

COMMITTEE ON LEGISLATIVE AND EXECUTIVE COMPENSATION

December 10, 2018

The Honorable Andrew M. Cuomo
Governor of the State of New York
State Capitol
Albany, New York 12224

The Honorable John J. Flanagan
Temporary President and Majority Leader
State Capitol Building, Room 330
Albany, New York 12247

The Honorable Carl E. Heastie
Speaker of the New York State Assembly
Legislative Office Building, Room 932
Albany, New York 12248

The Honorable Andrea Stewart-Cousins
Temporary President-elect and Majority Leader-elect
State Capitol Building, Room 315
Albany, New York 12247

Dear Governor Cuomo, Temporary President Flanagan, Speaker Heastie and Temporary President-elect Andrea Stewart-Cousins:

I am pleased to submit this report on behalf of the Committee on Legislative and Executive Compensation. Pursuant to Part HHH of Chapter 59 of the Laws of 2018, this report sets forth the Committee's recommendations with respect to the levels of executive and legislative compensation over the ensuing three calendar years.

In furtherance of its statutory mandate, the Committee considered a broad range of pertinent data, beginning with the factors delineated in the statute. The Committee held four public hearings or public meetings that were broadcast live over the Internet and are archived on the website which is available at: <https://nyscompensation.ny.gov/archived.html>. The Committee carefully reviewed the public testimony and extensive written submissions received in connection with the question of appropriate compensation for New York State Officials.

The enclosed report contains our findings, determinations and recommendations, which were adopted unanimously by the members on December 6, 2018.

I want to thank the members of the Committee for their thoughtful consideration and hard work in dealing with this important issue.

Respectfully submitted,

A handwritten signature in black ink that reads "H. Carl McCall". The signature is written in a cursive style with a large, sweeping initial "H".

Chairman H. Carl McCall,
Chairman of the Board of Trustees
State University of New York

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Members of the Committee on Legislative and Executive Compensation

Thomas P. DiNapoli

A life-long Long Islander, Tom was raised in a middle-class, union household and saw the value of hard work and stretching every dollar in the example set by his parents.

In 1972, Tom won his first election and served as a trustee on the Mineola Board of Education, becoming the first 18-year-old in New York State to hold public office. He attended Hofstra University, earning a bachelor's degree in history and graduated magna cum laude in 1976. He earned a master's degree from The New School University's Graduate School of Management and Urban Professions.

In 1986, he ran for the New York State Assembly and was elected to represent the 16th District in northwestern Nassau County for the next 20 years. Tom was elected State Comptroller on Feb. 7, 2007 by a bipartisan majority of the State Legislature. He was elected Comptroller by New York's voters in 2010, 2014 and 2018.

H. Carl McCall

H. Carl McCall was appointed Chairman of the State University of New York Board of Trustees October 17, 2011. He first joined the Board as a member on October 22, 2007.

Mr. McCall has had a distinguished career as a public servant. Mr. McCall served as Comptroller of the State of New York from May 1993 to December 2002. He served three terms as a New York State Senator representing the upper Manhattan district of New York City; as an Ambassador to the United Nations; as a Commissioner of the Port Authority of New York and New Jersey; and as the Commissioner of the New York State Division of Human Rights.

He served as President of the New York City Board of Education from 1991 – 1993, where he set policy for the largest school system in the nation and as the Chairman of the Public Higher Education Conference Board, a coalition of 14 member organizations which supports a strong and vibrant public higher education system in New York State. He has also been a Vice President of Citibank and a Corporate Director of the New York Stock Exchange, Tyco International, New Plan Realty Corporation and Ariel Investment.

He was educated at Dartmouth College, Andover Newton Theological Seminary and the University of Edinburgh. He is the recipient of ten honorary degrees.

Scott Stringer

New York City Comptroller Scott M. Stringer has spent his career in public service fighting to ensure that every New Yorker has an equal opportunity to make it in New York City. Over the last two decades, Mr. Stringer has advocated for real affordable housing, been a champion for policies like a \$15 minimum wage, worked to strengthen the City's fiscal health, and promoted open, transparent government.

Born and raised in Washington Heights, Mr. Stringer was elected to the New York State Assembly in 1992, where he represented Manhattan's West Side for 13 years. In 2006, he became Manhattan Borough President, and was elected Comptroller in 2013.

Mr. Stringer attended local public schools in Washington Heights and attended the John Jay College of Criminal Justice. He and his wife, Elyse, live with their two sons, Maxwell and Miles, in Manhattan.

William C. Thompson, Jr.

William C. Thompson, Jr. was appointed by Governor Andrew Cuomo on June 15, 2016 as Chairman of the Board of Trustees of The City University of New York. His term ends June 2022. Currently, Mr. Thompson is also a Partner at Siebert Cisneros Shank & Co., a full service investment firm, serving as Chief Administrative Officer since April 2010.

Mr. Thompson was elected to two consecutive, four-year terms as Comptroller of the City of New York in 2002. Prior to being elected New York City Comptroller, Mr. Thompson served five terms as President of the nation's largest school system with more than 130,000 employees and an annual budget of nearly \$12 billion. As President, Mr. Thompson led policy development and implementation for a public school system with 1.1 million public school students.

In January 2015, Governor Cuomo named Mr. Thompson as Chairman of the New York State Housing Finance Agency and Chairman of the State of New York Mortgage Agency. In 2011, Governor Cuomo selected Mr. Thompson to Chair his M/WBE Task Force. In February 2010, Governor David Paterson named Mr. Thompson to serve as Chairman of the Board of The Hugh L. Carey Battery Park City Authority, a position he held until 2012.

A lifelong New York City resident and a product of its public schools, Mr. Thompson graduated from Tufts University with a B.A. in Political Science. He is a Trustee Emeritus of Tufts University.

SUMMARY OF THE COMMITTEE'S RECOMMENDATIONS

A. Legislature:

1. Effective January 1, 2019, the salary of a member of the legislature shall be \$110,000.
 - a. Effective January 1, 2019, all stipends in Legislative Law Section 5-a shall be folded into the base salary and set at \$0, except for
 - (i) in the Assembly: the Speaker of the Assembly, the Majority Leader of the Assembly, Speaker Pro Tempore of the Assembly, the Chair of the Ways and Means Committee, Chair of the Codes Committee, as well as the Minority Leader; Minority Leader Pro Tempore; and Ranking Members of the Ways and Means Committee and the Codes Committee shall remain unchanged from current levels; and
 - (ii) in the Senate the stipends for the Temporary President, Deputy Majority Leader and the Chair of the Finance Committee, as well as the Minority Leader; Deputy Minority Leader and Ranking Member on the Senate Finance Committee. These stipends shall remain unchanged from current levels.
2. Effective January 1, 2020, the salary of a member of the legislature shall be \$120,000.
 - a. all stipends in Legislative Law Section 5-a shall be folded into the base salary and set at \$0, except for
 - (i) in the Assembly: the Speaker of the Assembly, the Majority Leader of the Assembly, Speaker Pro Tempore of the Assembly, the Chair of the Ways and Means Committee, Chair of the Codes Committee, as well as the Minority Leader; Minority Leader Pro Tempore; and Ranking Members of the Ways and Means Committee and the Codes Committee shall remain unchanged from current levels; and
 - (ii) in the Senate the stipends for the Temporary President, Deputy Majority Leader and the Chair of the Finance Committee, as well as the Minority Leader; Deputy Minority Leader and Ranking Member on the Senate Finance Committee. These stipends shall remain unchanged from current levels.
 - b. Effective January 1, 2020, there shall be a cap of fifteen (15) percent of the legislative base salary [\$18,000], on income earned from employment outside of Legislature, and a complete prohibition on outside income from employment where the legislative member has a fiduciary relationship to the employer or client, analogous to the Congressional model.
3. Effective January 1, 2021, the salary of a member of the legislature shall be \$130,000.
 - a. all stipends in Legislative Law Section 5-a shall be folded into the base salary and set at \$0, except for
 - (i) in the Assembly: the Speaker of the Assembly, the Majority Leader of the Assembly, Speaker Pro Tempore of the Assembly, the Chair of the Ways and Means Committee, Chair of the Codes Committee, as well as the Minority Leader; Minority Leader Pro Tempore; and Ranking Members of the Ways and Means Committee and the Codes Committee shall remain unchanged from current levels; and

(ii) in the Senate the stipends for the Temporary President, Deputy Majority Leader and the Chair of the Finance Committee, as well as the Minority Leader; Deputy Minority Leader and Ranking Member on the Senate Finance Committee. These stipends shall remain unchanged from current levels.

