

NEW YORK STATE UNIFIED COURT SYSTEM

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LEGISLATIVE PROPOSAL TO  
ADJUST JUDICIAL COMPENSATION

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## I. INTRODUCTION

We are today submitting the Judiciary's proposal to increase judicial salaries and to adopt a mechanism for regular, responsible adjustments to the salaries of State Judges. In this report, we ask the Governor and members of the Legislature for their support in enacting our proposal into law. We also want the citizens of this State to understand why Judges, even in difficult economic times, are deserving of periodic increase in their wages.

We do not make this proposal as part of the Judiciary Budget for related reasons. First, the State Constitution directs that the compensation of Judges be established by law. NY Const. Art. VI, 25(a). The Legislature has implemented this command by enacting Article 7-B of the Judiciary Law, which sets forth annual salaries for Judges and Justices of all of the State-paid courts. Judiciary Law §§ 221 *et seq.* Thus, any proposal to fix new salary levels for Judges must amend Article 7-B. Moreover, our proposal, intended to establish an enduring program of judicial salary adjustment, deserves the maximum "sunlight" that only a separate legislative measure can offer. Accountability to our governing partners in the Executive and Legislative branches, and to all New Yorkers who are the stakeholders in our justice system, demands open discussion of this proposal.

In December 1998, the Legislature passed and Governor Pataki approved a bill providing for a pay raise for State-paid Judges in New York. With that increase, Justices of the Supreme Court were restored to pay parity with Judges of Federal District Courts. All other Judges received proportionate salary adjustments. That pay raise was the first our Judges had received in nearly four and one-half years — and is now the last in more than six years. Over the nearly 11 years with a single increase for Judges (and certainly over the 18 years in which there have been only two increases) the increased cost of living in New York has resulted in a serious decline in the value of judicial compensation. Meanwhile, the salaries paid to Judges in other states and in the Federal system have grown well beyond those paid New York's Judges. Indeed, the compensation of New York's Judges, once competitive with that of lawyers in other government service and in private practice — the pool the State relies upon to produce its Judges — now lags far behind.

New York's current method of judicial compensation results in personal hardship on our Judges and their families. Like all New Yorkers, Judges have financial obligations that come with maintaining home and family. To ask anyone to shoulder these obligations without periodic increases in compensation to meet the changing economic times is a demand that no employer should reasonably make of his or her employees. It is an unfair and, ultimately, counterproductive burden that it is time to lift.

This report documents New York's history of sporadic judicial salary increases and demonstrates that judicial income has been dramatically reduced in relation to incomes in other relevant sectors of the marketplace. We are proposing a pay adjustment for Judges that will establish salary levels appropriate to our times, together with a mechanism to insure that these levels are periodically adjusted.

We fully recognize the difficulty in addressing judicial salary reform in this or any other year. Nonetheless, we must move forward. Judges must be fairly and adequately compensated if we expect to retain and attract individuals capable of handling soaring caseloads, even when other resources may be in short supply, and of creatively responding to the needs of the justice system in the Twenty-First Century. The State must invest responsibly in the bedrock of the Judiciary: the Judges. It must ensure that they are fairly compensated for the work that is asked of them and for the dedication and professionalism that the public demands.

The proposal offered by this report will accomplish these ends.

## II. UNIFIED COURT SYSTEM

For most of its history, New York State allocated primary responsibility for the cost of operating and maintaining its court system to local government. Until April 1, 1977, the Court of Appeals and the Court of Claims were the only courts whose operations were entirely State-funded. As of that date, however, the State unified the Judicial Branch's fiscal structure and began to assume full responsibility for all its non-capital operating costs except those of Town and Village Justice Courts. Judges and nonjudicial personnel were transferred to the State payroll.

New York's Unified Court System now consists of 12 State-funded courts. They include three appellate courts — the Court of Appeals, the Appellate Divisions of the Supreme Court and the Appellate Term of the Supreme Court — and nine trial courts — the Supreme Court, the Court of Claims, County Court, Family Court, Surrogate's Court, the Civil and Criminal Courts of New York City, the District Courts on Long Island and the City Courts outside New York City. All the Judges of these courts must be lawyers and, in most instances, they must have been admitted to practice law in New York for at least ten years.

The Court of Appeals is the appellate court of final resort. It consists of a Chief Judge, now earning \$156,000 annually, and six Associate Judges, each earning \$151,200. All seven Judges are appointed by the Governor, with the Senate's advice and consent.

