

Polishing the Apple:

Examining Political Spending in New York to Influence Education Policy



June 2015



New York
COMMON CAUSE
Holding Power Accountable

About Common Cause

Common Cause is a nonpartisan, nonprofit advocacy organization founded in 1970 by John Gardner as a vehicle for citizens to make their voices heard in the political process and to hold their elected leaders accountable to the public interest. Common Cause/New York is a state level chapter focusing on state and local government in New York. We work to strengthen public participation and faith in our institutions of government, ensure that government and the political process serve the public interest rather than special interests, curb the excessive influence of money on government policy and elections, and promote fair and honest elections and high ethical standards for government officials.

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INTRODUCTION

Common Cause/NY vigorously advocates for government procedures which encourage thoughtful and balanced government decision-making, with the goal of setting public policy on an objective basis so as to benefit the greatest number of New Yorkers. In order to have a complete picture of the landscape of political influence around any public policy debate, we should be aware of the disparate special interests engaged on the issue and what they're looking for in return for political action. Large campaign contributions or political spending from any group are fair grounds for scrutiny, regardless of whether those funds came from wealthy individuals, industry or labor unions. In this report we examine the political spending surrounding education issues in the last ten years in New York and seek to analyze the impacts of such large amounts of political spending on the 3 currently pending bills to establish education scholarship tax credits in New York.

METHODOLOGY

Common Cause NY analyzed campaign contribution and expenditure records from the New York State Board of Elections (NYSBOE) and lobbying disclosures filed with the Joint Commission on Public Ethics (JCOPE) to ascertain the sums contributed to and spent on education related political activities in New York State from January 1, 2005 through December 31, 2014. We also consulted organizational websites, IRS filings and press and magazine articles.

In this report we define *contributions* as donations made directly to candidate committees, PACs, party committees and housekeeping accounts by an individual, organization, corporation or LLC. We also tallied and analyzed *expenditures*, or money spent directly by privatizer-controlled and union-controlled political action committees (PAC)s and independent expenditure committees to influence races and public opinion, such as TV ad buys, mailers, issue advertising, consultants, and grassroots canvassing. We define spending on *lobbying* as those amounts reported to JCOPE and spent by organizational clients on lobbyists or lobbying firms to influence particular issues through the political process. We use the term *aggregate political spending* to refer to all campaign contributions, expenditures and lobbying spending combined.

This report seeks to capture the nature and scale of political influence in New York State (NYS) wielded by two camps at polar opposites of the education debate, the self-identified reform organizations and the teachers' unions. This dichotomy is admittedly imprecise; there are examples of organizations that seek to bridge this gap (e.g. the UFT charter schools), pursue a third path (e.g. the community schools movement), or focus on other important aspects of education that tend to be ignored (e.g. special education) but their role in the public debate is, for the moment, overshadowed. To those not directly involved in the field of education, including journalists, politicians and funders of many of these organizations, it would seem that only the "reform" organizations and the teachers unions exist and only they are fighting an increasingly expensive and pitched battle to command the conversation and the policy environment.

For that reason, this report includes only those organizations with public statements, actions or donations that support one camp or the other, or those that have concrete ties to the organizations in one camp through shared board members or executive leadership (as published on their website and/or their IRS filings). This report also limits its scope to those organizations that have worked, lobbied, or contributed to campaigns within NYS. Although this does discount a handful of important national organizations, the extreme wealth and power on both sides of the debate in NYS allows for an illustrative case study with implications nationwide. For example, Randi Weingarten's former position as the President of the United Federation of Teachers (UFT), New York City's local teachers' union, was her launch pad to the presidency

of the American Federation of Teachers (AFT). Similarly, Mayor Bloomberg’s push for mayoral control of schools and subsequent reforms won him national attention and inspired many other cities to follow suit.

This report documents the majority of political spending activity to influence the education policy debate, but it is likely that we were unable to capture the full extent of donations from the myriad LLCs, subsidiaries, and organizations connected to identified individuals. For example, we were unable to comb through all of the NYSBOE filings representing every Koch Industry related subsidiary or family related foundation.

We use the terms *pro-privatization* and *privatizer* to describe PACs and coalitions whose central mission is “education reform”—increasing funding and support for alternatives to standard public education, market-based educational programs, decentralizing control of education policy from government, advancing charter schools, supporting private schools, and private school tax credits. Examples of the groups we identified and analyzed as pro-privatization are Students First, Democrats for Education Reform/Education Reform Now, the Foundation/Coalition for Opportunity in Education, and Families for Excellent Schools. When we describe *union* spending, we include funding from unions such as New York State United teachers (NYSUT) and United Federation of Teachers (UFT), public school teachers, school board leaders, school administrators and other public school employees. Their primary policy goals have related to education budget allocations, teacher evaluations, protecting teacher tenure, testing regimes, mayoral control of schools and, more recently, education investment tax credits.

Methodology for Comparative Education Tax Credit Program Analysis

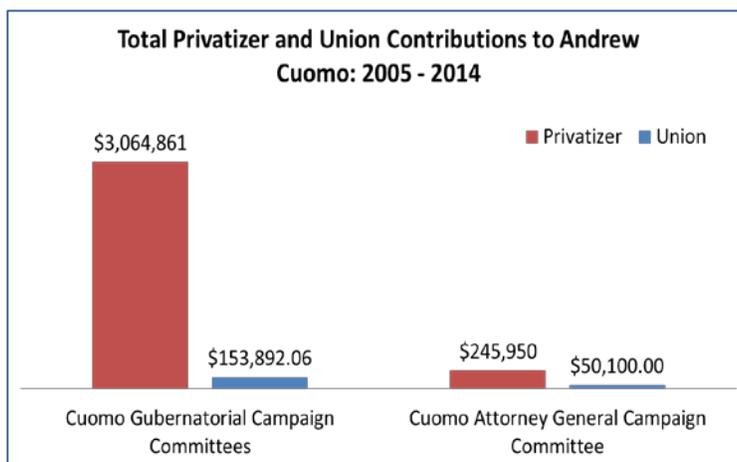
For this report, we analyzed provisions of New York versions of Education Tax Credit bills introduced in the 2015 legislative session (Governor’s Program Bill No. 2, Assembly Bill No. 2551, Senate Bill No. 1976), analyzed the provisions of The Great Schools Tax Credit Program Act ALEC model bill, and reviewed comparative materials from The Friedman Foundation for Educational Choice, the National Conference of State Legislators, and The Foundation for Opportunity in Education. We supplemented the charts prepared in those sources with information on newly passed bills in Montana and Nevada, briefly reviewed some academic¹ and advocacy² assessments of efficacy and fiscal impacts of programs in Georgia and Florida, and reviewed statutory language from Arizona, Georgia, Kansas, Louisiana, Florida and Pennsylvania. These states were chosen based on relevant attributes (primarily eligibility, accountability and transparency measures) identified from comparative materials. Our comparative analysis was not exhaustive, but is meant to be illustrative, providing examples of different provisions that could be considered in New York if there were a robust and open legislative process.

KEY FINDINGS

2014 was a watershed year for political spending on education issues in New York State. For the first time, privatization interests' total political spending exceeded the combined spending of education unions by over \$16.8 million, while a pro-privatization organization, Families for Excellent Schools, Inc., appeared as the largest annual lobbying spender. Common Cause NY analyzed the past 10 years of political spending from data obtained from the New York State Board of Elections and the Joint Commission on Public Ethics to determine how this aggregate political spending has impacted the policy debate.

Education privatization interests' aggregate political spending, including campaign contributions, independent expenditures, and lobbying, from **2005 through 2014 totaled \$93.3 million**

- **The most was spent in 2014**, with privatizers' political spending totaling more than **\$33.8 million** - exceeding unions' total political spending of \$17 million by almost \$16.8 million. We attribute this significant spike in spending to high campaign contributions to support Governor Cuomo's re-election and the fight over control of the state senate, as well as extensive lobbying around the significant education issues addressed in the state budget.
- Privatizer contributions averaged \$3.9 million annually until 2014, when the amount of campaign contributions **jumped to \$11.2 million**.
- The top three recipients of pro-privatization campaign contributions during the ten year period were The New York **Senate Republican Housekeeping** account (\$5.04 million), **Cuomo-Hochul 2014** (\$3.06 million) and The **Independence Party Housekeeping** account (\$1.2 million).



The aggregate political spending by education unions, including campaign contributions, independent expenditures, and lobbying, from **2005 through 2014 totaled \$205 million**

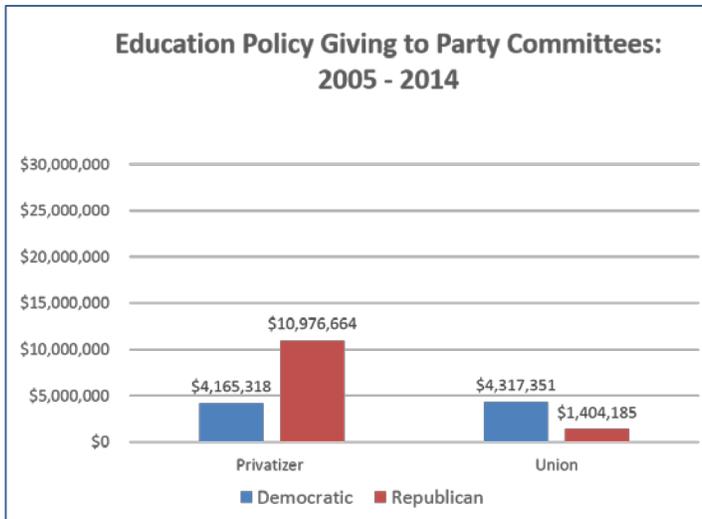
- Most was spent in 2008 (\$26.2 million) and 2013 (\$30.3 million).
- The top three recipients of union campaign contributions were: The **NYS Democratic Assembly Campaign Committee** (\$916,600), the **Working Families Party** (\$874,550) and the **NYS Senate Republican Campaign Committee** (\$772,387).
- In comparison to privatizer contributions, education unions contributed \$436,400 to the **Senate Republican Housekeeping** Committee during this period, and less than \$154,000 to **Cuomo-Hochul 2014**.

The two sides raise their money very differently.

- **Pro-privatization campaign contributions totaled \$46.1 million raised through 5,700 contributions from less than 400 wealthy individuals**, associated organizations and PACs. The top five individual pro-privatizer political campaign contributors were Michael

Bloomberg (\$9.2 million), James Simons (\$3 million), Paul Singer (\$2.2 million), Daniel Loeb (\$1.9 million) and David Koch (\$1.6 million).

- o **Union campaign contributions totaled \$87.6 million raised through at least 75,000 contributions to Union PACs from well over 18,000 individuals**, associated organizations and PACs. Union assert that dues are separate and not used on political spending. The top five union PAC contributors were: New York State United Teachers (\$56.1 million), American Federation of Teachers / United Federation of Teachers (\$22.8 million), National Education Association (\$443,000), Buffalo Teachers Federation (\$269,000), and Say Yes To Education (\$242,000).

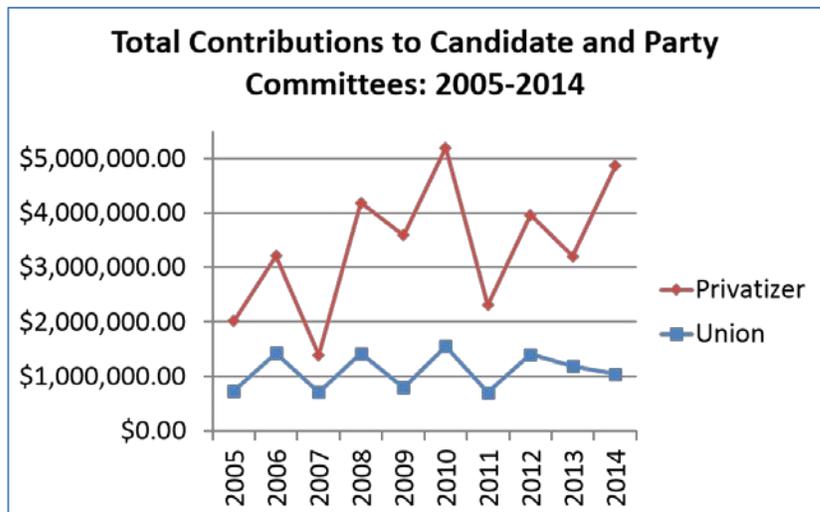


The two sides spend their campaign contributions very differently.

- o 73% of political contributions made by pro-privatizers were made to candidates and parties, including party housekeeping accounts, while PACs received 27% of privatizer contributions.
- o Only 9% of union contributions went directly to candidates and party committees; while PACs represented 91% of union contributions.

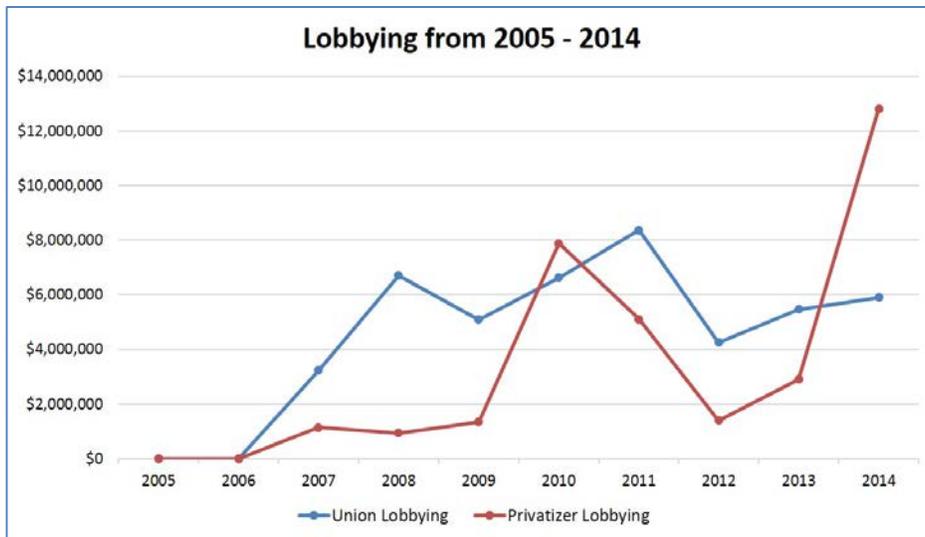
Pro-privatization spending in substantial amounts is a recent phenomenon, showing exponential growth in the last five years, while union spending has remained at a fairly high constant level over the last 10 years.

- o In 2014, education privatization interests out-spent education unions on contributions by \$3.15 million.



Education unions and allies spent \$117.4 million in lobbying and non-candidate expenditures from 2005 through 2014, while pro-privatizers spent \$34.4

- o Pro-privatization lobbying and non-candidate spending **jumped from \$1.5 million in 2009 to \$8.1 million in 2010.**



o Pro-privatization lobbying and non-candidate spending **exceeded union and allies spending by \$6.9 million in 2014**. This significant increase in lobbying spending is due solely to the emergence of Families for Excellent Schools, which spent over \$9.7 million in 2014 alone.

