

EXECUTIVE SUMMARY

**DOLLARS AND
DISCLOSURE
Campaign Finance
Reform
in New York City**

September 1990



NEW YORK CITY
CAMPAIGN FINANCE BOARD



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Dedication

*The members and staff of the Campaign Finance Board
dedicate this report on the 1989 New York City elections
to their late colleague and friend,
Dean Robert B. McKay,
whose counsel and integrity defined the standards
to which the Board remains committed.*



The New York City Campaign Finance Board (from left): Joseph Messina; Sonia Sotomayor; Chairman Joseph A. O'Hare, S.J.; Robert B. McKay; Executive Director Nicole A. Gordon; and James I. Lewis.

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CAMPAIGN FINANCE BOARD**

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PREFACE

A detailed review of the 1989 New York City elections and the City's first experience with the Campaign Finance Act is presented in "Dollars and Disclosure: Campaign Finance Reform in New York City," a report prepared by the New York City Campaign Finance Board, submitted to the Mayor and the City Council in accordance with Section 3-713 of the Campaign Finance Act. The full report can be obtained from the New York City Campaign Finance Board, 253 Broadway, New York, New York 10007, (212) 240-4742.

This Executive Summary contains highlights of that Report and includes a summary of the recommendations made by the Board and submitted to the Mayor and the City Council. The proposed amendments to the Act are designed to simplify its administration and to increase the incentives for candidates to participate in New York City's pioneering Campaign Finance Program.

FOREWORD

The 1989 New York City elections were notable for an extraordinary political experiment: the first test of the most ambitious campaign finance reform program ever attempted in a municipality in the United States. For reasons documented in the pages that follow, the experiment, by any reasonable standard, must be judged a success. But the experiment also remains unfinished. Much can be learned from this first experience with the New York City Campaign Finance Program, but much still needs to be done if the far-reaching reforms implicit in this Program are to be realized.

The Campaign Finance Act of 1988 was passed into law by the City Council in February of that year. Section 3-713 of the Act mandates that the Campaign Finance Board publish a report by September 1990 and every fourth year thereafter that reviews the conduct of the Program in the preceding campaign and makes recommendations for any changes in the Program that seem desirable in the light of that experience. The Report, entitled "Dollars and Disclosure: Campaign Finance Reform in New York City," and this Executive Summary of the Report are presented in fulfillment of that mandate.

There were several distinct but related goals envisioned in the passage of the Campaign Finance Act. Probably the most important of these was the reduction of the influence of wealthy contributors on electoral campaigns and the attempt to address the public perception that large contributions to candidates purchased special access to elected officials and special privilege in the conduct of government business.

To restrict the influence of money on electoral campaigns, the Campaign Finance Program sets limits on contributions and expenditures and also imposes strict requirements for disclosure of campaign finances. By providing matching public funds to candidates who agree to observe these limits and requirements and who reach certain threshold levels in fund raising, the Program also intends to "level the playing field" for all candidates, whether or not they have access to substantial wealth. In this way, wider participation in the electoral process by both candidates and voters can be encouraged.

Finally, the Campaign Finance Program, through its stringent disclosure requirements and the publication and distribution of a Voter Guide, seeks to promote public information and the education of voters.

Not all of these goals were equally achieved in this first experience with the Program. Certainly the impact of large contributions was diminished considerably, and new patterns of fund raising became necessary. A most encouraging sign of the Program's impact is the substantial increase in the role played by small givers. The amount of information made available to the voting public was unprecedented, and some observers thought that the disclosure requirements of the Program constituted its most significant feature. But the impact of these reforms was far more evident in citywide campaigns than in the City Council races, where it appears the Program may have had only limited success in encouraging more candidates to participate.

This Executive Summary highlights the Campaign Finance Board's recommendations for amending the Act in ways that should encourage more candidates to enter the Program, by simplifying the reporting requirements and increasing the incentives for participation. In considering these proposed amendments to the Act, it is important to realize that the mere appearance

of reform, without any real change in the way electoral politics are carried on in New York City, would be a dangerous illusion, one that could only increase the already considerable public cynicism about national, state, and City politics. One of the most disconcerting discoveries of the campaign was the realization that many in the media who are most vocal about campaign abuses remain most skeptical about campaign reform.

It may well be that those who enacted this historic legislation did not fully appreciate what its effective implementation would entail. The Campaign Finance Program did not represent a minor adjustment in campaign bookkeeping, but a profound change in the political culture in which campaigns are conducted. Fund-raising strategies had to be redefined, becoming more democratic in the process. Candidates and their campaign staffs, accustomed to older methods of fund raising and less stringent requirements of accountability, undoubtedly found the financing of their campaigns more difficult.

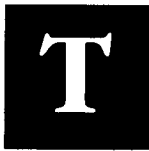
For this reason those candidates who did choose to participate in the Campaign Finance Program in this, its first experiment, demonstrated that their commitment to electoral reform went well beyond conventional verbal assurances. In fact, in some cases, participation could even have entailed a risk to personal political fortunes. This kind of commitment on the part of the political leadership of New York City is the most reassuring sign of hope for the political future of the City.

I would be remiss if I did not recognize, on behalf of the other members of the Campaign Finance Board, the extraordinary accomplishments of the Executive Director, Nicole Gordon, and her staff. The members of the Campaign Finance Board were not appointed until June of 1988, and the Executive Director was not appointed until September 1988. It was two months before office space was even secured for the staff, yet by December 1988 a staff had been assembled and was hard at work developing regulations for the Campaign Finance Program and educating themselves as well as the candidates about its demands. Furthermore, the staff scrupulously maintained the non-partisan character of the Board in dealing with different candidates, their staffs, and a great deal of confidential information throughout the campaign.

Because of the changes in the New York City Charter adopted by the voters in the November 1989 elections, the next test of the Campaign Finance Program will not be in 1993, as the Campaign Finance Act originally envisioned, but in 1991, when elections for an expanded City Council will take place. The Campaign Finance Board and its staff are confident that the political leaders of New York City, who have already demonstrated their commitment to campaign finance reform, will now act promptly on the recommendations contained in this Executive Summary and the Report so that the necessary preparations for the 1991 City Council elections can begin immediately.

Joseph A. O'Hare, S.J.
Chairman
New York City
Campaign Finance Board

The Campaign Finance Act



he 1989 elections, unlike any others in New York City's history, were marked by an unprecedented reform designed to lessen the influence that big money can wield in local elections and to broaden the participation of candidates and voters in a more open and competitive electoral process.

These ambitious goals are at the heart of New York City's Campaign Finance Act, a milestone in campaign finance legislation. Enacted in February 1988 and first implemented for the 1989 municipal elections, the Act places New York City in the forefront of campaign finance reform in the United States. Only a handful of other jurisdictions have public campaign finance programs, and New York City's is by far the largest at the local level.¹ Even as the debate continues in Congress whether to expand public campaign financing at the federal level beyond the Presidency, New York City's Program, unlike most others, already covers both executive and legislative offices. Five elective offices, including mayor, comptroller, City Council president, borough president, and City Council member, are covered by the Act. In 1989, 48 candidates who appeared on the ballot participated in the Program for the 1989 elections (see Table 1), more than \$4.5 million in public matching funds was distributed, and an unprecedented amount of information was made publicly available about the flow of money into and out of participants' 1989 campaigns.

The chief purposes of the Act are to diminish the role that wealthy contributors and monied interests play in New York City elections and to address the public perception that special privilege exists for these contributors and interests. The Act also seeks to increase voter awareness of and meaningful competition among candidates. To achieve these ends, the Campaign Finance Board was created to administer the voluntary Program, which in contrast to state law, provides public matching funds to candidates who agree to the Act's dramatically lower contribution limits, expenditure limits, and comprehensive public disclosure provisions.

To increase voter awareness of local issues, the Campaign Finance Board also publishes and distributes a non-partisan Voter Guide to all registered voters.² The Voter Guide provides equal space for all candidates to present a statement of their views to voters, whether or not they choose to participate in the Campaign Finance Program. By providing a free public forum that reaches the entire electorate, the Guide helps to reduce candidates' reliance on private contributions. The 1989 Voter Guide, the most visible of the Board's activities to the average voter, was a resounding success, hailed by newspaper editorials as a great help to voters.³ Many City voters took their Guides into polling places on election day, and dozens of them sent letters to the Board praising the distinctive, red-white-and-blue Voter Guides. "Did my taxes go into this? I hope so," wrote one City resident.

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Table 1**1989 CAMPAIGN FINANCE PROGRAM PARTICIPANTS**Mayor

Dinkins, David N.
Giuliani, Rudolph W.
Goldin, Harrison J.
Koch, Edward I.
Ravitch, Richard

Comptroller

Hevesi, Alan G.
Holtzman, Elizabeth
Macchiarola, Frank J.
Nadler, Jerrold L.

Borough President

Ferrer, Fernando
Golden, Howard
Lamberti, Ralph J.
Messinger, Ruth
Molinari, Guy V.
Shulman, Claire

City Council

Albanese, Sal F.	Harrison, Julia
Alter, Susan D.	Horwitz, Samuel
Berman, Herbert E.	Maloney, Carolyn B.
Cline, Raymond	Maresca, Stephen M.
Cohen, Adele	Michels, Stanley E.
Crispino, Jerry L.	Molinari, Susan
DiBrienza, Stephen	Owens, Chris
Dryfoos, Robert J.	Paperman, Dennis
Eichenthal, David R.	Perednia, Theodore
Eisland, June Margolin	Perkins, William
Eldridge, Ronnie M.	Robles, Victor L.
Espailat, Adriano	Sheffer, Ethel
Fields, C. Virginia	Shorenstein, Janice W.
Friedlander, Miriam	Stringer, Scott
Gerges, Abraham G.	Taylor, David
Goldfeder, Jerry	Vallone, Peter F.
Greitzer, Carol	

(No City Council president candidate participated in the Program in 1989.)