The Appellate Division of Supreme Court is the State's major intermediate appellate court. It is structured on a regional basis, with one court for each of the State's four judicial departments. Each of the four courts has a Presiding Justice earning \$147,600 and five or more Associate Justices, each earning \$144,000. Each Presiding Justice and Associate Justice is designated by the Governor from among the Justices of the Supreme Court.

A second intermediate appellate court, the Appellate Term, has been established in the First and Second Judicial Departments to hear appeals from lower courts in those jurisdictions. Like the Appellate Divisions, its members are drawn from among Justices of the Supreme Court. Each Justice of the Appellate Term earns \$139,700, except that the Presiding Justices in each Judicial District within the Departments in which the Appellate Terms have been established each earn \$142,700 annually.

The Supreme Court is the statewide trial court of general original jurisdiction. Justices are elected in each of 12 Judicial Districts. While approximately 60 Justices are designated for service on the Appellate Divisions and Appellate Terms, some 280 Justices preside over trial courts, and each receives an annual salary of \$136,700.

The Court of Claims is a special statewide court, devoted to the trial of claims against the State. Also, about two-thirds of its 72 members, all of whom are appointed by the Governor with the Senate's advice and consent, serve by special assignment in the State's criminal courts. Judges of the Court of Claims earn \$136,700 annually. Its Presiding Judge earns \$144,000.

Outside New York City, there are 71 Judges of the County Court, 79 Judges of the Family Court, 24 Surrogates and 57 Judges, known as multi-bench county-level Judges, who are elected to serve on two or more of those courts. These Judges preside over major criminal prosecutions, matters involving children and families, and probate and other estate proceedings, respectively. All are elected to their offices and their salaries range from \$119,800 to \$136,700.

Also outside New York City, there are District Court Judges. The District Court, which serves as a court of limited jurisdiction and as a local criminal court, sits in Nassau County and the five westernmost towns of Suffolk County. In Nassau County, there are 26 elected District Court Judges; in Suffolk County, 24. Each earns \$122,700 annually, except the two presiding officers, who each earn \$126,900.

In New York City, there are 120 Judges elected to the Civil Court and six elected Surrogates, as well as 107 Criminal Court Judges and 47 Family Court Judges appointed by the Mayor. The Civil Court serves as a court of limited civil jurisdiction; Surrogate's Court and Family Court have the jurisdiction of their upstate counterparts; and Criminal Court is the local criminal court for New York City. The Surrogates and Family Court Judges each earn \$136,700 annually; Civil and Criminal Court Judges each earn \$125,600.

In each of the 61 cities outside New York City, there are City Courts. In some 33 of the larger cities, City Courts function like District Courts. They are served by 80 full-time Judges, earning between \$108,800 and \$119,500 annually. In the remaining smaller cities, the Judges exercise like jurisdiction but serve part-time. Part-time Judges earn between \$5,800 and \$81,600.

### III. HISTORY OF JUDICIAL SALARIES IN NEW YORK

Under the State Constitution, the compensation of Judges is fixed by the State Legislature and cannot be diminished for any individual Judge during his or her term of office.<sup>1</sup> The Legislature is empowered to allocate the burden of paying this compensation between the State and its political subdivisions.<sup>2</sup>

Until 1976, Judges of the county-level courts (County Court, Family Court, Surrogate's Court and District Court) and Judges of the city-level courts (NYC Civil and Criminal Courts, NYC Family Court and City Courts outside New York City) were employees of their respective counties and cities, and compensated by them. In 1976, however, the Legislature enacted the Unified Court Budget Act, providing that Judges who formerly were locally-paid would become State-paid, effective April 1, 1977, at the rates of compensation they were paid in 1976.<sup>3</sup> Because, prior to 1977, some counties (and cities) had paid their Judges higher rates of compensation than had others, the result was that, in the wake of State assumption of payment of county and city-level judicial salaries, there was a significant degree of disparity in the salaries paid by the State to Judges of the same court level. Despite many lawsuits brought over the ensuing years to challenge salary disparity as irrational, much of it survives to this day.

