



**Independent
Democratic
Conference**

**New York State Senate
Independent Democratic Conference**

**Senator Jeffrey D. Klein, Conference Leader
Senator David Carlucci
Senator Diane Savino
Senator David Valesky**

Title: Restoring Voters' Trust in New York State Government: Reforming New York State's Campaign Finance and Election Laws by Increasing Accountability, Closing Loopholes, and Implementing Public Financing

Purpose: The purpose of these hearings is to solicit testimony from experts and the general public about the best ways to reform New York State's campaign finance and electoral systems. With numerous reform proposals circulating in the state's capital, legislators and members deserve an opportunity to learn more about the potential benefits and limitations of each approach. These hearings will draw upon the latest research to help voters and members decide which reforms are most pressing and appropriate for the current system.

May 20, 2013, 10:30 AM to 1 PM
Legislative Office Building, Hearing Room B
Albany, NY 12247

James A. Walsh
Co-Chair
Gregory P. Peterson
Commissioner
Todd D. Valentine
Co-Executive Director
William J. McCann
Deputy Enforcement
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STATE BOARD OF ELECTIONS
40 NORTH PEARL STREET, SUITE 5
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Douglas A. Kellner
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Robert A. Brehm
Co-Executive Director
Elizabeth Hogan
Enforcement Counsel

Testimony of William J. McCann Deputy Enforcement Counsel

New York State Senate
Independent Democratic Conference
Hearing on Campaign Finance Reform
May 20, 2013

This outlines the anticipated administrative costs/staffing necessary to implement State-level taxpayer financing program modeled on NYC Campaign Finance Board (NYCCFB).

Taxpayer Financing for State-Wide Offices and the NYS Legislature.

Size of the Program:

To understand the scope of the program, here is a comparison of the number of public offices covered by the NYCCFB program compared to the number for a state-level program

NYC CFB -

59 Offices (51 City Counsel, 5 Borough, 3 City-Wide)
All are on the same 4 year election cycle.

NYS -

217 Offices (150 Assembly, 63 Senate, 4 State-Wide)
213 offices with a 2 year election cycle.
4 statewide offices with a 4 year election cycle.

Administrative Costs to Operate the Program:

This compares the costs of the NYCCFB to administer the taxpayer funds that are distributed versus the budget to run the entire State Board.

NYCCFB reported annual administrative expenses:

Current 2014 Budget*: Operational costs	
(Personnel and Other Than Personnel Services):	\$10,869,424
Matching Funds:	\$ 51,000,000
Voter Guide:	\$ 9,995,000
TOTAL:	\$71,864,424

*Testimony of Amy Loprest before City Council Committees on Finance and Governmental Operations, May 13, 2013.

Additionally the Executive Director for the NYCCFB testified at the May 7, 2013 hearing before the Senate Election Committee that this current annual budget of \$10 million dollars, totaling \$40 million dollars for the four year election cycle and was used to distribute \$27.4 million dollars in taxpayer funds to candidates in the 2009-2013 election cycle, for which they have not yet completed audits for all committees.

NYS Board of Elections reported annual administrative expenses:
(Figures rounded nearest \$1,000)

FY2012/2013: Personal Service:	\$ 4,147,000**
Non-Personal Service:	\$ 1,158,000
TOTAL:	\$ 5,305,000

**State Board Budget 2012-2013 – this is the budget for the entire State Board, the amount of funding dedicated to the campaign finance/enforcement section of the State Board is roughly \$1,000,000 of the total \$5,305,000 allocation.

Comparison of Programs by Ratio:

Assuming direct expansion of a NYCCFB style program to a statewide level, this section extrapolates what that projected cost would be.

City Council (51) vs State Legislature (213) = 4.18 to 1 in scope.

New York City (59) vs Entire Statewide Program (217) = 3.67 to 1 in scope.

Estimated State Cost

NYC program on a Statewide basis: **\$39,890,786**

Multiplying the current NYCCFB budget of \$10,869,42 x ratio of 3.67 = \$39,890,786 This would be an annual cost and does not include the implementation and start-up costs, especially for IT hardware and software, significant additional expense.



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ENFORCEMENT

In 2005 the State Legislature mandated the extensive expansion of the electronic campaign finance disclosure program to require candidates and committees for local elections that raise or spend more than \$1,000 in a calendar year (or who have the expectation to do so), to file their campaign finance statements, in electronic format, with the State Board (Chapter 406 of the Laws of 2005). This has amounted to an increase in the number of filers of nearly 650%, and although additional resources were initially provided, they were reduced by 30% shortly thereafter as the State was faced with a fiscal crisis. The net effect being that staff has a greater number of open committees to service.

In 2005 there were approximately 1,500 registered and active filers. As a result of the Chapter, as of December 31, 2012, there were approximately 12,500. This number is expected to continue steadily increasing, impacting on the level of staff work resulting from the continuing increased volume. In 2012, there were 29,720 individual financial disclosure reports made to the State Board.

In 2012, staff responded to 13,056 calls to the call center for assistance with registration and filing, registered 1,916 new committees, and terminated 1,660 committees. Campaign finance staff processed thousands of pieces of mail. Enforcement staff handled thousands more items, and processed complaints from the public of potential violations of the Election Law. In 2012, approximately 60 complaints were brought to the Board for determinative action. A significant amount of time is required to adequately prepare a complaint for the Board's review.

The following statistics provide information as to the totality of enforcement activity undertaken during the 6 year period 2007-2012. Data from 2012 is still being finalized. During that six year period, there were 632 complaints received. 704 complaints were processed to a final decision by the board. The latter number is larger because the two numbers are independent of each other, so there may have been complaints received before 2007 that were processed to a final decision subsequently. Many complaints are closed without requiring formal investigation by the board as they prove to be unsubstantiated, do not allege actual violations of any law, allege violations of other laws that are not within our jurisdiction or, while may involve technical violations of the Election Law, internal review indicates that the violations are either minor in nature, do not rise to the level of a criminal violation and/or have been rectified. As for referrals to the District Attorney, 277 corporate over-contribution referrals made along with 1,120 non-filer referrals by the board during that six year period. Further enforcement actions taken by the board have resulted in obtaining 4,425 judgments during that

time period. The table below shows the enforcement actions taken in each year of the period described above.

	2007	2008	2009	2010	2011	2012	Total
Total Filers:	8860	9141	10950	11007	12319	12500	64777
Complaints Opened:	165	108	204	65	54	36	632
Processed to Determination:	47	73	370	98	56	60	704
Opened Investigations:	2	3	6	1	0	1	13
Corporate Referrals to DA:	26	35	112	61	43	*	277
Non Filer Referrals to DA:	187	265	202	262	204	*	1120
% Non-Filers of Total Filers:	2.11	2.9	1.84	2.38	1.66	n/a	
Lawsuits:	3	7	3	7	3	6	29
Judgments Obtained:	491	869	787	861	792	625	4425
Judgments Satisfied:	122	215	275	239	252	245	1348
Amount Collected (in Dollars):	\$30,498	\$68,623	\$77,505	\$84,732	\$66,356	\$59,416	\$387,130

* The 2013 January Periodic covers the end of 2012's activity. The number of corporate and non-filing referrals for that specific filing has not yet been determined.

The 18 vacant positions in the Campaign Finance Unit are described below:

- Associate Counsel (2 positions) – Salary Grade M2 MC (range \$74,210 to \$93,803)
- Sr. Investigator (3 positions) – Salary Grade SG-22 PEF (range \$63,041 to \$79,819)
- Confidential Auditor (6 positions) – Salary Grade SG-18 MC (range \$47,952 to \$59,504)
- Campaign Finance Trainer (1 position) – Salary Grade SG-23 MC (range \$61,993 to \$77,454)
- Agency Program Aide (4 positions) – Salary Grade SG-13 CSEA (range \$40,903 to \$49,821)
- Confidential Aide (1 position) – Salary Grade SG-12 MC (range \$36,106 to \$45,466)
- Clerk II (1 position) – Salary Grade SG-9 CSEA (range \$32,653 to \$40,136)

The law provides a filer education mandate. Using the limited resources available, our education unit has conducted successful outreach and training of candidates and treasurers throughout the state. In the past six years, they have held 127 training sessions in 44 counties and in NYC which provided training for over 3600 attendees.

Chapter 399 of 2011 also created new enforcement mandates. Any person who fails to file financial disclosure reports 3 times in an applicable election cycle may be sued and fined up to \$10,000. We are in the first stage of the three stage enforcement proceeding. Also, the law created a new basis to sue for acceptance of over contributions for a fine of up to \$10,000. The Board's current over contribution audits will identify potential violators.

In line with these numbers, we have also experienced a significant increase in the associated costs of running the Campaign Finance and Enforcement programs, including, but not limited to, education and training of filers, mailings (paper, envelopes, printing and postage), together with increased process serving fees necessary for enforcement.

The administration and implementation of campaign finance by the State Board is an interesting comparison with other relevant jurisdictions. In 2012, the Board's 18 campaign finance/enforcement FTE staff serviced nearly 12,500 registered candidates and committees for their compliance with the Election Law. The budget to support this was just over \$1 million. The Federal Election Commission employed 375 FTE to administer 14,447 registered committees and the public financing for presidential campaigns and party conventions for the 2011-2012 federal cycle, on a budget of \$69.4 million. For 2013, the NYC Campaign Finance Board employs 89 FTE, with a budget of almost \$72 million (approximately \$51 million of public financing money, \$11 million for administration and \$10 million for their voter guide) to administer roughly 560 registered committees for campaign finance compliance, and to administer their public financing program.

Resulting staff workload was as follows:

- each applicable NYCCFB staff administered 6 filers
- each applicable FEC staff administered 39 filers
- each applicable SBOE Enforcement staff administered 694 filers.

TECHNOLOGY

The existing candidate/campaign financial disclosure database system was designed in 1994 to accommodate electronic filing by a relatively known number of state filers, approximately 1,500. The system does not meet campaign finance and enforcement requirements to support the additional number of candidates for local offices. The current system has many critical shortcomings including:

- It does not allow for filings to be submitted for more than one general or primary election report without merging all the data. Therefore, filing for participating in a local election in March and then a state election would result in combined data
- There is an inability to link historical administrative information and activities, such as treasurer and amendment histories.

This lack of functionality negatively impacts the capability of performing meaningful audits of filing records.

A separate software application used by filers to submit the financial disclosure data was also written in the 1990's and there is no means available to maintain this application. The State Board began a standalone project several years ago to replace this application. This software (EFS) has been tested and is now being used. Although this updated version does overcome certain incompatibilities with particular operating systems, there remain deficiencies in the user interface, database architecture, and the underlying technical architecture which must be resolved.

Additionally, the financial reporting system needs to link the State Board and county boards to enable capture of election data for local candidates – their names, offices being sought and the terms of those offices. This capability will allow the State Board to know who is running for all of the local offices and who needs to file financial disclosure reports. The lack of this capability directly impacts the ability of the State Board to appropriately enforce filing requirements of local candidates and related political committees.

The vast increase in the number of filers of financial activity reports has led to an unacceptable stress on the system. Because of the deficiencies in the database and the electronic filing system, the Campaign Finance Unit is unable to adequately, or in some cases at all, get information needed to fully review and audit committees. In many instances it's because the system doesn't accommodate the filer's needs. The State Board, filers, and the public will be best served by a complete review of the agency's needs in conjunction with the existing system and with the creation of an up-to-date web based electronic filing system.

It is for all these reasons that the Board initiated a project in December, 2012 to address the State's needs for campaign and financial disclosure management. This system will be built using the OITS General Government Cluster Standards as they are developed. The keys to the success of this project will be usability for the filer and the capture of usable disclosure by the Board.

Review of the current State Board program for campaign financial disclosure, administration and enforcement:

State Board - Overview of Enforcement - Campaign Finance:

Contrary to perception, the State Board undertakes a comprehensive program in the administration and oversight of Campaign Finance and Enforcement, with limited staffing.

The primary purpose of the State Board's Campaign Finance Program is disclosure so as to provide for an informed electorate. Towards this end, the State Board has implemented a comprehensive program to facilitate the timely and accurate filing of campaign financial disclosure reports. The State Board makes this information available on its interactive website.

Organization and Staffing for Campaign Finance and Enforcement:

There are currently at the State Board 18 staff divided into 4 sub-units:

Intake/Processing (5 staff) - responsible for the intake and processing of the all registrations, resignations and terminations received relative to the more than **12,500 active filers** with the State Board, which, in **2012**, filed **29,720 individual campaign finance disclosure reports**. In **2012**, **1916 new committees registered** with the State Board, and the State Board processed **1660 terminations**. **Resignations and amendments add significantly** to this. Also responsible for handling the State Board Call Center, which in **2012 received 13,056 phone calls** from filers, with the bulk of these calls handled by 3 of the 5 staff in this group.

Audit/Review/Investigations (4 staff/0 investigators) - responsible for undertaking the audit and review of filers, as well as undertaking comprehensive reviews of Corporate over-contributors, and other systematic reviews, including facilitating the correction of negative balances, address corrections, and other reporting/filing deficiencies.

Education, Outreach and Training (3 staff) - responsible for the comprehensive campaign finance outreach and training program conducted by the State Board annually around the State, including **Seminars** for filers and the public, **Continuing Legal Education (CLE's)** on campaign finance, as well as **Training Sessions with local Boards of Elections**, both individually, as well as regionally in groups. This unit is responsible for updating the various campaign finance **brochures**, as well as the **Campaign Finance Handbook**, which is a comprehensive **130 page publication** available on the State Board's website.

Enforcement (6 staff) - Comprised of the Enforcement Counsel, Deputy Enforcement Counsel, 2 Enforcement Specialists, and 2 support staff (clerk and secretary) – responsible for oversight and operation of the unit and the State Board's campaign finance and enforcement program.

Campaign Finance Enforcement Program:

Failure To File – When a committee fails to file a required report, three steps are done to enforce compliance. 1) Late Notices is sent to the committee to seek notify the treasurer and candidate that the filing is late; 2) Special Proceeding by Order to Show Cause is brought against the committee if they have failed to file seeking disclosure and subjecting the committee to a fine of up to \$1000 which is increased to \$10,000 for failure to file 3 reports during an election cycle. 3) Judgment is rendered against any committee that fails to heed to the Court's order compelling disclosure. The judgment is filed in Albany County Clerk's Office. Subsequently if filing is still not received, we file judgment in home county of treasurer subjecting their property to a lien. If filings are not ultimately made, the State Board will then refer the non-filers to the Albany County District Attorney's Office for prosecution, per the Election Law.

As an illustration - in 2012 (State Legislative year) - Board issued late notices to 5,094 filers - with 13,222 individual pieces of mail sent by certified and first class mail (sent in combination to Treasurers and Candidates). 1,239 filers were sued, and the Board took 654 judgements. (2012 District Attorney referral for Non-Filing pending)

1120 referrals for Non-Filing have been made to the Albany County District Attorney for prosecution since 2007.