The Campaign Finance Act substantially reduces contribution limits in order to lessen participating candidates' reliance on wealthy private contributors. Several political science studies have shown a positive relationship between contributions made to candidates by political action committees ("PACs") and the candidates' legislative votes on issues of concern to those PACs.⁴ "I take money from labor," said former New York Congressman Richard Ottinger, "and I have to think twice in voting against their interests . . . I shouldn't have to do that."⁵ Even though other considerations, such as an elected official's party affiliations, ideology, the visibility of a given issue, and the official's constituency are major influences on voting, politicians themselves acknowledge that persons or PACs who contribute large sums of money get, at the least, greater access to the politicians.⁶

Contribution Limits

The Campaign Finance Act's contribution limits (see Table 2) are one remedy for the problem of the reality and perception of improper influence. During the 1989 elections, mayoral candidates who joined the Program, for example, could accept contributions of no more than

Table 2
1989 THRESHOLD LEVELS, CONTRIBUTION LIMITS,
AND SPENDING LIMITS

<u>Office</u>	<u>Threshold Amount</u>	<u>Contribution Limit*</u>	<u>Spending Limit*</u>	<u>Fund-Raising Allowance*</u>
Mayor:	\$ 250,000	\$ 3,000	\$ 3,000,000	\$ 600,000
Comptroller:	125,000	3,000	1,750,000	350,000
City Council President:	125,000	3,000	1,750,000	350,000
Borough President**				
Bronx:	23,379			
Brooklyn:	44,619			
Manhattan:	28,566	2,500	625,000	125,000
Queens:	37,827			
Staten Island:	10,000			
City Council:	7,500	2,000	60,000	20,000

*These limits and allowances are applied separately in the primary and general elections. Additional lower spending limits and fund-raising allowances applied in the third year of the election cycle (1988).

**Computed at \$0.02 per person in the borough population (based on the 1980 census), or \$10,000, whichever is greater.

\$3,000 per election; the limit under current state law is \$50,000. The limits also enable candidates who are not wealthy or who lack a base of wealthy supporters to compete more effectively in elections.

Spending Limits

A second means of enhancing public confidence in elected officials is to curb skyrocketing campaign spending. The five major mayoral candidates who joined the Program agreed to spend no more than \$3.6 million per election. In sharp contrast, Republican candidate Ronald Lauder, who chose not to participate in the Campaign Finance Program, spent over \$14.5 million on the 1989 elections and \$13.7 million on the primary election alone. Realistic spending limits reduce the public perception that elective offices are for sale and create a more level financial playing field on which all candidates, including challengers, can compete more effectively. The spending limits agreed to by participants are set forth in Table 2.

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Public Funds

Public funding of candidates' campaigns is the third key element of the Program. Like contribution limits, public funding reduces candidates' reliance on large contributions and gives candidates without access to wealth the resources necessary to conduct a meaningful campaign. For the 1989 elections, the Campaign Finance Board disbursed more than \$4.5 million in public funds to 36 eligible candidates. Once participating candidates demonstrated that they had public support by raising a specific "threshold" amount of contributions (see Table 2) from local residents, the Program matched contributions from City residents dollar-for-dollar up to \$500 per contributor.

During her appearance at public hearings conducted by the Board in December 1989 (the "Public Hearings"), Council candidate C. Virginia Fields testified that public funds were very important to her successful 1989 campaign against a non-participating incumbent and that running her campaign "would have been much more difficult without the assistance offered through the Campaign Finance Program." The Program's dollar-for-dollar matching formula "really served as an incentive for local people to become involved," she said, because as she campaigned throughout her district she told contributors that their \$10 or \$25 contributions would be matched and therefore were worth twice as much to her campaign.

As Council candidate David Taylor testified at the Public Hearings, "I'm a person of modest means, a hospital worker with no family wealth. My father was a plumber, and my mother a sales clerk. Quite frankly, if it were not for the Campaign Finance Act, I would not have been able to be a candidate for City Council. The fact that this Act provided matching funds to candidates who opt into the Campaign Finance Law made it possible for me to launch a serious campaign for City Council."

Disclosure

Increasing the information available to the public about candidates' campaign finances is another major goal of the Campaign Finance Program. During the 1989 municipal elections, more information than ever before was made readily available to the press and the public about how candidates who voluntarily participated in the Program raised and spent their campaign funds. In his testimony at the Public Hearings before the Board, mayoral candidate Rudolph Giuliani emphasized the importance of public disclosure and applauded the success of the Campaign Finance Act in this critical area. "[The] law's major contribution is that it has regularized and publicized a process that in the past would have been a lot more secret," he said. "[T]he primary purpose of [campaign finance regulation] . . . is disclosure so that the public, the press, and political opponents can . . . take a look at who in fact is financing a campaign, and therefore raise appropriate questions about—not just conflict of interest, but also where the balance of political power might lie should a certain person be elected or continue in public office."

For the 1989 elections, participating candidates filed detailed reports with the Campaign Finance Board that listed their contributions, expenditures, and any other campaign-related financial activity. For each contribution, candidates reported the donor's name, address, occupa-

tion, employer, and the amount of the contribution. Candidates also reported the amount and purpose of all campaign expenditures. Information was submitted about more than 132,000 campaign transactions by 1989 participants. These data were entered onto the Campaign Finance Information System ("CFIS"), a computer database developed by the Board, as required by law, to help administer the Program and monitor candidates' compliance with the Act. Throughout the elections, the Board responded to hundreds of requests for information. Most of these were from members of the press who relied on the Board's database and financial disclosure reports as the most accurate, up-to-date, and useful source of information about what participating candidates were raising and spending. Public disclosure of campaign finance information in a timely manner and in a useful format was a major accomplishment of the Program.

History

In New York City, a series of corruption scandals that were exposed in municipal government in the mid-1980's focused public attention on the question of political influence. The scandals, although not directly related to campaign activities, increased the growing pressure for local campaign finance reform. Despite repeated introduction of campaign finance reform bills at the state level, no state legislation was passed in the 1980's covering state or New York City offices. In 1986, City Council members Albanese, Alter, DiBrienza, Dryfoos, Gerges, and Maloney had introduced bills to provide optional partial public financing of certain municipal election campaigns. Under the chairmanship of Richard Ravitch, the Charter Revision Commission undertook a study of campaign finance reform in the spring of 1987. In September 1987, a bill was introduced in the City Council by Council members Katzman, Messinger, and Michels, at the request of Mayor Koch. With the backing of a number of groups, including the New York Public Interest Research Group, Inc., Citizens Union, and Common Cause, and with the strong support of City Council Vice-Chairman Peter Vallone, an amended bill passed the Council on February 9, 1988 by a vote of 24 to 9.

The New York City Campaign Finance Act (Local Law No. 8 of 1988) became law on February 29, 1988. In his bill-signing statement, Mayor Koch hailed the Act as "the most fundamental reform of the political process ever enacted by the city. . . . [The Act] will achieve a more equitable and open system of financing candidates who seek elective office. . . ." In January 1989, the Council enacted amendments to the Act (Local Law No. 4 of 1989), giving candidates additional time to decide whether to join the Program in 1989, giving them some flexibility in the allocation of funds between the third- and fourth-year expenditure limits, and adding a fund-raising allowance in addition to the existing expenditure limits, thereby effectively raising the expenditure limits.

The Campaign Finance Board

The five-member Campaign Finance Board is responsible for administering New York City's Campaign Finance Act. To ensure the non-partisan and independent nature of the Board, two members are appointed by the Mayor and must be from different political parties, two are appointed by the Speaker of the City Council and must also be from differ-

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ent political parties, and the Chairman is appointed by the Mayor in consultation with the Speaker.

Board members serve staggered five-year terms. The current Board members are: Chairman Joseph A. O'Hare, S.J., President of Fordham University; James I. Lewis, lecturer in history at Hunter and Bernard Baruch Colleges; Robert B. McKay, professor at and former dean of the New York University School of Law;⁷ Joseph Messina, President of the Motor Vehicle Accident Indemnification Corporation; and Sonia Sotomayor, member of the law firm of Pavia and Harcourt.

It is the goal of the Campaign Finance Board to administer the Program in a manner that (i) distributes public monies to candidates expeditiously so that their campaigns are effectively enhanced by participation in the Program; (ii) ensures compliance by participating candidates with the conditions of the Program; and (iii) provides the public with timely and accurate information about the candidates and their campaign finances.

The results of the first administration of the Program are described in the following section.

Results of the Campaign Finance Program in the 1989 Elections

The most dramatic impact of the Campaign Finance Act was a marked reduction in the size of contributions that participating citywide candidates could accept and a substantial increase in the number of contributors to candidates for office compared with previous elections. The 48 participating candidates received a total of almost \$27.3 million in 108,800 itemized contributions from some 81,000 different contributors in the 1989 election cycle. The five participating mayoral candidates alone reported receiving more than 55,000 contributions from approximately 44,000 individual or organizational contributors. In contrast, the three mayoral candidates in 1985 reported about 20,600 separate contributions, almost all of which were raised by a single candidate, Edward I. Koch. The contribution limits of the Act encouraged candidates to broaden their bases of support by making it necessary to seek greater numbers of smaller contributions rather than a handful of large ones. Former Mayor Koch's media strategist David Garth stated, "What bothers me [about the Act] is the amount of time and effort you have to spend on raising money. If you could meet with 10 people who'd give you \$10,000 each before, you now have to meet with 33 people to raise the same amount."⁸

The changes in fund raising brought about by the Act had the greatest impact on mayoral and citywide candidates because candidates for these offices are able to attract and, in the past, were accustomed to receiving top dollar contributions. The Act required citywide participants in 1989 to compensate for a substantial loss in the availability of top-dollar support by raising a larger portion of their funds in the form of smaller contributions. Changes in fund-raising patterns before and after the Act are illustrated by the contributions received by two 1989 mayoral candidates, Edward Koch and Harrison Goldin, the only two citywide candidates who participated in the Campaign Finance Program who were also candidates in the 1985 elections.

