

**BIPARTISAN OPERATING AGREEMENT FOR EXTRAORDINARY SESSION
IN THE NEW YORK STATE SENATE**

WHEREAS the Democratic and Republican Conferences are unable to agree as to who is the validly elected President Pro Tempore of the New York State Senate; and

WHEREAS the Democratic Conference contends that the last valid election of a President Pro Tempore was the January 7, 2009 election of Senator Malcolm A. Smith, while the Republican Conference contends that the last valid election of a President Pro Tempore was the June 8, 2009 election of Senator Pedro Espada, Jr.; and

WHEREAS in order to move forward with legislation critical to the people in the Extraordinary Session of the Legislature called by Governor David A. Paterson, the Democratic Conference is willing to put aside temporarily the dispute over the election of the President Pro Tempore;

WE HEREBY PROPOSE the following bipartisan operating agreement to allow the New York State Senate to function in the upcoming Extraordinary Session, to put the present struggle for political power on hold and allow legislation critical to the people of our state to be passed:

1. Term of Agreement. This agreement shall bind parties during the June 2009 Extraordinary Session called by the Governor pursuant to his authority under Article IV Section 3 of the New York State Constitution.

2. Presiding Officers. The Presiding Officer of the Senate shall be designated by mutual agreement between the Democratic Conference and the Republican Conference.

3. Floor Leaders. The parties agree to rotate Floor Leaders, alternating daily, one each to be designated by the Democratic Conference and the Republican Conference, respectively. On each day that the Presiding Officer is named by the Democratic Conference, the Floor Leader for such day shall be named by the Republican Conference, and on each day that the Presiding Officer is named by the Republican Conference, the Floor Leader for such day shall be named by the Democratic Conference.

4. Senate Procedures. The parties agree to establish a six-member Senate Conference Committee, comprising three members designated by the Democratic Conference and three members designated by the Republican Conference, to determine all additional procedural issues.

5. Matters for Consideration. The parties agree that the only matters to come before the Senate during the Extraordinary Session of the Legislature shall be those designated by the Governor, that no other legislative matters, resolutions, motions or procedures of any kind shall be considered, and that neither of the parties shall attempt to call a regular session of the Senate before, during or after the Extraordinary Session.

6. Casting Vote Prohibited. During the life of this agreement, no Senator shall make or attempt to make a casting vote under any circumstances.

7. Reservation of Rights. Nothing in this agreement shall constitute a waiver of the rights or claims of either party in any proceeding.

Dated: June 19, 2009

Albany, New York



NEWS FROM THE
**NEW YORK SENATE
DEMOCRATIC CONFERENCE**



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**SENATE DEMOCRATIC CONFERENCE ANNOUNCES LATEST
GOVERNING PROPOSAL, LET REAL BIPARTISANSHIP RULE
GOVERNOR'S EXTRAORDINARY SESSION**

(New York, NY)- Today, the Senate Democratic Conference renewed their call for a fair, reasonable and bipartisan solution to ensure that the extraordinary session Governor David A. Paterson has indicated he will call for will result in the passage of critical and time sensitive legislation. With dozens of bills to extend the ability of local governments to fund schools, roads and local law enforcement in grave jeopardy, the Senate Democratic Conference has offered a bipartisan operating agreement that would allow both sides to come together and engage in the work that needs to be done for the people of New York.

“Our conference has met in good faith and tried to find a workable solution with our colleagues on the other side of the aisle, and today, we are again prepared to cast aside political disputes so that we can come together to meet the needs of all New Yorkers,” said Democratic Conference Chairman John L. Sampson. “There is too much at stake to let politics trump people. Our proposal will allow us to immediately address legislation vital to millions of New Yorkers and continue to do what we were elected to do- serve our constituents.”

“After witnessing the chaos that has gripped Albany throughout these past two weeks, never has it been more important for us to put partisanship aside and renew our commitment to putting the people first,” said Senate President Malcolm A. Smith. “Our proposal for an equitable operating agreement will allow us to get essential work done and pass legislation that local communities need to survive. This is not about one side winning and another losing. It is about fulfilling the duties of our office and serving the best interests of the people of New York.”

Among the bills to be potentially taken up at the Governor's special session are tax extenders to fund local and county government operations and programs; the Power for Jobs Program that provides low cost electricity to businesses and non-profit groups across the state; and legislation to allow over \$1.75 billion in federal stimulus and education funds to flow to local school districts.

**NEW YORK STATE SENATE
BIPARTISAN OPERATING AGREEMENT**

1. Term of Agreement. This agreement shall bind the parties until the end of the 2009-2010 legislative term.

2. Extension on Consent of Parties. The agreement may be renewed by a majority vote of the members elected to the Senate in January 2011, to continue the Rules adopted on June 8, 2009 as the Rules of the Senate.

3. Operation of the Senate. The Temporary President of the Senate, may preside, or if he chooses not to, the Majority Leader, may preside or choose another of either party to preside. The Presiding Officer, will have all the powers provided under law or rules to the President of the Senate.

4. Bills to be Considered. The parties agree that the Temporary President and the Majority Leader shall jointly publish a list of bills to be active on the Senate floor. A sponsor of legislation may move to have his or her bill on the calendar considered on the next active list if a majority of the members present and voting agree. Any bill on the calendar may be considered on the next active list upon the presentation of a petition signed by the majority of the members elected to the Senate.

5. Committee Chairs and Membership. Committee Chairs and members shall be designated jointly by the Temporary President and the Majority Leader, on a bipartisan basis, with due consideration given to the member's subject matter expertise and qualifications. Representation on Committees will be proportional to representation in the Senate as a whole.