- b. A cap of fifteen (15) percent of the legislative base salary [\$19,500], shall continue on income earned from employment outside of Legislature, and a complete prohibition on outside income from employment where the legislative member has a fiduciary relationship to the employer or client analogous to the Congressional Model.

B. Governor and Lieutenant Governor (The Committee recommends to both houses of the Legislature that the following compensation structure be adopted by a joint resolution):

1. Effective January 1, 2019, the salary of the Governor shall be \$200,000.
2. Effective January 1, 2020, the salary of the Governor shall be \$225,000.
3. Effective January 1, 2021, the salary of the Governor shall be \$250,000.
4. Effective January 1, 2019, the salary of the Lieutenant Governor shall be \$190,000.
5. Effective January 1, 2020, the salary of the Lieutenant Governor shall be \$210,000.
6. Effective January 1, 2021, the salary of the Lieutenant Governor shall be \$220,000.

C. Attorney General and State Comptroller:

1. Effective January 1, 2019, the salary of the Attorney General and the salary of the State Comptroller shall be \$190,000.
2. Effective January 1, 2020, the salary of the Attorney General and the salary of the State Comptroller shall be \$210,000.
3. Effective January 1, 2021, the salary of the Attorney General and the salary of the State Comptroller shall be \$220,000.

D. Executive Law Section 169 Commissioners:

1. Effective January 1, 2019, the six tiers of Commissioners (subdivisions a-f) shall become four tiers (subdivisions a-d) [as expressed in Figure 3 of this Report].
2. Tier-A Commissioners:
 - a. Effective January 1, 2019, the salary for Tier-A Commissioners shall be \$190,000.
 - b. Effective January 1, 2020, the salary for Tier-A Commissioners shall be \$210,000.
 - c. Effective January 1, 2021, the salary for Tier-A Commissioners shall be \$220,000.
3. Tier-B Commissioners:
 - a. Effective January 1, 2019, the salary for Tier-B Commissioners shall be \$175,000.
 - b. Effective January 1, 2020, the salary for Tier-B Commissioners shall be \$190,000.

- c. Effective January 1, 2021, the salary for Tier-B Commissioners shall be \$205,000.
- 4. Tier-C Commissioners:
 - a. Effective January 1, 2019, the salary for Tier-C Commissioners shall be authorized in accordance with a salary established by the Governor, between \$140,000 and \$160,000.
 - b. Effective January 1, 2020, the salary shall for Tier-C Commissioners be authorized in accordance with a salary established by the Governor, between \$160,000 and \$180,000.
 - c. Effective January 1, 2021, the salary for Tier-C Commissioners shall be authorized in accordance with a salary established by the Governor, between \$175,000 and \$200,000.
- 5. Tier-D Commissioners:
 - a. Effective January 1, 2019, the salary for Tier-D Commissioners shall be authorized in accordance with a salary established by the Governor, between \$100,000 and \$120,000.
 - b. Effective January 1, 2020, the salary for Tier-D Commissioners shall be authorized in accordance with a salary established by the Governor, between \$120,000 and \$140,000.
 - c. Effective January 1, 2021, the salary for Tier-D Commissioners shall be authorized in accordance with a salary established by the Governor, between \$140,000 and \$170,000.

STATUTORY MANDATE

The provisions of law which established this Committee are found at Part HHH of Chapter 59 of the Laws of 2018. These provisions establish a one-time committee to consider the compensation of statewide elected officials, the Commissioners of the state agencies whose salaries are contained in Section 169 of the Executive Law, and the compensation of the Legislature, whose salaries and allowances are contained in Legislative Law §5 and §5-a.

While a full copy of this legislation is attached at the end of this report, it is important to note that this section of law fits within a Constitutional framework. The compensation of statewide elected officials and legislators is a matter which is addressed in both Article III and Article IV of the New York State Constitution.

To the extent that these provisions are to be “fixed by law,” this Committee is tasked with making recommendations which have the force of law and supersede existing law. The Committee takes this important responsibility very seriously and is guided and constrained by the provisions of Part HHH.

Most relevant is our charge:

To “make recommendations with respect to **adequate levels of compensation, non-salary benefits, and allowances** pursuant to section 5-a of the legislative law, for members of the legislature, statewide elected officials, and those state officers referred to in section 169 of the executive law.” (See, Part HHH at §1 emphasis added).

We must determine whether on January 1, 2019 an increase in compensation is warranted, and the statute further provides that the Committee shall take into account all appropriate factors, including, but not limited to:

- (1) the parties' performance and timely fulfillment of their statutory and Constitutional responsibilities;
- (2) the overall economic climate;
- (3) rates of inflation;
- (4) changes in public-sector spending;
- (5) the levels of compensation and non-salary benefits received by executive branch officials and legislators of other states and of the federal government;
- (6) the levels of compensation and non-salary benefits received by comparable professionals in government, academia and private and nonprofit enterprise;
- (7) the ability to attract talent in competition with comparable private sector positions; and
- (8) the state's ability to fund increases in compensation and non-salary benefits.

The legislation allows that a salary increase, if determined to be warranted, may be implemented over time, however, the last installment of such increase must commence no later than January 1, 2021 (Part HHH, § 2(4)(a)). Further, each such phased-in increase is statutorily conditioned upon "performance of the executive and legislative branch and upon the timely legislative passage of the budget for the preceding year." (Part HHH, § 2(4)(b)).

This Committee is tasked with, as part of its report, delineating what those conditions require, although "legislative passage of the budget" is set forth as having the same meaning as in Legislative Law §5 (3)

Our report is to be submitted by December 10, 2018 and requires that "any findings, conclusions, determinations and recommendations in the report must be adopted by a majority vote of the committee. Each member of the committee shall report their vote and describe their reasoning for their determination." (See Part HHH, §4 (1)).

These recommendations "shall have the force of law" and "shall supersede, where appropriate, inconsistent provisions of section 169 of the executive law, and sections 5 and 5-a of the legislative law," and the Legislature is free to abrogate these recommendations by statute prior to the commencement of the new term on January 1, 2019. Further, there is another Salary Commission, that will be appointed pursuant to Part E of Ch. 60 of the L. of 2015, in June of 2019 and shall have the ability to both consider the actions of this Committee in its determinations and, to the extent any portion of this report remains to be implemented, modify such portion.