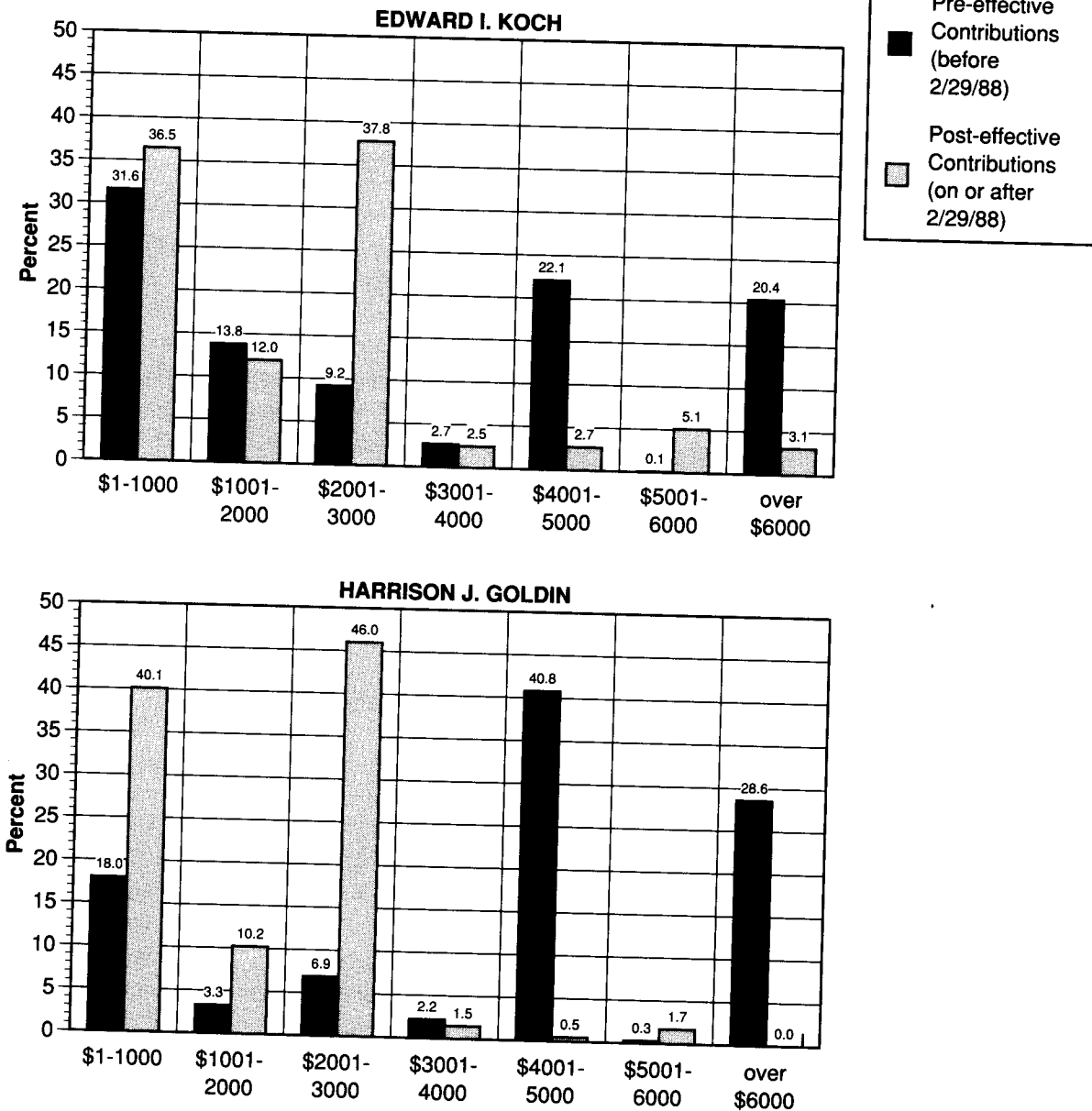
Figure 1 shows the change in the breakdown of contribution dollars received by the two candidates before February 29, 1988, when the law took effect, and on or after that date. In the period before the Act took effect,⁹ 20.4 percent of Koch's monetary contributions were in amounts of over \$6,000,¹⁰ and 28.6 percent of Goldin's monetary contributions exceeded \$6,000. After the effective date of the Act, only 3 percent of Koch's contributions and none of Goldin's were in amounts greater than \$6,000. Koch's contributions in the \$3,000-and-

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Figure 1

COMPARISON OF REPORTED CAMPAIGN CONTRIBUTIONS BEFORE AND AFTER THE CAMPAIGN FINANCE ACT BECAME EFFECTIVE

Percent of Total Dollar Amount of Contributions*



*Koch's contributions totaled \$7,752,737 in the pre-effective period and \$3,260,015 in the post-effective period. Goldin's contributions totaled \$1,995,221 in the pre-effective period and \$1,006,173 in the post-effective period.

Sources: Campaign Finance Board Data and New York State Commission on Government Integrity Data

under range increased from 55 percent before the Act to 86 percent afterwards. For Goldin, the corresponding change was from 28 percent to 96 percent. Both candidates also increased the percentage of their total monetary support in the \$1,000-and-under range.¹¹

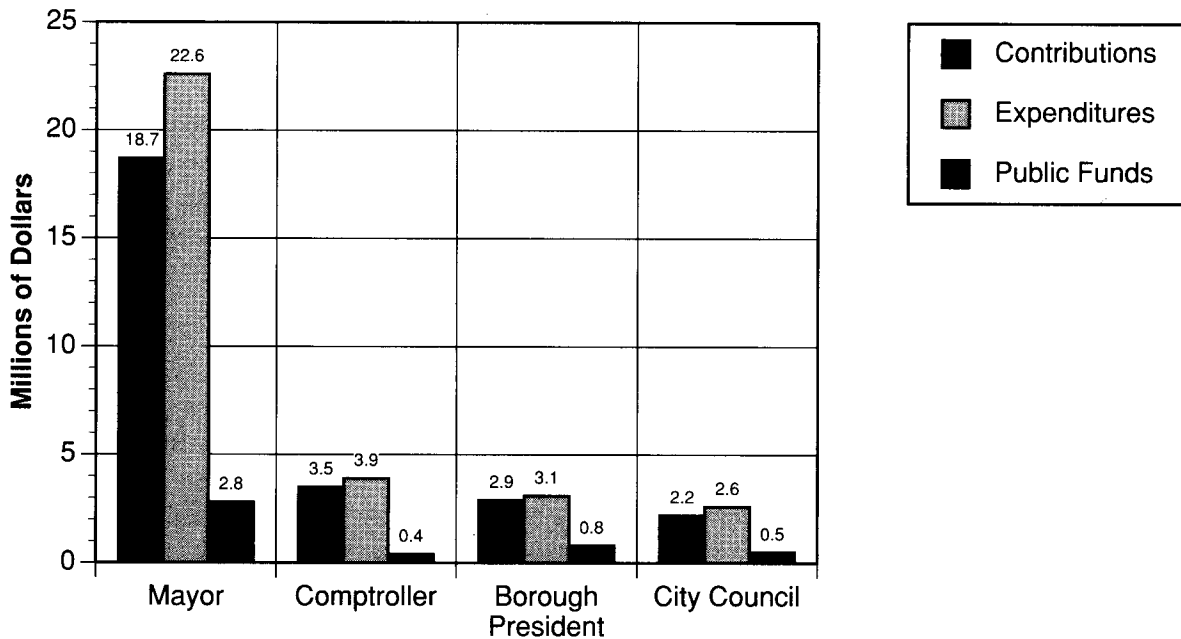
A comparison of contributions to all participating candidates before and after the Campaign Finance Act took effect also demonstrates that the new law was successful in encouraging more broad-based fund raising. Candidates collected larger numbers of small contributions. In the period before the Act, half of all contributions were less than or equal to \$100. After the Act, half of all contributions were less than or equal to \$50. Before the law was enacted, the most common contribution was \$100; after the law took effect, the most common contribution dropped to \$25.¹² Another important effect of the Act was the disappearance of most of the very large contributions that were reported in the period before the Act took effect. In the pre-effective period, cumulative contributions by a single donor in excess of \$10,000 made up 12.8 percent of all contribution dollars, but decreased to 3.1 percent in the post-effective period.

Even though over 50 percent of all contributions to participating candidates did not exceed \$50, these smaller contributions only accounted for about 4 percent of the total dollar amount of contributions reported for the 1989 election cycle. Similarly, contributions of \$500 or less accounted for over 88 percent of all reported contributions, but made up only somewhat more than 26 percent of all contribution dollars. These data suggest the importance of keeping the Act's contribution limits within a reasonable range and of increasing the amount of public funds candidates receive.