Corporate Over-Contributors – Four steps are undertaken to enforce this aspect of the Election Law. 1) Data Review: Audit and Review sub unit compiles data of corporate contributions from filings made with the Board. 2) Correspondence and Follow-up: After assessing to determine the specific corporate entities, correspondence is prepared and submitted to the corporations in question seeking response. If it is determined did actually over-contribute, the corporation is directed to mitigate the error by seeking refunds and proving such. 3) Board Review and 4) District Attorney Referrals: In the event that mitigation does not occur, the Board then refers such corporations to the appropriate county district attorney for prosecution.

Specific to 2011*, Audit initially reviewed 324 entities which were potentially corporate over-contributors, of which 57 were removed as it was determined they were not corporations. The remaining 267 corporations were audited to determine if in fact they over-contributed. These corporations were issued letters for response. Subsequently, 158 came into compliance through mitigation. 66 more were removed because it was determined that they were either not corporate entities, or the contributions were mis-reported by the recipient filer. The Board then referred the 43 remaining corporations to the appropriate District Attorney for prosecution. (*2012 Corporate Audit is in process)

277 corporate referrals have been made to a District Attorney for prosecution since 2007.

Complaints – The Enforcement Unit enforces violations of the Election Law. Whenever a complaint alleging a violation is made, it is reviewed to ascertain that the conduct complained of would, if true, be a violation of that law, and that there is evidence to support it. We do not accept anonymous complaints. Counsel examines the nature and scope of the alleged conduct, and recommends an appropriate disposition of the complaint to the State Board's Commissioners. Among other things, that can include: a letter of admonition and correction to the respondent, referral to the Election Operations Unit of the State Board for follow-up with the local board of elections, instructions to the respondent to

make additional disclosures, or a recommendation to dismiss the complaint for lack of merit. The vast majority of complaints are for minor violations of the Election Law, which can be addressed with additional instruction or correction sent to the respondent. And the State Board does undertake several reviews which are not "formal" investigations, in the sense that they are not based upon a complaint received, but are done in the course of the part of its program to facilitate compliance and to enforce for failure to file.

However, if a complaint is substantive and alleges a serious violation of the Election Law which could potentially result in a criminal referral, we can, and we have, made requests for assistance from the State Police in order to conduct a formal investigation and collect additional information. Once the investigation is complete, the Enforcement Unit makes a recommendation to the State Board to make a referral to a District Attorney or other determination.

BUDGET SIDE LETTERS



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Robert A. Brehm
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November 18, 2009

Mr. Robert L. Megna, Director
NYS Division of the Budget
Capital Building
Albany, NY 12224

Dear Mr. Megna:

The recently submitted FY 2010 Budget Request for the State Board of Elections was limited to the current year budget, with an additional request for an appropriation for 2010 federal Help America Vote Act Requirement Payments that we anticipate being awarded. We respectfully submit this budget side letter in which we amplify the request for a funding level necessary for the State Board of Elections to meet its core mission objectives.

The New York State Board of Elections, created in 1974, is vested with the authority and responsibility for the execution and enforcement of all laws relating to the elective franchise, the full and complete disclosure of campaign financing and practices, and the promotion and maintenance of citizen confidence in and full participation in the political process of our state (Chap. 604 of the Laws of 1974). The additional burdens that have been placed upon the Board by the State Legislature, the Congress and the Courts, have stressed the resources of the agency beyond the breaking point in three key areas: Campaign Financial Disclosure Enforcement; Oversight of the local boards of elections; and meeting the needs of an expanding section of military and overseas voters.

SUPPORTING DOCUMENTATION FOR FY 2010 BUDGET

ENFORCEMENT and CAMPAIGN FINANCE UNIT

PERSONAL SERVICES:

FTE (unfunded and unfilled 17) \$1,010,000 increase

NON PERSONAL SERVICES:

Indirect Costs to fill 17 FTE \$200,000 increase
Technology \$300,000 increase

In 2005 the State Legislature mandated the extensive expansion of the electronic campaign finance disclosure program to require candidates and committees for local elections that raise or expend more than \$1,000, to file their campaign finance statements, in electronic format, with the State Board (Chapter 406 of the Laws of 2005). This has amounted to an increase in the number of filers of nearly 650%, without any type of commensurate increase in resources. The net effect being that staff has a greater number of open committees to service.

In 2005 there were approximately 1,500 registered and active filers. As a result of the Chapter, as of October 26, 2009, there are 11,567. This number is expected to continue steadily increasing, impacting on the level of staff work resulting from the continuing increased volume. In 2008, filings totaled 23,622. So far in 2009, almost 24,244 individual campaign financial report filings were made. And there is still one post election filing remaining in 2009.

In September 2009, staff responded to 1,644 calls to the call center for assistance with filings as compared to 932 calls received during September 2008. In all of 2008, Campaign Finance unit staff handled 7,400 pieces of mail. Through September, 2009, the Campaign Finance unit staff processed approximately 12,000 pieces of mail, and the Enforcement staff handled thousands more and the number of complaints we receive from the public about violations of the Election Law also continue to increase. So far this year, approximately 375 complaints were brought to the Board for determinative action. A significant amount of staff time supports the preparation of each complaint for Board consideration. These numbers increase each year.

In line with these numbers, we have also experienced a significant increase in the associated costs of running the program, including, but not limited to, mailings (paper, envelopes, printing and postage), together with increased process serving fees for enforcement.

This increasing number of active filers further impacts the State Board's requirement to support an increased level of compliance with statutory requirements of Campaign Finance provisions. In areas such as education of mandated filers, timely review of questions and problems, provision of support to filers, and greater general enforcement of the mandates, the State Board would continue to argue strongly for an adequate appropriation for the coming fiscal year to fund and fill 17 FTE positions necessary for the Board to meet its mandate of public disclosure of financial filings that accurately depict the raising and spending of money by and for candidates for public office.

TECHNOLOGY - The existing campaign financial disclosure database system was designed in 1994 to accommodate electronic filing by the relatively known number of state filers, approximately 1,500. An analysis of the system by the Board's Chief Information Officer concludes that the system does not meet campaign finance and enforcement requirements to support the additional number of candidates for local offices. Shortcomings in the system include database applications where the system doesn't accommodate beyond the basic linear single filing, the systems is unable to link histories of administrative activities, and doesn't accommodate multiple like filings

relative to an election. The system also falls short relative to the Electronic Filing Software (EFS) the agency developed to use for filing of financial reports. There are multiple areas of inability to allow for effective filing, as well as incompatibility with up to date operating systems.

The financial reporting needs to allow for the capture and migration of data relative to local candidates and offices from the county boards of elections to the State Board so we know who is running for all of the local offices and who has to file financial disclosure reports. This system needs to be built using a platform that accommodates up-to-date operating systems. Additionally, development of a modern web-based filing system, as opposed to a software attachment to an email, is needed for maximum efficiency and accuracy in reporting.

The vast increase in the number of filers of financial activity reports has led to stress on the level of review by the State Board. Because of the deficiencies in the database and EFS, the Campaign Finance Unit is unable to adequately, or in some cases at all, amalgamate information needed to effectuate reviews. In many instances it's because the system doesn't accommodate the filer, leading to difficulties in the review. In other instances, the system doesn't allow for the generation of information in the required format. At all levels, the State Board will be best served by an appropriate and complete review of the agencies needs, in conjunction with the existing system as well as with the up-to-date system needed to be built. An assessment to evaluate enforcement/campaign finance needs and to develop business rules to incorporate those needs with the development of a new database and reporting system is imperative. An estimated \$300,000 appropriation is necessary for this effort.

**ELECTION OPERATIONS UNIT:
PERSONAL SERVICES:**

Temporary/Seasonal (unfunded and unfilled 10) \$30,000 increase

NON PERSONAL SERVICES:

Board Review \$30,000 increase

A key mission of the Election Operations Unit is the oversight of the operations of each board of elections in the state. The State Board is charged with reviewing board operations on a periodic basis, to ensure compliance with statutes and regulations, and the consistent delivery of fair and accurate elections across the state. There are 62 county boards of elections, including the 5 boroughs making up the City of New York, as well as general offices of the City Board of Elections, in which certain tasks relating to all 5 boroughs are consolidated.

While so much immediate need and attention surrounds the incorporation of new voting technology and processes, ongoing and meaningful board reviews are necessary to ensure that basic and necessary election administration procedures are not sidelined or diminished. This outcome will negatively impact the ability to deliver sound, consistent, and reliable elections across the State.

The State Board's oversight includes the review of procedures and processes for conducting elections, the organization of the county board itself, staffing, document storage and retention, training efforts, problem resolution, and issues of special interest or concern to either the State Board or the county board. Board reviews will now include a review of the implementation of new voting systems and ballot marking devices, corresponding training and education initiatives. These reviews will also include asset management confirmation, including the physical inspection of each county's voting system service center, and processes and records related to the conduct of required periodic maintenance, election configurations, and pre and post election tasks and testing. The 2009 New York State Single Audit, that for the first time included an audit of HAVA program funding, found that the State Board has not conducted on-site monitoring of the county boards as the sub-recipients of the HAVA funds.

The State Board is fully committed to compliance with all aspects of HAVA, though this charge is a complicated and arduous one. At present, the State Board is under a federal court order which requires that the Board fully complies with HAVA, and does so by meeting specific compliance milestones, pursuant to the adoption of a strict timetable which is overseen by the US Department of Justice.

With an ever-increasing national focus on the election process, particularly in the areas noted above, the Board is working increasingly closer with our County Boards, and Federal, State and local agencies. We are developing requirements and procedures which address the new and changing needs of the electorate and the overall election process, and are creating corresponding methods of responsible and consistent implementation. The scope of this agenda is tremendous, and includes the certification, acquisition, acceptance testing, deployment, and use of poll site optical scan voting systems throughout New York, replacing all mechanical lever voting systems, in addition to the support and monitoring of over 30,000 pieces of voting equipment.

In 2010 New York State will experience a very busy election cycle with contests for every statewide office including Governor, Lieutenant Governor, Attorney General, Comptroller, all of the members of both houses of the State Legislature, State Supreme Court Justices in thirteen judicial districts, all Representatives in Congress, and both US Senate positions.

The Election Operations Unit has multiple missions for which it is responsible and while fully acknowledging that board visits are critically essential, they have been set aside while limited staff and resources have been directed towards voting system certification and acceptance testing. It is expected that voting system certification tasks will diminish in 2010, but acceptance testing of new systems will be running at full throttle. At the same time as acceptance testing is ballot access, with a full state and federal cycle of elections, temporary staff will need to be hired to ensure that there will be sufficient staffing levels for acceptance testing, board reviews, support and training programs, and to ensure the accurate and efficient performance of all ballot access tasks. We anticipate that 10 temporary staff person will be necessary to ensure this mission.

UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT (UOCAVA)

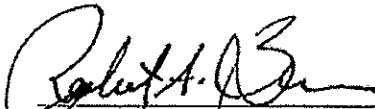
On October 28, 2009 President Obama signed the National Defense Authorization Act (P.L. 111-84) which included new federal provisions for military and overseas voters (Subsection H - Military and Overseas Voter Empowerment Act, (MOVE Act of 2009). These provisions impose new obligations on New York State to provide for electronic access to voter registration and ballot materials as well as new standards for the collection and reporting of certain data related to uniformed and overseas voter participation. Under the legislation ballots to uniformed and overseas voters must be mailed 45 days before the federal election unless annually a waiver request is approved for each federal election.

The State Board is currently working to establish cost estimates for the new electronic access and data collection/reporting provisions of the MOVE Act. Section 588 of the Law authorizes and appropriates under HAVA "such sums as necessary" for FY 2010 and beyond as requirements payments to the States specifically for implementing the MOVE Act. Any funds appropriated under this provision may only be used to carry out the requirements of the MOVE Act. If a State receives a FY 2010 requirements payment specifically authorized for implementation of the MOVE Act, it has until the last day of the 2011 fiscal year (September 30, 2012) to comply with the 5% match requirement.

We would appreciate your consideration of our request for the additional funds necessary to maintain full compliance with the Help America Vote Act, the full and complete disclosure of campaign financing, investigations of complaints, and to prepare for the new obligations to provide for electronic access to registration and ballot materials by uniformed voters and overseas voters.

If you have any questions, please do not hesitate to contact us.

Sincerely,



Robert A. Brehm
Co-Executive Director



Todd D. Valentine
Co-Executive Director

RAB/TDV/dsm



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February 7, 2012

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SUPPORTING DOCUMENTATION FOR FY 2012 BUDGET

ENFORCEMENT and CAMPAIGN FINANCE UNIT

PERSONAL SERVICES:

FTE (unfunded and unfilled 18) \$1,125,000 increase

NON PERSONAL SERVICES:

Indirect Costs to fill 18 FTE \$225,000 increase
Technology \$350,000 increase

In 2005 the State Legislature mandated the extensive expansion of the electronic campaign finance disclosure program to require candidates and committees for local elections that raise or expend more than \$1,000, to file their campaign finance statements, in electronic format, with the State Board (Chapter 406 of the Laws of 2005). This has amounted to an increase in the number of filers of nearly 650%, without any type of commensurate increase in resources. The net effect being that staff has a greater number of open committees to service.

In 2005 there were approximately 1,500 registered and active filers. As a result of the Chapter, as of December 31, 2011, there were 12,319. This number is expected to continue steadily increasing, impacting on the level of staff work resulting from the continuing increased volume. In 2011, financial disclosure filings totaled 29,535.

In 2011, staff responded to 13,284 calls to the call center for assistance with filings, registered 3,149 new committees, and terminated 2,434. Campaign Finance staff processed thousands of pieces of mail. Enforcement staff handled thousands more items, and processed complaints from the public about violations of the Election Law. In 2011, approximately 56 complaints were brought to the Board for determinative action. A significant amount of staff time supports the preparation of each complaint for Board consideration.

In line with these numbers, we have also experienced a significant increase in the associated costs of running the Campaign Finance and Enforcement programs, including, but not limited to, education and training of filers, mailings (paper, envelopes, printing and postage), together with increased process serving fees necessary for enforcement.

The administration and implementation of campaign finance by the State Board is an interesting comparison with other relevant jurisdictions. In 2011, the Board's 18 campaign finance/enforcement FTE staff serviced nearly 12,000 registered candidates and committees for their compliance with the Election Law. The budget to support this was just over \$1 million. The Federal Election Commission employed 375 FTE to administer 10,000 registered committees and the public financing for presidential campaigns and party conventions, on a budget of \$66.6m. The NYC Campaign Finance Board employed 84 FTE, with a budget of \$40m (approximately \$27 million of public financing money and \$17 million for administration) to administer 367 registered committees for campaign finance compliance, and to administer their public financing program. Each FTE was responsible for the servicing registered candidates/committees as follows: NYCCFB 4; FEC 126; State Board 666.

Additionally, Chapter 399 of the Laws of 2011 imposed an additional enforcement mandate relative to any person who fails to file three financial disclosure reports in the election cycle for the relevant office. This would entail additional lawsuits for the imposition of the fine of up to \$10,000. As well, any additional mandate imposed in the current budget cycle would obviously be extremely problematic to implement with the significantly reduced staffing, compounded by the systematic increase of all other Enforcement and Campaign Finance functions.

