

Testimony to the New York State Compensation Committee 2018 Regarding Compensation for State Elected Officials and State Officers

November 30, 2018

Recommendation: A Significant Raise Coupled With Restrictions on Outside Income, Lulus and Per Diems

Good afternoon Committee Members DiNapoli, McCall, Stringer and Thompson. My name is Alex Camarda, and I am the Senior Policy Advisor for Reinvent Albany. Reinvent Albany is a government watchdog organization which advocates for open and accountable government. Thank you for your service on the committee and holding this important hearing today.

New York State statewide elected officials, legislators, and agency commissioners have not received a raise in nearly 20 years. Reinvent Albany believes our state elected officials and agency heads deserve a substantial raise. We want to attract the best and the brightest to public service, reward hard-working public servants, and ensure government officials are singularly focused on the public interest.

However, Albany has also been plagued by too many instances of corruption related to outside income. Most notably, former Assembly Speaker Sheldon Silver and former Senate President Dean Skelos were both convicted for crimes in which official acts resulted in personal gain related to their outside jobs, or their family's.

We therefore call on the Commission to provide a significant pay raise while also restricting outside income. Reinvent Albany, along with the New York Public Interest Research Group (NYPIRG) and Common Cause New York, issued detailed recommendations to this effect in 2015 in a report entitled [*Serving Two Masters: Outside Income and Conflict of Interest in Albany*](#).¹

The Legislature

Legislators currently make \$79,500 in base pay annually, with 160 of 213 lawmakers earning \$10,000-\$41,500 more in payments in lieu of salary (lulus) for chairing

¹<https://reinventalbany.org/2015/02/an-end-to-serving-two-masters-cap-legislators-outside-income-like-congress-does/>

committees or for holding leadership positions.² Just 27 of 213 lawmakers make more than \$99,000 a year including lulus. Lawmakers additionally earn per diems for travel and lodging of \$175 per day for days spent in the State Capitol, typically at least 60 a year for a total of \$10,500 in per diems although lawmakers often earn more and some have cleared \$20,000 annually.³

Reinvent Albany supports increasing lawmakers' total pay to \$120,000 through CY2018, a 50.88 percent increase which is slightly rounded up from the rate of inflation.⁴

We recommend eliminating lulus altogether except for the Majority and Minority Leaders of each house, consistent with Congress. We recommend the leaders earn an additional \$25,000 each because of their increased responsibilities. Albany provides lulus to far more lawmakers than any other state legislature, most of which don't have any. The New York City Council eliminated lulus in 2016 in return for receiving a 32 percent pay increase to \$148K. Eliminating nearly all lulus will create a legislature where rank-and-file lawmakers have more latitude to speak their mind or disagree with their leader without fear of retribution. Eliminating lulus will also make it easier to reduce the number of committees and leadership positions because not all lawmakers will need to chair a committee or hold a leadership position to earn a lulu.

Per diems should be capped in the aggregate at \$175 a day multiplied by the number of session days plus one extra day for each week of session. In 2018, the cap would have been \$14,525. The extra day will enable lawmakers to earn a per diem for when they travel to Albany the night before a session day, stay the night of the last session day, or otherwise travel to Albany on non-session days. Notably, members of Congress receive no housing or expense allowance whatsoever.

Outside income should be limited to 15 percent of the highest paid lawmaker, which would be \$21,750 (15 percent of \$145K). Lawmakers should further be prohibited from holding an outside job in which services offered involve a fiduciary relationship (such as legal or financial work or serving on boards of nonprofits, corporations or associations) or use the member's name. Lawmakers should be banned from receiving compensation for speeches, articles or appearances (honoraria) except for small sums which can be donated to charities unaffiliated with lawmakers. Lawmakers should not be able to buy

² <https://nyscompensation.ny.gov/docs/LegislativeStipendComparisons.pdf>

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<https://www.lohud.com/story/news/politics/politics-on-the-hudson/2017/08/03/database-per-diems-up-ny-lawmakers-even-amid-scrutiny/104053312/>

⁴ <https://nyscompensation.ny.gov/docs/LegislativeStipendComparisons.pdf>, p. 3.

stocks in an Initial Public Offering (IPO) or other options not available to the public. While these limitations may seem restrictive, most of the legislature will not be affected. In its report *[Serving Two Masters: Outside Income and Conflict of Interest in Albany](#)*, Reinvent Albany found only 1/3 of lawmakers filing financial disclosure forms in 2014 made more than \$20,000 in outside income.⁵

Outside income should also be better disclosed by all lawmakers and their immediate family members. The District of Columbia and Alaska provide good models for robust disclosure of outside income earned, including narrative descriptions of work so that an ordinary person can understand the nature of the services performed, and the dates and hours worked. Current descriptions of work in filings with the Joint Commission on Public Ethics (JCOPE) are sometimes vague and nondescript.