Contributions

Mayor. In the mayoral race, the five participating candidates reported a total of \$18.7 million from approximately 44,000 different contributors for the 1989 election cycle. (See Figure 2.) The dollar amount and number of contributions raised by mayoral candidates was more than five times that raised by candidates for any other office. For the 1989 elections, Dinkins received the largest number of small contributions of any candidate. Half of Dinkins' 20,000 contributions were \$60 or less. Participating mayoral candidates in 1989 received substantial support in the form of donations at or near the maximum contribution limits in both the primary and general elections. As Figure 3 shows, 27.7 percent of the total dollar amount of all contributions received by mayoral candidates for the 1989 elections were in the \$2001 - 3,000 range, which includes contributions at the \$3,000 per election limit.

Comptroller. In the comptroller race, four participating candidates reported a total of \$3.5 million from more than 14,000 different contributors. Although like the mayoral race this was a highly contested citywide election, there were 68 percent fewer contributors to comptroller candidates than to participating mayoral candidates. The total dollar amount raised in the race was less than one-fifth that raised by mayoral candidates in the Program. Participating comptroller candidates also all received important support from \$3,000 maximum contributions, although slightly less than mayoral candidates.

Figure 2**TOTAL DOLLAR AMOUNT OF CONTRIBUTIONS TO, EXPENDITURES BY, AND PUBLIC FUNDS DISTRIBUTED TO PARTICIPATING CANDIDATES FOR EACH OFFICE**

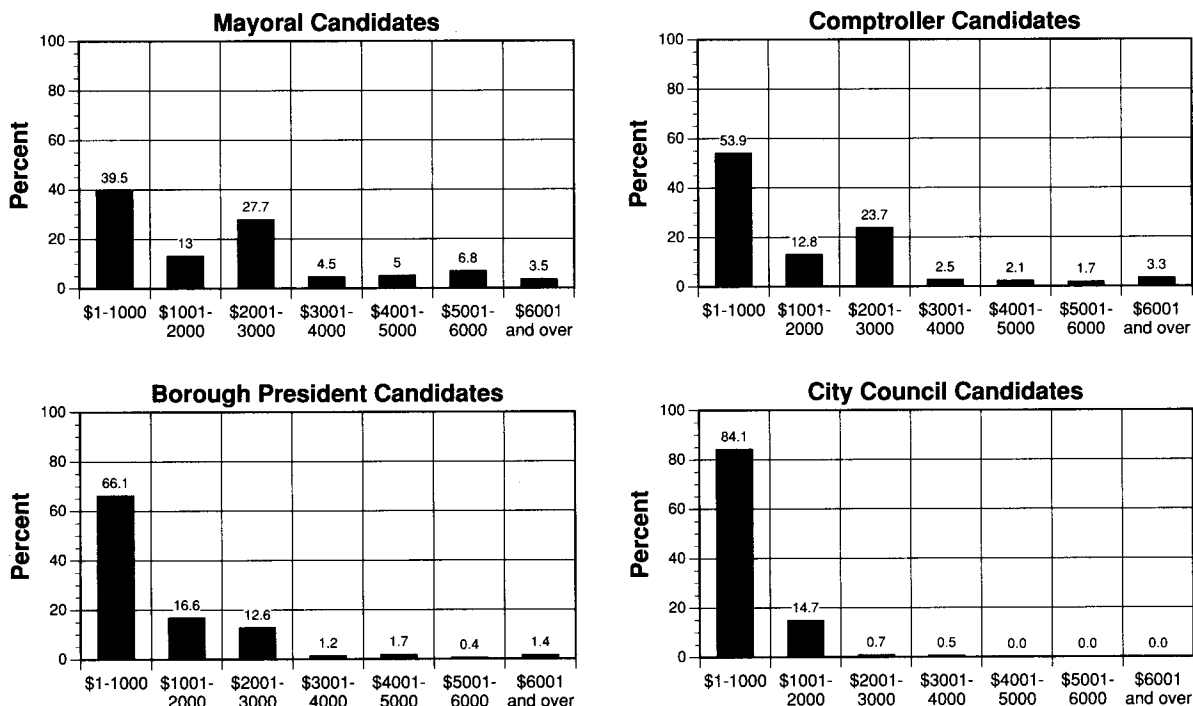
Source: Campaign Finance Board Data

Borough President. Six candidates for the five borough president offices participated in the Program in 1989 and reported a total of \$2.9 million in gross contributions from some 15,000 different contributors. About 70 percent of the contributions were raised by Ruth Messinger, who had a broader contributor base than any other candidate for borough president. In general, borough president candidates received substantially less support at or near the top end of their office contribution limits than did mayoral or comptroller candidates.

City Council. Participating City Council candidates raised a total of \$2.2 million from some 14,000 different contributors. The median contributor amount for Council candidates was \$75, while the most common contribution was \$100. In comparison with other offices, the relatively high \$75 median contributor amount for Council participants may reflect a smaller, but more stable, contributor base for the Council, where many members are long-term incumbents. Most City Council candidates received very few contributions at the top end of the spectrum. Only 4 percent of all contributions reported by Council candidates exceeded \$500; and only 0.9 percent were over \$1,500.

Figure 3
CONTRIBUTIONS RECEIVED BY PARTICIPATING
CANDIDATES IN THE 1989 ELECTION CYCLE

Percent of Total Dollar Amount of Contributions



Source: Campaign Finance Board Data (all contributions received on or after 11/6/85)

Individual and Organizational Contributors. An opinion poll of 800 New York State registered voters conducted in June 1988 for the New York State Commission on Government Integrity (the “Feerick Commission”) found that 58 percent believed corporations contribute to candidates because they want to influence or control them, and 61 percent believed the same of labor unions.¹³ Sixty-one percent of the voters polled thought that corporations exert too much control over state government decisions, and 45 percent thought that labor unions exert too much influence.

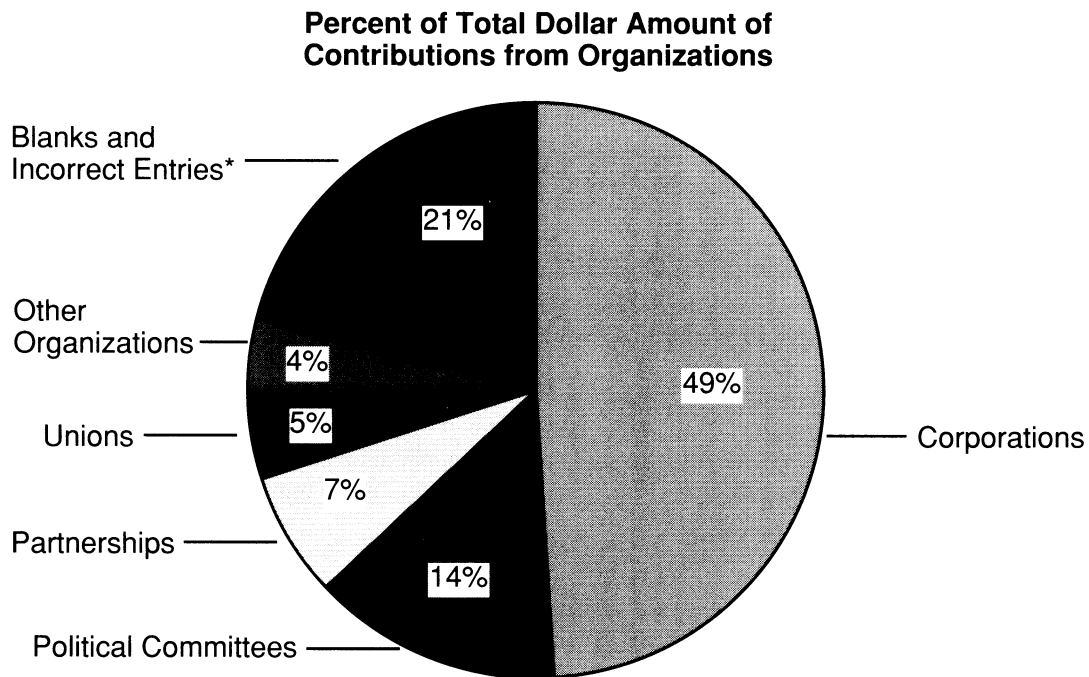
The Campaign Finance Act is intended to enhance the value of small contributions from individuals. Contributions from organizations—which include corporations, unions, political committees, partnerships, and other entities—are therefore not matched with public funds and are subject to the same contribution limits that apply to individual donors. Board rules treat a corporation, its parent, subsidiary, affiliated corporations, affiliated committees, and the persons who control them as a single source. The sum of all contributions from this single source cannot exceed the Act’s contribution limits. The Campaign Finance Program’s affiliated contributor rules are a major reform over state law, which has no such restrictions.

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Participating candidates received 68 percent of the total dollar amount of their contributions from individuals, and 32 percent from organizations. Although individuals surpassed organizations in the total number and dollar amount of contributions given to participants in 1989, organizations gave larger contributions. The median organizational contribution was \$250, five times the size of the \$50 median contribution for individuals. Corporations led the list of organizational donors, followed by political committees, partnerships, and unions. (See Figure 4.) Among Council candidates, incumbents received a markedly higher degree of organizational support (51 percent of the total dollar amount) than non-incumbents (14 percent).

Figure 4

TYPES OF ORGANIZATIONAL CONTRIBUTORS TO PARTICIPATING CANDIDATES



Source: Campaign Finance Board Data

*Data reported to the Campaign Finance Board on state forms account for a large portion of blanks because state forms do not include disclosure of the type of organizational contributor.