As to Judges of the Court of Appeals, Justices of the Supreme Court (including those designated to the Appellate Divisions) and Judges of the Court of Claims, all of whom had been State-paid before enactment of the Unified Court Budget Act, State assumption of fiscal responsibility for the courts had no impact upon their compensation. In 1977, those Judges already were State-paid and their compensation was uniform statewide within each court (except for comparatively small salary increments paid to the presiding Judges for their administrative responsibilities).

The history of judicial salary adjustment since enactment of the Unified Court Budget Act reveals a pattern of long periods of salary stagnation, interrupted by infrequent "catch-up" increases (see Appendix A).

What is most noteworthy about this history is that there was no anticipating any of the salary increases along the way — either their timing or their magnitude. Each of the increases, whether proposed by an Executive Branch blue-ribbon panel or by the Judiciary itself,<sup>4</sup> was driven by the political imperatives of the time. Each was *ad hoc* and by no

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<sup>1</sup> NY Const., Art. VI, §25(a).

<sup>2</sup> *Id.*, §29(a).

<sup>3</sup> L. 1976, c. 966 [codifying then-section 220 of the Judiciary Law].

<sup>4</sup> Actually, only three of the six salary adjustments were implementations of commission recommendations. The 1979 pay raise (L. 1979, c. 55) largely followed recommendations made by the *Ad Hoc* Panel on Executive, Legislative and Judicial Compensation formed by then Governor Carey. The 1993 raise (L. 1993, c. 60) likewise followed recommendations of an Executive Branch commission, this one established by executive

means foregone before its enactment. Each was confined to providing short-term salary adjustment. In all but one instance, the increases were paired with pay increases for members of the Legislature and high-level officials of the Executive Branch of government.<sup>5</sup>

It is clear, however, that even while following this course the State has been aware of the continuing problems in the way it fixes judicial salaries and of the need to inject greater fairness and predictability into the process. Three times over the years since State assumption of the costs of major court funding, the Legislature and Governor have directed establishment of panels to study and report concerning the adequacy of judicial pay, the need for its ongoing adjustment and the lingering problem of pay disparity among Judges of courts of the same level. The first of these reports was published in 1979 by the Chief Administrative Judge in response to a legislative direction that he study the issue of judicial pay disparity and report his recommendations.<sup>6</sup> Those recommendations, which called for elimination of pay discrepancies between Judges of the same court level and introduction of automatic cost-of-living adjustments, were never implemented. In 1980, the Legislature then established a temporary state commission on judicial compensation to study the existing judicial pay scale and to recommend revisions to assure the continuing adequacy of pay levels.<sup>7</sup> The Commission's 1982 report called for a 19.7% salary increase for all trial Judges plus a locational increment of an additional 16% for Judges in the New York City metropolitan area. While the report did not recommend the formal adoption of a statutory cost of living adjustment, it did invite enhancement of judicial benefit programs.<sup>8</sup> These recommendations, too, were never acted upon.

In 1987, as part of legislation providing a judicial pay raise in that year, the Legislature directed establishment of another temporary state commission to inquire into salary matters — this time not merely those of the Judiciary, but those of the Executive and Legislature as well.<sup>9</sup> The report of that commission was published in June 1988 and, among its recommendations, were calls for phased-in adjustment of judicial salaries so that they would be restored to their value in 1967 dollars and full pay parity among trial court Judges. The commission's recommendations were not implemented.

For a complete history of judicial salary increases, please consult Appendix A.

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order of then Governor Cuomo. The 1998 pay raise (L. 1998, c. 630) was inspired by recommendations of a commission formed by the Judiciary itself. The other three pay raises (L. 1980, c. 881; L. 1984, c. 986; L. 1987, c. 263) were not the product of institutional overview, but responses to the pressures of double-digit inflation experienced nationally throughout the 1980's.

<sup>5</sup> The exception was in 1993, when only judicial salaries were increased.

<sup>6</sup> L. 1979, c. 55, §4.

<sup>7</sup> L. 1980, c. 881, §17.

<sup>8</sup> The commission members believed that the high inflation of the times (*i.e.*, the early 1980's) was temporary in nature. Given that legislatures of the time seemed highly attentive to maintaining judicial salaries at adequate levels — the State having enacted two adjustments within the previous three years and directed the commission's creation and further study of the judicial pay scale — the commission saw no purpose to such a step.

<sup>9</sup> L. 1987, c. 263, §17.



