



**A LOOK AT THE  
2018 NEW YORK  
STATE  
LEGISLATIVE  
ELECTIONS**

## **CAPITAL INVESTMENTS**

**ENDORSED BY:  
CITIZENS UNION  
COMMON CAUSE/NEW YORK  
LEAGUE OF WOMEN VOTERS of NYS  
REINVENT ALBANY**

**NEW YORK PUBLIC INTEREST RESEARCH GROUP  
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# **Acknowledgements**

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Written by Blair Horner. Russ Haven of NYPIRG, Rachel Bloom of Citizens Union, Sally Robinson of the League of Women Voters and Alex Camarda of Reinvent Albany all provided comments. Technical database assistance contributed by Grant Horner.

Established in 1976, the New York Public Interest Research Group Fund (NYPIRG) is a nonpartisan, not-for-profit organization whose mission is to educate the public on policy issues and advance reforms, while training New Yorkers to be advocates. Governmental accountability, political reform, consumer protection, environmental preservation, health care, higher education, public health, and mass transit are among NYPIRG's principal areas of concern.

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## CAPITAL INVESTMENTS

### EXECUTIVE SUMMARY

For decades, New York State's campaign financing system has been the source of scandal and debate. In the 1980s, scandals led then-Governor Mario Cuomo to establish a special Commission to review that era's corruption scandals and to make recommendations on what should be done. Five years ago, following more recent scandals, current Governor Andrew Cuomo established his own Commission to review the state's campaign financing system.

Both reports arrived at similar conclusions: the campaign financing system dramatically enhances the power of the wealthy and the powerful and that comprehensive reforms were needed. The Commission of the 1980s issued a stinging rebuke to the campaign financing system, calling it a “disgrace” and an “embarrassment.”<sup>1</sup> The Commission then scolded state leaders for failing to act, charging that “Instead partisan, personal and vested interests have been allowed to come before larger public interests.”<sup>2</sup>

This report also reviews the work of both Commissions and takes a fresh look at recent fundraising for 2018 state legislative campaigns to assess critical aspects of the state's current campaign financing system in order to compare findings of the previous Commissions with the status quo.

As a new Commission, this one charged with establishing a voluntary system of public financing, begins its work, it is our hope that this report will both underscore the need for reforms and help make the case to transform New York's campaign financing system from one that relies on a small number of big contributors, to one that relies on a large number of small donors. That shift would dramatically reduce the risk of corruption, encourage competitive elections and advance the public's interest in a vibrant democracy.

This report finds that little has changed in the *source* of campaign contributions to winning legislative candidates. As was the case three decades ago, winning candidates received the bulk of their campaign funds from organized special interests – political action committees, businesses, unions and large individual contributors.

And it is these same interests that often hire lobbyists to seek favors at the state Capitol. This “pay-to-play” system is at the heart of many of the scandals that have shocked New Yorkers.

As recommended three decades ago, New York State must offer an alternative source of financing to those seeking public office; support from clean public resources instead of the special-interest stakeholders that drown out the voices of the vast majority of New

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<sup>1</sup> New York State Commission on Government Integrity, “Final Report,” September 1990.

<sup>2</sup> Ibid.

Yorkers who either do not contribute or whose aggregate donations have little cumulative impact.

As New York State moves to implement such a system, we hope that these findings regarding the current broken campaign finance system will highlight for New Yorkers why substantial changes are needed and why they should actively engage in the reform process.

**Finding #1: In the 2018 election cycle, powerful and wealthy interests continue to be the dominant sources of campaign contributions given to winning candidates for the Assembly.** Organized interests, businesses and individuals contributing more than \$200 represented roughly 90 percent of all of the money raised by the winners of Assembly elections. It is clear that organized interests are more likely to give to the dominant Democratic majority.

**Finding #2: Powerful and wealthy interests – as opposed to everyday New Yorkers – continue to be the dominant sources of campaign contributions to winning candidates for the Senate.** Organized interests, businesses and individuals contributing more than \$200 represented over 90 percent of all of the money raised by the winners of Senate elections.

However, given the surge in successful Senate Democratic candidates in 2018, the historic campaign financing advantage for the party in control (Republicans going into the 2018 elections), evaporated.<sup>3</sup> Notably, the then-Republican majority relied heavily on PAC and LLC contributions. It was clear that organized interests were investing heavily in the then-dominant and controlling Republican majority.

**Finding #3: For the 2018 election period winning legislative candidates raised over \$41 million.** Winning Assembly candidates raised \$15.6 million and winning Senate candidates raised \$25.5 million, even though the Senate winners are less than half (63) the number of winning Assembly candidates (150) for the 213 state legislative offices.

**Finding #4: Fundraising events held for leadership across the state and legislative candidates in Albany during the legislative session swell in number right before the state budget is adopted.** The month of March is a peak time for such fundraisers, usually accounting for more than 40% of the total amount during the six-month legislative session period. Thus, campaign fundraising events peaked just as elected officials were determining how to spend taxpayer dollars in a \$175 billion state budget.

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<sup>3</sup> The 2019 session's overwhelming Democratic majority significantly shifted these numbers in comparison to the 1986 election cycle in which the Republican majority maintained its control. For the purposes of this analysis, Sen. Felder was counted as a member of the Republican Conference.

## SUMMARY OF RECOMMENDATIONS

New York's legislative candidates rely heavily on getting enormous financial support from a small fraction of the state's population – typically those businesses, associations, unions and individuals with the money to fund elections *and* a stake in the outcome of state decision-making. As a result, New Yorkers are presented with a system that is largely underwritten by the wealthy and powerful, rather than one supported by the overwhelming number of citizens who do not get directly involved in political campaigns.

In order for New York's democracy to become more responsive to the majority of New Yorkers, it must change. Despite the productivity of the 2019 legislation session, interest groups continued to spend freely to influence policy outcomes. There must be an alternative for candidates for elective office, one that provides resources to run for a state office without pressure to deliver for large campaign contributors. Creation of a new system of campaign financing is a critical component of meaningful reform. There must be a new system that relies on the funding of elections by the public, not special interests. Much of the work has been done to establish such a system, particularly through the work of two Moreland Act Commissions (described later) and the experiences of the City of New York's program. We recommend the following solutions:

**Recommendation: Establish a voluntary system of public financing of elections.**

As mentioned earlier, a voluntary system of public financing will help reduce the risk of corruption in a state that has seen far more than its share of scandals. This recommendation is consistent with the findings of previous state commissioners investigating corruption. Moreover, any alternative system must be vigorously monitored by an independent, effective watchdog. The state has created a commission to establish a public financing system. It doesn't have to look far for a successful model – the City of New York has had decades of experience and it offers the public financing commission a path forward.

**Recommendation: Lower campaign contribution limits.** New York State has the highest campaign contribution limits of any state with limits. These large contributions drive candidates to seek support from a small number of very large donors. Instead, lower limits, coupled with public financing, would help shift the system to one that relies on a large number of small donors, a system that is far less likely to be corrupted. Moreover, limits should be lowered for contributions to political party committees and transfers from such committees to candidates should reflect these new limits. Lastly, elected officials should be prohibited from running political action committees of their own.

**Recommendation: Place meaningful limits on donations to “housekeeping accounts.”** Currently, there are no restrictions on the size of these donations. Given the inextricable link between party committees and elected officials, strict limits should be put in place. New housekeeping limits should apply to leadership and local committees.

**Recommendation: Require the disclosure of campaign finance “bundlers.”** Lobbyists and other well-heeled political players can do an end run around lower limits

on campaign contributions by “bundling” smaller donations and delivering that “bundle” to elected officials. Disclosing those individuals – as required under New York City’s campaign finance system - will at least bring some scrutiny to the actions of these fundraising intermediaries who can amplify their influence beyond their own donations.

**Recommendation: Place restrictions on lobbyists, lobbyists’ PACs, and those seeking or receiving government contracts, from making campaign contributions.**

At the heart of some of Albany’s most high-profile scandals have been the trading of donations for political support of legislative or regulatory favors. This relationship must be severed by sharply curtailing the political donations these contract vendors, lobbyists and their fundraising arms may make.