Contributors from Within and Outside New York City. Because the Program is intended to promote local participation in politics, it provides matching funds only for contributions from New York City residents. For the 1989 elections, participating candidates reported raising 67 percent of their campaign funds from New York City residents. Contributors who listed an address outside the City accounted for only 23 percent of participants' total contribu-

tions, and incomplete addresses made up the remaining 10 percent. Not surprisingly, mayoral and comptroller candidates raised a higher percentage of funds from contributors living outside the City than did borough president and City Council candidates.

Fund Raising in Non-Election Years. Off-year fund raising is conducted primarily by incumbent officeholders. This fund raising may well discourage challengers faced with a race against incumbents with large war chests. All participants reported raising 73 percent of the total dollar amount of their contributions for the 1989 elections within the election year, while contributions raised in 1988 accounted for 11 percent of their funds and contributions raised in 1986 and 1987 accounted for 8 percent. Incumbent Council candidates, however, raised 50 percent of their funds prior to the 1989 election year, while non-incumbents raised only 14 percent of their funds before 1989.

Contributions through Intermediaries. Candidates' reliance on networks of supporters to solicit and collect contributions is known as "bundling" or fund raising through "intermediaries."¹⁴ Despite suggestions that this practice violates the spirit of campaign finance reform, fund raising through intermediaries can be a legitimate practice that is protected by the First Amendment guarantees of free speech and association. In many cases fund raising through intermediaries—for example, by the host of a house party who collects contributions and delivers them to a candidate—is little cause for concern. The public, however, has a legitimate interest in knowing about individuals or interest groups who may wield influence over a candidate because of their ability to deliver large numbers of contributions, the total amount of which may far exceed the contribution limits that apply to a single contributor.

For this reason, the Campaign Finance Act requires participating candidates to disclose intermediaries who collect contributions on their behalf. The Act does not, however, and, because of constitutional constraints, cannot, restrict actual fund raising through intermediaries.

Participating candidates reported receiving some 16 percent of the total dollar amount of their contributions through intermediaries. This percentage varied greatly, however, from candidate to candidate.¹⁵ Citywide candidates received far more contributions through intermediaries than did borough president or Council candidates. Contributions through intermediaries accounted for approximately 19 percent, or almost \$4 million, of the total dollar amount of contributions reported by the five participating mayoral candidates, and 19 percent, or \$670,000, of comptroller candidates' funds. In contrast, reported contributions through intermediaries made up only 0.6 percent, or about \$16,000, of borough president candidates' funds, and 1.8 percent, or \$44,000, of Council candidates' contributions. The average size of a contribution collected by an intermediary was \$518, almost double the average amount of all contributions, which was \$260. For the 1989 elections, the average amount of aggregated contributions delivered by intermediaries was \$10,008 for mayoral candidates, \$4,137 for comptroller candidates, \$1,598 for borough president candidates, and \$903 for City Council candidates.

Surplus Contributions. In the 1989 elections, fourteen participating candidates had "surplus" funds left over from a previous election, ranging from \$10,000 to over \$1 million. The Act allowed participants to claim surplus funds as threshold or matchable contributions for the 1989 elections, but the use of surplus funds poses numerous problems. These

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warchests, primarily accumulated by incumbent officeholders, do not contribute to the Act's goals of encouraging competition on a level playing field. Allowing the use of surplus funds requires complicated accounting rules to enable candidates to use their surplus (collected under the state's far higher contribution limits) for elections covered by the Program, without violating the Act's contribution limits.

Expenditures

Mayoral campaign spending accounted for more than two-thirds of the \$32.2 million in total expenditures made by participating candidates in the 1989 elections (see Figure 2). Broadcast television expenses dominated the expenditures of mayoral and comptroller candidates (see Table 3). Former Mayor Koch stated at the Public Hearings, "most of the money that we spent in our campaign was spent on the media—television—and there was really not a sufficient sum to run a street campaign. . . . It's excluded with these limitations because the money just has to be used for TV."

Borough president candidates' expenditures were about evenly spread between television advertising and printing and mailing. City Council candidates reached voters primarily through printing and mailing campaign literature. As Council member Greitzer observed, "It is well recognized that radio and TV advertising for City Council campaigns is unproductive. The only real means of communicating with voters in Council races is through mailings." Other major campaign expenditures for all participating candidates included consultant fees, campaign workers' salaries, and office expenses.¹⁶

The Campaign Finance Program's expenditure limits appear to have effectively controlled campaign spending for participating mayoral candidates, who could spend no more than \$3.6 million per election, and to have leveled the financial playing field among competing candidates. This becomes clear when spending on contested 1989 mayoral and comptroller elections is compared with the 1985 races for these offices, which were less competitive. According to City Board of Elections filings, former Mayor Koch reported spending a total of \$7.10 million (or \$8.53 million in 1989 dollars) on his 1985 campaign, in which he captured 64 percent of the primary election vote and 78 percent of the general election vote. The runner-up in 1985, Carol Bellamy, reported spending only \$925,000 (or \$1.1 million in 1989 dollars), and received only 19 percent of the primary election and 10 percent of the general election vote.

In contrast, during the highly-contested primary and general election races for mayor in 1989, David Dinkins spent a total of \$8.04 million, winning a four-way primary contest with 51 percent of the vote and a close general election with 50 percent of the vote. Compared with 1985, the Act's expenditure limits thus resulted in a much narrower variation in spending levels among participating mayoral candidates and controlled the costs of what might otherwise have been an extremely expensive election.

For his minimally contested 1985 comptroller race, former comptroller Harrison Goldin reported spending \$1.51 million (or \$1.81 million in 1989 dollars), which he won with 78 per-

Table 3

**PURPOSE OF EXPENDITURES
(Percent of total expenditures by office)**

	<u>Mayor</u>	<u>Comptroller</u>	<u>Borough President</u>	<u>City Council</u>
Television advertising	42.2 %	33.9 %	25.3 %	0.0 %
Print advertising	6.6	8.1	10.0	14.3
Radio advertising	0.6	4.0	1.0	0.5
Consultants	6.5	15.3	3.4	7.4
Campaign workers' salaries	6.9	10.5	9.1	3.2
Misc. fund-raising costs	3.3	1.3	7.9	3.9
Meals	2.9	1.2	3.9	3.4
Mailing list	0.7	0.4	0.5	1.7
Office expenses*	5.7	4.5	10.4	12.7
Polls	2.2	0.8	2.2	1.2
Professional services**	2.5	0.7	1.9	3.9
Printing	2.1	3.9	6.5	10.4
Other expenses	10.8	11.4	12.6	16.6
Blanks or incorrect entries	7.0	4.0	5.3	20.8

*Office expenses include telephone, postage, rent, and supplies.

**Professional services include fees of accountants, computer consultants, and lawyers.

Source: Campaign Finance Board Data

cent of the primary vote and 84 percent of the general election vote. In 1989, participant Elizabeth Holtzman reported spending a total of \$1.71 million in a hotly contested four-way race for comptroller, which she won with 47 percent of the primary vote and 74 percent of the general election vote.

Approximately \$1.8 million, or 5.6 percent of all spending by participating candidates, was for exempt expenditures. Exempt expenditures, such as compliance and officeholder expenses, are excluded from the spending limits of the Act because they are unrelated to a participant's candidacy (such as expenditures on unrelated campaigns), or to give candidates flexibility in dealing with costs that for policy and fairness reasons should remain unregulated.

Expenditures made independently of the candidate are not subject to the contribution or expenditure limits of the Campaign Finance Act. "Independent of the candidate" means that the candidate "did not authorize, request, suggest, foster, or cooperate in any such activity."

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Public Funds

In the first public financing of campaigns to take place in New York City, the Campaign Finance Board distributed approximately \$4.5 million to participating candidates in the 1989 elections. (See Figure 2.) Public funds were of varying importance to different candidates. For some, public funds played an important role, making up a significant percentage of their 1989 primary and general election expenditures. (See Table 4.) Council candidate Adele Cohen testified, "I appreciate the almost \$10,000 I received. I could not have run this campaign without it." For others, public funds were less significant. Some candidates did not reach the threshold to qualify for public funds or received minimal amounts. Some participants did not accept the public funds they were eligible for, and others returned all or a portion of the public funds they received. The total amount of public funds paid by the Board to each eligible candidate and any amounts returned by candidates to the Fund are set forth in Table 4. The table also shows the net public funds received by each candidate as a percentage of the candidate's primary and general election expenditures, indicating the relative importance of public funds in each candidate's campaign. Several incumbents returned or refused to accept public funds. At the Public Hearings, Council member Berman stated, "I did not seek matching monies because I did not have a primary, and I didn't consider my general election substantive enough to warrant taking government money." With the exception of borough president candidate Ruth Messinger, it appears that candidates who faced minimal opposition did not spend any significant amount of the public funds for which they were eligible.

At the Council level, the benefits of public financing were spread comparably between incumbents and non-incumbents. Twelve participating incumbents received \$217,736, or 43 percent of public funds paid to Council candidates, and 13 non-incumbents received \$286,871, or 57 percent of those funds. Non-incumbents appear to have relied more on public funds to pay their expenditures; public funds constituted 28 percent of their 1989 primary and general election expenditures, compared with 17 percent for incumbents. Moreover, non-incumbents sought out public funds, claiming a much higher percentage of their total gross contributions for matching than did incumbents. This suggests that the availability of public financing did to some extent further the goal of encouraging competition.

The Voter Guide

The Campaign Finance Board published and distributed more than 4.7 million borough-specific, bilingual (English and Spanish) 1989 primary and general election Voter Guides and mailed them to every New York City household having a registered voter. Thousands of 1989 Voter Guides and audio tapes were also distributed through the City's three library systems and to local hospitals and colleges. The Guides contained statements by and photographs of candidates, information about using a voting machine and registering to vote, and directed voters to call the New York City Board of Elections' "VOTER-89" hotline number for further information.

