

CAMPAIGN FINANCE REFORM

An Agenda for New York State

May 17, 1999



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State Comptroller

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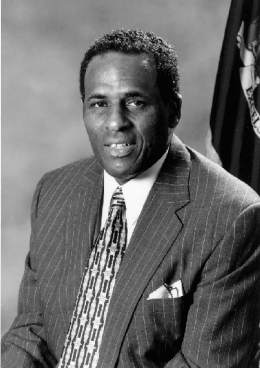
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A Message from State Comptroller H.

Carl McCall



In 1998 I was honored to be re-elected for my second term as New York State Comptroller. During that campaign, I raised a significant amount of campaign funds to ensure that my message would reach the public. Elections in New York State cost an inordinate amount of money, and questions were raised about the methods I used to fund my campaign. While I took every effort to ensure my campaign was run honestly and ethically, those questions hurt me personally.

Throughout my public career, I have enjoyed a reputation for integrity and independence. I have always tried to do everything possible to ensure that my office and my own conduct place the interest of the public first. But, in spite of my efforts to do the right thing, my campaign still sparked those questions. It's quite clear that our system of campaign finance is in dire need of reform. The necessity for candidates to raise large sums of money in order to be successful in the electoral process gives the appearance — regardless of the candidate's personal integrity — of impropriety to the average citizen. I'm concerned about my personal reputation, and I'm also concerned about the chilling effect our current system will have on the candidacies of future potential office-seekers.

The message is quite simple: our system of campaign finance in New York is broken. Our laws favor less democracy, are poorly enforced and are ranked among the worst that any state has to offer. It is a system whose very nature denies New Yorkers fair, open and democratic elections.

Numerous good government groups, elected officials and prominent business leaders have aired their views on how best to reform New York's campaign finance laws. This report adds my views to what I hope will at long last be a productive debate on how best to move forward.

From my perspective, there are four interrelated problems with the system of campaign finance in the State. First, the cost of running for public office is out of control and the need for large sums of campaign dollars allows special interests to undermine confidence in government. Second, the red tape laden electoral system rewards incumbents and frustrates citizen participation in the electoral process. Third, the limits state law now places on campaign contributions are too high and even those limits are easily circumvented. Finally, accountability in our existing system is woefully inadequate.

If our electoral system had only one of these problems it would be cause for concern. The presence of all four failings should be causing absolute outrage, but passing a meaningful reform measure in New York State is a daunting task. Incumbents have a vested interest in preserving the present arrangement. Major interest groups in the State have developed effective strategies to use the current system to secure benefits for their constituencies. The fight for reform will be difficult, but there should be no surrender.

The path for reform in New York State has been made somewhat clearer. Other states have enacted various reform programs and New York City has adopted one of the most far reaching campaign finance models in the nation. Thoughtful legislative proposals have been introduced in the State Legislature. Progress can be made; real reform can be realized.

As we go forward with this fight, any new system of campaign finance should meet the test of the following principles:

- ▶ **Establish a Level Monetary Playing Field for Elections** - A system should be created under which candidates who agree to limit campaign spending and limit collection of private campaign contributions receive a set amount of public funds. A reform package should encompass all elected offices subject to state campaign laws. A piecemeal approach will only diminish the reform's effectiveness and lessen its chance for passage.
- ▶ **Combat the Influence of Money in Politics** - Prohibit contributions to candidates from anyone who does business with or appears before the office that the candidate is seeking; reduce contribution limits to candidates; reduce contribution limits to parties to curb 'soft money' abuses and limit contributions to and from political action committees.
- ▶ **Promote Citizen Participation in the Electoral Process** - Eliminate the unrealistic barriers to ballot access and to participation in public financing programs in order to encourage a diverse field of responsible candidates; and support efforts to provide free media access to candidates.
- ▶ **Increase Enforcement** - The key to any new system is fair and consistent enforcement. The Board of Elections needs to be restructured to make it independent and give it the tools needed for effective enforcement.

As I travel around the State, I'm discouraged by the low esteem citizens have for government at every level, a lack of faith evidenced by low voter turnout. The work of public service is harmed by the perception— real or imagined — that a small number of campaign contributors hold undue influence over the proper workings of government. The current system of campaign finance frustrates government's ability to regain the trust of its citizenry, which in turn inhibits the effectiveness of that government.

My hope is that this report will serve to encourage those who have been dedicated to reform, but, perhaps more importantly, I hope this report helps increase public awareness and broaden public debate. For far too long, we've been getting it wrong in New York. It's time to start making things right — it's time to fix New York's horribly broken campaign finance laws.

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EXECUTIVE SUMMARY

The statutory framework that governs how campaigns are conducted and financed in New York State was enacted in 1949 and recodified in 1976. In the last several decades, campaigning for elected office has changed dramatically, public opinion about the political process has changed dramatically and criticism of almost every facet of the system has grown. Despite these changes — and the knowledge that a growing number of other states are addressing the issue legislatively — New York State’s campaign finance laws remain among the worst in the nation.

A system of campaign finance should ensure fair competition among candidates, promote participation in the process by citizens and candidates, preserve the integrity of the governmental office that is sought and through a commitment to public disclosure ensure an open process. In each of these areas, change is needed. Taken together, the needed changes require comprehensive reform of the State’s campaign finance system.

In today’s world, where mass media is the most effective means of communicating, money is the dominant tool that ensures success. Office seekers who cannot amass large campaign war chests have little success. A large campaign fund can ward off potential challengers for an office and can supply the resources necessary to wage a hard campaign if competition emerges. Competitive campaigns require large amounts of cash because the most effective way to communicate with the public is through television and radio — and to do so requires that a campaign purchase large blocks of expensive air time.

The rules governing campaign finance in New York State have contributed to a system that does little to curtail this troublesome aspect of political campaigning. The formal fund-raising begins when a campaign gets underway. A candidate gets started by filing authorization documents with the Board of Elections. These documents identify who the responsible parties are for the conduct of the campaign. Once these are filed, candidates can formally begin conducting campaign activities, including fund-raising. State law limits the amount that can be given by individuals, political action committees (PACs) and corporations to specific candidates. The law places an aggregate limit on campaign contributions in any one year: individuals - \$150,000; corporations - \$5,000. Political action committee contributions to individual candidates are also limited. For the most part contribution limits are quite high compared to other states.

Although there are legal limits on contributions, these contribution limits are easily circumvented. There are no limits on the amounts of money that PACs and corporations can contribute to political parties; contributions from a single source can be bundled through multiple contributors; and political parties and organizations that appear to be independent of specific campaigns can make indirect contributions to them through issue advertising and other activities.

In addition, State law places few restrictions on the relationship between the contributor and the office holder. Corporations and individuals doing or seeking business with the State can make large contributions to elected officials who award contracts and vote on legislation that benefits

the contributor's bottom line. The nature of these relationships creates the appearance of impropriety and helps to support a public perception that private contributions can and do undermine the public interest.

The laws that do offer some accountability require campaigns and public officials to disclose who their contributors are and where they spend campaign money. These disclosure laws, combined with the use of the Freedom of Information Act, have allowed media organizations and good government groups to cast some sunshine on the defects of the system, but these exposes have not resulted in the kind of change that is desirable.

Thanks in large measure to a small, but growing group of good government activists and a number of committed legislators, solutions to the problem have been proposed in legislation. These important legislative proposals, along with successful efforts to reform campaign finance laws in other states and the reform model in place in New York City, contain the elements of a new system for New York State. A new campaign finance system for the State should be based on the following core principles:

▶ **Establish A Level Monetary Playing Field For Elections**

Implement a system under which candidates who agree to limit campaign spending and limit collection of private campaign contributions receive a set amount of public funds. Such a system, which must be voluntary by law, will reward candidates who conduct campaigns that foster public accountability and increase citizen participation.