For further reference, among the provisions of law that may be impacted are Section 5 of the legislative law, which effectuates the salary provisions of the Constitution for Legislators AND Section 5-a of the Legislative Law, which is unchanged in substance since its enactment in 1998, provides for legislative stipends for legislators who serve in a variety of positions. Stipends range from \$9,000 to \$41,500. Section 5-a further contains restrictions on the receipt of stipends. Under that section, Legislators are limited to (1) receiving no more than one quarter of the

stipend before March 31 and (2) the remainder only upon the passage of a budget. Leg. Law §5-a(2).

Section 169 of the Executive Law sets forth the salaries for various state officers holding positions such as commissioner, chancellor, executive director and the like. The positions are collected into six groups, designated by lettered paragraphs, each with its own designated salary ranging from \$90,800 to \$136,000. *See* Exec. L. §169(1) and (2) (“for the positions listed in paragraph (a), \$136,000; in paragraph (b), \$127,000; in paragraph (c), \$120,800; in paragraph (d), \$109,800; in paragraph (e), \$101,600; and in paragraph (f), \$90,800). This section also provides for a list of additional state entities – such as SUNY and CUNY – that are permitted to set their own salary plans for chancellors and presidents and are not within the scope of this report.

FINDINGS AND DETERMINATIONS

Based upon the public testimony and extensive written submissions, and upon its own research and deliberations, the Committee's findings are as follows:

- (1) This Committee is tasked with considering, among other things, the parties' performance and timely fulfillment of their statutory and Constitutional responsibilities. Indeed, the receipt of any phased-in increase is statutorily conditioned upon the fulfillment of these obligations as a legislative body, as well as on-time budget passage in the prior year.
- (2) On-time budget passage occurs when both houses finally act upon the executive budget submission in accordance with Article VII of the Constitution, by April 1, with appropriations sufficient to support the ongoing operation and support for state government and local assistance for the ensuing fiscal year (hereinafter defined as "on-time budget passage"). Satisfaction of the condition of on-time budget passage is readily ascertainable. This year, 2018, the Governor and Legislature enacted an on-time budget.
- (3) The "performance" of the legislature in its statutory and Constitutional activities, however, is to be interpreted and determined by this Committee. While some may want a litmus test by issue (or by individual Legislator), we cannot have (nor would the statute permit), an increase to be challenged based upon the needs or wants of any particular citizen. The statute charges us with considerations and determinations regarding the body as a whole. Accordingly, we find that this first condition is met by the implementation of the Committee's limitations on stipends and outside earned income, that will advance the full-time nature of today's legislative duties to, as a body, satisfy fulfillment of their statutory and Constitutional responsibilities.
- (4) Thus, the increase in salary that we are recommending for effectiveness on January 1, 2019 should be paid to every Legislator, whether or not they were elected or held the position the prior year as there was on-time budget passage. Going forward, with our further recommendation for an increase effective January 1, 2020, and January 1, 2021, it is the determination and finding of this Committee that the on-time budget passage by April 1, in each prior year, together with compliance with the recommendations of this Committee, shall entitle the Legislature to the recommended increases.
- (5) New York ranks fourth in the country in terms of population and second in the country in terms of its operating budget. The overall gross product produced by New York ranks third in the country with over \$1.5 trillion earned annually. The duties and responsibilities of the Commissioners, the Governor and Statewide elected officials and Legislature are amongst the most complex in the world. The output of New York State and the needs of its population dwarf those of many countries worldwide.
- (6) By any economic measure, the compensation of New York's Executive branch and Legislative branch officials has failed to keep pace with the rate of inflation since 1999 when the last pay increase became effective. One can measure simply by the Consumer Price Index, and determine that the actual purchasing power of the salary contained in law

has decreased. Speaker Carl Heastie, the only Legislator to address this Committee, made a compelling case to the erosion of the legislators' salaries. While the median household income in New York is up 67% during the past two decades, the \$79,500 base salary for lawmakers now has a purchasing power of \$51,401 over 1998 when it was enacted. Despite working many long hours in their districts, the cost of living in every category- health care, child care, transportation, etc. has far outpaced their salary. Members of the Legislature are seeking positions in New York City government or the Executive branch at a much greater rate than in past years.

- (7) New York's many agency commissioners likewise do not have many entities to which they can be readily compared given the complexity and scope of their budgets, personnel and missions. However, we analyzed other cities, federal agencies and other states and found that the pay of New York's agency commissioners was also sorely lagging. For instance: looking at comparison states in the Northeast, as well as larger states like California, Florida and Texas, the highest salaries for agencies such as Health, Transportation, Police, Corrections and Education were all uniformly over \$200,000, in many cases closer to \$300,000. In many of these categories, New York's salaries were the lowest of the comparison group. New York City's Commissioners earn over \$200,000, for talent pool with a ready transition from New York City to the State system, that significant decrease in salary makes it difficult to recruit and retain Commissioners. Further, the stagnant salaries of Commissioners has suppressed the salaries of other Executive branch staff, which has also made it difficult to retain talented staff; any increase at the Commissioner level will thus allow for other staff salaries to be increased accordingly. Lastly, the statewide elected officials, the Attorney General, Comptroller,¹ Lieutenant Governor and Governor have seen their collective salaries decline in the face of inflation over the last two decades as well. Other states and major cities have grown these salaries over 50% more than our own statutorily mandated amounts.
- (8) Consideration of private sector wage growth over the same two decades reinforces that there must be an increase. The Committee analyzed salary data for, among others, lawyers, including lawyers working in private practice and the public sector throughout New York State, executives in the non-profit sector, professionals in academia and public education, and government officials in New York City. While public service should never strive to compete solely with the private sector, it is instructive and helpful to understand to properly place our public officials in context of the broader labor market in which the State competes for talented individuals.
- (9) New York State is in relatively strong fiscal condition at the present time, inasmuch as the Governor and Legislature have controlled increases in spending. While deficits are projected for the coming fiscal year, continued restraints on spending will manage such deficits. The projected additional cost to the State for the first phase of the Committee's recommendations can be managed within existing budgets, making this increase

¹ Sitting Comptroller Tom DiNapoli, who was statutorily mandated to participate on this Committee, recused himself from any discussion or voting on the salaries of the statewide elected officials.

affordable as it represents less than 5 one-thousands of 1 percent of all state funds spending (0.0048%).

- (10) Salary data for Legislators are not well-compared to legislators in most other states. Many states legislators who are considered “part-time” as compared to New York, which is in reality considered a more “full-time legislature, do earn less than New York’s salary of \$79,500. However, New York’s legislators compare in workload and productivity to relatively few other legislatures in the country. Further, differences in regional cost of living impact these salaries as well. The National Conference of State Legislatures for instance, compares New York only to Michigan, California, and Pennsylvania as equivalent to work product and time commitment.² In some of those states, the salaries exceed that of New York.
- (11) New York’s Legislature does, however, uniquely pay a significant number of Legislators a stipend pursuant to §5-a of the Legislative Law. New York pays out 160 special stipends ranging from \$9,000 to \$41,500. Pennsylvania, by comparison, only pays 15 members a stipend, California pays only four. It is the finding of this Committee that only those highest ranking officials with the level of duties commensurate to those positions in each house should receive a stipend, and the remainder should be folded into an increase in base pay. This will create more equity amongst all 213 Legislators, more stability and transparency regarding legislative compensation and address certain ethical concerns associated with the stipends. The reconfiguration of the balance between salary and stipend, in the overall compensation of Legislators, also complies within the statutory directive limiting the Committee to consideration of increases in compensation.
- (12) As part of this process, many individuals and organizations have called on this committee to ban outside income for Legislators. The Committee was statutorily charged with reviewing other mechanisms of compensation nationally and in other states. This Committee finds that the Congressional model employed to limit outside income and potential conflicts of interest is best. Applying this model to limit receipt of outside earned income will eliminate both the perception of and any actual conflicts of interest amongst the membership of the two houses. Further, by completely eliminating outside earned income in those areas of employment set forth in the Congressional rules (which include, but are not limited to, instances of fiduciary relationship by service on a board of a company whether for-profit or not-for-profit, service as an attorney, financial advisor, and consultant), it eliminates the possibility for the public to question whether the citizens of this State are being properly served. Speaker Heastie was the only legislative leader to address this committee and he expressed an openness and willingness to consider such a proposal. Temporary President-elect Andrea Stewart-Cousins did not address this Committee, however she noted on December 6 in a public statement that she and her colleagues in the Democratic Conference have pushed to adopt the Congressional model.