## CAPITAL INVESTMENTS

### *DETAILED FINDINGS*

For decades, New York State's campaign financing system has been the source of scandal and debate. In the 1980s, scandals led then-Governor Mario Cuomo to establish a special Commission to review that era's corruption scandals and to make recommendations on what should be done. Five years ago, following more recent scandals, current Governor Andrew Cuomo established his own Commission to review the state's campaign financing system.

Both reports arrived at similar conclusions: the campaign financing system dramatically enhances the power of the wealthy and the powerful and that comprehensive reforms were needed. The Commission of the 1980s issued a stinging rebuke to the campaign financing system, calling it a "disgrace."

In 1988, the then-Governor Cuomo's Commission on Government Integrity issued a report "The Albany Money Machine," that closely examined the fundraising practices of the New York State Legislature.<sup>4</sup> In the three decades that have followed, little change has come to New York's laws and rules for financing campaigns for elective office. This report examines a key aspect of the 1988 analyses – specifically the sources of the campaign contributions to the winners of state legislative races.

This report also reviews the work of both Commissions and examines critical aspects of the state's current campaign financing system in order to compare findings of the previous Commissions with the status quo.

As a new Commission, charged with establishing a voluntary system of public financing, begins its work, it is our hope that this report will both underscore the need for reforms and help make the case to transform New York's campaign financing system from one that relies on a small number of big contributors, to one that relies on a large number of small donors. That shift would dramatically reduce the risk of corruption, encourage competitive elections and strengthen the public's interest in a vibrant democracy.

In order to more closely examine how the system has changed over time, this report compares key findings of the Commission's report issued in 1988, "The Albany Money Machine."<sup>5</sup> That report narrowly focused on campaign financing of state legislative races – elections that too often fall under the radar screen of voters. It reviewed campaign finance fundraising during a two year period that included the 1986 election.<sup>6</sup> This report examines the most recent election period for state legislative candidates for the filing

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<sup>4</sup> The Commission issued over twenty reports, including one that closely examined the fundraising practices of the elected officials in the executive branch, "The Midas Touch."

<sup>5</sup> New York State Commission on Government Integrity, "The Albany Money Machine: Campaign Financing for New York State Legislative Races," August 1988.

<sup>6</sup> The report examined campaign contributions raised directly by winning candidates for the New York State Legislature from the period July 15, 1985 through July 15, 1987.

periods from January 15, 2017 through the January 15, 2019. In terms of comparison, each finding reviews the results of the 1988 report and then the results of an analysis looking at the most recent election cycle.

***Commission on Public Integrity 1988:*** *Many election campaigns in the State, including those for legislative seats, are financing primarily by large contributions from a well-defined and limited number of special interests. In many instances these campaigns are disproportionately financed by groups, corporations or individuals whose businesses are directly regulated by government officials...[T]hese practices, among others, erode the public's confidence in elected officials by giving at least the impressions that campaign contributors make contributions to candidates in order to obtain favorable treatment.*<sup>7</sup>

*According to the 1988 Commission on Government Integrity.*<sup>8</sup>

*Total amount raised by individual Assemblymembers*

- *Total: \$6,261,000*
  - ✓ *31% PACs*
  - ✓ *10% Corporate Contributions*
  - ✓ *54% Other Contributions*

**Finding #1: In the 2018 election cycle, powerful and wealthy interests continue to be the dominant sources of campaign contributions to successful candidates for the Assembly.**

Contributions reported on “Schedule C” (typically political action committees – PACs – and limited liability companies’ – LLCs – contributions) were the single largest portion of contributions to legislative winners. These PACs and LLCs are frequently connected to the lobbying efforts of wealthy and powerful special-interest stakeholders.

The second largest sources of contributions were those reported on “Schedule A” (individuals and partnerships). In this category we sorted contributions by those that exceed \$200 and those which did not.

As seen in the chart, Schedule C (“Other Monetary” contributors, typically *PACs and LLCs*) contributions dominate, accounting for nearly half of \$15.6 million raised by winners of races for the state Assembly.

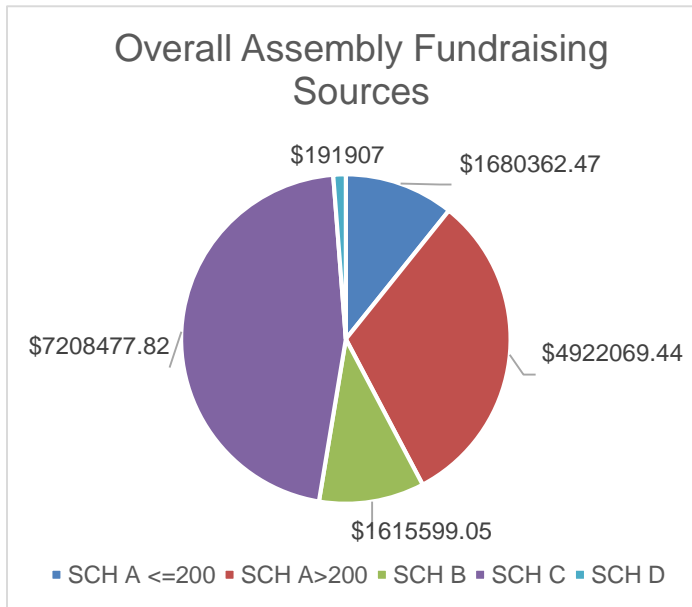
PACs and LLCs combined total \$7.2 million (46%) of all of the money raised by Assembly winners.

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<sup>7</sup> New York State Commission on Government Integrity, “The Albany Money Machine: Campaign Financing For New York State Legislative Races,” August 1988, pp.4-5.

<sup>8</sup> Ibid, Appendix V, Chart M.





*Individuals* and partnerships who contributed more than \$200, accounted for nearly \$5 million, nearly one-third of the money raised by the winners.

*Corporations* (Schedule B) kicked in another \$1.6 million (10%) roughly the same amount as individuals who contributed \$200 or less.

Thus, organized interests, businesses, unions and individuals contributing more than \$200 represented roughly 90 percent of all of the money raised by the winners of Assembly elections.

*According to the 1988 Commission on Government Integrity.<sup>9</sup>*

**Total amount raised by Individual Senators**

- Total: \$4,391,000
  - ✓ 32% PACs
  - ✓ 12% Corporate Contributions
  - ✓ 5% Non-PAC union Contributions
  - ✓ 54% Other Contributions

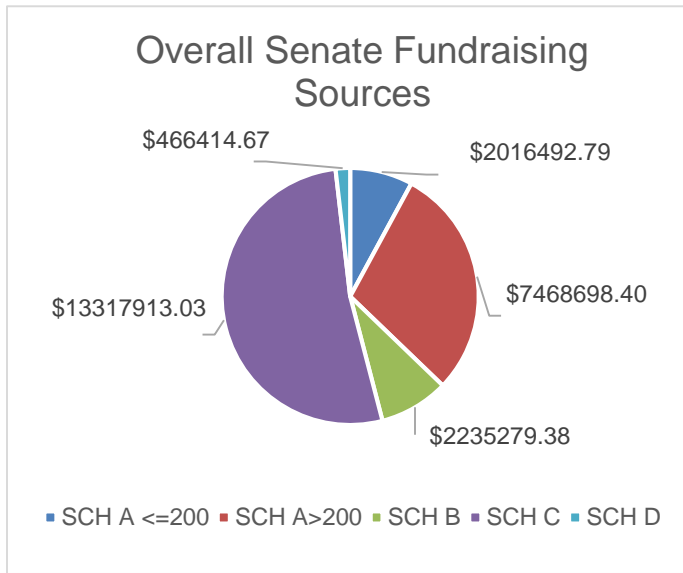
**Finding #2: Powerful and wealthy interests continue to dominate as the sources of campaign contributions to winning candidates for the Senate.**

As seen in the following chart, Schedule C (*PACs and LLCs*) contributions dominate accounting for more than half of \$25.5 million raised by winners of races for the state Senate.

PACs and LLCs combined total \$13.3 million (52%) of all of the money raised by Senate winners.

*Individuals* and partnerships who contributed more than \$200, accounted for nearly \$7.5 million, nearly thirty percent of the money raised by the winners.

