

NEW YORK
STATE
SENATE

ALBANY, NEW YORK 12247



June 16, 2009

Senator Pedro Espada, Jr.
Senator Dean Skelos
The Capitol
Albany, NY 12247

Dear Senators:

As you know, the New York State Senate must find a bi-partisan way to work together in the operation of the Senate chamber if we are to consider some of the critically important legislation that should be adopted before our scheduled last day of session – Monday June 22.

In fact today Judge McNamara in his decision in Smith v. Espada, reaffirmed this directive, when he again urged the members of the Senate to find a resolution to the 31-31 deadlock that is before us. Specifically, the court said, *"(i)n the present context, the question calls for a solution by the members of the State Senate, utilizing the art of negotiation and compromise. The failure of the Senate to resolve this issue in an appropriate manner will make them answerable to the electorate."*

We agree with Judge McNamara – the burden is on us to resolve this issue, at least on a temporary basis, in order to complete the immediate work that is before us.

Accordingly, we are proposing a draft bipartisan operating agreement for the New York State Senate which is based on the principles we offered in our meeting yesterday. This draft agreement, a copy of which is attached, would automatically expire on Monday June 22, unless it was extended by mutual consent.

Recognizing that both sides of the aisle have legal and other claims to leadership and other Senate matters which they are unwilling to waive at this time, we propose that all such claims are preserved and are not waived under the terms of this proposal.

We again offer this proposal in good faith and with a commitment to moving ahead with the peoples' business. We look forward to your speedy response and hope that we will be able to meet first thing tomorrow morning to work out any outstanding details. To that end, we ask that you join together with us and with Senators Jeff Klein and Senator Carl Krueger tomorrow, at a mutually-agreeable time, in Room 123 of the Capitol, to continue our discussion of this proposal and move towards an immediate resolution.

Sincerely,

A handwritten signature in dark ink, appearing to read "Malcolm A. Smith".

Senator Malcolm A. Smith

A handwritten signature in dark ink, appearing to read "John L. Sampson".

Senator John Sampson

BIPARTISAN OPERATING AGREEMENT FOR THE NEW YORK STATE SENATE

1. **Term of Agreement.** This agreement shall bind the parties until 11:59pm on Monday, June 22, the scheduled end of the regular 2009 legislative session.
2. **Extension on Consent of Parties.** This agreement may be extended on consent for extraordinary or continuing sessions of the Legislature during calendar year 2009.
3. **Operation of the Senate.** The parties agree to rotating Presiding Officers of the Senate, alternating daily, one each to be designated by the Democratic Conference and the Republican Conference, respectively.
4. **Bills for Consideration.** 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 which bills and resolutions will reach the floor. On agreement by a majority of such Committee, an Active List for each session shall be compiled and advanced. No bill shall be advanced or voted on by the Senate without prior approval of a majority of such Committee.
5. **Floor Leaders.** The parties agree to rotating 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 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.
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 16, 2009
Albany, New York