▶ **Combat The Influence Of Money In Politics**

Prohibit contributions to candidates from anyone who does business with or appears before the office that the candidate is seeking.

Reduce the amount of money that any contributor (individual, corporation, union, or PAC) can give to candidates and parties.

Reduce the amount of money that contributors can give to a political action committee and reduce the amounts that these committees can contribute to individual candidates or political committees.

Place limits on the amounts that can be given to political parties and restrict party spending.

Require all campaign committees (candidate, party, independent and issue campaigns) to make contribution and expenditure information easily accessible to the public.

▶ **Promote Citizen Participation In The Electoral Process**

Set requirements to gain ballot access and participate in public financing programs at levels that encourage a diverse field of responsible candidates.

Encourage individual citizens to participate in the electoral process by making small contributions from in-state residents the basis for public matching dollars.

Support efforts to provide free media access to candidates.

▶ **Increase Enforcement**

Require independent and issue campaigns to register with the Board of Elections and be subject to state campaign finance law requirements.

Restructure the Board of Elections to make it independent and give it the tools needed for effective enforcement.

The public will support an overhaul of the campaign finance system. In August of 1998, 48% of those surveyed said the campaign finance system needed major changes, 24% supported minor changes and only 15% supported the status quo. A large majority supported the kind of public financing model that would produce fundamental change.

More and more business people are also supporting a change in the way campaigns are financed. For example, two of New York City's most prominent real estate developers have severely criticized the system. They report being asked for contributions up to four times a day by politicians from all over the country.¹

In November 1988, New York City voters supported an overhaul of the City's campaign finance system as part of charter reform. Last year City voters reaffirmed that support by banning contributions by corporations in local elections and Suffolk County residents voted to reform their own campaign finance system. Each of these reform efforts received in excess of 60 percent of the vote.

When a public system is old and broken, it is the responsibility of government leaders to come together to fix it. A menu of public policy choices is available to us, and public opinion is supportive. What is left is for the legislative process to move forward with a new system that is committed in principle and practice to fair, open and democratic elections in New York State.

¹Levy, Clifford J., *2 Big Donors Join Fight Over Funds For Campaigning*, New York Times, May 8, 1998 and see the Clean Money Clean Elections New York, Citizen Action of New York Advisory Committee list.

BACKGROUND: THE CURRENT NEW YORK STATE CAMPAIGN FINANCE LAW

The basic system of laws governing campaign finance in New York State has been in place since 1949, when Article 14 of the Election Law was enacted. The Election Law was recodified in 1976.² Discussion of reform and change has ebbed and flowed over the years as newspaper exposes, citizen complaints and criminal investigations and indictments have focused public attention on the issue. While these efforts have all pointed to serious shortcomings with the existing campaign finance system, little in the way of comprehensive reform has been achieved.³

This section of the report provides a brief description of the current system of campaign finance in New York State as it relates to: campaign contribution limits, government integrity rules, campaign expenditures, disclosures and administrative capacity.

Campaign Contribution Limits⁴

State Election Law sets limits on the size and timing of campaign contributions in two ways.

First, the law sets an annual limit on the total amount an individual or corporation can contribute to political campaigns. This is the aggregate limit — the total amount that can be contributed to all campaigns. For individuals the amount is \$150,000 per year and for corporations the limit is \$5,000.

If a person is a principal in more than one corporation, each corporation can separately contribute up to \$5,000.

Second, the Law sets limits on the amount that can be given to a specific candidate or campaign in a given race. Political action committees, unions and individuals can contribute up to \$30,700 in a statewide general election and up to \$14,700 for a primary election. Legislative races also have limits on the amount that individual contributors can give for specific races — \$7,700 for a State Senate general election and \$3,100 for a State Assembly general election.

²Chapter 233, Laws of 1976.

³Appendix 1 offers a brief description of attempts that have been made to offer a comprehensive alternative. For more details see *Government Ethics Reform for the 1990's, The Collected Reports of the New York State Commission on Government Integrity*, edited by Bruce A. Green, 1991.

⁴This description is meant to simplify those sections of the Election Law that apply to campaign contribution limits. The law, is set forth in Section 14 of Article 14 of the State Election Law is. See: Green, Bruce, *Government Ethics Reform for the 1990's*, New York: Fordham University Press, 1991 for a description of the basic legal framework and its workings.

If an interest group organizes several PACs, each PAC can make contributions to an individual campaign up to the statutory limit.

Individuals, PACs and unions can contribute up to \$69,000 per calendar year to party committees. Party committees can make expenditures to individual campaigns through direct expenditures on behalf of candidates or through transfers to individual candidate accounts. A party committee is not considered a “contributor” under state election law and therefore is not subject to the same limits.

Under the “housekeeping exemption,” individuals, partnerships, unions and corporations can make unlimited contributions to party committees if those committees are set up for housekeeping purposes. Housekeeping expenses are those expenses made by a party or a political action committee to maintain a permanent headquarters and staff and carry on ordinary party activities not supporting the specific candidacy of an individual. This exemption allows contributors in practice to exceed the contribution caps in state law. Money in a housekeeping account is typically referred to as “soft money.”

Government Integrity Rules

Most state campaign finance laws, including New York’s, attempt to regulate the relationship between the officeholder and the contributor by setting limits on the frequency and size of contributions.⁵ The business relationship of the contributor to the officeholder and to state government has received less attention. The New York State Election Law does not provide restrictions on contributors, individuals or corporations doing business with the State of New York.

The New York State Public Officers Law does regulate the conduct of public officers with regard to the carrying out of their responsibilities.⁶ It contains restrictive language on the receipt or solicitation of gifts for the performance of official actions. It also prohibits the offering or making of such gifts by third parties. Another provision restricts state employees from behaving in a manner that would lead one to believe they can be improperly influenced. Other sections of the Public Officers Law make it expressly illegal for members of the Legislature to accept a bribe or for anyone to offer one.⁷

⁵ Malbin, Michael and Gais, Thomas, L., *The Day After Reform: Sobering Campaign Finance Lessons from the American States*, Albany, Rockefeller Institute Press, 1998.

⁶The ethical conduct of government officials received substantial treatment by the Legislature and Governor in 1987. The New York Governmental Accountability, Audit and Interest Control Act of 1987, Chapter 84, Section 456 of the Laws of 1987 dealt primarily with the conduct of government and political officials as it related to personal conflicts of interest.

⁷ See: New York State Public Officers Law, Article 4, Section 73.6, 6(f) and Sections 75 and 76.

Expenditures

State Election Law requires that each candidate, committee and PAC disclose their expenditures. There are currently no spending limits in New York State on individual campaigns. The reports must be filed at the Board of Elections on a regular basis. The specific information disclosed in each filing allows interested parties to see how much is being spent on mailings, consultants, fund-raising, literature, advertisements and other activities carried out by the committees or candidates.

Disclosure

The State Elections Law requires candidates and committees to file with the Board of Elections to establish their existence and then report on their activities. These official filings identify the treasurer and candidate involved with a campaign and how the campaign is conducting its financial operations. Periodic reports must be filed every January 15th and July 15th. Election reports must be filed 32 days prior to an election, 11 days prior to an election and 10 days after a primary election or 27 days after a general or special election. Reports must be filed electronically beginning with the July 15, 1999 report.⁸ In addition, campaigns are responsible for filing the following with the State Board of Elections:

Copies of documents showing loans received or forgiven and debts forgiven.

Copies of campaign materials must be submitted with a Post Election Report. This includes brochures, palm cards, circulars, radio and TV scripts, schedules of broadcasts, letterheads, pamphlets and other printed materials.

Any contribution or loan which exceeds \$1,000, and which was received after the cut-off date for filing the 11 Day Pre-Election report but before Election Day, must be reported within 24 hours of receipt.