<sup>9</sup> New York State Commission on Government Integrity, "The Albany Money Machine: Campaign Financing For New York State Legislative Races," August 1988, Appendix V, Chart O.

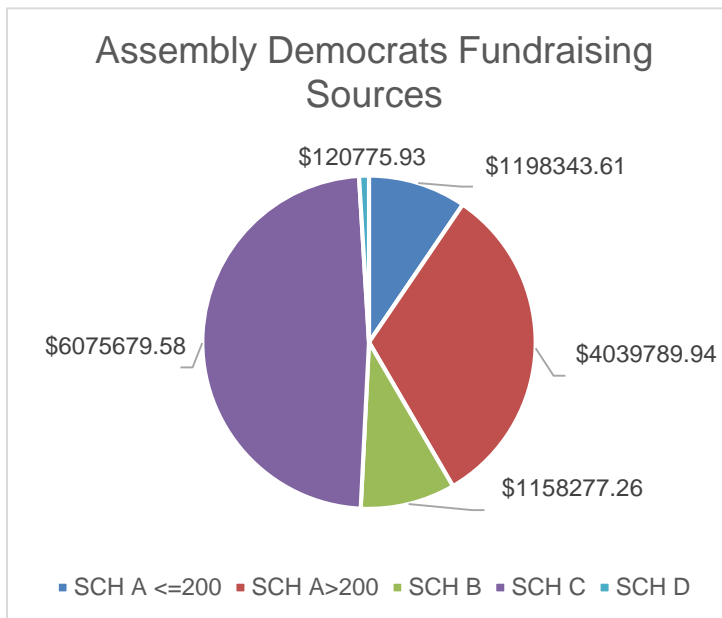


*Corporations* (Schedule B) kicked in another \$2.2 million (9%) a bit more than the amount individuals who contributed \$200 or less.

Thus, organized interests, businesses, unions and individuals contributing more than \$200 represented over 90 percent of all of the money raised by the winners of Senate elections.

**Finding #3: Consistent with the overall findings, powerful and wealthy interests dominate as the sources of campaign contributions to winning candidates for the assembly in each party conference. However, it is also clear that organized interests are more likely to give to the dominant Democratic majority.**

There appears to be little difference between the political party conferences in terms of the ranking of contribution sources. The Assembly Republican winning candidates, who have been in the political minority for decades and are at a substantial numerical disadvantage in their house, relied less on PAC/LLCs and more on individual contributions.



As seen in the adjoining chart, the fundraising of the Assembly Democrats is essentially the same as the overall numbers seen in the earlier chart.

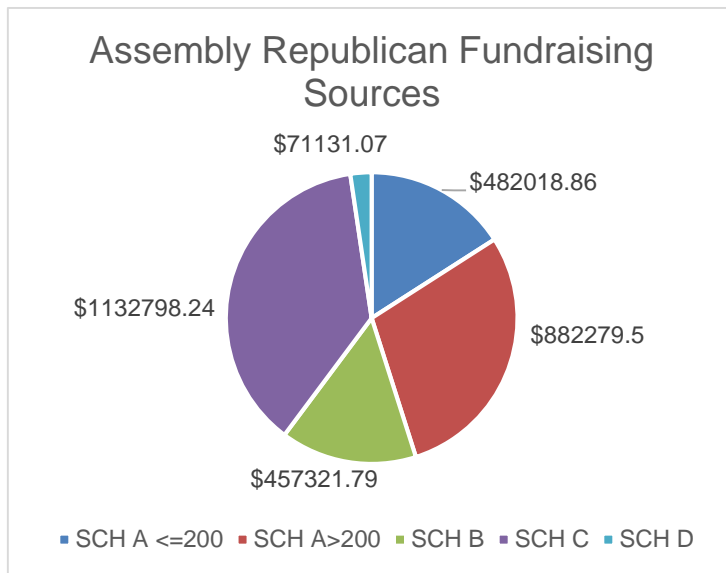
That is not surprising given the overwhelming numerical advantage that the Democrats have in that house.

Schedule C (*PACs and LLCs*) contributions dominate accounting nearly half of (\$6.1 million of \$12.6 million) raised by the Democratic winners of races for the state Assembly.

*Individuals* and partnerships who contributed more than \$200, accounted for over \$4 million, one third of the money raised by the winners.

*Corporations* (Schedule B) kicked in another \$1.1 million (9%) a bit less than the amount individuals who contributed \$200 or less.

Thus, organized interests, businesses, unions and individuals contributing more than \$200 represented nearly 90 percent of all of the money raised by the Democratic winners of Assembly elections.



Of the \$3 million raised by the winning Assembly Republican candidates, *PACs and LLCs* dominate, but contributed relatively less (37%) than the nearly 50% that those same sources contributed to Assembly Democrats.

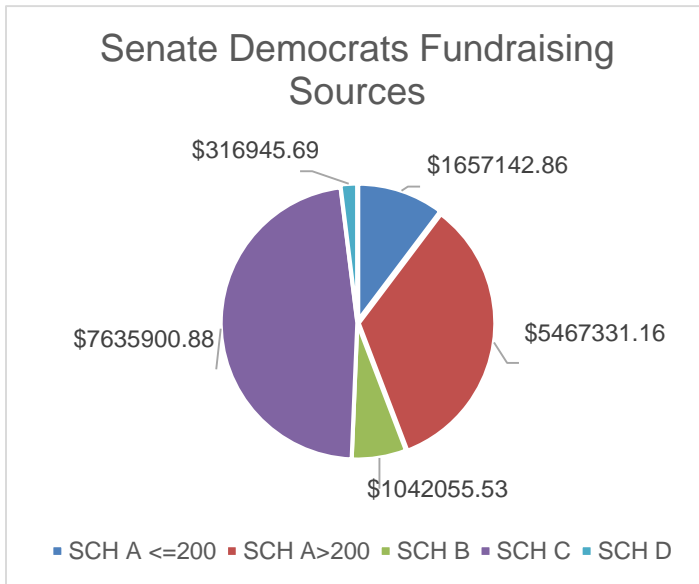
*Individuals* and partnerships who contributed more than \$200, accounted for nearly \$900,000, almost one third of the money raised by the winners.

*Corporations* (Schedule B) kicked in another \$460,000 (15%) a bit less than the amount individuals who contributed \$200 or less.

Thus, organized interests, businesses, unions and individuals contributing more than \$200 represented about 85 percent of all of the money raised by the Republican winners of Assembly elections.

**Finding #4: Powerful and wealthy interests dominate as the sources of campaign contributions to winning candidates for the assembly in each party conference. However, given the surge in winning Senate Democratic candidates, the historic campaign financing advantage for the party in control (Republican going into the 2018 elections), evaporates. Notably, the then-Republican majority relied heavily on PAC and LLC contributions.**

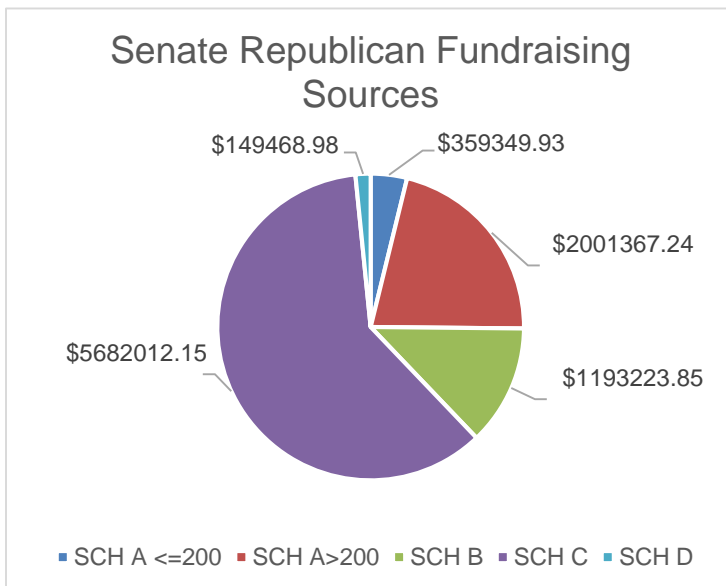
As seen in the following chart, the fundraising of the Senate Democrats is essentially the same as the overall numbers seen in the earlier chart.