² <http://www.ncsl.org/research/about-state-legislatures/full-and-part-time-legislatures.aspx>

- (13) Therefore, the Committee finds that the consideration of compensation cannot be complete without considering outside income, its role in overall legislative compensation and the ability of Legislators to fulfill their responsibilities to serve the public in a focused and ethical manner. Accordingly, as part of a compensation framework for Legislators, the Committee determined to limit outside earned income to ensure that Legislators devote the appropriate time and energy to fulfilling their Constitutional obligations and to also minimize the possibility and perception of conflicts. The Committee finds and determines that a complete ban on any outside income would restrict access to these positions, and the limitation on outside earned income is sufficient to prevent avoidable conflicts of interest.
- (14) Accordingly, as of January 1, 2020, the Congressional model prohibition on outside income from certain professions and a cap on proceeds from outside employment shall apply to the legislature. Where employment is not prohibited, there shall be an earned income limit of 15% of legislative base salary, to be implemented analogously to the cap on Congressional outside income. For 2020, the limitations on outside earned income shall be \$18,000. The Committee recognizes that a small number of Legislators have existing obligations and therefore provides this one-year window for Legislators to come into compliance. Furthermore, the Committee believes that the existing guidance and interpretation available under the Congressional model should serve as a guide to implementation of these restrictions in New York.
- (15) There have been additional calls for reforms completely unrelated to the compensation of those within the jurisdiction of this Committee. These include campaign finance reform, closing the LLC loophole, and many other myriad requests be part of any package to increase salaries. We believe these demands, wholly unrelated to “compensation,” are inappropriate for this Committee to consider, even while we may individually and collectively support some or all of them, and encourage the Governor and Legislature to give them appropriate consideration.
- (16) There have also been calls to enact a permanent cost of living adjustment to the recommendations here. The statutory mandate of the Committee requires that no increase be effectuated beyond January 1, 2021, which places the imposition of a permanent cost of living adjustment or COLA outside the scope of this Committee’s authority. Further, the Commission on Judicial, Legislative and Executive Compensation created pursuant to Part E of Chapter 60 of the Laws of 2015 will be re-appointed in June of 2019 and will be empowered to make recommendations effective in 2021.

RECOMMENDATIONS

The members of this Committee unanimously adopted these recommendations at the public meeting of the Committee on December 6, 2018, and the Commissioners concur in the recommendations reflected in this report, which incorporate the foregoing findings and determinations.

A. Legislature

The Committee has determined that the appropriate compensation for a member of the Legislature warrants increase. However, in light of the fiscal considerations and need for further reforms such increase shall be phased-in as follows:

- **Effective January 1, 2019 the salary of a member of the legislature shall be \$110000.**
 - **Further all stipends pursuant to Legislative Law Section 5-a shall be folded into the base salary and set at \$0, except for in the Assembly the Speaker of the Assembly, the Majority Leader of the Assembly, Speaker Pro Tempore of the Assembly, the Chair of the Ways and Means Committee, Chair of the Codes Committee, as well as the Minority Leader, Minority Leader Pro Tempore, and Ranking Members of the Ways and Means Committee and the Codes Committee; and in the Senate the stipends for the Temporary President, Deputy Majority Leader and the Chair of the Finance Committee, as well as the Minority Leader, Deputy Minority Leader, and Ranking Member on the Senate Finance Committee. These stipends shall remain unchanged from current levels.**

- **Effective January 1, 2020 the salary of a member of the legislature shall be \$120,000.**
 - **Further all stipends pursuant to Legislative Law Section 5-a shall be folded into the base salary and set at \$0, except for in the Assembly the Speaker of the Assembly, the Majority Leader of the Assembly, Speaker Pro Tempore of the Assembly, the Chair of the Ways and Means Committee, Chair of the Codes Committee, as well as the Minority Leader, Minority Leader Pro Tempore, and Ranking Members of the Ways and Means Committee and the Codes Committee; and in the Senate the stipends for the Temporary President, Deputy Majority Leader and the Chair of the Finance Committee, as well as the Minority Leader, Deputy Minority Leader, and Ranking Member on the Senate Finance Committee. These stipends shall remain unchanged from current levels.**

 - **The Committee further finds that the continuation of unrestricted receipt of outside income runs counter to, as Speaker Heastie testified, the full-time nature of legislative responsibilities, risks actual and perceived conflicts of interest, and thus creates difficulty in setting levels of compensation. The Committee was charged with reviewing other**

mechanisms of compensation nationally and in other states. This Committee finds that the Congressional model employed to limit outside earned income and potential conflicts of interest is best. New York shall limit receipt of outside earned income to eliminate both the perception of and any actual conflicts of interest amongst the membership of the two houses and shall completely eliminate outside earned income where there is a fiduciary relationship including service on a board of a company whether for-profit or not-for-profit, to serve as an attorney, financial advisor, consultant or in any other capacity where the public could question whether the employer or the citizens of this state are being properly served. In all cases, where employment is not prohibited, a hard cap of 15% of legislative base salary shall be imposed on outside earned income to ensure that the primary source of earned income is from the state.

- **Specifically, the prohibited activities are:**
 - **receiving compensation for affiliating with or being employed by a firm, partnership, association, corporation, or other entity that provides professional services involving a fiduciary relationship, except for the practice of medicine;**
 - **permitting their name to be used by such a firm, partnership, association, corporation, or other entity;**
 - **receiving compensation for practicing a profession that involves a fiduciary relationship except for the practice of medicine;**
 - **receiving compensation as an officer or member of the board of an association, corporation or other entity;**
 - **receiving compensation for teaching, without prior notification to and approval from the legislative ethics commission;**
 - **receiving advance payments on copyright royalties, fees, and their functional equivalents.³**
- **The limitation on outside earned income shall be \$18,000.**
 - **Outside earned income shall mean wages, salaries, fees, and other forms of compensation for services actually rendered. It shall not include any:**
 - (1) salary, benefits, and allowances paid by New York state;**
 - (2) income attributable to service with the military reserves or national guard;**
 - (3) income from pensions and other continuing benefits attributable to previous employment or services;**
 - (4) income from investment activities, where the member's services are not a material factor in the production of income**
 - (5) income from a trade or business in which the member or their family holds a controlling interest, where the member's services are not a material factor in the production of income;**

³ This list of prohibited activities is drawn from bicameral and bipartisan legislation from both houses which seeks to limit outside income.