The maximum penalty for failing to file a statement is \$500. Any person who willfully and knowingly violates the filing provisions or contribution limits may be guilty of a misdemeanor.

Administrative Capability

The State Board of Elections was established on June 1, 1974 as a bipartisan agency vested with the responsibility for administration and enforcement of all laws relating to elections in New York

⁸For a more complete description of disclosure and filing rules and contribution limits see *Handbook of Instructions for Campaign Financial Disclosure* by the New York State Board of Elections.

State. There are four commissioners on the Board of Elections. The Board administers provisions of the Election Law regarding campaign finance disclosure; civil judgements levied for failure to file disclosure documents; the petitioning process and certification of ballots; allegations of criminal violations of the Election Law and recommends prosecution where warranted; and electronic voting machines purchased by local Boards of Elections and tests each machine upon delivery. The Board also assists County Boards of Elections by completing administrative reviews, assisting in resolving complaints, and producing reports and recommendations. The Board has 43 employees, down from 53 in 1990.

THE PROBLEM WITH CAMPAIGN FINANCE IN NEW YORK STATE

With each passing election, problems have been identified with one or more aspects of the campaign finance system.⁹ Those problems have been magnified because political campaigns have become exceedingly expensive to run — requiring candidates and political parties to spend inordinate amounts of time raising money in order to remain competitive. New York State is not alone, candidates and campaigns in almost every state face the same campaign finance issues. The difference in New York State is that the current realities of the campaign finance system have not been seen by the collective leadership in Albany as a problem in need of reform. This perception must change if we are to achieve reform. The current system of campaign finance has produced a set of facts about the electoral process in New York State that demonstrates the need for fundamental public policy action.

The Cost Of Running For Public Office

- ▶ Candidates for Governor in New York State spent \$40 million in 1998 — up from \$32 million in 1994.¹⁰
- ▶ Spending on legislative races in 1998 approached a record breaking \$25 million.¹¹
- ▶ Candidates and political committees in New York State have spent more than \$200 million on state and local campaigns over the last four years.¹²

⁹There have been several reports on the various problems with the State system. See: *Government Ethics Reform for the 1990's*, *The Collected Reports of the New York State Commission on Government Integrity*, edited by Bruce A. Green, (Fordham University Press, New York, 1991); New York Public Interest Research Group (NYPIRG) report: *The Good, The Bad, and The Ugly: a National Survey of States' Campaign Contribution Limits*, October 1996; Take Back Democracy Project reports, *Capital Investments: Campaign Contributions to the New York State Legislature*, May 1996, and *PACing It In: A Study of Political Action Committee Spending During the 1996 New York State Elections*, March 1997.

¹⁰ Levy, Clifford J., *Albany is Failing in Effort to Limit Campaign Donors*, New York Times, December 28, 1998.

¹¹ Roy, Yancey and John Fritze, *They're Not the Cheap Seats*, Albany Times Union (Gannett News Service), January 16, 1999.

¹² Levy, December 28, 1998.

The Electoral System Rewards Incumbents And Frustrates Citizen Participation

- ▶ No incumbent for the state Legislature lost last year. Incumbents face token opposition — most receive more than 55% of the vote in their districts.¹³
- ▶ During the 1998 Legislative session, there were 201 fund-raisers in 60 session days in Albany.¹⁴
- ▶ While corporations are limited to \$5,000 a year in donations to all campaigns, they can give unlimited amounts to state committees. Between January 1, 1995 and July 15, 1998 the State Republican Committee received \$7.8 million, the Conservative Party received \$3.1 million, the State Democratic Committee received \$2.9 million and the Liberal Party received \$1.1 million in corporate contributions.¹⁵
- ▶ In an August 1998 poll by the Mellman Group, 65 percent of New York voters favored a system in which candidates who do not raise money from private sources receive a set amount of public financing public financing.¹⁶

Special Interests Undermine Confidence In Government

- ▶ Federal investigators are allegedly looking at the Governor's fund-raising to see if donations were made to influence decisions by the State Parole Board or if favors were granted to the Silverite Corporation in return for campaign contributions.¹⁷
- ▶ The State Comptroller was criticized for raising money from individuals and investment firms that do business with the State's Common Retirement Fund.¹⁸

¹³ Wilson, David McKay, *Leveling the Field*, Empire State Report, January 1999, p.30.

¹⁴Ibid.

¹⁵Ibid.

¹⁶Public Campaign: Clean Money Clean Elections, Press Release, September 3, 1998.

¹⁷Levy, December 28, 1998.

¹⁸Levy, Clifford J., *Donors to McCall Campaign Got Pension Fund Contracts*, New York Times, October 3, 1998.

- ▶ In the race for Attorney General, donations by companies under investigation by the incumbent and financial disclosure irregularities by the challenger were prominent campaign issues.¹⁹
- ▶ In an August 1998 Mellman Group poll, 72 percent of voters believed that campaign contributions affected the votes of Senator D’Amato and 68 percent believed they affected the votes of Senator Moynihan.²⁰

Accountability Is Weak

- ▶ The limits on campaign contributions are high compared to other states, allowing contributors to give large amounts of money to candidates and parties, and loopholes render most of these contribution limits meaningless.²¹
- ▶ The State Board of Elections has neither the resources nor the legal authority to fulfill its core mission to responsibly administer and enforce State election laws. Candidate financial disclosure reports are not analyzed and investigations are rarely pursued.²²
- ▶ The State Board of Elections collected only \$20,000 in fines in 1997 while its counterpart in California collected more than \$650,000.²³
- ▶ Local district attorneys also have been reluctant to pursue enforcement of the State’s election law.²⁴
- ▶ Newspapers have undertaken their own investigations and offered Internet access on matters of financial disclosure.²⁵

¹⁹Ibid.

²⁰Public Campaign: Clean Money Clean Elections, Summary of Research Findings in New York, the Mellman Group, September 23, 1998.

²¹ Green/Feerick, Op Cit, p.32.

²²Levy, December 28, 1998.

²³Ibid.

²⁴Wilson, January 1999.

²⁵Carter, John, *As State Drags Feet, Newspapers Step In*, Albany Times Union, February 15, 1998.

NOTE: A consortium of 19 newspapers across the state hired a consultant to copy and key hundreds of thousands of campaign finance records into a computerized database. The campaign contribution database is available over

These facts, taken as a whole, are indicative of a system in need of overhaul. Important changes can be made to individual provisions of state law, however the most productive action that could be taken at this point in the State's history would be a comprehensive overhaul of the entire system.

the Internet as part of the web sites of the 19 newspapers.

COMPTROLLER’S PRINCIPLES ON CAMPAIGN FINANCE REFORM

Passing a comprehensive campaign finance reform measure in the New York State Legislature is a daunting task. Incumbents have a vested interest in preserving the present system — not one legislative incumbent lost in the last election. Major interest groups in the State have also developed effective strategies to use the current system to secure benefits for their constituencies.

This does not mean that we should give up. Campaign finance reform is vitally important. Government’s responsibility is to protect the public interest first and always. The current system of campaign finance frustrates government’s ability to carry out this job by introducing an imbalance of power into the political process. The public’s response is an unprecedented level of distrust reflected in low voter turnout. One promise of campaign finance reform is that it contributes to the reversal of this dynamic. A sound system of campaign finance should create the conditions where the person who gets elected to office is the one with the best ideas and the best qualifications, not the one with the most money.

Any campaign finance reform program should be guided by the following core principles²⁶:

Establish A Level Monetary Playing Field For Elections

- ▶ Implement a system under which candidates who agree to limit campaign spending and limit collection of private campaign contributions receive a set amount of public funds. Such a system, which must be voluntary by law, will reward candidates who conduct campaigns that foster public accountability and increase citizen participation.