6. Committee Staff and Central Staff. The Senate standing committees and leadership will receive an additional allocation for staff necessary to a committee or leadership role. The amount will be proportional to representation in the Senate as a whole. Central staff funding shall be allocated proportionally as well, however the amount necessary to fund positions necessary to the operations of the Senate shall not be charged against either the Majority or the Minority.

7. Resources of the Senate. All members will have access to the resources of the Senate, and members will receive the same allocation for staffing, subject to additional resources as set forth in Term 6.

8. Employees of the Senate. Employees of the Senate shall be appointed by the Temporary President, subject to the disapproval of the Majority Leader and the Majority Leader shall appoint employees, subject to the disapproval of the Temporary President. The Minority Leader shall be the appointing authority for the Minority Conference.

9. Administration of the Senate. The Senate shall be administered in a fair, equitable and nonpartisan manner, without regard to party membership.

10. Non-Sponsor Amendment of Bills. A vote to amend a bill on the floor shall only require a majority of the members present and voting. If successful, the bill will retain its place on the calendar until it has aged properly, and will then be immediately considered.

11. Passage of Bills. Bills shall always be sponsored by a named member. In addition, bills may not be passed using a message of necessity unless required by an emergency situation, which requires urgency. If a bill is to be passed with a message of necessity, it will not be subject to a four hour limit on its debate.

12. Leadership of the Senate. The Temporary President of the Senate shall be Pedro Espada, an enrolled Democrat, who shall jointly administer the Senate with Vice President Pro Tempore and Majority Leader, Dean Skelos, an enrolled Republican.

13. Resolution of conflict. The parties agree that the Senate Rules as adopted on June 8, 2009 will control as the Rules of the Senate for the remainder of the legislative term.

Dated: June 17, 2009

Comparison of Proposed Conference Operating Agreements

Issue	Democratic Conference	Republican Conference	Explanation
<p>Name</p>	<p>Bipartisan Operating Agreement for the New York State Senate</p>	<p>New York State Senate Bipartisan Operating Agreement</p>	
<p>Bipartisan agreement in name <i>and</i> operation?</p>	<p>Yes.</p>	<p>No.</p>	<p>Republican Conference names Pedro Espada as Temporary President and Dean Skelos as Majority Leader. (See Presiding officer.)</p>
<p>Presiding Officer</p>	<p>One designated by mutual agreement between the Democratic and Republican conferences.</p>	<p>Pedro Espada is named to Constitutional position of Temporary President of the Senate, which has powers under the State Constitution, including next in line to become Governor if office of Lieutenant Governor is vacant or Governor is out of state, (Art 4, Sect. 6); Legislative and other laws; and Senate Rules.</p>	<p>Democratic proposal appoints a single presiding officer to proceed in a bi-partisan fashion.</p>

Issue	Democratic Conference	Republican Conference	Explanation
<p>Floor Leader</p>	<p>Not named, 1 each designated by the Democratic and Republican Conference, alternating daily. One day Presiding Office is named by Democratic Conference, Floor Leader is named by the Republican Conference, vice versa next day.</p>	<p>Floor leader is designated by Pedro Espada and Dean Skelos and represents them on the floor.</p>	<p>Democratic proposal based on several state legislatures with equal numbers in conference that alternated duties and powers of a floor leader, e.g., Oklahoma Senate (2007-2008), Michigan House (1993-1994).</p>
<p>Bills to be Considered on Floor</p>	<p>Only matters designated by the Governor, no other legislative matters, resolutions, motions or procedures of any kind/</p>	<p>Until July 15, Pedro Espada and Dean Skelos have exclusive control of bills to be active on Senate floor. After July 15, Pedro Espada and Dean Skelos have exclusive control of which bills are placed on calendar for consideration on floor. <u>Only once a bill is on calendar, sponsor of legislation may move to have their bill considered on next active list if majority of members present and voting agree or by petition signed by the majority of members.</u></p>	<p>Republican proposal claims reforms to empower members, but in actuality changes nothing.</p>
<p>Committee Chairs</p>	<p>Bipartisan agreement developed during off-session of State Senate.</p>	<p>Committee Chairs and members jointly designated by Pedro Espada and Dean Skelos, representation proportional to Senate. Standing Committee and Leadership (designated by Espada/Skelos) receive "additional allocation" for staff.</p>	<p>Principles of Democratic proposal based on several state legislatures, e.g., Oklahoma Senate (2007-2008), New Jersey Senate (2001-2002), Michigan House (1993-1994), Indiana House (1988-1989).</p>

Issue	Democratic Conference	Republican Conference	Explanation
Senate Procedures	6-member Senate Conference Committee comprised of 3 members from the Democratic Conference and 3 members designated by the Republic Conference.	Addressed in their resolution from June 8.	
Other	Casting vote (tie-breaking vote) prohibited. Parties shall not attempt to call a regular session of the Senate before, during or after the Extraordinary Session.	Grants Pedro Espada 2 votes. Central staff funding allocated proportionately, however funds for "positions necessary to the operations of the Senate" (i.e., central staff) are controlled by Espada/Skelos but "not charged to either conference."	Democratic proposal avoids dispute about breaking tie. Republican proposal does not define what positions are necessary to the operations of the Senate, and thus can be interpreted in broadest possible sense.
Term of agreement	Expires at 11:59 p.m. on Monday, June 22, the scheduled end of session.	Expires at the end of the 2009-2010 legislative term.	