PAC-ing IT IN:

A Study of Political Action Committee Spending During the 2002 New York State Elections

Endorsed by:

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EXECUTIVE SUMMARY

PAC-ing IT IN

1. Political action committees contributed nearly $19 million in 2002. The sixteen top spending political action committees spent over $7.6 million (40 percent) in 2002 on direct contributions to political party committees and candidates for state offices.

2. Teachers topped all PAC spending. The top giver was the New York State United Teachers, whose Voice of Teachers for Education/Committee on Political Education (VOTE/COPE) gave $1,205,001 in campaign donations to candidates for state offices and to state and local parties in 2002.

Roughly 33 percent of the total contributed by the "Sweet 16" PACs – roughly $2.5 million – was given by public employee unions. Health care interests gave over $1.5 million. Real estate interests gave $895,391.

3. Well over half of these PAC donations went to the legislative majorities in both houses. Well over half – 54 percent, or $4.1 million – of the $7.6 million contributed by the "Sweet 16" PACs went to the election efforts of the legislative majorities.

4. The "Sweet 16" PACs donations to the legislative majorities dwarfed contributions to the legislative minorities by a ratio of more than 4 to 1.

5. Campaign spending by PACs representing special interests is probably higher than these disclosures. Individual donors with corporate, labor, professional or trade association interests often take advantage of New York's high contribution limits by giving directly to candidates or legislative committees. *Bundling* – the practice of collecting individual contributions and delivering them to candidates all at one time – is used by professional, corporate and trade association interests to conceal the size of that interest's total contributions. However, since New York State law does not require disclosure by contributors of their occupation or employer, or the name of any "intermediary" (the bundler), it is extremely difficult to capture these additional donations.

SOLUTIONS

Limits on PACs

- No contributor should be able to give more than $1,000 to a PAC each year.
- No PAC, or individual, should be able to give more than $1,000 to a party committee.
- "Housekeeping" accounts ("soft money") should be banned and track the federal prohibition.
- Each PAC should be required to report to the state Board of Elections its sponsoring organization, and if its members have a common employer or economic interest.
- No individual, business, union, or organization should be permitted to evade contribution limits by forming more than one PAC.
- No candidate for office should be permitted to form more than one candidate committee.

Campaign Finance Reforms

- Create a voluntary system of public financing modeled on New York City
- Overhaul existing campaign finance law.
- Require candidates for local government to report their contributions in electronic format and post those filings on the Internet like contributions for state office.
- Limit the use of campaign contributions to those activities directly involved in campaigning.

PAC-ing IT IN – FINDINGS

1. **Political action committees contributed nearly $19 million in 2002. The sixteen top spending political action committees spent over $7.6 million (40 percent) in 2002 on direct contributions to political party committees and candidates for state offices.**

Sixteen of New York State's 452 political action committees (PACs) representing labor, real estate, legal and health interests sweetened the re-election campaigns of candidates for state office and the political parties by more than $7.6 million last year. The "Sweet 16" PACs contributed $7,617,011 (40 percent) of the $18,909,084 donated by all PACs in direct contributions to party committees and candidates for state offices.

2. **Teachers topped all PAC spending.**

The top giver was the New York State United Teachers, whose Voice of Teachers for Education/Committee on Political Education (VOTE/COPE) gave $1,205,001 in campaign donations to candidates for state offices and to state and local parties in 2002.

The number two contributor was LAWPAC, which represents the New York State Trial Lawyers Association. LAWPAC contributed $847,450. Rounding out the other top spenders among the "Sweet 16" were: health union Local 1199/SEIU New York State Political Action Fund ($824,714); the police union, New York State Conference of Police Benevolent Associations ($667,745); physicians' trade association, Medical Society of the State of New York PAC ($535,740); the state's major public employees union, Civil Service Employees PAF ($470,363); New York State Laborers PAC ($468,974); New York State Public Employees Federation – PAC ($352,163); public employee union local DC 37 ($342,345); Rent Stabilization Association PAC ($342,400); the New York State Realtors PAC ($296,491); the Neighborhood Preservation PAC ($256,500); dentists' trade association, Empire Dental PAC ($253,627); the lobbying firm of Wilson, Elser, et al ($253,525); the New York State Funeral Directors Association ($250,254); and the Teamsters union Democratic Republican Independent Voter Education – D.R.I.V.E. ($249,720).