This increasing number of active filers further impacts the State Board's requirement to support an increased level of compliance with statutory requirements of Campaign Finance provisions. In areas such as education of mandated filers, timely review of questions and problems, provision of support to filers, and greater general enforcement of the mandates, the State Board would continue to respectfully request an adequate appropriation for the coming fiscal year to fund and fill 18 FTE unfilled positions necessary for the Board to meet its mandate of public disclosure of financial filings that accurately depict the raising and spending of money by and for candidates for public office.

TECHNOLOGY - The existing campaign financial disclosure database system was designed in 1994 to accommodate electronic filing by the relatively known number of state filers, approximately 1,500. An analysis of the system by the Board's Chief Information Officer concludes that the system does not meet campaign finance and enforcement requirements to support the additional number of candidates for local offices. The current system's database applications do not allow for filings to be submitted for overlapping elections, it only allows for a single linear filing. Additionally, there is an inability to link historical administrative information and activities, such as treasurer and amendment histories, which negatively impacts the capability of performing meaningful audits of filing records. The State Board has since updated the Electronic Filing Software (EFS) which has been tested and is undergoing its final review before release. Although this updated version does overcome certain incompatibilities with particular operating systems, there remain deficiencies in both the user interface and database architecture which will still have to be addressed.

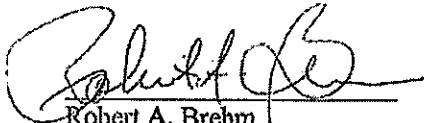
The financial reporting system also needs to allow for a usable capture and migration of data relative to local candidates and offices from the county boards of elections to the State Board so we know who is running for all of the local offices and who has to file financial disclosure reports. The lack of this capability directly impacts the ability of the Board to appropriately enforce filing requirements of local candidates and related political committees. This system needs to be built using a platform that accommodates up-to-date operating systems. Additionally, development of a modern web-based filing system, as opposed to a software attachment to an email, is needed for maximum efficiency and accuracy in reporting.

The vast increase in the number of filers of financial activity reports has led to stress on the level of review by the State Board. Because of the deficiencies in the database and EFS, the Campaign Finance Unit is unable to adequately, or in some cases at all, amalgamate information needed to effectuate reviews. In many instances it's because the system doesn't accommodate the filer, leading to difficulties in the review. In other instances, the system doesn't allow for the generation of information in the required format. At all levels, the State Board will be best served by an appropriate and complete review of the agencies needs, in conjunction with the existing system as well as with the up-to-date system needed to be built. An assessment to evaluate enforcement/campaign finance needs and to develop business rules to incorporate those needs with the development of a new database and reporting system is imperative. An estimated \$350,000 appropriation is necessary for this effort.

We would appreciate your consideration of our request for the additional funds necessary for full and complete disclosure of campaign financing, investigations of complaints.

If you have any questions, please do not hesitate to contact us.

Sincerely,



Robert A. Brehm
Co-Executive Director



Todd D. Valentine
Co-Executive Director

RAB/TDV/dsm



James A. Walsh
Co-Chair

Gregory P. Peterson
Commissioner

Todd D. Valentine
Co-Executive Director

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Douglas A. Kellner
Co-Chair

Evelyn J. Aquila
Commissioner

Robert A. Drehm
Co-Executive Director

October 29, 2012

Mr. Robert L. Megna, Director
NYS Division of the Budget
Capital Building
Albany, NY 12224

Dear Mr. Megna:

The recent FY 2013-2014 Budget Request for the State Board of Elections was limited to the current year budget. We respectfully submit this budget side letter in which we amplify the request for a funding level necessary for the State Board of Elections to meet its core mission objectives.

The New York State Board of Elections, created in 1974, is vested with the authority and responsibility for the execution and enforcement of all laws relating to the elective franchise, the full and complete disclosure of campaign financing and practices, and the promotion and maintenance of citizen confidence in and full participation in the political process of our state (Chap. 604 of the Laws of 1974). The additional responsibilities that have been placed upon the Board in recent years have stressed the resources of the agency to meet its statutory requirements.

Elections Operations:

Of the State Board's multiple missions, on-site county board monitoring is essential. However this program has been drastically reduced because limited staff and resources have been directed towards aspects of board operations that have been necessarily reprioritized. An audit by the Office of the State Comptroller (2008-MS-7) took issue with the State Board reviews, or lack thereof. The board review agenda in place at that time has been modified by the Election Operations Unit to now include the physical audit of assets purchased with federal dollars, and the review and ongoing monitoring (where necessary) of new voting systems, such that the State Board will always be apprised of voting system functionality and any anomalies arising from same. Being on the front line of this newer aspect of the board review program is key to managing the need for system upgrades and necessary modifications, and the Unit's need to resume the conduct of operational reviews of county boards of elections as well as any interventions that may be necessary. The addition of an initial two staff members will help the Unit address

the need for the resumption of on-site overviews and for the implementation of any recommendations arising from a return to our board review agenda. (The initial addition of two PEF SG 20s have a starting salary of \$ 56,813 each) To ameliorate the comments in the audit and the concerns of the Unit, it is hoped that staff and resources can be restored, such that detailed board reviews may be resumed without a negative impact to the other critical tasks of the unit, and the routine election operations responsibilities. In the interim, as staff resources permit, training manuals, forms, sample procedures and other 'tools of the trade' are being reviewed and revised to reflect changes in overall election operations as well as in Election Law, and as each tool is completed, it will be reproduced and distributed to all boards and posted to the agency's County Board Info Portal for easy retrieval and reference by county staff.

Campaign Finance:

In 2005 the State Legislature mandated the extensive expansion of the electronic campaign finance disclosure program to require candidates and committees for local elections that raise or expend more than \$1,000, to file their campaign finance statements, in electronic format, with the State Board (Chapter 406 of the Laws of 2005). This has amounted to an increase in the number of filers of nearly 650%, without any type of commensurate increase in resources, and in fact, with a reduction in resources. The net effect being that staff has a greater number of open committees to service.

In 2005 there were approximately 1,500 registered and active filers. As a result of the Chapter, as of December 31, 2011, there were 12,319. This number is expected to continue steadily increasing, impacting on the level of staff work resulting from the continuing increased volume. In 2011, financial disclosure filings totaled 29,559.

In 2011, staff responded to 13,824 calls to the call center for assistance with registration and filing, registered 3,149 new committees, and terminated 2,434. Campaign finance staff processed thousands of pieces of mail. Enforcement staff handled thousands more items, and processed complaints from the public of violations of the Election Law. In 2011, approximately 56 complaints were brought to the Board for determinative action. A significant amount of time is required to adequately prepare a complaint for the Board's review.

Over the past several years, continuing unfunded staff positions have resulted in a serious reduction in the ability to fully address our mandated functions. There are 18 filled positions in Enforcement and Campaign Finance. There are also 18 unfilled positions. This has resulted in less time able to be given to assisting filers, resulting naturally in increased enforcement issues. Staff has little time to address needed administrative matters relative to registered committees and treasurers, or auditing matters which would result in better and more accurate reporting for the public's information. The law provides an education mandate, yet there is little money to enable us to reach the county levels for educational seminars. As well, how complaints are handled is impacted. The two Counsel are

pressed thin in overseeing all of the enforcement and campaign finance matters, and the amount of time that can be devoted to complaint issues has had to be reduced. Opening an investigation is a limited circumstance. We do not even have an Investigator on staff for even the basic review of preliminary matters.

As well, Chapter 399 of 2011 created new enforcement mandates. Any person who fails to file financial disclosure reports 3 times in an applicable election cycle may be sued and fined up to \$10,000. Also, the law created a new basis to sue for acceptance of over contributions for a fine of up to \$10,000. It is uncertain whether the Court will require every named defendant be sued in a separate proceeding as opposed to naming similarly situated defendants in one suit. In either case this increased legal work is imposed with no staff, most significantly legal staff, to do it.

In line with these numbers, we have also experienced a significant increase in the associated costs of running the Campaign Finance and Enforcement programs, including, but not limited to, education and training of filers, mailings (paper, envelopes, printing and postage), together with increased process serving fees necessary for enforcement.

The administration and implementation of campaign finance by the State Board is an interesting comparison with other relevant jurisdictions. In 2011, the Board's 18 campaign finance/enforcement FTE staff serviced nearly 12,000 registered candidates and committees for their compliance with the Election Law. The budget to support this was just over \$1 million. The Federal Election Commission employed 375 FTE to administer 10,000 registered committees and the public financing for presidential campaigns and party conventions, on a budget of \$66.6m. The NYC Campaign Finance Board employed 84 FTE, with a budget of \$40m (approximately \$27 million of public financing money and \$17 million for administration) to administer 367 registered committees for campaign finance compliance, and to administer their public financing program. Each FTE was responsible for the servicing of registered candidates/committees as follows: NYCCFB 4; FEC 126; State Board 666.

Any additional mandate imposed in the current budget cycle would obviously be extremely problematic to implement with the significantly reduced staffing, compounded by the systematic increase of all other Enforcement and Campaign Finance functions. The increasing number of active filers further impacts the State Board's requirement to support an increased level of compliance with statutory requirements of Campaign Finance provisions. In areas such as education of mandated filers, timely review of questions and problems, provision of support to filers, and greater general enforcement of the mandates, the State Board would continue to respectfully request an adequate appropriation for the coming fiscal year to fund and fill 18 FTE unfilled positions necessary for the Board to meet its mandate of public disclosure of financial filings that accurately depict the raising and spending of money by and for candidates for public office.

Information Technology Unit:

Candidate/Campaign and Financial Disclosure System (CAPAS/FIDAS)

The existing candidate/campaign financial disclosure database system was designed in 1994 to accommodate electronic filing by a relatively known number of state filers, approximately 1,500. The system does not meet campaign finance and enforcement requirements to support the additional number of candidates for local offices. The current system has many critical shortcomings including:

- It does not allow for filings to be submitted for overlapping elections;
- It only allows for a single linear filing;
- There is an inability to link historical administrative information and activities, such as treasurer and amendment histories.

This lack of functionality negatively impacts the capability of performing meaningful audits of filing records.

A separate software application used by filers to submit the financial disclosure data was also written in the 1990's and there is no means available to maintain this application. The State Board began a standalone project several years ago to replace this application. This software (EFS) has been tested and is undergoing its final review before release. Although this updated version does overcome certain incompatibilities with particular operating systems, there remain deficiencies in the user interface, database architecture, and the underlying technical architecture which must be resolved.

Additionally, the financial reporting system needs to allow for a usable capture and migration of data relative to local candidates and offices from the county boards of elections to the State Board. This capability will allow the State Board to know who is running for all of the local offices and who needs to file financial disclosure reports. The lack of this capability directly impacts the ability of the State Board to appropriately enforce filing requirements of local candidates and related political committees.

It is for all these reasons that the Board will be initiating a project in December, 2012 to address the State's needs for campaign and financial disclosure management. This system will be built using the OITS General Government Cluster Standards as they are developed. The keys to the success of this project will be the adherence to the enterprise architecture standards, identify and access management best practices, project management controls, and OITS shared services.

As a small agency, the State Board has a limited ability to take on such a large project but it can no longer wait for a large funding stream to solve this critical need. The vast increase in the number of filers of financial activity reports has led to an unacceptable stress on the system. Because of the deficiencies in the database and EFS, the Campaign Finance Unit is unable to adequately, or in some cases at all,

amalgamate information needed to effectuate reviews. In many instances it's because the system doesn't accommodate the filer, leading to difficulties in the review. In other instances, the system doesn't allow for the generation of information in the required format. At all levels, the State Board will be best served by an appropriate and complete review of the agencies needs, in conjunction with the existing system as well as with the up-to-date system needed to be built.

As stated, the project will begin in December, 2012 with the development of the "Business Case" and initial analysis using current State Board resources. In order to successfully implement the project, additional resources are being requested in the form of 2 FTE's to be used as part of the development team for 2013/2014. Additional PS and NPS funds will be required in 2014/2015. The two FTEs for 2013/2014 will require an additional \$154,665 (\$128,888 in Personal Service and \$25,777 in Non Personal Service.)

Backup and Recovery System

During June 2012, the Board's tape library system used to backup and recover data from the networked file servers failed. The system was out of warranty and a no longer manufactured or available for purchase. As a stop-gap measure, the Board has utilized the tape library system implemented and sized for the New York Statewide Voter database (NYSVoter). In order to complete this implementation, tape library hardware from the Board's Disaster Recovery site in Westchester was re-deployed to the Albany data center. It is critical that a complete analysis, design, and implementation of a proper backup strategy for all of the Board's data be completed. An additional \$100,000 of funding will be required to implement this system to cover costs of software and storage area networks for the Albany data center and the Westchester Disaster Recovery site.

Network Equipment

The Board's network firewalls are over 10 years old and near end-of-life for support. The firewalls are used to protect the Board's internal systems from potential attacks via the internet. In order to maintain the Board's high security requirements, the network equipment must be replaced. An additional \$75,000 is required to complete this project.

Servers and Storage

Several of the Board's servers are no longer covered under warranty agreements. This includes the development servers for the Campaign and Financial Disclosure systems as well as the Board's DNS servers. Additionally, the new Campaign and Financial Disclosure systems will require both application and database production servers and storage. In order to ensure proper support for the board's servers and storage of data, an additional \$100,000 is required.

SUPPORTING DOCUMENTATION FOR FY 2013-2014 BUDGET

Summary of Additional Funding Request by Unit and Service Type

ENFORCEMENT and CAMPAIGN FINANCE UNIT

Personal Services:	\$1,160,000
Non personal Services:	\$232,000

ELECTION OPERATIONS UNIT

Personal Services	\$113,626
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INFORMATION TECHNOLOGY UNIT

Personal Services	\$128,888
Non Personal Services	\$300,777

TOTAL Additional Funding Request for all UNITS: \$1,935,214


We would appreciate your consideration of our request for the additional funds necessary for full and complete administration of critical agency responsibilities.

If you have any questions, please do not hesitate to contact us.