The pro-privatization bills

introduced in New York are based on bills developed by the American Legislative Exchange Council as **part of its national education agenda**.

- o The major pro-privatization donors in New York are also political contributors to education privatization efforts in other states.
- o Pro-privatization lobbying includes “dark money” contributed through c4 advocacy organizations and foundations.

The top 2 recipients of contributions from privatizers (Senate Republicans and Gov. Cuomo) **have introduced more extreme versions of education tax credits than those in other states**.

- o New York’s proposed bills would advantage affluent tax payers and scholarship recipients over low and middle class New Yorkers.
- o It would be difficult for everyday New Yorkers to access credits due to unique procedural requirements and application timing.
- o New York’s proposals have unusually high income eligibility for scholarships: \$500,000 family income limit in Senate bill is almost 400% higher than highest income limit in other states.
- o There would be no caps on private school tuition costs, which in New York can top \$40,000 annually.
- o New York versions of proposed education tax credit programs lack oversight and accountability measures enacted in states such as Arizona, Florida and Georgia, or even those contained in ALEC model bills.

THE EVOLUTION OF THE CURRENT EDUCATION REFORM DEBATE

From the earliest days of our country, a well-educated citizenry was thought to be essential to the vigorous functioning of our democracy. As a consequence, education issues have been a perennial battleground for policy entrepreneurs trying to impose their vision on the nation at large. Education issues are frequent topics during candidates' election campaigns and often at the top of legislative agendas at the state and federal level. At the end of the 2015 legislative session, as one experienced commentator has pointed out, education issues are “once again front and center” in Albany.³ Before reviewing the political spending around education issues in New York State, it is instructive to examine how education has evolved into a leading issue and focus of campaign spending at the state and national level over the last 50 years.

Growth of Teachers' Unions

The most influential force in education policy for the last 50 years has been the combined might of local, state, and national teachers' unions. When the United Teachers Federation (UFT), NYC's local union, won collective bargaining rights in 1961 under the leadership of Albert Shanker, it was the first teachers' union in the country to do so.⁴ Through collective bargaining it not only won some of the “bread and butter” tenets still important to teachers' unions today—uniform pay scales, seniority rights, and limited classroom hours—it also won a place alongside the education bureaucracy and the school boards in the triangle that controls education policy. The power which the teachers' unions quickly amassed can be seen in the pivotal role the UFT played in bringing New York City back from the brink of bankruptcy in the mid-1970's.⁵ Over the next several decades, as unions across the country won collective bargaining rights, the nation saw important developments such as substantial increases in per-pupil funding and reduction in class size.⁶

These victories entrenched the power of the unions: today the National Education Association's (NEA) 3.2 million members represent the largest union in the country. With the American Federation of Teachers' (AFT) 1.6 million members, they comprise 30% of all unionized employees in the country. The Center for Responsive Politics identifies the NEA as the fourth largest donor of all organizations it has tracked since 1989.⁷ Both unions are among the list of the top 50 political donors to state races in the 2014 election compiled by the Center for Public Integrity,⁸ with the NEA (\$6.8 million) in 18th place and the AFT (\$6.4 million) in 21st place on the list.⁹

With the growth of the hard-fought Union political influence came criticism of the influence they wield over education policy. Critics like Eva Moskowitz, former NYC Council Member and now prominent charter school leader, described them as, “a monopolistic structure in which management and labor have colluded for the better part of four decades to protect the interests of adults over those of children.”¹⁰ Speaking to the Daily News just before his re-election in 2014, Governor Andrew Cuomo vowed “to break what is in essence one of the only remaining public monopolies — and that's what this is, it's a public monopoly.”¹¹

The Birth of Market-Based Education Policies as a National Phenomenon

For decades, it seemed as if no other organization or coalition would be able to mobilize the kind of funding or political influence necessary to challenge the union's coalition of thousands of members, but a long-term strategy on behalf of a well-financed set of organizations has begun to effect a massive shift in the education policy environment.

Starting in the 1980s, conservatives saw an opportunity to challenge the teachers' unions (and by extension, all unions) on market-based initiatives like school choice and accountability, so they began to fund think tanks, foundations and politicians who would help build momentum for the school choice cause and education privatization movement. Governors were soon encouraged to play a larger role in education

policy at President George H.W. Bush's Education Summit of 1989, where they drafted lofty goals for all the nation's schools to reach by 2000. The efforts of conservative governors and state legislators resulted in the nation's first voucher program in Milwaukee in 1990 and a string of others in Ohio, Florida, and Colorado that followed. Over time, voucher programs failed to resist the courtroom and ballot box challenges that were brought to bear by the union, but their existence as a "nuclear option" was what allowed other options like charters schools to thrive.¹²

The current trend of market-based education proposals can be seen as interrelated to the ideology and policy goals that contributed to the pre-2008 deregulations of the financial industry and to the Supreme Court ruling in *Citizens United v. FEC*. Using a long term, multi-pronged strategy, the self-styled "education reform" organizations (whose boards are populated by the very hedge fund executives who have dominated Super PAC contributions since the *Citizens United* decision) are framing this issue. They have used their wealth to access and infiltrate the policy landscape on almost every front except one: the teachers' unions.¹³ In an increasingly polarized debate, these camps are battling for ideological control of the future of education policy at all levels of government.

Seeing Gold in the Schools

Adoption of federal programs, such as the No Child Left Behind Act (NCLB) of 2001 and the Common Core State Standards Initiative contained in the Race to the Top Fund (RTTT) (2010), pushed states—using threats to funding as incentive—to establish standards akin to a corporation's bottom line and employ the burgeoning field of "big data" to determine who was reaching benchmarks or not.

The push to look at education benchmarks in a "bottom line" fashion bolstered a rapidly growing market for nonprofit and for-profit test publishing, test analysis, test preparation, student data management and—for schools who failed to make adequate yearly progress—tutoring, interventions, and alternative school options. Hundreds of new for-profit and nonprofit organizations, from test prep to consulting to charter schools, have opened in the past ten years to meet the demands that NCLB and Race to the Top created. This wave of market-based educational interests has been financed by powerful national foundations and wealthy private investors who, as discussed below, are major political contributors across the country, including in New York. These "venture philanthropists" have been positioning themselves on several fronts: funding research institutions, reframing the national debate in the media, positioning sympathetic leaders into educational regulatory bodies, and lobbying policymakers to enact their desired educational policies.

The Role of the American Legislative Exchange Council

Through the American Legislative Exchange Council (ALEC), some of the nation's largest companies invest millions of dollars each year to pass state laws putting corporate and private interests ahead of the interests of ordinary Americans. ALEC's membership includes some 2,000 state legislators, corporate executives and lobbyists. ALEC brings together corporate lobbyists and state legislators to vote as equals on model bills, behind closed doors and without any public input, that often benefit the corporations' bottom line. These model bills are then introduced in state legislatures across the country. ALEC and its member corporations often pay for legislators to go to lavish resorts to participate in ALEC meetings. Among ALEC's legislative portfolio are bills to privatize public schools and prisons, weaken voting rights, eviscerate environmental protections and cripple public worker unions.¹⁴

Common Cause has filed a "whistleblower" complaint against ALEC with the Internal Revenue Service, accusing the group of violating its tax-exempt status by operating as a lobby while claiming to be a charity.¹⁵

The group's tax exemption allows its corporate supporters to take tax deductions on millions spent each year to support ALEC's activities, in effect providing a taxpayer subsidy for its lobbying.

Addressing the market demand created by NCLB and Race to the Top, ALEC's Education Task Force has issued 29 model bills dealing with K-12 education since February, 2013,¹⁶ including The Great Schools Tax Credit Program Act,¹⁷ and the Parental Choice Scholarship Accountability Act,¹⁸ which provide models for state scholarship tax credit programs. ALEC model bills appear to have been the basis for education bills introduced in New York.¹⁹

It has been reported that current New York Senate Majority Leader James Flanagan and Assembly Minority Leader Brian Kolb, as well former Governor George Pataki, are ALEC members.²⁰

The Education Debate in New York: A Constant Tug of War

New York State has long played an active role in the education of its youth. The Board of Regents, established by the Legislature in 1784, is the oldest continuous state education entity in the United States.²¹ Since 1812, New York's public schools were recognized as a state function, with the state and local government jointly responsible for their funding.²²

In industry rankings, since 2005, education lobbying groups have consistently been among the top industry spenders.²³ Levels of state funding for education, now totaling billions of dollars and approximately 20% of the state's budget,²⁴ have long been, and remain, an annual focus of intense lobbying and political horse-trading.²⁵ The basis for distributing state education funding and whether it is equitably distributed is a perennial issue which has led to repeated litigation in the last ten years.²⁶

Other issues have surfaced in varying forms over the years. The degree of control local mayors, particularly the New York City mayor, should exert over schools is a recurring topic; the issue was hotly contested during the terms of New York City Mayors John Lindsay in the late 1960's and early 1970's, Ed Koch in the 1970's and 1980's, and Rudy Giuliani in the 1990's.²⁷ Gaining direct mayoral control of New York City's schools became a major policy goal for Mayor Michael Bloomberg within the period examined by this report.²⁸ Mayoral control of schools is also currently being proposed for the City of Buffalo.

As in the rest of the country, property taxes and school funding are closely linked in New York, where the property tax rate has a direct impact on the amount of local funding for public schools. The impact of the property taxes collected from homeowners on local school budgets has also been a continual issue effecting education policy for at least the last two decades. Addressed through the 1997 passage of the STAR (School Tax Relief) program in 1997,²⁹ the issue has resurfaced in debates regarding the property tax cap, proposed in 2008³⁰ but not passed until 2011.³¹ In an approach typical of Albany, the cap legislation sunsets in 2016, renewing and reinvigorating the fight surrounding it.³²

National battles over curriculum and benchmarks, originating with the federal government's No Child Left Behind Act of 2001³³ and continuing with the Race to the Top Common Core State Standard Initiative,³⁴ have roiled New York's education policy debates recently as well.³⁵ In New York City, No Child Left Behind coincided with Mayor Michael Bloomberg's successful grab for mayoral control of schools and his subsequent agenda of increased school and teacher accountability that went hand in hand with his support for charter schools.

Teacher tenure and evaluation is yet another contemporary issue that has an extensive history.³⁶ A study in 2009 found that poorly performing teachers often kept their jobs because of the expense and difficulty of

dismissing them.³⁷ It simply confirmed the findings of earlier studies.³⁸ The fight rages on.³⁹ In fact, this year, Governor Cuomo has intensified the battle, enacting his proposal through the budget that teacher evaluations be tied to student test scores.⁴⁰

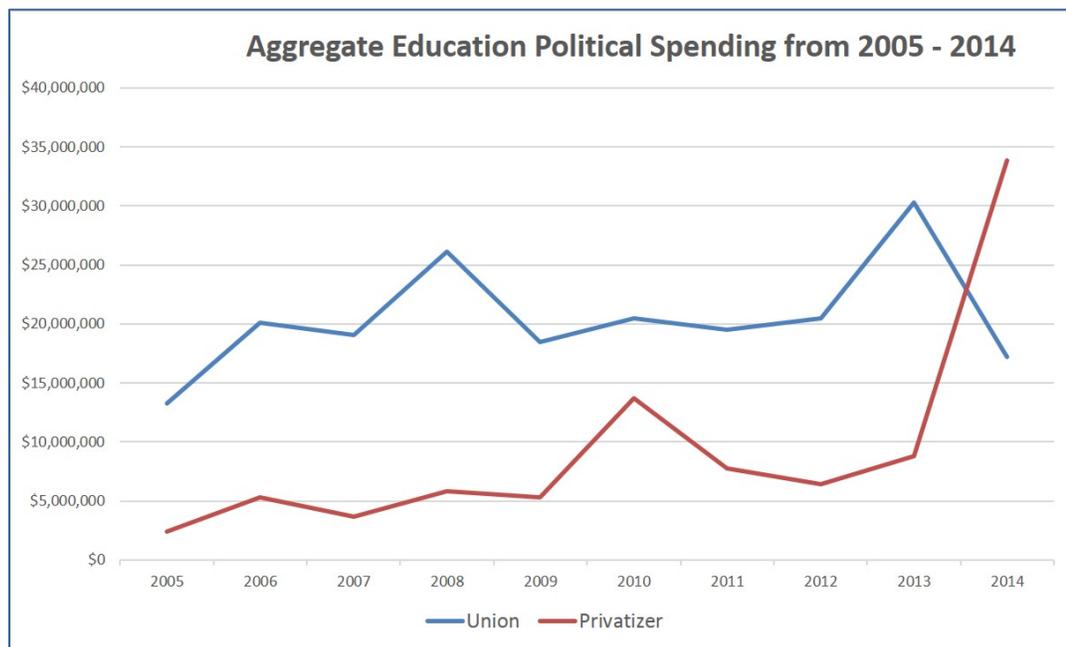
The 1990's heralded the start of the privatization/school choice movement,⁴¹ long championed by ALEC.⁴² It wasn't until 1998, when New York State was led by Republican Governor George Pataki, that charter legislation first passed here, and only because it was attached to a legislative pay raise bill and capped the number of charter schools statewide at 100.⁴³ Throughout the country, the existence of charters, how they will be funded and what requirements and rules they will follow are a source of continuing controversy,⁴⁴ passionate disputes and most recently in Albany, dueling rallies and demonstrations.⁴⁵

Our report is divided into several sections, the first showing how money shaped the education policy debate in New York. Governor Andrew Cuomo's 2014 budget, among other market-based education provisions, included legislation that required New York City to house charter schools or pay the majority of the cost of their rent – a blow to Bill de Blasio's mayoral control of schools that Mayor Bloomberg had enjoyed without state interference.⁴⁶ Cuomo's support of charter schools comes as no surprise when his financial backers are identified and analyzed. In his 2015 State of the State address, Cuomo admonished those who were calling for more public school funding, "Don't tell me that if we only had more money [for education], it would change. We have been putting more money into this system every year for a decade and it hasn't changed."⁴⁷ Cuomo's proposal to "change the system" involves establishing education tax credits – one of the hottest current policy disputes in New York.⁴⁸ We will analyze the impact of political spending on the provisions of those bills in the section *Political Spending and New York's Education Tax Credit Proposals*.

OVERVIEW: HOW MONEY SHAPES THE EDUCATION DEBATE IN NYS

Total Contributions, Expenditures and Lobbying on Education Issues from 2005 – 2014

Common Cause/NY's analysis of education-related political spending spans from 2005 through 2014 and takes into account campaign contributions by union and privatizer affiliated individuals and organizations, non-candidate spending through PACs and independent expenditure committees and NYS lobbying filings for the identified groups. The aggregate tally of total political spending and contributions shows that unions spent more than twice as much as privatizers: \$205.4 million compared to \$80.5 million. However, these two figures only begin to scratch the surface of how the fight has played out over the past decade.