Roughly 33 percent of the total contributed by the "Sweet 16" PACs – roughly $2.5 million – was given by public employee unions. Health care interests gave over $1.5 million. Real estate interests gave $895,391.

3. **Well over half of these PAC donations went to the legislative majorities in both houses.**

Well over half – 54 percent, or $4.1 million – of the $7.6 million contributed by the "Sweet 16" PACs went to the election efforts of the legislative majorities.

4. **The "Sweet 16" PACs donations to the legislative majorities dwarfed contributions to the legislative minorities by a ratio of more than 4 to 1.** PACs were very supportive of the re-election prospects of the legislative majorities. PAC contributions combined to donate over $4.1 million to the legislative majorities (nearly $2.1 million to Senate Republicans and $2.12 million to Assembly Democrats. Legislative minorities received about $1 million from these "Sweet 16" PACs (nearly $660,000 to Senate Democrats and $356,000 to Assembly Republicans).

5. **Campaign spending by PACs representing special interests is probably higher than these disclosures.**

Individual donors with corporate, labor, professional or trade association interests often take advantage of New York's high contribution limits by giving directly to candidates or legislative committees. *Bundling* – the practice of collecting individual contributions and delivering them to candidates all at one time – is used by professional, corporate and trade association interests to conceal the size of that interest's total contributions. However, since New York State law does not require disclosure by contributors of their occupation or employer, or the name of any "intermediary" (the bundler), it is extremely difficult to capture these additional donations.

PUBLIC POLICY IMPLICATIONS

1. **In 2002, 452 PACs registered in New York State spent a total of $18,909,084 on donations to candidates for statewide, or state legislative office and to party committees. Donations from the top sixteen PACs represent about 40 percent of that total.**

PACs with the ability to make large contributions to legislators gives them privileged access to key lawmakers. While many other groups and less affluent PACs can use other means to communicate with lawmakers, they face much difficulty in having direct access to making their case.

2. **Big-spending special interests reinforce a leader-dominated legislature that places power in the hands of a few legislators of the majority party in each house.**

When PACs give to candidates, they must abide by contribution limits that apply to legislative races. For Assembly candidates in the 2002 election, PACs could contribute up to $3,100 for the general election. In 2002, for Senate races the contribution limit is $7,700. Yet PACs could contribute in 2002 up to $76,500 to legislative party committees and an unlimited amount to the "housekeeping" accounts (a.k.a. "soft money") of each party committee.[1] These party committees are under the control of the legislative leadership – those few legislators who control the policy agenda of their respective houses.

[1] On February 14, 2003, these contribution limits were increased.

As a result, legislators, particularly those who face real competition, depend more and more on the resources of legislative party committees to help them stay in office. The money PACs give to these committees not only helps ensure that the majority party in each house stays in power, but makes individual members more dependent on party leaders. Legislators in the majority party in each house, who are beholden to leadership for campaign funds, vote with their leadership, leading to partisan wrangling between the houses, and making compromise more difficult.

3. Heavy special interest spending affects not only public policy, but weakens an essential tenet of democracy – competitive elections.

Since nearly all campaign money goes to incumbents, not only do big spending special interests get the access they need to influence legislators, but to influence elections as well. Our report found few contributions going to challengers from these big PACs.

In New York State, incumbents win at a 98 percent re-election rate. Why? One reason is that the millions of dollars legislators are able to raise from PACs quash the opposition. Challengers are almost always underfunded and too often cannot get their message out to the voters.