## IV. WHY A JUDICIAL PAY INCREASE IN 2005?

### A

It is nearly 30 years since the State assumed fiscal responsibility for the courts. In that time, we have moved far from the first decade of unified court budgeting, during which the Legislature enacted four judicial pay adjustments in less than eight years. As of today, Judges have received only two adjustments in the last 18 years. Judicial salaries in New York have lost considerable ground to inflation, even as judiciaries in other states and the Federal judiciary have kept pace with changing economic conditions. New York's Judges, to be sure, understand the rocky political path that must be followed for salary reform to take place. They should not, however, be asked to accept the status quo with no end in sight.<sup>10</sup>

It is instructive to consider the Federal government's handling of the salaries of our counterparts, the Federal judiciary. Federal judicial salaries were increased several times throughout the mid-1990's, with the result that the pay of a Federal District Court Judge, historically roughly equivalent to a New York State Supreme Court Justice,<sup>11</sup> had surged by 1998 to nearly 21% more than that of a Justice of the State Supreme Court.

In 1998 the State adjusted judicial salaries — notably, by restoring Justices of the Supreme Court to salary parity with Judges of the Federal District Courts as of January 1, 1999 and raising the salaries of other State Judges in proportionate amounts. This provided Judges with compensation levels that fairly balanced the State's need to make judicial offices competitive in the marketplace for legal talent, with limits on the public treasury. Moreover, it restored appropriate pay relationships between Judges and other court system employees.

Since then, over six years have passed. The actual value of Judges' salaries has again declined dramatically, as those salaries have not been adjusted to keep pace with inflation. The State's past commitment to salary parity with the Federal Judiciary has been lost, as salaries for Federal judges have received several cost-of-living adjustments in the interim.<sup>12</sup>

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<sup>10</sup> Many reasons are given for the political difficulties that attach to judicial salary reform, most prominently that such issues traditionally are considered along with salary increases for the other branches of government.

<sup>11</sup> See Appendix B, for a comparison of the salaries paid these two offices in the years since 1969.

<sup>12</sup> On January 1, 1999, Judges of the Federal District Court and Justices of the New York State Supreme Court earned the same salary: \$136,700 annually. Since that date, the Federal District Court salaries have steadily been increased: in 2000, to \$141,300; in 2001, to \$145,100; in 2002, to \$150,000; in 2003, to \$154,700; in 2004, to \$158,100; and, on January 1, 2005, to \$162,100.

It is instructive here to recognize that it is not just at the Federal level that New York has not been keeping up with judicial salary trends. In its most recent survey of jurisdictions nationally, the National Center for State Courts found that New York has dropped to seventh in the level of compensation paid to trial court judges of

And the salaries of nonjudicial employees, historically fixed at levels below those of Judges, have grown with each passing year.<sup>13</sup>

In short, in the middle of 2005, the New York State Judiciary compensation levels have effectively been reduced to their pre-1998 conditions. Without attention now, at this session of the Legislature, the institutional problems that follow these conditions will only grow worse.

## B

As much as we are concerned for our Judges and their families, these are not merely personal issues. As the framers of the State Constitution so clearly recognized, for the Judiciary to be truly independent it is necessary that Judges be insulated from assaults on their pocketbooks. Thus, the framers adopted a non-diminution clause, which prohibits reduction of a Judge's compensation during his or her term of office.<sup>14</sup> They recognized that any step that makes judicial service less attractive financially can have the very real consequence of depressing interest in judicial office. That is not in the public welfare.

In 2005, as we enter the seventh year since Judges last received a pay adjustment, judicial pay reform has become more problematic than ever. It is the responsibility of all of us now to address this issue.

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general jurisdiction. *Survey of Judicial Salaries*, National Center for State Courts, vol. 29, no. 1 (April 1, 2004). Even more revealing, though, is the fact that, when adjusted for cost of living, New York's ranking drops dramatically — from seventh, when measured in real dollars, to *twenty-third*, when measured in terms of the actual value of each dollar in the local market.

<sup>13</sup> Increases in the salaries of nonjudicial employees since 1999 has caused greater compression between those salaries and judicial salaries. Over the six year period beginning January 1, 1999, during which Judges have not received any pay adjustment, nonjudicial employees (and most other State employees) received a minimum of 18.25% in salary increases. Many such employees, in fact, received much greater increases attributable to payment of tenure-based salary increments not available to Judges. All of these increases, of course, were comparable to increases being received at the same time by several hundred thousand employees in the Executive Branch of government. Finally, during this time period the cost of living grew by over 18 percent (source: CPI - All Urban Consumers [Base: 1982-84=100]). The effect of this growth was to erode significantly the purchasing power of the judicial dollar.

