any standing committee.

Every report of a committee upon a bill which shall not be considered at the time of making the same, or laid on the table by a vote of the Senate, shall stand upon the calendar in the order of first report with the bill and be entered upon the journal.

RESOLVED, That subdivision a of section 4 and subdivision a of section 6 of Rule VIII of the Senate rules are amended and a new section 10 is added to read as follows:

a. A non-sponsor may move to amend a bill at any time prior to the completion of its third reading provided that at least two hours before the time for the Senate to convene, a copy of the proposed amendment or amendments to any bill on the list of bills compiled under subdivision a of section six of this Rule has been served upon the sponsor of the bill, and filed with the Journal Clerk. If a sponsor does not accept such amendment, the question shall be put to the house whether a majority of members elected vote in favor of the non-sponsor motion to amend, and such motion shall pass only if a majority of members elected vote aye, and such bill shall move to the order of First Reading. If the sponsor accepts the amendment, such amended bill shall be ordered printed without a vote, debate or explanation, and such bill shall retain its place on the Third Reading Calendar.

a. Prior to the reading of the third reading calendar of any given day, the Temporary President may file with the Journal Clerk an active list of bills on the third reading calendar which may be acted upon on that date and he or she may lay aside any bill upon which no final action may be taken, provided however, that no bill shall be so laid aside for a period exceeding five calendar legislative days. Such active list shall be published [by 8 p.m. the previous evening or within two hours following the end of the previous days' session, whichever is later] at least twenty-four hours prior to the scheduled start of session. No bills shall be considered for final passage that do not appear on the active list except with unanimous consent of the Senate unless a petition for chamber consideration shall have been received pursuant to section 3 of Rule XI of the Senate rules.

§ 10. Conference committees. The Temporary President shall request that a joint committee on conference be convened, pursuant to Joint Rule II of the permanent joint rules of the senate and the assembly to consider and report upon substantially similar but not identical legislation that has passed each house of the legislature.

RESOLVED, That sections 8, 9 and 11 of Rule IX of the Senate rules are amended to read as follows:

§ 8. Staffing. [All Senators shall receive the same base allocation of funds for staffing their offices. Additional funding for responsibilities associated with committees and leadership positions shall be allocated within amounts available for committee and leadership

staff; such amounts shall include, at a minimum, a budget sufficient to appoint a staff member with expertise in the committee's subject matter.

The funding for the minority conference central staff shall not be less than thirty-three percent of the funds allocated for all central staff.] a. Except as provided in this section, every member of the Senate shall have the same staff allocation as every other member of the Senate.

b. Every Senator who is assigned to serve as chairperson of a standing committee shall also receive an additional allocation designed to reasonably allow such chairperson to hire a committee director and committee clerk dedicated to committee related work. Such allocation shall be ninety thousand dollars for all committees except the codes, education, health, and higher education committees, in which case such allocation shall be one hundred forty-five thousand dollars; and two hundred thousand dollars for the chairperson of the finance committee.

c. Every Senator who serves in the capacity as ranking member of a standing committee shall also receive an additional allocation designed to reasonably allow such ranking member to hire staff dedicated to



committee related work. Allocations for ranking members of each committee shall be equal to fifty percent of the allocation for the Chair.

d. There shall be a nonpartisan Senate administrative staff consisting of a centralized research service; maintenance and operations; media services, printing services; payroll and personnel office; accounting, technology, and other offices necessary to the administration of the Senate. Individuals employed by this staff shall be hired on a nonpartisan, merit basis, upon the unanimous recommendation of the Temporary President of the Senate and the Minority Leader of the Senate.

e. All employees whose salary is not charged against the staff allocation of an individual member or is not part of the nonpartisan administrative staff of the Senate shall be deemed employees of the central staff of the Senate. There shall be a central staff allocation which shall allow for the hiring of individuals pursuant to the recommendation of the Temporary President of the Senate or the Minority Leader of the Senate. The percentage of dollars to be allocated to the Temporary President of the Senate and the Minority Leader of the Senate respectively shall be based upon the number of members in the majority and minority political party. In the event a member of the Senate is not enrolled in either the majority political party or the second most populated political party in the Senate, such member may declare that he or she wishes to have his or her membership counted in one of the two political parties solely for the purpose of staff allocation ratios.

Such declaration shall be given in writing to the Secretary of the Senate within seventy days of his or her election. The allocation for central staff shall not change during the two year term of office which commences every January first of odd numbered years and ends at the end of December the following year. In any event, the Minority Leader of the Senate shall have a minimum of thirty-five percent of the central staff allocation authority.

f. All Chairs and Rankers shall have complete autonomy over the staffing decisions of their respective committee.

§ 9. Resources. All Senators shall have equitable access to the resources of the Senate, including, but not limited to, office supplies, communications and audio visual resources, mail privileges subject to published guidelines, technology, including both hardware and software, and equal access to the Legislative Bill Drafting Commission's Legislative Retrieval System, maintenance and operations, payroll and personnel office, accounting, and the centralized research service.

§ 11. Allocation for Community Projects. Each [conference] member of the Senate shall receive an equal allocation from any amounts to be awarded by the Senate for community projects, capital spending, local assistance or other similar allocations for member driven initiatives.

No member initiative funds shall be distributed to organizations for whom the Senator or family member serves as a board member or officer.

The Majority shall receive two-thirds of such funds and the Minority shall receive one-third of the such funds; provided however that such proportions shall increase or decrease to reflect any changes in the membership of each conference.

RESOLVED, That subdivision a of section 3 of Rule XI of the Senate rules is amended to read as follows:

a. The sponsor of any bill may file with the Journal Clerk, no less than forty-five days after a bill has been referred to a committee, a petition requesting that such bill be moved to the calendar for consideration. Such petition shall be filed with the Journal Clerk. Once the petition is signed by at least [three-fifths] thirty-two of the members elected, the petition shall be read during the order of presentation of petitions and the bill reported to the third reading calendar. Such bill shall be considered by the full Senate on the first calendar legislative day after four days shall have passed.

RESOLVED, That subdivision a of section 1 of Rule XIV of the Senate rules is amended to read as follows:

a. Publication of records relating to Senate legislative and

administrative records. Recognizing that legislative records available by request under the "freedom of information law" are of important public interest, the Senate shall make available through a searchable and sortable database on the Senate website: records of committees, agendas, votes, minutes, reports, attendance, fiscal notes, and records of the chamber including, active lists, votes, transcripts, calendars, the Senate payroll report, committee budgets, member staff allocations and expenditure reports.

Brad Usher  
Chief of Staff  
State Senator Liz Krueger