

**Testimony by
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**Before the
New York State Senate Standing Committee on Ethics**

A Public Hearing to Address Proposals to Reform the State's Ethics Laws

May 28, 2009

Good morning Chairman Sampson and members of the Committee. Thank you for the opportunity to speak before you today. Common Cause/NY wants to commend the Committee and its Chair, Senator Sampson, for conducting these hearings, the first opportunity we are aware of for the public to interact with this committee. In the past, this committee has had a very low public profile. We do not believe that such a low profile serves the public's interests well. We hope that there will be many more opportunities for the exchange of views with the committee in the future.

My name is Chris Keeley, and I am the Associate Director of Common Cause/New York. Common Cause/NY is a non-partisan, non-profit citizens' lobby and a leading force in the battle for honest and accountable government. Common Cause fights to strengthen public participation and faith in our institutions of self-government and to ensure that government and political processes serve the general interest, and not simply the special interests. Common Cause has consistently spoken out on the need for greater government transparency, and has long advocated for ethics reform in the State of New York.

As the Senate considers legislation to reform State ethics laws, four issues are paramount.

First, the legislation must establish a single, independent ethics commission with jurisdiction over the executive branch, the legislature, and lobbyists.

Second, the legislation must create more stringent financial disclosure requirements for public officers and candidates for public office.

Third, the legislation must limit contributions from public contractors and lobbyists, and so end Albany's "pay-to-play" practices.

Finally, the legislation should strengthen the ban on the personal use of campaign contributions.

A Single, Independent Commission

A single, independent ethics commission with jurisdiction over the executive and legislative branches would be more effective than New York's current bifurcated regime. The structure of both the Commission on Public Integrity and the Legislative Ethics Commission provide inadequate levels of independence, as the governor appoints the majority of the members of the CPI and the legislative leaders appoint members to the Legislative Ethics Commission. Self-policing is an eternally ineffective oversight mechanism. The recent report issued by the Inspector General is a public indictment of not only the actions of certain individuals, but of the underlying structure in which they were operating.

A **single commission** overseeing both the executive and legislative branches, as well as lobbyists, would be a far more effective model. Under such a set-up, the commission members should be appointed by the governor, the four legislative leaders, the Comptroller, and the Attorney General, with no single public official appointing a majority of the commission's members. Such a single commission would more effectively and fairly enforce New York's ethics laws by **treating similar violations similarly**, regardless of which branch of government may be implicated. The executive director of the commission should serve a **fixed term and be removable only for cause**.

Along with Citizens Union, NYPIRG and the League of Women Voters, Common Cause/NY proposed specific legislation to create a Commission on Governmental Ethics, which would have ethics oversight over both the executive and the Legislature. The draft bill submitted by Senator Squadron appears to be modeled on our suggestions for changes to New York's ethics laws. We commend Senator Squadron for his willingness to propose bold change to strengthen and improve ethics oversight in our state and will submit our comments about the specific aspects of the bill through the on-line bill markup section of the Senate's website once we have had an opportunity to conduct a more detailed analysis of the bill.

More Stringent Financial Disclosure Requirements

Financial disclosures required of public officials must be expanded as well. Current law requires that public officials disclose the names of the businesses at which they are employed or from which they receive income, as well as broad tiers indicating the level of income generated. Meaningful reform would require additional and meaningful disclosure of financial background and interests, including the individuals and entities **with whom they have business relationships** and **the revenue generated** from those relationships broken down into **meaningful tiers**. All **business dealings with registered lobbyists** must also be disclosed. An **auditing regime**, such as the one laid out in the draft bill available on the Senate website, is a necessary component of effective and efficient oversight of improved disclosures.

Again, we would like to thank Senator Squadron for incorporating the suggested statutory changes recommended by Citizens Union, Common Cause/NY, the League of Women Voters and NYPIRG. We will submit more detailed comments online.

The current, limited disclosures leave citizens in the dark about public officials' business relationships. The indictments and imprisonment of a number of state legislators in recent years underscores the gravity of the problem. Overtly criminal activity by a sitting legislator, no doubt, would not be highlighted simply through the creation of a new disclosure form, but by advancing meaningful disclosures of financial interests, it is potential conflicts of interest that would be disclosed. Voters would come to better understand their representatives and, hopefully, alleviate improper influence by outside sources and instill greater public confidence in the state legislature.

End "Pay to Play" in Albany

The public perception of "pay to play" politics is a scourge on the public's confidence in its elected leadership. Lobbyists, businesses, unions and other entities with public contracts regularly take advantage of New York's practically-non-existent contribution limits to place out-sized contributions into the campaign coffers of decision-makers. This places a taint over the process of state contract determination and the entire New York campaign finance system.

New York should follow the lead of many other states and localities by setting **reasonable limits** on the amount of money that lobbyists and public contractors can contribute to candidates and parties.

Lobbyists and contractors receiving public contractors over \$50,000 should be subject to **contribution limits** and be required to **report all political contributions** within seven days made to candidates and parties. **Prohibitions based on the election cycle and the life of the entity's contract** with the state should be put in place to delineate when contributions are permissible. Meaningful "pay to play" protections should prohibit lobbyists and public contractors from serving as **officers of political committees** that work with candidates, and prohibit the State, counties, and municipalities from contracting with entities that have made political **contributions in excess of limits** set by the legislation.

By limiting the contributions of lobbyists and contractors to candidates, and by narrowing the types of relationships between legislators and special interests from which conflicts can arise, the State can work towards an end of a "pay to play" culture and institute a fair and transparent process for awarding government contracts that the public can have confidence in. **We support S744A as a needed reform.**

Strengthen the Ban on Personal Use of Campaign Contributions

Many of New York's potential campaign contributors have become disinterested in recent years after reading stories of elected officials and other candidates using campaign contributions as though they were personal slush funds. New York must take action to instill confidence that when a New Yorker financially supports a political candidate it is, in fact, in support of the campaign, not the candidate's personal lifestyle. Current law forbids use of campaign contributions for "a personal use that is unrelated to a political campaign or holding of a public office or party position," but funds "may [still] be expended for any lawful purpose."

The public should be encouraged to participate in the entirety of the political process, including contributing to political campaigns. The legislature should strengthen the ban on the use of campaign contributions for personal expenses in order to return a sense of confidence. Larger reforms of New York's campaign finance system are urgently needed, particularly the institution of a public financing system and an overhaul of the enforcement regime, but placing **bright-line distinctions on what are permissible uses** of campaign funds would assist in re-building public confidence and providing broadly understood 'rules of the road' for candidates.

We support Senator Krueger's bill, S743A, which seeks to provide further and clearer guidance as to what constitutes personal use. This proposal rightly prohibits, as a starting point, all expenditures for which candidates would otherwise be required to treat as **gross income under Section 61 of the Internal Revue Code**.

Thank you once again for this opportunity to speak before you here today. We look forward to submitting additional thoughts about these specific legislative proposals through the Senate's online "Markup" feature after we have an opportunity to provide more thorough analysis of them.