<sup>14</sup> NY Const., Art. VI, §25(a).

## V. PAY INCREASE PROPOSAL

New York's system of judicial compensation is seriously flawed. It is out of sync with the realities of our economy, the competition for lawyers of ability in the marketplace, compensation paid employees in public service, and compensation paid Judges in other states and the Federal courts. Beyond this, however, its most egregious short-coming may be that it gives Judges and would-be Judges no expectation that their salaries will be adjusted with the times. More than the dollar amounts involved or even the frequency with which salaries are adjusted, it is the uncertainty in the adjustment process — the absence of any knowledge as to when, or even if, their compensation will change — that affects most Judges. Unlike many employees in both the public and private sectors, Judges do not collectively bargain their wages in recurring and predictable cycles. And unlike other elected and appointed high government officials, who typically serve for short periods of time, Judges, when chosen for office, must commit to service for extended periods — in most instances, ten years or more. Furthermore, Judges generally have no other source of income. Under these circumstances, uncertainty about one's wage future unfairly frustrates the ability to plan for families, to plan for retirement and to make meaningful personal career choices.

With these concerns in mind, we propose legislation to reform New York's system for the compensation of State-paid Judges. This proposal consists of three elements.

First, it provides for immediate adjustment of the salaries of Justices of the Supreme Court, our trial court of general, original jurisdiction, to restore them to parity with their counterparts, the Judges of the Federal District Courts. At the same time, salaries of the Judges of our appellate courts should be increased in appropriate proportion.

Second, our proposal addresses the issue of pay disparity. While we firmly believe that such disparity among trial court Judges should be eliminated altogether, we recognize that such a significant reform cannot be undertaken without a clear consensus among the State's policymakers. At the same time, however, we believe steps must be taken now to mitigate some of the more palpably unfair instances of judicial pay disparity. Thus, our proposal with regard to parity is in two parts.

Part one provides for adjustment of the salaries of Judges of the trial courts of limited jurisdiction to *reduce* the extent of salary disparity both within the same level of court and among Judges of all trial courts. To this end, it would set the following levels for the salaries paid Judges of the courts<sup>15</sup>: (i) 95% of the salary of a Justice of the Supreme Court,

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<sup>15</sup> Each Judge of a court specified here who already earns a higher percentage of the salary of a Justice of the Supreme Court than the proposed minimum percentage for judges of his or her court will continue to earn that greater percentage.

for Judges of County, Family and Surrogate's Courts (at present, the salary of a Judge of one of these courts ranges from 88% to 100% of the salary of a Justice of the Supreme Court); (ii) 93% of the salary of a Justice of the Supreme Court for Judges of the New York City Civil and Criminal Courts and the District Courts (at present, the salaries of these Judges are 92% and 90% of the salary of a Justice of the Supreme Court, respectively); and (iii) 90% of the salary of a Justice of the Supreme Court for full-time Judges of the City Courts outside New York City (at present, the salary of such a Judge ranges from 80 to 87% of the salary of a Justice of the Supreme Court).

Part two of the parity section of our proposal calls for a salary commission that would meet every two years to consider whether remaining pay disparities should be further reduced or eliminated. In this manner, the larger issue of proper pay relationships among trial Judges can be addressed by an expert body that will evaluate those relationships on an ongoing basis.

Third, and most importantly, our proposal provides that salaries of Justices of the Supreme Court will automatically, and without need for further legislative action, be adjusted annually to keep pace with those of Judges of the Federal District Courts, with the salaries of Judges of other State-paid courts adjusted to preserve their relationships with those of Justices of the Supreme Court.<sup>16</sup>

The chart in Appendix C, sets forth the levels of pay we propose for the courts, effective April 1, 2005. Appendix D provides the text of legislation necessary to give effect to these pay levels and the rest of our proposal.

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<sup>16</sup> Our proposal does not alter or affect provisions of current law giving Surrogates whose annual salaries are less than that of a Justice of the Supreme Court additional compensation for their services in administering the estate tax. See Tax Law sec. 983.