- 6) **copyright royalties, fees, and their functional equivalent, from the use or sale of copyright, patent and similar forms of intellectual property rights, when received from established users or purchasers of those rights; and**
 - 7) **compensation for services actually rendered prior to January first, two thousand twenty, or prior to being sworn in as a member of the legislature.**
- **Existing guidance and information interpreting the Congressional rules may be relied upon for guidance in implementation. The Legislative Ethics Commission may continue to offer guidance and opinions as to permissible outside activities for Legislators.**
- **Effective January 1, 2021 the salary of a member of the legislature shall be \$130,000.**
 - **Further all stipends pursuant to Legislative Law Section 5-a shall be folded into the base salary and set at \$0, except for in the Assembly the Speaker of the Assembly, the Majority Leader of the Assembly, Speaker Pro Tempore of the Assembly, the Chair of the Ways and Means Committee, Chair of the Codes Committee, as well as the Minority Leader, Minority Leader Pro Tempore, and Ranking Members of the Ways and Means Committee and the Codes Committee; and in the Senate the stipends for the Temporary President, Deputy Majority Leader and the Chair of the Finance Committee, as well as the Minority Leader, Deputy Minority Leader, and Ranking Member on the Senate Finance Committee. These stipends shall remain unchanged from current levels.**
 - **All outside earned income shall be limited to 15% of base salary, \$19,500, with prohibitions on outside earned income in certain professions as stated above.**

B. Statewide Elected Officials

1. Governor and Lieutenant Governor's salary is constitutionally fixed by a joint resolution of both houses. Therefore, this Committee must simply advise both houses that the following is the determination of the Committee for their respective salaries, and that the following compensation structure be adopted by a joint resolution:

- **The committee recommends a salary of \$250,000 for the office of Governor, a number that while short of the inflation-adjusted amount, reflects the complexity of the office and the fairness in supporting a substantial increase. This increase should also be effectuated in three phases:**
 - **Effective January 1, 2019, the salary shall be \$200,000.**
 - **Effective January 1, 2020, the salary shall be \$225,000.**
 - **Effective January 1, 2021, the salary shall be \$250,000.**

- **The committee recommends for Lieutenant Governor:**
 - **Effective January 1, 2019, the salary shall be \$190,000.**
 - **Effective January 1, 2020, the salary shall be \$210,000.**
 - **Effective January 1, 2021, the salary shall be \$220,000.**

2. This Committee does have the ability to determine the salary for the Attorney General and the Comptroller and therefore determine a salary of \$220,000, which while also less than the inflation-adjusted amount for each reflects the complexity of the office and the fairness in supporting a substantial increase. These increases also shall be in three phases:

- **Effective January 1, 2019, the salary shall be \$190,000.**
- **Effective January 1, 2020, the salary shall be \$210,000.**
- **Effective January 1, 2021, the salary shall be \$220,000.⁴**

C. Commissioners

The Committee recommends an increase for all levels of commissioners, and recommends simplifying the categories of Commissioners to better reflect scope of responsibility, complexity, budget and workforce based on current data and account for ranges of income.

- **For Tier A Commissioners a salary of \$220,000. This is slightly more than the inflation adjusted amount.**
 - **Effective January 1, 2019, the salary shall be \$190,000.**
 - **Effective January 1, 2020, the salary shall be \$210,000.**
 - **Effective January 1, 2021, the salary shall be \$220,000.**
- **For Tier B Commissioners a salary of \$205,0000.**
 - **Effective January 1, 2019, the salary shall be \$175,000.**
 - **Effective January 1, 2020, the salary shall be \$190,000.**
 - **Effective January 1, 2021, the salary shall be \$205,000.**
- **For Tier C Commissioners a range of salaries shall be permitted from \$175,000-200,000.**
 - **Effective January 1, 2019, the salary shall be authorized in accordance with a salary established by the Governor, between \$140,000-\$160,000.**
 - **Effective January 1, 2020, the salary shall be authorized in accordance with a salary established by the Governor, between \$160,00-\$180,000.**
 - **Effective January 1, 2021, the salary shall be authorized in accordance with a salary established by the Governor, between \$175,000-\$200,000.**
- **For Tier D Commissioners, a salary range shall be permitted from \$140,000-170,000.**
 - **Effective January 1, 2019, the salary shall be authorized in accordance with a salary established by the Governor, between \$100,000-\$120,000.**

⁴ Sitting Comptroller Tom DiNapoli, who was statutorily mandated to participate on this Committee, recused himself from any discussion or voting on the salaries of the statewide elected officials.

- **Effective January 1, 2020, the salary shall be authorized in accordance with a salary established by the Governor, between \$120,000-\$140,000.**
- **Effective January 1, 2021, the salary shall be authorized in accordance with a salary established by the Governor, between \$140,000-\$170,000.**

STATEMENT IN SUPPORT

Recommendation on Outside Income

This Committee is created to “examine, evaluate, and make recommendations with respect to adequate levels of compensation.” This directive authorizes a holistic review and analysis of compensation for Legislators without limiting that analysis to simply setting salary levels. The list of considerations is extensive but not exhaustive. The law explicitly provides that the Committee shall take into account “all appropriate factors.” Part HHH, Sec. 2.3. Limiting outside income in conjunction with increases in salary falls squarely within the scope of “examining and evaluating adequate levels of compensation.” It also falls within the broad objective of the Legislature in creating the Commission in the first place.

Moreover, among its criteria for examining adequacy is a comparability analysis to the federal government. It would be difficult to analyze the comparable levels of compensation and use them to set compensation levels without at least considering the concomitant restrictions on outside income.

Recommendation on Stipends

Article III, Section 6 and Legislative Law Section 5-a provide the authority for special allowances, referred to as legislative stipends, to Legislators. Pursuant to Article III, Section 6: “Any member, while serving as an officer of his or her house or in any other special capacity therein...may also be paid and receive, in addition, *any allowance which may be fixed by law for the particular and additional services appertaining to or entailed by such office or special capacity*.... Members shall continue to receive such salary and additional allowance as heretofore fixed and provided in this section, *until changed by law pursuant to this section*.” N.Y. Const. Article III, §6 (emphasis added).

The constitutional provision is permissive, indicating such allowances “may” be fixed by law. The use of the term “may” in a statute or constitution generally indicates discretion.

Section 5-a implements this provision and sets forth an allowance schedule to be paid to members of either house of the Legislature based on their specific positions. See N.Y. Leg. L. §5-a (2018). From 1976 through 2000, the number of members eligible for allowances and their respective allowance amounts increased. For example, in 1976, there were 8 senate officers listed (the highest allowance for this category was \$21,000), 48 senators serving in special capacity (the highest allowance for this category was \$18,000), 16 assembly officers (the highest allowance for this category was \$21,000), and 54 assembly members serving in special capacity

(the highest allowance for this category was \$18,000). See N.Y. Leg. L. §5-a (1976). In 2000, this number increased to 24 senate officers (the highest allowance for this category was and remains \$41,500), 63 senators serving in a special capacity (the highest allowance for this category was \$34,000), 34 assembly officers (the highest allowance for this category was and is \$41,500), 74 assembly members serving in a special capacity (the highest allowance for this category was \$34,000), and 8 assembly members serving in a special capacity (the highest allowance for this category was \$12,500). See N.Y. Leg. L. §5-a (2000). The numbers of eligible members and their respective allowance amounts have remained unchanged since 2000. See N.Y. Leg. L. §5-a (2018).

No other state comes close to New York in the number of stipends for serving in a special capacity. Since many of the “additional” duties of these positions would be minimal, if there were additional duties at all, it stands to reason that the number and size of these stipends has been inflated to offset a stagnating base wage.

