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December 8, 2014

Governor Andrew Cuomo
Executive Chamber
Capitol
Albany, NY 12224

Senator Dean Skelos
Co-Leader
Legislative Office Building
Albany, NY 12247

Senator Jeff Klein
Co-Leader
Legislative Office Building
Albany, NY 12247

Senator Andrea
Stewart-Cousins
Minority Leader
Legislative Office Building
Albany, NY 12247

Assemblyman Sheldon Silver
Speaker
Legislative Office Building
Albany, NY 12248

Assemblyman Brian Kolb
Minority Leader
Legislative Office Building
Albany, NY 12248

Re: Recommendations for Reforms

Dear Messrs. Cuomo, Skelos, Klein, Silver, Kolb and Ms. Stewart-Cousins:

We write to urge that you include critical reform measures as part of any special session held at the end of the year. As you know, the public is overwhelmingly concerned about problems stemming from ethical misconduct in Albany.¹ It is our belief that only through decisive, comprehensive action on a package of reform measures can the state begin the process of restoring the public's trust.

It is being widely reported that you are considering returning to Albany before the end of the calendar year to tackle an as-yet-unspecified legislative agenda. It has also been widely reported that if you return, "per diem" reform would be under consideration. While we agree that reform in that area is needed, we simply do not agree that reform in that area alone is sufficient.

If you do return, we believe that New Yorkers want and deserve action on measures to restore trust in state government.

In an effort to begin a public discussion on necessary reforms, we offer the following recommendations:

¹ A recent Quinnipiac University poll found that 83% of those polled thought that "[g]overnment corruption in New York State is a very or somewhat serious problem," August 20, 2014, see: <http://www.quinnipiac.edu/news-and-events/quinnipiac-university-poll/new-york-state/release-detail?ReleaseID=2071>.

Measures To Strengthen Ethics Oversight

The state's ethics watchdogs operate in secret and are dominated by political appointees. New York needs an independent ethics oversight entity. We are deeply troubled by the continuing failure to appoint a panel to review the work of the Joint Commission on Public Ethics (JCOPE) and the Legislative Ethics Commission, as required by Section 21 of Part A of Chapter 399 of the laws of 2011. Such failure shows a disquieting disregard for your responsibilities under the law. While we believe such a panel should be appointed and confirmed by the special session, we make the following substantive recommendations to jumpstart any examination and to ensure that the review is completed by the statutorily required date of March 1, 2015.

As a first step, we recommend that the board of the Joint Commission on Public Ethics (JCOPE) be restructured. Two years ago, the state overhauled its ethics law. One change was the creation of the JCOPE. Unfortunately, the structure of the JCOPE board is flawed. The board allows membership by elected officials. The board is structured to allow legislative appointees to short-circuit investigations of lawmakers, even if a majority of the board votes for action. Moreover, the size of the board is unwieldy: the 14 member board should be reduced. We also believe that there should be "revolving door" restrictions on the hiring of staff for JCOPE and the Legislative Ethics Commission (LEC). JCOPE has been criticized for the hiring of staff with close ties to the governor. The public must feel confident that the state's ethics regulations are being enforced without fear or favor. Ensuring that staff have not been recent employees of those whose ethics they monitor is important to ensuring such confidence.

We recommend that both the JCOPE and LEC be covered by the Freedom of Information Law and Open Meetings Law. There is no reason for ethics agencies to be outside the scope of the state's FOI and Open Meeting laws. Both laws currently allow for investigations and related activities to be exempt from public disclosure. Public support is bolstered by openness. Thus, the state's ethics watchdogs must operate in the open and be accountable to the public in which they serve.

Measures To Reduce Conflicts of Interest

Wealthy and powerful interests provide most of the money for political campaigns and expect something in return as a result.

Create a campaign finance system that includes a voluntary, public financing option. A system of public financing will help create greater electoral competition, give New Yorkers without access to wealth or a deep involvement in a political party, a real opportunity to run for office, as well as encourage greater engagement between candidates and voters.

Lower campaign contribution limits and eliminate "housekeeping accounts." New York has the highest campaign contribution limits of any state that has limits in the nation. For example, it is legal to make a contribution of more than \$60,000 for someone running for state office, yet the maximum for federal office is less than \$3,000 for a general election. Even these high limits are easily circumvented through loopholes, such as those allowing donations of any size to political parties through "housekeeping accounts" and contributions from LLCs. The LLC loophole must be closed.

Ban the “personal use” of campaign donations. New York has lax restrictions on the use of campaign contributions for non-campaign, “personal,” expenditures. As a result, candidates can use campaign dollars for spending that supplements their personal lifestyle. Candidates’ ability to spend their campaign funds however, they want often allows them to circumvent the state’s gift ban. Clear guidelines limiting the use of campaign funds to election-related activities must be established. Additionally, the use of donations should be limited to the election in which they were received. There should be requirements for candidates to close down their committees soon after an election, and restrictions prohibiting them from transferring excess funds to other committees, either within the state or nationally.

Lastly, we urge that there be a restriction on lobbyists’ involvement in campaign fundraising. Given the unique role lobbyists play in the development of public policy, they should be subject to unique restrictions on their involvement in electoral activities.

Measures To Ensure Government Accountability

The governor has mandated that staff delete email records after 90 days. Since electronic communications are the modern version of the written memo, such records should be preserved for years, not months. In addition, enforcement of the Freedom of Information and Open Meeting laws should be bolstered to act as a deterrent to public officials who are considering ignoring those statutes’ requirements.

The Legislature’s rules should be overhauled to foster greater transparency and to allow the public to actually see and understand the important work which the Legislature accomplishes. For example if lawmakers want a raise, they should be required to attend committee meetings in which bills are discussed, marked up and voted upon, as well as public hearings which should be conducted regularly. In addition, we recommend that each committee should have the authority and funding to hire and fire its own professional staff. There should be a requirement that all bills reported to the legislative floor be accompanied by a detailed public committee report that contains, at a minimum, purposes of the bill, change in current law, section-by-section analysis, procedural history, committee or subcommittee votes, organizational sponsors and opponents, and any members’ views of the bill. Also, there should be a requirement that all state legislators receive equal funding for the operating costs and staff of their individual offices, regardless of party affiliation.

We look forward to working with you all to maximize the opportunity which a special session affords to achieve the kinds of reforms necessary to begin the process of restoring public faith in its state government.

Sincerely,

Susan Lerner
Common Cause NY

Blair Horner
N.Y. Public Interest Research Group