Table 4

**PUBLIC FUNDS DISTRIBUTED TO PARTICIPATING CANDIDATES
FOR THE 1989 ELECTIONS**

	Total Public Funds Distributed to Candidate by the Board	Campaign Surplus and Other Amounts Returned by Candidate to Public Fund*	Net Public Funds Received by Candidate as a Percentage of Candidate's Primary and General Election Expenditures
<u>Mayor</u>			
Dinkins	\$ 986,149	\$ 100,075	12.4 %
Giuliani	1,218,964	0	19.8
Goldin	14,641	14,641	0.0
Koch	334,433	0	9.0
Ravitch	<u>225,321</u>	<u>1,845</u>	<u>12.2</u>
Office Total	2,779,508	116,561	12.9
<u>Comptroller</u>			
Hevesi	49,573	0	6.0
Holtzman	250,932	0	15.9
Macchiarola	121,150	0	14.3
Nadler	<u>0</u>	<u>0</u>	<u>0.0</u>
Office Total	421,655	0	11.3
<u>Borough President</u>			
Ferrer	0	0	0.0
Golden**	7,511	7,511	0.0
Lamberti	75,637	5,648	20.7
Messinger	600,714	0	40.8
Molinari	115,366	0	29.4
Shulman	<u>0</u>	<u>0</u>	<u>0.0</u>
Office Total	799,228	13,159	28.9
<u>City Council</u>			
Albanese	6,558	6,558	0.0
Alter	0	0	0.0
Berman	0	0	0.0
Cline	10,660	6	42.2

(cont'd)

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Table 4 (cont'd)			
	<u>Total Public Funds Distributed to Candidate by the Board</u>	<u>Campaign Surplus and Other Amounts Returned by Candidate to Public Fund*</u>	<u>Net Public Funds Received by Candidate as a Percentage of Candidate's Primary and General Election Expenditures</u>
Cohen	10,198	0	29.4
Crispino	19,422	19,422	0.0
DiBrienza	0	0	0.0
Dryfoos	30,000	0	19.6
Eichenthal	25,502	0	46.3
Eisland	0	0	0.0
Eldridge	49,725	0	25.2
Espailat	0	0	0.0
Fields	27,558	0	30.5
Friedlander	19,936	0	25.8
Gerges	30,000	0	23.1
Goldfeder	30,000	0	53.5
Greitzer	30,968	0	37.6
Harrison	3,990	3,990	0.0
Horwitz	2,856	2,856	0.0
Maloney	34,805	0	29.2
Maresca	0	0	0.0
Michels	18,983	7,423	19.6
Molinari	15,852	0	20.4
Owens	4,088	0	13.0
Paperman	3,035	0	9.9
Perednia	0	0	0.0
Perkins	6,105	0	27.0
Robles	4,366	0	13.1
Sheffer	30,000	0	34.9
Shorenstein	30,000	0	19.8
Stringer	30,000	0	22.2
Taylor	30,000	0	34.0
Vallone	0	0	0.0
Office Total	504,607	40,255	22.4
Total	4,504,998	169,975	14.9

* As of August 1, 1990.

** Golden received a check for \$7,511, but it was later discovered that, due to errors on his matching claims, he had not actually reached the threshold. At the same time Golden decided not to accept public funds and returned the check to the Board.

Source: Campaign Finance Board Data

Board Recommendations

and Conclusion



he experience of the 1989 elections demonstrated that the Campaign Finance Act was a fundamental success, especially at the citywide level. It also revealed aspects of the law which need to be refined, particularly in ways that affect Council candidates, who had a lower participation rate than candidates for other offices. The Campaign Finance Board proposes that the Act be amended as described below to simplify and strengthen the Program. The Board's proposals are intended primarily to encourage greater participation in the Program by Council candidates and to maintain the high level of participation by citywide and borough president candidates experienced in 1989. To achieve these ends, the Board recommends increasing the Program's financial incentives and streamlining the candidates' reporting requirements, while maintaining the Act's high standards of public disclosure.

In response to testimony received in December 1989 at the Public Hearings, written comments, and informal communications, the Board is committed to simplifying the Program as much as possible through its own administrative procedures. To do this, the Board plans to streamline reporting forms and regulations; develop plain-language guides and materials for voters and candidates, including a compliance kit containing sample ledgers and samples of other bookkeeping acceptable to the Board; and to create a Candidate Services unit to assist candidates, especially at the Council level, in understanding and complying with the law. In addition, the Board will work with the New York State and City Boards of Elections to attempt to devise forms that will be acceptable for both the purposes of the Campaign Finance Program and state election law disclosure requirements. Substantial simplification is impossible, however, without amendments to some of the current complex and burdensome requirements of the law which, in some cases, are of little benefit to the public.

The most urgent recommendations affect City Council candidates and were made by the Board to the City Council on March 27, 1990. Because the City Charter mandates that special elections for an expanded City Council be held in 1991, the Board has requested expedited action on these proposals. In this way, candidates will know as soon as possible the rules that will apply to them if they wish to join the Program. Furthermore, the Board must be able to proceed to streamline and amend its regulations and written materials, inform candidates about the Program's requirements, and re-program its own computer system based on changes in the law.

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March Recommendations, Including Changes Affecting the 1991 City Council Elections

Most of the recommendations relating to candidates for City Council were first proposed by the Board on March 27, 1990. Speaker Vallone and City Council members Gerges, Albanese, Dryfoos, Eisland, Greitzer, and Harrison introduced a bill (Intro. No. 441) containing these recommendations in May 1990. At a hearing before the City Council's Governmental Operations Committee on June 18, 1990, the Board made additional recommendations, after having received reactions from the Mayor's Office to the March proposals, which are also included in this section.

1. **Match "Threshold" Contributions.** To provide participating candidates with money earlier in their campaigns, when they need it most, and to increase the Program's financial rewards for those who join, the Board strongly recommends matching all contributions raised to meet the threshold requirement once a candidate has reached the threshold amount. Almost every candidate who testified at the Board's Public Hearings was in favor of this change, which is perhaps the most important reform of the Program recommended by the Board.

2. **"Per Campaign" Contribution Limit.** The Board recommends combining the separate contribution limits for the primary and general elections into one "per campaign" limit that covers both elections. For the 1989 elections, candidates could receive separate contributions for the primary and general elections and were required to maintain separate primary and general election accounts. The "per campaign" contribution limit would eliminate the need for separate bank accounts, significantly reduce the candidates' reporting burden, and would replace the complicated procedure now in place for "carrying over" unspent primary election contributions for use in the general election. A single contribution limit gives candidates greater flexibility in raising and allocating contributions for use in the primary or general election and will make candidates' financial disclosure reports easier for the public to understand. This proposed "per campaign" limit would apply to candidates for all offices.

3. **Match Contributions Two-for-One up to \$500.** Consistent with its proposals for "per campaign" contribution limits, the Board recommends matching contributions on a "per campaign" rather than a "per election" basis. For the 1989 elections, participants could qualify for public funds that matched, dollar-for-dollar, contributions of up to \$500 they received per contributor in the primary election, and another \$500 per contributor in the general election. The Board proposes to match contributions at a two-for-one rate, up to \$500 for the primary and general elections combined. This change provides added financial rewards for candidates who collect smaller contributions and will simplify candidates' reporting requirements.

4. **Contribution Limit for Council Candidates.** After an extensive review of the 1989 data, and in light of the one-third reduction in the size of Council districts that will take place in 1991 with the creation of 16 new Council seats, the Board recommends that the new "per campaign" contribution limit for the City Council be set at \$3,000. This limit would replace the two separate limits of \$2,000 for the primary and for the general election under current law.

5. **“Threshold” for Council Candidates.** The Board recommends that the “threshold” level for Council candidates be lowered from \$7,500 to \$5,000. Council districts in 1991 will be one-third smaller in size, so Council candidates will be raising money from a smaller population base. In addition, when compared with the other offices, the current \$7,500 threshold for Council candidates is disproportionately high in relation to the maximum amount of public funds that Council candidates may receive; reducing the threshold to \$5,000 would help correct this disparity. For the 1991 elections, the Board also recommends a one-time suspension of the requirement that a Council candidate must receive contributions from at least 50 residents of his or her district in order to qualify for public funds, because the boundaries of the new 1991 Council districts will not be set until the spring of 1991. Instead, the Board recommends that the 50 threshold contributors need only be New York City residents.

6. **Consolidate Expenditure Limits.** Currently, fund-raising expenses are subject to a separate expenditure limit. The Board recommends consolidating fund-raising expenditures with other expenditures, thereby greatly reducing candidates’ reporting, record-keeping, and accounting obligations. The Board also recommends that the five separate expenditure limits contemplated by the Act be consolidated into two. These two expenditure limits would cover the entire four-year election cycle: the period covered by the primary election expenditure limit would begin on the first day of the term of office and continue through primary election day, and the period covered by the general election expenditure limit would begin the day after the primary election and continue through the day of the general election. The primary election limit would apply to all candidates whether or not they have a primary race. This consolidation of expenditure limits would apply to all offices.

7. **Expenditure Limit for Council Candidates.** After an extensive review of the 1989 data, and in light of testimony from Council candidates at the Public Hearings, the Board recommends that the expenditure limits for Council candidates for the primary election period and the general election period be set at \$150,000 each, reflecting a consolidation of various limits available for the 1989 elections and an increase in response to testimony and data indicating that the current limits are too low.