Combat The Influence Of Money In Politics

- ▶ Prohibit contributions to candidates from anyone who does business with or appears before the office that the candidate is seeking.
- ▶ Reduce contribution limits to candidates and parties.

²⁶The Comptroller’s principles are meant to offer his views on the need for and broad outline of a new system for the conduct of public elections in New York State. For this report OSC has reviewed the existing election law, the Assembly, the Senate and good government organization proposals for comprehensive reform and other related legislation, attended public meetings on the topic, met with interested outside experts and surveyed the literature in the field. The actual design and specifics of that new system are the responsibility of the State Legislature and Executive. As is the case with the existing laws, any reform measures would be the responsibility of the Executive to implement. Those implementation activities would be treated as any other state operations for the purpose of the Comptroller’s pre-audit and management audit oversight.

- ▶ Limit contributions to and from PACs.
- ▶ Restrict party spending.
- ▶ Require all campaign committees (candidate, party, independent and issue campaigns) to make contribution and expenditure information easily accessible to the public.

Promote Citizen Participation In The Electoral Process

- ▶ Set requirements to gain ballot access and participation in public financing programs at levels that encourage a diverse field of responsible candidates.
- ▶ Encourage citizens to participate in the electoral process by making small contributions from in-state residents the basis for public matching dollars.
- ▶ Support efforts to provide free media access to candidates.

Increase Enforcement

- ▶ Require independent and issue campaigns to register with the Board of Elections and be subject to state campaign finance law requirements.
- ▶ Restructure the Board of Elections to make it independent and give it the tools needed for effective enforcement.

New York State needs a campaign finance system where candidates do not have to raise large sums of money to establish a level playing field. The issue is not what is legal or illegal because for the most part candidates act within the law. The real issue is a corruption of the democratic process. The people of New York State want and deserve a campaign finance system free of the appearance of corruption and one that encourages true democracy.

CAMPAIGN FINANCE REFORM: THE STATUS OF LEGISLATIVE PROPOSALS

Countless political campaigns have been conducted under the existing system. Each year committees file their campaign documents, raise funds, conduct political education activities and in the end the public votes and the Board of Elections certifies the winners and losers. During these electoral cycles and the ensuing period of governing that they usher in, a body of public experience is articulated by candidates, campaign officials, party leaders, journalists, and the public that reflects their conclusions about how well the rules governing campaigns are working.

Several attempts have been made to use these experiences to offer new legislative direction on campaign finance, electoral campaigns and government ethics. Some reform initiatives have moved through the legislative process. In recent years, new disclosure provisions have been enacted to improve how campaigns report the contributions they receive. The State is expected in this legislative session to continue its disclosure requirements on those who lobby government officials.

Other legislative proposals have been made that acknowledge the dominant role that campaign financing has come to have in modern campaigns and the need to regulate these activities. New York State has not passed any meaningful reform measures in this area.

Comprehensive Campaign Reform Proposals: The Public Funding Alternative

Below is a summary of several bills that have been introduced in the New York State Senate and Assembly along with their current status.

A. 6940 - Campaign Financing Reform Act of 1999

This bill is sponsored by Speaker Sheldon Silver and has 71 co-sponsors and multi-sponsors in the Assembly. The bill is currently in the Assembly Codes Committee. The bill is known as the "Campaign Financing Reform Act of 1999."

The bill amends Article 14 of the Election Law by providing for public financing of primary and general elections, campaigns for statewide office and state legislative offices. It also provides an option for localities over 100,000 to adopt public financing.

The bill's provisions are summarized below:

- ▶ Certain thresholds are set that candidates must meet before becoming eligible for public financing.

- ▶ The bill sets contribution limits for individuals, corporations and parties.

Office	Individuals and Corporations	Parties
Governor	\$4,000	\$700,000
Lt. Governor	\$4,000	\$700,000
Attorney General	\$4,000	\$250,000
Comptroller	\$4,000	\$250,000
State Senate	\$1,500	\$50,000
State Assembly	\$1,500	\$25,000

- ▶ Contributions are matched at the rate of \$1 for every \$1 in contributions up to a maximum of \$500 for any one contribution. Various provisions spell out the public financing framework should a candidate elect not to receive public funding.
- ▶ Expenditure limits are set. The limits below apply to general and special elections.

Office	Expenditure Limit
Governor & Lt. Governor	\$7,000,000
Attorney General	\$2,500,000
Comptroller	\$2,500,000
State Senate	\$150,000
State Assembly	\$75,000

- ▶ The bill provides an income tax check-off provision of \$3.00, to be saved in a New York State Election Campaign Fund.
- ▶ The bill sets certain penalties for violation of the law.

Clean Elections Campaign Bill

A.----- Ortiz

S.----- Paterson

This bill is sponsored by Assemblyman Felix Ortiz and has 19 co-sponsors in the Assembly. In the Senate, the bill is being sponsored by Senator David A. Paterson and has 19 co-sponsors in the

Senate. The bill is the result of collaboration between Citizen Action, a statewide grassroots organization, and members of the Legislature. As this report was printed, the legislation had been introduced but a bill number had not yet been assigned.

This bill would establish a system under which candidates who agree to limit campaign spending and contributions and who collect a set amount of small contributions from voters, will receive a fixed equal amount of public financing for their political campaigns.

► Campaign Spending Limits

	Governor	Lieutenant Governor	Attorney General	State Compt.	State Senator	Assembly Member	District Attorney
Primary	\$3,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$75,000	\$37,500	Formula*
General	\$6,000,000	-----	\$2,000,000	\$2,000,000	\$150,000	\$75,000	Formula*

*District Attorney Formula: Governor spending limit multiplied by the county population divided by the state population.

► Campaign Contribution Limits

Candidates qualify for public financing by collecting a set number of \$5 contributions from voters. Candidates may also collect a limited amount of “seed money” contributions of up to \$100 to use for exploring running for office and during the qualifying period. Candidates agree not to accept any other private contributions. This bill sets a limit of \$1000 on all campaign contributions to candidates, parties and political committees. An aggregate limit of \$25,000 is set for campaign contributions by any one individual or entity.

	Governor	Lieutenant Governor	Attorney General	State Compt.	State Senator	Assembly Member	District Attorney
No. of Qualifying Contributions	15,000*	10,000*	10,000*	10,000*	1,000	400	Formula
Seed Money Limit	\$200,000	\$150,000	\$150,000	\$150,000	\$20,000	\$10,000	\$25 times No. of Q.C.

*Candidates for governor must collect 250 qualifying contributions from a majority of congressional districts. Other Statewide candidates must collect 150 from a majority of congressional districts.

► Public Financing

Candidates who agree to the spending and contribution limits and collect the qualifying contributions receive public funding equal to the spending limit for the election. The total amount of public funding is limited to one-tenth-of-one-percent of the State budget in a four

year election cycle. Funding is provided by a check-off on state income taxes, an increase of \$50 in fees paid by lobbyists, fines for violations of election law and - to the extent necessary - from the General Fund.

- ▶ Soft Money is Banned

Contributions to political parties are limited to \$1,000 and contributions from parties to candidates are limited to \$1,000. In addition, candidates who are opposed by independent expenditures or by non-participating candidates, receive additional funds, up to 3 times the spending limit.

- ▶ Debates and Disclosure

Candidates agree to participate in two primary election debates and three general election debates. This bill would require disclosure of the occupation and employer of individuals who contribute to candidates in New York State.

- ▶ Enforcement

The bill restructures the New York State Board of Elections, creating a five-person board appointed by the Governor, Speaker of the Assembly and Majority Leader of the Senate, with set, staggered terms and increased enforcement powers.

A.7463 (Brennan) - New York State Campaign Finance Act

This bill would create a system of public financing of elections based on the model of the New York City Campaign Finance Board. The bill covers the offices of Governor, Lieutenant Governor, State Comptroller, Attorney General, State Senate, State Assembly and local District Attorneys.

