



BRENNAN CENTER  
FOR JUSTICE

*at New York University School of Law*



New York  
COMMON CAUSE  
*Holding Power Accountable*



October 7, 2013

To the members of the Commission to Investigate Public Corruption:

Over the last few weeks, the commission has heard many useful and appealing recommendations for combating corruption and improving public trust in state government. We fully support many of these ideas, but want to ensure that you do not lose sight of the fundamental problem of both legal and illegal corruption in Albany: the “show me the money” culture that permeates state politics.

The members of the Commission have a once-in-a-generation opportunity to address the corrupting nature of New York’s broken campaign finance system and the crisis of public trust it engenders. It is critical that the Commission take bold action and push for transformative policies that include comprehensive campaign finance reform.

Although each of our groups has additional recommendations for improving governance and integrity in Albany, we are unanimous that all of the following elements are essential for comprehensive reform and meaningful change in Albany, and urge you to ensure that the following elements of comprehensive campaign finance reform are part of your ongoing investigations, discussions and recommendations:<sup>1</sup>

- **Limited matching funds for small donations.** A voluntary program for candidates that matches small donations – \$175 or less – from natural persons residing in New York State with public funds will encourage small donors to contribute and participate in the electoral process. This new means of financing a campaign will make running for public office more attractive to a larger pool of possible candidates. And once elected, a publicly financed office holder would not be beholden to special interests and large donors. A similar system of matching small donations has been in place for more than twenty years in New York City and has earned strong support among voters and candidates alike.
- **Independent and robust enforcement.** New York State’s enforcement of campaign finance laws is notoriously lax, leading to corruption and abuses of the system. We need a new, independent oversight and enforcement body with strong effective responsibility for all campaign finance law administration including public financing.
- **Reasonable contribution limits.** New York State’s soft money loopholes and exorbitant contribution limits encourage politicians and parties to seek huge funds from their contributors. We need to set reasonable hard money limits on contributions that will allow

---

<sup>1</sup> Our groups support additional campaign finance reforms, including those listed in the attached document. We view the items listed in the text of this letter as the most critical reforms.

citizens to show their political support without being shaken down for unlimited donations, and close the “housekeeping” loophole which allows unlimited contributions of soft money. We should close the LLC loophole by treating LLCs as corporations rather than individuals, and treat contributions from non-political accounts of affiliated unions, LLCs, LLPs, and corporations as coming from a single source. Finally, we must protect against “pay-to-play” by reducing contribution limits for lobbyists and contractors doing business with the state, and by declining to provide public matching funds for contributions by lobbyists and contractors.

- **Disclosure of campaign contributions and political expenditures.** As a result of the *Citizens United* decision, tens of millions of dollars in political spending are hidden from public view. Transparency is an essential principle of free and competitive markets. The rise of Super PACs during the 2012 election cycle makes this reform even more urgent. We should require disclosure, including names and addresses of employers, from bundlers.

Having worked on these issues for many years, we understand that getting Albany to adopt comprehensive campaign finance reform is no easy task. But your commission, specifically established to serve as an independent and forceful voice for restoring public trust in government, can help make it possible by including in your report a bold and declarative set of proposed actions in support of campaign finance reform to be taken up and passed by the legislature upon their return. Not including a bold prescription for campaign finance reform will almost certainly allow politicians in Albany to continue to ignore the public call for change.

Please let us know how we can be of assistance in the coming weeks and months.

Sincerely,

Dick Dadey, Executive Director  
Citizens Union

Russ Haven, Esq., Legislative Counsel  
New York Public Interest Research Group, Inc.

Susan Lerner, Executive Director  
Common Cause New York

Bill Mahoney, Research Coordinator  
New York Public Interest Research Group, Inc.

Lawrence Norden, Deputy Director  
Democracy Program  
Brennan Center for Justice

Sally Robinson, President  
League of Women Voters of New York State

**ATTACHMENT**

An effective campaign finance bill must reform New York State's current election law, and should contain several priority elements:

- A matching program that empowers small donors;
- Independent and robust enforcement to prevent violations of campaign finance law – as well as non-partisan administration that assists candidates with compliance;
- Reasonable contribution limits for individual candidates and political parties;
- Robust disclosure of money in politics.

