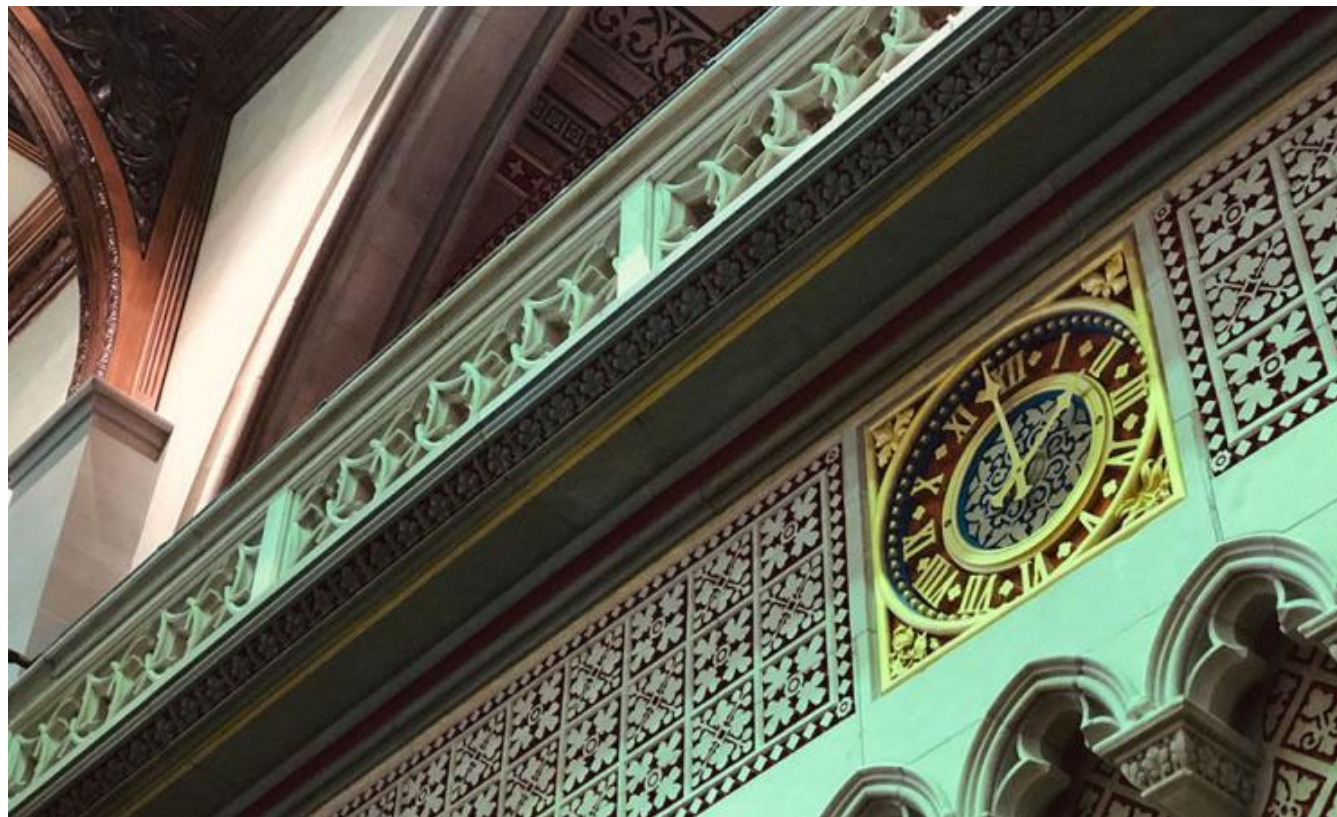


Why the state Legislature will never adjourn

Zach Williams



An ornate clock hanging in Albany's State Capitol building. | Zach Williams

State lawmakers can reconvene whenever their legislative leaders demand.

As the state legislative session comes to a close, time appears to be running out for a number of bills. But officially, lawmakers can take all the time they want in the upcoming months to pass more legislation – should they decide to return to Albany.

The New York state Legislature is often called a “part-time” legislature, but experts say that designation is a product of tradition rather than law. There is nothing in the state [Constitution](#) that mandates a minimum or maximum number of days that lawmakers must meet, leaving that decision to the leaders of the state Senate and Assembly. In recent decades, that has led legislative leaders to leave their options open by opting to “recess” rather than “adjourn” each year, according to Gerald Benjamin, a political science professor at SUNY New Paltz.

The difference between those two terms determines whether the Assembly speaker and state Senate majority leader need the cooperation of the governor, who the Constitution states can call an “extraordinary session” of the Legislature. “If you (adjourn), you have to come back into session and the process for special sessions is affected,” Benjamin said. But, he added, that changes if lawmakers opt to recess, in which case “you’re always in session in a formal sense and the leaders can always call you back.”

Legislators would officially adjourn each year until Gov. Hugh Carey’s tenure in the 1970s. That is when the issue arose about whether the confirmation of the state Senate was still needed for appointments to state commissions if the Legislature was not in session. Since then, legislative

leaders have kept the session going – at least on paper, according to historian and former Assemblyman Jack McEneny. “The legislature is never adjourned,” he said. “They are always in session and on leave.”

That change coincided with a wider national shift among state legislatures. The assumption had been for most of U.S. history that a state legislator was a side job for people who were otherwise normal people, working normal jobs. By the 1970s, however, this concept began to fall out of fashion nationwide, though not so much in New York, according to Benjamin. “We evolved into the idea of the legislature being a person’s principal position, but we never formally acknowledged it in New York as a full-time job,” he added.

In past years, the Legislature met for even shorter durations than in recent years. For example, the state Legislature adjourned in early May in [1969](#). In [1922](#), the Legislature adjourned on March 17.

By the mid-1980s, state leaders began noticing that the old days of legislating just a few months a year had come to an end. “In the leisurely days when the New York Legislature was like a men's club, members would spend the winter in Albany, then go home,” [The New York Times reported](#) in early July of 1985, with then-Assemblyman Richard J. Conners telling the newspaper, “They'd expect to get out by St. Patrick's Day.” However, the Times wrote then, legislating in New York “has become almost a year-round business.”

This year, lawmakers could have met even more than they have in recent months if they had wanted to. The state Legislature had 61 scheduled session days over the course of six months in 2019, or about 10 days per month. That number, however, was ultimately up to the legislative leaders to decide.

The issue of outside work has now become a defining issue in the status of the Legislature. While the state Constitution does not contain the term “part-time,” there have been various efforts over the years to redefine the Legislature as “full-time.” Gov. Andrew Cuomo in 2017 sought to do this through a constitutional amendment that would limit the amount of outside income that lawmakers can earn, but the effort ultimately fell short. Last year’s [state pay commission](#) imposed a similar limit on lawmakers as a condition for them to receive pay raises, but a recent [court ruling](#) has invalidated that limit to outside income.

Without further action, the state Legislature will continue to be whatever it wants to be. That means that lawmakers can say that they are part-time citizen legislators and claim to understand issues facing real New Yorkers because they too have regular jobs. However, this unofficial part-time status does not stop their legislative leaders from calling them back to the state Capitol anytime and for however long they like in the months ahead – whether rank-and-file lawmakers like it or not.

“They can literally send state troopers to go and pick you up and bring you back,” said McEneny. “You can either vote or abstain, but you have to sit there when the vote takes place.”