Sincerely,



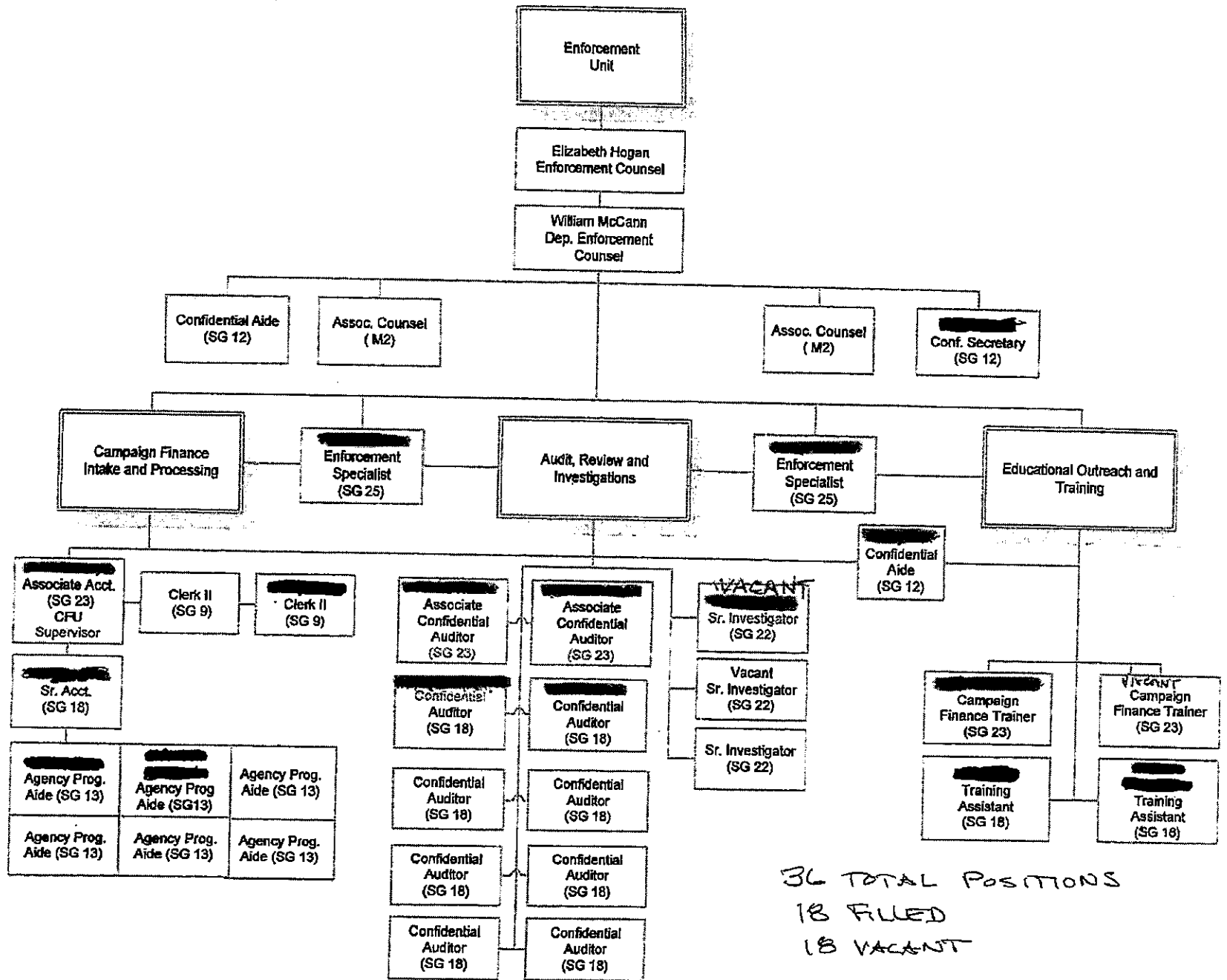
Robert A. Brehm
Co-Executive Director



Todd D. Valentine
Co-Executive Director

RAB/TDV/dsm

**State Board of Elections
Campaign Finance
Enforcement Unit
Organizational Chart**



36 TOTAL POSITIONS
 18 FILLED
 18 VACANT



Testimony on Campaign Finance Reform

Michael J. Malbin

Professor of Political Science
University at Albany, SUNY

Executive Director
Campaign Finance Institute
Washington DC

Before a Hearing held by the
Independent Democratic Conference
New York State Senate
Albany, New York
May 20, 2013

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ANTHONY CORRADO

TRUSTEES
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JEFFREY BELL
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ROBIN KOLODNY
RAY LA RAJA
THOMAS E. MANN
MARK J. ROZELL
KAY SCHLOZMAN
CLYDE WILCOX

Senators Klein, Carlucci, Savino and Valesky:

Thank you for inviting me to testify. My name is Michael Malbin. I am a Professor of Political Science at the University at Albany and am also co-founder and Executive Director of the Campaign Finance Institute (CFI) in Washington DC. I have been writing about money and politics since the 1970s.

CFI occupies a unique position in the money-and-politics field. CFI's task forces make recommendations, but CFI not fundamentally an advocacy organization. Rather, it is a specialized and completely nonpartisan think tank committed to the idea that durable policy should be based on objective, fact-based research. Within that, CFI's federal and state research for more than ten years has played a leading role in the effort to understand and enhance small-donor citizen empowerment.

I suspect that one reason we have been asked to testify is because of technical work CFI has done to analyze the New York City and State systems. Some recent CFI studies are attached at the end of this testimony. I ask you to make them part of the record.

New York State's candidates receive only 6% of their funds from donors who give \$250 or less. This is one of the lowest rates in the country. Our studies show that small-donor matching could bring that 6% up to 54%. It would make small donors the most important financial constituents for candidates instead of the least important.

How much would it cost? CFI estimates that the matching funds in the IDC bill would cost between \$129 million and \$180 million over four years, or between \$1.65 and \$2.30 per New Yorker per year. For what it would accomplish, that price is cheap.* However, because my

* This is slightly more than the Assembly bill because of higher caps on the IDC bill's matching funds. Senate Republicans have put out cost figures that roughly double CFI's. To reach its numbers, the Senate Republicans assumed that every legislative district would produce two candidates strong enough to generate the maximum amount of public funds for the general election. They also assumed that 25% of the districts would generate two maxed-out candidates in the primaries. One of the attachments to this testimony explains why CFI considers these assumptions to be highly unrealistic while another explains the assumptions behind CFI's. See, "Statement by Michael J. Malbin about CFI's and NY Senate Republicans' Conflicting Estimates for the Cost of a Matching Fund System in New York State," Campaign Finance Institute, April 25, 2013.

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allowed time is short, I prefer to save the technical issues for questions. More important now is to focus on the big picture.

THE BIGGER PICTURE

The United States is at an historic and dangerous moment. This is not only about local scandals, as bad as the scandals have been. Scandal corrections, though valuable, will not be enough for the big problem.

In the years between Watergate and *Citizens United*, the campaign finance system was not perfect but at least federal elections and three-quarters of the states had workable contribution limits. This is being undermined.

After *Citizens United*, independent spending surged. Every competitive candidate needs to worry about that. As of now, the options for candidates are few and they are seriously problematic for the system. Weak enforcement has encouraged some to endorse single-candidate Super PACs. The practice is growing. It has not yet come to most states but it will. And then there are the 501(c)(4)s. It is absurd to expect candidates to be passive in light of these threats. They will protect themselves. If the only path is to cultivate mega-donors to Super PACs, some will do so. In another election or two, this will become normal. By then, the hyper-empowered few will shut off any real prospect for change.

There is no sufficient way to deal with this through restrictions. I support some new regulations but squeezing down on the top will not be adequate. Rich people determined to participate will do so. The only durable response is to make sure enough of the rest of us get involved.

This is the real alternative to *Citizen United*. Independent spending is not as effective as candidates' money. A small-donor matching fund system gives candidates the incentive to build up their lists of supporters who have not maxed out. Get a small donor committed and that person can give again – and volunteer. Not only that: our studies show that most candidates will do better financially under the pending bills than they do now. In the end, this is the best defense against an outsider's money bomb.

If you don't like where the system is headed after *Citizens United*, it is time to empower small donors. Some may want to go slow, or be incremental, or move on to related subjects, or wait until next year. But Albany has been talking about this since 1981. It has not made a significant change in campaign finance law since 1974. That was 39 years ago, one year after Watergate, and the state's powers that be have been willing to wait. But after *Citizens United*, this is not like every other year. The political ice caps are melting. Time is running out.

You can still make a choice. Instead of languishing at the bottom of the nation's rankings for small-donor participation, New York's leaders can choose to lead. I urge you to do so, now.

ATTACHMENTS

Small Donors, Big Democracy: New York City's Matching Funds as a Model for the Nation and States. By Michael J. Malbin, Peter W. Brusoe and Brendan Glavin. *Election Law Journal*, Vol. 11 No.1, 2012, pp. 3-20.

FROM THE ABSTRACT: The City of New York gives participating candidates six dollars in matching funds for each of the first \$175 that a city resident donates. This article asks whether a similar approach could become a model for others. The argument has three parts. The first is an empirical analysis of New York City's campaign finance records since 1997, showing that (a) multiple matching funds do increase the *proportional* role of small donors; (b) they have also increased the *number* of small donors; and (c) they help shift the *demographic and class profile* of those who give. The second part applies a modeling method to the states to show these results could readily be obtained elsewhere. The third section presents broad theoretical, constitutional and policy themes.

Donor Diversity through Public Matching Funds. By Elisabeth Genn, Sundeep Iyer, Michael J. Malbin and Brendan Glavin. May 2012. This joint study by CFI and the Brennan Center for Justice offers powerful evidence that New York City's public financing system has contributed to a much higher level of small donor participation from lower income and higher minority neighborhoods than the ones for donors to candidates in state elections.

What Is and What Could Be: The Potential Impact of Small-Donor Matching Funds in New York State Elections. By Michael J. Malbin and Peter W. Brusoe. April 2012. New York's Governor has proposed a system of public matching funds for state elections similar to New York City's. This paper predicts that such a system would increase the role of small donors in state elections from the present 6% of all candidates' funds to as much as 54%. This would make small donors the most important financial constituents for candidates instead of the least important.

SHORTER ANALYSES AND RELEASES:

May 20, 2013: *CFI's Estimate of the Cost of Matching Funds in the IDC Bill*

April 25, 2013: *Statement by Michael J. Malbin about CFI's and NY Senate Republicans' Conflicting Estimates for the Cost of a Matching Fund System in New York State.*

April 1, 2013: *Public Matching Funds in NY State, Reversing the Financial Influence of Small & Large Donors, Would Leave the Candidates "Whole" While Costing New Yorkers only \$2/Year.*

December 20, 2012: *VT and RI Had the Highest Percentages of Adults Contributing in 2010 and 2006 State Elections, NY, UT, CA and FL the Lowest.*

Public Matching Funds Cost Estimate - Klein Bill						
	Assume same candidates and individual donors as 2010-12, giving up to new contribution limits			Double number of each candidate's individual donors, with new donors giving \$50 each		
Assumption: all candidates ask for and receive public funds up to the maximum allowed for one contested election, usually the general election. In addition, for primary elections:	2010	2012	4 year cost	2010	2012	4 year cost
Assume higher public funding cap only for those who actually had two contests.						
Assembly 412.5K cap/contested	24,533,178	25,969,182	50,502,360	34,437,570	35,664,570	70,102,140
Senate 825K cap / contested	28,471,866	23,828,058	52,299,924	38,742,450	31,471,782	70,214,232
Governor \$8.25m	14,397,828		14,397,828	17,257,428		17,257,428
AG \$4.125m	7,540,146		7,540,146	9,537,246		9,537,246
Comptroller \$2.75m	4,079,640		4,079,640	5,183,340		5,183,340
TOTAL, ALL RACES	79,022,658	49,797,240	128,819,898	105,158,034	67,136,352	172,294,386
TOTAL PER YEAR			32,204,975			43,073,597
TOTAL PER CAPITA PER YEAR			\$ 1.65			\$ 2.21
Treat every 2010-12 candidate as if in a contested primary.						
Assembly 825K cap	24,859,002	26,325,534	51,184,536	35,738,802	37,400,334	73,139,136
Senate 1.6m	28,476,276	23,880,192	52,356,468	39,631,476	32,776,392	72,407,868
Governor \$13.75m	14,598,624		14,598,624	19,521,324		19,521,324
AG \$6.875m	7,540,146		7,540,146	9,537,246		9,537,246
Comptroller \$6.875m	4,079,640		4,079,640	5,183,340		5,183,340
TOTAL, ALL RACES	79,553,688	50,205,726	129,759,414	109,612,188	70,176,726	179,788,914
TOTAL PER YEAR			32,439,854			44,947,229
TOTAL PER CAPITA PER YEAR			\$1.66			\$2.30

SOURCE: CAMPAIGN FINANCE INSTITUTE



For Immediate Release
April 25, 2013

Contact: Michael Malbin
(202) 969-8890 ext. 221

CFI Research on State and Local Elections

**STATEMENT BY MICHAEL J. MALBIN ABOUT CFI'S AND NY SENATE
REPUBLICANS' CONFLICTING ESTIMATES FOR THE COST OF A MATCHING
FUND SYSTEM IN NEW YORK STATE**

EXECUTIVE DIRECTOR
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CLYDE WILCOX

Mystery solved. New York State's Senate Republicans on April 24 finally released the background for their "estimated" cost of a public matching fund system in New York State. Their paper presented the cost as being \$221.55 million per election cycle.

The one-page sheet was released within hours after Michael J. Malbin, executive director of the Campaign Finance Institute (CFI) and Professor of Political Science at the University at Albany, had briefed reporters in Albany's Legislative Office Building about the basis for CFI's cost estimate for the same bill. CFI has estimated that public matching funds would cost between \$26 million and \$41 million per year over the course of four-years. ([A copy of the study containing this estimate is available here.](#))

What could explain these wildly different cost estimates? It turns out, now that the Senate Republicans' numbers have seen the light of day, that there is not any real mystery. The Senate Republicans simply assumed that every race for every office in the state would have two candidates drawing the maximum permissible amount of public funds for the general election. In a quarter of the districts, the paper also imagined primary challengers and incumbents getting another dose of maximum public funding.

It is impossible to call this piece of work a "study". It is little more than back of the envelope arithmetic based on incredible assumptions.

The CFI study was based on a methodology that had previously been through a process of peer review. CFI's higher estimates assumed that every candidate who ran in 2010 and 2012 doubled the number of his or her donors, with each new donor giving \$50 and stimulating \$300 in matching funds. It was based on a review of every single donor's contributions in every one of the state's races. The process involved hard-slogging research from the bottom up; not assumptions handed out from the top down.

So which approach can withstand the scrutiny? One test might be to look at how many candidates have "maxed out" in New York City, which is the system that the state is thinking about emulating. In the years between 2001 and 2009 (covering all of the city's elections with multiple matching funds) 51% of the candidates who participated in the voluntary matching fund system raised enough in qualified contributions to be eligible for the maximum public match.

That 51% is obviously well short of 100%. But how does it stack up against CFI's "bottom up" approach? It turns out that under CFI's double-your-number-of-donors

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scenarios, 43% of New York State's major party Assembly candidates in 2012 had already been counted as if they would have "maxed out" under public matching funds, along with 33% of the State Senate candidates. In addition, the higher rate of hitting the funding cap among city than state candidates reflects the city's substantially lower public funding cap. In other words, CFI's bottom-up approach produced results that match up reasonably well with New York City's historical experience.

"We never looked at the maxing out numbers until the Senate Republicans came out with their paper, Malbin said. "To assume everyone will max out is a fantasy. The ceilings don't come into play until the candidates find the new donors. To check the alternative, I felt as if I were in grade school again making sure all the columns and rows added up. It was gratifying to see that the cross-check validated what we have been doing."