Union political spending, powered by their thousands of members,⁴⁹ though large, has remained at a fairly constant rate, averaging \$20.5 million a year, with peaks in 2008 and 2013 of around \$26 million and \$30 million respectively. Those were important years for electoral

mobilization around the historic election of President Barack Obama and the very competitive NYC Mayoral and City Council elections. Education unions also found themselves under attack in connection with national programs such as Secretary of Education Arne Duncan's 2009 introduction of the Race to the Top (RTTT), which galvanized the privatization movement to push for increasing charter schools in New York State, opening education unions to significant attack.

The fight over Race to the Top (RTTP) funds appears to have been the impetus for a jump in political spending. The Democrats for Education Reform (DFER) PAC, made up of individual contributors who represented over \$20.3 billion in investor money, were preparing for this moment by spending at least \$349,485 on New York State candidate and party committees between 2006 and 2010. Over \$30,000 of this DER PAC money went directly to then Attorney General Andrew Cuomo. This political giving established a strong relationship between Cuomo and Joe Williams, DFER's executive director. Overall, privatizers spent over \$7.8 million dollars lobbying New York State legislators in 2010 (which exceeded the unions' combined \$6.6 million dollars in lobbying). We will go into more depth on this in the Lobbying and Expenditure section of the report. An even larger jump in privatizers' political spending from 2013 to 2014 was fueled by the significance of education issues in the 2014 election state elections, with the re-election campaign of Governor Cuomo and the heated battles in numerous districts for party control of the state senate attracting not only campaign dollars, but significant independent expenditures and issue advertising, as well intense direct and grassroots lobbying and advertising focused on the inclusion of funding for universal pre-kindergarten, Common Core reforms, increases in school aid and a property tax cap in the 2014 budget.

AGGREGATE POLITICAL SPENDING 2005 - 2014

Year	Union	Privatizer
2005	\$13,255,981	\$2,400,993
2006	\$20,100,541	\$5,349,215
2007	\$19,088,418	\$3,685,620
2008	\$26,155,643	\$5,856,499
2009	\$18,488,491	\$5,314,191
2010	\$20,491,209	\$13,735,246
2011	\$19,489,288	\$7,791,433
2012	\$20,491,990	\$6,465,509
2013	\$30,327,524	\$8,823,643
2014	\$17,180,063	\$21,053,681
Total	\$205,069,148	\$80,476,029

It is helpful to understand not only the issues but where the campaign contribution dollars are coming from and who they are going to, for it is in the contribution data where we see how unions and privatizers spend their money in vastly different ways.

It is no surprise that unions are adept at effectively amplifying the voice of their members. New York State's largest teacher's union, New York State United Teachers (NYSUT), has had over forty years of practice in learning how to communicate with legislators and New York State voters. NYSUT's PAC, VOTE-

COPE, was created in 1973. Unions assert that their policy positions are shaped by their members, pointing to a governance structure built on representatives elected by the rank and file. Union finances, including political spending, are governed by extensive federal regulation, requiring regular and highly detailed reporting, with significant penalties for misreporting.⁵⁰ Please see Appendix 1 for the full list of education teacher union giving.

In contrast the decision-making structure and finances of pro-privatizer organizations and foundations are opaque. Often, all that can be learned are the names of the members of their boards of directors. Through these listings, it can be discerned that these boards are primarily composed of contributors who have entered the education policy arena with a market driven agenda, such as hedge-fund managers Daniel Loeb, Paul T. Jones II, and Bruce Kovner. As we show later on in this report, these shadowy 501(c)3 and 501(c)4 organizations, supported by the same foundations funding and distributing pro-market based educational theories, threw their hat into New York State's political arena through lobbying and direct contributions in the early 2000's.

CAMPAIGN CONTRIBUTIONS

TOTAL CONTRIBUTIONS 2005 – 2014

Affiliation	Total Count	Total Contributions
Privatizer	5,743	\$46,101,906
Union	77,849 ⁵¹	\$87,594,646

From 2005 through 2014, union affiliated individuals and allied organizations spent a combined \$87.5 million in campaign contributions out of their total aggregate amount of \$205.4 million. During that same

time period, privatizer individuals and organizations contributed \$46.1 million. It took almost 78,000 contributions, which includes over 18,000 uniquely identified union allied individuals, to make up the total contributions. By contrast, it took only 5,743 contributions to make up the privatizers' war chest of \$46.1 million – which includes the aggregated contributions of less than 400 uniquely identified individuals.

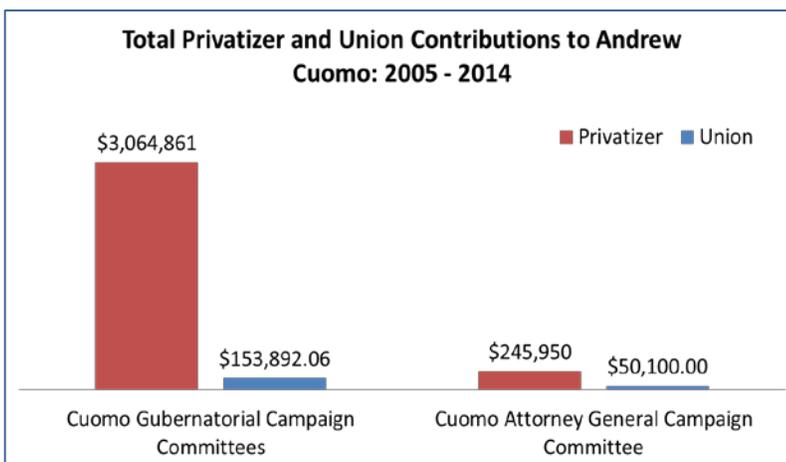
Union contributions averaged \$1,600 while the average privatizer contribution was \$8,110. However, this union average is significantly skewed by the fact that the NYSBOE reporting rules allow filers to aggregate and report un-itemized donations for a filing period. We found several union contribution amounts as high as \$1.5 to \$2.5 million, made up of thousands of donations under \$100. For example, in 2014 it was reported that over 187,500 NYSUT members donated an average of \$47 to the VOTE-COPE PAC.⁵²

One interpretation that emerges from data on total campaign contributions over the last 10 years is that unions have seen their interests challenged and have raced to outspend the investor-class 'reform' interests, whose deep pockets do not require them to form a coalition of thousands to gain the ear of elected officials. Contributions are often spurred by exciting or contentious political campaigns; for example, President Obama's 2008 run was an energizing moment for unions across the country.⁵³ The aggregated contributions from union members was \$11.6 million in 2008, but dropped to \$6.1 million in 2009. But, by 2010, union members had competition from privatizer individuals and PACs. This ideological battle has contributed to both sides upping the ante of their political spending through union member donations to their PACs, compared with the privatizer strategy of directly supporting politicians.

YEAR	UNION	PRIVATIZER
2005	\$6,813,928	\$2,344,606
2006	\$10,585,190	\$4,116,141
2007	\$8,973,296	\$2,053,269
2008	\$11,637,583	\$4,504,814
2009	\$6,138,234	\$3,781,695
2010	\$7,862,501	\$5,568,882
2011	\$5,542,131	\$2,502,284
2012	\$9,158,123	\$4,816,886
2013	\$12,823,545	\$5,167,164
2014	\$8,060,114	\$11,225,956
Total	\$87,594,646	\$46,081,697

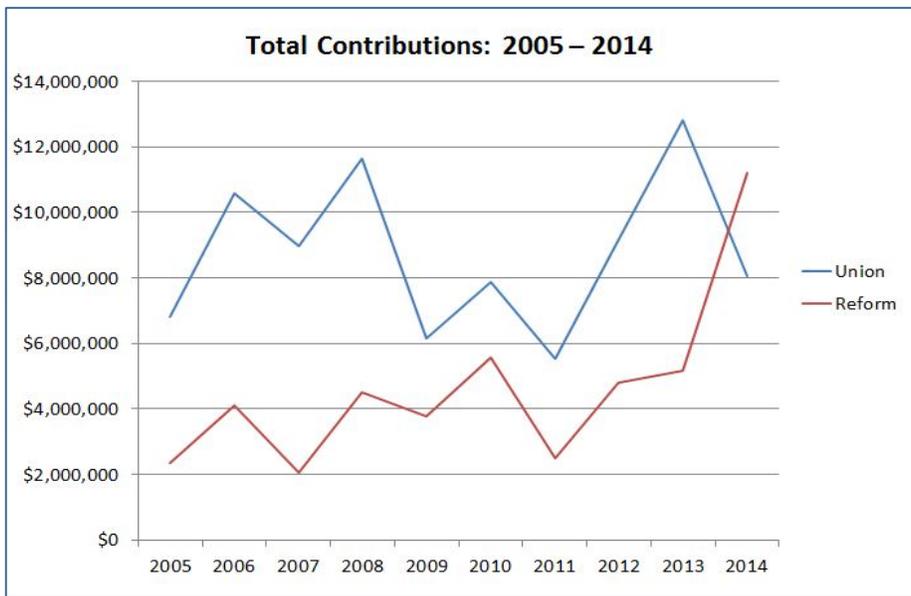
2010: Privatizer weighing into the political arena

In May 2010, while the fight over Race to the Top money raged, Cuomo announced his candidacy for New York State governor in front of Manhattan's fabled Tweed Courthouse. His press conference was capped by the release of highlights from a soon to be released platform, which included a freeze of corporate taxes and an increase in the charter school cap.⁵⁴



Democrat Cuomo would go on to win the governorship that November, even as the New York State Senate Republicans wrested majority control back from the Democratic gains of 2008. Cuomo's campaign committee received in excess of \$476,400 in 2010 alone, while the Republican Senate Housekeeping committee enjoyed an influx of \$730,800 from education privatization interests.

These two examples of direct contributions in 2010 would go on to set the tenor for Cuomo and the Senate Republican Housekeeping Account, with these two committees amassing over \$3 million and over \$5 million in privatizer contributions, respectively, by the end of 2014. Meanwhile, Cuomo's gubernatorial committee received only \$153,892 from unions during the same period (2005-2014) while the Republican Senate housekeeping received \$436,400.

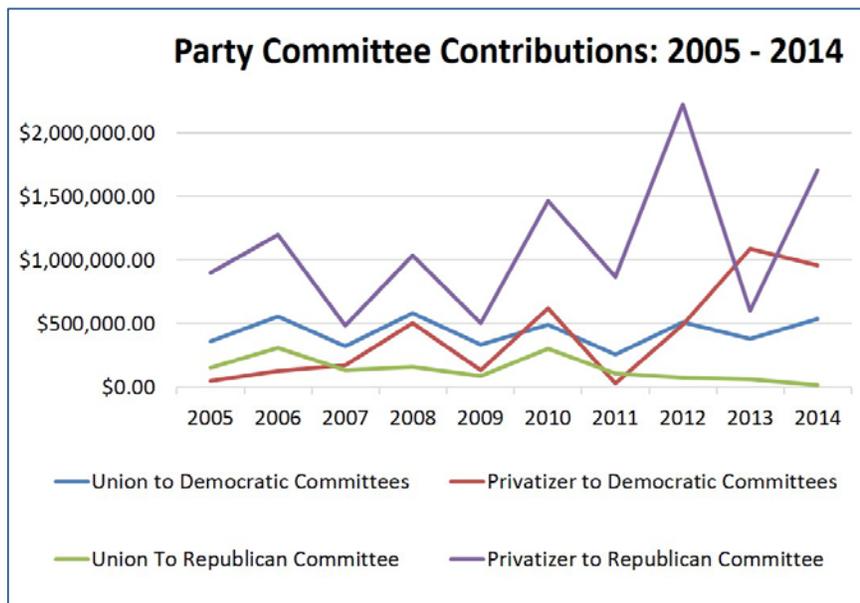


In 2010, privatizer campaign contributions totaled over \$5.5 million. By 2014, privatization interests caught up and surpassed union contributions by more than \$3 million. These were pivotal years for the privatization proponents and the unions alike. Democrat Andrew Cuomo, a vocal supporter of the property tax cap and increasing the charter school limit, was elected Governor in 2010 as the Senate flipped back to Republican control by a razor thin majority. In 2014, Cuomo amassed a significant campaign

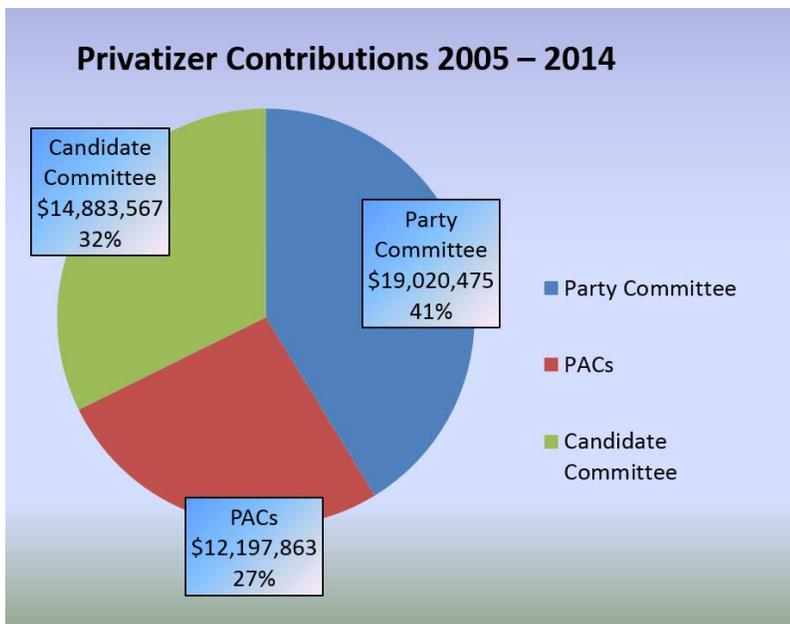
war chest and was re-elected while the Republicans regained their thin majority in the state senate yet again.

The upswing in contributions from 2010 through 2014 can be seen in the chart at left. The privatizers and education union are both clearly using political spending to engage in a battle shape to education policy.