The bill, sponsored by Assemblyman James Brennan, establishes a basic match rate of one dollar for each dollar of matchable contributions and as in the New York City law, sets an enhanced rate of four dollars for each dollar of matchable contributions for candidates that do not accept corporate contributions.

The bill sets spending limits for candidates, establishes a campaign finance board and fund, mandates two public debates, regulates fund-raising for transition and inaugural committees and sets certain penalties.

S.1140 (Lack) - Campaign Financing Reform Act of 1999

This bill is sponsored by Senator James Lack. The bill sets similar thresholds to be eligible for matching funds as those in Speaker Silver's bill (A.6940) and Assemblyman Brennan's bill (A.7463). This bill applies to statewide elections only.

The bill sets individual contribution limits of \$2,500 for all candidates for statewide office. Each candidate who opts into the public financing provision would be eligible for payment of \$2 for each \$1 of matchable contributions. The expenditure limits are somewhat less than in A.6940. In a primary election, the limits are: Governor - \$1.5 million; Lieutenant Governor, Attorney General and Comptroller - \$500,000. In the general election the limits are: Governor and Lieutenant Governor - \$4.5 million; Attorney General and Comptroller - \$1 million.

The state committee and county committee of any party which nominates a candidate may spend up to two cents for each registered voter. The bill would also set up the New York Election Campaign Fund and set certain penalties for violation of the law.

Other Proposals For Campaign Finance Reform

Several legislators have advanced bills that address specific aspects of the campaign finance system.

A.1513 (Introduced by Matusow, Christensen, Harenberg, Hochberg, Dinowitz)

S.56 (Introduced by Oppenheimer) This bill is essentially the same as A.1513.

These bills would treat corporations that are wholly controlled subsidiaries as a single entity with regard to the \$5,000 corporate campaign contribution limit. The bills would also require all political action committees (PACs) to disclose the economic or other special interest of a majority of its contributors, and to disclose whether a majority of the PAC contributors share a common employer.

A.1513 passed the Assembly in 1993 and again in 1996, but died in the Senate on both occasions.

A.184 (Introduced by Sidikman)

This bill establishes additional penalties for corporations that exceed the \$5,000 corporate campaign contribution limit.

The bill would authorize the State Board of Elections to deduct from a corporation's maximum contribution for the following year, double the amount of the excess expenditure from the

preceding year. If the excess expenditure exceeds two times the maximum contribution limit, then the corporation would be prohibited from making any donation the next year.

A.2573 (Introduced by Lopez, Aubry, Ramirez, Robach, Sidikman)

A.1344 (Introduced by Thiele)

A.1122 (Introduced by Harenberg)

S.986 (Introduced by Dollinger, Gentile, Sampson)

These bills would establish a new Fair Campaign Code which would prohibit specific illegal campaign practices. Prohibitions would include such practices as political espionage and subversion, preparation or distribution of any written materials known to be fraudulent or forged, use of any employees of agents who falsely represent themselves, misrepresentation of a candidate's affiliations or endorsements, or misrepresentation of opinion polls. The bills also set out penalties.

HOW CAMPAIGN FINANCE WORKS IN OTHER AREAS

Over the past five years in response to a steady stream of reports documenting the negative impact of money on political campaigns and government integrity, laws have been passed across the country to reform various aspects of the system. Some of these laws have been enacted by state and local legislatures, others by the vote of the electorate. Most of the laws focus on regulating the size and frequency of contributions to political campaigns and public disclosure related to money in politics.

The most ambitious reform efforts have enacted programs with partial public financing of political campaigns. The basic premise of these programs is to offer public matching dollars to candidates who are able to raise a certain level of dollars from private contributors. These programs allow candidates to raise fewer dollars from private sources in order that they may use campaign resources to discuss ideas and issues. Massachusetts, Vermont and Maine have enacted these systems at the statewide level. At the local level, the campaign finance program in New York City is rapidly becoming a model for the nation.

This section offers a brief overview of various programs to reform campaign finance — some containing public financing and some that do not. From a public policy perspective, the breadth of these legislative responses suggests widespread concern about the issue. It demonstrates that elected officials and interest group leaders in state after state have concluded that the system as it is now needs reform.

State and Local Overview

Since 1990, 30 states have radically changed their campaign finance laws, 17 of them between 1995 and 1998. State and local government campaign finance reforms vary widely from place to place. Most have enacted some combination of reforms, including spending limits, lower contribution levels, electronic filing mechanisms, and shorter campaign periods.²⁷

Limits on Contributions

States have approached contributions limits in two ways. The most popular method is to set limits on contributions from individuals, groups, or committees to any single candidate during each election. The second method is to limit aggregate contributions from an individual or entity to all candidates.

²⁷See the Benton Foundation's web site at <http://www.benton.org>

Limits on contributions to candidates vary greatly across the country:

- ▶ Arkansas, Colorado, and California have limits as low as \$100, while New York, Ohio, and Alaska have limits in the hundreds of thousands of dollars.
- ▶ Tax credits of up to \$50 for individual contributors have been implemented in Arkansas, Michigan, Minnesota, Ohio, and Oklahoma. Hawaii and Oregon also offer a tax credit to contributors, but only if the candidate voluntarily limits spending.
- ▶ In Iowa, North Dakota, Pennsylvania, and Texas, labor unions, regulated industries, and associations are prohibited from contributing to candidate campaigns.
- ▶ Some states, such as Arkansas, California, Connecticut, and Kansas limit contributions to committees or political parties, including limits on how much an individual may give to a party or PAC, how much a corporation, union, or organization may give to a party or PAC, how much a political party may give to another political party or PAC, and how much a PAC may give to another PAC or political party.

Spending Limits

While no state has mandatory spending limits in effect for candidate campaigns, to ensure compliance with *Buckley v. Valeo* — in which the Supreme Court declared mandatory spending limits in violation of the First Amendment right of free speech — several states have created voluntary spending limits for candidates. For example:

- ▶ Candidates in New Hampshire pay higher filing fees and must accept lower contribution limits if they do not opt for spending limits.
- ▶ Under California's Proposition 208 (which is being challenged), candidates can accept twice as many contributions if they comply with spending limit requirements.

Public Financing

The most popular reform option — voluntary spending limits combined with public financing — is in effect in Hawaii, Kentucky, Maine, Maryland, Michigan, Minnesota, Nebraska, New Jersey, North Carolina, Rhode Island, and Wisconsin. The spending limits vary with the level of office sought. Most reforms place higher limits on campaign spending for statewide office than for legislative office.

Public financing is usually funded by a voluntary check-off option (ranging from \$1 to \$5) on the state income tax form, although it has proved difficult in many cases to raise sufficient amounts through this approach. Some states are experimenting with other options, including budgeting for a campaign financing fund and using funds from the state treasury.

Campaign Finance Reform - Selected States

Massachusetts

The Clean Elections Law was passed in November 1998 and will cover elections in and after 2002. The law establishes a system of public financing for candidates for state office; provides for electronic filing of campaign reports; and limits transfers of money between national and state political parties.

To qualify for public funds, a candidate would have to raise a minimum amount of contributions (no contribution greater than \$100) from a certain number of registered voters in the relevant district (e.g. Governor - 6000; State Treasurer - 3000; State Senator - 450). The State Legislature would then appropriate funds to publicly finance the campaigns. The program is strictly voluntary, however candidates who do not accept public funding would be required to report any spending in excess of the established limits.