*The Campaign Finance Institute is a non-partisan, non-profit research institute.
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Public Matching Fund System Would Reverse the Importance of Small and Large Donors in New York State Elections

New CFI Analysis Released Today

EXECUTIVE DIRECTOR
 MICHAEL J. MALBIN

CHAIRPERSON
 ANTHONY CORRADO

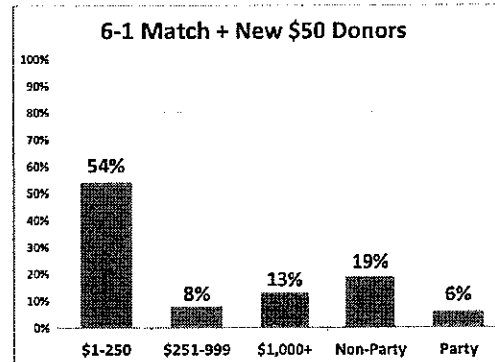
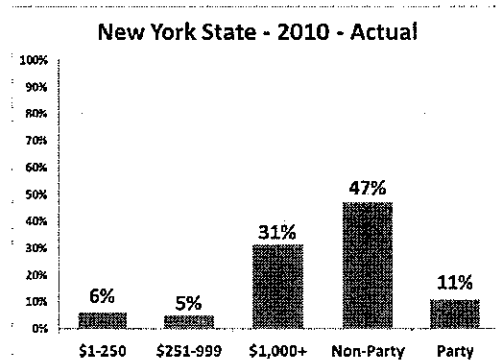
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New York State’s Governor Andrew M. Cuomo has proposed a system of public matching funds for state elections similar to New York City’s. The nonpartisan Campaign Finance Institute (CFI) today released a paper evaluating his claim that importing something like the city’s program is likely to bring greater participation and equality to the state’s campaign finance system.

This paper shows that matching funds have in fact achieved this result in New York City and can do the same in New York State. Michael J. Malbin, CFI’s executive director and a professor of political science at the University at Albany (SUNY), said that this co-authored work is based on years of CFI research into the role of small and large donors in federal and state elections.

Political campaigns in the United States are typically financed by a relative handful of donors. In New York State in 2010, only 6% of candidates’ money came from donors who give \$250 or less. In contrast, 78% came from non-party-organizations (such as PACs) and individuals who gave \$1,000 or more.

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New York City has managed to shift this balance by giving candidates an incentive to turn their attention toward small donors through a program that matches donor contributions 6 for 1 up to \$175. The study shows that a similarly dramatic result would be likely in state elections. It shows that even if matching funds brought no new donors into the system, the role of the small donors under a six-for-one system would shoot up from 6% to 30%. But that 30% number is almost surely too low. It assumes no new donors at all.

New York State’s donor participation rate is near the bottom of the country nationally. Only about one-half of one-percent of the adult population gives in any amount at all. By comparison, the typical state’s rate (as well as New York City’s rate in city elections) is more than three times as high. If the match would lead state candidates to attract just enough new \$50 donors to bring participation up to the city’s rate, the small donors would be worth 54% of the whole.

This would be a dramatic change: from 6% to 54%. Small donors would be the most important financial constituents instead of the least important. If the goal is to connect candidates more strongly with the people they are supposed to represent, the case seems compelling.

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What Is and What Could Be:

The Potential Impact of Small-Donor Matching Funds in New York State Elections

Michael J. Malbin¹
Peter W. Brusoe
Brendan Glavin

New York State's Governor Andrew M. Cuomo has proposed a system of public matching funds for state elections similar to the one being used successfully in New York City. "We must reconnect the people to the political process and their government," Gov. Cuomo said in his State of the State Message on January 4. "New York City's public financing system provides a good model for statewide reform. The system has helped to increase the number of overall contributors — and especially the number of small donors — in city elections." He urged the state legislature to enact public matching funds, along with other reforms, "to empower New Yorkers by giving them an equal voice in our elections."

This paper will evaluate Gov. Cuomo's claim that importing something like New York City's public matching fund system is likely to bring greater participation and equality to the state's campaign finance system. To foreshadow what is to come, the paper will argue that the best available evidence supports the claim. This conclusion is based on several years of research done by the nonpartisan Campaign Finance Institute (CFI) on the role of small and large donors in federal and state elections. A more extensive presentation of the evidence may be found in the co-authors' article, "Small Donors, Big Democracy: New York City's Matching Funds as a Model for the Nation and States," in the peer-reviewed *Election Law Journal*²

Governor Cuomo's proposal rests on a straightforward foundation. Political campaigns in the United States are typically financed by contributions from a small number of donors, with much of the money coming from those who give \$1,000 or more. In New York State, only a minuscule one-half of one-percent of the adult population gives any money at all to any candidate for statewide office or for the state legislature. CFI's research shows this to be nearly the lowest donor participation rate of any state in the country.

Moreover, the money from this handful of donors in state elections is tilted very much toward the high end. Candidates running for state office in 2010 got nearly half of their money (47%) from non-party organizations (such as political action committees), and nearly another one-third (31%) from individuals who gave \$1,000 or more. In other words, more than three-quarters of

¹ Michael J. Malbin is Executive Director of the Campaign Finance Institute (Washington DC) and Professor of Political Science at the University at Albany, SUNY. Peter W. Brusoe is a Ph.D. Candidate at American University and was a Research Associate at the Campaign Finance Institute. Brendan Glavin is Systems and Data Manager at the Campaign Finance Institute.

² Michael J. Malbin, Peter W. Brusoe and Brendan Glavin: "Small Donors, Big Democracy: New York City's Matching Funds as a Model for the Nation and States," *Election Law Journal* 11:1 (2012), 3-20.

the candidates' money (78%) came from big donors, many of whom had a direct stake in the business of government. In sharp contrast, the candidates received only 6% of their money from individuals who gave \$250 or less.

This distribution raises major questions about equality and power in a democracy. The few who give a lot of money disproportionately have the ear of those who are supposed to be making policy for everyone's benefit. That need not be so. The question is what should be done?

In the past, reformers have looked at restrictions on spending, but the Supreme Court has put a huge barrier in front of this approach. Even so, the court's views about restrictions do not rule out the goal. The Court says you cannot promote equality or participation by restricting or inhibiting speech. But it is perfectly constitutional to pursue the same goals by building up instead of squeezing down. You can dilute the power of the few by increasing the number and importance of low-dollar donors and volunteers. This in essence is what Governor Cuomo has proposed.

The constitutional theory is straightforward. The empirical question is whether this would actually work. Our research says that the answer is yes.

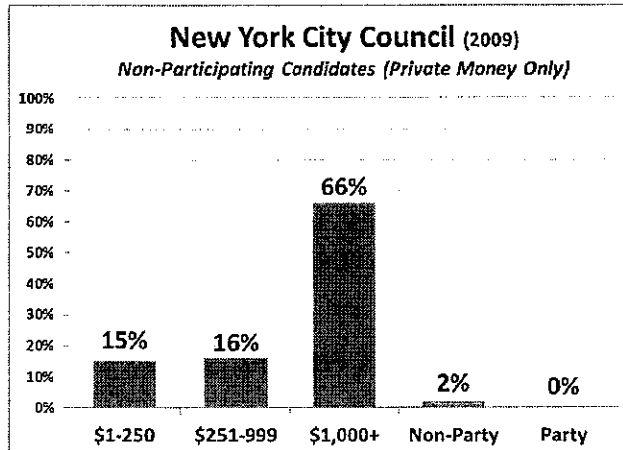
New York City in 2009

New York City is one of only a few jurisdictions in the country with a public policy program specifically aimed at bringing small donors into the system. In 2009, the city gave participating candidates six dollars in public matching funds for each of the first \$175 they raised from individuals who lived in the city. This made a \$175 contribution to a candidate who participated in the system worth as much as a \$1,225 contribution without matching funds. Our research shows that this program had a dramatic impact.

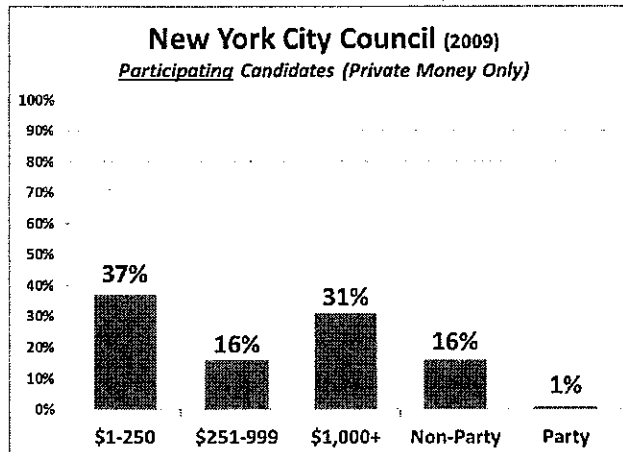
This section of the paper will summarize the results for New York City, followed by an analysis of how they would transfer to New York State. A future paper will look beyond the dollars to show that matching funds not only means greater numbers; it also means that a more diverse set of people are playing a greater role in the democratic process.

The idea behind importing a New York City-style matching fund system to state elections is that matching funds should change the fundraising incentives for candidates. To provide enough candidates for comparison, the following analysis focuses on the 51-member City Council, which is the legislative branch of the municipal government. Each Council member represents a constituency of more than 160,000 people, which makes a council district comparable in size to a New York State Assembly district. We can see the incentive effects by comparing the candidates who decided not to take public financing when they ran for City Council in 2009 to those who did choose to participate in the voluntary matching fund system. The first chart shows non-participants. Each of the bars shows the percentage of money coming from donors whose contributions to a candidate aggregated to the total amount shown. The charts exclude self-financing.

It turns out that non-participating New York City Council candidates raised their money from donors who gave pretty much the same amount proportionally as the donors who gave to the candidates for state office in a typical state. (The median state in our full article was Tennessee, whose candidates raised 16% of their money from donors who gave them \$250 or less.)

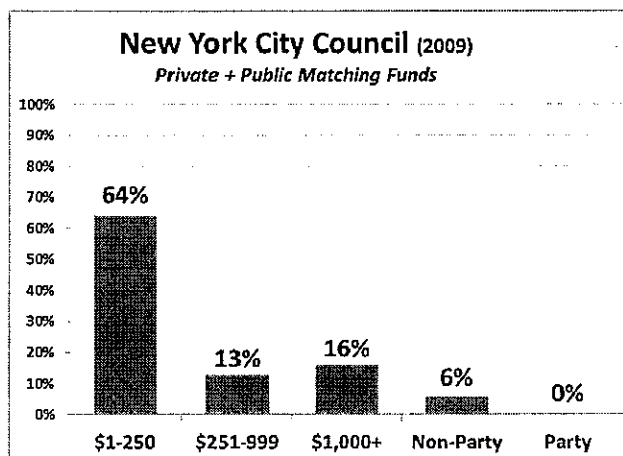


By comparison, the New York City Council candidates who chose to participate in the voluntary matching fund system showed a very different donor profile. To show the effect on candidates' fundraising incentives, the following chart shows only the private funds raised by the candidates.



The chart shows that participating candidates raised two-and-a-half times as much of their private contributions from small donors, proportionally, as did the non-participating candidates. In other words, public matching funds seem to have shifted the candidates' attention.

The next chart explains why. It shows what the distribution looks like when you assign the city's public matching funds to each of the donors whose contributions triggered the match. The chart therefore shows the relative financial importance of each set of donors to the candidates, from the candidates' perspective.



This is a stark comparison. Instead of seeing non-participating candidates who get 66% of their money from donors who give them \$1,000 or more, we see that donors who gave \$250 or less were responsible for 64% of the money that went to the participating candidates. This was a huge swing: small donors were responsible for

four times as much, in percentage terms, while the large donors were cut down to only one-fourth of the role that they played for the non-participating candidates.

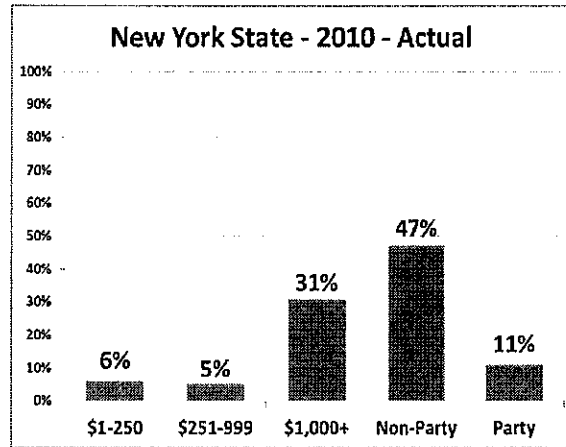
There can be no doubt that the city's matching fund program was responsible for shifting the role of small donors in city elections. CFI's historical research (detailed in the longer article)³ also shows that the city's multiple matching funds system led to a major increase in the sheer number of donors as well as a shift in the proportions. Candidates had an incentive to ask more people to give to them in small amounts, and that incentive in fact worked.

Would the Results Transfer Statewide?

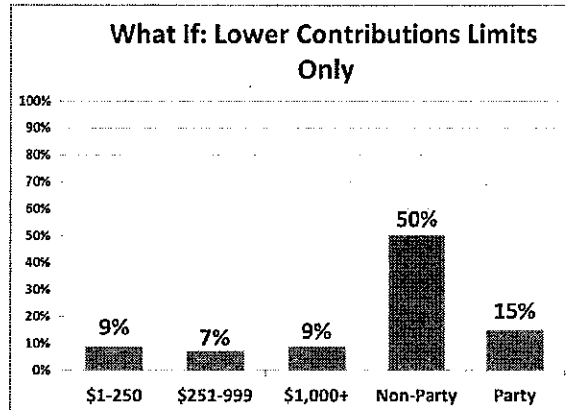
What would be the effect if New York State were to adopt a system like New York City's? To answer the question, CFI ran a series of "what if" scenarios, based on the actual donors to the candidates for Governor and state legislature who ran in 2010. The first table shows the distribution of contributions to the candidates, as they existed in 2010.

The bar chart illustrates a point made earlier in this paper: only 6% of the funds raised by New York State candidates came from donors who gave them aggregate amounts of \$250 or less. In contrast, 78% of their money came from donors who gave \$1,000 or more, or from non-party organizations.

To estimate the impact of policy change on this pool of donors, we imagined three scenarios. The first considers contribution limits. The others add matching funds.



Contribution limits only: New York State in 2010 allowed individuals and political action committees to give up to \$55,900 to a candidate for governor (in the primary and general election combined), \$15,500 for Senate candidates and \$7,600 for the Assembly. Because Governor Cuomo has said that he wants lower contribution limits, without specifying an amount, we asked what would happen if the amounts were to be the same as in federal elections. This would make them \$5,000



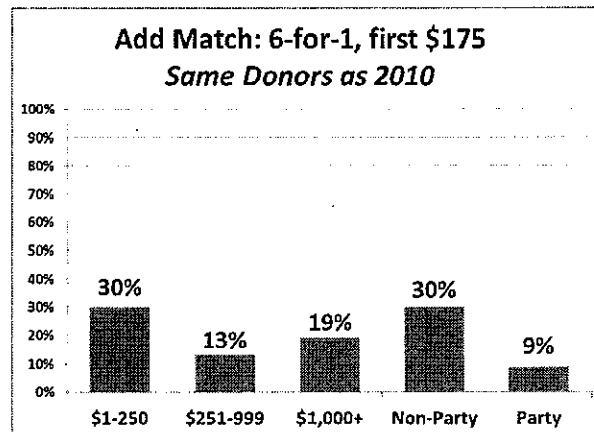
³ Readers who want a more exhaustive treatment may see the full study on the website of the Campaign Finance Institute (www.cfinst.org.)

for individual contributions (primary and general election combined) and \$5,000 for a PAC contribution. The following chart shows what would happen to the distribution of funds if any money above these limits in 2010 were removed from the system.