Contributions by Committee Type: A Tale of Two Tactics

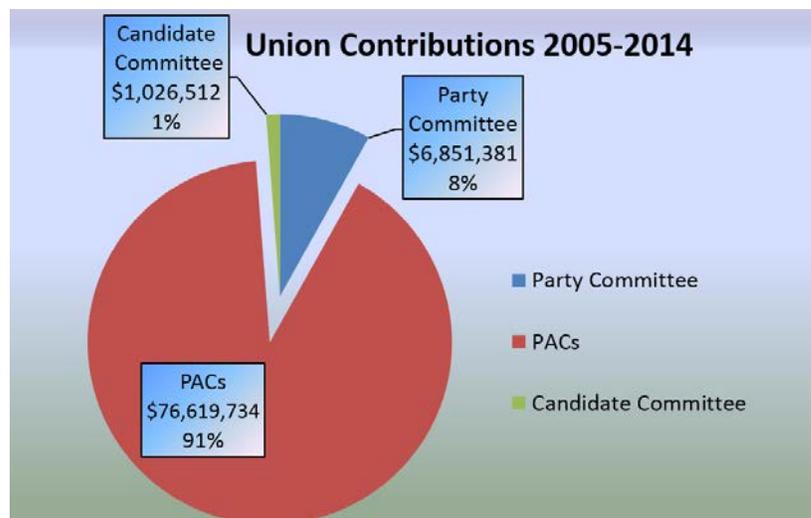


Republican campaign committees, in aggregate, receive the largesse of privatizer dollars. Though unions also spend hundreds of thousands of dollars on favored candidates and party committees, their direct contributions are dwarfed by the millions of dollars donated to politicians and parties by the education privatizers. Privatizers rewarded the legislators who voted for the embattled property tax cap in 2011 – despite the protests of school boards, public school teachers and local governments.⁵⁵



Privatizers directly increase the campaign coffers of New York State politicians through their authorized candidate committees and the party committees. Over \$33.9 million, or 74% of all privatizer campaign contributions, have been spent directly on candidates and parties to influence the state’s elected officials from 2005-2014.

By contrast, unions only put \$7.8 million, or 9% of their total \$87 million in campaign contributions, into authorized candidate and party committee accounts. The unions tend to focus their spending efforts on grassroots mobilization, lobbying, and issue-ad campaigns to educate and move public opinion to persuade voters on the issues they care about.



The Rewards of Direct Campaign Contributions

The property tax cap is set to expire in 2016, and extending it is a legislative priority for Republican Senator John Flanagan, recently appointed Senate Majority Leader and former Senate Education Committee Chairman. His position could be related to the \$90,200 in support the new Senate Majority Leader has received from education privatization interests. The same think-tanks and foundations that support charter schools and education tax credits also support the elimination of the very taxes that create a robust public school system and viable municipal infrastructure.

Charter groups such as the Northeast Charter Schools Network and the New York City Charter School Center (which are also powerful lobbyists) recently thanked Senate Republicans for earmarking part of the proposed New York State budget directly for charter school facility funding – which should come as no surprise to the privatizer and charter school advocates in light of their millions of dollars in contributions to the Senate Republican Housekeeping account.

Top 10 Recipient Party Committees of Privatizer Contributions: 2005 - 2014	
Committee	Amount
NYS Senate Republican Campaign Committee - Housekeeping	\$5,045,800
Independence Party Of New York State - Housekeeping Account	\$2,700,000
New York Republican State Committee - Housekeeping	\$2,157,625
NYS Senate Republican Campaign Committee	\$1,924,350
New York State Democratic Committee Housekeeping	\$1,862,500
NYS Democratic Senate Campaign Committee	\$911,533
New York Republican State Committee - Reporting	\$683,250
New York County Independence Committee	\$400,000
New York State Democratic Committee	\$323,000
NYS Democratic Assembly Campaign Committee Housekeeping	\$260,000
Total	\$16,268,058

The top 10 party committee recipients of privatizer dollars received almost \$16.3 million in contrast to the unions' top 10 aggregate of \$5.8 million. The top recipient party committee from union contributions, the Democratic Assembly committee, did not even clear \$1 million over the course of a decade of giving.

Top 10 Recipient Party Committees of Union Contributions: 2005 - 2014	
Committee	Amount
NYS Democratic Assembly Campaign Committee	\$916,633
Working Families Party, Inc.	\$874,550
NYS Senate Republican Campaign Committee	\$772,387
New York State Democratic Committee Housekeeping	\$719,500
NYS Democratic Assembly Campaign Committee Housekeeping	\$584,017
NYS Democratic Senate Campaign Committee	\$582,300
NYS Senate Republican Campaign Committee – Housekeeping	\$436,400
Democratic Senate Campaign Committee - Housekeeping	\$429,883
New York State Democratic Committee	\$348,000
DLCC New York Committee	\$200,000
Total	\$5,863,671

WHO IS GETTING THE MONEY?

Current Senators

Top 3 Senators in Office Today to Receive Privatizer Campaign \$			
Name	District	Party	Total Amount Received
Jeffrey Klein	34	D	\$293,875
Martin Golden	22	R	\$95,450
John Flanagan	2	R	\$90,200

Senator Jeff Klein, the leader of the Independent Democratic Conference is a vocal supporter of charter schools and a frequent speaker at pro-charter school rallies and events.⁵⁶ Klein has

declared that “Charter schools are no longer an experiment. Charter Schools are the cure.”⁵⁷ In March 2011, Klein was one of two non-Republican senators to vote for the passage of Senator John Flanagan’s bill that changed the terms for teacher layoffs – a bill that curiously only applied to New York City teachers.⁵⁸ Two weeks after Klein voted in favor of the bill, the Education Reform Now PAC gave \$5,000 to his New Yorkers for Klein committee.⁵⁹

Republican **Senator Martin Golden** was elected in 2002 from South Brooklyn. In 2011, he introduced S1740 which would authorize the reimbursement of non-public schools and teachers. Pearson North America, a division of the British Pearson Education publishing and assessment giant, spent at least \$120,000 in 2011 and 2012 to lobby on a number of education related issues, including in support of S1740. J.C. Huizenga, who owns the for-profit charter school management corporation National Heritage Academies, is Golden’s top individual campaign contributor and has given him \$15,000. In 2014, Golden introduced S1976, an ALEC inspired bill that aims to establish the “education investment incentives act” and tax credit. This inspiration for, and consequences of, this bill, along with Cuomo’s introduced variation, will be explored later in this report.

Senator John Flanagan was elected in 2002, representing the 2nd District on Long Island.⁶⁰ After former Senate Majority Leader Dean Skelos was recently ousted due to public corruption charges, Senator Flanagan was chosen by fellow Republicans to serve as the new Majority Leader. Flanagan has championed various pieces of education reform legislation, such as S.2132 regarding special education at charter schools, S.4215 to increase the tuition reimbursement for school age programs operated by private schools, and S.5588 which would allow charter schools to contract with the Board of Cooperative Educational Services.

Top 3 Senators In Office Today To Receive Union Campaign \$			
Name	District	Party	Total Amount Received
Toby Ann Stavisky	16	D	\$67,600
Kevin Parker	21	D	\$59,382
Neil Breslin	44	D	\$58,950

Democratic **Senator Toby Ann Stavisky** was elected to the 16th District in Queens through a special election in 1999. She is currently the Democratic Conference Leader for Conference Operations and an

Education Committee member. Previously, Stavisky was the Vice Chair of the Majority Conference and assistant whip from 2003 through 2008. In 2013, Stavisky was the sole sponsor to S.3988, which required that no charter school employee earn a greater salary than the superintendent of the district in which the charter school is located in New York City. Senator Stavisky voted against S.7990, which would have raised the cap on charter schools in the state.

Kevin Parker is a Democratic Senator from Brooklyn elected in 2002. Last year, he was the Democratic Conference Leader for Intergovernmental Affairs and he was previously Majority whip. Parker was the primary sponsor of S.1906, which requires the location of a proposed charter school to be included in the charter application.

Neil Breslin was elected to represent the Capitol Region’s 44th District in 1996. Currently he sits on the Senate Education Committee. In 2010, Breslin also voted against S.7990 to maintain the cap on charter schools in New York City. The next year, Breslin sponsored S.2007B, which would restore the tuition freeze for charter schools to the 2008-2009 school year level for the Albany school district.

Current Assemblymembers

Top 3 Assemblymembers In Office Today to Receive Privatizer Campaign \$			
Name	District	Party	Total Amount Received
Carl Heastie	83	D	\$30,450
Crystal Peoples-Stokes	141	D	\$26,500
Robert Rodriguez	68	D	\$22,125

Crystal Peoples-Stokes represents Buffalo’ in the 141st District. She was elected in 2002 and is currently the Majority Conference Chair. Peoples-Stokes has sponsored several pieces of legislation regarding

non-public schools. A.3190 permits the parents of children attending persistently low achieving schools to choose an education intervention model (such as closing the school). A.3826 prohibits for-profit businesses or corporate entities from managing or operating any charter school. A.1826B establishes the education investment tax credit. A.5884 restores the tuition freeze for charter schools to the 2008-2009 school year level for certain cities.

Robert Rodriguez is the Assemblymember representing the 68th District, East Harlem. Rodriguez has been an ardent supporter of non-public schools, participating in several rallies in support of those schools.⁶¹ Rodriguez co-sponsored A.10659, which related to special education services at charter schools and A.1826A, which establishes the education investment tax credit.

Carl Heastie is the new Speaker of the Assembly, representing the Bronx in the 83rd district. Heastie was the Chair of the Rules Committee and served on the Education Committee from 2011 until he was elected Speaker. This year, Heastie co-sponsored the Education Investment Tax Credit bill. However, his position in privatization is unclear as he states that he supports public schools as well. Heastie also received contributions of similar size from privatization interests and teachers unions, which muddies the waters even more.⁶²

Top 3 Assemblymembers In Office Today to Receive Union Campaign \$			
Name	District	Party	Total Amount Received
Carl Heastie	83	D	\$27,400
Sheldon Silver	65	D	\$26,800
David Weprin	24	D	\$25,000

Sheldon Silver was Speaker of the Assembly for over 20 years before public corruption charges led him to resign in early 2015. Silver still represents Manhattan in the 65th District as a rank and file member of the Assembly. This

year when legislators were debating whether or not to raise the cap on charter schools by passing bill A.11310, Silver questioned the need to raise the cap indicating that it would siphon money away from public schools.

David Weprin was elected to the Assembly from Queens in a special election in February 2010. Weprin has sponsored several pieces of legislation relating to non-public schools. In 2013, he co-sponsored the Education Investment Tax Credit bill. In 2011, he sponsored: A.6158, imposing a moratorium on school closings in New York City; A.9563, requiring charter schools to meet the same teacher evaluation standards as the public school district in which the charter school resides, and A.6251 requiring charter schools to enroll children with disabilities and English language learners in comparable numbers to those enrolled in public schools.

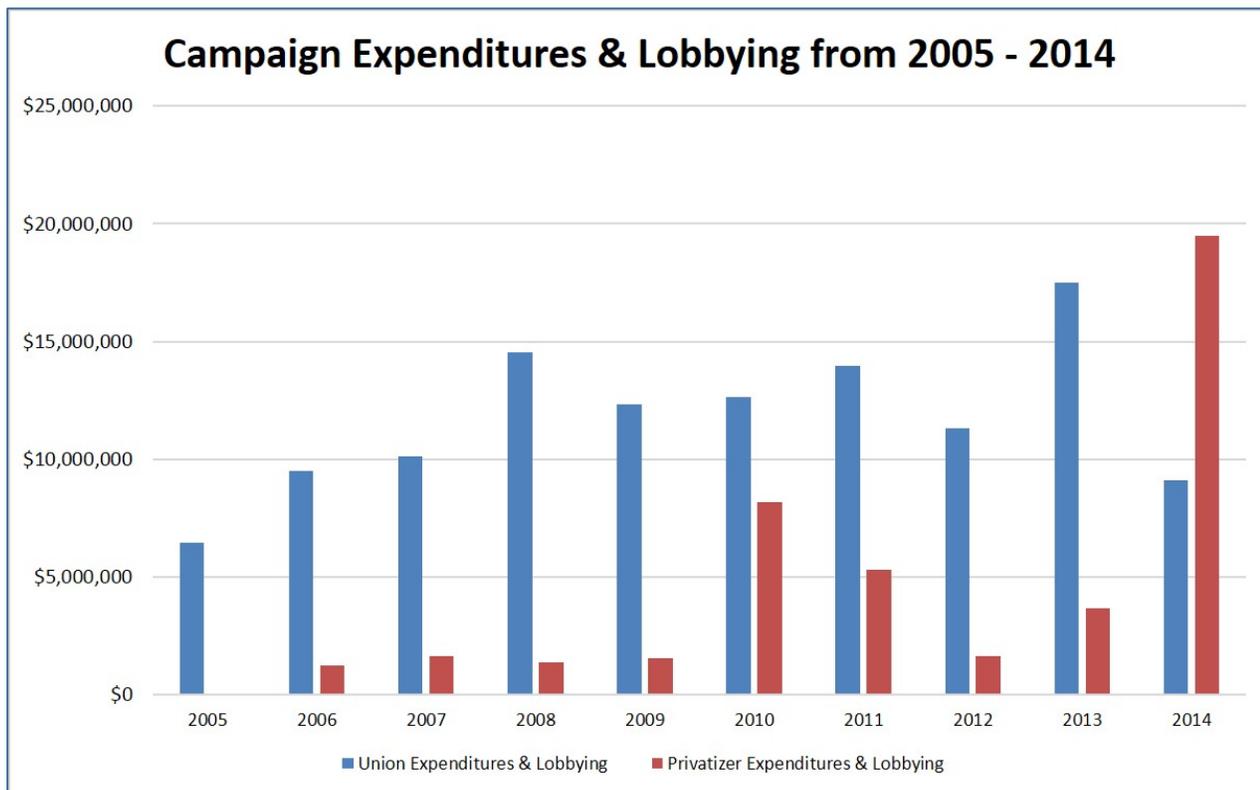
LOBBYING and EXPENDITURES

2014: Explosion In Privatizer Lobbying

2014 was a game changer for privatizer spending, not only in campaign contributions, but also in lobbying. Families for Excellent Schools (FES), yet another charity-advocacy organization created by the same hedge fund billionaires active throughout the country (which shares office space with Studentsfirst NY) registered as a lobbyist for the first time in NYS in March, 2014. FES's lobbying expenditures eclipsed all other organizations in every industry, placing it at the top of the JCOPE annual list of lobbying entities ranked by total lobbying expenditures. The \$9,670,372 FES spent lobbying is almost \$5 million more than what NYSUT and UFT combined lobbying in 2014.

What is even more incredible is that the majority of the FES lobbying spending was spent in March and April of 2014. Over \$5.9 million dollars, or almost 62% of FES's total lobbying expenditures for 2014, was spent during that two month period on fashion photography (Blair Getz Mezibov), media development (Canal Partners Media, Greencard Pictures LLC and Siegal Strategies), and consulting (SKD Knickerbocker, Stu Loeser, and the Strategy Company). This tidal wave of money was directly aimed at influencing how the 2014 NYS budget handled education policy and FES added muscle to another privatizer player backed by hedge fund billionaire Bruce Kovner, the Foundation for Opportunity in Education.⁶³

FES appears to be a "grassroots" coalition, but their Executive Director, Jeremiah Kittredge was plucked from his previous job as the "Coordinator of Civic Initiatives" at Democracy Prep Charter School, part of a New York City and New Jersey charter school chain.⁶⁴ FES has received millions of dollars in combined funding from the Walton Foundation, The Peter and Carmen Lucia Buck Foundation and the Eli and Edythe Broad Foundation – the very same foundations funding Democrats for Education Reform, the Success Charter School network, Studentsfirst, and ALEC – to name just a few.