4. PACs spending erodes legislative accountability.

When legislators depend on PAC money to stay in office, and when the ability of legislators to raise large sums from special interests discourages qualified challengers from running, pleasing PACs is a higher priority than pleasing voters.

PUTTING THE BRAKES ON PACs

Special interests are not bad *per se*. But when a few special interests spend millions to influence state policies, their special access to lawmakers can skew the debate on public policy issues. The special interests that talk with the "money megaphone" drown out other voices and points of view that are often equally valid.

New York State has established limits on what PACs may give to legislative party committees. But these absurdly high limits -- $76,500 per year per committee (the number is now higher), plus unlimited "soft money" donations to "housekeeping" accounts – permit one PAC to donate huge amounts of money![2]

[2] Contribution limits for hard money donations increased from $76,500 to $84,400 in February 2003.

SOLUTIONS

The solution to this problem is to level the playing field by putting real curbs on what special interests may give to candidates and party committees. Instead of "special interest" millions that enrich only incumbents, all serious candidates, incumbent and challenger alike, should be able to qualify for clean public resources.

Limits on PACs

- No contributor should be able to give more than $1,000 to a PAC each year.
- No PAC, or individual, should be able to give more than $1,000 to a party committee.
- "Housekeeping" accounts ("soft money") should be banned and track the federal prohibition.
- Each PAC should be required to report to the state Board of Elections its sponsoring organization, and if its members have a common employer or economic interest.
- No individual, business, union, or organization should be permitted to evade contribution limits by forming more than one PAC.
- No candidate for office should be permitted to form more than one candidate committee.

Campaign Finance Reforms

- *Create a voluntary system of public financing modeled on New York City.* Many states have developed voluntary systems of public financing – nearly half the states operate some sort of public financing program.[3] However, New York State lawmakers do not have to look far for a model of how to reform its campaign finance system. Described by *The New York Times* as "the best and fairest way for candidates to run for political office,"[4] New York City has a system of public financing of elections that is a model for the nation. As a result of its 4 public dollars for every 1-dollar raised from small private donations, New York City now has competitive elections in which average citizens have a shot at elective office. Moreover, once in office, those legislators now owe little to rich special interests. It is the model that state lawmakers should emulate in Albany. According to the City's Campaign Finance Board, the recent expansion in its system of public financing from a $1 to $1 match to a $4 to $1 match has led to:

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[3] National Conference of State Legislatures, The State of State Legislative Ethics: A Look at the Ethical Climate and Ethics Laws for State Legislators, July 2002, p. 77. (Alabama, Arizona, Florida, Hawaii, Idaho, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New Mexico, North Carolina*, Ohio, Rhode Island, Utah, Vermont, Virginia, Wisconsin). *NC's funding system has never generated enough funds to make the public financing system viable.
[4] New York Times editorial, *Money and the Mayoral Race*, 1/25/01.

New York City Election Statistics – 1997 and 2001[5]

	2001	1997	Percentage Increase
# of participants	353	190	86%
# of participants on the ballot for primary or general election	280	141	99%
Public funds paid to date	$41.5 million	$6.9 million	501%
% of participants on ballot receiving public funds	71%	58%	22%
# of contributions	139,000	71,600	95%
# of matchable claims	121,000	67,000	81%
Estimated # of contributors	102,000	58,000	76%
Total contributions	$54.7 million	$29.5 million	85%

Clearly, New York City's system of public financing is creating a robust, competitive election atmosphere. The number of candidates is up, the percentage of participating candidates is up, and the number of matchable contributions is up. Candidates cannot simply overwhelm their opponents with truckloads of money. They must compete with "shoe leather" and policy proposals. In this environment, the public is certainly the big winner. Voters can choose candidates whose policies they agree with, rather than vote for the candidate with the greatest name recognition.

- *Overhaul existing campaign finance law.* Moreover, strengthen existing law for those who opt not to participate in the voluntary system. New York State can only create a *voluntary* system of public financing, it cannot force all candidates to participate. Unless significant changes are made to the existing campaign finance law, the benefits of a public financing system will be limited.

