

**STATEMENT
Of the
LEAGUE OF WOMEN VOTERS/N.Y.S.
Before the
SENATE ELECTIONS COMMITTEE
Regarding
CAMPAIGN FINANCE REFORM
Albany, N.Y.
June 28, 2007**

Good morning. My name is Barbara Bartoletti. I am Legislative Director of the New York State League of Women Voters (League). I want to thank Senators Bruno and Griffo and the Senate Elections Committee for inviting us to this roundtable discussion on Campaign Finance Reform and First Amendment Rights. My statement today is made as a citizen volunteer who has worked for reform for decades lobbying elected officials and monitoring the Board of Elections. I speak from my experience. This system is broken and needs to be fixed now. Debating constitutional issues is interesting, but is irrelevant to the modest package that was before the legislature this session.

The League of Women Voters is a non-partisan political organization working to promote political responsibility through informed and active participation of citizens in government. Effective advocacy has been an important facet of League activity since its founding, as an outgrowth of the women's suffrage movement.

The League has been involved with the issue of campaign finance reform since the early seventies and believes that the methods of financing political campaigns should ensure the public's right to know, combat corruption, as well as the appearance of corruption, and undue influence, enable candidates to compete more equitably for public office and allow maximum citizen participation in the political process.

The League's advocacy in the New York State legislature has two tracks: 1) achieve needed incremental reforms in the short term; and 2) build support for public financing as the best long-term solution to combat undue influence in the election process.

Article I, section 4 and Article II, section 1 authorize Congress to regulate federal elections and by extension states to regulate elections within their borders. However, regulations must conform to Supreme Court decisions interpreting the scope of the First Amendment to the U.S. Constitution.

In 1976, the U.S. Supreme Court in *Buckley v. Valeo* held that regulations of political contributions can be upheld only if they serve a "compelling governmental interest" by the least restrictive means. The Court in *Buckley* sustained the provisions for contributions to candidates and party committees. It also upheld contribution and spending limits as part of voluntary

programs for public campaign funding. A key holding in *Buckley* was that it invalidated expenditure limitations that were not part of voluntary programs.

Importantly, a constitutionally sufficient justification for contribution limits to meet the "compelling governmental interest," test, the Court said, is the purpose of preventing actual corruption or the "appearance of corruption." In succeeding cases the Court reiterated that the governmental interest in controlling "corruption or the appearance of corruption" was the "single narrow exception" sufficiently compelling to sustain limits on political activity.

In the decision handed down yesterday by the U.S. Supreme Court in *Wisconsin Right to Life v. FEC* the Court held that independent "issue ads" paid for from the treasuries of labor unions and corporations are political speech under the First Amendment and can therefore not be regulated unless the ad in question is susceptible to no reasonable interpretation other than an appeal to vote for or against a candidate. The campaign finance reforms currently proposed in New York State do not seek to limit independent, candidate or party expenditures. Moreover, the proposals under discussion in New York clearly fall within the Court's interpretation of "compelling governmental interest."

In the mid 1980's in New York State, a bi-partisan Commission was created under Executive Order 88.1. This bi-partisan commission¹ known as the Commission on Government Integrity chaired by John Ferrick, then Dean of the Fordham Law School, examined a number of ethical problems facing the state. In particular, it closely and comprehensively examined New York's campaign finance system. It held hearings, it did research, and it subpoenaed top elected officials to testify. It issued reports. And it found serious interlocking problems in campaign financing in New York State.

The problems documented included:

- Candidates securing huge sums of money to run for office from a tiny minority of voters - less than 3/10 of 1% of New York voters make political donations—and the need to raise money is a constant preoccupation of candidates and officeholders. In off-years fundraising must be done to discourage potential challengers, a sort of "pre-emptive strike" mentality.²
- The vast majority of contributions come from a small core of contributors with special interests to promote. They give freely to those already in office, those in powerful positions such as the leaders in both houses, the party committees of the majority in the

¹ John D. Ferrick-Chairman
Richard D. Emery
Patricia M. Hynes
James L. Magavern
Bernard S. Meyer
Bishop Emerson J. Moore
Cyrus R. Vance

² New York State Commission on Government Integrity: The Midas Touch: Campaign Finance Practices of Statewide Officeholders pg. 142

legislature and those seen as likely winners. They do this to ensure access and influence and to protect against adverse action.³

- The existing statutory limits in New York are absurdly high. Wealthy contributors easily dominate the fundraising scene.⁴
- Enforcement in New York State is ineffective and is subservient to the very groups it is meant to police.⁵

Each of these problems contributed to the popular view that big contributions buy influence and access. That was the view of this prestigious bi-partisan commission in 1989, and little has changed in the intervening years. But the Commission offered a blueprint for changes that would frame the reforms recommended for years to come. The Commission called for sweeping reforms of New York's campaign financing laws and procedures, specifically:

(1) A new, independent, adequately funded Enforcement Agency with extensive powers to implement and enforce campaign financing laws as well as robust regulatory powers should be established;

(2) Full, detailed and timely disclosure of all campaign contributions and expenditures should be required. Systems should be put in place to make this information accessible to the public. Disclosure should include the residence address, business address and business affiliation or employer of each individual contributor;

(3) Contribution limits should be drastically reduced and direct contributions from corporations, labor unions, and those doing business with government should be prohibited;

(4) Limits on contributions to party committees, including to legislative party committees, should be imposed;

(5) Limits on contributions to or transfers from individual legislative candidates to other candidates and to party committees should be the same amounts as limits on contributions by individuals to candidates and party committees;

(6) Individual candidates should be limited to one reporting committee. Similarly, legislative party campaign committees should be required to make all disclosure statements through one committee per party, per house.