Privatizer’s demonstrated their lobbying and fundraising clout during the 2014 budget fight. But, to understand the full extent of the story of how the privatizer education agenda emerged, we have to go back to how national politics affected NYS in 2010.

2010: Bipartisan Race for Education Funding

2010 was a watershed year for privatizer lobbying, as the movement was galvanized by newly elected Democratic President Obama’s education agenda and his appointment of Arne Duncan, an advocate for market-based approaches, as US Secretary of Education. In July 2009, Duncan announced his Race to the Top (RttT) program which flipped NCLB’s incentive mechanism by offering a carrot of federal stimulus money to states who supported the market-based education agenda: standards-based teacher accountability, closing failing schools and opening more charter schools, performance or merit pay, and longitudinal data on each student.

Under RttT pressure and nearing the limit of 250 charter schools, New York State legislators reignited the charter cap debate in 2010. When Duncan’s first draft of the RttT guidelines was released in July 2009, newly appointed Board of Regents Chancellor, Merryl Tisch, did not seem too worried about New York’s chances. She had recently injected the calcified state Education Department with reform-minded leaders like David Steiner as Commissioner and seemed confident that Senator Chuck Schumer would “bring home the bacon,” according to Joe Williams, founder of Democrats for Education Reform (DFER).⁶⁵

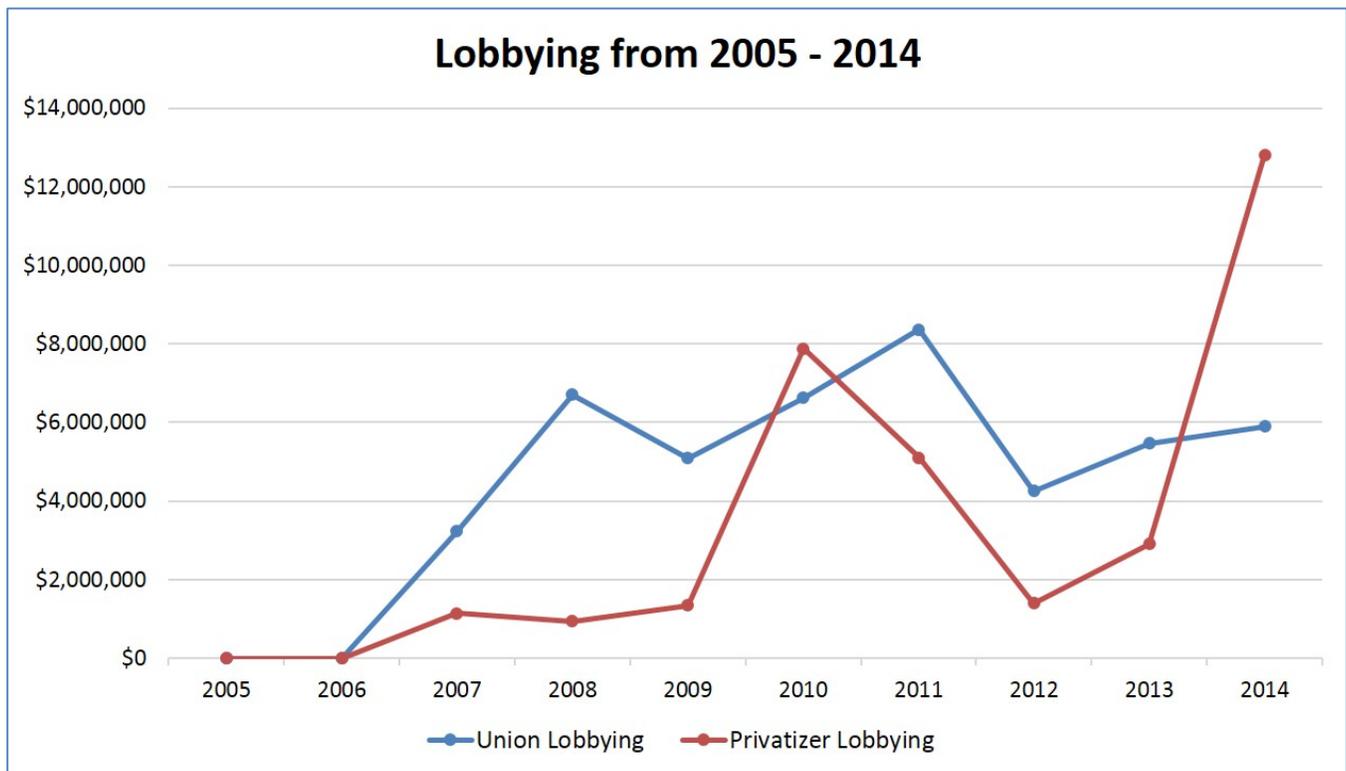
But news broke in March, 2010 that New York came in 15th out of 16 finalists because they did not raise the cap for charter schools or repeal the law that prevents the use of test scores in tenure decisions.⁶⁶ Only Tennessee and Delaware won grants in the first round, a signal to all the other states that Duncan was not willing to compromise his market-oriented vision. The \$700 million New York lost was amplified by the \$9 billion shortfall the state was already facing and the threat of layoffs hanging over 8,500 NYC teachers’ heads. It is in this context that legislators, administrators, and unions alike were galvanized to try harder for the

second round of RttT applications due in June. Although \$700 million spread out over 4 years represented less than one half of 1% of the DOE's budget ("literally, a drop in the ocean" according to Joel Klein),⁶⁷ to the general public in the midst of a recession, walking away from that much money would have seemed fiscally irresponsible.

At the same time, a 501(c)3 arm of Democrats for Education Reform known as Education Reform Now was putting pressure on the state legislature. It spent more than \$4 million raised from Wall Street donations on a TV ad blaming the unions for losing the \$700 million and calling on state legislators to make the necessary changes to the charter school cap and teacher evaluations for RttT round two.⁶⁸ The UFT responded with a radio ad criticizing "fat-cat charter supporters'...false attacks against teachers and public schools."⁶⁹ Arguably, both camps' efforts paid off: the new law introduced in the Assembly by union-friendly Speaker Sheldon Silver (D-Manhattan) and Education Committee Chair Catherine Nolan (D-Queens), included a union-approved teacher evaluation deal, but also lifted the cap of charter schools from 200 to 460, and allocated \$20.4 million for a new student information database.⁷⁰ These compromise measures qualified New York State to win second place in RttT's round two competition, and reinstated the \$700 million that had seemed so far out of reach just months before.

The amount of money the privatizers poured into the RttT fight can be seen in the huge leap in total political spending from \$1.5 million in 2009 to \$8.1 million in 2010. In that same year, the unions spent over \$12.8 million as a result of non-candidate campaign expenditures from PACs and independent expenditure committees. As explained in the campaign contribution section, privatizer PACs did not spend as much on expenditures because privatizer-affiliated individuals were concentrating more on direct campaign contributions and lobbying.

The amount privatizers spent on lobbying, when separated from non-candidate campaign expenditures, actually exceeded union lobbying by over \$1.2 million in 2010. According to 2010 JCOPE filings, privatizer groups, including the Center for Charter School Excellence, Education Reform Now, Success Academy Charter Schools and Brighter Choice Foundation, lobbied on issues such as increasing the cap on charter schools, the Jeffrey Klein and Sam Hoyt Education Reform Act of 2010, the ability of non-profits to access the tax exempt bond market, and other issues.



In 2011, unions spent even more money battling Senator Flanagan’s attempt to erode the value of teacher seniority – a measure that then mayor Michael Bloomberg supported. The bill passed in March, but, due to union-backed lobbying was weaker than the version Flanagan initially proposed.⁷¹

The unions then had to tackle the issue of the property tax cap, along with other local municipalities and school boards across New York State who wanted the freedom to decide their own tax structure.⁷² Despite the broad coalition that was opposed to the bill, a 2% “tax cap” was passed into law in June, 2011. According to the Fiscal Policy Institute, limits on local taxing authority “reduce localities’ flexibility to address growing needs and emergencies, exacerbate inequities, and squeeze investments that could grow local economies.”⁷³ Following their peak lobbying spending years of 2010 and 2011, union lobbying returned to more typical, although still high, levels. For the five years from 2009 through 2014, education lobbying spending was the third highest among the top 10 amounts spent by nature of business for every year except for 2013, when it was fourth.

POLITICAL SPENDING & NEW YORK'S EDUCATION TAX CREDIT PROPOSALS

Common Cause/NY does not take positions in support or opposition to specific education measures. We do, on occasion, analyze legislation in various areas to ascertain whether special interest influence or campaign contributions may have effected specific bills or public policy decisions and whether significant bills comport with general good government principles. These are promoting government efficiency and efficacy through effective oversight and accountability as well as adequate transparency.

Our review of the three bills that would set up an Education Tax Credit Program for New York finds that they contain unique provisions which, if enacted, would seriously advantage wealthy and well-heeled contributors and scholarship recipients, as well as lack significant fiscal and accountability controls.

Methodology for Comparative Education Tax Credit Program Analysis

For this report, we analyzed provisions of New York versions of Education Tax Credit bills introduced in the 2015 legislative session (Governor's Program Bill No. 2, Assembly Bill No. 2551, Senate Bill No. 1976), and analyzed the provisions of The Great Schools Tax Credit Program Act ALEC model bill, and reviewed comparative materials from The Friedman Foundation for Educational Choice, the National Conference of State Legislators, and The Foundation for Opportunity in Education. We supplemented the charts prepared in those sources with information on newly passed bills in Montana and Nevada, briefly reviewed some academic⁷⁴ and advocacy⁷⁵ assessments of efficacy and fiscal impacts of programs in Georgia and Florida, and reviewed statutory language from Arizona, Georgia, Kansas, Louisiana, Florida and Pennsylvania. These states were chosen based on relevant attributes (primarily eligibility, accountability and transparency measures) identified from comparative materials. Our comparative analysis was not exhaustive, but is meant to be illustrative, providing examples of different provisions which could be considered in New York if there were a robust and open legislative process.

New York's Versions of Education Tax Credits vs. Other States

Pro-privatization organizations, including the Friedman Foundation for Education Choice⁷⁶ and the Coalition for Opportunity in Education⁷⁷, as well as the National Conference of State Legislators⁷⁸, have provided comparative information about the form of education tax credit programs adopted in the 16 other states. We used these helpful sources to compare the proposals introduced in New York to the programs actually in place in other states.

Such a comparison shows that the versions of the Education Tax Credit proposed for New York have provisions that are radically more favorable to affluent and well-heeled contributors and recipients of education tax credit scholarships than the comparable systems in other states.

Eligibility for Scholarships

States have different standards for determining which students are eligible for the scholarships funded through the Education Tax Credit Program. Numerous states have adopted measures that appear to further the goal of providing assistance to students from low income families.

Means Tests. All but four of the 16 states which have adopted Education Tax Credit Programs impose a means-test for scholarship recipients in the form of a family income cap. Only two states (Oklahoma and Pennsylvania) have income caps above \$100,000 (Oklahoma \$134,500, Pennsylvania \$105,000). The others

apply means-testing measures which direct scholarship moneys to lower income families, with incomes which are often capped at amounts substantially below \$100,000. New York’s versions allow families with incomes as high as \$500,000 (Senate version) or \$250,000 (Assembly & Governor) to obtain scholarships supported by the program.

The Governor’s and Assembly bills require that more than 50% of those receiving scholarships through a qualified scholarship granting organization come from low income families (using a measure resulting in income limits <\$68,185 for family of four in 2014-15). However, these bills contain a highly unusual provision that could subvert even this standard by allowing multiple scholarship giving entities to enter into a collaboration agreement to satisfy this requirement by reporting “jointly.”⁷⁹ This loophole would allow a smaller scholarship granting organization with 100% of scholarships provided to families with income above the cap to jointly file with a larger qualifying organization to still provide its contributors with the tax credit. The Senate bill does not have any limitation on income distribution among scholarship recipients.

Enrollment Requirements. Some states have adopted measures designed to provide assistance to students enrolled in public schools who desire an educational alternative but cannot afford one. Four states (Alabama, Kansas, Louisiana and Pennsylvania) restrict or prioritize scholarships to students from public schools rated as “failing.” New York’s bills do not do so.

An additional four states restrict or prioritize scholarships for those switching out of public schools, i.e. those eligible for tax credit supported scholarship cannot already be enrolled in private school when they first apply for assistance. None of the New York bills have this requirement either.

Amount of Scholarship. Nine states place limits on the size of the scholarships which may be offered under the program, setting either a set dollar limit⁸⁰ or indexing the maximum scholarship size to state public school funding.⁸¹ The balance of states’ programs allow scholarships to cover 100% of the cost of private school tuition. New York’s 3 bills allow for scholarship equal to 100% of tuition.

Comparison of Eligibility for Scholarships under State Education Tax Credit Laws

State	Means Testing (4 person HH)	Students from Failing Schools	Prior Public Enrollment
Alabama	< \$48,500	Priority	75% reserved
Arizona (indiv)	No, Must Consider Need	No	No
Arizona (Lexie's Law)	No	No	Yes(w/exc)
Arizona (switcher)	No, Must Consider Need	No	Yes(w/exc)
Florida	<\$55,775	No	No
Georgia	No	No	Yes
Indiana	<\$89,725	No	No
Iowa	<\$72,750	No	No
Kansas	<\$72,750	Only students failing schools	Yes
Louisiana	<\$60,625	Priority	Yes

Montana	No	No	No
New Hampshire	<\$72,750	No	70% reserved
New York (Senate Bill)	<\$500,000	No	No
New York (Governor & Assembly Bills)	<\$250,000	No	No
Nevada	<\$72,750	No	No
Oklahoma	<\$134,588	No	No
Pennsylvania (EITC)	<\$105,000	No	No
Pennsylvania (OSTC)	<\$105,000	Only students failing schools	Yes
Rhode Island	<\$60,625	No	No
South Carolina	No	No	No
Virginia	<\$72,750 (<\$97,000 special needs)	No	Yes

Modified from chart found in Friedman Foundation's Earning Full Credit.

Eligibility for Tax Credit

Many states have requirements which appear designed to control the fiscal impact of the credit on the state's finances by capping the total aggregate amount of the credit available, as well as capping the amount of credit which the individual contributor may take. New York's bills, while providing fairly high caps, also have unusual procedural requirements which appear designed to favor sophisticated contributors.

Total tax credit cap. Most states control the fiscal impact of the program by limiting the total amount of tax credits available, although two states⁸² have programs which do not cap the total dollar amount of tax credits available under the program. The size of the caps vary from a high of \$358 million annually (Florida), with Pennsylvania (jointly \$150 million) and Georgia (\$58 million having the next highest caps. The lowest caps are found in Rhode Island (\$1.5 million) and Oklahoma (\$3.5 million). The New York Senate bill provides for a total credit availability cap of \$150 million annually rising to \$300 million in 2018. The Assembly and Governor's bills cap the available credits at \$70 million annually.