  Luckily, there appears to be a consensus that New York's campaign finance law needs to be reformed. Governor Pataki has proposed legislation (Senate bill 5553, 2002 session) that overhauls campaign finance law in manner remarkably consistent with Assembly Speaker Silver's legislation (Assembly bill 8524-A, 2002 session). The bills major difference is that the Speaker calls for the creation of a voluntary system of public financing and the Governor's plan does not. The bills are in virtual agreement in many other areas, with only minor differences:

- Both bills ban soft money. The federal government now bans "soft money" donations to the political parties. Yet, the federal law allows state and local parties to continue to receive these huge donations. New York State should close the soft money loophole.
- Both bills dramatically lower contribution limits. Both bills lower contribution limits, but to different levels.

[5] New York City Campaign Finance Board, "An Election Interrupted …: The Campaign Finance Program and the 2001 New York City Election, Part 1: Report," September 2002. p. 17.

- **Both bills close significant loopholes.** Both bills eliminate the loophole that allows corporations to circumvent New York's $5,000 annual aggregate corporate limit by funneling contributions through subsidiaries.
- **Both bills expand disclosure.** Both bills require disclosure of the name of the employer or the occupation of the contributor.
- **Both bills strengthen enforcement.** The Governor's bill goes beyond the Assembly bill by creating a new enforcement agency with the power to crack down on election law "scofflaws."

The Speaker has publicly stated that he would agree to an open joint conference committee to resolve campaign finance differences if the State Senate passed the Governor's program bill. We urge the Senate to act on the Governor's bill and take up the Assembly's pledge.

- *Require candidates for local government to report their contributions in electronic format and post those filings on the Internet like contributions for state office.* The Governor's legislation also requires the current statutory requirement that candidates for state office must file contribution disclosures to the State Board of Elections in electronic format. This proposal is critically important not only by helping inform the public, but by helping enforce the law. New York limits corporate contributions to a $5,000 annual aggregate limit, for example, but corporate disclosures are kept on file at both the state and county levels. The State Board is required to enforce the law, but has no capacity to monitor filings kept at the local level. Electronic disclosure made available on the Internet would close that enforcement loophole.

- *Limit the use of campaign contributions to those activities directly involved in campaigning.* New York State law not only allows the use of campaign contributions for purposes relating to a candidacy, but also to spending relating to an official's role as a public or party official.[6] This loophole allows incumbents – who are rarely challenged in elections – to use campaign donations for essentially personal uses. This loophole should be closed.

Background – New York's disgraceful campaign finance system.

State lawmakers have long been on notice about the failure of New York's campaign finance law. Over ten years ago, the final report of the Commission on Government Integrity was sent to the Governor and state legislative leaders. The Commission's report condemned New York's lax ethical standards calling them "disgraceful" and "embarrassingly weak." In addition, the Commission scolded state leaders for failing to act saying, "*Instead partisan, personal and vested interests have been allowed to come before larger public interests.*"[7]

[6] New York State Election Law §14-130.
[7] New York State Commission on Government Integrity.

The now-defunct Commission was created fifteen years ago in response to scandals that rocked the political establishment in both New York City and New York State. The Commission, led by Fordham Law School Dean John Feerick and other luminaries including former U.S. Secretary of State Cyrus Vance, was charged with examining the way political business is conducted in New York State and developing a blueprint for reform.[8]

One decade later, New York City now has the most far reaching and effective system of financing campaigns for city office – in fact a model for the nation – and it has placed significant limits on the efforts of special interests to control government decision-making.

Yet in Albany, nothing has changed. By 1990, the Commission had released 23 reports, including recommendations for sweeping campaign finance and ethics reforms for both state and municipal governments. State lawmakers in Albany ignored these recommendations.