As the chart should make clear, lowering the contribution limit would have only a modest impact on the distribution of funds. This is not an argument against lower contribution limits. While lower limits might not effect small donors, there are other good reasons for lower limits that relate to the potential for corruption or undue influence.

Matching funds with a static donor pool:

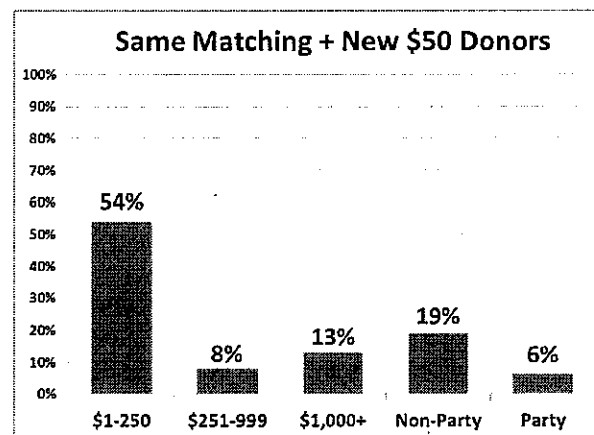
The next chart considers what would happen if the state adopted a New-York-City-style six-for-one match for the first \$175 contributed by an individual donor to a candidate. The chart assumes that every candidate voluntarily chooses to participate in the system. It also assumes that all donors who gave in 2010 continue to give exactly the same amounts as they did in 2010 (up to the new contribution limits). Finally, it assumes – unrealistically – that no new donors come into the system.



As the chart shows, these changes alone would more than quadruple the role of small donors over the status quo.

Matching funds with new donors:

But it seems hard to believe that a matching fund system would leave the donor pool unchanged. Based on what we know happened in New York City, there can be little doubt that offering a six-for-one match would bring new donors into the system. The more difficult issue is to estimate how many.



Most of the donors in the system now are the ones who give small contributions (even though small contributions make up only a small portion of current money). But the small donors represent only a tiny fraction of those who could give, and we know that potential small donors are the ones most likely to be stimulated by matching funds.

The next scenario assumes that candidates will attract enough new donors so that the state’s donor participation matches New York City’s rate (1.75% of the adult population). Lest this assumption be considered unrealistic, we note that it would be only slightly above the national median and less than half that of the country’s top performing states. We also assume that each new donor gives exactly \$50.

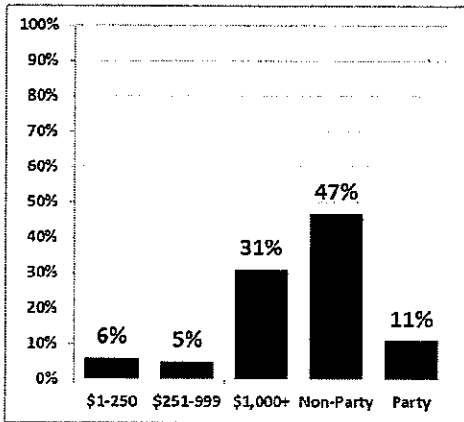
It is obvious from the chart that bringing new donors into the system would have a powerful effect. In this scenario, small donors would be responsible for more than half (54%) of the candidates' funds – more than eight times the proportion as under the current system. At the same time, the combined role of \$1,000 donors and non-party organizations would shrink from 78% to 32%.

To be sure, a 54% role for small donors at the state level would fall short of the 64% role these donors played for participating candidates in the City Council elections of 2009. The difference stems from the much greater importance political parties and non-party organizations play in state elections. Even so, 54% signifies that small donors would shift from their currently trivial role in New York State to being the most important donors to candidates for state office.

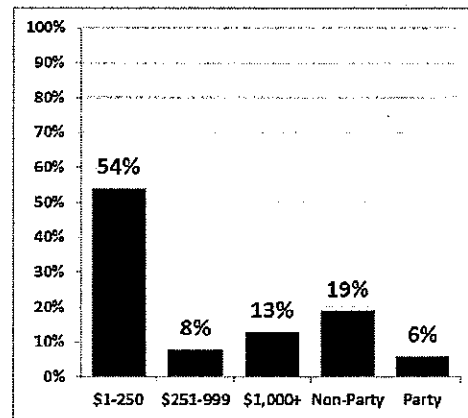
To recapitulate the main point with pictures: here is what the campaign finance system looked like in New York State in 2010, and what it could look like with small donor matching funds.

Recap: NY State

What is....



What Could Be



Conclusion

We conclude that the empirical assertions in Governor Cuomo's State of the State address are strongly supported by the evidence. New York City's public matching fund system has brought more small donors into the system and shifted the financial balance of power. We can also predict from the data that a similar system would bring parallel results in state elections. If the goal is to connect candidates more strongly with the people they are supposed to represent, the case seems compelling.



For Immediate Release
December 20, 2012

Contact: Michael Malbin
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CFI Research on State and Local Elections

Vermont and Rhode Island Had the Highest Percentages of Adults Contributing in 2010 and 2006 State Elections; New York, Utah, California and Florida the Lowest

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The Campaign Finance Institute (CFI) is releasing its analysis of the number of donors who contributed to gubernatorial and state legislative election candidates in 2006 and 2010, the two most recent elections in which most states held both sets of elections. Data were provided by the National Institute on Money in State Politics. Methods and definitions are presented after the main findings and tables.

MAIN FINDINGS

The tables below show that Vermont and Rhode Island held the top two slots in both elections, with percentages about three times the national median. On the bottom of the list, New York, Utah, California and Florida were closer to one-third of the median. Oregon and Nebraska were the median states in 2006, with 1.57% of its adults giving contributions. In 2010, the median state was Pennsylvania with 1.31%.

One state worth highlighting is Connecticut. Connecticut had privately financed elections in 2006 and voluntary public financing in 2010. In 2006, 1.96% of the state's adult population gave contributions to candidates. In 2010, the percentage rose to 2.26%. This means that more people gave in an election when most candidates took full public funding, even though the state's traditional lobbyist donors were no longer contributing. This happened because publicly funded candidates were required to raise their seed money from a minimum number of small donors who lived in their constituencies.

New York: Of the three lowest-ranked states, New York's percentages were the steadiest. About one-half of one percent of the Empire State's adults gave contributions to candidates for state office in 2006 and 2010. New York was clearly in the last position in 2006. California and Florida fell below New York in 2010 largely because of expensive, self-financed races for Governor in each state. Utah allows unlimited contributions, and the state's largest contributor in 2010, by far, was a leadership PAC that gave its money directly to the campaign committee of the gubernatorial candidate with whom the PAC was associated. In a sense, therefore, New York can be seen as "winning" the dubious distinction of being on the bottom of the pile of states with more or less normal election financing in each of these elections.

Interestingly, New York's Governor Andrew Cuomo has proposed a system of small-donor matching funds for New York State that would be similar to the one used in New York City's municipal elections. One explicit goal would be to increase the number of people who participate by giving small contributions. Past CFI studies have shown that New York City's program increases both the number and diversity of donors who contribute to candidates. In 2009, 1.43% of the city's adults contributed to municipal candidates in an election with a self-financed mayoral candidate. This was nearly triple the state's percentage and slightly above the 2010 national median for states.

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Donors to Gubernatorial and Legislative Races in 2010 by State as Percentage of Voting Age Population

Only shows states that had both legislative and gubernatorial races;
ME and AZ excluded.

2010			2006		
State	Percentage VAP Participating 2010	2010 rank	State	Percentage VAP Participating 2006	2006 rank
VT	5.86	1	RI	5.44	1
RI	5.03	2	VT	4.33	2
HI	4.23	3	MN	4.11	3
MA	3.51	4	AK	3.66	4
MN	3.09	5	SD	3.55	5
SD	2.85	6	MA	3.17	6
AK	2.53	7	HI	3.00	7
CT	2.26	8	IA	2.37	8
WI	2.15	9	WI	2.28	9
IA	1.98	10	MD	2.21	10
WY	1.82	11	WY	2.09	11
MD	1.79	12	CT	1.95	12
ID	1.78	13	NM	1.70	13
OR	1.77	14	AR	1.62	14
NM	1.69	15	ID	1.62	15
NH	1.56	16	OR	1.57	16
CO	1.51	17	NE	1.57	17
PA	1.31	18	CO	1.41	18
AR	1.23	19	OK	1.39	19
OK	1.06	20	KS	1.28	20
KS	1.04	21	MI	1.24	21
AL	1.01	22	PA	1.23	22
TN	0.89	23	NH	1.22	23
OH	0.87	24	GA	1.19	24
MI	0.86	25	IL	1.00	25
GA	0.84	26	SC	0.98	26
SC	0.82	27	OH	0.92	27
TX	0.82	28	AL	0.79	28
IL	0.75	29	FL	0.78	29
NE	0.7	30	TN	0.67	30
NV	0.57	31	NV	0.65	31
NY	0.53	32	CA	0.56	32
UT	0.51	33	NY	0.49	33
CA	0.32	34			
FL	0.22	35			

METHODS

For comparability, the tables above include 33 states holding gubernatorial and legislative elections in 2006, and 35 states in 2010. Maine and Arizona were excluded because they have full public funding systems (after candidates raise \$5 qualifying contributions). Connecticut had full public financing only in 2010 but is included because its qualifying contributions may go up to \$100 per donor. The table includes two more states for 2010 than 2006 because Utah held a

special election for governor in 2010 and because there were problems with the 2006 data from Texas.

In its analysis, CFI counted the number of unique donors to candidates in each of the relevant elections. The records were obtained from the National Institute on Money in State Politics, which collects, standardizes and produces electronic files for each of the fifty states. Itemized donors who gave to more than one candidate (or more than once to a single candidate) were counted only once. Unitemized donors had to be estimated. CFI assumed that each unitemized donor gave half of the state's disclosure threshold. In the median state, with a disclosure threshold of \$50, CFI assumed an average of \$25.

CFI then divided the number of unique donors in each state by the state's Voting Age Population in the election year as reported by the U.S. Bureau of the Census, including non-citizens. The results are reported as the percentage of adults (voting age population) who were unique donors in each state. The states are presented in separate rank orders for each year.

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**THE LEAGUE
OF WOMEN VOTERS**
of New York State

**TESTIMONY
of the
LEAGUE OF WOMEN VOTERS OF NEW YORK STATE
before the
Independent Democratic Conference of the New York State Senate
“Restoring the Voters’ Trust in New York State Government:
Reforming New York State’s Campaign Finance and Election Laws by Increasing
Accountability”**

**Albany, NY
May 20, 2013**

Good day. My name is Barbara Bartoletti, and I am the Legislative Director of the League of Women Voters of New York State (League). On behalf of the League, I first want to thank Senator Klein and the members of the Independent Democratic Conference (IDC) for holding this hearing and inviting us to testify. For many years, New Yorkers have been frustrated by the deplorable condition of our state’s campaign finance system and the far outsized power of wealthy interests in Albany. The recent scandals that have nearly consumed this legislative session underscore the pervading corruptive influence of money on our political system, an influence that has long alienated everyday citizens from their government. There is no better time for reform than now and we applaud the IDC for taking this opportunity to shine a light on New York’s dire need for robust and comprehensive campaign finance reform.

The League of Women Voters is a non-partisan political organization working to promote political responsibility through informed and active participation of citizens in government. Effective advocacy has been an important facet of League activity since its founding as an outgrowth of the women’s suffrage movement. The League does not participate in political campaigns or support candidates or political parties.

The League has been involved with the issue of campaign finance reform on the national level since the early seventies and believes that methods of financing political campaigns should ensure the public’s right to know; combat corruption, as well as the appearance of corruption; minimize undue influence; enable candidates to compete more equitably for public office; and allow maximum citizen participation in the political process. Before I start talking about state

campaign finance law, I must note that the League does not have a position on the now much discussed issue of the Wilson-Pakula provision in the state election law.

Over the years much has been written about New York State's campaign finance law, and little of it has been complimentary. While there are federal constitutional limits on the scope and extent of permissible campaign finance regulation, the laws of New York, last significantly changed in 1975, are so deeply flawed that they can be extensively improved while still staying well within those constitutional boundaries. Despite decades worth of legislative proposals, publicly announced commitments from previous governors, and League advocacy, comprehensive campaign finance reform, including public financing of elections, has not become a reality.

In some ways the system has further deteriorated. We are now faced with increased spending by outside groups without effective disclosure to the public. Even with agreement in the state legislature on the need for effective disclosure of independent expenditures, disclosure that is clearly permissible under the U.S. Supreme Court decision in *Citizens United*, nothing is done. The vast majority of contributions continue to come from a small core of contributors with special interests to promote. Such contributors give freely to incumbents and those in powerful positions, such as the leaders in both houses and the party committees of the majority, thus ensuring access and influence. Real enforcement of these already weak current laws is nonexistent.

We need to change a system that allows nearly \$100,000 in legal "hard money" campaign contributions to parties, that allows unlimited giving to soft money accounts, that allows virtually unfettered use of such campaign contributions for personal spending by incumbents, and which provides little to no means of addressing violations. Without that change, the people of New York lose. We lose when our elected officials spend inordinate amounts of time raising money for their reelection rather than attending to the business of government. We lose when people interested in running for office do not do so because of their inability to finance campaigns against entrenched incumbents. We lose when our elected officials depend on special interests to fill their election coffers, and when that dependence may influence the judgment of our legislators with respect to the laws that they vote upon.

Comprehensive campaign finance reform is the change we desperately need. Public financing of elections, combined with strong, well-enforced campaign finance restrictions, is the pathway to increasing voter participation, enabling candidates to compete more equitably for public office, and lessening the impact of special interests on the governmental process. Among the many well-documented benefits of public financing are a greater diversity of candidates elected to office and an increase in the number of overall contributors, especially the number of small donors. We also believe that effective, independent and adequately funded enforcement of the campaign finance system and reasonable limits on contributions, including contributions to parties, are not reforms that should be viewed as mere additions to implementing a public financing system. They are fundamental to reforming New York's broken campaign finance laws. New York cannot build a public financing system on top of the existing weak enforcement structure and sky-high contribution limits. Robust, independent, adequately funded enforcement, greater campaign finance restrictions, and public financing must all go hand in hand. We

strongly support the IDC's proposal that would subject candidates opting out of the public financing system to an overhauled campaign finance system.

We believe that the following specific reforms to New York State's campaign finance system are critical:

Disclosure

We need to significantly improve disclosure of political expenditures independent of a candidate's campaign and require increased and more immediate reporting of contributions and expenditures, especially prior to an election. There should be new reporting requirements for bundlers of contributions as well as reporting of a contributor's occupation and employer. In addition, there should be immediate disclosure of alleged violations of campaign finance laws and dispositions of enforcement actions.