Donation Caps & Availability. Although ALEC's Great Schools Tax Credit Program Act (Scholarship Tax Credits) model bill provides that the donor may take a tax credit equal to 50% of the amount of the donation, 9 states allow donors to take a credit equal to 100% of the donation. The Assembly and Governor's bills allow for a credit equal to 75% of the donated amount, while the Senate bill provides for a 90% credit.

States have the option of limiting the type of entity (individual or corporations) which can take advantage of the credit. All of the bills introduced in New York make the credit available to both individuals and corporations. Some states limit the dollar amount of the credit which the contributor can take. All three of New York's bills provide for a maximum allowable credit to the taxpayer-donor of \$1 million. This is the largest allowable credit of any state which sets limits on the amount the taxpayer can credit.

Unusual procedural requirements which advantage sophisticated donors. All of New York's bills have unusually short windows in which to apply for approval to make donations which qualify for the credit. All 3 bills require

that those who plan to take the tax credit obtain pre-approval during one of 2 phases before making their donation. If the total amount of available credit is allocated in the first phase, then there will be no credits available to those who apply during the second phase. All three bills set unusually short first phases which favor corporations and wealthy individuals who can bundle their contributions. The Assembly and Program bills' first phase runs from January 1 to 15, while the Senate bill extends Phase 1 an additional 16 days to January 31. Such short application periods significantly advantage corporate and sophisticated wealthy individuals with financial advisers.

Buried in the bills⁸³ is the ability of the wealthy to maximize this benefit, under a single application, through the gifting via a family partnership or a small, Subchapter S corporation where multiple partners or shareholders can aggregate their gifts for credit purposes. This is a tool that is usually beyond the reach of ordinary taxpayers and gives the wealthy a mechanism for achieving this credit, sheltered behind an organizational name much the way campaign finance laws are now skirted through super PACs. The bills also permit for a five year carryover of any unused portion of the credit.

Procedural hurdle for instructional materials and supplies credit. The Governor's program bill, unlike the other 2 bills, requires that teachers seeking to take advantage of the \$200 instructional tax credit the bill sets up must apply for approval to take the credit during the tax year and submit documentation with the application. This contrasts unfavorably with the general practice of consolidating all applicable donations and credits into one tax filing following the conclusion of the tax year. This requirement may well limit the ability of teachers to access this credit.

Accountability and Transparency

Good government principles demand that complex tax programs have provisions which build in accountability and, to the maximum extent practical, transparency. Vigorous oversight and strong enforcement should be prerequisites for any program with large fiscal implications. Unfortunately, the New York versions of the Education Tax Credit Program proposal are lacking in measures designed to insure accountability and transparency when compared to programs in other states.

Accountability and fiscal soundness. The New York bills contain very little in the way of standards for approving either the credits given to donors or allowing organizations to receive donations covered by the program. While the Tax Department and the Education Department are expected to fulfill strict requirements in terms of processing applications (and without allocation of the resources necessary to do so), neither the scholarship granting entities nor the schools which receive scholarship moneys are held to a particular standard of performance or accountability.

New York's proposed lax standards contrast unfavorably with the safeguards other states have adopted. Florida's requirements for schools which receive scholarship funding under the program which are laid out in statute are instructive.⁸⁴ Florida's requirements go beyond the academic accountability standards contained in the ALEC model bill. New York's bills lack any similar safeguards applying to the schools funded and do not even address the academic standards suggested by ALEC.

Similarly, Florida's statute requires proof of the accountability and fiscal soundness of organizations eligible to receive donations and grant scholarships under the program.⁸⁵ Other states,⁸⁶ in addition to Florida, require the organizations covered to prove a surety bond or financial ability to perform its obligations, as well as undergo annual audits by CPAs, all protections contained in ALEC's model bills. Even Louisiana requires proof of financial accountability. New York's bills lack any similar provisions.

Lax Enforcement. Generally, following the lead of the ALEC model bill, Education Tax Credit Programs lack strong enforcement mechanisms. As suggested by ALEC, the penalties for violating the requirements of the programs in other states, as well as that proposed in New York's bills, are to decertify an organization from participating in the program in the future. The occasional state declares violations a misdemeanor.

Limited transparency. Unlike the reporting requirements for schools receiving scholarship funds and organizations receiving contributions under ALEC's model bill, New York's bills do not require the reporting of information that would allow for analysis of the amount of scholarship funds provided to low income and middle income families, the amount of scholarship funds provided to public school "switchers" or to students already enrolled in private schools, or even the size range of individual contributions for which tax credits would be permitted. By requiring the agencies which administer the program to provide annual figures regarding the average size of scholarships and aggregate numbers of schools receiving scholarship students, rather than the school specific reporting which some states require, New York makes it difficult to determine which schools and student populations, the wealthy or the needy, most benefit from the program. New York does not require the schools or the organizations to provide any data on the academic performance or improvement of scholarship-receiving students or the curriculum by which they are instructed. Again, this contrasts unfavorably with the requirements of other states, which require reporting of data sufficient to determine the income of students assisted by the program,⁸⁷ as well as their comparative academic performance.

WHO IS GIVING THE MONEY?

Total Giving to NYS Committees from 2005-2014

Top 10 Privatizer Contributors	Total Amount	State	Forbes 400 Ranking
Michael R. Bloomberg	\$9,203,195	NY	#8
James Simons	\$3,007,350	NY	#32
Paul Singer	\$2,202,770	NY	#358
Daniel Loeb	\$1,941,367	NY	#269
David Koch	\$1,609,627	NY	#4
Paul T. Jones II	\$1,547,750	CT	#120
Bruce Kovner	\$1,445,100	NY	#104
Roger Hertog	\$1,445,735	NY	Not on the list
Julian H. Robertson, Jr.	\$1,113,477	NY	#183
Thomas Mcinerney	\$914,691	NY	Not on the list

Top Privatizer Contributor Bios

Michael R. Bloomberg

Bloomberg made great strides in opening up New York City to charter schools through his mayoral control of schools and his appointment of Joel Klein, a lawyer with no background in education, as Schools' Chancellor.⁸⁸⁸⁹ Bloomberg explains his reasoning for appointing Klein in a 2002 letter requesting an education requirement waiver from NYS's Commissioner of Education:

“Understanding that running a school system requires strong, multidimensional leadership, a growing number of districts across the country... have appointed nontraditional superintendents. While such individuals are not magic bullets for reform, they often possess the kind of large-scale management experience and political skill necessary for leadership of a massive agenda.”⁹⁰

With the help of Bloomberg funding (along with other top NYS privatizer contributors such as Daniel Loeb), Klein would later go on to form StudentsFirst, an organization that has influenced states across the nation with a pro-privatization agenda, with Teach For America Alum and former D.C. schools chancellor Michelle Rhee.⁹¹

David Koch

Koch's political positions on many issues are no secret. Koch, through their various foundations, have given millions of dollars to not only to ALEC, but to other organizations that fund “education reform” research and lobbying such as the James Madison Institute (JMI), a “Florida-based research and educational organization (501c3) engaged in the battle of ideas.”⁹² These organizations are often conduits for packaging market-based “reforms” under the guise of new and enlightened education models.⁹³ Now these models are coming to New York State. Former Florida Governor Jeb Bush was on the JMI's Board of Directors from 1990 through 1993 where he was part of launching the pro-privatization organization Floridians for Educational Choice.⁹⁴ The Kochs, along with other privatizer organizations, also helped fund Bush's post-governorship Foundation for Excellence in Education (FEE). ALEC model legislation is often inspired by FEE initiatives, such as the “Digital Learning Now Act” which mandates online learning through under-regulated methods. In 2013, the Florida Department of Education's inspector general released a report detailing how K12, a for-profit online education company “assigned teachers working with one district to classes outside their certified fields, and provided records of educators teaching students with whom they had no interaction.”⁹⁵

James H. Simons – Contributed \$3,007,350 from 2005 - 2014

Co-founder of the Simons Foundation, a non-profit that supports education reform.

Paul Singer – Contributed \$2,202,770 from 2005 - 2014

Hedge fund manager, board member of the Success Academy Charter Network and the Manhattan Institute. Singer contributed to Jeb Bush's Excellence in Action National Summit on Education Reform and Success Charter Network.

Daniel Loeb – Contributed \$1,941,367 from 2005 - 2014

CEO of Third Point Capital, Chairman of Success Academy, and co-founder of Students First New York. As a supporter of charter schools, Loeb contributed over a million dollars to New Yorkers for a Balanced Albany. Loeb also attended Palisades Charter High School.

Paul T. Jones II – Contributed \$1,547,650 from 2005 - 2014

Founding member of Students First New York, and founder of Excellence Charter School, the country's first all-boys charter school in Brooklyn. Jones also founded the Tudor Investment Corporation, which supports charter schools through his Robin Hood Foundation. Jones is also one of the main funders for New Yorkers for a Balanced Albany, a major education reform PAC.

Bruce Kovner – Contributed \$1,445,100 from 2005 - 2014

Chairman of Caxton Alternative Management. Kovner is also the founder of School Choice Scholarship Foundation, which gives scholarships to financially disadvantaged elementary school children in New York City. As a strong advocate for charter schools, Kovner also supports the Bronx Preparatory Charter School, Albany-based Brighter Choice Foundation, and several other organizations that support school choice.

Roger Hertog - Contributed \$1,445,735 from 2005- 2014

Founding Chairmain of The Foundation for Opportunity in Education, a tax-exempt charity that describes itself as a policy and research organization committed to increasing school choice and closing gaps in educational achievement. The Foundation for Opportunity in Education has been lobbying heavily for the Education Investment Tax Credit with their "Invest in Ed" campaign. Roger Hertog is also a board member of StudentsFirst, a nonprofit that started in California but now has chapters across the United States. StudentsFirst was behind 2014's New Yorkers for a Balanced Albany PAC which spent several million dollars to sway Senate races.

Julian H. Robertson, Jr. – Contributed \$1,113,477 from 2005 - 2014

Retired hedge fund manager and the founder of PAVE charter schools in Brooklyn, New York. Robertson also invested in Education Pioneers, a national non-profit that aims to build the capacity of the education system by recruiting teachers to charter schools across the country.

Joel Greenblatt - Contributed \$934,740 from 2005 - 2014

Hedge fund manager and professor at the Columbia University Graduate School of Business. Greenblatt is also the Chairman of Success Academy Charter School, which is a public charter school with 34 locations in New York City. In addition to being part of the leadership of Success Academy, Greenblatt spearheaded Democrats for Education Reform, a group which lobbies for the education tax credit. Greenblatt also contributes to New Yorkers for a Balanced Albany.

Top 10 Union Contributors	Total Amount	State	Forbes 400 Ranking
Cathy Lasry	\$127,285	NY	Husband, Marc Lasry: #353
Caryn Effron	\$37,042	NY	Not on the list
David Knott	\$36,305	NY	Not on the list
George Weiss	\$20,125	CT	Not on the list
Mary Anne Schmitt-Carey	\$9,950	NY	Not on the list
Robert Cherrington	\$7,000	NY	Not on the list
Richard Iannuzzi	\$6,759	NY	Not on the list
John Schumacher	\$6,712	NY	Not on the list
Paul Pecorale	\$6,179	NY	Not on the list
Michael Jensen	\$6,156	NY	Not on the list

Cathy Lasry

Board member of Say Yes to Education Inc., a nonprofit organization that creates scholarship opportunities for low-income high school students. She also sits on the Board of Trustees of Clark University, the Trevor Day School, and is a founding board member of the Eleanor Roosevelt Legacy Committee.

Caryn Effron

Manager of Ackman-Ziff Real Estate Group, co-founder GoGirl Finance, an online community geared towards empowering women to become financially confident and knowledgeable. Effron has been a Board Member of Say Yes to Education since 2004. She also serves on the Board of ScriptEd, Games for Change, and other nonprofit organizations.

David Knott

Knott is the CEO of Knott Partners Management, LLC, a hedge fund management group, which he founded in 1987. He is a board member, treasurer, and chairman of the investment committee of Boy's and Girl's Harbor of Harlem and East Hampton.

George Weiss

President of George Weiss Associates, a money management firm he founded in Hartford, CT, in 1978. He created the Say Yes to Education

foundation in his hometown of Philadelphia in 1987.

Mary Anne Schmitt-Carey

Schmitt-Carey has been the President of Say Yes to Education since 2006. She is seen as an influential voice on policies to promote educational achievement. She recently served on Governor Andrew Cuomo's New NY Education Reform Commission.

Robert Cherrington

Teacher at Brockport High School, Brockport, NY.

Richard Iannuzzi

President of New York State United Teachers (NYSUT) from 2005-2014.

John Schumacher

Electronic resources coordinator, SUNY Albany.

Paul Pecorale

President of the Patchogue-Medford Congress of Teachers for eight years before his election as a NYSUT vice president in April 2014.

Michael Jensen

Teacher, member of Kenmore Teachers Association (NY).

THE INTERTWINING OF FOUNDATIONS AND POLITICAL SPENDING

Funding research to support education privatization goals was a crucial and early step in the “education reform” movement. Foundations favoring market-based approaches to education have been able to homogenize research institutions because they donate money on a scale at which no one else can compete. The Bill and Melinda Gates Foundation is now more than 6 times bigger than the next largest foundation in the US,⁹⁶ and they, along with the Walton’s, have been behind orchestrating the privatization movement’s message, refining its talking points. The Bill and Melinda Gates Foundation drives much of the institutional focus of education related research. Policymakers can point to this research to justify their proposals, and voters more often than not defer to the opinion of experts, especially if that opinion is bolstered by popular representations in the media, like NBC News’ Education Nation.

At the same time the foundations were building the public and expert consensus on what needs to be fixed, they were working to place sympathetic voices in positions of power to fix them. Organizations like the Broad Foundation, New Leaders for New Schools, and Teach for America’s 501(c)4 wing Leadership for Educational Equity (LEE) have invested in generating capacity for reform through the training and long-term placement of principals, superintendents and managers of school districts. The organizations, in turn, are often lead by New York State’s top-contributors or their relatives. For example, Michael Bloomberg’s daughter, Emma Bloomberg, is the chairman for LEE and Arthur Rock, a California-based tech-investor who has used his money to influence school board elections in Georgia, is a Director.^{97 98} LEE’s goal is to place Teach For America alums into policy roles – ideally in elected office – and they want to funnel thousands into “pipelines for public leadership.”⁹⁹ At a 2011 TFA summit, Joel Klein mused “Is this our Egypt moment? Will we seize the moment?”¹⁰⁰

From Think Tanks to the Legislator’s Office

Millions of dollars have been poured into lobbying and issue advocacy in order to seize the privatizer movement’s “moment.” Early on, these campaigns were focused on local or state issues, especially regarding charter school legislation. By 2003, 39 states had charter laws on their books,¹⁰¹ and almost all of them contained caps on the number or percentage of charter schools that could be allowed.¹⁰² As a testament to the success of the privatizers’ multi-pronged strategy, by 2007 only 23 states’ and D.C.’s charter laws included caps, and many of the other states had raised them.¹⁰³ New York State is one of the latter, as a result of Governor Elliot Spitzer’s outspoken support for charter schools. 2006, the year of Spitzer’s election, marked the first time in New York State that pro-charter organizations had come out fighting against specific Democrats with television ads sponsored by Parents for Public Charter Schools. “It sent the message that there would be a political price to pay for legislators who *don’t* support charters,” said Todd Ziebarth from the National Alliance for Public Charter Schools, “whereas, previously, there was only a political price to pay for *supporting* charters.”¹⁰⁴ Although NYSUT countered with their own television ads and the push to increase the cap failed in both June and December, Spitzer’s support once he got into office resulted in lifting the cap from 100 charter schools to 250.