Schedule C (*PACs and LLCs*) contributions dominate accounting nearly half of (\$7.6 million of \$16 million) raised by Democratic winners to the state Senate.

*Individuals* and partnerships who contributed more than \$200, accounted for \$5.5 million, one third of the money raised by the winners. *Corporations* (Schedule B) kicked in another \$1 million (9%). Senate Democratic winners raised a bit more from individuals who contributed \$200 or less (10%).

Thus, organized interests, businesses, unions and individuals contributing more than \$200 represented nearly 90 percent of all of the money raised by the Democratic winners of Assembly elections.



Senate Republicans, who had controlled the chamber during this election cycle, relied heavily on contributions from *PACs and LLCs*.

As see in the chart, contributions from Schedule C donors amounted nearly \$5.7 million of the \$9.4 million raised by Republican Senate winners.

That total amounted to a staggering 60 percent of the money raised by winning candidates.

*Individuals* and partnerships who contributed more than \$200, accounted for over \$2 million, over 20% of the money raised by the winners.

*Corporations* (Schedule B) kicked in another \$1.2 million (13%) quite a bit more than the amount individuals who contributed \$200 or less.

Thus, organized interests, businesses, unions and individuals contributing more than \$200 represented well over 90 percent of all of the money raised by the Republican winners of Senate elections.

*Commission on Government Integrity 1988: In terms of campaign contributions raised, winning Assembly candidates raised nearly \$6.3 million. In the Senate, winning candidates raised \$4.4 million.*

**Finding #5: For the 2018 election period winning legislative candidates raised over \$41 million.** Winning Assembly candidates raised \$15.6 million and winning Senate candidates raised \$25.5 million, even though the Senate winners are less than half the number of winning Assembly candidates for the 213 state legislative offices. To some extent, the intense fight for control of the state Senate – and the expensive primaries targeting members of the Independent Democratic Conference – fueled the staggering amount of money raised for these election campaigns. Yet even in the Assembly, in which there were no such widespread challenges – fundraising amounts more than doubled since 1988, in excess of the increase expected from inflation.

## FINDING: CAMPAIGN FUNDRAISERS

### Legislative activity by month.

Legislative activity increases each month that lawmakers are in session, culminating with the overwhelming number of bills being approved in the final scheduled session month of June. Note that March is the biggest month for campaign fundraisers, coinciding with the run up to the acknowledged deadline for budget passage by April 1st. Note that the monthly totals below if aggregated do not match the totals in Chart 1. Since legislation can be recalled and repassed, the monthly totals, when aggregated, are slightly larger than the final end-of-session totals for the period reviewed by this report.

### Monthly legislative and campaign fundraising activity, session 2018<sup>10</sup>

Month	Senate passage of bills	Assembly passage of bills	Campaign fundraisers <sup>11</sup>	Number of scheduled session days
January	74	63	22	9
February	85	64	36	6
March	147	205	77	15
April	56	73	14	7
May	222	142	21	12
June	977	583	30	11

<sup>10</sup> These month-to-month totals when aggregated for the session exceed the amount in Chart 1 because some bills are recalled and can be approved a second time.

<sup>11</sup> List of 2018 fundraisers collected by NYPIRG. Fundraiser information was collected from cooperative lobbyists, thus may not include all fundraisers. Does not include fundraisers held within lawmakers' districts (unless it was the Capital District), does include all known fundraisers held in Albany and by the governor, legislative leaders and political parties anywhere in the state.

### Legislative activity by month.

Legislative activity increases each month that lawmakers are in session, culminating with the overwhelming number of bills being approved in the final scheduled session month of June. Note that March is the biggest month for campaign fundraisers, coinciding with the run up to the deadline for budget passage by April 1st.

### Monthly legislative and campaign fundraising activity, session 2018<sup>12</sup>

Month	Sen passage of bills	Assm passage of bills	Campaign fundraisers <sup>13</sup>	# of scheduled session days
January	53	23	13	9
February	46	31	29	5
March	123	72	84	17
April	46	25	5	6
May	200	166	22	12
June	1446	687	30	11

There have been at least 179 fundraisers during the 2019 session.

### ONE ADDITIONAL NOTE ABOUT LEGISLATIVE PARTY COMMITTEES

While not a focus of our analysis, the 1980s Moreland Commission did examine contributions to legislative parties' committees. It concluded:

The investigation resulted in this report, issued in August, 1988, which detailed how torrents of money, unrestrained by real limits, pour from corporations, PACs and unions into the coffers of Democratic and Republican legislative campaign committees, and how top legislative leaders control the committees' swollen purses, funneling large sums to hotly contested races and transferring lesser amounts to the campaigns of incumbents seeking reelection to "safe" seats. *The Commission found that this creates an unhealthy climate of indebtedness, with some candidates owing their success to party leaders who are in turn dangerously dependent on large contributions from special interests and those doing business with the government.*<sup>14</sup>  
[emphasis added]

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<sup>12</sup> These month-to-month totals when aggregated for the session exceed the amount in Chart 1 because some bills are recalled and can be approved a second time.

<sup>13</sup> List of 2017 fundraisers collected by NYPIRG. Fundraiser information was collected from cooperative lobbyists, thus may not include all fundraisers. Does not include fundraisers held within lawmakers' districts, does include all known fundraisers held in Albany and by the governor, legislative leaders and political parties anywhere in the state.

<sup>14</sup> New York State Commission on Government Integrity, "Final Report," September 1990.

## CAPITAL INVESTMENTS

### BACKGROUND

“It is necessary that laws should be passed to prohibit the use of corporate funds directly or indirectly for political purposes: It is still more necessary that such laws should be thoroughly enforced.”

President Theodore Roosevelt, in the speech “New Nationalism”

New York has long been on notice about the failure of its campaign finance laws. Thirty years ago, the final report of the Commission on Government Integrity was issued. That Moreland Act Commission’s report condemned New York’s campaign financing system, calling it a “disgrace” and an “embarrassment.”<sup>15</sup> The Commission then scolded state leaders for failing to act, “Instead partisan, personal and vested interests have been allowed to come before larger public interests.”<sup>16</sup>

New York State relies on private donations to fund its political campaigns. Since New York State has the highest campaign contribution limits of any state with limits,<sup>17</sup> candidates focus their fundraising on those who can give the most – and those individuals and entities usually have business before the government.

Until recently, over the course of the past three decades no steps had been taken to overhaul the state’s campaign finance system. Indefensibly high contribution “limits,” coupled with weak disclosure requirements and inadequate enforcement, created a system that cries out for change, starting with the need for establishing a voluntary system of public financing.

The Governor and the Legislature took a significant first step in approving legislation that treats Limited Liability Companies (LLCs) as a business for the purposes of campaign contribution limits. Under the old system, LLCs were handled differently than other businesses. Under longstanding New York law, corporations are capped at making no more than \$5,000 in direct campaign contributions in one year. LLCs, on the other hand, have been considered “humans” for the purposes of donating to campaigns and thus could give much, much more. In fact, one real estate developer skillfully used his stable of LLCs to directly donate millions of dollars to state candidates and parties in a single election cycle.

That system has now been overhauled and LLCs are now treated like corporations. This is a long overdue and significant change. But alone it doesn’t fundamentally change the campaign financing system in New York State.

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<sup>15</sup> New York State Commission on Government Integrity, “Final Report,” September 1990.

<sup>16</sup> Ibid.

<sup>17</sup> National Conference of State Legislatures, “Campaign Finance Overview,” <http://www.ncsl.org/research/elections-and-campaigns/campaign-contribution-limits-overview.aspx>.

### *Corruption*

Over the past thirty years, the scandals have not stopped. The failure to enact meaningful reforms after the first Moreland Act Commission's sent an unmistakable signal – that Albany's "pay-to-play" system was to be kept in place.

As a result, scandals continued.

Most recently, the scandals that enveloped New York originated in the state's economic development programs. Essentially, large donors to the governor's re-election effort received big benefits through the "Buffalo Billion" and other upstate economic development plans. As a result of federal prosecutions, the governor's top aide and the head of the state's hi-tech economic development czar have been convicted and are facing prison time (or are in prison already).