## VI. CONCLUSION

A career in public service surely demands a measure of sacrifice. That does not mean, however, that we can ignore the vital need for judicial pay reform. It is expected that Judges and other individuals drawn to such careers will be prepared to forego the greater financial compensation they might find in the private sector. But public service should not require a person to remain at a fixed salary over the years or to exhaust personal resources or to go into debt in order to remain a Judge.

Moreover the make-up of the State Judiciary has changed over the years. Over the past few decades, there has been a discernible shift in the demographics of New York's courts throughout the State. The Judiciary is more diverse than ever before. Judges often are younger when they ascend to the bench, with visions of making the Judiciary a career rather than the capstone of a career. Those who become Judges these days are often without independent financial means and financial sacrifice has very different implications than it did for their predecessors years ago. For such public servants, six years without a pay raise is financially painful and simply unfair.

For the public, it is also unwise. The judicial branch's legitimacy depends on public confidence in the high expertise, productivity, professionalism and accountability of our Judges. Continued salary stagnation greatly increases the likelihood that experienced jurists will leave judicial service, and, if permitted to persist, will deter future generations of lawyers from aspiring to the bench. We simply cannot afford any diminution in the quality of the New York State bench.

In sum, judicial pay is now inadequate and growing more so every day. The proposal offered in this report will provide relief for all those in or contemplating judicial careers. It can do so at relatively modest cost to the taxpayer and with minimal disturbance in pay relationships among high-level government employees.

We respectfully urge its speedy enactment.

## APPENDIX A

### General Judicial Salary Adjustments: 1977-2005

- 1979** (L. 1979, c. 55) Enacted in April of 1979 following the recommendations of a gubernatorial Panel on Executive, Legislative and Judicial Compensation, chapter 55 consisted of a series of percentage increases (7% retroactive to October 1, 1978; 7% effective October 1, 1979; and approximately 3.39% effective October 1, 1980), along with establishment of minimum salaries for county-level and full-time city-level judges.
- 1980** (L. 1980, c. 881) Enacted during a special legislative session in the fall of 1980, chapter 881 consisted of two percentage increases (5% effective January 1, 1981; and 7% effective January 1, 1982).
- 1984** (L. 1984, c. 986) Enacted in December of 1984, chapter 986 consisted of a 14% increase for Associate Judges of the Court of Appeals and 24-27% increases for all other judges effective January 1, 1985.
- 1987** (L. 1987, c. 263) Enacted in the summer of 1987, chapter 263 consisted of a 24% increase for Associate Judges of the Court of Appeals, a 15.9% increase for Justices of the Supreme Court and 18-21% increases for all other judges effective October 1, 1987.
- 1993** (L. 1993, c. 60) Enacted in April of 1993 following the recommendations of a special gubernatorial commission, chapter 60 consisted of an 8.7% increase for Associate Judges of the Court of Appeals, a 15.4% increase for judges of the upstate City Courts and 19-21% increases for all other judges effective in four stages over an 18-month period beginning April 1, 1993.
- 1999** (L. 1998, c. 630) Enacted in December of 1998 following the recommendation of a commission appointed by the Chief Judge, chapter 630 consisted of a 21% increase for all judges.

## APPENDIX B

### Comparison of Federal District Court & NYS Supreme Court Salaries: 1969-2005

| <u>YEAR</u> | <u>U.S. DISTRICT COURT</u> | <u>NYS SUPREME COURT</u> |
|-------------|----------------------------|--------------------------|
| 1969        | \$42,500                   | \$39,100                 |
| 1975        | \$44,600                   | \$48,998                 |
| 1980        | \$70,900                   | \$58,000                 |
| 1985        | \$78,700                   | \$82,000                 |
| 1990        | \$96,600                   | \$95,000                 |
| 1995        | \$133,600                  | \$113,000                |
| 1999        | \$136,700                  | \$136,700                |
| 2000        | \$141,300                  | \$136,700                |
| 2001        | \$145,100                  | \$136,700                |
| 2002        | \$150,000                  | \$136,700                |
| 2003        | \$154,700                  | \$136,700                |
| 2004        | \$158,100                  | \$136,700                |
| 2005        | \$162,100                  | \$136,700                |