Bolstered by their many state-level successes, dozens of national-level advocacy organizations and Political Action Committees (PACs) have incorporated within the last seven years, including StudentsFirst, Democrats for Education Reform, and the 50-state Campaign for Achievement Now (50CAN). Their visibility and muscle is an unprecedented counterweight to the teachers’ unions, and their bipartisan support signifies a changing of the guard. As Tom Carroll, founder of the Albany-based charter management organization, Brighter Choice Foundation, and a former Pataki staffer notes, “The under-50 crowd in the Democratic party is pro-charter. The old guard is anti-charter... Eventually the old guard will probably fade away.”¹⁰⁵ Carroll is now the president for the Foundation for Opportunity in Education (FOE), one of the

main organizations behind the education tax credit movement in New York State.¹⁰⁶ FOE is associated with multiple PACs and other lobbying organizations such as the Educational Fund PAC, Charter PAC, School Choice Scholarships and Alliance for School Choice. Please see Appendix 7 for a table showing the top contributor PACs and individuals associated with an organization.

FOE is the brainchild of Peter Flanigan, a former investment banker who had a history of collaborating with NYS top funders Bruce Kovner and Roger Hertog. Hertog and Kovner are on FOE’s Board and they were instrumental in providing funding for Flanigan’s Educational Fund PAC in 2012. FOE is not unique in this arrangement. Many “pro-reform” organizations have New York State privatizer funders sprinkled among their leadership. Below is an illustrative, but non-exhaustive, list:

Name of 501(c)(3)	Associated Person	Position/Association	Total Contribution in NYS Election
Education Reform Now	Brian Zied	Director	\$66,725
	Charles Ledley	Chairman	\$339,175
	Joe Williams	President	\$9,300
	John Petry	Director	\$440,055
	John Sabat	Director	\$52,775
	Sidney Gargiulo	Director	\$1,100
Families for Excellent Schools	Paul Appelbaum	Chairman	\$11,742
	Bryan Lawrence	Vice Chairman	\$346,875
Foundation for Opportunity in Education	Bruce Kovner	Director	\$1,445,100
	Carrie Remis	Director	\$425
	John Kirtley	Director	\$5,175
	Michael Leffell	Director	\$193,400
	Michael Strianese	CFO & COO	\$8,500
	Roger Hertog	Chairman	\$1,445,735
	Thomas Carroll	President	\$1,000
	Thomas Tisch	Director	\$65,000
StudentsFirst	Bradley Tusk	Director/Treasurer	\$4,725
	Daniel Loeb	Director	\$1,942,367
	David Coleman	Director/Treasurer	\$15,500
	Joel Klein	Director/Chairman	\$11,000
	Micah Lasher	Executive Director	\$29,830
	Michelle Rhee	Founder/CEO/Director	\$350
	Paul T Jones	Director	\$1,608,500

Pro-privatizer foundations, such as the Lynde and Harry Bradley Foundation, are also directly connected to funding TFA, FOE and ALEC. The foundation spent at least \$7.8 million in a three year period to expand and refine market-based rhetoric to be eventually handed back to our legislator’s (see Appendix 5). As detailed earlier, FOE’s education tax credit is a direct ALEC inspiration.

RECOMMENDATIONS

Political spending warps our state government's ability to address crucial issues on an objective basis. Our recommendations address the way in which our elected representatives raise campaign funds, are lobbied and whether they are conducting the public's business in the open or in secret. Many of these recommendations have been made previously. We believe that the only way the problems identified by this report can be addressed will be through broad, systemic change.

Fair Elections and Far-Reaching Campaign Finance and Disclosure Reform in New York State

As we pointed out in a 2012 report, *Playing the Influence Market*¹⁰⁷ a Fair Elections system of public financing can be a powerful antidote to the vicious cycle of special interest and high dollar donors pouring more and more money into the system, making candidates more dependent on them. Public financing of elections remains our foremost goal in addressing the on-going money escalation in New York State campaign funding. Alongside empowering small donors, it is crucial to lower New York's sky-high contribution limits, including eliminating limitless donations to party housekeeping accounts.

Improve Campaign Finance Disclosures

The flood of political spending discussed in this report is yet another illustration of the loosening of the money floodgates engendered by the U.S. Supreme Court's ideologically-driven *Citizens United* decision. That decision, which showed the majority of the Court's hostility to certain types of campaign finance regulations, justified the opening of the money floodgates on the grounds that disclosures as to who was funding the money flood would provide voters with sufficient information to hold their elected officials accountable and protect against undue influence-purchasing. Unfortunately, all too predictably, the practicalities are far from the ideal of transparency articulated in *Citizens United*. New York's notoriously lax campaign finance laws are a leading example of how insufficient disclosures can be.

Information detailing the top five funders of any independent political expenditure campaign should appear directly on all campaign materials. Many political spenders choose vague, positive-sounding names that do not provide any clue about the interests behind the message. The public should be able to hold interest groups accountable for the political messages they disseminate. Researchers have determined that average voters find attack ads by unknown groups more credible, and therefore effective, than attack ads sponsored by either candidates or well-known interest groups.¹⁰⁸ The relentless barrage of attack ads and mailers currently being showered on New Yorkers in targeted districts appear to provide real-world confirmation of this research. If top funders were required to disclose their names directly on campaign materials, attack spending would likely become less vitriolic.

Common Cause is a leading proponent of top donor disclosure requirements across the country. Top donor disclosure laws are already in place in the states of Alaska,¹⁰⁹ Connecticut,¹¹⁰ California,¹¹¹ Hawaii,¹¹² Massachusetts,¹¹³ and Rhode Island¹¹⁴ as well as New York City.¹¹⁵ As part of any improved New York State disclosure law, the state Board of Elections should not only require filing of copies of all ads and mailers issued, but should also make these publicly available on its website just like campaign finance filing data.

In order to help voters and the public better unpack who is funding political activity and communications, campaign contributors should be required to identify their occupation and employer in New York State. This information is standard practice across the country and is required in federal elections and New York City elections. Additionally, all politically active groups should be required to disclose their donors. Further,

New York should create rules that increase disclosure by unpacking the “Russian doll” problem of organizations funded by yet another unknown organization by requiring disclosure of entities behind donor organizations. There are models in the Federal and California Disclose Acts, which Common Cause supports.

Lower sky-high contribution limits

New York State’s campaign contribution limits are notoriously high and should be uniformly lowered. We also recommend closing a loophole in campaign finance law by abolishing party housekeeping accounts. Currently, any NY corporation, organization, individual, union, or other interest wishing to evade campaign contribution limits need only give to a type of party committee that is supposedly reserved for administrative tasks and “party building” purposes. These party accounts, commonly referred to as “housekeeping” accounts, can accept unlimited sums of cash. Housekeeping account money is not supposed to be used to support candidates and their campaigns, but this legal barrier does not hold up in practice. Over the past twenty years, huge contributions to state housekeeping accounts have come to be standard practice, a cost of doing business for any special interest seeking to influence politics and policy in New York. As our findings show, party housekeeping accounts are among the top recipients of education unions and privatizer contributions.

Recommended Changes to New York’s Lobbying Act

The relentless grassroots campaign war currently raging in targeted Assembly districts across the state to influence public opinion on education policy is being waged, in major part, through the use of third-party coalition front groups to fight for or against specific legislative proposals. New Yorkers in those districts have complained to Common Cause/NY about both the quantity, as well as the unverifiable content and veiled source, of the onslaught of mailers and robocalls they are receiving. Examples of mailers from both sides of the issue are provided in the appendix. This is not only the most recent front in the education policy wars, but may also be the most extreme manifestation of the phenomenon we chronicled in a 2011 report, *Lifting The Veil*.¹¹⁶

In that report, we called for updating New York’s lobbying laws to reflect the new lobbying reality in which grassroots lobbying campaigns are used as well as traditional lobbying by hired lobbyists and constituents. Since that time, only one of our recommendations – to require the disclosure of those paying for grassroots campaigns to influence public opinion and legislative outcomes while hiding behind third party groups or coalitions – has been addressed but only in a partial and limited way. We are pleased to see that the Joint Commission on Public Ethics has begun the process of expressly defining what constitutes direct and grassroots lobbying, as we recommended in our earlier report.

The extensive and detailed recommendations which we made in that report are even more relevant today. Common Cause/NY renews its calls for extensive amendment of the Lobbying Act, as summarized below.

- **All major entities involved in a multi-layered lobbying structure should be disclosed, including nonprofits, whether advocacy organizations or organizations that claim charitable or educational status.**
- **Committees or coalitions that engage in lobbying costing \$100,000 or more annually should identify their major contributors and any sponsoring economic interests likely to be affected by the official action supported or opposed by the lobbying attempt, without loopholes.**

- **Require information similar to the top donor information discussed above, on all grassroots lobbying advertising and any related websites in order to allow members of the public to understand who is trying to “artificially stimulate” communication with officials on legislation or matters of public policy.**
- **Require specific, detailed standardized reporting of lobbying expenditures, which includes not only the issues or specific bills lobbied, but the position espoused.**
- **The state’s website on which lobbying expenses are reported should be upgraded to require uniformity of reporting and present the information in a form that: a) is fully searchable, b) downloadable in formats used by common spreadsheet and data programs, c) permits cross-reference, and d) is user-friendly.**

Primarily by requiring standardized reporting guidelines for direct and grassroots lobbying, political actors and lobbying clients should be required to disclose their positions in support or opposition to bills and issues for which they lobby as part of the lobby report. Since New York’s lobbying law does not yet address grassroots lobbying, different entities have reported their grassroots lobbying campaigns differently or not at all.

Recommendations to Encourage A More Robust and Effective Legislative Process

- Impartial publicly available analysis of fiscal consequences of bills
- Open, functional legislative process
- Provisions to foster accountability and fiscal soundness

The three men in a room culture of Albany creates a dysfunctional legislative process that must be improved. Fostering an open, functional legislative process means encouraging public discussion through committee hearings, public bill mark-ups and open floor debates in the legislature, not decisions made behind closed door conference meetings. All too often, bills negotiated in secret, without any form of public vetting, are faulty or have severe unintended or undisclosed consequences.

Staff of committees should prepare publicly available background memos that analyze bills including their fiscal impacts, discussion of the intended public purpose, what organizations have filed memos in support or opposition, and comparison to similar measures in other states. Balanced public hearings on bills and their specific provisions should be common place with testimony from the bill’s sponsor as well as various sides of an issue invited to participate and time for the public to comment on the record provided. Background memos and public hearings would allow public assessment of the alignment between a bill’s public purpose and its provisions.

An Independent Budget Office should be created for New York State, so that impartial fiscal impacts of legislation can be fully examined in a de-politicized way. This would increase public accountability of recipients of state funding and legislative allocations. Annual audits of fiscal impacts should be performed by certified public accountants, with transparent reporting of how the funding is allocated and used. Any program that distributes public moneys must have strong enforcement and penalty provisions. Sufficient reporting should be required as part of the enabling legislation of the data necessary to adequately assess the efficacy of the program.

These are common sense measures that are in place in numerous other states, and, after the events of this past six months, should be under serious discussion in both houses of the Legislature.

CONCLUSION

This report shows how political spending around education issues has spiraled in New York State, making it virtually impossible for everyday New Yorkers not already aligned with either side of the issue to obtain objective information or have their voices heard. While in the past, education union political strength has resulted in the adoption of measures favored by teachers, the infusion of direct campaign contributions on the part of privatizers has resulted in education scholarship tax credit bills that significantly advantage the wealthy in ways not seen in other states, contrary to representations made on mailers and robocalls. New Yorkers' faith in the public policy decisions of their elected representatives is the victim, yet again. It is past time for common sense measures to be adopted in New York that would moderate the power of the three men in a room, break the stranglehold which wealthy and special interest political spenders have on our elections and public policy decisions, and encourage a robust and transparent legislative process to help evolve the most effective and efficient solutions to our state's problems.

ENDNOTES

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² The Southern Education Foundation, *A Failed Experiment, Georgia's Tax Credit Scholarships for Private Schools, 2011*.

³ Karen DeWitt, "Education issues front and center in 2015," *New York Now*, January 5, 2015, <http://nynow.org/post/education-issues-front-and-center-2015>.

⁴ Sol Stern, "How Teachers Unions Handcuff Schools," *City Journal* 7, no. 2 (Spring 1997).

⁵ Joseph Berger, "Albert Shanker, 68, Combative Leader of Teachers, Dies," *New York Times*, February 23, 1997;

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⁷ "Teachers Unions: Background," Open Secrets, last updated May 2013, accessed June 10, 2015, <https://www.opensecrets.org/industries/background.php?cycle=2014&ind=L1300>.

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⁹ The national education unions' placement on the list contrasts interestingly to that of Governor Andrew Cuomo, whose campaign committee's \$12.9 million contribution to the New York State Democratic Party places him 8th.

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⁸² Arizona and Louisiana do not cap the amount of tax credits available to individuals, although their programs have other restrictions which might be seen to moderate the fiscal impact of the program on the state.

⁸³ S.1976, Sec.42(c); A2551, Sec. 42, 14(c); Program Bill 2, Sec. 42(c).

⁸⁴ Teachers and school personnel must undergo background checks, and teachers must satisfy specific education or training requirements. Louisiana has a similar requirement. No such requirement in the New York bills. The school must verify compliance with state and local health and safety requirements as well as comply with federal nondiscrimination requirements and, as in the ALEC model bill, are required to administer nationally recognized tests or the state public school assessment test and post standardized test score gains. Although New York is demanding that public schools satisfy Common Core requirements, there is no similar testing or curriculum requirement for nonpublic schools participating in this program. Schools are required to prove financial soundness and newly founded schools must provide a bond or letter of credit for some portion of the scholarship received.

⁸⁵ Among Florida’s extensive requirements are background checks for owners of such organizations, documentation of standards used in awarding scholarships and reports of annual CPA-conducted financial audits, and checking compliance of the schools its funds. Those who own or operate scholarship granting organizations must be independent of the schools they fund.