8. **Increase Rewards for Participants Who Face Free-Spending Non-Participants.** When a participating candidate, bound by the Campaign Finance Act’s contribution and spending limits, is opposed by a high-spending non-participant, the Board recommends the following additional bonuses: (a) increase the current two-for-one matching fund payment rate to three-for-one; (b) increase the maximum amount of public funds that a participant can receive, from the current one-half of the expenditure limit to three-quarters of the expenditure limit; and (c) set as a trigger for these bonuses the point at which the non-participant raises or spends more than one-tenth of the Campaign Finance Program’s expenditure limit for that office (rather than the current trigger, which is one-half the limit). These proposals will enhance participating candidates’ competitiveness, provide them with additional financial resources and flexibility when they compete against a well-financed non-participant, and will encourage more candidates to join the Program.¹⁷

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9. **Give Candidates More Time to Join the Program.** The Board recommends giving candidates more time to decide whether to join the Program. The first deadline for joining the Program should be pushed back from January 1 to March 31 of the year of the election, and would apply to candidates with campaign committees in place on March 31. A later deadline, June 15, would apply to candidates seeking party nominations who first form their campaign committees after March 31.

The Board strongly recommends against allowing candidates to withdraw from the Program once they have joined. An “opt-out” procedure would mislead the voters about whether a candidate is participating, could undermine participation through a series of “last minute” decisions to leave the Program, and would waste administrative resources on candidates who ultimately fail to participate. Rather than using an opting-out procedure to protect participating candidates from non-participating opponents, the Board supports increasing the Program’s benefits to ensure that all participants will be able to run competitive races against free-spending opponents, as described above.

10. **Eliminate Restriction on Spending Public Funds.** The Board recommends eliminating the current requirement that public funds must be spent for educational purposes only and supports the proposal, suggested by many candidates who testified at the Public Hearings, that public funds may be used to pay for any campaign-related expenses. The Act’s current prohibition against using public funds for petition litigation, however, should be retained.

11. **Streamline Reporting Requirements.** Additional changes proposed by the Board that will simplify the Program and ease candidates’ bookkeeping burdens include:

a. **Repeal of the “deduction rule,”** which requires that the amount of a matchable contribution must be reduced by the value of goods and services (the cost of a meal at a fund-raising dinner, for example) given to a contributor.

b. **Repeal of the “household rule,”** which treats a husband, wife, and their unemancipated children as a single contributor for matching funds purposes. Under the current rule, their combined contributions are only matchable up to a total of \$500.

c. **No Itemizing for Small Contributions and Expenditures.** To reduce candidates’ disclosure burden, they should not be required to itemize contributions of \$99 or less and should not be required to itemize expenditures below \$50. Only itemized contributions, however, would be matchable. Employer information should in no event be required for contributions of \$99 or less, whether or not matching funds are sought.

d. **Deferral of Reporting for Periods of Low Financial Activity.** Candidates should be permitted to defer a filing if they have received less than \$2,000 in contributions

and loans since their last report, unless they have spent more than 85 percent of their expenditure limit.

e. **Maintain High Standards of Disclosure.** The Board will simplify and reduce the number of its required disclosure forms, and is committed to working with the State and City Boards of Elections to devise forms that will fulfill the disclosure requirements of both the Campaign Finance Program and state election law. The Campaign Finance Board is determined, however, to maintain the high standard of public disclosure which was hailed as one of the most significant and successful reforms of the Program in 1989.

The Board vigorously opposes the suggestion that it accept State Board of Elections forms from candidates for purposes of complying with the Campaign Finance Act. These forms are entirely inadequate for meeting the Act's more comprehensive disclosure requirements, and would not permit effective monitoring or enforcement of the City law. It is also misleading to suggest that candidates who submit state forms are "participating," even though they are not providing the public with the additional information to which it is entitled. Furthermore, it would be extremely difficult and a substantial waste of public resources for the Board to attempt to integrate state form data into its existing computer database in a manner that would allow for timely, meaningful, and comprehensive public disclosure. An alternate suggestion, to supplement state forms with additional Campaign Finance Board forms, would also impose new burdens and create unnecessary confusion, as well as substantially increasing the likelihood of errors in reporting information.

12. **Match Contributions of Less Than \$10.** The Board supports the proposal, suggested by some candidates, that contributions of less than \$10 be matchable with public funds. This change could encourage greater grassroots fund-raising activity.

13. **Administrative Penalties.** To expedite enforcement of the Campaign Finance Act and avoid costly litigation for both candidates and the Board, the law should be amended to authorize the Board to initiate an administrative penalty determination by notifying participating candidates of violations.

Additional Recommendations, Including Changes Affecting Citywide and Borough Candidates

After further review of the 1989 elections and the first year's experience with the Campaign Finance Program, the Board is now proposing these additional recommendations concerning contribution limits, expenditure limits, and "threshold" levels for candidates for the other offices covered by the Act (mayor, comptroller, City Council president, and borough president), as well as recommendations that pertain to intermediaries, surplus funds, candidate appearances, and transition and inaugural expenses. Although not as pressing as the changes affecting Council candidates and the 1991 Council races, these recommendations should also be considered in a timely manner so that the Board can make candidates aware of the rules that will apply for the 1993 elections as early as possible:

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14. **Contribution Limits.** The Board recommends setting new “per campaign” contribution limits in the following amounts:

Mayor:	\$ 6,500
Comptroller:	5,000
City Council President:	5,000
Borough President:	3,500

Runoff and special election contribution limits should be set at one-half these limits.

15. **“Threshold” Levels.** The Board recommends conforming the threshold amount of contributions set for each office so that a uniform “burden-to-reward” ratio of threshold amount to maximum public fund allowance under the proposed expenditure limits applies to all candidates. A “burden-to-reward” ratio of 1-to-15 results in the following threshold levels:

Mayor:	\$ 150,000
Comptroller:	100,000
City Council President:	100,000
Borough President:	30,000

16. **Expenditure Limits.** The Board recommends that the following expenditure limits apply for the primary election period and again for the general election period:

Mayor:	\$ 4,500,000
Comptroller:	3,000,000
City Council President:	3,000,000
Borough President:	1,000,000

17. **Intermediaries.** The Board recommends that the current definition of an “intermediary,” as one who “delivers” a contribution to a candidate, be refined so that candidates must report all persons and entities known to the candidates to have successfully solicited contributions for them, but not professional fund raisers and hosts of small house parties having expenses of \$500 or less.

18. **Surplus Funds.** The Board recommends a prohibition against claiming surplus funds from a previous election as threshold or matchable contributions. In addition, participants should not be allowed to use surplus monies in an amount greater than five percent of the expenditure limit that applies in elections covered by the Program. These changes would also greatly simplify the Program’s reporting and accounting requirements for candidates.

The Board suggests that the recommendations regarding surplus funds be implemented for the first time for City Council candidates for the 1993 elections, and for candidates for the other offices covered by the Program for the 1997 elections, so as not to confuse candidates and disrupt activities already underway in the current election cycle.

19. **Candidate Appearances.** The Board recommends amending the Act so that a candidate's appearance at a campaign event sponsored by a group not affiliated with the candidate and in connection with which no funds are solicited for the candidate does not result in charging the costs of that event to the candidate as a campaign contribution or expenditure.

20. **Transition and Inaugural Expenses.** Winning candidates should not have to rely on private fund raising to pay for the costs of assuming elected office, because of the risk that large contributions will buy undue influence after a candidate is elected. The Board, however, recommends against amending the Act to allow participants to use surplus campaign funds to pay for post-election transition and inaugural expenses before the candidate has repaid the public Fund to the extent possible. If public funds are to be used for these purposes, the City budget should include an appropriation for them, so that the cost to the public is determined by the regular budgeting process and does not depend on whether or not a winning candidate has surplus campaign funds.

21. **Voter Guide.** Some have suggested that the Voter Guide could be used as an incentive for joining the Campaign Finance Program if it were to include profiles of only those candidates participating in the Program. The Board strongly believes that the public is best served if the Voter Guide continues to be a comprehensive voter education pamphlet, containing information about all candidates for municipal office, and not just those who choose to participate in the Program. In future Voter Guides, however, the Board intends to highlight more clearly the fact that a candidate has or has not joined the Program.

During the Board's Public Hearings, some candidates expressed concern that candidates' statements published in the Voter Guide were critical of other candidates and suggested that the Board should play an active role in editing candidates' statements. The Board concludes, however, that the First Amendment protection of free speech and robust political debate does not permit the Board to censor statements submitted by candidates in the manner suggested. The Board reaffirms its policy of editing candidates' statements for inclusion in the Voter Guide only for length, and of alerting candidates if their statements appear to contain potentially libelous material.

22. **Debates.** The Board fully recognizes the importance of debates in the democratic political process but questions the desirability of governmental involvement in them. Should the New York City Council decide to mandate debates, it is essential that any provisions governing mandated debates be carefully crafted and enacted well in advance of the campaign season, to ensure that the role of the agency administering debates and the

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public's confidence in the debate process are not impaired by any appearance of partisan decision-making.

23. **Separate Committee for Covered Elections.** In order to reduce the possibility that contributions which exceed the Campaign Finance Act's limits will be used illegally, the Board recommends requiring participating candidates to establish separate political committees for elections covered by the Program and for elections that are not covered.

24. **Repeal Pre-Effective Date Contribution Limit.** The special contribution limit applicable to funds received before February 29, 1988, when the Campaign Finance Act became law, should be repealed because it is now largely obsolete.