The legislative branch has not been immune from campaign finance scandals. For example, the conviction of former Assembly Speaker Silver was based in part on his enrichment schemes using a Columbia University researcher and two politically connected real-estate firms. Those individuals directed people who were seeking legal help to Silver, who then referred them to a pair of law firms that paid him referral fees. Silver then took action in Albany that benefitted the researcher and the real-estate firms, which included Glenwood Management, then the state's top political donor.<sup>18</sup>

### **Independent Investigation of New York State's Campaign Finance System: Moreland "I"**

Corruption scandals at the state and local government levels led to the creation in 1987 by then-Governor Mario Cuomo of a Moreland Act Commission to investigate ethics laws. The Commission on Government Integrity, led by then-Fordham Law School Dean Feerick and other luminaries including former U.S. Secretary of State Cyrus Vance, was charged by then-Governor Cuomo with examining the way political business was conducted in New York State and developing a blueprint for reform.<sup>19</sup>

The Commission issued 22 reports on a wide range of state and local ethics practices and held 17 public hearings, including one in which the governor and attorney general testified on their fundraising practices. This Moreland Act Commission issued a wide range of recommendations, including for ethics reforms, campaign finance changes, and other measures to bolster public accountability of state government.

Three decades later, New York City now has one of the most far reaching and effective systems of financing campaigns for city office – in fact a model for the nation – and it has

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<sup>18</sup> Campbell, J., "Sheldon Silver, ex-Assembly speaker, gets 7 years in prison for corruption conviction," *The Rochester Democrat & Chronicle*, July 27, 2018, <https://www.democratandchronicle.com/story/news/politics/albany/2018/07/27/sheldon-silver-sentencing/843636002/>.

<sup>19</sup> Executive Order No. 88-1, created The New York State Commission on Government Integrity, issued on April 21, 1987.



placed significant limits on the efforts of special interests to control government decision-making.

Yet in Albany, the work of the Commission was largely ignored. New York State still has sky-high campaign contribution limits, allows unlimited donations to party and legislative leadership “soft money” housekeeping accounts, permits unfettered campaign fundraising during the legislative session, and lacks adequate enforcement and penalty provisions.

### **Independent Investigation of New York State’s Campaign Finance System: Moreland “II”**

In 2013, current Governor Andrew Cuomo created a Moreland Act Commission to respond to “an epidemic of public corruption that has infected our state.”<sup>20</sup> This Commission, like its predecessor, held public hearings, subpoenaed records, and issued a preliminary report. Unlike its predecessor, the Commission was put out of business before it completed its work.

### **Both Moreland Commissions Urged New York To Establish A System of Public Financing**

Both of the Moreland Commissions arrived at similar conclusions and included as a key recommendation the creation of a voluntary system of public financing of elections in New York State.

Moreland I found that, “When running for public office requires enormous expenditures of privately raised funds, challenges to incumbents are all but limited to the most wealthy and well-connected. Moreover, huge campaign costs pressure candidates to maintain political views that do not offend big money.”<sup>21</sup>

In its recommendations, Moreland I called for immediate public financing of statewide races and to assess those results before expanding to legislative races. Moreland I viewed it as a “powerful tool” in curbing the power of organized and wealthy interests, to encourage electoral competition, and free candidates from at least some of their fundraising responsibilities.<sup>22</sup>

What does a better system look like? The Moreland Commission I described it as follows:

Good campaign finance regulations must satisfy a number of objectives: limiting the undue influence of wealthy special interests, insuring that the public is informed about the

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<sup>20</sup> The Commission to Investigate Public Corruption, “Preliminary Report,” December 3, 2013, p. 3.

<sup>21</sup> Ibid, p. 10-11.

<sup>22</sup> New York State Commission on Government Integrity, “The Albany Money Machine: Campaign Financing For New York State Legislative Races,” p. 45.

sources and amounts of a candidate's support, providing for adequate enforcement, encouraging democratic competition for office and promoting confidence in government.<sup>23</sup>

The Moreland Commission I concluded, “New York's regulations fail these tests miserably.”<sup>24</sup>

A quarter century later, Moreland II examined the issue and arrived at similar conclusions: “Our investigation – including testimony taken at public hearings – also reveals that public financing systems, like the one in place in New York City, make a real difference, empowering regular citizens, reducing the power of massive checks and special interests, and increasing the accountability of officials to those they serve.”<sup>25</sup>

### **The Commission to establish a voluntary system of public financing.**

As part of the budget agreement this year, Governor Cuomo and the legislature hammered out an agreement that created a Commission whose charge is to “establish a system of voluntary public campaign financing for statewide and state legislative public offices”<sup>26</sup> by December 1, 2019. The Commission has broad authority to establish such a system, as long as the price tag is no more than \$100 million annually.

The Commission is charged with a mandate that it “shall specifically determine and identify all details and components reasonably related to administration of a public financing program, and shall also specifically determine and identify new election laws in the following areas:

- (a) ratio of public matching funds to small contributions;
- (b) limits on total receipt of public funds depending on the office sought by a candidate under the program, including geographic differences in such limits, if any;
- (c) candidate eligibility thresholds for the program;
- (d) contribution limits applicable to candidates participating in the program;
- (e) eligible uses of matchable contributions and public funds; and
- (f) an appropriate state agency to oversee administration and enforcement of the program, or recommendation of a new agency if the commission deems such recommendation appropriate.<sup>27</sup>

The Commission’s decisions in these areas are final, unless there is an agreement among each of the two houses of the Legislature and the Governor to make changes.

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<sup>23</sup> New York State Commission on Government Integrity, “Restoring The Public Trust: A Blueprint for Government Integrity Volumes I and II,” p. 8.

<sup>24</sup> Ibid.

<sup>25</sup> The Commission To Investigate Public Corruption, “Preliminary Report,” December 2, 2013, p. 10.

<sup>26</sup> New York State Senate bill 1509-C/Assembly bill 2009-C, Part XXX.

<sup>27</sup> Ibid.

## CAPITAL INVESTMENTS

### RECOMMENDATIONS

As the Moreland Act Commission on Government Integrity found three decades ago, New York State must move to offer an alternative to candidates having to rely solely on private sources of campaign funds. A voluntary system of public financing offers that alternative.

Moreover, New York State's democracy has a glaring weakness: The lack of participation stems from obstacles to voting and a campaign financing system that largely ignores average-income voters to focus reliance on a small number of large contributors to underwrite state campaigns for office. This seriously feeds public cynicism and increases the risk of corruption. New York's experience over the past decade bears out both of these conclusions.

#### **Recommendation: Establish a voluntary system of public financing of elections.**

There is an alternative, one found in New York City. An analysis by the Campaign Finance Institute evaluated how campaign contributions would be redistributed if the state adopted a New York City-style system. CFI estimated that shift in the types of donors under a public financing system modeled on New York City – both with and without changes in the numbers of contributors – would significantly expand the number of small donors.<sup>28</sup>

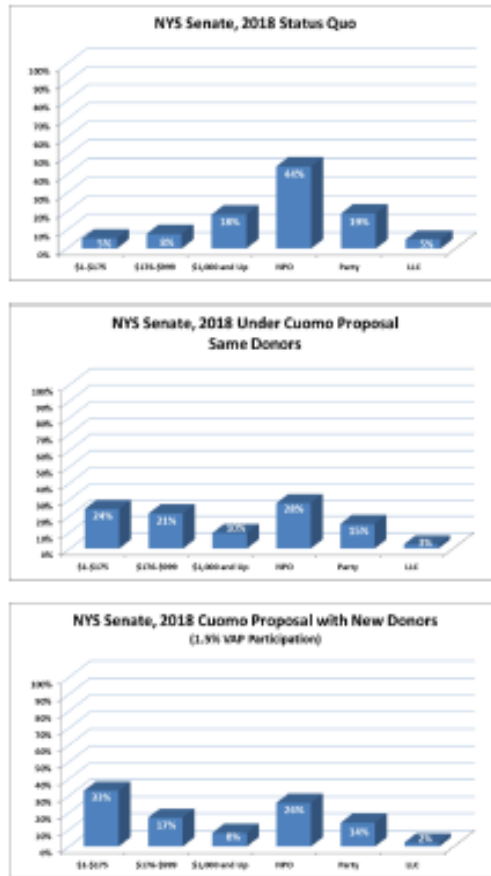
As seen in the charts following, the current system of campaign finance is dominated by large contributions. Of course, it is reasonable to assume that only those with access to large sums of money can donate the biggest amounts. And it is our experience that those contributors are far more often than not entities or individuals with business before the government.