Those were the recommendations made eighteen years ago by this bi-partisan commission; since that time only one of these recommendations has become law. In 1997 legislation was enacted requiring campaign contribution filings for state office and statewide political parties, reported in electronic format and made available on the internet. That law went

³ Ibid pg. 143

⁴ Ibid pg. 143

⁵ Ibid pg. 143

into effect in 1999. In 2005, legislation was approved (effective in 2006) that extended that requirement to all local races and party committees as well.

Unfortunately, no other reforms of consequence have been approved since the Commission's reports in the 1980s.

In addition to the problems identified by the Feerick Commission almost two decades ago, other problems with New York's campaign finance system have come to light. For example, it was not until 1994 that New York State enacted a limited liability company law allowing for the creation of this new form of business. The state's Election Law does not include a definition of LLC, and the Board of Elections has endowed them with the ability to contribute at the highest level—as if each LLC were a distinct human being. Currently each LLC can give \$150,000 per year in hard money. Further, the problems of personal use of campaign funds were not discussed by Feerick.

There has been, however, a remarkable degree of bi-partisan consensus on the reforms that are needed – despite the lack of legislative action. Former Governor George Pataki, a three-term Republican, advanced a comprehensive campaign finance reform package that was similar to the reforms approved virtually every year by the Democratic-led State Assembly. The only obvious philosophical disagreement between the proposals was that the former Governor opposed public financing of elections. Below is a summary comparison of the proposals:

**COMPARISON OF MAJOR CAMPAIGN FINANCE REFORM PROPOSALS
2006**

	Election Law, Article 14 (2006)	Assembly Bill 4 (2006) (Speaker Silver)	Governor Pataki's bills 61 and 63 (2006)
Contribution limits (General election)	Statewide \$33,900 Senate \$8,500 Assembly \$3,400	Statewide \$4,000 Senate \$1,500 Assembly \$1,500	Statewide \$5,000 Senate \$2,500 Assembly \$1,000
Party committee limits	\$84,400 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 was 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.	Creates a new campaign finance agency within the SBOE to enforce the law.

As you can see, the findings of the Commission on Government Integrity have had a profound influence on the reform measures advanced by the former Governor and the State

Assembly. Only the State Senate has refused to offer its own vision on how to address the problems identified by the Commission.

In 2007, Governor Eliot Spitzer began discussions on his own measure. The Governor clearly believed that consensus could be achieved between the executive and the legislature on a package that, while weaker than the measures proposed by the former Governor, would address some of the most profound problems identified by the Commission on Government Integrity as well as newer problems that have come to light.

While the Governor has not yet formally advanced his own legislative proposals, based upon his public statements and on our discussions with this office his proposal would have:

- Lowered campaign contribution limits.
 - For statewide candidates – from current total maximum of \$55,900 from a single source per cycle to \$20,000 total.
 - For Senate candidates – from current \$9,500 general/\$6,000 primary to \$5,750/\$5,750.
 - For Assembly candidates – from \$3,800 for each primary and general to \$2,300/\$2,300.
 - For party and legislative committees from current \$94,200 to \$50,000 per year.
- While we supported the Governor’s plan, his contribution limits would have moved New York from having the highest contribution limits of states with limits, to second highest. A modest improvement, but a step in the right direction.
- Limited donations to “housekeeping accounts.” The proposal would limit “soft money” contributions, currently unlimited, to \$50,000 in aggregate from each source per year.
- The Governor’s proposal would still allow staggeringly high donations, but would have eliminated the possibility the one entity would be able to pour millions of dollars into one party’s political committee – which would have diminished the appearance of a conflict of interest.
- Close loopholes. The proposal would have closed the loopholes that allow corporate subsidiaries and LLCs to skirt the law.
- Strengthened enforcement. The Governor’s plan would have added a fifth commissioner to the State Board of Elections. This bipartisan appointee would have broken enforcement logjams that exist currently. While we believe that the Commission on Government Integrity’s proposal makes more sense, Governor Spitzer’s plan was a step in the right direction.
- Strengthened disclosure. The proposal would require all contributors to provide information on their occupation, employer and business address; would require additional reports during the legislative session; and added a 15-day pre-general election disclosure report.

Clearly, campaign finance reform is not a partisan issue. In New York State, independent experts have reviewed the system and found it to be fundamentally flawed. Leaders of both political parties have advanced plans to remedy those problems. All that remains is action by the Senate.

In 2000, our organization and its allies urged the Senate to pass then-Governor Pataki's legislation. Speaker of the Assembly Silver publicly stated that he would go to a conference committee with his legislation if the Senate passed the Governor's plan. Yet nothing was done.

All we can conclude is that the Senate Majority likes the current system - a system that allows nearly \$100,000 in legal "hard money" campaign contributions to party and legislative committees, that allows unlimited giving to soft money accounts, that allows virtually unfettered use of such campaign contributions for personal spending by incumbents, a system that is so riddled with loopholes and non-existent enforcement that it breeds public cynicism instead of respect in its own government's deliberations.

Now is the time for the Senate to move from solid obstacle to reform. Now is the time to show that you agree with the experts that have reviewed New York's campaign finance system. Now is the time to act. If you don't agree with the Governor's plans, offer your own or publicly defend why you believe New York's campaign finance system requires no changes, no reforms.

Campaign finance laws enhance the quality of our democracy by promoting the values of a free society. Without strong safeguards to limit the influence of money in the political process, voter turnout is diminished and the representative character of our democracy is undermined. Public confidence and trust in government is lost. Campaign finance laws restore people's faith in government and help reconnect citizens to the political process. They encourage greater individual involvement in public affairs and produce a more responsive, transparent and accountable government.

Thank you Senators, for this opportunity to contribute to the important discussion on Campaign Finance Reform. The League urges you to act.