The Executive & Statewide Elected Officials

According to data compiled by the committee, the Governor, Attorney General and State Comptroller of New York are well paid compared to other select states. Reinvent Albany supports raising the salaries of statewide elected officials to \$215,455, 5 percent more than the highest paid executive agency commissioner after agency executives have their salary increased by the rate of inflation (see State Officials section below). According to the Committee's data, \$215,455 is a higher salary than paid by any other state for all three statewide elected officials.⁶

We believe the Governor and statewide elected officials should be subject to all the prohibitions on outside income we recommend for the legislature and additional restrictions that reflect the greater power and responsibility of their offices. Specifically, we recommend that advance royalties on publishing contracts should be banned, as it is by the United States House of Representatives. Publishing contracts should be subject to pre-approval by the state ethics body, and prohibited if the publisher is doing business with the state including receiving state or local grants or tax abatements. We also recommend the financial disclosure for the governor and statewide officials should include domestic partners.

State Officials

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<https://reinventalbany.org/2015/02/an-end-to-serving-two-masters-cap-legislators-outside-income-like-congress-does/>, pgs 1-2.

⁶ <https://nyscompensation.ny.gov/docs/ElectedOfficialPayComparisons.pdf>

Reinvent Albany supports a substantial pay increase for agency commissioners consistent with the rate of inflation since the last pay raise of 50.88 percent through CY2018, which would range from \$136,999 to \$205,196.

[Agency commissioners](#) specified in section 169 of Article 7 of the Executive Law are the most underpaid of the public servants being considered by the Committee.⁷ Oddly, Commissioners may currently earn less money than their deputies and other subordinates.⁸ Governor Cuomo has noted the challenges in hiring commissioners at lower salaries relative to New York City and other states.⁹

It is not clear to us why there are 6 bands of salaries for different state agencies in current law or what the rationale is for paying certain agency commissioners 50 percent more than others. We think there ought to be fewer if any salary bands, more flexibility within salary bands, and more consideration given to supply and demand for talented agency commissioners. Commissioners of larger agencies could be paid more, but that should be one just one factor considered. Many of the lower paid agencies provide services to the most vulnerable in our society like those in prisons, victim services and veterans.

Our understanding is public officers law section 73 and 74 restricts agency heads from earning outside income (as does Part 932 of JCOPE regulations) but we believe outside income should be further limited to include the prohibitions we recommend for lawmakers.

Implementing Salary Increases

The statute creating the Committee requires the Committee, “determine whether, on January 1, 2019, the annual salary and allowances of members of the legislature, statewide elected officials, and salaries of state officers referred to in section of the executive law, warrant an increase.” The statute further states, “ The committee may implement cost-of-living adjustments that apply annually and/or phase-in salary adjustments annually for 3 years, provided that no such adjustment shall be implemented beyond January 1, 2021.”

⁷ <https://nyscompensation.ny.gov/docs/CommissionerPayComparisons.pdf>, p. 2.

⁸ <https://www.democratandchronicle.com/story/news/local/2016/12/12/new-york-state-commissioners-salary-pay-hike-pay-raise-pay-increase-andrew-cuomo/95331572/>

⁹ <https://nyscompensation.ny.gov/docs/CommissionerPayComparisons.pdf>, p. 2-3.

Reinvent Albany believes lawmakers are deserving of a salary increase immediately but also strongly believes outside income, lulus and per diems should be dramatically restricted.

We do not believe core salary increases should be tied to responsibilities like passing the budget on time or other “performance” measures. It may be appropriate to do this for bonus type payments for hitting “performance” milestones. However, that is a model that takes time to develop effectively and this Committee does not have time to do so by December 10th. If it was to be done, the structure of the Mayor’s Management Report in New York City provides a model for state officials. Agencies provide metrics and targets which support goals for agency performance, and measure whether targets are reached. The legislature, as part of budget hearings, can shape these targets and metrics.

Thank you and I welcome any questions you may have.