



ALBANY REFORM: THE ROAD AHEAD

**A Public Program Sponsored by the Committees on Election Law,
Government Ethics and State Affairs**

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KEYNOTE ADDRESS:

**HON. EDWARD I. KOCH, 105th MAYOR OF NEW YORK CITY; FOUNDER,
NEW YORK UPRISING**

The years leading up to the 2010 elections were marked in New York State government by scandal and embarrassment. While clearly damaging, this also created an

opportunity to finally address the most fundamental problems plaguing state government, if the widespread voter outrage could be harnessed.

That's exactly what we endeavored to do with New York Uprising, and in under a year we succeeded beyond our expectations. By election day, over 350 candidates for state Senate and Assembly had signed the Uprising good government pledges, and 138 of them took office in January, representing majorities within every cross-section: Senators, Assembly members, Democrats, Republicans, upstate, and downstate.

Our prospects continued to look bright once the new legislative session began and the time came for lawmakers to make good on their pledges. In March I traveled to Albany to stand at the Capitol and call for reform, and I was overwhelmed when over fifty lawmakers joined to stand at my side. One Capitol reporter described it as the most crowded press conference he had ever attended in the Legislative Office Building.

In a meeting with Senate Majority Leader Dean Skelos that same day, however, he informed me that he and all of the Republicans in the Senate, comprising a majority in that chamber, would be reneging on their reform pledges. This dishonorable act created a roadblock in the legislative path to reform that remains as such to this day.

Governor Andrew Cuomo, in just one short year in office, has done the most to restore a notable measure of pride to our state. His ethics reform bill — part of the New York Uprising pledge signed by a majority of lawmakers — played an important role in that. Regrettably, the agency is not yet functioning but is scheduled to convene by law in four days, by December 12th. Our other goals of campaign finance reform and reform of the budget process are still unrequited. But the most important and essential reform remaining unfinished is redistricting reform now on the front burner.

Fair redistricting presents an existential threat to the Republican majority in the Senate, which is the reason behind Skelos' belated line-in-the-sand betrayal: His narrow majority is only possible thanks to the rigorous political gerrymandering of decades past. Due to obvious demographic realities in the state, the only way to ensure his continued control of the Senate is to draw politically advantageous districts for his members. Unfortunately that's the underlying problem in our state — too many public servants who are far more interested in serving themselves than the people they represent.

We New Yorkers face our own existential threat of sorts — without these reforms, affecting budget, campaign financing and redistricting, the government we pay for, expect, and deserve will continue to decline. The most important unfinished reform remains redistricting. If state leaders are permitted to use the redistricting process as a political weapon once more, the dysfunction and corruption that have plagued our state, notwithstanding the landmark agreements of this past year on taxes and marriage equality, will persist and worsen until the next round of redistricting, ten years from now. Does anyone believe we can afford that?

And so, we must hold true to our own line in the sand. If the state legislature is unwilling or unable to enact a redistricting process that is nonpartisan and independent, as so many of them committed to in their reelection campaigns, then the courts will have to intervene.

And here we have our ace-in-the-hole: Our hero, Governor Cuomo, who, already on his way to becoming known as one of the most reform-minded governors of our state, has pledged to veto any redistricting plan that is not nonpartisan and independent. If he does this, the courts will be forced to step in and resolve the process.

Political insiders (and legislative leaders) will tell you this doesn't concern them, and the courts will defer to their plan anyway. Reformers like me will tell you that the courts will appoint a special master, as they have in the past, and that the special master will draw legislative maps based on fair criteria. The truth is probably somewhere in the middle, and so less optimal than a genuine legislative solution, but hugely improved over the rigged, self-serving process historically undertaken by the legislature.

The Governor's enormous success in getting the changes in the tax code this week, in 24 hours, providing middle-income tax reductions and modest increases for those making a million dollars or more annually, bodes well for his ultimately getting the legislature to accept his redistricting legislation.

Finally, any discussion of political reform must address what is — and isn't — going on at the federal level. Last year's U.S. Supreme Court decision in the *Citizens United* case, along with the earlier *Buckley v. Valeo*, have significantly diminished the ability of local or state government trying to limit the influence of money in politics as well as the federal government itself. These guarantee as constitutional rights, the right of candidates to spend their own wealth without limitation, and corporations and unions to contribute to independent campaign expenditures without limitation.

As long as elections in this country are winnable when dominated by those who have the most money or can raise it, we will continue to have federal and state budgets bloated with special interest giveaways, a tax code riddled with lobbyist-driven loopholes, and an inadequately regulated financial system without the rules that make free markets function fairly.

This is the new battleground, and the only way to win is with a constitutional amendment overturning these two enormously damaging Supreme Court decisions. I hope you will consider joining me in that fight.

The battle to achieve reform victories in our government at every level — city, state and federal — will never cease. Fortunately, we do see gains achieved with hopefully more to follow. We must be ever vigilant that we don't allow the Sisyphus myth to occur and have our successes rolled back.

SUMMARY OF PANELISTS' REMARKS

Opening Comments:

Dick Dadey, Executive Director of Citizens Union on Campaign Finance Reform

- The “one big unaddressed issue” on the Albany reform agenda; it may get more airtime in Albany after redistricting is done. Under the “antiquated” laws, last changed in 1975 due to Watergate, “[w]e have sky-high contribution limits in New York State, and in some ways, really no contribution limits at all.” For example, “anybody can give an unlimited amount of money to a party committee, and that party committee then can turn around and give it to any of the candidates running within that party.”
- The State Board of Elections handles oversight/enforcement but is “woefully understaffed” and subject to deadlock - evenly divided between the major parties.
- It would be a positive change “to bring a New York City campaign finance style system to New York State.” This would include “public matching” campaign financing, “disclosure of all independent expenditures . . . increase[d] penalties for violations of the Campaign Finance Law . . . and strengthen[ed] enforcement at the State Board of Elections by creating a separate Campaign Finance Enforcement Unit within the Board itself [] to insulate it from the political influences.”
- Panelist Mitra Hormozi added that the current campaign finance rules feed into the broader issues of government ethics: “You fix the campaign finance laws and system and you’re going to have people in this State be much more happy with their perception of their State government.”