This Committee has been empowered to take any action with respect to compensation that a statute could effectuate. The enabling legislation charges the Committee not only with the authority to examine and make recommendations with respect to salary levels, but also with respect to non-salary benefits and allowances. Specifically, the Legislature has delegated to the Commission the authority to “examine, evaluate, and made recommendations” with respect to the prevailing adequacy of pay levels, “allowances pursuant to section 5-a of the legislative law, and other non-salary benefits” for the Legislature. Part HHH, Sec. 1. Stipends are “allowances pursuant to section 5-a of the legislative law.” Because the Legislature has authorized the Commission to examine stipends, they have given the Commission the authority to analyze and review their use in the context of a compensation package. Indeed, the criteria and factors to be considered in the statute apply equally to “allowances” as to “levels of compensation.”

The Committee is authorized to determine whether “compensation” warrants an increase. In determining that an over-arching increase is warranted, this Committee may limit the stipends to achieve their true purpose, to supplement the income for those whose positions within the body require significantly more work than that of a Legislator who is serving as a Chair or a Ranking Member in the ordinary sense.

These positions are: Speaker, Temporary President, the Deputy Leaders in both houses, and the Minority Leaders in Both Houses as well as their respective Deputy Leaders. Additionally, the chair of the Ways and Means Committee and the Senate Finance Chair both have significant additional duties with respect to appointments, consideration of a large volume of legislation, and conducting legislative hearings on the Budget, with the Ranking Members of the fiscal committees in both houses carrying additional duties as well. For similar reasons, in the Assembly, the Speaker Pro Tempore of the Assembly, the Chair of the Codes Committee, and the Ranking Member of the Codes Committee will receive stipends. Significantly, the recommended increase to the base salary will offset the elimination of the stipend and the Legislator will see an increase.

Fig. 1.

Legislative Stipends Compared to Other Entities:

In addition to base salary, legislators may receive stipends for serving in certain roles.

State	Size of Legislative Body	# Receiving Stipend	Stipend Range
New York State ⁽¹⁾	213	160	\$9,000 -- \$41,500
Pennsylvania ⁽²⁾	253	15	\$12,229 -- \$48,914
California ⁽²⁾	120	4	\$8,042 -- \$16,084
U.S. Congress ⁽²⁾	535	6	\$19,400 -- \$49,500
NYC Council ⁽³⁾	51	0	N/A

Fig. 2

Summary Distribution of NYS Legislative Base Pay and Stipends

The following chart provides a summary distribution of NYS legislative base pay with stipends included.

Salary + Stipend	Distribution
\$121,000	2
\$113,500 -- \$114,000	7
\$100,000 -- \$107,000	18
\$90,500 -- \$99,000	102
\$88,500 -- \$89,000	31
\$79,500*	53
<i>*four members declined stipend</i>	

Note: Base pay (\$79,500) and allowances (up to \$41,500) have not increased since 1998.

Recommendation on Commissioner salaries:

The current text of Section 169 of the Executive Law is out of date and cumbersome. The rationale for why a commissioner was situated in paragraph A versus B or C may no longer make sense, and it certainly does not reflect the current sense of the importance of the various agencies governed by these public servants.

Therefore, this Committee has simplified the structure to only have four categories of Commissioners. In order to best capture the current workload and responsibilities, the Governor shall set forth a plan for the salary within ranges for paragraph C and D.

This compensation structure, while it offers flexibility, ensures both a minimum salary for the position as well as a maximum. This should not be construed to authorize decreases in salaries for such position for the same Commissioner; the salary must be fixed, and should decrease subject only to an across-the-board reduction applied evenly to all Commissioners.

See Fig. 3

Executive Law Commissioners (§169)

A (\$220,000)	B (\$205,000)	C (\$175,000 - \$200,000)	D (\$140,000 - \$170,000)
Department of Health	Department of Labor	Higher Education Services Corporation	Office for the Aging
Education Department	Office of Parks, Recreation, and Historical Preservation	Department of Motor Vehicles	Department of Public Services (Commissioner)
Department of Corrections and Community Supervision	Department of Taxation and Finance	Workers' Compensation Board (Chair)	Division of Human Rights
Office of Mental Health	Division of Criminal Justice Services	Department of Agriculture and Markets	Justice Center
Office for People with Developmental Disabilities	Public Services Commission (Chair)	Office of Alcoholism and Substance Abuse Services	Council on the Arts
State University at New York		Department of Economic Development	Commission on Alcoholism and Substance Abuse Prevention and Education
Department of Transportation		Housing and Community Renewal	Workers' Compensation Board (Vice Chair)
Office of Children and Family Services		Adjutant General	State Commission of Corrections (Chair)
Department of Environmental Conservation		Secretary of State	Division of Veterans' Affairs
Office of Temporary and Disability Assistance		State Liquor Authority (Commissioner-Chair)	Office of Victim Services
Division of State Police		State Civil Service Commission	State Athletic Commission
Office of General Services		Public Employment Relations Board (Chair)	Unemployment Insurance Appeal Board (Chair)
Division of Homeland Security & Emergency Services		Board of Parole (Member-Chair)	Adirondack Park Agency
Department of Financial Services		Housing Finance Agency	Human Rights Appeals Board
		State Insurance Fund	Industrial Board of Appeals
		NYS Energy Research and Development Authority	State Commission of Corrections (Members)
		Gaming Commission	Unemployment Insurance Appeal Board (Members)
			Board of Parole (Members)
			Workers' Compensation Board (Members)

APPENDIX A- MEETING SUMMARIES

Compensation Commission Meeting Summaries

First Meeting – November 13, 2018

Held at SUNY Global Center, Manhattan, NY

Attendees: Tom DiNapoli, H. Carl McCall, Scott Stringer, Bill Thompson

Actions:

This meeting focused on outlining the scope of the Committee. Committee member McCall stated that mission of the legislation is to evaluate compensation of legislative members and certain executive employees. He also discussed the factors included in the statute that the Committee must discuss and consider. He also stated that any recommendations become law, unless the legislature subsequently changes the Committee's actions during a special session held in December 2018.

Member DiNapoli then discussed the Committee's interactive website. Member Stringer then presented data for the Committee to consider, including how the relevant elected officials' salaries compares to other states' salaries for their elected officials, the projected change in salaries over time based on cost-of-living and spending growth, and comparable private sector wage growth.

Member Thompson outlined ways that the public can participate in the November 28 and November 30 public hearings.

Member McCall stated that the Committee can make considerations of items outside simply base salary of Legislators. He then stated that the considerations will occur in public session, not executive session. He then discussed the scope of executive sessions of the Committee, which is for the employment of a certain person. He then stated that the Committee will consider employment of a counsel to the Committee, and the Committee then entered executive session for this purpose.

Second Meeting – November 28, 2018,

Held at SUNY Plaza, Albany, NY

Attendees: Tom DiNapoli, H. Carl McCall, Scott Stringer, Bill Thompson

Actions:

Member McCall opened the Committee meeting, and provided a brief overview of the Committee's enabling legislation. Member McCall next introduced Alan Klinger from Stroock & Stroock & Lavan LLP as Counsel to the Committee. The Committee approved the selection of Alan Klinger.

Member Thompson made a motion to make McCall the Chair of Committee, which was approved.

Member Stringer provided a comparison of New York State legislative salaries, provided estimates of compensation increases based on similar states, cost-of-living and inflation adjustments, and comparable private sector salaries. He also provided comparisons for the Governor, Lieutenant Governor, Attorney General, and Executive Appointees.