On the other hand, as the chart clearly shows, a system that rewards candidates who solicit contributions from donors who contribute a small amount – with candidates benefitting under a public financing system that matches small donations with clean public resources – is far more likely to rely upon contributions from small-dollar donors. This system has the benefits of encouraging the participation of lower income voters – who are largely ignored in the current system – to make contributions. Moreover, a system relying on a large number of small contributions is a system far less likely to be subject to the same pressures found in the current system.

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<sup>28</sup> Campaign Finance Institute, "Small Donor Matching Funds for New York State Elections: A Policy Analysis of the Potential Impact and Cost," February 2019. The fuzziness of the charts above makes it hard to read the columns. They are from left to right: "\$1-\$175," "\$175-\$2,000," "\$2000 and up," "Non-Party-Organizations," "Party," and "LLC." [http://www.cfinst.org/pdf/State/NY/Policy-Analysis\\_Public-Financing-in-NY-State\\_Dec2018.pdf](http://www.cfinst.org/pdf/State/NY/Policy-Analysis_Public-Financing-in-NY-State_Dec2018.pdf).

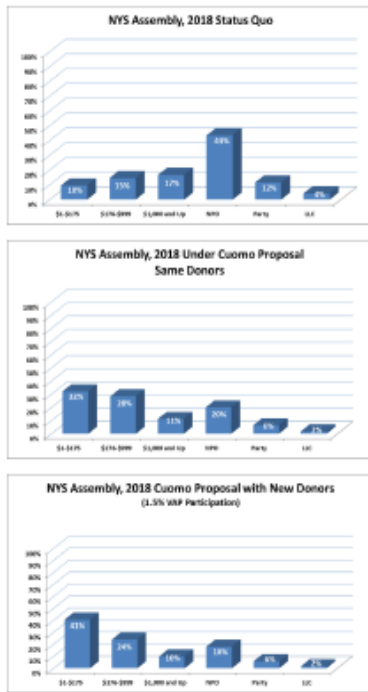
**Figure 2. 2018 NYS Senate Candidates:  
Sources of Funds Now and Under the Proposed Matching Fund Bill**



NOTES: NPO = Non-party organizations, including PACS. LLC = Limited Liability Corporation.  
SOURCE: The Campaign Finance Institute, a division of the National Institute on Money in Politics

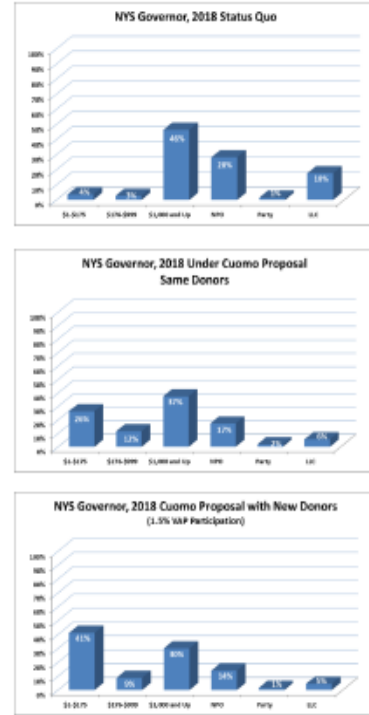
As seen below, a similar reality is reflected in those who contribute to Assembly races and to the governor's race.

**Figure 1. 2018 NYS Assembly Candidates:  
Sources of Funds Now and Under the Proposed Matching Fund Bill**



NOTES: NPO = Non-party organizations, including PACS. LLC = Limited Liability Corporation.  
SOURCE: The Campaign Finance Institute, a division of the National Institute on Money in Politics

**Figure 3. 2018 NYS Gubernatorial Candidates:  
Sources of Funds Now and Under the Proposed Matching Fund Bill**



NOTES: NPO = Non-party organizations, including PACS. LLC = Limited Liability Corporation.  
SOURCE: The Campaign Finance Institute, a division of the National Institute on Money in Politics

New York State’s donor participation rate is near the bottom of the country. If the match would lead state candidates to attract just enough new small donors to bring participation up to the city’s rate, far more donors would opt into the system.

This would be a dramatic change. Small donors would become the most important donor constituency, instead of the least important. If the goal is to connect candidates more strongly with the people they are supposed to represent, the New York City system is the model to emulate.

And to underscore the point, the public has seen the program at work and it enjoys widespread public support. In fact, last year the voters approved an expansion of the program. Now small contributions up to \$250 are to be matched by \$8 in clean public resources for each dollar contributed.

**Given that taxpayers will be footing the bill for the implementation of this new system – a measure that we applaud given that it will improve the state’s democracy – the agency in charge of the program is vital.**

That new entity must be independent of the State Board of Elections and should be modeled on successful programs such as the New York City Campaign Finance Board or the Connecticut Elections Enforcement Commission.<sup>29</sup> The State Board of Elections should stick to what our Constitution requires of it: administering elections in the state.

**Recommendation: Lower campaign contribution limits.**

New York State relies on private donations to fund its political campaigns. Thirty-nine states limit the size of contributions individuals can make to candidates for office. New York's limits – as much as \$69,700 to a candidate for statewide office – are the highest of any of these, and are more than *ten times* the average limit of these states.<sup>30</sup>

Since New York State has the highest campaign contribution limits of any state with limits, candidates focus their fundraising on those who can give the most – and those individuals and entities frequently have business before the government.

In addition, New York's sky-high contribution levels have fueled a shift away from smaller donors toward reliance on bigger ones. This reliance undermines the public's involvement in a system that can only be described as a money chase.

**Recommendation: Place meaningful limits on donations to “housekeeping accounts.”**

Making its overly generous system worse, New York exempts from contribution limits donations to so-called “housekeeping” accounts for “party building activities.”<sup>31</sup> There have been widespread abuses of this exemption. For example, in 2012 the Independence Party admitted to using soft money to pay for ads attacking specific candidates mere days before an election. \$311,000 of the funds used to buy these advertisements came from the Senate Republicans' housekeeping account.<sup>32</sup> Candidates for office must use campaign contributions for all of their administrative costs, why shouldn't the parties? The housekeeping loophole has allowed donors to circumvent New York's already-weak campaign limits.

**Recommendation: Require the disclosure of campaign finance “bundlers.”**

While lobbyists give large amounts of money directly from their personal and firms' bank accounts, they can deliver even more by “bundling” money on behalf of their clients. Participants in this practice multiply their political contributions and influence by aggregating checks written by members, clients, associates and family members. Other

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<sup>29</sup> Connecticut Elections Enforcement Commission, <https://www.ct.gov/seec/site/default.asp>.

<sup>30</sup> National Conference of State Legislatures, *State Limits on Contributions to Candidates*, <http://www.ncsl.org/research/elections-and-campaigns/campaign-contribution-limits-overview.aspx>.

<sup>31</sup> New York State Election Law §14-124(3).

<sup>32</sup> Kenneth Lovett, “Independence Party Goes Along With GOP Scheme. . . ,” *New York Daily News*, March 4, 2013, <http://www.nydailynews.com/news/politics/lovett-independence-party-gop-annex-article-1.1278583>.

governments, notably New York City's, require committees to disclose which of their donations were bundled and by whom.<sup>33</sup>

Bundling is a key way in which lobby firms magnify their influence and ingratiate themselves to decision makers. It is difficult, however, to establish exact numbers reflecting the extent of this process. New Yorkers deserve to know which interests have bought access to their elected officials; complete disclosure of bundling is the only way for them to do so.

**Recommendation: Place restrictions on lobbyists, lobbyists' PACs, and those seeking or receiving government contracts, from making campaign contributions.**

New York's campaign finance system allows conflicts of interest. Some brazen examples include that elected officials can solicit campaign dollars from lobbyists and their clients during the legislative session and that those elected controlling decisions on which entities receive governments contracts can receive contributions from them as well.