Office	Primary Election	General Election
	<i>Public Funds</i> Spending Limit	<i>Public Funds</i> Spending Limit
Governor	<i>\$1,500,000</i> \$1,800,000	<i>\$1,050,000</i> \$1,200,000
Lt. Governor	<i>\$383,000</i> \$450,000	<i>\$255,000</i> \$300,000
Attorney General or Treasurer	<i>\$360,000</i> \$450,000	<i>\$240,000</i> \$300,000
Secretary of State or Auditor	<i>\$120,000</i> \$150,000	<i>\$80,000</i> \$100,000
Councillor	<i>\$19,000</i> \$24,000	<i>\$13,000</i> \$16,000
Senator	<i>\$43,000</i> \$54,000	<i>\$29,000</i> \$36,000
Representative	<i>\$15,000</i> \$18,000	<i>\$9,000</i> \$12,000

Contribution Limits:

	Candidate/ Committee/PAC	People's Committee *	Political Party	Annual Limitation
Individual	\$500	\$108	\$5,000	\$12,500
PAC	\$500	\$108	\$5,000	\$12,500
Lobbyist	\$200	\$108	prohibited	\$12,500
Corporations	prohibited	prohibited	prohibited	prohibited
Candidate Committees	\$100	n/a	n/a	n/a

* A people's committee is a type of committee that starts out as a PAC and later changes its status.

Maine

On November 5, 1996, Maine voters passed the "Maine Clean Election Act," which won by a 56 to 44 percent margin. Under the Maine law, which will go into effect in the year 2000, candidates who demonstrate citizen support by collecting a set number of \$5 qualifying contributions from voters within their districts are eligible for fixed and equal campaign funding from the Clean Election Fund. To receive their money, candidates must agree to forego all private contributions (including self-financing) and limit their spending to the amount they receive from the Clean Election Fund. Participating Clean Election candidates are also given an additional one-for-one match if they are outspent by non-complying opponents or are the target of independent expenditures (such as ads produced by a group not associated with the opposing candidate). Candidates who reject the option of Clean Election public financing or who fail to qualify are still free to collect private money under the existing system. The measure applies to state legislative contests and the race for governor.

Michigan

Corporations, labor organizations and Indian tribes are prohibited from making direct contributions to candidate committees. They may, however, establish a separate segregated fund (registered as an Independent Committee) which may make contributions to candidate committees.

Michigan places no restrictions on candidates accepting contributions from lobbyists but does place certain prohibitions on persons having a casino interest. Specifically, these persons cannot make a campaign contribution during the licensing process, while they hold a license, and for three years after the expiration of such a license.

Maximum contributions during an election cycle follow:

Office	Political Committees and Individuals	Independent Committees / District and County Political Party Committees	State Central Political Party Committees
Governor/Lieutenant Governor	\$3,400	\$34,000	\$68,000
Local candidate or judicial candidate in district with population over 250,000	\$3,400	\$34,000	\$34,000
State Senator	\$1,000	\$10,000	\$10,000
Local candidate or judicial candidate in district with population between 85,001 - 250,000	\$1,000	\$10,000	\$10,000
State Representative	\$500	\$5,000	\$5,000
Local candidate or judicial candidate in district with population up to 85,000	\$500	\$5,000	\$5,000
Any other state elected official	\$3,400	\$34,000	\$68,000

Vermont

In June 1997, Vermont's state legislature passed a version of Clean Money Campaign Reform with a vote of 20-9 in the State Senate and 121-17 in the House, followed by the Governor's signature.

The Vermont law offers a public financing option to candidates running for governor and lieutenant governor in the year 2000 and commissions a study to consider extending the option

to other state offices after the 2000 elections. The legislation provides a fixed amount of money to qualifying gubernatorial candidates and sets a \$300,000 spending limit for all candidates running for governor. It also limits spending for all other state races.

California

A law establishing campaign contribution limits and other restrictions on candidates in California was passed in November 1996 (Proposition 208). The initiative established base contribution limits of \$100 to \$500 per election, dependent upon the office sought; however contribution limits doubled for candidates who agreed to overall spending limits. Holding that the contribution limits were set too low, a federal district court judge issued an injunction against enforcement of the law. It now is being appealed to the United States Appeals Court. As a result, the only campaign contribution limits in effect relate to a special election (or runoff election) being held to fill a vacancy that has occurred in a state or local office. The limits, per election, are:

- ▶ \$1,000 contributions from “persons” (individuals and business entities)
- ▶ \$2,500 contributions from political committees
- ▶ \$5,000 contributions from broad based political committees

Foreign entities are prohibited from making political contributions or expenditures in connection with *initiative, recall or referendum* campaigns.

Local jurisdictions may impose contribution limits and other restrictions or disclosure requirements on candidates and committees wholly within that jurisdiction, however, the local rules may not be less restrictive than state law.

Florida

Any person may contribute to a political campaign. A person is defined as an individual or a corporation, club, organization, estate, trust, syndicate or other combination of individuals, including political committees. Contributions are limited to \$500 per election (or primary) and may not be made within 5 days prior to the election.

Political parties (as opposed to political party committees) may contribute no more than \$50,000 to a candidate. Candidates may contribute any amount of money to his/her own campaign, however, family members are limited to \$500 per election.

New Jersey

New Jersey places modest contribution limits on individuals, corporations, unions, groups, and other candidate committees or political committees contributing to a candidate (or the candidate’s committee). In all cases, the limit is \$1,800 except in a gubernatorial race, where the

limit is \$2,100 per election. In the case of contributions to state and county political committees — by virtually any entity — the amount totals \$30,000. In the following chart, the totals shown are “per year” unless otherwise indicated.

	Candidate Committee	Political Committee	Legislative Leadership Committee	State Political Party Committee	County Political Party Committee	Municipal Political Party Committee
Individual, Corporation, Union, Group, Association	\$1,800 per election	No limit	\$30,000	\$30,000	\$30,000	\$5,900
Candidate Committee or Political Committee	\$1,800 per election	\$1,800 per election	\$30,000	\$30,000	\$30,000	\$5,900
Legislative Leadership or State, County or Municipal Political Party Committee	No limit	No limit	No limit	No limit	No limit	No limit
National Political Party Committee	\$5,900 per election	\$5,900 per election	\$30,000	\$59,000	\$30,000	\$5,900

New York City Campaign Finance Reform

In February 1988, the New York City Council adopted the New York City Campaign Finance Act providing for a voluntary campaign finance program covering the offices of Mayor, Public Advocate,

Comptroller, Borough President and City Council member. The Act established the Campaign Finance Board to administer the new program.

In early 1988, the New York City Charter Revision Commission²⁸ also looked into campaign finance reform in New York City. The Charter Revision Commission articulated four guiding principles to promote integrity in the electoral process:

- ▶ Election to municipal office should not require great personal wealth or access to large campaign contributors.
- ▶ Campaign contributions should be limited because of the potential that large contributions can have undue influence in the governmental decision-making process.
- ▶ There should be reasonable limitations on the costs of running for public office and on the amount that may be spent on election campaigns.
- ▶ City government should encourage broad public participation in the funding of municipal election campaigns.

The New York City Charter was amended that same year to include the Campaign Finance Board in the Charter and to require it to publish the Voter Guide. The vote in November 1988 was overwhelming, 763,474 (79%) in favor and 198,549 (21%) opposed. The vote reaffirmed the proposal by the 1988 Charter Revision Commission and the law was passed by the City Council.

Recent Actions

New York City Council

On October 22, 1998, Local Law 48 of 1998 was enacted by the New York City Council. (The law was actually passed in August, vetoed by Mayor Giuliani and then overridden by the City Council on October 22nd.)

The new law changed the provisions of the Campaign Finance Program in the following ways:

- ▶ Lowers contribution limits to \$4,500 for Mayor, Public Advocate, and Comptroller; \$3,500 for Borough President; and \$2,500 for City Council member.

²⁸See the New York City Campaign Finance Board's web site at <http://www.cfb.nyc.ny.us/voter/charter.htm> for a review of New York City's Charter Revision Commission proposals on campaign finance reform.