Member DiNapoli compared legislative stipends to comparable states' stipends, a distribution chart of base pay and stipends for New to comparable states' stipends, and a distribution chart of base pay and stipends for New York's Legislators.

Member Thompson then opened the Committee floor to public testimony.

Public Testimony:

The first speaker was Blair Horner, Executive Director of New York Public Interest Research Group. He highlighted the need for the Committee to balance fair compensation of public officials and the public's view of how well the state government functions. He advocated linking salary increases to measures aimed at reducing government corruption, such as independent oversight and disclosures of agency contracting, independent ethics oversight, restrictions on outside income and campaign contributions for contractors, and campaign finance reform.

The second speaker was Mark Dunlea, former Green Party candidate for State Comptroller. He recommended first enacting ethics reforms prior to salary increases, and called for the Legislature to vote on salary increases instead of delegating this responsibility to the Committee. He called for salary increases to take effect after the next election, a geographical differential for Legislators, restricting legislative stipends and outside income, and for making the Legislature full-time.

The third speaker was Mark Reddick. He recommended against a ban on outside income in exchange for a legislative salary increase because it would prohibit citizen-legislators and make a class of professional politicians. He recommended a limit on outside income instead of a ban on outside income.

The fourth speaker was Robert Schulz. He voiced concerns with the structure of the Committee's enabling legislation, and discussed concerns with conflicts between that legislation and existing law.

Third Meeting – November 30, 2018

Held at SUNY Global Center, Manhattan, NY

Attendees: Tom DiNapoli, H. Carl McCall, Scott Stringer, Bill Thompson

Actions:

Member Stringer reviewed a comparison of New York elected official compensation to other states, cost of living and inflation factors, and comparable private sector wage growth.

Member DiNapoli then offered a comparison of legislative stipends compared to stipends in other states.

Member Thompson then opened the Committee floor to remarks from the public.

Public Testimony:

The first speaker was Assembly Speaker Carl Heastie. Speaker Heastie expressed support for an increase in legislative salaries due to the increasing cost of living in New York State and a stagnant legislative salary for the last twenty years negatively impacting Legislators in light of the amount of work that Legislators engage in a year. He also stated that a salary increase would increase interests of diverse candidates in seeking elected office. He advocated for a minimum of a salary increase of at least a cost of living increase for the twenty years since a salary adjustment. Speaker Heastie discussed legislation passed by the Assembly on the issue of legislative compensation. Speaker Heastie also highlighted the need for the Committee's action to be made before the next session to be effective on next session's members.

The second speaker was Elena Sassower, Director of the Center for Judicial Accountability. Ms. Sassower expressed concerns about the constitutionality of the Committee's authority to make changes to the law addressing compensation of elected officials.

The third speaker was Alex Camarda, Senior Policy Director for Reinvent Albany. He recommended a 50% rate of inflation raise for lawmakers and executive appointees, a 55% rate raise for statewide elected officials, and outside income and per diem restrictions. He supported a base pay of \$120,000, a \$25,000 stipend for only legislative leaders, eliminating stipends for other members not engaged in leadership roles, a cap on per diems of \$175, and mirroring the Congressional model on outside income restricting outside income to 15% of the highest paid legislative member. He stated that statewide elected officials should earn \$215,000. A salary of \$205,000 for the highest-paid tier of executive department commissioners, with a restructuring of the tiers since a 50% compensation disparity exists between the highest and lowest salary tiers.

The fourth speaker was Susan Lerner, from Common Cause New York. For executive salaries, she endorsed the Reinvent Albany recommendations. On legislative salaries, she recommended matching the State Legislature's compensation to the compensation for New York City Council members. She also advocated adopting New York City's process for reviewing legislative compensation through the Quadrennial Commission. She recommended a ban on outside income, but provided a compromise suggestion of mirroring the Congressional model, and removing legislative stipends except for legislative leaders. She also recommended examining per diem usage.

The fifth speaker was James Coll of ChangeNYS. He advocated for judicial review of the constitutionality of the Committee, and discussed the constitutional implications of the Committee compared to existing laws and state constitutional provisions. He called for the Committee to make recommendations that the Legislature would subsequently vote on, and stated the likely unconstitutionality of differentials for legislative salaries based on geographical locations.

The sixth speaker was Diane X. Burman. She advocated for salary increases for executive department commissioners, and called for consideration of salary increases for all executive department commissioners, beyond those listed in Executive Law 169.

The seventh speaker was Roxanne Delgado. She expressed concerns with the constitutionality of the Committee. She also expressed her opposition to salary increases without term limits being implemented, and called for the Legislature to address more pressing concerns, such as transportation funding, education funding, combating homelessness, and electoral reforms. She stated that Legislators still earn higher salaries than large numbers of their constituents.

Fourth Meeting –December 6, 2018

Held at SUNY Global Center, Manhattan, NY

Attendees: Tom DiNapoli, H. Carl McCall, Scott Stringer, Bill Thompson

Actions:

The Committee began with a summary of the Committee's hearings and meetings by Member McCall. Member Thompson then discussed the absence of raises for the State's public officials over twenty years; he noted the importance of considering the rate of inflation over that period and the use of phase-ins for compensation raises.

For legislative salaries, Member Thompson suggested compensation rates of \$110,000 on January 1, 2019; \$120,000 on January 1, 2020, and \$130,000 on January 1, 2021.

Member Thompson stated that the salaries of Governor and Lieutenant Governor are set by joint resolution in the Legislature, so the Committee would make a recommendation that does not have the force of law. Alan Klinger, Counsel for the Committee, affirmed the Committee's

understanding of that point. Member Thompson then proposed a recommendation of the Governor's salary rate of \$200,000 on January 1, 2019; \$225,000 on January 1, 2020; and \$250,000 on January 1, 2021. For Lieutenant Governor, Member Thompson proposed a compensation rate of \$190,000 on January 1, 2019; \$210,000 on January 1, 2020, and \$220,000 on January 1, 2021.

Member Thompson then stated that the Committee can set the salary rate of the Attorney General and Comptroller, which Counsel affirmed. Counsel also stated that it is incumbent on the sitting Comptroller to not be party to the discussion on salary rates for Attorney General and Comptroller. For Attorney General, Member Thompson suggested compensation rates of \$190,000 on January 1, 2019; \$210,000 on January 1, 2020; \$220,000 on January 1, 2021. For Comptroller, Member Thompson suggested the same salary rates proposed for the Attorney General.

Member Thompson explained these rates were based on the salaries for comparable positions in other states and in New York City. Member Thompson then proposed an order for the Committee's votes on these recommendations: legislative salaries, then the recommendation suggesting salaries for Governor and Lieutenant Governor, to be adjusted by the Legislature in a joint resolution, and then the Attorney General's and Comptroller's salaries.

Member Stringer stated that salary recommendations were consistent with other states, and the nature of the work dictates the need for salary adjustments for these officials.

Counsel Klinger stated the nature of this meeting was to discuss the recommendations and findings of the Committee, in compliance with the Open Meetings Law.

Member Stringer raised the issue of legislative stipends, and stated the Committee should eliminate stipends but for select high-level legislative leaders. He stated there is precedence for this action in Congress and in other states, and stated the Committee's report will detail which positions will retain stipends.

Member McCall raised other aspects of legislative compensation. He discussed the public perception of the Legislature, and the appearance of conflicts of interest stemming from outside income. He stated that Counsel has advised the Committee that the Committee has jurisdiction to consider outside income limitations. Member McCall called for the Committee to use the Congressional model of limiting outside income to fifteen (15) percent of a member's salary, effective on January 1, 2020. He stated the nature of outside employment requires a delayed implementation so Legislators have time to wind down their outside employment. Member Stringer clarified that the outside income limitation would take effect when the annual legislative salary is \$120,000. Member DiNapoli referenced past support for the Congressional model by both Houses of the Legislature. Member Thompson stated that the outside income limitation is a mandate on the Legislature.

