



10

**TESTIMONY
OF THE
NEW YORK PUBLIC INTEREST RESEARCH GROUP
BEFORE THE
JOINT HEARING OF THE SENATE FINANCE AND ASSEMBLY WAYS & MEANS
COMMITTEES REGARDING THE
FISCAL YEAR 2016-2017 EXECUTIVE REFORM BUDGET PROPOSALS
January 26, 2016
Albany, N.Y.**

Good afternoon, my name is Blair Horner and I am executive director of the New York Public Interest Research Group (NYPIRG). NYPIRG is a non-partisan, not-for-profit, research and advocacy organization. Consumer protection, environmental preservation, health care, higher education, and governmental reforms are our principal areas of concern. We appreciate the opportunity to testify on the governor's executive budget on ethics, campaign finance, and elections reforms.

The stunning and unprecedented scandals that have rocked the state Capitol are the direct result of the shortcomings of New York's ethics laws and enforcement. NYPIRG believes that the governor and the Legislature need to respond by doing three things to reduce the risk of corruption and restore public trust: Set strict limits on outside income; close the so-called limited liability company campaign finance "loophole;" and increase the transparency of lump-sum and MOU appropriations in the budget.

The governor's package of reforms goes beyond those three important measures and while we are generally supportive of and will make recommendations on those other measures, the three mentioned above are essential to restoring public confidence and must be part of any final agreement. Below are our specific comments and recommendations on the governor's ethics legislation.

Congress-style limits on outside earned income. The governor's proposal goes a long way toward reducing the obvious conflicts of interest that result from allowing elected officials to have significant outside employment. However, we believe limits on earned income should apply to the Legislature and all statewide offices, instead of only the Legislature. The governor's proposal tracks the Congressional approach to limiting outside income,¹ which 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."²

¹ 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.

² House Bipartisan Task Force on Ethics, Report on H.R. 3660, 101st Cong., 1st Sess. 12.

NYPIRG Reform Budget Testimony, Page 2

We agree that this potential conflict exists in Albany and the recent convictions of elected officials underscore how lucrative it can be for lawmakers to inappropriately use the powers of their public office for private gain.

The governor's proposal mirrors the Congressional system and states that "royalties from the sale of a book" is not considered as income for the purposes of a cap on outside income, however "no advance fees shall be permitted." Yet, as the legislation is drafted, it applies to the legislative branch only. We believe that caps on outside income should cover the statewide elected officials as well. Accordingly, we urge that the limitation be extended to the executive branch.

Limited Liability Companies. The governor's proposal would close the so-called "LLC Loophole" in state election law that as interpreted by the State Board of Elections allows some business entities to donate much larger campaign contributions than corporations and other business types. Moreover, under the current LLC Loophole often the true identity of the source of the contribution behind the company is shielded from public disclosure. Those weaknesses are not merely academic ones: the LLC Loophole has allowed a small number of entities to give enormous amounts of campaign contributions and has figured prominently in the recent scandals in Albany. The governor's proposal would remedy those failings and we urge support.

Greater budget transparency. We appreciate that the governor proposes to establish a more transparent budget. The plan would allow the public to "access more information about where and how money flows from the state to private citizens." We look forward to boosting transparency in this area and to providing more information for the public to track state contracts and grants.

Campaign Finance and Enforcement. The governor's package advances a number of additional measures designed to strengthen state laws. In the area of campaign finance: the plan enhances disclosure by requiring that contributions that exceed \$1,000 must be disclosed every 60 days; it requires the identities of campaign bundlers; it lowers campaign contribution limits; and establishes a voluntary system of public financing. All of these measures are important and we support them.

However, it is a failing of New York State law—and the budget proposal—that the occupation and employer of contributors are not included in the information contributors are required to provide, unlike New York City and federal campaign finance laws. We believe that this obvious omission should be corrected.

In the area of ethics enforcement, the governor's plan extends the provisions of the Freedom of Information and Open Meetings laws to the Joint Commission on Public Ethics ("JCOPE"), authorizes JCOPE to seek documents in support of information on financial disclosure statements; increases enforcement authority against lawmakers who failed to comply with JCOPE audits; and creates district attorney oversight over those who submit deceptive information. The bill also requires lawmakers to put the exact amounts of their outside income on disclosure forms (rather than ranges of income), and imposes financial penalties for all violations of the Public Officers Law regulating ethics. Finally, his proposal allows for the forfeiture of pensions by public officials convicted of corruption.

While we are generally in support of these measures, more must be done to fix the structural weaknesses in JCOPE. For example, the JCOPE board should have a smaller number (and odd number) of appointees; allow for appointments by the state Comptroller and Attorney General; eliminate the three-member

NYPIRG Reform Budget Testimony, Page 3

minority legislative “veto” over investigations; and prohibit elected officials from sitting on JCOPE’s board since it regulates the lobbying industry, a tremendous source of campaign contributions. In addition, the executive director and other staff should not be hired directly from the executive or legislative branches or political parties. A state government employment “cooling off” period should be part of the law. The ethics law will ultimately only be as good as it is regulated and enforced.

In a related area, the governor’s package included a requirement that political consultants advising elected officials register as lobbyists. We agree that political consultants and campaign managers who *also* work for lobbyists or lobby clients should report the existence of these dual roles. The unique dual capacity of working to get candidates elected and then serving in a consultant capacity for lobby clients and lobbyists who are lobbying the very public official who the consultant helped get elected warrants disclosure.

In the area of voting and elections, the governor’s plan proposes automatic voter registration, a concept that we vigorously support. However, the plan would utilize only the Department of Motor Vehicles (“DMV”) as the agency to be responsible for automatic registration. We strongly believe that such a system must be expanded to all state agencies. As you know, many urban residents, as well as many New Yorkers of modest means, do not seek the services of the DMV. The lowest voter participation rates include just those residents. We urge that this provision to be expanded to all agencies.

But as we stated earlier, our view is that the way the public should measure the success of this reform effort by whether the outside income of elected officials is dramatically limited, the LLC loophole is closed, and there is comprehensive transparency in budget appropriations.

We appreciate the steps the governor has taken to achieve these three priorities and pledge to work with all of you to ensure that these measures become law.

Thank you.