Mitra Hormozi, Chair, NYS Commission on Public Integrity, on Ethics Reform

- “Most corruption scandals in the State Legislature are generally related to two things – politicians’ improper receipt or solicitation of outside income and the second more minor thing is the misuse of member item funding.”
- A “fundamental problem you have with ethics in State Government is the fact that the legislature is part-time” – creating “a system that’s designed to maximize conflicts of interest.”

- With respect to member-item funding: “There’s no oversight. There’s no coordination among these groups [of recipients] and there’s no big agency watching to see if these places are actually doing what they’re saying they’re doing.” It was agreed that these issues were mostly historical, with member items likely gone for good as a result of the state’s fiscal crisis.
- Measured expectations are in order for the new Joint Commission on Public Ethics (“JCOPE”). As with any enforcement agency, the purpose is “more deterrence versus really going after and cleaning up everyone who has ever committed any crime.” JCOPE will have resource limitations, and the ethics laws that it enforces may in time need further strengthening. “I’m confident that next week [i.e., the statutory deadline for appointment of commissioners] will be an enlightening week for JCOPE.”
- With respect to the Public Integrity Reform Act’s new disclosure requirements: “there’s going to be some growing pains,” but “something needed to be done,” and “the best way sometimes to deter people isn’t through going after them criminally after the fact.” Disclosure requirements are a balance and “you wonder, ‘will it cause people who want to run and who are qualified to run . . . not to do so?’” Ideally disclosure laws can be reviewed and “tinker[ed]” with to continue to focus on the ways “members of the Legislature are taking advantage of the system” while “cut[ting] out some of the stuff that really isn’t going to find [corruption].”

Glenn Magpantay, Director, Democracy Project,
Asian American Legal Defense Fund,
on Redistricting

- Redistricting is problematic system and it’s political” Contrary to Mayor Koch’s comments in the keynote, “we’re not necessarily sure that independent redistrictings are the panacea that will resolve all the problems that we see there.”
- Incumbency protection is often described as a bad outcome in redistricting, but “there are communities or elected officials of color who had a long history in trying to get to the positions in which they are at now.” Criticizing incumbency protection could be equated with saying “Oh, we cannot protect them.”
- The concept of an independent commission tends to mask rather than eliminate political pressures. “There is no such thing as an ‘independent’ independent redistricting commission. . . . There are always incumbent interests that are there, and—for communities of color—it’s a very disturbing notion for us to be able to finally be playing this game of redistricting and yet the rules are changing.”

- “If you ask me how I get there, I think it’s litigation and actually I very much agree with the former mayor that we may be better in this process when there is a judge” “The question is what is the result and how the communities of color either get representation or how are they screwed.”
- Panelist Dick Dadey commented in response that “minorities do not do well under the current system and I think because they don’t do well we should give an opportunity to an independent commission.”

Hon. John Sampson, Democratic Conference Leader,
New York State Senate,
on Reform Issues Generally

- While the Public Integrity Reform Act of 2011 was “not a perfect bill,” Senator Sampson supported it and would be interested to see if the implementation “will succeed in its goals.”
- “The most pressing matter” on the reform agenda is the need for independent redistricting. “If we do not act soon, the Legislature will draw the lines in a back room and will not necessarily take the voters’ best interest into account. New Yorkers deserve more. We need to ensure the voters chose their elected officials not the other way around.”
- “I am pleased that the Governor has promised to veto the legislative plan [if it is not made by an independent commission], in which case this will wind up in court.”
- On the tax reforms passed earlier in the week that this panel was held: “For many, I’m sure this appeared to be the classic scenario of three men in a room. Although the result was good and I think New Yorkers will ultimately see the benefit, I hope we can work together to make the process more transparent and participatory” When you’re making these decisions upon people’s lives and the way they’re living, they want to be a part of that process. And the process needs to be open”

Selected Q&A

- One audience participant, a former State Senator, asked the panel what it thought about the problem of the concentration of power in the leadership of the parties in Albany. Panelist Dick Dadey responded that there are certainly more questions for reform than time to discuss them. But on the power concentration, when legislators bring this issue to him, he “puts the onus back on them,” noting that they vote for the legislative rules and “succumb to the system they now criticize.”

- Another audience participant asked about the likelihood that the Legislature would produce a redistricting plan in time to implement it for the primaries. Senator Sampson noted that Governor Cuomo had promised to “veto any plan that has not been presented by an independent commission,” and “it would then go to court.” Senator Sampson added that “in 24 hours we changed the tax code, and I think that something like this can be done relatively quickly.” Panelist Glenn Magpantay noted that a case on redistricting had already been filed and said if he were among the leaders in the Legislature, he “would do this very quickly, because, if they don’t do it in the next couple of weeks, a judge will do it.”

Closing Remarks

- Senator Sampson: “It is clear that the people in this room today are committed to making state government work better for all New Yorkers. . . . Implementing some of the reforms we discussed this evening will go a long way towards restoring trust in government, but it will not be easy. We need people like you to reach out to legislators and others and make sure that they know how important these reform measures are.”

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Committee on Election Law, Myrna Perez, Chair

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