Despite the Commission's statement that "The campaign finance law of the State is a disgrace and embarrassment,"[9] there have been no significant changes in that law. New York still has sky-high campaign contribution limits, allows unlimited contributions to party "soft money" accounts, permits unfettered campaign fundraising during the legislative session, and fails to enforce the state's already too weak penalty provisions. Not only has the failure of Albany to act left powerful special interests with a huge say over policymaking, it has become a blatant way for lawmakers to subsidize their personal lifestyles. Some lawmakers, for example, now legally use their campaign contributions to lease luxury cars, pay for country club memberships, and travel abroad.

Biggest problems with New York's campaign finance law.[10]

1. **Soft money.** Like the problem at the national level, New York State law allows campaign donations of unlimited size to the political parties' "housekeeping" accounts. Unlike the action at the national level, New York has not closed this loophole.

   The "soft money" loophole allows individuals, PACs and corporations to exceed New York's already high "hard" money contribution limits by giving more to the parties. While the law prohibits the use of these donations directly on behalf of candidates, parties use these monies to poll, launch get-out-the-vote drives, "hard" money fundraising and – sometimes – to launch "attack" ads.

2. **Sky-high campaign contribution limits.** Unlike federal law and much of the nation, New York State allows extremely large campaign contributions. In the 2002 election, political parties were allowed to receive annual contributions of $76,500; statewide candidates could receive contributions of over $40,000 (including up to $14,700 for a primary) for an election cycle; state senate candidates could receive $7,700 for the

[8] Executive Order No. 88.1, creating a Commission on Government Integrity. Governor Mario Cuomo, April 21, 1987.
[9] New York State Commission on Integrity in Government.
[10] Article 14 of New York State's election Law.

general election (an additional $4,900 for a primary); and assembly candidates could receive $3,100 for the general (an additional $3,100 for a primary). And these so-called limits were recently increased. New York law allows for a cost-of-living-adjustment for contribution limits and those limits were increased on February 14, 2003. In other states, however, contribution limits are much lower. Nationwide, the contribution limit an individual can give to a gubernatorial candidate averages about $3,500 per primary or general election. For legislative candidates, the limit averages about $1,200 per primary or general election.[11]

3. Transfers from one political committee to another. On top of the sky-high contribution "limits," political parties (state parties, county parties, senate republicans and democrats, and assembly democrats and republicans create these committees) are allowed to transfer donations of unlimited size from their accounts to the candidates of their choice. In this way, political parties can easily circumvent contributions to statewide and state legislative candidates.

4. Campaign fundraising during the legislative session. Unlike 27 states, New York imposes no additional limits on campaign fundraising during the legislative session, nor does it impose any unique limitations on lobbyists' involvement in campaign activities.[12] In 2002, nearly 200 fundraisers were held for lobbyists and their clients during session.

5. Limited disclosure. Unlike federal law, contributors do not have to disclose the names of their employers or even the names of those who actually delivered the contributions (a.k.a. "bundlers"). Moreover, New York State does not computerize campaign finance data at the local government level.

6. Poor enforcement. New York State's Board of Elections is underfunded and limited by law in its ability to punish election law scofflaws. Candidates too often refuse to pay fines and the agency is unable to act quickly on violations. The Board is unable to even levy serious penalties for repeat offenders.

7. Use campaign contributions for "personal" uses. While New York forbids contributions for strictly personal use, candidates can use these monies for any purchase in their role as a candidate or as a public or party official. Incumbents often use these donations for junkets, country club memberships, flowers, leased cars, and other purchases.

8. Heavy reliance on special interests for elections funds and the extreme difficulties for challengers to raise money. New York's combination of huge contribution limits and the commonplace practice of incumbents holding fundraisers near the Capitol during

[11]National Conference of State Legislatures, The State of State Legislative Ethics: A Look at the Ethical Climate and Ethics Laws for State Legislators, July 2002, P. 75.
[12] Ibid. p. 78.

session, promotes a heavy reliance on those with the financial resources to fund elections – typically special interests with business before government. Moreover, relying on powerful special interests makes it extraordinarily difficult for challengers to mount significant challenges, thus denying voters real choices in elections.

