

TESTIMONY OF COMMON CAUSE NY BEFORE SENATE STANDING COMMITTEE ON INVESTIGATIONS AND GOVERNMENT OPERATIONS AND ASSEMBLY STANDING COMMITTEE ON GOVERNMENTAL OPERATIONS RE VIDEOCONFERENCING LEGISLATIVE HEARINGS

December 19, 2024

Thank you for the opportunity to testify today. I am Susan Lerner, Executive Director of Common Cause NY. Common Cause is a nonpartisan, grassroots organization dedicated to upholding the core values of American democracy. We work to create open, honest, and accountable government that serves the public interest; promote equal rights, opportunity, and representation for all; and empower all people to make their voices heard in the political process. We have thousands of members and activists throughout New York State. Public knowledge of, and participation in, government activities is central to our mission. Our organization directly participated in the drafting and passage of Freedom of Information and Open Meetings laws in Congress and in states across the nation, including New York.

I apologize that in preparing this testimony I realized I did not correctly understand the specifics of what you wish to review and that I do not know the contents of any resolution which you are considering to “authoriz[e] the use of videoconferencing to conduct open meetings under certain circumstances” for either or both houses of the Legislature, as stated in the meeting notice, as I failed to request a copy to review. Perhaps such a resolution has not yet been drafted and you are seeking input into the circumstances under which videoconferencing of meetings would be permitted and what guardrails should be in place if videoconferencing should be permitted. As we have not seen any proposed resolution, I will assume that you are seeking general comment on whether meetings conducted by videoconferencing in either or both houses of the legislature should be permitted.

We are strong supporters of allowing members of the public to testify remotely, as was graciously permitted for this hearing. Nevertheless, we believe that meetings are best conducted in a hybrid fashion – rather than exclusively remote, with members of the public able to choose whether to testify in person or remotely. With more notice of this hearing, it would have been my preference to have reserved time in my schedule to travel to Albany to testify in person. But if we are discussing videoconferencing meetings of either or both houses of the Legislature or its committees, the use of video conferencing would permit and should make mandatory, the public broadcast of all committee and other meetings, so that public has access to and can monitor all proceedings. However, it is a sad fact that participation by the public in committee meetings is no longer permitted – unlike the situation in 37 other states, where members of the public expect - indeed have the *right* – to testify on bills and other matters before legislative committees. If committee meetings were to be conducted including some form of videoconferencing, then members of the public, not simply those who are invited by the committee, should be permitted to testify remotely and in-person on the matters, including bills before the committee holding the meeting. We support using videoconferencing of all committee and

other meetings to allow for not only public observation, but also public participation, in the meetings. If a legislative meeting is to utilize videoconferencing in some manner, that fact should be included on the publicly disseminated notice of the meeting or hearing, which should include information on how the public can access the meeting. To facilitate public observation of the public's business in the meeting, the following should be in place:

- Notice on the agenda of who is participating electronically
- Notice on the agenda for how the public can participate electronically
- Require that the electronic platform be free
- Require that the electronic meeting be contemporaneous
- Substantial interruption of the meeting brings it to a halt
- All non-unanimous votes by roll call
- All members must identify themselves at the meeting whenever they speak
- All members must be able to hear and be heard
- Post the recording within one week of the meeting and make it available on the applicable website

Our position is that the circumstances that permit elected members of the legislature to conduct legislative business by videoconferencing is limited to emergency situations. We believe that all members of elected bodies, whether the state Legislature, a legislative committee, a county legislature or a city council, must participate in person, unless there is an emergency. We recognize that this is a change in position from that set out in the March, 2022 group letter, but have come to this conclusion based on discussions with advocates in other states and through observations participating in hybrid commission meetings. The more power a body has, the more it is obligated to meet publicly and in person. We are concerned that allowing completely remote participation by elected officials allows for a lack of focus and discourages interaction and discussion between the officials, particularly those of different parties. Such meetings foster the public perception that the public's business is not being conducted in the open, but behind closed doors, leading to a cynicism and lack of interest by the public. And while the current legislative meetings are proforma, with predictable party-line votes, we look forward to a day when committees conduct robust discussions and bill-markups in public after receiving public testimony and hearing from a bill's sponsor and opponents, which we fear will be delayed by allowing meetings to be held exclusively remotely.

If, counter to our recommendation, legislative committee or hearing business is authorized to be conducted via videoconferencing of the elected participants, then our fallback reluctantly adopted position is that a quorum of the committee or other body must be present and that quorum must include the chair and ranking member of the committee or other body, as specified in A10266 (2023-24) sponsored by Assemblymember Simone. In that instances, the requirements which we detail in discussing videoconference meetings held through videoconference where public participation is permitted would apply, whether or not public participation was allowed.

We have grave concerns about allowing videoconferencing of the floor sessions of either legislative house. We believe that videoconferencing of the floor meetings should only be available to members experiencing some form of hardship that makes it physically difficult, if not impossible for them to participate in person. In the event that a member has an emergency situation which requires participation by videoconferencing, the member must be clearly seen and heard, should be required to identify themselves when they speak and must be visible on video when voting.