- ▶ Increases the public funds matching rate for candidates who decline corporate contributions from 1-for-1 up to \$1,000 in public funds per contributor to 4-for-1 up to \$1,000 in public funds per contributor (matching contributions up to \$250).
- ▶ Raises the maximum public funds to be paid in City Council races from \$40,000 to \$75,350.
- ▶ Increases the public funds matching rate for candidates who decline corporate contributions and are running against high-spending non-participants to 5-for-1 up to \$1,250 in public funds per contributor, matching contributions up to \$250, with a maximum total payout equal to two-thirds of the spending limit.
- ▶ Prohibits candidates from accepting contributions from political action committees unless those political committees are registered with the Campaign Finance Board.
- ▶ Changes the opt-in date to join the Program from April 30th to June 1st in the election year.
- ▶ Mandates that appointments to the Board made after June 1st in an election year not take effect until December 1st, when the new appointment would replace a member who is continuing to serve on the Board after the expiration of a term.

1998 Ballot Initiative

On June 5, 1998 Mayor Giuliani appointed a 12-member Charter Revision Commission, headed by former First Deputy Mayor Peter J. Powers, with the mandate to review the City Charter and make recommendations for change. Various issues were examined by the Commissioners during seven hearings, three forums and four public meetings. The Commission ultimately decided to finalize only those proposals having to do with campaign finance reform.

The Charter Revision Commission proposed five Charter changes having to do with campaign finance reform. The changes appeared as one ballot question on the November 3rd ballot and the measure passed, 311,156 (60%) in favor and 207,301 (40%) opposed. The law took effect on January 1, 1999.

The law:

- ▶ Prohibits all candidates in the New York City Campaign Finance Program from accepting corporate contributions.
- ▶ Mandates that the Campaign Finance Board promulgate regulations to require candidates in the Campaign Finance Program to disclose information about which of their contributors do business with the City. The Campaign Finance Board would then be empowered, after studying the data, to pass additional rules regulating these donations.

- ▶ Requires the Campaign Finance Board to pass whatever regulations it deems necessary to control “soft money” in City elections.
- ▶ Establishes a method to help ensure that vacancies on the Campaign Finance Board are filled in a timely manner.
- ▶ Establishes a separate budget process for the Campaign Finance Board and for the New York City Voter Guide.

Upon passage of the Charter Revision Commission’s proposals on election day, Mayor Giuliani contended that they superseded Local Law 48 passed by the City Council in October. The Campaign Finance Board had already issued an advisory opinion ruling the Charter Revision Commission’s proposal is compatible with the Council law.

The Board concluded that the effect of the Charter Revision on the application of Local Law 48 was that all participating candidates would be prohibited from accepting corporate contributions and would be entitled to receive public funding of \$4 in public funds for every \$1 raised up to \$250 per contribution. The Mayor has objected to this interpretation.

In February 1999, City Council special elections were held. The New York City Campaign Finance Board distributed matching funds payments to qualified candidates using the \$4 in matching public funds for every \$1 formula.

The New York City Campaign Finance Board did a preliminary analysis of fund-raising for the February special elections to examine the effects of the campaign finance legislation passed in October 1998 and Charter changes adopted in November 1998. The analysis shows that candidates had more individual contributors, more contributions from within the City, a smaller contribution average, and more funds from “low-end” contributors than candidates in previous City Council elections.²⁹

Campaign Finance Reform In Suffolk County

The Suffolk County Legislature passed and on May 1, 1998, County Executive Robert Gaffney approved legislation authorizing a public vote in November 1998 that would result in public financing of political campaigns.

In November 1998, the campaign finance reform referendum passed easily, 147,414 (64.5%) in favor and 81,237 (35.5%) opposed. The law will take effect in 2002. In early 1999, a five-member board started drafting regulations that will oversee the new law.

²⁹See New York City Campaign Finance Board press release dated February 17, 1999, *Special Elections Show Effects of City’s New Campaign Finance Law and Charter Changes*.

The law is strictly voluntary on behalf of all candidates and will apply to the campaigns for county executive, county comptroller, county treasurer, county legislator and district attorney. In order to participate each candidate will have to agree to limit their spending as well as refuse donations from lobbyists, political action committees (PACs) and businesses that contract with the county. In addition, each candidate will agree not to accept any contribution over \$1,000 for county legislature, \$1,500 for treasurer, comptroller and district attorney, and \$2,500 for county executive.

In order to qualify for public financing candidates must first raise the following sums:

- County Legislator Not less than \$5,000 including at least fifty contributions of \$10.00 or more.
- County Comptroller Not less than \$30,000 including at least three hundred contributions of \$10.00 or more.
- County Treasurer Not less than \$30,000 including at least three hundred contributions of \$10.00 or more.
- District Attorney Not less than \$30,000 including at least three hundred contributions of \$10.00 or more.
- County Executive Not less than \$75,000 including at least five hundred contributions of \$10.00 or more.

Once a candidate reaches the necessary threshold (see above), the candidate will receive public monies in an amount equal to twice the threshold amount plus an additional \$50,000 for county executive and \$10,000 for treasurer, comptroller, and district attorney.

Candidates agree to the following expenditure limits:

	General Election	Primary Election
County Executive	\$500,000	\$300,000
County Comptroller	\$200,000	\$100,000
County Treasurer	\$200,000	\$100,000
District Attorney	\$200,000	\$100,000
County Legislator	\$ 30,000	\$ 15,000

The new law also creates a Suffolk County Campaign Finance Board consisting of five members. Two members are appointed by the County Executive plus the chairperson with the concurrence of the Presiding Officer of the Legislature. The Presiding Officer appoints one member as does the Minority Leader of the County Legislature.

The Board has various duties and functions including the power to investigate all matters relating to its performance and the power to take testimony under oath. The campaign finance reform law in Suffolk County will operate very much like the New York City law.

APPENDIX I

Past Efforts At Campaign Finance Reform In New York State

Commission on Government Integrity - The Ferrick Commission

In 1987 the New York State Commission on Government Integrity, otherwise known as the *Ferrick Commission*, looked into the adequacy of New York's laws, regulations and procedures with regard to campaign contributions and expenditures. The commission, over a three year period, issued seven reports on campaign finance reform. The reports looked at past practices on both the state and local level and suggested remedies.

As part of this review of past practices, the Commission looked at past investigations into campaign finances. The Commission noted that its predecessor Moreland Act Commissions³¹ focused on very specific areas, never really focusing on campaign practices and was not given as broad a mandate as the Commission on Government Integrity.

The Commission on Government Integrity actually grew out of another commission that Governor Cuomo and New York City Mayor Edward Koch appointed in response to allegations of political corruption at both the City and State level. The State-City Commission on Integrity in Government was also known as the Sovern Commission.³² "The Commission was asked to make recommendations for improving laws relating to the prevention of corruption, favoritism, undue influence, and abuse of official position in government. While the Sovern Commission made a number of concrete proposals of its own, it also suggested that a non-partisan commission be formed with subpoena power to delve into government impropriety, to provide the fullest possible disclosure of the inner workings of government...and to address both the reality and appearance of government corruption."³³

The Commission on Government Integrity took a comprehensive look at campaigns and the reform of the electoral process. It received testimony from experts, campaign contributors, public officials and their campaign managers, and citizens groups. It also scrutinized New York's current laws and the laws of other states and reviewed the literature of the time. The Commission, in particular individual campaigns, conducted a computer analysis of information filed with the State Board of Elections and conducted a public opinion poll.

³¹See generally E. Breuer, *Moreland Act Investigations in New York: 1907 -65 (1965)*.

³²Michael I. Sovern, former President of Columbia University, was Chairman of the Commission.

³³Green, Bruce A., Editor, *Government Ethics Reform for the 1990's*, (Fordham University Press, New York, 1991) p.1.