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APPENDIX

Appendix 1 – Union affiliated organizations and/or PAC and their total contributions from 2005 -2014

Union affiliated organization contribution amounts: 2005 - 2014	
Organization / Pac	Total Contributions
NYSUT (VOTE-COPE)	\$60,938,591
American Federation of Teachers / United Federation of Teachers	\$22,823,229
National Education Association	\$443,046
Buffalo Teachers Federation	\$268,619
Say Yes To Education	\$242,424
New Yorkers For Good Jobs And Good Schools	\$94,055
Alliance For Quality Education	\$89,573
Coalition For Ed Justice/Ej Pac	\$69,013
New Yorkers Together	\$55,000
Yonkers Federation Of Teachers	\$45,152
New York Communities For Change	\$34,328
Sewanhaka Federation Of Teachers	\$10,150
NYC Kids Pac	\$9,397
Parents Across America	\$3,163
Parent Voices NY	\$2,800
Class Size Matters	\$2,550
Save Our Schools	\$1,500
Campaign For Fiscal Equity	\$1,225
Long Island Progressive Coalition	\$1,120
Community Voices Heard	\$1,120
Mt Vernon Federation Of Teachers	\$1,100
Westchester Federation Of Teachers	\$765
Nassau Community College Federation Of Teachers	\$666
Malone Federation Of Teachers	\$600
Campaign For Ed Equity	\$500
Citizen Action	\$490
Uniondale Teachers Association	\$300

Appendix 2 – Expenditures and Lobbying From 2005 – 2014

Year	Union Expenditures & Lobbying	Privatizer Expenditures And Lobbying
2005	\$6,442,053	\$56,387
2006	\$9,515,351	\$1,233,074
2007	\$10,115,122	\$1,632,351
2008	\$14,518,061	\$1,351,685
2009	\$12,350,257	\$1,532,496
2010	\$12,628,707	\$8,166,365
2011	\$13,947,157	\$5,289,150
2012	\$11,333,867	\$1,648,622
2013	\$17,503,979	\$3,656,478
2014	\$9,119,949	\$9,827,725
Total	\$117,474,502	\$34,394,332

In 2010, Privatizers spent more than Unions on lobbying. Total Privatizer political spending jumped from \$1.5 million in 2009 to \$8.1 million in 2010. Total Privatizer political spending exceeded Union political spending by \$700,000 in 2014.

Year	Union Lobbying	Privatizer Lobbying
2005	\$0	\$0
2006	\$0	\$0
2007	\$3,234,977	\$1,137,893
2008	\$6,713,496	\$947,403
2009	\$5,094,869	\$1,344,970
2010	\$6,627,467	\$7,873,538
2011	\$8,369,465	\$5,109,267
2012	\$4,250,051	\$1,406,541
2013	\$5,473,164	\$2,912,955
2014	\$5,893,292	\$3,137,921
Total	\$45,656,781	\$23,870,488

Appendix 3 – 2015 Lobbying Spending (Reported to date)

Privatizer 2015 Lobbying Expenditures	Total Jan - April
Studentsfirst New York Advocacy, Inc.	\$712,581
Coalition For Opportunity In Education	\$190,782
Center For Charter School Excellence	\$141,148
Northeast Charter Schools Network	\$64,150
Success Academy Charter Schools, Inc.	\$49,489
Ascend Learning	\$45,152
Catholic Conference Policy Group, Inc.	\$42,374
National Heritage Academies	\$39,710
New Visions For Public Schools	\$26,000
Center For Educational Innovation	\$24,752
Catholic Conference (NYS)	\$20,167
Foundation For Opportunity In Education	\$15,334
Fahari Academy Charter School	\$14,000
Education Reform Now Advocacy, Inc.	\$11,332
Teach For America (NY)	\$6,264
Agudath Israel Of America	\$2,583
Families For Excellent Schools Advocacy, Inc.	\$1,584
TOTAL	\$1,407,402

Methodology: We selected the top spenders on lobbying for 2014 and the top overall lobbying spenders and searched their 2015 activity. JCOPE filing periods only allowed us to analyze data from Jan-April 2015. Filings for May-June are not released until July.

Union Lobbying Expenditures 2015	Total Jan-April
American Federation Of Teachers	\$30,074.00
United Federation Of Teachers	\$529,763.00
United Teachers (NYSUT)	\$2,457,397.00
Alliance For Quality Education	\$136,910.00
BOCES Educational Consortium	\$16,612.00
TOTAL	\$3,170,756.00

Appendix 4 – Giving in Other States’ Elections by Top NYS Contributors

Pro-Privatization Contributors

**TOP NYS PRIVATIZER
CONTRIBUTORS' NATIONWIDE
GIVING FROM 2005 - 2014**

Name	Total Amount
Michael Bloomberg	\$50,680,371
Paul Singer	\$18,388,891
James Simons	\$17,353,250
Julian Robertson	\$6,188,900
Paul Jones	\$3,752,000
David Koch	\$3,541,783
Bruce Kovner	\$3,195,263
Daniel Loeb	\$2,955,750
Thomas McInerney	\$1,671,001
Roger Hertog	\$1,497,704
Joel Greenblatt	\$224,800

**TOP 10 STATES TO RECEIVE TOP 11
PRIVATIZER NYS ONTRIBUTIONS**

Jurisdiction	Grand Total
USA	\$86,546,641
FL	\$3,845,920
CA	\$3,640,860
OR	\$2,179,800
VA	\$1,782,536
MI	\$1,546,700
MD	\$1,061,283
IL	\$943,301
CO	\$874,133
PA	\$850,914
WA	\$769,250

Union Contributors

**TOP NYS UNION CONTRIBUTORS'
GIVING NATIONWIDE 2005 - 2014**

Name	Total Amount
David Knott	\$385,596
George Weiss	\$124,900
Cathy Lasry	\$82,906
Caryn Effron	\$27,000
John Schumacher	\$2,496
Robert Cherrington	\$2,000
Paul Pecorale	\$1,651
Michael Jensen	\$1,174
Richard Iannuzzi	\$710
Mary Anne Schmitt-Carey	\$630

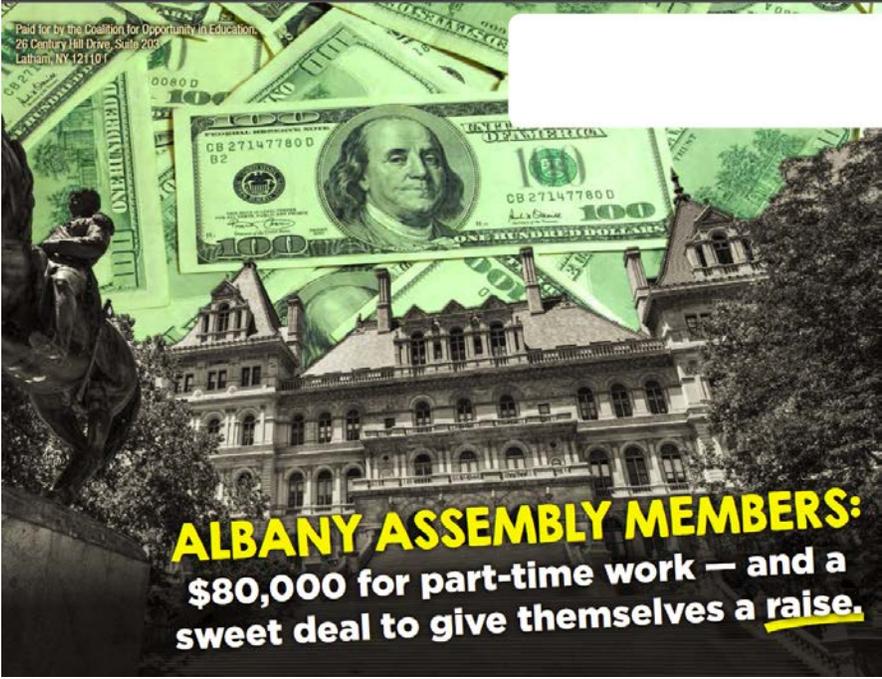
TOP STATES TO RECEIVE TOP 10 UNION NYS CONTRIBUTIONS	
Election Jurisdiction	Grand Total
USA	\$412,583
PA	\$91,000
CA	\$30,700
OH	\$13,896
FL	\$12,024
SC	\$10,400
MA	\$10,400
AZ	\$8,700
LA	\$5,000
IA	\$5,000

Appendix 5 – Lynde and Harry Bradley Foundation pro-privatization donations

Example Education Privatization Donations from the Lynde and Harry Bradley Foundation		
Year	Receiving Organization	Amount

2012	Prep for Prep	\$5,000
2012	American Center for School Choice	\$40,000
2012	Thomas B. Fordham Institute	\$50,000
2010 - 2012	Alliance for School Choice	\$55,000
2012	Education Action Group Foundation	\$65,500
2012	The Center for Union Facts	\$70,000
2012	Foundation for Opportunity in Education	\$75,000
2012	Teach for America	\$75,000
2011 - 2012	Center for Education Reform	\$100,000
2010 - 2011	American Legislative Exchange Council	\$170,000
2009 - 2012	Foundation for Education Reform and Accountability	\$275,000
2012	Rocketship Education	\$375,000
2012	American Enterprise Institute for Public Policy Research	\$420,000
2011	Charter Growth Fund	\$3,000,000
2012	The Charter Fund	\$3,000,000
TOTAL		\$7,775,500

Appendix 6- Examples of Mailers on Education Tax Credit



Assembly Member Fahy helped herself to a raise, but refuses to help our school children by supporting the Education Tax Credit.

Assembly Member Fahy approved a sweet deal to raise the pay for Albany politicians automatically in the future without any vote. The deal has no caps on how high their salary could be raised. A commission of their hand-picked allies will get to set their salary — once again with no requirement for a vote.

State legislators already make \$80,000 a year for a part-time job plus extra payments for every day they show up at work.

Albany politicians need to get their priorities straight and focus on our families by passing the Education Tax Credit.



The Education Tax Credit will provide \$150 million in tax credits annually to:

- Reimburse public school teachers \$200 for paying out of their own pockets for classroom supplies.
- Encourage donations to critical school programs such as pre-k and after-school programs like art, music, and tutoring.
- Provide a \$500 tax credit to low-income families who send their children to religious or private schools.
- Encourage donations to pay for scholarships for low- and middle-income students who attend public or private schools.

Tell Assembly Member Fahy
Politicians don't need our help. Our schools do.
Call 518-455-4178 or email FahyP@assembly.state.ny.us

Thank Assemblymember
PHIL STECK

for **OPPOSING** Albany's
New Tax Giveaway!

SAYING NO TO A SHADY GIVEAWAY

Assemblymember Steck is opposing the Governor's Parental Choice in Education Act, a bill to create a new tax credit giveaway for Wall Street and the Governor's billionaire friends.

STANDING UP TO WALL STREET & THE WEALTHY

The gimmick would reimburse wealthy donors trying to transfer large sums to private schools. Assemblymember Steck supports fair funding for all our kids.

PROTECTING PUBLIC SCHOOLS & SERVICES

The Governor's tax giveaway would take away \$150 million each year that should go to public schools and services. Phil Steck is standing up for us.



CALL ASSEMBLYMEMBER STECK
and say **THANK YOU** for fighting for us: 518-455-5931

NYSUT 2015-1001-110

Assembly Member Fahy voted to give herself a raise, but did **NOT** support the Education Tax Credit.

This year, Albany Assembly Members struck a sweet deal¹ to give themselves pay raises without a vote. Assembly Members already make \$80,000 for a part-time job. Enough is enough.

Albany Assembly Members need to get their priorities straight and pass the Education Tax Credit to help our kids and schools.

The Education Tax Credit will provide \$150 million in tax credits annually to:

- Reimburse public school teachers \$200 for paying out of their own pockets for classroom supplies.
- Encourage donations to critical school programs such as pre-k and after-school programs like art, music, and tutoring.
- Provide a \$500 tax credit to families with incomes below \$60,000 who send their children to religious or private schools.
- Encourage donations to pay for scholarships for low- and middle-income students who attend public or private schools.



Tell your Assembly Member:

Albany politicians don't need our help. Our schools do.

Assembly Member Patricia Fahy, AD-109 | 518-455-4178 | FahyP@assembly.state.ny.us

CHECK THE FACTS: L.A.6721-A (Part E), 4/9/15.

YOUR SCHOOL DISTRICT IS STILL OWED \$59,366,608

Tell Assemblymember John McDonald to Oppose Albany's New Tax Giveaway



A SHADY GIVEAWAY

Wealthy special interests are pushing the Governor's so-called Parental Choice in Education Act—a shady new tax giveaway.



FOR WALL STREET & THE WEALTHY

The Governor's tax giveaway would reimburse wealthy donors trying to transfer large sums of money to private schools—and take away \$150 million yearly from public schools, services and programs.



Call Assemblymember MCDONALD

Ask why he supports diverting money due our public schools and giving it to private schools and the Governor's billionaire friends.

CALL 518-455-4474 TODAY.

NYSUT-2015-1002-108

Appendix 7- Top Privatizer 10 organizations (and affiliated/intertwining organizations)

Privatizer affiliated organization contribution amounts: 2005 - 2014			
Organization(s)	Total Contributions	Top Contributor PAC	Top Contributor Individual
Fund for Public Schools	\$9,265,969	N/A	Michael R. Bloomberg
Studentsfirst	\$8,019,371	New Yorkers For A Balanced Albany	Paul Singer
Brighter Choice / Opportunity in Ed /ED FUND/ Charter PAC / Public Charter / School Choice Scholarships / Alliance for School Choice	\$7,612,767	Educational Fund	Bruce Kovner
Dems for Education Reform / Ed Reform Now	\$4,083,836	Democrats For Education Reform	RAVENEL BOYKIN CURRY IV
Center for Educational Innovation	\$3,155,710	N/A	James Simons
Robin Hood Foundation	\$2,625,160	Tudor Investment Corp. Pac For Responsible Govnt	Paul T. Jones II
Success Academy / Great Public Schools PAC	\$2,528,758	Great Public Schools Pac	Joel M. Greenblatt
Bill of Rights Institute	\$1,609,627	N/A	David Koch
ED VOTERS/NY EDPAC	\$1,032,878	NY Ed Pac	Lilo Leeds
50CAN/NYCAN	\$768,045	N/A	Leo J. Hindery
American Principles Project	\$716,628	N/A	Sean Fieler
Harlem Children's Zone	\$685,527	N/A	Stanley F. Druckenmiller
Families for Excellent Schools / Public Prep	\$536,142	Families For Excellent Schools PAC	BRYAN LAWRENCE
Icahn Charter School	\$446,550	N/A	Carl Icahn
National Heritage Academies	\$421,995	N/A	J.C. Huizenga
Harlem RBI	\$415,628	N/A	Vincent Viola
Children's Scholarship Fund / Buffalo Scholarship Fund	\$314,291	N/A	Carl Montante
KIPP	\$230,220	N/A	Philippe Dauman

New Visions for Public Schools	\$199,236	N/A	Blair Efron
New York Charter School Center	\$189,300	N/A	Joseph H. Reich