Recommended Changes in New York State Law

In addition to changes to the City's Campaign Finance Act, the Board supports the following changes in state election law:

25. **State Law Contribution Limits.** The Board urges the New York State Legislature to establish mandatory contribution limits for New York City offices at the same amounts set by the Campaign Finance Act. In the absence of state law amendments, the Board urges the City Board of Elections to publish the amounts of the contribution limits applicable to City offices under state law well in advance of the primary and general elections.

26. **Corporate and Union Contributions.** The New York State Legislature should consider prohibiting contributions by corporations and unions. The Feerick Commission advocated this prohibition, which follows federal law. Corporations and unions, however, would continue to be permitted to organize political action committees for the purpose of raising and making political contributions.

27. **Independent Expenditures.** The Board recommends that state law be amended so that all persons and entities making independent expenditures for or against candidates must publicly disclose these expenditures and the candidates to whom the expenditures relate.

Issues Under On-Going Consideration

The Campaign Finance Board will continue to make recommendations for improvements in the Campaign Finance Program based on further analysis of the 1989 elections and the experience of future elections and will routinely review the contribution limits, expenditure limits, and threshold levels for all offices after each election. The Board also plans to examine data from previous and future elections in order to determine the Act's success in encouraging broader candidate participation.

There are many additional, difficult areas that the Board is continuing to study, including the issues of political party spending, corporate and union political activity, in-kind contributions and independent expenditures, segregated contributions, relief for losing candidates with cam-

paign debt, whether contributions made early in the election cycle should be matched with public funds, and whether the Voter Guide should be expanded to include candidates for more offices, such as that of District Attorney. The Board is still considering whether it is appropriate to restrict public fund payments to candidates who face only "token" opposition, although the Board believes at this time that the evaluation of a candidate's competitiveness is a political judgment for the voters to make, not the Board. To broaden political debate and control rising campaign costs, the Board supports and may undertake efforts to provide candidates with access to free or subsidized broadcast or cable television time. The Board will also study the activities of legislative political action committees.

Another complex issue is the question of officeholder competitive advantage. The line separating an officeholder's activities as an elected official from his or her activities as a candidate seeking re-election is very hard to define. On the state level, this issue has been extensively studied by the New York State Blue Ribbon Commission to Review Legislative Practices in Relation to Political Campaign Activities of Legislative Employees (the "Wilson Commission") and the Feerick Commission. Both Commissions recommended a ban on the use of public resources and legislative employees' on-the-job time for campaign activities, and a ban or "blackout period" preceding an election on mass mailings by officeholders and other communications at public expense. The Board supports the Wilson and Feerick Commissions' recommendations generally and urges that an appropriate government agency be empowered to implement and enforce them.

Conclusion

The establishment of an ambitious program of campaign finance reform in February 1988 was an act of political courage and vision by the Mayor and the City Council. In shaping the structure of the new Campaign Finance Act, its principal architects had limited data to guide their calculations, which is why the Act wisely calls for a careful review of the actual experience of the Program following the 1989 election campaign and future municipal elections.

This review, presented in greater detail in the full Report, demonstrates the substantial successes of the Campaign Finance Act in encouraging candidates to broaden their fund-raising bases; in limiting the dominance of monied special interests; in controlling campaign spending; in providing funds to candidates who would otherwise not have been able to mount campaigns; and in providing an unprecedented amount of public disclosure about candidates' campaign finances.

In fact, the amount and kind of information made publicly available about how participating candidates were raising and spending their campaign funds serves a purpose that extends far beyond the 1989 elections and this review. For the first time in New York City, a systematic and extensive database of campaign finance information exists which will provide a basis for future detailed analyses by the public, the press, political analysts, and academicians, as well as by candidates and the Board. To enhance the usefulness and scope

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of these data, the Board intends to analyze the financial activity of non-participants more fully in the future and to publish its findings about their campaign finances compared with those of participants during the course of the campaigns.

The 1989 elections proved the Campaign Finance Program to be a sound one, but it would be unrealistic to expect that the far-reaching reforms implicit in the Program could be fully achieved in its first implementation.

The 1991 elections, for an expanded 51-member City Council, will mean that at least 16 open seats are to be filled. These open seats, the availability of public funds, and the opportunity presented by inclusion in the Voter Guide, should encourage many interested citizens to run for public office in 1991. For its part, the Board is committed to improve and expand its public and candidate education materials and plans to organize a Candidate Services unit, made up of non-technical staff, specifically to assist smaller campaigns in complying with the law and in reaping the full benefits of the Program.

At the end of the 1989 elections, the Campaign Finance Program had already become an accepted feature of the New York City political landscape. The recommendations for changes in the Program contained in this Executive Summary are based on careful analysis of the experience of the 1989 election campaign and are intended to make a good law even better. The Campaign Finance Board is confident that the political leaders of New York City will build on the foundation they so bravely established in 1988 and develop an even more effective set of electoral reforms that will encourage citizens to participate more fully in the political life of their City.

Joseph A. O'Hare, S.J.
Chairman

James I. Lewis
Robert B. McKay
Joseph Messina
Sonia Sotomayor

NOTES

¹ In addition to the federal presidential matching funds program, the following nine states currently have laws for providing some form of public financing to candidates: Florida, Hawaii, Maryland, Massachusetts, Michigan, Minnesota, Montana, New Jersey, and Wisconsin. North Carolina adopted a program in 1989, which has not yet become effective. With adoption of the Campaign Finance Act in 1988, New York became the third city to enact contribution and expenditure limits and provide public financing for municipal candidates, joining Seattle, Washington, and Tucson, Arizona. Sacramento County, California, also has a public financing program for local offices, but the legality of that program is currently in doubt. King County, Washington, adopted a program of public financing in 1989, and Los Angeles, California, adopted a program in 1990.

² Production and distribution of the Voter Guide was added to the Board's responsibilities by a 1988 New York City Charter amendment. It is not a component of the New York City Campaign Finance Act.

³ See, e.g., editorial, "An election nears: Do something about it," *New York Daily News*, September 9, 1989.

⁴ David Adamany, "The New Faces of American Politics," in *Regulating Campaign Finance, the Annals of the American Academy of Political and Social Sciences*, eds. Lloyd N. Cutler, Louis R. Cohen, and Roger M. Witten (Beverly Hills: Sage Publications, July 1986), 12-33; John P. Frensdreis and Richard W. Waterman, "PAC Contributions and Legislative Behavior: Senate Voting on Trucking Deregulation," *Social Science Quarterly*, Vol. 66, No. 2 (June 1985), 401-412; and Allen Wilhite and John Theilmann, "Labor PAC Contributions and Labor Legislation: a Simultaneous Logit Approach," *Public Choice*, Vol. 53 (1987), 267-276.

⁵ Larry J. Sabato, *PAC Power: Inside the World of Political Action Committees* (New York: W.W. Norton & Co., 1984), 126.

⁶ *Ibid.*, 126-128.

⁷ Dean McKay, to whom this report is dedicated, died on July 13, 1990. As of the date this document went to press, his position remained unfilled.

⁸ Charles V. Bagli, "Down the Stretch, Rivals for Mayor Dig for Dollars," *New York Observer* (August 8, 1989), 1.

⁹ The period from July 12, 1983 to February 28, 1988.

¹⁰ Koch's pre-effective disclosures to the Board indicate that his campaign did not receive aggregated contributions above \$6,000 during the period from November 6, 1985 to February 28, 1988.

¹¹ Because of data limitations, the reduction of the reliance by Koch and Goldin on large contributions is likely to be understated by the comparisons in Figure 1. Most of the data available for the pre-effective period were derived from the Feerick Commission's data, which reported the total number of contributions received by each candidate, but which do not indicate cumulative contributions from a single donor. The pre-effective contribution data discussed in the text therefore refer to reported transactions, rather than total contributions from single donors. The Campaign Finance Board's computer database enables it to cumulate multiple contributions given by a single donor to a candidate. For example, if an individual gave separate donations of \$50, \$50, and \$100 to one candidate, the cumulative contribution would be \$200, and that individual would be counted as a single contributor. The Campaign Finance Board data presented in this Executive Summary, including the data from the post-effective period, refer to cumulative contributions from a single donor.

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¹² These data show that the percentage of smaller contributions substantially increased following passage of the law. Some of this broadening of contributor support may also reflect increasing interest in the 1989 campaign in the months preceding the elections. There is strong evidence, however, that the Act's matching provisions (for contributions of up to \$500) and contribution limits encouraged broad-based fund raising.

¹³ New York State Commission on Government Integrity, *Campaign Finance Reform: The Public Perspective* (July 1988), 30-34.

¹⁴ The Act defines an intermediary as anyone who "delivers" a contribution from another person or entity to a candidate.

¹⁵ The variation in reporting of intermediaries may be due to underreporting and different interpretations of the term "intermediary."

¹⁶ The information about the purpose of candidate expenditures is not precise because of subjective decisions by candidates and treasurers about categorizing expenditures and because of the number of expenditures for which the purpose was left blank, reported as "other," or reported incorrectly. The data do, however, provide some guide to the principal campaign costs for participating candidates.

¹⁷ To increase the bonus to participating candidates facing high-spending opponents, the Board in March recommended permitting participating candidates to contribute an additional amount of personal funds equal to ten times the applicable contribution limit to their own campaigns. Under current law, candidates may not use their personal funds in excess of the contribution limit. In light of the Board's subsequent recommendations to lower the bonus trigger for participating candidates facing high-spending non-participants, increasing the bonus matching rate from two-for-one to three-for-one, and increasing the maximum bonus payment, the additional personal funds incentive for candidates may not be needed.

