



**TESTIMONY
Of the
NEW YORK PUBLIC INTEREST RESEARCH GROUP
Before the
NEW YORK STATE COMPENSATION COMMITTEE 2024
Albany, N.Y.
October 10, 2024**

Good morning. I am Blair Horner, executive director of the New York Public Interest Research Group Fund (NYPIRG). NYPIRG is a non-partisan, not-for-profit, research and advocacy organization. Consumer protection, environmental preservation, health care, higher education, and governmental reform are the principal areas of concern of NYPIRG. We appreciate the opportunity to testify on issues relating to legislative and executive compensation for New York State government.

As a multi-issue organization, we are well aware of the relationship of a functioning state government to attract and retain high caliber individuals. We know that providing reasonable compensation for public service is an important factor in making government work. We also are deeply sympathetic to anyone who has not had a raise in over a decade. We have been proud to work with both statewide elected officials and legislators to advance legislation that is important to the public interest. However, as an organization that includes governmental reform as one of its priorities, we are also deeply concerned by the public's growing cynicism over its own democracy. A cynicism that is the direct result of some in government gaming the system for their personal enrichment.

That cynicism is reflected in voter apathy and an overall view that those in government are only in it for themselves. Sadly, in recent years that view has too often turned out to be accurate.

It is in an increasingly toxic political environment that you must consider the issue of setting reasonable compensation levels for members of the executive and legislative branches. Combating that public cynicism and growing voter anger is as important a goal as identifying appropriate, defensible compensation levels.

It was within that view that the governor and state lawmakers agreed to its current pay raises with a clear linkage to restrictions on outside income. However, a legal challenge to that linkage has, at least so far, severed that linkage.¹ While the decision in this lawsuit is pending, New York State legislators have a \$142,000 salary, the highest in the nation, and no limits on outside income.²

During the period the Committee remains unable to limit outside income, NYPIRG urges you not to recommend pay increases for state legislators or statewide officials. It is our view that elected officials cannot "serve two masters," they must be accountable to only one – the public that they serve.

¹ Campbell, J., "Judge strikes down limit on NY lawmakers' income outside government — for now," Gothamist, <https://gothamist.com/news/new-york-albany-legislature-outside-pay-cap/>.

² National Conference of State Legislatures, "2024 Legislator Compensation," <https://www.ncsl.org/about-state-legislatures/2024-legislator-compensation>.

In addition to a moratorium on any pay increases until the court challenges play out, we recommend that you recommend steps to further strengthen the outside income restriction – assuming it passes legal muster.

NYPIRG supports establishing Congress-style limits on lawmakers' outside earned income.³ The Congressional system was an outgrowth of the Watergate scandal and has a proven track record of being effective in removing outside conflicts.

When the Congress adopted its system, it observed that,

“. . . substantial outside income creates at least the appearance of impropriety and thereby undermines public confidence in the integrity of government officials.”⁴

The Congress bans income from any entity in which the Congressman has a “fiduciary” relationship with a client. Being a “fiduciary” means putting the interests of your client ahead of your own. When you’re an elected official whose constituents’ interests are paramount, how do you do that when you have clients? Can lawmakers serve two bosses?

Yet no such restriction exists in the current (and under legal challenge) outside income “ban” in New York. **We urge you to recommend that New York adopt a similar “fiduciary” restriction as part of its outside income ban.**

We agree that this potential conflict exists in Albany and the convictions of elected officials underscore how lucrative it can be for lawmakers to inappropriately use the powers of their public office for private gain. Beyond that, legislators routinely consider proposals that may have an impact on their outside business interests. A bright line standard is therefore necessary.

Current law limits outside income to \$35,000 in excess of the Congressional restriction (if applied would have been \$21,500), we urge you to recommend that New York follow the Congressional maximum amount.

In addition, the scandal surrounding the book deal obtained by the previous governor underscores meaningful restrictions on the outside income of the full-time, statewide elected officials. **We urge you to recommend that there is a ban on the receipt of advance fees for publishing contracts.**

Information produced in reports issued by the New York State Assembly Judiciary Committee⁵ as well as the then-ethics agency, the Joint Commission On Public Ethics’s independent review⁶ of the

³ We do note, however, that the Congressional model not only restricts the *amount* of outside income, but also restricts the *sources* of outside income, barring the types of work that create conflicts of interest, such as legal and accounting services. See *Serving Two Masters: Outside Income and Conflict of Interest in Albany*, NYPIRG and Reinvent Albany, February 2015. This report may be accessed at http://www.nypirg.org/pubs/outside_income_report_2.23.15.pdf.

⁴ House Bipartisan Task Force on Ethics, Report on H.R. 3660, 101st Cong., 1st Sess. 12.

⁵ “Impeachment Investigation Report to the Judiciary Committee, Chair Charles Lavine and the New York State Assembly Judiciary Committee,” prepared by Davis Polk & Wardell LLP, November 22, 2021.

⁶ Investigative Report on JCOPE’s Approval of Governor Cuomo’s July 10, 2022 Outside Activity Request, Hogan Lovells US LLP, July 1, 2022.

decisions arising from that approval have raised serious concerns about JCOPE's decision-making as well as the former governor's adherence to the JCOPE agreement.

We also urge that you recommend that any publishing contracts and other requests for outside income should be subject to pre-approval by the full state ethics body – not staff – with the full text and conditions of approvals released to the public and prohibited if the publisher is doing business with the state, including receiving state or local grants or tax abatements.

New York's statewide elected officials are paid at the highest rate in the nation,⁷ are full-time, and should not be allowed to do outside work. We understand that circumstances may arise that such income could be considered, but the review and approval process must be done publicly and decided at the highest level.

With regard to compensation for agency commissioners, we agree with annual adjustments made within the context of the state financial situation as well as other economic conditions. However, there must be strict limits on any outside income and that any proposals to obtain such income be approved by the commissioners of the ethics commission, not staff, as mentioned above.

To sum up, we urge that you recommend no increases in salaries for the state's elected officials until the restrictions on outside income are upheld and that the additional measures raised in our testimony be included in your recommendations.

Thank you for the opportunity to testify.

⁷ For more information, see https://ballotpedia.org/Comparison_of_gubernatorial_salaries.