METHODOLOGY

Researchers downloaded all campaign filings for calendar year 2002 from the State Board of Elections website.[13] After sorting out the PAC filings from all other filings, researchers then removed contributions PACs may have made to federal candidates or parties, other PACs, to candidates for local office, or PAC administrative costs. Both "soft" donations and campaign contributions to political party committees were included. In addition, if a candidate controlled other committees, those were included in the total.

The top 20 PACs were then identified. For those committees, researchers sorted donations into generic categories – individual candidates, legislative committees and other committees for candidates for statewide office, state political parties and local political party committees. Included in party committee contributions were "soft money" donations to party "housekeeping accounts." Using a spreadsheet program, these donations were then aggregated by recipients and contributors.

[13] See www.elections.state.ny.us .

COMPARISON OF CAMPAIGN FINANCE PROPOSALS

	Election Law (Calendar year 2002)	Assembly Bill 8524 (session 2002)	Governor's bill (Senate 5553, session 2002)
Contribution limits (General election)	Statewide $30,700 Senate $7,700 Assembly $3,100	Statewide $4,000 Senate $1,500 Assembly $1,500	Statewide $5,000 Senate $2,500 Assembly $1,000
Party committee limits	$76,500 annually	$7,500 annually	$50,000 annually
Soft money	Unlimited.	Banned	Banned
Public financing	No option.	Optional public financing. $2 public for every $1 private raised up to $500 per contribution.	None allowed.
Expenditure limits for general election.	No limits.	Governor $7 million Other statewide $2.5 million Senate $150,000 Assembly $75,000	No limits.
Other changes to contributions.	Includes a CPI adjustment for campaign contribution limits.	Doubles the public match when candidates oppose wealthy non-participating opponents and eliminates expenditure cap.	In such circumstances, candidates' contribution limits increase by a factor of five. Eliminates CPI adjustments.
Fundraising during the legislative session.	No restrictions.	Banned within 40 miles and during session (either January to June or whenever budget is completed).	Banned within 25 miles and during session (either January to June or whenever budget is completed).
Bundling/disclosure	Only amount of donation and name and address of contributor is disclosed.	Expands disclosure to include employer or occupation and the name of any intermediary.	Expands disclosure to include employer or occupation and the name of any intermediary.
Corporate donations	Limits to $5,000 annually (subsidiaries not included).	Closes loophole. All subsidiaries count toward $5,000 limit.	Closes loophole. All subsidiaries count toward $5,000 limit. Includes unions in limit.
Independent expenditures	No restrictions.	Requires disclosure of contributions and spending of entities utilizing independent expenditure campaigns.	Requires disclosure of contributions and spending of entities utilizing independent expenditure campaigns. In addition, candidates facing such campaigns would have their contribution limits raised by a factor of four.
Other proposals		Allow localities to create optional public financing system. Expands disclosure and contribution limits to New York City elections.	Requires candidates for local office to disclose contributions in electronic format. In addition, a new campaign finance agency enforces the law.

NEW YORK STATE'S "SWEET 16" PACs

	Name of PAC	*2002 Political Donations*
1.	VOTE/COPE (New York State United Teachers)	$1,205,001
2.	LAWPAC (New York State Trial Lawyers Association)	$847,450
3.	Local 1199/SEIU New York State Political Action Fund	$824,714
4.	New York State Conference of Police Benevolent Associations	$667,745
5.	Medical Society of the State of New York PAC	$535,740
6.	Civil Service Employees PAF	$470,363
7.	New York State Laborers PAC	$468,974
8.	New York State Public Employees Federation – PAC	$352,163
9.	Rent Stabilization Association PAC	$342,400
10.	District Council 37	$342,345
11.	New York State Realtors PAC	$296,491
12.	Neighborhood Preservation PAC	$256,500
13.	Empire Dental PAC	$253,627
14.	Wilson, Elser, et al	$253,525
15.	New York State Funeral Directors Association	$250,254
16.	D.R.I.V.E. (Teamsters)	$249,720