

LOST CENTURY:

“...I want to represent you, the people of these counties and no one else.....I want to stay on the job representing you twelve months a year.”

Franklin D. Roosevelt, 1910
Speech at Hudson upon being elected to the State Senate

DEDICATED LEGISLATURE

NEW
ROOSEVELT

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LOST CENTURY: In 1910, Franklin D. Roosevelt, Speech at Hudson upon being elected to the State Senate “...*I want to represent you, the people of these counties and no one else... I want to stay on the job representing you twelve months a year.*”

When will we realize that, after decades of corruption, our part-time legislature isn't working and a major change must be made?

Espada, Huntley, Lopez, N. Rivera, Kruger, Gonzalez, Monserrate, Boyland, Norman, Cook, Clark, P. Rivera, Karben, Seminerio, Green, Johnson, Davis, Leibell, Bruno, Gordon, Cole, A. Smith, M. Smith, Stevenson, McLaughlin, Velella, and Sampson.

GOAL:

New York State should strive to have among the most progressive and effective legislatures in the nation, attracting top talent to serve independent of special interests. We should no longer allow legislators to be bankrolled by law firms, realties, or consultancies. We should no longer allow legislators like disgraced former Senator Pedro Espada to use non-profits as personal piggy banks. We should no longer allow legislators to be tempted to trade on their ability to steer public funds to the pet projects of people who contribute to their campaigns or are willing to trade on their influence.

A dedicated legislature, where every legislator is fully committed to their Senate or Assembly seat without outside income, will help realize these goals, ensuring New York is among the best places to live, to work, and to do business. A dedicated legislature would open up the possibility of public service in Albany to the state's best and brightest citizens who heretofore have been unable to afford to do so because of its part-time nature and need to seek additional outside income.

1. Implement a Dedicated Legislature: Limit Outside Income for Legislators

All newly elected state legislators should commit to follow the same rules that apply to their counterparts in the United States Congress by limiting outside income. An exception would be made for incumbents who choose to maintain their current salary for a maximum of three more terms, instead of opting into the new dedicated legislature rules and giving up their outside income to receive an increase in their salary.

The implementation of a dedicated legislature in New York State would be a major step in ending corruption and restoring voters' faith in the Government.






Outside Income for Current “Part Time” Legislature

Outside income is allowed for New York State Senators and Assembly Members because the position is considered “part-time.” As a result, law firms, public relations firms, and consultants representing special interests can actually place a member of the State Legislature on their payroll. While the new ethics law will require legislators to disclose total outside income in

specified ranges, it will not force disclosure of clients of the legislator’s firm unless they were solicited by the legislator or the legislator is working on the client’s projects, leaving room for immense conflicts of interest.^{i ii}

In the previous Legislature, four legislators led their parties in their respective houses. All but one were on the payroll of a law firm that represents a special interest. Andrea Stewart-Cousins, replacing John Sampson as Senate Minority Leader, brings the number to two.

This problem extends beyond leadership. As of 2010, only 76 out of 212 legislators had no source of outside income.ⁱⁱⁱ

	Name	Outside Income	Type	2011 Outside Salary (Estimated)	Special Interest	House	Party	Title
2011 – Present	Dean Skelos 	Ruskin, Moscou, Faltischek ^{iv}	Law Firm	\$250,000+ ^v (Undisclosed)	Big Business	Senate	Republican	Majority Coalition Leader
	Sheldon Silver 	Weitz & Luxenberg ^{vi}	Law Firm	\$1,000,000+ ^{vii} (Undisclosed)	Personal Injury	Assembly	Democrat	Speaker
	Brian Kolb 	NONE	NONE	NONE	NONE	Assembly	Republican	Minority Leader
2011-12	John Sampson 	Belluck & Fox ^{viii}	Law Firm	Undisclosed	Personal Injury	Senate	Democrat	Former Minority Leader
Present	Andrea Stewart-Cousins 	NONE	NONE	NONE	NONE	Senate	Democrat	Minority Leader
	Jeffrey Klein 	Klein, Calderoni & Santucci	Law Firm	Undisclosed	Personal Injury	Senate	Independent Democratic Conference	Majority Coalition Leader

As soon as John Sampson became leader of the Democrats in the Senate following the 2009 Republican coup, he went on the payroll of Belluck & Fox, a large plaintiff’s side personal injury firm.^{ix} Current leader of the Independent Democratic Conference Jeffrey Klein also serves as partner in a personal injury firm he founded in 1996 after he was first elected to the New York State Assembly.