It doesn't have to be that way. A number of states limit contributions from lobbyists. A number of states place restrictions on campaign contributions from lobbyists, particularly during the legislative session. According to the National Conference of State Legislatures, 18 states have restrictions on campaign contributions by lobbyists, with 12 of those states prohibiting lobbyists from campaign contribution during legislative session.<sup>34</sup> The state of Tennessee's debate over its limits cited a key federal court decision: "Any payment made by a lobbyist to a public official, whether a campaign contribution or simply a gift, calls into question the propriety of the relationship." [The U.S. Court of Appeals for the 4<sup>th</sup> Circuit, *Preston v. Leake*, 660 F.3d 726, 737 (4th Cir. 2011).]<sup>35</sup>

There can be no doubt that those seeking government contracts simply cannot be able to use their wealth to influence the awarding of such contracts. It is clear that all too often, the decision-making of awarding government contracts has been influenced by the showering of campaign contributions onto those who make the critical decisions over how to spend the public's money.

However, due to New York State's notoriously porous campaign financing system, any reform must be comprehensive. The governor has proposed legislation to do so,

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<sup>33</sup> New York City Administrative Code Section 3-701 (12) defines bundlers as follows: "The term 'intermediary' shall mean an individual, corporation, partnership, political committee, employee organization or other entity which, (i) other than in the regular course of business as a postal, delivery or messenger service, delivers any contribution from another person or entity to a candidate or authorized committee; or (ii) solicits contributions to a candidate or other authorized committee where such solicitation is known to such candidate or his or her authorized committee."

<sup>34</sup> National Conference of State Legislatures, "Limits on Campaign Contributions During The Legislative Session," <http://www.ncsl.org/research/elections-and-campaigns/prohibited-donors.aspx>.

<sup>35</sup> Also see *Blount v. Securities and Exchange Commission*, 61 F.3<sup>rd</sup> 938 (D.C. Circ. 1995) (upholding SEC "pay-to-play" Rule G-37 limiting municipal bond trader donations to \$250 per official per election to an official for whom that party is entitled to vote). Tennessee T.C.A. section 3-6-305; allows small donations by lobbyists for elections in which they are a constituent.

members of the Assembly have sponsored legislation, and the state Senate approved legislation in this area last session, but all fall short of what is needed.

The investigation by the U.S. Attorney's office into the rigging of state contracts to benefit campaign contributors to the governor underscores the need for action in this area.

### **The U.S. Attorney's Investigations Into the "Buffalo Billion" and Into Contracts In Syracuse**

The U.S. Attorney alleged that LP Ciminelli, Buffalo's largest construction company, paid Todd Howe—who was simultaneously a private lobbyist and on the payroll of the state's Colleges of Nanoscale Science and Engineering (CNSE) —\$100,000 every year since 2013 to become the "favorable company" to develop the projects of CNSE. Moreover, "around the time LP Ciminelli was under consideration for CNSE projects," Louis Ciminelli, head of LP Ciminelli, hosted a fundraiser for Governor Cuomo's campaign, where \$250,000 was raised.<sup>36</sup>

Between 2009 and 2014, Ciminelli and his family members donated \$100,000 to Governor Cuomo's election campaign. According to the U.S. Attorney, Howe, with the help of Alain Kaloyeros, the former president of SUNY Polytech Institute and the former CEO of CNSE, steered the Buffalo Billion project in the favor of LP Ciminelli.<sup>37</sup>

According to the U.S. Attorney's office, in count 1 paragraph 2 of *USA vs Joseph Percoco*, Joseph Percoco, the former Executive Deputy Secretary, solicited money from "companies with business before the State." In return, it is alleged, Percoco would take official actions that would benefit said companies. In count 2 paragraph 3, Percoco, using his influence as aide to the governor, caused the "Energy Company" to make payments to his wife, in return for favorable official actions that would be taken by Percoco on behalf of the company. In count 3 paragraph 4, Percoco allegedly solicited money from a Syracuse-based real estate developer, COR Development, in exchange for favorable official actions.<sup>38</sup> Howe also successfully solicited campaign contributions from COR Development to the governor re-election campaign.<sup>39</sup> In addition, campaign contributions were also in evidence in the efforts by Competitive Power Ventures to steer energy contracts.<sup>40</sup>

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<sup>36</sup> Whalen, R., "Buffalo Billion Executives Fighting Charges After Being Named in Federal Corruption Complaint," *Time Warner Cable News*, September 22, 2016, <http://www.twcnews.com/nys/buffalo/crime/2016/09/22/buffalo-billion-executives-named-in-federal-corruption-complaint.html>.

<sup>37</sup> Ibid.

<sup>38</sup> *United States of America v. Joseph Percoco, et al*, <https://www.justice.gov/usao-sdny/file/895131/download>.

<sup>39</sup> For example, McMahon, J., "Facetime, donations and Corvettes: Todd Howe reveals how Syracuse developer wooed Cuomo," Syracuse Post Standard see: [https://www.syracuse.com/state/index.ssf/2018/02/facetime\\_donations\\_and\\_corvettes\\_todd\\_howe\\_reveal\\_s\\_how\\_syracuse\\_developer\\_wooed.html](https://www.syracuse.com/state/index.ssf/2018/02/facetime_donations_and_corvettes_todd_howe_reveal_s_how_syracuse_developer_wooed.html).

<sup>40</sup> For example, Bragg, C., "Prosecutor seeks Cuomo donations as evidence in Percoco corruption trial," Albany Times Union, see: <https://www.timesunion.com/news/article/Prosecutor-seeks-Cuomo-donations-as-evidence-in-12338585.php>.



Percoco, Kaloyeros, Howe, and executives of COR and Ciminelli LP have been convicted. No allegations of misconduct were advanced against the governor.

#### How “pay to play” laws work and the legal justification:

The notion that those receiving government contracts can be restricted is not a new concept. The Securities and Exchange Commission (SEC), for example, has enacted a pay-to-play rule.<sup>41</sup> The rule, under the Investment Advisers Act of 1940, prohibits an investment adviser from providing services, directly or indirectly, to a government entity in exchange for a compensation, for two years after the adviser or an employee or an executive makes contributions to political campaigns of a candidate or an elected official, above a certain threshold.

Moreover, the rule prohibits an investment adviser or an employee or an executive from providing or agreeing to provide payments to a third party, on behalf of the adviser, in order to seek business from a government entity, unless the third party is a registered broker dealer or a registered investment adviser, in which case the party will be subjected to the pay-to-play restrictions.<sup>42</sup>

Under New Jersey’s pay-to-play law, for-profit business entities that “have or are seeking” government contracts are prohibited from making campaign contributions prior to receiving contracts. Moreover, businesses are forbidden from making “certain contributions during the term of a contract.” These pay-to-play restrictions apply at state, county, and municipal levels of government.<sup>43</sup>

NJ law requires contributions over \$300 to be reported, and the contributor’s name, address and occupation to be identified. A government entity is prohibited from awarding a contract worth in excess of \$17,500 to a business entity that made a campaign contribution of more than \$300 “to the official’s candidate committee or to certain party committees,” specifically to committees that are responsible for awarding the specific contracts.<sup>44</sup>

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<sup>41</sup> Advisers Act Rule 206 (4)-5, addressing pay to play law.

<sup>42</sup> United States Security and Trade Commission, “Advisers Act Rule 206(4)-5 (Political Contributions by Certain Investment Advisers),” <https://www.sec.gov/rules/final/2010/ia-3043-secg.htm>.

<sup>43</sup> New Jersey Election Law Enforcement Commission, <http://www.elec.state.nj.us/pay2play/laws.html>.

<sup>44</sup> New Jersey Business & Industry Associates, “Fast Facts: Complying with New Jersey’s ‘Pay-To-Play’ Law,” <https://www.njbia.org/complying-new-jerseys-pay-play-laws/>.

## CAPITAL INVESTMENTS

### Methodology

All the numbers contained in this report are based off of databases available at [www.elections.ny.gov](http://www.elections.ny.gov). These were downloaded on March 15, 2019 and do not reflect any late or amended filings submitted after this date. Election results were obtained from the same website on March 15, 2019. The validity of all the data is dependent on the accuracy of committee treasurers and the oversight of the State Board of Elections.