## APPENDIX C

### Proposed Pay Levels (eff. 4/1/05)

| <u>COURT</u>                                  | <u>PRESENT PAY</u>     | <u>PROPOSED PAY</u>    |
|-----------------------------------------------|------------------------|------------------------|
| <b>Court of Appeals</b>                       |                        |                        |
| Chief Judge                                   | \$156,000              | \$178,310              |
| Associate Judge                               | \$151,200              | \$175,068              |
| <b>Appellate Division</b>                     |                        |                        |
| Presiding Justice                             | \$147,600              | \$171,826              |
| Associate Justice                             | \$144,000              | \$168,584              |
| <b>Appellate Term</b>                         |                        |                        |
| Presiding Justice                             | \$142,700              | \$166,963              |
| Associate Justice                             | \$139,700              | \$165,342              |
| <b>Supreme Court</b>                          | \$136,700              | \$162,100              |
| <b>Court of Claims</b>                        |                        |                        |
| Presiding Judge                               | \$144,000              | \$168,584              |
| Judge                                         | \$136,700              | \$162,100              |
| <b>County, Family &amp; Surrogate's Court</b> | \$119,800 to \$136,700 | \$153,995 to \$162,100 |
| <b>NYC Civil &amp; Criminal Court</b>         |                        |                        |
| Judge                                         | \$125,600              | \$150,753              |
| Housing Judge - Civil Court                   | \$115,400              | \$143,215              |
| <b>District Court</b>                         |                        |                        |
| President                                     | \$126,900              | \$155,909              |
| Judge                                         | \$122,700              | \$150,753              |
| <b>City Court</b>                             |                        |                        |
| Chief Judge                                   | \$115,100 to \$119,500 | \$147,422              |
| Full-time Judge                               | \$108,800 to \$118,300 | \$145,890              |
| Part-time Judge                               | \$5,800 to \$81,600    | \$7,777 to \$109,418   |



# APPENDIX D

## Legislative Proposal

AN ACT to amend the judiciary law and the New York city civil court act, in relation to salaries of certain judges and justices of the unified court system

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections 221, 221-a, 221-b, 221-bb, 221-c, 221-d, 221-e, 221-f, 221-g, 221-h, 221-i and 223 of the judiciary law are REPEALED and a new section 221 is added to read as follows:

§221. Annual salaries of state-paid judges and justices of the unified court system.

(a) Each state-paid judge and justice of the unified court system shall receive the annual salary prescribed for his or her office on a schedule to be promulgated by the chief administrator of the courts in accordance with law.

(b) State-paid judges and justices shall receive annual salaries as follows:

1. A justice of the supreme court shall receive an annual salary equaling one hundred thirty-six thousand, seven hundred dollars; provided, however, that on the first day of April in each year commencing with April first, two thousand five, if such annual salary is less than that of a judge of the United States district court on such date, as established by law, it shall be adjusted to equal that of a judge of the United States district court.

2. The following judges and justices shall receive an annual salary equaling that of a justice of the supreme court plus a percentage thereof as set forth herein:

(i) chief judge of the court of appeals, ten percent;

(ii) associate judges of the court of appeals, eight percent;

(iii) presiding justices of the appellate division, six percent;

(iv) associate justices of the appellate division, the presiding judge of the court of claims and judges who are designated deputy chief administrative judges, four percent;

(v) presiding justices of an appellate term, judges who are designated deputy or assistant administrative judges within the city of New York and judges and justices who are designated administrative judges for a judicial district or county outside the city of New York, three percent;

(vi) associate justices of an appellate term, two percent; and

(vii) judges of the court of claims, no additional percentage.

3. The following judges shall receive an annual salary equaling a percentage of that of a justice of the supreme court, as set forth herein:

(i) judges of the county court, judges of the family court and judges of the surrogate's court, ninety-five percent;

(ii) judges of the New York city civil court, judges of the New York city criminal court and judges of the district court, ninety-three percent; and

(iii) judges of a city court outside the city of New York who are not permitted to practice law, ninety percent.

Notwithstanding the other provisions of this paragraph, any judge specified in subparagraph (i) hereof, in an office that on March thirty-first, two thousand five was paid an annual salary that was more than ninety-five percent of the annual salary paid a justice of the supreme court on such date, shall receive an annual salary equaling an amount bearing the same proportion to the salary of a justice of the supreme court as the annual salary of his or her office bore to the salary of a justice of the supreme court on March thirty-first, two thousand five. In the event a new judgeship is established for a county court, family court or surrogate's court on a date after March thirty-first, two thousand five, the annual salary for such office shall equal the annual salary for each other judgeship already established for such court on such date.