Contribution Limits, Restrictions, and Loopholes

We need to reduce all contribution limits to levels more consistent with federal limits, including contributions to party committees and party transfers to candidates. We need to further reduce contributions by lobbyists and contractors doing business with the state. We must close loopholes, particularly the LLC and subsidiary loophole, and place appropriate limits on corporations and unions. In addition, we need to place reasonable limits on party housekeeping accounts and clarify the ban on personal use of campaign funds, including a ban on the use of contributions to pay expenses related to holding office, fines and attorney fees.

Enforcement

As previously stated, strong enforcement is critical to reform. Whether it is an entirely new entity or a separate entity within the Board of Elections, the League supports the following characteristics in an enforcement body: (1) independent and nonpartisan (2) adequately funded (3) power and obligation to conduct independent audits (4) subpoena power (5) penalties substantially increased to further deter noncompliance and (6) automatic enforcement and collection of civil penalties by administrative action, as opposed to court action.

Public Financing

While we believe that use of the state general fund to pay for a public matching system is an appropriate and non-burdensome use of state funds, the League is open to proposals that provide a continuous funding stream other than the general fund.

The League recognizes that the IDC's Integrity in Elections Act proposes significant strides towards the above listed reforms and we applaud you for introducing into the Senate a robust template for comprehensive campaign finance reform. We look forward to working with you to make these reforms law. We believe this comprehensive approach to campaign finance reform could significantly reduce the influence of special interest money in state politics, change the culture in Albany, and restore people's faith in government.

There is currently a tremendous opportunity to stem the tide of corruption in Albany and give New Yorkers the transparent, responsive, and ethical state government they deserve and overwhelmingly want. The League urges the Governor and both houses of the legislature to seize this opportunity and actually make comprehensive campaign finance reform a reality, thereby making an historic move to safeguard democracy in our state. Thank you.



**TESTIMONY OF THE
NEW YORK PUBLIC INTEREST RESEARCH GROUP
ON "RESTORING VOTERS' TRUST IN
NEW YORK STATE GOVERNMENT"
May 20, 2013
Albany, N.Y.**

Good morning. My name is Bill Mahoney and I am with the New York Public Interest Research Group (NYPIRG). NYPIRG is a statewide, not-for-profit, nonpartisan research and advocacy organization. Since 1973, NYPIRG has been involved in a wide range of consumer protection, environmental preservation, higher education and government reform issues. For decades, NYPIRG has advocated changes to New York State's campaign finance laws.

We would like to thank you for taking the time to seek the public's input on this important issue. It has been far too long since the Senate has held an official public hearing in Albany on these matters that is actually open to the public. We have seen nine legislators in handcuffs since the last time a majority conference of this chamber decided to have a hearing in the Capitol to investigate how to fix the problems that beset state government.

Some of the scandals that have rocked the state in recent years have been directly tied to our campaign finance laws, including the convictions of John Haggerty and Comptroller Hevesi. In other cases, legislators indicted on corruption charges, such as Senator Espada and Assemblyman Boyland, have had long histories of ignoring the requirements of state election law. An even more widespread and serious problem is the way the current system encourages even the most honest and ethical politicians to rely on funding from interest groups with business before the state.

In order to fix New York's broken campaign finance system, several changes are desperately needed. Contribution limits need to be lowered; a functioning truly independent watchdog must be created; and a slew of loopholes have to be closed. Public financing of elections, modeled off of New York City's tremendously successful program, will guarantee that candidates for office will be able to rely primarily on their constituents for funding, rather than the wealthy special interests with business before state government, interests that are the largest source of funds under our current system.

We are particularly pleased that you have chosen to address the issue of donations to political parties in this proposal. Donation limits to candidates are absurdly high in New York: They are actually the highest of any state in the country that chooses to regulate campaign finance. The limits to political parties, however, are effectively nonexistent. In theory, donors are limited to \$102,300 to a political party in a calendar year. While this amount is laughingly

high, it is even higher when one considers that the major political parties each have multiple state committees and hundreds of local ones. Further, a lack of enforcement by the Board of Elections has rendered the limits theoretically placed on spending by housekeeping committees – which have no contribution limits – completely meaningless. In the last election cycle, one major political party took housekeeping money ostensibly designed for “party-building expenses” and gave it to a different political party which paid for television ads for their candidates.

Another way that contribution limits are routinely circumvented is through the use of LLCs and corporate subsidiaries. Each LLC is treated as a separate individual, and is allowed to give thirty times the amount of a regular corporation. One donor alone has managed to use his various LLCs to give Governor Cuomo alone half a million dollars this election cycle, more than eight times the legal limit for regular individuals in New York, and over 192 times the amount an individual could give to a presidential candidate per election. This donor is, in fact, usually the largest or second largest donor to all candidates in any given year: In 2012 he finished second, giving over a million dollars. Many other businesses follow his lead and similarly give extraordinarily large amounts.

A campaign finance reform package that does not address loopholes such as donations from corporate subsidiaries and, most importantly, donations to parties, would have a significantly reduced effect. Big money from interests with business before state government could still find its way to candidates. A proposal that lowers contribution limits to candidates but retains the current, effectively unlimited, levels for party donations would allow them to receive donations from the same sources as under the present system as long as they legally laundered this money through Albany’s various leadership committees. This would simply serve to increase legislators’ dependence on leaders and make them more obeisant to party heads. We applaud your bill’s attempt to address the glaring problems with both the party and individual limits under current law.

The LLC problem that I mentioned above is evidence of an even more serious problem with our current system. This loophole was created by the Board of Elections, whose hyperpartisan structure ensures that decisions made by the commissioners are designed to benefit the state’s two main political parties, and not average New Yorkers. This structure guarantees perpetual gridlock in enforcement actions. In the past two years alone, there have been over 100,000 violations of the state’s campaign finance law. The Board has blamed its complete inaction on a lack of staffers, though they have failed to hire a single enforcement staffer when handed the money to do so.

After today, there are only sixteen scheduled session days remaining in 2013. The introduction of this comprehensive campaign finance reform bill is a crucial step in ensuring that the ethical problems that have plagued Albany in recent years will be addressed. We look forward to working with you to ensure that reforms similar to those you have proposed ultimately become law.

Thank you again for the opportunity to speak, and thank you for letting the public into your public hearing.

Testimony at the Hearing on Campaign Finance Reform May 20,
2013 Albany NY *Professor Joan Mandel*

I am testifying today because I not only teach students at Colgate University which is in Mr. Valesky's district, but also because I work with hundreds of college and university students throughout New York as Executive Director of a campus program called Democracy Matters. Since 2001, Democracy Matters has organized student-led chapters on campuses to take an active role in deepening American democracy. The students work on important pro-democracy issues including voter registration, advocating for same day voter registration, and most importantly educating and mobilizing their peers to press for the public financing of election campaigns.

Students understand that relying wholly on the private funding of increasingly expensive campaigns influences legislative outcomes on the environment, the cost of higher education, health care, the availability of jobs, and so much more. They also know that too often the biggest campaign contributors have the most say in political decisions at both the state and national level. Young people want their voices to be heard. That's why Democracy Matters students and their peers strongly support a publicly financed option for candidates running for public office.

Young people feel that they are ignored by the political system because they cannot contribute large financial donations to candidates. Unhappily, that response often is to turn away from their

responsibilities as citizens in a democracy by not voting and simply ignoring politics. If I had a nickel for every student I have taught over the years who has said “Why should I care about politics when I don’t really have a say,” I would be a wealthy woman. This has to change for our democracy to once again be healthy; truly representative of all the people it is supposed to serve.

Comprehensive campaign finance reform with a public financing option at its core, based on the successful system in New York City can begin to engage New Yorkers in politics again. We have seen this happen in other states, like Connecticut and Maine with public campaign finance options for candidates. In those states, people who are not themselves wealthy nor connected to wealthy individuals or special interests, have run for office and won, based on small contributions from their own constituents and others. New voices are heard and small donors are able to play an active role in government.

I haven’t even mentioned the long series of corruption scandals by which the New York legislature has embarrassed all of us. The culture of corruption is deep in Albany and we need real reform – giving ordinary New Yorkers the chance to run competitive races with the help of matching public funds – if we are to hold our heads up and again trust that government is working for us.

Americans are promised a government of, by and for the people. But as long as big donations are flooding into Albany, as long as the

wealthy few can use their wealth to disproportionately influence shape our social policies and laws, promise is a sham. With public financing and comprehensive campaign finance reform, we can make a clean break with the past, and deepen democracy in our state. You created the IDC to support real reform. The passage of Fair Elections is the only true test of whether you have succeeded.



CITIZENS UNION OF THE CITY OF NEW YORK

Testimony to the Independent Democratic Conference (IDC) on its Campaign Finance Reform Package

May 20, 2013

Good afternoon Senator Klein and members of the Independent Democratic Conference. My name is Alex Camarda, and I am the Director of Public Policy & Advocacy at Citizens Union. Citizens Union is a nonpartisan good government group dedicated to making democracy work for all New Yorkers. Citizens Union serves as a civic watchdog, combating corruption and fighting for political reform. We work to ensure fair and open elections, honest and efficient government, and a civically-engaged public.

Citizens Union testified at the IDC's hearing in New York City on May 1st and reiterates today its support for the IDC's efforts in advancing comprehensive campaign finance reform. Comprehensive campaign finance reform is needed to restore the public's faith in state government. The existing campaign finance system is at the core of the transactional culture in Albany that breeds public corruption scandals. If we want to end public corruption in Albany, we need to change the way campaigns are financed.¹

Citizens Union believes, like the IDC, that comprehensive campaign finance reform includes:

- 1. A public matching program** that encourages participation by small donors and reduces the perceived or actual influence of large contributors and institutional donors on our politics;
- 2. Reductions to sky-high contribution limits** that reflect the maximum allowable contribution to candidates running for the President of the United States;
- 3. Significant limits on contributions to party committees and transfers of funds** from party to candidate committees;
- 4. A more autonomous enforcement entity that operates independently** of the State Board of Elections;
- 5. Enhanced disclosure** in particular for independent expenditures; and
- 6. An end to pay-to-play by limiting contributions of those doing business** with the state.

¹ 21 legislators have left due to criminal or ethical issues since 1999 according to Citizens Union's research on turnover. See:

http://www.citizensunion.org/www/cu/site/hosting/Reports/CU_Summary_Turnover_Ethical_Issues_April_4_2013.pdf

In our testimony today, Citizens Union will focus on a few elements of campaign finance reform that most directly relate to ending the transactional culture in Albany and stemming the tide of public corruption.

Pay-to-Play Regulations

Doing-Business Campaign Contribution Limits

The IDC has rightly pointed out that contribution limits for every state office in addition to the senate and assembly exceed by several times the contribution limits for the President of the United States. These outsized contributions are made by some lobbyists, contractors, and others doing business with the state. In Albany, it is common activity for lobbyists to advocate for legislation by day while attending fundraisers at night for the very elected officials they lobby - a practice many lobbyists find uncomfortable. Some contractors seek projects from state officials while also feeling the need to be in the game by writing checks to their campaign committees. These practices create the public perception that an unspoken quid pro quo may exist.

Citizens Union therefore supports Senator Klein's proposal, which limits those doing business with the state from making individual contributions greater than \$400. We believe, however, that the definition of "business relationships with the state" in the bill should be expanded to include registered lobbyists and lobbying entities. The definition should also be clarified to include contracts related to real property, grants, concessions, franchises, underwriting of state debt, investments of pension funds and investments with investment related consultants. The "state" should also refer not only to agencies and entities but also specify public authorities, public benefit corporations or state affiliated non-for-profit corporations, the majority of whose board members are officials of New York State or appointed by officials of New York State.

We also commend Senator Klein for including provisions in his bill that would deny the awarding of matching funds to contributions from those doing business with the state. To our knowledge, none of the calculations on the cost of the public matching system measure what proportion of contributions to state elected officials are currently from those doing business with the state. It is likely a sizeable sum, and by denying matching funds to those contributions the costs associated with the public matching program should be diminished. Citizens Union urges the IDC to go even further, and prohibit contributions pooled together by doing-business bundlers for particular candidates from being eligible for matching funds. This too will lower costs associated with the program.

In short, all contribution limits need to be lowered in reforming campaign finance laws, but none more so than for those doing business with the state.

Firms that Both Lobby and Offer Political Consulting Services

Citizens Union has long been concerned by the rise of firms that offer campaign services to candidates and then having helped elect lawmakers, turn around and lobby them on behalf of their clients. As anyone who has worked on a campaign knows, deep bonds are forged during

intense campaigns when candidate's political livelihood and professional careers are on the line. It comes as no surprise that candidates and those who help them achieve electoral success have lasting friendships; these should not be leveraged for financial gain. With this philosophy in mind, Citizens Union supports diminishing the perceived or actual influence of consultants who are lobbyists, a goal put forward in Senator David Valesky's bill – S.5009.

The New York Public Interest Research Group (NYPIRG) has released data in recent weeks showing there are 29 political consulting firms in New York State that are also lobbyists, earning a combined \$5.1 million for election work in 2012 and 2011.² Among these were the Parkside Group, which brought in \$2.77 million in consulting fees and \$1.8 million in lobbying. In 2011, Citizens Union found similar trends in testifying before the New York City Lobbying Commission convened by Mayor Michael Bloomberg and the New York City Council. Eighty consulting companies earned over \$100,000 for campaign-related services in the 2009 election cycle providing services for New York City campaigns. Nine of those companies, or 11.5 percent, were registered lobbyists that provided campaign consulting-related services earning more than \$100,000. Three of the nine firms made upwards of \$1 million from selling such services.³ What the NYPIRG and Citizens Union data show together is that a few major consulting firms are both working to elect officials at the state and local level, and then spending substantial sums lobbying both levels of government.

Citizens Union does not have a position on whether those individuals and entities that lobby state officials should be prohibited from providing campaign services. We do support disclosure of those relationships. We have also supported prohibiting candidates in New York City from using matching funds to purchase campaign services from campaign consultants who are also lobbyists, and suggest consideration of that proposal in the IDC's campaign finance reform package. In New York City's reform of city lobbying oversight, these multi-service firms were required to disclose information about their campaign and political consulting and fundraising services to the City Clerk's Office in a report that details the lobbyists for the firm, the candidates receiving such services, the charges for the services, and the amount of money raised for each candidate who is a client if applicable. We recommend these more extensive disclosure requirements be added to the IDC package of campaign finance reform bills.

Disclosure and Enforcement

Citizens Union two weeks ago released a report that demonstrates that the most basic campaign finance disclosure requirements are not being met and that enforcement by the State Board of Elections is lax. Citizens Union's report, *Hidden from View: The Undisclosed Campaign Activity of Political Clubs in New York State*, reveals that at least 224 political clubs did not register as political committees as required by law, and did not file as many as 2,318 campaign finance reports that are required to the extent clubs are spending money in connection with an

² Katz, Celeste. "Bill would bar political consultants from also lobbying," New York Daily News, May 6, 2013. Available at <http://www.nydailynews.com/blogs/dailypolitics/2013/05/bill-would-bar-political-consultants-from-also-lobbying>

³ The Parkside Group spent \$2.43 million, Sheinkopf LTD spent \$2.23 million and Mirram Group, LLC spent \$1.08 million on vendor services for campaigns in New York City during the 2009 election cycle.

election. At least \$2.27 million in contributions, expenditures and other financial transactions were not reported.