However, Sampson and Klein were only following in the footsteps of the Democratic Speaker of the Assembly Sheldon Silver and Dean Skelos former Temporary President and current Majority Coalition Leader.

Assembly Speaker Sheldon Silver is arguably one of the most powerful men in New York State government as one of the “three men in a room.” Silver has been on the payroll of Weitz & Luxenberg for years, another plaintiff’s personal injury firm.

This apparent conflict of interest is also not confined to one party. The former Temporary President and current Majority Coalition Leader for the Republican Party of the Senate, Dean

Skelos, is on the payroll of Ruskin, Moscou, Faltischek, yet another legal practice. This firm represents companies that both do business and lobby the State of New York.

In 2011, Assembly Republican Minority Leader Brian Kolb was the only leader dedicated to his position without a source of outside income. Current Senate Minority Leader Andrea Stewart-Cousins new joins him in receiving no outside income.

Compensation in Congress, a Model for the New York State Legislature

A New York State a dedicated legislature would adopt the same rules used in the United States Congress.

Article I Section 6 of the United State Constitution empowers Members of Congress to determine their own pay, which between 1789 and 1968 was changed 22 times through the passage of specific legislation. Members of Congress originally only received a per diem, but in 1817 Congress instituted annual salaries starting at \$1,500.

The Ethics in Government Act of 1978 made Congress a dedicated legislature by placing a limit of 15% of their salary on the amount of outside earned income, which, at today's \$174,000 a year salary, would be \$26,100.

Congressional Limitation of Outside Income

In addition, specific sources of income are prohibited,^x including:

- affiliating with or being employed by a firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship (such as legal, accounting, or money management services);
- permitting that Member's, officer's, or employee's name to be used by any such firm, partnership, association, corporation, or other entity;
- practicing a profession which involves a fiduciary relationship;
- serving as an officer or member of the board of any association, corporation, or other entity; and
- teaching, without the prior notification and approval.

Sources of income that are allowed to exceed the 15% outside income limit^{xi} are:

- service with the national guard;
- pensions, annuities, and deferred compensation;
- investments;
- business in which the member or their family has a controlling interest where income is unrelated to any services rendered by the member;
- royalties, fees, and their functional equivalent, from the use or sale of copyright, patent, and similar forms of legally recognized intellectual property rights; and
- approved teaching.

2. Legislative Compensation: New York State

Article III Section 6 of the New York State Constitution says that Legislators will determine their own salary and that amount is then fixed by law. The current base salary for a New York State Legislator, last changed in 1999, is \$79,500. If the salaries set in 1999 had been indexed to inflation, they would now be \$110,787.50 a year.

Automatically Adjust Salaries by Commission or Index

Therefore, New York State legislators must vote for salary increases, an uncertain process dependent on public support. There is no limit on a legislator's outside income.

New salaries could be determined by an independent commission convened at regular intervals, similar to the Special Commission on Judicial Compensation that meets every four years. This commission would be charged with examining, evaluating, and making binding recommendations in regards to legislative pay.

Alternatively, Bill Samuels is proposing tying salaries to the Consumer Price Index (CPI) for a regular cost of living adjustment (COLA) starting at \$125,000 in 2015. If the salaries set in 1999 had been indexed to inflation, they would now be \$110,787.50 a year. Samuels selected \$125,000 so it would be \$12,500 higher than the New York City Council.

Legislative Compensation: New York State

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Legislative Compensation in New York – Historically

New York State legislators currently earn \$79,500, a salary set by law 14 years ago. While legislative compensation was originally set in the original Constitution and subsequent constitutions thereafter, the 1938 Constitution provided for legislative compensation to be set by law. Since 1938, legislative pay was increased on average once every six years, with this being the longest the legislature has gone without setting a raise by law.