Our calculation of estimated individual contributions in New York was a total of all the contributors listed on Schedule A that were marked as individuals. Our analysis sorted those contributions by the amounts over and under \$200 in order to identify the amount and number of small contributions.

*Additionally, because campaign finance law allows contributions under \$99 to be un-itemized, it should be noted that there is under-reporting.*

The New York State Board of Elections requires candidates and political committees to provide a detailed list of all contributions.<sup>45</sup> These reports allow the public to better understand who is funding the elections of candidates for state and local elected offices. This report specifically reviewed contributions to the winning state legislative candidates. The disclosures we included are:

**Schedule A:** These are monetary contributions received from individuals and partnerships, a candidate or a candidate's spouse, or his or her family and any donation from "partnerships." Generally speaking, the bulk of these contributions are from individuals. In terms of this analysis, we sorted contributions that were small (defined as no more than \$200) and larger (exceeding \$200).

**Schedule B:** These are monetary contributions received from corporations. *Under state law, corporations are limited to no more than \$5,000 in the aggregate for all contributions in one year.*

**Schedule C:** These are monetary contributions received from all other contributors; including political committees, political action committees, limited liability companies (LLCs), unions, and other entities. These entities tend to have organized interest in the outcome of state and local government actions, e.g. legislation.

**Schedule D:** These are non-monetary "in-kind contributions," e.g. expenses for fundraisers paid by someone other than the candidate, other services, etc. In-kind contributions are limited by the relevant campaign contribution limits.

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<sup>45</sup> New York State Board of Elections, "Schedules for Campaign Financial Disclosure Reporting."

## CAPITAL INVESTMENTS

### *NEW YORK STATE LAW ESTABLISHING THE NEW YORK STATE COMMISSION TO CREATE PUBLIC FINANCING OF ELECTIONS*<sup>46</sup>

#### PART XXX

Section 1. (a) Establishment of commission. The state shall establish a system of voluntary public campaign financing for statewide and state legislative public offices. There is hereby established a public campaign financing and election commission to examine, evaluate and make recommendations for new laws with respect to how the State should implement such a system of voluntary public campaign financing for state legislative and statewide public offices, and what the parameters of such a program should be. The commission shall make its recommendations in furtherance of the goals of incentivizing candidates to solicit small contributions, reducing the pressure on candidates to spend inordinate amounts of time raising large contributions for their campaigns, and encouraging qualified candidates to run for office. The commission shall also review and recommend changes to certain aspects of the state election law as detailed herein. The commission's report is due by December 1, 2019 and shall have the full effect of law unless modified or abrogated by statute prior to December 22, 2019.

(b) Members of commission. The commission shall be comprised of nine members, two of which shall be appointed by the governor, two of which shall be appointed by the senate majority leader, two of which shall be appointed by the speaker of the assembly, one of which shall be appointed by the senate minority leader, and one of which shall be appointed by the assembly minority leader. The governor, senate majority leader, and speaker of the assembly shall jointly appoint a ninth member to serve on the commission. The commission shall not be fully constituted without the appointment of the ninth member. There shall be no chairperson appointed, and the commission shall be governed by a majority vote, and at all times the commission shall act with a quorum.

2. The commission shall specifically determine and identify all details and components reasonably related to administration of a public financing program, and shall also specifically determine and identify new election laws in the following areas:

- (a) ratio of public matching funds to small contributions;
- (b) limits on total receipt of public funds depending on the office sought by a candidate under the program, including geographic differences in such limits, if any;
- (c) candidate eligibility thresholds for the program;
- (d) contribution limits applicable to candidates participating in the program;
- (e) eligible uses of match able contributions and public funds; contributions to participating candidates above the matchable portion shall be governed by election law § 14-130;
- (f) related conditions of compliance with the program;
- (g) an appropriate state agency to oversee administration and enforcement of the program, or recommendation of a new agency if the commission deems such recommendation appropriate;
- (h) resources necessary to administer and enforce the program;

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<sup>46</sup> New York State Budget bill S.1509-C/A.2009-C, page 196-8.

- (i) effective date of the program;
- (j) rules and definitions governing: candidates' eligibility for public financing; political party qualifications; multiple party candidate nominations and/or designations; and civil violations of public financing rules.

3. The commission shall limit its recommendations to a public financing program that has a total maximum annual fiscal cost of no more than 100 million dollars.

4. (a) The commission shall only meet within the state and must hold at least one hearing at which the public will be afforded an opportunity to provide comments. The commission may hold additional public hearings as it deems necessary. Such additional hearings, if any, may allow for an opportunity to provide public comments.

(b) The members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties hereunder. Nothing contained herein shall prohibit a member of the commission from receiving his or her salary earned by reason of their state employee position.

(c) No member of the commission shall be disqualified from holding any other public office or public employment, nor shall he or she forfeit any such public office or public employment by reason of his or her appointment pursuant to this section, notwithstanding the provisions of any general, special or local law, regulation, ordinance or city charter. No person who holds a party position shall be prohibited or disqualified from serving as a member of the commission.

(d) To the maximum extent feasible, the commission shall be entitled to request and receive and shall utilize and be provided with such facilities, resources and data of any court, department, division, board, bureau, commission, agency or public authority of the state or any political subdivision thereof as it may reasonably request to properly carry out its powers and duties pursuant to this act.

(e) The commission may request, and shall receive, reasonable assistance from state agency personnel as is necessary for the performance of its function, including legal guidance as is necessary from legislative and executive counsel.

5. The commission shall make a report to the governor and the legislature of its findings, conclusions, determinations and recommendations and shall submit such report by December 1, 2019. Any findings, conclusions, determinations and recommendations in the report must be adopted by a majority vote of the commission. Each member of the commission shall report their vote and describe their reasoning for their determination. The commission may report recommendations supported by a majority. Each recommendation made to implement a determination pursuant to this act shall have the force of law, and shall supersede, where appropriate, inconsistent provisions of the election law, unless modified or abrogated by statute prior to December 22, 2019.

§ 2. If any clause, sentence, subdivision, paragraph, section or part of this act be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 3. This act shall take effect immediately. While any recommendation contained within the commission's final report that is made to implement a determination pursuant to this act shall remain law, the commission itself, as created herein, shall expire and be deemed repealed on and after December 31, 2019.

## COMMISSION APPOINTEES

The Governor appointed:

- Mylan Denerstein, a litigation partner in the New York office of Gibson, Dunn & Crutcher, and Co-Chair of Gibson Dunn's Public Policy Practice Group. Ms. Denerstein previously served as Counsel to the Governor from 2011 to 2014.
- Jay Jacobs, current Chairman of the State Democratic Party and Chairman of the Nassau County Democratic Party.

Senate Majority Leader Andrea Stewart-Cousins appointed:

- DeNora Getachew, New York City Executive Director of Generation Citizen. Ms. Getachew was previously Campaign Manager and Legislative Counsel for the Brennan Center's Democracy Program and Policy Director for the Public Advocate's Office.
- John Nonna, County Attorney for Westchester county and co-founder of the Democratic Lawyers Council.

Assembly Speaker Carl Heastie appointed:

- Rosanna Vargas, currently serving as associate law clerk to a New York City Civil Court Judge in Bronx County criminal court.
- Crystal Rodriguez, current chief of staff to Buffalo State College President Katherine S. Conway-Turner.

At large seat jointly selected by the Governor, the Assembly Speaker and the Majority Leader:

- Henry Berger, an election law attorney with more than 40 years of experience litigating issues in state and national elections. He is also a former Special Counsel for the City of New York.

Senate Minority Leader John Flanagan appointed:

- David Previte, principal attorney at Hinman Straub, PC and former Chief Counsel to the New York State Senate Majority.

Assembly Minority Leader Brian Kolb appointed:

- Kimberly Galvin, Co-Counsel and Co-Director of the State Board of Elections' Campaign Finance Compliance Unit. Ms. Galvin previously served as Chief of Staff and Counsel to the Republican Leader in the New York State Assembly.