4. Each judge of a city court outside the city of New York who is permitted to practice law shall receive an annual salary equaling an amount bearing the same proportion to the salary of the lowest-paid judge of a city court who is not permitted to practice law as the salary of his or her office on March thirty-first, two thousand five bore to the salary of such lowest-paid judge on such day.

5. Notwithstanding any other provision of this section, the annual salaries of each of the following judges, as specified in paragraph three of this subdivision, shall be increased by the amounts herein set forth:

(i) each chief judge of a city court outside the city of New York who is not permitted to practice law, an amount equal to one and five one-hundredths percent of his or her annual salary as provided by law; and

(ii) each president of the board of judges of a district court, an amount equal to three and forty-two one-hundredths percent of his or her annual salary as provided by law.

§2. Subdivision (f) of section 110 of the New York city civil court act, as amended by chapter 324 of the laws of 2001, is amended to read as follows:

(f) The housing judges shall be appointed by the administrative judge from a list of persons selected annually as qualified by training, experience, judicial temperament and knowledge of federal, state and local housing laws and programs by the advisory council for the housing part. The annual salary of a housing judge shall [be one hundred fifteen thousand four hundred dollars] equal an amount representing ninety-five percent of the annual salary of a judge of the New York city civil court.

§3. Notwithstanding any other provision of law, in the event that the compensation prescribed by this act for a judge or justice is lower than the compensation paid a person holding such office immediately prior to the effective date of this act, such judge or justice shall be paid the compensation authorized by law for his or her office on the day immediately preceding such effective date.

§4. (a) Effective on the first day of April in each even-numbered year in which the annual salary on such day of any judge specified in paragraph 3 of subdivision (b) of section 221 of the judiciary law is less than the annual salary of a justice of the supreme court, there shall be established for such year a temporary state commission on judicial salary parity to examine, evaluate and make recommendations with respect to salary levels for state-paid judges whose compensation is less than that of a justice of the supreme court. The commission shall examine the adequacy of pay received by such judges, taking into account all appropriate factors including, but not limited to, the overall economic climate, rates of inflation, changes in public-sector spending and the levels of compensation received by judges of other states and professionals in government, academia and private and nonprofit enterprise. Not later than the first day of November of such year, the commission shall make a report to the governor, the legislature and the chief judge of the state of its findings, conclusions and recommendations, if any, for revision of the salaries of some or all of the judges whose salaries were subject to its examination. Effective on the first day of April next thereafter, such recommendations shall have the force of law and shall supersede the provisions of section 221 of the judiciary law and any other law to the contrary unless sooner modified or abrogated by statute; provided, however, no recommendation shall have the force of law hereunder if it would increase the annual salary of any judge to an amount greater than that paid a justice of the supreme court.

(b) The commission shall consist of thirteen members to be appointed as follows: four shall be appointed by the governor; two shall be appointed by the temporary president of the senate; one shall be appointed by the minority leader of the senate; two shall be appointed by the speaker of the assembly; one shall be appointed by the minority leader of the assembly; and three shall be appointed by the chief judge of the state. The governor shall designate the chair from among the members so appointed. Vacancies in the commission shall be filled in the same manner as an original appointment.

(c) The commission may meet within and without the state, may hold public hearings and shall have all the powers of a legislative committee pursuant to the legislative law.

(d) The members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties hereunder.

(e) No member of the commission 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 hereunder, notwithstanding the provisions of any general, special or local law, regulation, ordinance or city charter.

(f) To the maximum extent feasible, the commission 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, commission, agency or public authority of the state or any political subdivision thereof as it may reasonably request to carry out properly its powers and duties hereunder.

(g) The commission may employ and at its pleasure remove such personnel as it may deem necessary for the performance of its functions and fix compensation within amounts made available therefor by budgetary appropriation.

§5. Date of entitlement to salary increase. Notwithstanding the provisions of this act or of any other law, each increase in salary or compensation of any officer or employee provided by this act shall be added to the salary or compensation of such officer or employee at the beginning of that payroll period the first day of which is nearest to the effective date of such increase as provided in this act, or at the beginning of the earlier of two payroll periods the first days of which are nearest but equally near to the effective date of such increase as provided in this act; provided, however, the payment of such salary increase pursuant to this section on a date prior thereto instead of on such effective date, shall not operate to confer any additional salary rights or benefits on such officer or employee.

§6. This act shall take effect April 1, 2005.