New York State History of Legislative Compensation *Indexed for Inflation*

Annual Salary	Start Year	End Year	Salary Indexed to Inflation	Years Without Raise	Note
\$3 a day	1846	1847		1	Set By Constitution
\$300	1848	1893		45	Set By Constitution
\$1,500	1894	1937		43	Set By Constitution
\$2,500	1938	1947		9	Salary Set By Law
\$5,000	1948	1954		6	
\$7,500	1955	1961		6	
\$10,000	1962	1967		5	
\$15,000	1967	1974		7	
\$23,500	1975	1982		7	
\$32,960	1983	1984		1	
\$43,000	1985	1988		3	
\$57,500	1989	1998		9	
\$79,500	1999	Today	\$110,787.50	14	

*Source: United States Department of Labor, Bureau of Labor Statistics,
http://www.bls.gov/data/inflation_calculator.htm*

The Legislature had originally tied judicial pay raises to their own pay raises, which was held to be in violation of the State Constitution in 2010.^{xii}

As a result, in 2011 a State Commission decided on a three-year pay raise from \$136,700 to \$174,000. The Special Commission on Judicial Compensation will reconvene every four years to make binding recommendations on judicial compensation for New York State judges.

	New York State	New York City	
Governor	\$ 179,000	Mayor	\$225,000
Lieutenant Governor	\$ 151,500	Public Advocate	\$165,000
Comptroller	\$ 127,000	Comptroller	\$185,000
Attorney General	\$ 151,500	Corporate Counsel	\$205,180
Senate	\$ 79,500	City Council	\$112,500
Assembly	\$ 79,500		

Since 1967, new legislative salaries have been set at approximately \$100,000 in today's dollars. If the salaries set in 1999 had been indexed to inflation, they would now be \$110,787.50 a year.

Whether legislative pay is tied to a commission like the judiciary, or through a cost of living adjustment (COLA) based on inflation, it is clear that any new proposal should provide a process for regular salary increases.

3. Salaries for State Elected Officials to Be Comparable to New York City Counterparts

Currently, New York City elected officials earn higher salaries than State legislators (see table below). This discourages many qualified candidates from seeking state office, further evidenced by State Senate and Assembly members who run for “lower office.” We should provide raises to New York statewide elected officials to be commensurate with their municipal counterparts in New York City.

Legislative Compensation – Locally and Nationally

New York City Council Members earn \$112,500, raised from \$90,000 in 2006, representing fewer constituents than their peers in the New York State Senate who only earn \$79,500.

There has been a tendency to adjust legislative salaries upwards or downwards based on voter satisfaction. For example, in California, state legislators currently earn \$90,526, decreased from \$95,291 in 2012 and \$113,098 a year in 2007. In Michigan legislators earn \$71,685, reduced in 2011 from \$79,650.

State	Base Salary
California	\$95,291
Pennsylvania ^{xiii} ^{xiv}	\$79,613
New York	\$79,500
Michigan ^{xv}	\$71,685
Illinois	\$67,836
Massachusetts	\$61,133
Ohio	\$60,584

Updated from the NCSL

Yet comparing legislative salaries nationally does not explain our State’s history of corruption. In stark contrast from New York, which had 27 ethics violations in the last decade is California, which only had one violation where a person was charged with shoplifting in 2011, and Michigan, where one senator was convicted of domestic abuse in 2001 (See Appendix B for a chart of all 27 violations). Obviously, New York has a severe and on-going corruption problem, especially downstate, which moving to a dedicated legislature would help to address.

If New York were to tie any increase in salaries to elimination of outside income with rules similar to Congress, it would be the first state legislature in the nation to do so. As an alternative to allowing the rise and fall of voter satisfaction to dictate legislators’ salaries, creating this dedicated legislature would lead to other states also focusing on reforms like eliminating outside income and the appearance of impropriety to improve voter confidence.

Bill Samuels, Founder of New Roosevelt, proposes the following salaries as targets.

Current New York State ^{xvi}		Current New York City ^{xvii}		Bill Samuels' Proposed New York State	
Governor	\$ 179,000	Mayor	\$225,000	Governor	\$250,000
Lieutenant Governor	\$ 151,500	Public Advocate	\$165,000	Lieutenant Governor	\$175,000
Comptroller	\$ 151,500	Comptroller	\$185,000	Comptroller	\$200,000
Attorney General	\$ 151,500	Manhattan District Attorney	\$190,000	Attorney General	\$200,000
Assembly	\$ 79,500	City Council	\$112,500	Assembly	\$125,000
Senate	\$ 79,500			Senate	\$125,000

Conclusions, Linking Legislative Pay Increases to a Dedicated Legislature

In April 2012, Assembly Speaker Sheldon Silver went on record stating that it was time for the legislature to receive a pay raise.^{xviii} Though initially supportive, Governor Cuomo later tied consideration of legislative pay raises to the legislature passing the “people’s agenda,” which included increasing the state minimum wage. Unable to accomplish either prior to the session’s December 31st, 2012 deadline, legislators must now wait another two year session before again obtaining a pay raise. Salary increases for dedicated legislators would therefore start in 2017.