The Commission made several recommendations for reform at the state level:

- ▶ Reduce contribution limits. The Commission recommended “that, while corporations, labor unions, and other unincorporated membership organizations should be allowed to create and pay for the administration expenses of political action committees, they should not be allowed to make direct campaign contributions. The Commission recommends a similar ban on direct contributions by those entities which contract with the government. Moreover, it proposes a significant reduction of the \$150,000 annual limit on individual contributions to political purposes...and the imposition of limits on the amounts that political parties may contribute to individual candidates.”³⁴
- ▶ Greater disclosure. The Commission calls for major reform of the laws governing the disclosure of campaign contributions, so that voters can obtain complete and timely information about the true nature of a candidate’s financial support. Among other things the Commission recommends that significant contributors be required to identify their place of employment, that disclosure be required of individuals and organizations paying for campaign advertising, and that the identity of individuals who solicit and deliver contributions should be disclosed. It also calls for specific improvements in the time and manner in which reports are made as well as in the manner in which records are kept.³⁵
- ▶ Strengthen enforcement. “The Commission recommends the creation of a new Campaign Financing Enforcement Agency. Rather than continuing to make the administration and enforcement of those laws a secondary responsibility of the Board of Elections, the Commission recommends that the responsibility be entrusted to a separate, permanent agency, representing a broad cross-section of the electorate. Such an agency would be directed to promulgate clear regulations regarding campaign finance practices, to compile information from campaign disclosure filings by computer and make that information available to the public, to issue advisory opinions about the campaign finance laws, to investigate possible violations, and to enforce the laws both by levying significant fines and by referring criminal violations to the appropriate prosecuting authorities.”³⁶

The Commission noted, at the end of its three year reign, that no legislation had passed that would significantly reform New York’s campaign finance process. They reiterated the fact that “New York’s campaign financing laws and procedures are so inadequate and outmoded that they

³⁴Ibid. p.19.

³⁵Ibid. p. 19.

³⁶Ibid. p. 20.

undermine public confidence in the honesty and integrity of government, and will remain a public embarrassment unless and until they are reformed.”³⁷

New York State’s campaign finance laws remain virtually unchanged since the Commission on Government Integrity issued its final report in 1990. There have been some minor changes on the fringes such as electronic filing, but no real reform.

³⁷Ibid. p. 20.

APPENDIX II

LOBBYING IN NEW YORK STATE

A Brief History

The idea of lobbying regulation in New York State took root with the Armstrong Committee in 1905³⁸. Recognizing that lobbying played an integral role in the legislative process, the Committee believed that lobbying activity had to be regulated. For the next 72 years, lobbyists were required to register with the Secretary of State's office. However, under this law, the Secretary of State had no regulatory authority and could not initiate investigations.

It was not until 1977 that the State Legislature and the Governor decided to enact the Regulation of Lobbying Act³⁹ which created the Temporary State Commission on the Regulation of Lobbying. This was the first attempt in 70 years to improve the registration process and obtain full disclosure from special interests trying to influence both the Legislature and the Executive Branch.

The Lobbying Act does not prohibit, nor does it seek to limit, lobbying governmental decision-makers. Rather it serves as a mandate for requiring that important information be made available to the public. The Act requires that the Temporary State Commission on the Regulation of Lobbying monitor and make public the identities, activities, and expenditures of those seeking to influence legislation, rules, regulations, and rate-making decisions of New York State government.

The Commission is empowered to administer and enforce the provisions of the Lobbying Act, conduct investigations, administer oaths of affirmations, subpoena witnesses and require production of any books or records. The Commission may also conduct private and public hearings, prepare reports and statements required by the Act, and issue advisory opinions.

The Current State of Lobbying

During 1998, there were 2,178 lobbyists registered with the Commission representing 1,291 clients.

Groups attempting to influence government spent record-setting amounts of money in 1998. According to reports filed with the Commission for the 1998 calendar year, \$55 million was spent on lobbying in New York State. Every year since the Commission was instituted has been a record year for the amount spent lobbying.

³⁸See *About the Commission*, New York Temporary State Commission on Lobbying. See the Commission's web site at <http://www.nylobby.state.ny.us>.

³⁹Chapter 937 of the Laws of 1977.

Since 1978 the number of lobbyists has increased by over 130%, the number of clients has more than doubled and the money spent on lobbying in New York State has increased by more than 800%.

Lobbying In New York State - The Future

Good government groups have documented the weaknesses in the State lobbying law. Among the criticisms leveled have been that lobbyists have been a tool for circumventing the already weak campaign contribution limits that exist. In this legislative session good government organizations are pushing for the renewal and strengthening of the State's Lobbying Act⁴⁰.

⁴⁰See *Limiting Access: An Analysis of State Lobbying Laws and New York's Failure To Measure Up* by the Take Back Democracy Project.

APPENDIX III

Proposals for Lobbying Reform in New York State

A.1160 (Introduced by Grannis): This bill requires that a list of lobbyists be published annually and lobbyists be required to submit a photograph. Assembly Governmental Operations Committee

A.658 (Introduced by Seminerio): This bill prohibits the use of mandatory fees paid by SUNY, CUNY and Community College students from being used to support/finance political organizations and causes (same as S.3122, sponsored by Johnson). Assembly and Senate Governmental Operations Committee

A.1164 (Introduced by Grannis): This bill requires lobbyists, when filing reports, to disclose the bill numbers of the specific legislation they have lobbied. Assembly Governmental Operations Committee

A.2265 (Introduced by Brennan): This bill amends the Lobbying Act to cover lobbying for the award or denial of State contracts. Assembly Governmental Operations Committee

A.1161 (Introduced by Grannis): This bill establishes the Integrity in Government Act; repeals the Lobbying Act; requires the licensing of lobbyists and sets forth numerous provisions and reporting requirements (same as S.3794, sponsored by Hoffman). Assembly Governmental Operations Committee and Senate Finance Committee

S.377 (Introduced by Kruger): This bill changes the existing Lobbying Act to include under the term, "lobbyist," State officials and college officials who engage in lobbying activities. Senate Finance Committee

A.1470 (Introduced by Matusow): This bill would make the provisions of the Lobbying Act applicable to county legislatures, county executives and county agencies. Assembly Governmental Operations Committee

Note:

Assembly bill A.1161 sponsored by Assemblyman Grannis is the most comprehensive lobbying reform bill. Its provisions are as follows:

- ▶ Creates a bi-partisan, permanent lobbying commission and extends the provisions of the Lobbying Act to local governments.
- ▶ Empowers the commission to initiate audits and to fully enforce the law.
- ▶ Requires registration of lobbyists and clients who spend more than a threshold amount (\$2,000) on lobbying related expenses.

- ▶ Provides for the licensing of lobbyists.
- ▶ Requires lobbyists to wear a photo-identification badge whenever representing a client in a legislative or executive branch office.
- ▶ Restricts lobbyists from making political contributions during session (for state officials), and bars lobbyists from delivering or arranging for political contributions to public officials or serving in fund-raising capacities for candidates and parties. Requires lobbyists to disclose campaign contributions.
- ▶ Requires clients to disclose their campaign contributions and bars state officials from accepting contributions from clients during the legislative session.
- ▶ Prohibits lobbyists and clients from giving gifts to public officials.
- ▶ Bans honoraria for public officials.
- ▶ Prevents lobbyists from appearing on the floor while a house is in session.
- ▶ Requires monthly reporting for lobbyists and semi-annual reporting for clients.
- ▶ Requires that lobbyists and clients disclose business associations with public officials.
- ▶ Facilitates public access to information by requiring that filings be available in paper and electronic formats and through the Internet.
- ▶ Sanctions include license suspension and revocation, fines up to \$25,000 and criminal penalties.

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