We believe the following principles should be embraced in any proposed legislation:

### **Public financing**

- Institute a matching program that empowers small donors based on the system currently used in NYC: a 6-to-1 public match on small contributions up to \$175 from natural persons residing in New York.
- Participating candidates would not be subject to spending limits, but the total amount of public funds available for each candidate would be capped at a reasonable limit.
- Curb the outlay of public funds to candidates facing minimal opposition.
- Allow only campaign contributions by natural persons residing in New York to be matched by public monies.
- Include constitutional convention delegates in the public funding program but prohibit elected officials and judges from receiving public dollars if they are candidates to a constitutional convention.
- Require participating candidates to appear in public debates and a Voter Guide.
- Include a local public financing option, which would fund local public matching systems and other components such as a robust enforcement entity.

### **Enforcement and administration**

- Create a new, truly independent oversight and enforcement body with responsibility for public financing and all campaign finance law administration. This body should be:
  - independently and adequately funded;
  - vigorous in enforcing campaign finance law;

- a customer-service resource to assist candidates with compliance; and
- able to write rules and regulations pursuant to oversight and enforcement of the campaign finance system, as well as propose legislative improvements to the system.
- Ensure that the Attorney General and local district attorneys can independently of the State Board of Elections investigate and prosecute alleged violations of the Election Law.
- Authorize only one committee per candidate per election, and require committees belonging to candidates no longer running for office to close within a reasonable time period after their election.
- Substantially increase fines for exceeding contribution limits and violating campaign finance disclosure laws. The penalty for failing to file should be increased. Violations that are only currently an A misdemeanor or an E felony should be subject to higher civil penalties, particularly for knowing and willing violations of campaign finance law.
- Restrict personal use of campaign contributions by clarifying permissible and prohibited expenditures.

#### **Reasonable contribution limits**

- Reduce the individual contribution limit to \$2,000 from any source *for all candidates*, whether or not they participate in the public financing system.
- Contributions from non-political accounts of affiliated unions, LLCs, LLPs, and corporations should be treated as coming from a single source. (The 2005 Silver bill provides language for treating businesses that meet the IRS definition for affiliation as a single source. NYC law provides a model for evaluating whether affiliated unions should be considered as a single source.)
- Party transfers to candidates should be subject to reasonable thresholds and limits..
- Limits in hard money to state and local party committees should be lowered to a more reasonable level.
- Contributions to political party committees, irrespective of whether such committees serve the state or local party or clubs, should count toward overall limits on party contributions.
- The “housekeeping” loophole, which allows unlimited donations in soft money, should be closed.. The housekeeping statute should be clarified, and enforcement and regulation

of these funds should be improved, so that housekeeping money is only used for party-building activities and not to support the election of a specific candidate.

- Protect against “pay-to-play” by reducing contribution limits for lobbyists and contractors doing business with the state, and by declining to provide public matching funds for contributions by lobbyists and contractors. NYC’s system (which includes a \$400 limit for individuals in a “doing business with the state” database) provides a model.

**Robust disclosure of money in politics**

- Improved disclosure of independent political spending – including all express advocacy, and electioneering communications targeting the public.
- Require two additional periodic campaign finance reports be filed during the legislative session to reflect contributions given during the budget adoption and review process.
- Require disclosure, including names and addresses of employers, from bundlers.
- Mandate reporting of campaign contributors and expenditures to include full name, home address, and employer/business name and address for each contribution, and require this be reported in periodic reports.
- Any advertisement paid for by an independent expenditure made by a committee or other entity other than a natural person shall include a disclosure statement identifying the name of any person whose cumulative contributions are at least twenty-five thousand dollars (\$25,000) or twenty-five percent of the cost of producing and disseminating the advertisement, whichever is less.