The failure to raise legislative salaries in 2012 creates opportunity to link future raises to creating a dedicated legislature, based on the model employed in Congress. This pay raise, coupled with outside income limitation, would be optional for incumbents and mandatory for newly elected legislators. The approximately 76 incumbent legislators who did not have outside income as of 2010 would see an immediate salary increase, with others given the choice to keep their outside income and stay at the current salary of \$79,500 for three more terms. Finally, we must peg legislative salaries to the CPI, thereby bypassing the need for future legislation.

It is our belief that, over time, these changes will create a legislature truly dedicated to their peers and to their voters.

End Notes:

- ⁱ “Record Request Form,” New York State Joint Commission on Public Ethics, available at <http://www.jcope.ny.gov/public/request.html>.
- ⁱⁱ Speaker Sheldon Silver, “Public Integrity Reform Act of 2011,” Assembly Bill 8301 of 2011, available at http://assembly.state.ny.us/leg/?default_fld=&bn=A08301&term=2011&Summary=Y&Actions=Y&Votes=Y&Memo=Y&Text=Y.
- ⁱⁱⁱ New York Public Interest Rights Group, “Press Release: Real Estate Tops as Source of Lawmakers’ Outside Income,” January 28, 2011.
- ^{iv} Fredric U. Dicker, “Skelos Dummies Up on Law-Cash Ethics,” New York Post, May 16, 2011, available at http://www.nypost.com/p/news/local/skelos_dummies_up_on_law_cash_ethics_zqWgFQ9bmrpNHXpUpYRaaP.
- ^v *Id.*
- ^{vi} *Id.*
- ^{vii} Fredric U. Dicker, “Silver Lining Up with Gov on Ethics Reform,” February 8, 2011, available at http://www.nypost.com/p/news/local/silver_lining_up_with_gov_on_ethics_cKpUREJc0BvQKBzOWEneIN.
- ^{viii} Tom Robbins, “Senate’s John Sampson Scores Big with Law Firm,” Village Voice, Jan 4, 2010, available at http://blogs.villagevoice.com/runninscared/2010/01/senates_sampson.php.
- ^{ix} Tom Robbins, “Senate’s John Sampson Scores Big with Law Firm,” Village Voice, Jan 4, 2010, available at http://blogs.villagevoice.com/runninscared/2010/01/senates_sampson.php.
- ^x 5a U.S.C. §502.
- ^{xi} Congressional Committee of Rules, Rule XXV - Limitations On Outside Earned Income And Acceptance Of Gifts (4)(d)(1) available at <http://www.rules.house.gov/singlepages.aspx?NewsID=145&rsbd=165>.
- ^{xii} Joel Stashenko, “Denial of N.Y. Judicial Pay Raise is Ruled Unconstitutional,” New York Law Journal, February 24, 2010, available at http://www.law.com/jsp/article.jsp?id=1202444420795&Denial_of_NY_Judicial_Pay_Raise_Is_Ruled_Unconstitutional.
- ^{xiii} Robert Swift, “State Legislature is Among Nation’s Most Expensive,” The Times-Tribune, April 26, 2010, available at <http://thetimes-tribune.com/news/state-legislature-is-among-nation-s-most-expensive-1.742222>.
- ^{xiv} Caleb Taylor, “PA Gov’t Salaries Going Up,” The Tribune-Democrat, November 26, 2011, available at <http://tribune-democrat.com/local/x67377156/Pa-gov-t-salaries-going-up>.
- ^{xv} Sara Scholtens, “Viewpoint: Let’s pay legislators the same as teachers to promote Michigan Gov. Rick Snyder’s ‘shared sacrifice,’” Michigan Live, March 26, 2011, available at http://www.mlive.com/opinion/kalamazoo/index.ssf/2011/03/viewpoint_lets_pay_legislators_1.html.
- ^{xvi} “A Description of Elected Offices and Their Official Websites,” New York City Campaign Finance Board, available at <http://www.nycfb.info/public/VRC/govtPages.aspx>.
- ^{xvii} *Id.*
- ^{xviii} Jimmy Vielkind, “Capital Pay Rise Next on Agenda,” Times Union, April 4, 2012, available at <http://www.timesunion.com/local/article/Capitol-pay-rise-next-on-agenda-3456995.php>.