Member DiNapoli recommended salary adjustments for Executive Law Section 169 appointees. He suggested changing the six tiers of salaries to four tiers. The A-tier salaries would be \$190,000 on January 1, 2019, \$210,000 on January 1, 2020; and \$220,000 on January 1, 2021.

The B-tier salaries would be \$175,000 on January 1, 2019; \$190,000 on January 1, 2020; and \$205,000 on January 1, 2021. The C-tier and D-tier salaries would be in ranges, with the final salary of each official set by the Governor; and each tier would have a three-year phase-in. The C-tier salaries would be range from \$175,000-\$200,000 and D-tier salaries would range from \$140,000 to \$170,000. Member DiNapoli stated that reality of the workload for these officials and the need to provide attractive salaries to recruit and retain effective officials justifies these salary adjustments.

Member McCall then proposed voting on these recommendations. Member Thompson suggested handing the Legislators first, then Governor and Lieutenant Governor together, then Attorney General and Comptroller. Member DiNapoli stated his need to recuse himself from voting on the Attorney General and Comptroller's salaries.

For the legislative salaries recommendation, Member Thompson made the motion for the Committee to consider the discussed salary adjustments, Member Stringer seconded the motion, and it passed unanimously.

For the Committee's recommendation on the Legislature's consideration of joint resolution on the Governor's and Lieutenant's Governor's salaries, Member Thompson made the motion for the Committee to consider the discussed salary adjustments, Member Stringer seconded the motion, and it passed, with Member DiNapoli recusing himself from the vote.

For the Attorney General's and Comptroller's salaries, Member Thompson made the motion for the Committee to consider the discussed salary adjustments, Member Stringer seconded the motion, and it passed, with Member DiNapoli recusing himself from the vote.

For the Executive Law Section 169 commissioners' salaries, Member Thompson made the motion for the Committee to consider the discussed salary adjustments, Member DiNapoli seconded the motion, and it passed unanimously.

Member Stringer asked for clarification on the recommendations regarding outside income and stipends for the Legislature. Counsel Klinger stated that these recommendations were approved alongside the recommendation regarding legislative salaries. Member McCall also stated that the Committee forwards to the Legislature a number of issues outside of the scope of the Committee, including campaign finance reform and Comptroller's duties.

Member McCall then stated that these recommendations will comprise the components of a report to be sent to the Governor and the Legislature by December 10, 2018.

APPENDIX B- LEGISLATION PART HHH OF CHAPTER 59, L. 2018

PART HHH

Section 1. There is hereby established a compensation committee to examine, evaluate and make recommendations with respect to adequate levels of compensation, non-salary benefits, and allowances pursuant to section 5-a of the legislative law, for members of the legislature, statewide elected officials, and those state officers referred to in section 169 of the executive law. The committee shall be comprised of the chief judge of the state of New York, the comptroller of the state of New York, the chairman of the State University of New York board of trustees and 52nd comptroller for the state of New York, the comptroller for the city of New York, and the chairman of the city university of New York board of trustees and 42nd comptroller for the city of New York.

§ 2. 1. In accordance with the provisions of this act, the committee shall examine the prevailing adequacy of pay levels, allowances pursuant to section 5-a of the legislative law, and other non-salary benefits, for members of the legislature, statewide elected officials, and those state officers referred to in section 169 of the executive law.

2. The committee shall 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 169 of the executive law, warrant an increase.

3. In discharging its responsibilities under subdivision two of this section, the committee shall take into account all appropriate factors including, but not limited to: the parties' performance and timely fulfillment of their statutory and Constitutional responsibilities; the overall economic climate; rates of inflation; changes in public-sector spending; the levels of compensation and non-salary benefits received by executive branch officials and legislators of other states and of the federal government; the levels of compensation and non-salary benefits received by comparable professionals in government, academia and private and nonprofit enterprise; the ability to attract talent in competition with comparable private sector positions; and the state's ability to fund increases in compensation and non-salary benefits.

4. a. 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.

b. Any phase-in of a salary increase or cost of living adjustment will be conditioned upon performance of the executive and legislative branch and upon the timely legislative passage of the budget for the preceding year.

c. For purposes of paragraph b of this subdivision, the term "legislative passage of the budget" shall have the same meaning as defined in subdivision 3 of section 5 of the legislative law.

§ 3. 1. The committee shall only meet within the state and must hold at least one hearing at which the public will be afforded an opportunity to provide comments. The committee may hold additional public hearings as it deems necessary. Such additional hearings, if any, may allow for a public comment period.

2. The members of the committee shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties hereunder. Nothing contained herein shall prohibit a member of the committee from receiving his or her salary earned by reason of their state employee position. The members of the committee shall perform the duties herein personally, no delegation of authority or attendance is allowed.

3. No member of the committee shall be disqualified from holding any other public office or employment, nor shall he or she forfeit any such office or employment by reason of his or her appointment pursuant to this section, notwithstanding the provisions of any general, special or local law, regulation, ordinance or city charter.

4. To the maximum extent feasible, the committee shall be entitled to request and receive and shall utilize and be provided with such facilities, resources and data of any court, department, division, board, bureau, committee, agency or public authority of the state or any political subdivision thereof as it may reasonably request to properly carry out its powers and duties pursuant to this act.

5. The committee may request, and shall receive, reasonable assistance from state agency personnel as is necessary for the performance of its function.

§ 4. 1. The committee shall make a report to the governor and the legislature of its findings, conclusions, determinations and recommendations, if any, and should submit such report by December 10, 2018. Any findings, conclusions, determinations and recommendations in the report must be adopted by a majority vote of the committee. Each member of the committee shall report their vote and describe their reasoning for their determination.

2. Each recommendation made to implement a determination pursuant to section two of this act shall have the force of law, and shall supersede, where appropriate, inconsistent provisions of section 169 of the executive law, and sections 5 and 5-a of the legislative law, unless modified or abrogated by statute prior to January first of the year as to which such determination applies to legislative and executive compensation.

§ 5. Date of entitlement to salary increase. Notwithstanding the provisions of this act or of any other law, each phase of an increase in salary or compensation of any member, official, or officer provided for by this act shall be added to the salary or compensation of such member, statewide elected official, or officer at the beginning of that payroll period the first day of which is nearest to, but not prior to, the effective date of such increase as provided in this act. The annual salaries as prescribed pursuant to this act, whenever adjusted pursuant to the provisions of this act, shall be rounded to the nearest multiple of one hundred dollars.

§ 6. Notwithstanding Part E of chapter 60 of the laws of 2015, the committee established pursuant to this act, while in existence, shall make all determinations of legislative salaries and allowances and salaries of statewide elected officials and those officers referred to in section 169 of the executive law. Upon the repeal of the committee created by this act, the commission established under Part E of chapter 60 of the laws of 2015 shall resume its responsibility to review and examine such salaries and allowances in accordance with the terms of such Part E.

§ 7. This act shall take effect immediately and shall expire and be deemed repealed December 31, 2018; provided, however, any recommendations of the committee that have been determined prior to such date, including 3 annual cost of living or salary adjustments, shall continue to be in effect until amended or repealed by a subsequent recommendation of the commission on legislative, judicial and executive compensation or by passage of a new statute.