

**TESTIMONY OF SUSAN LERNER
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**BEFORE THE NEW YORK STATE COMMISSION ON
LEGISLATIVE, JUDICIAL, & EXECUTIVE COMPENSATION
RE. SALARY INCREASE AND RELATED REFORMS**

MARCH 10, 2016

Thank you for the opportunity to address you today. I am Susan Lerner, Executive Director of Common Cause/New York. Common Cause is a national nonpartisan, nonprofit public advocacy organization founded in New York in 1970 by John Gardner as a vehicle for citizens to make their voices heard in the political process and to hold their elected leaders accountable to the public interest. With nearly 400,000 members and supporters and 36 state organizations, Common Cause is committed to honest, open and accountable government and to encourage citizen participation in democracy. Since its inception, the New York chapter has always been and continues to be one of the most active state organizations in the country, representing tens of thousands of New Yorkers throughout the state.

I want to thank the members of the Commission for their service and to particularly thank the Chair, Ms. Birnbaum, who may remember me as a student in her torts class at NYU Law School many decades ago. She was a great torts teacher, by the way, as I'm sure you're not surprised to hear.

Common Cause/NY has consistently supported setting appropriate compensation levels for elected officials, to insure that salaries for those who dedicate themselves to public service are sufficient to attract and retain talented and creative individuals. Most recently, that has translated into a pay increase for the New York City Council accompanied by needed relevant reforms and strong support for a salary increase for New York State legislators.

A Pay Raise is Long Overdue

Legislative pay raises are, unfortunately, and needlessly, controversial. Politicians fear the voters' anger if they grant themselves raises, especially during a period when the average New Yorker is not seeing frequent – or sometimes, any - pay increases. As a consequence, New York's Legislature has gone without a pay raise for 17 years, an absurdly long period. The longer a raise is delayed, the larger it should be to keep up with inflation and relevant salary increases, making it even more politically frightening for a legislative body to vote for an increase.

Common Cause/NY strongly supports the procedure established by New York City's Charter for addressing what we recognize is the politically sensitive issue of raises for elected officials – the regular appointment of a commission to study and make recommendations regarding salary. We believe that the City's procedure is one that sets an appropriate model for how other jurisdictions, including New

York State, should handle the issue of setting salaries for elected officials. Therefore, we were very pleased when this Commission was appointed and are grateful for the opportunity to testify today. In recent years, before the appointment of this Commission, legislative pay raises were consistently – and we believe improperly - linked to unrelated issues. As this Commission is all too aware, linking legislative and judicial raises together led to a completely unjustified refusal to raise judicial salaries for many years. We are grateful that that problem has been solved. So, on to the next.

The last legislative pay raise, under former Governor George Pataki, was linked to allowing charter schools to legally operate within New York State, a completely unrelated political issue. This time, we recommend following the example of New York City, and calculating this pay raise based on the inclusion of reforms related to compensation, such as decreasing or eliminating outside income, erasing stipends, and tightening up rules for per-diem. All of these “add-ons” are designed to provide extra compensation to legislators without the political risk of voting for a pay raise. If the Legislature is to be granted a substantial raise – and we at Common Cause/NY believe that they should – then it should be accompanied by the elimination of these “add-ons.”

The 1999 pay raise was a 38% increase after a decade of a yearly \$57,500 salary - the potential raise we are discussing today would be after 17 years. According to the Department of Labor’s (DOL) Bureau of Labor Statistics Consumer Price Index, the buying power of \$79,500 in 1999 was around the equivalent of \$113,000 today - or an increase of around 42%. Common Cause/NY would like to see a pay raise coupled with needed reforms and it would be wise to peg a raise commensurate with the reforms sought after. A 45% to 50% raise makes sense if outside income and stipends are eliminated.

It has been, and remains, Common Cause/NY’s consistent policy that elected officials should not try to serve two masters but should work, first and solely, for the people they have been elected to represent. In today’s world, legislators for entities as diverse and complex as New York State should work for the people on a full-time basis, without significant outside employment – and this shouldn’t be too hard to do. According to a recent Common Cause/NY report, out of the 183 lawmakers elected prior to the 2014 election cycle, roughly 60% or 110, do not have any outside income. Only 9% of the legislators (31) make between \$50,000 and \$515,000 in outside income. We have provided the Commission with a copy of our report through the Commission website.

Breaking Down the Numbers

If we want to attract the best and brightest to public service, then we need to pay accordingly.

Base Salary	Percent Increase	Amount	New Salary
\$79,500	42%	\$33,390	\$112,890
\$79,500	45%	\$35,775	\$115,275
\$79,500	50%	\$39,750	\$119,250

According to the National Association for Law Placement, 75 percent of firms of more than 250 lawyers paid first-year associates \$160,000 in 2014. For firms of more than 700 lawyers, 90 percent reported

paying first-year associates that amount. A Major, Lindsey & Africa survey of law firm partner compensation found the average salary for partners in New York City exceeded \$1 million in 2014. Even the average 2015 pay for a first-year associate in a small law firm (10 lawyers or less) is between \$76,000 and \$108,000 and the pay for a lawyer with four to nine years of experience ranges from \$103,208 - \$189,388.

In 2014, according to the DOL, General and Operations Managers¹ throughout the United States, on the top end of the pay scale, made an average yearly wage of \$117,200 and the median (50th percentile) yearly wage was \$97,270. However, out of the top five states with the highest employment of General and Operations Managers, New York State tops out at the highest average yearly wage of \$141,500.

We believe that these comparative figures support our recommendations for a significant raise for legislators, assuming, of course, that the raise is accompanied by the elimination of the collateral compensation sources they have created in the intervening years since their last raise.

Timing

Common Cause/NY urges the Commission to issue its report as quickly as possible. The question of a salary increase is inextricably bound up with the issues of outside income and administrative stipends for legislators. Uncertainty as to the future salary level for legislators has complicated efforts to pass broad ethics and anti-corruption measures. We believe that a broad package of ethics reforms, including a ban or meaningful limits on outside income and elimination of lulus, should be adopted this legislative session. Either a preliminary analysis or an indication of what the Commission is likely to recommend issued by June will help eliminate unnecessary impediments to ethics reform.

We believe that any raise which the Commission recommends should be prospective. While we believe that the Legislature has gone too long without a raise, we believe that making any raise retroactive is inappropriate. In that vein, we support providing the Legislature with a raise equal to the increase in cost of living, or 42% to be effective as of January, 2017, with additional increases to become effective when the Legislature adopts further reforms, such as meaningful limits or bans on outside income and elimination of lulus. We would support further increases in the \$12,000 to \$25,000 range to accompany such reforms.

¹ According to the Department of Labor, a General and Operations Manager is characterized by the description of: "Plan, direct, or coordinate the operations of public or private sector organizations. Duties and responsibilities include formulating policies, managing daily operations, and planning the use of materials and human resources, but are too diverse and general in nature to be classified in any one functional area of management or administration, such as personnel, purchasing, or administrative services. Excludes First-Line Supervisors."