The failure of an unknowable number of political clubs to register and report their activities to the State Board means more than missed paperwork. Neglecting their obligation to file means it is not known who is the treasurer for individual clubs, in what bank accounts the clubs keep their funds, or who is funding their activities. Former Councilmember Larry Seabrook faced corruption charges for laundering money through his political club, the Northeast Bronx Community Democratic Club, and using the funds for his personal expenses including, infamously, \$177 for a bagel sandwich and a Snapple. The club, formed by Seabrook in 1986, never registered as a political committee, never filed campaign finance reports, and its treasurer was Seabrook's former Chief of Staff who routinely signed blank checks for Seabrook.

The State Board of Elections failed to inform clubs of their obligation to file and an unknown number may have been electioneering with little scrutiny for decades.

Citizens Union also identified many relationships between candidates and political clubs. Clubs campaigning on behalf of candidates while coordinating with candidates' campaigns are potentially violating campaign contribution limits. Yet the State Board of Elections has never made a finding of coordination between clubs and candidates even while the City Campaign Finance Board has found numerous instances of coordination between clubs and candidates.

Our report, coupled with findings by NYPIRG of over 100,000 minor violations of election law related mostly to improper disclosure, shows the need for better enforcement and education of candidates and treasurers. If we are to ensure that the most fundamental requirements of disclosure and enforcement are met, the State Board of Elections needs to be restructured and adequately funded so there is the necessary independence and political will to enforce campaign finance laws. Disclosure and enforcement are key pillars in deterring and detecting public corruption.

Thank you for the opportunity to testify on the IDC's campaign finance reform package. I welcome any questions you may have.

**Testimony by
Brian S. Paul, Research and Policy Coordinator, Common Cause/New York**

**Before the State Senate Independent Democratic Conference
Town Hall on Restoring the Voters' Trust in New York State Government:
Reforming New York State's Campaign Finance and Election Laws by Increasing Accountability**

**Albany, NY
May 20, 2013**

Good morning. Thank you for the opportunity to speak today. Common Cause/NY once again commends the Conference and its Leader, Senator Klein, for conducting these series of hearings, which allow the public an opportunity to weigh in the important issue of campaign finance reform. We look forward to continuing to work with Independent Democratic Leader Klein in moving the strongest possible campaign finance bill to the floor of the Senate for a successful vote before this session ends.

My name is Brian Paul, and I am the Research and Policy Coordinator of Common Cause/New York. As I believe you know, Common Cause is a leading supporter of comprehensive campaign finance reforms and public funding of elections throughout the country. Our organization has been involved in helping craft, pass, and implement virtually all of the public funding of election systems that are functioning at the state and national level, as well as numerous systems at the municipal level. These include the highly regarded public funding of elections system in New York City, the Clean Elections system working successfully in Connecticut, and the recent improvement of the Los Angeles Municipal Matching Fund system.

With that long history of support, it is not surprising that we strongly support public funding of elections for New York State. In previous hearings, Common Cause/NY representatives have testified regarding the very real and long-standing deficiencies of our conventional campaign financing system. Today, I would like to concentrate mainly on specific aspects of the public financing system which S4897, your admirably fully-featured bill, would set up.

As Common Cause/NY's Research and Policy Coordinator, I have primary responsibility for the research and reports that Common Cause/NY periodically issues. In the last two years, such reports include detailed profiles of political spending in various industry sectors such as hedge funds, gambling, and natural gas. As such, I am familiar with the amounts of money raised and spent by political campaigns over the last several election cycles. I also have expertise with the demographics and political geography of New York from my experience drawing Common Cause/NY's nonpartisan redistricting maps.

One of the most important factors in the success of a public funding system is correctly calibrating the qualifying levels and the amount of public funding which is provided to candidates. Set the qualifying levels too high, and it becomes too difficult for good candidates to qualify, as was the case with the pilot program for New Jersey's Legislature which ended after the 2007 election cycle. An equally important concern is that setting the qualifying standards too low would encourage unqualified candidates to run. With these concerns in mind, Common Cause/NY believes that the thresholds for eligibility set forth in Section 14-208(2) of the Integrity of Elections Act are set at appropriate levels for the various offices that are covered by the matching fund system. We do suggest that the Conference consider adding a provision to the Act which would bar those who have been found guilty of violations of the Public Officers Law in court, by any legislative ethics committee, or in a report issued by JCOPE, from eligibility to receive matching funds for a period of 8 years following any such determination.

We have examined the levels of funding which the Act would provide in light of the actual amounts spent for the appropriate offices for the 2010 election cycle. Because of the difficulty of working with the data provided by the Board of Elections, our analysis of the 2012 legislative races is not yet complete. We also looked at the Fair Elections Act which recently passed the Assembly to compare the levels of funding provided in that bill with the levels provided in your bill.

In our analysis and recommendations we are cognizant of the fact that the maximum of amount of matching funds provided under the Act is not the totality which the candidates can raise and spend. Candidates can raise a total of \$2600 from a contributor, of which only the first \$250 is matched. This means that candidates can raise an additional \$2,350 from any donor in addition to the matching fund amounts provided by the public. Unlike the New York City Campaign Finance program, the Act does not require participating candidates to agree to a voluntary spending cap. Candidates are free to fund-raise throughout the campaign. Accordingly a key question in setting the maximum levels of public funding is what percentage of the total cost of a campaign should the public matching funds cover. In setting that amount, the desire to hold down the percentage of private money raised should be balanced against any inflationary pressure on campaign expenditures which providing a very high percentage of public money (approaching 100% of the most typical cost of a campaign) might create and the overall cost of the entire system. On balance, we think that the maximum matching fund amounts should approximate 66-75% of the average cost of recent campaigns for the relevant office.

In 2010, Candidate Andrew Cuomo spent \$28 million dollars in the both the primary and general elections, while his opponent Carl Paladino spent a total for \$9.6 million. The Integrity of Elections Act sets the maximum amount of matching funds for a candidate for a gubernatorial primary at \$5.5 million and for the general at \$8.25 million, for a total of \$13.75 million. In contrast, the Fair Elections Act sets the matching fund maximum for the primary at \$9 million and the general at \$12 million, for a total of \$21 million in matching funds. In order to reach the maximum, the candidate would have raised \$3.5 million in matchable donations of \$250. While we believe this creates a powerful incentive for the candidate to concentrate on the matchable donations, we believe the maximum in the Fair Elections Act is too high. We believe that the amounts of the maximum for gubernatorial candidates in the Integrity of Elections Act are preferable.

Similarly, we find the matching maximums in the Fair Elections Act for the remaining statewide races - \$6 million for the primary and \$8 million for the general, for a total of \$14 million - to be high. In the

2010 race for Attorney General, one candidate spent a total of \$7.57 million, of which \$3.67 million was spent during a competitive primary in which the second runner-up spent \$5.04 million. In the 2010 general election for Comptroller, the winning candidate spent a total of \$3.15 million while the challenger spent \$6.97 million. Accordingly, we believe that the matching fund maximums provided in the Integrity of Elections Act, \$2.75 million for the primary and \$4.125 million for the general, are more appropriate.

In analyzing the levels of matching fund maximums set for legislative races, we looked at the amounts spent on competitive races in 2010.

In the 2010 cycle in the State Assembly there were 28 competitive races, which we define as races within a 10% margin of victory in the general. The average expenditure level for a competitive race in the Assembly was \$137,608.11. However, some of these involved very low funded Republican candidates, which may influence spending downwards. A more typical example of a competitive assembly race might be the race for District 1 in 2010, where the incumbent spent \$316,099 and the successful challenger spent \$190,253.53, for an average of \$253,177. Relevant examples of competitive Assembly primary races are found in Assembly District 144, where the winner spent \$311,000 vs. \$100,000 by the losing candidate and Assembly District 86 where the winner spent \$64,000 while the loser spent \$73,000. This analysis leads us to conclude that the maximum matching levels set in the Integrity of Elections Act for Assembly races, \$412,500 for primaries and \$412,500 for the general, seem high in comparison to typical current levels of campaign spending. The Fair Elections Act, which sets the Assembly maximum matching funds at \$150,000 for the primary and \$200,000 for the general, seems to more appropriately set the maximums for the Assembly.

In the 2010 cycle in the State Senate there were 20 competitive general races. The average expenditure level for a competitive race in the State Senate was \$759,171. A good example is District 7, where the successful challenger spent \$799,000 as against the losing incumbent's \$1.62 million. Another useful example can be found in Senate District 48, where the winning challenger spent \$729,000 as against the loser's \$980,000. When looking at primaries, in District 25 in 2008 the loser spent \$359,000 while the winner spent \$449,000, while in District 59 in 2010 the winner spent \$81,000 vs the loser's \$222,000. Looking at these campaigns, we believe that the maximums set in the Integrity of Elections Act for Senate races, where both the primary and general matching maximums are set at \$825,000, are too high. We believe that the maximums set in the Fair Elections Act, where the Senate primary matching maximum is \$350,000 and the general maximum is \$400,000, are more appropriately set. We do not recommend any change to the maximum matching levels for either the at-large (\$175,000 for primary or general) or district (\$50,000 for either) delegates to a constitutional convention.

Before I leave the topic of the voluntary matching fund system, I would like to share some observations and suggestions regarding enforcement. First, we suggest that the Conference consider allowing for random audits of campaigns, both during and following the election, rather than requiring

a post-election audit for each and every campaign. We believe that a well-thought out and effectively performed random audit system will protect the public interest as well and at lower cost than requiring a post-election audit of every campaign. The Clean Elections system of Arizona uses a robust enforcement system of random audits combined with audits in response to complaints.

Additionally, we commend the Conference for providing that the board which is set up to administer and enforce the matching funds program has an odd number of members, which we believe is essential for effective functioning of any administrative body. We do not take a position as to whether that board should be composed of seven members, as provided for in the Integrity of Elections Act, or five members, as provided for in the Fair Elections Act. However, we do suggest that S4897 could be strengthened by adding provisions which protect the independence of the campaign finance board within the Board of Elections, provide for independent staff rather than staff shared with the Board of Elections, and allocate a minimum amount of funding for the campaign finance board and its activities, similar to provisions contained in the Fair Elections Act. We also suggest that S4897 be amended to clearly provide that the campaign finance board has enforcement authority under all provisions of Article 14 of the Elections Law, not simply the new Article 2 established by the Integrity of Elections Act.

Finally, we would again like to urge the Conference to amend the Integrity of Elections Act to close the infamous LLC Loophole. That loophole, which virtually every other state has closed, is used to completely subvert corporate contribution limits under current law. Examining just a few of the real estate firms who have exploited the LLC loophole since 2005 reveals shocking figures. Keep in mind that the intended legal limit would be \$5,000 x 8 or \$40,000 during this period for these contributors. From 2005 through 2012, Jack Resnick & Sons contributed \$592,588 through 28 different LLC's and subsidiaries, an amount 15 times greater than the intended legal limit of \$5,000 a year. During this same time period, the Durst Organization contributed \$926,295 through 29 different LLCs and subsidiaries, or 23 times more than the intended legal limit of \$5,000 a year. Leaving them all behind however, is the contributions of Leonard Litwin's Glenwood Management firm, which contributed \$7,253,324 through 47 different LLCs and subsidiaries or an astounding 181 times greater than the intended legal limit of \$5,000 a year. With lowered contribution limits of \$2,600 per contributor the amounts that could be funneled through the LLC loophole would obviously be lowered. But using the same number of LLC's described above, the Durst Organization would still be able to donate upwards of \$75,400 and Glenwood Management \$122,200 annually. Unless closed, the LLC loophole could significantly undercut the excellent system of limits which the Integrity of Elections Act otherwise puts in place. We urge you to amend S4897 to close it.

In conclusion, Common Cause/NY again wants to express its appreciation to the IDC for introducing such a comprehensive campaign finance bill. New Yorkers throughout the state are anxious for the reforms that it would institute and we urge you to work with the Republican and Democratic Conferences to bring S4897 to the floor of the Senate for a vote as soon as possible. We look forward to working with you to insure its passage.



Restoring Voter's Trust in New York State Government Public Hearing

Testimony of Jessica Wisneski, Legislative & Campaigns Director, Citizen Action of New York

Good morning, and thank you for not only the opportunity to testify this morning, but for having the four public hearings on campaign finance reform across New York State in the past few weeks.

My name is Jessica Wisneski and I am the Legislative Director of Citizen Action of New York, a statewide, grassroots membership organization that fights for social, economic and racial justice. Our organization primarily focuses on the issues of public education funding, early childhood education, K-12 education reforms, quality, affordable health care for all and the implementation of the Affordable Care Act in New York, promoting a restructuring of a fair and progressive tax policy for New York State and many federal issues around supporting our nation's social safety net. However, we believe that to empower every day residents of New York to impact public policy that directly affects their lives, we must have a robust, open, transparent and healthy democratic process in our state and federal government.

For this reason, our organization has focused much of our "government reform" work on promoting and fighting for passage of a system of public campaign finance for all statewide and legislative races in New York State. Citizen Action and our thousands of members across the state believe that the number one issue regarding the ethics of elected officials is addressing the unfortunate need to collect private donations, usually very large private donations, in order to even run for elected office. We feel that there can be and often is, a major conflict of interest when corporations and individuals who have a direct stake in the laws passed or killed by elected officials, give large sums of money to the elected officials to win their seat. Receiving campaign contributions at a fundraiser down the road one evening, and voting on a bill that directly affects that contributor the next day, in our opinion, is one of the most unethical acts happening today in Albany. It is a shame, and must be changed.

New York voters are hearing a lot about unethical behavior these days. And many wonder why there isn't more outrage. Although I think you are hearing more outrage, and will continue to hear even more in the coming weeks – I believe most people across our state and the country aren't outraged by the illegal acts of lawmakers because they are generally outraged and "checked out" of the political process because of the LEGAL acts of lawmakers.

For the common person, who isn't politically engaged, it's very simple. The vast majority of New Yorkers think that our current political system is completely corrupt. They believe that our current system is co-opted by money, and that our campaign finance system is simply legalized bribery. This is not my opinion, it's public opinion.

A poll released earlier this month, on May 6, 2013 showed that 71% of voters rate the job being done by the New York State Legislature negatively, 82% place the blame for the legislature's poor performance on corruption and influence of money in politics. Even more, 97%, that is 97% of voters polled just two weeks ago say it's important for state leaders to address "reducing the influence of money in politics and ending corruption" with 50% saying it's extremely important. That is higher than any other issue.

So now what? We are at the lowest of lows here in New York State these days. The gig is up. The public knows what's going on and they want change. And the groups and organizations that have fought tirelessly for decent public policy have had it with the compromises that come out of these halls.

So we know the solutions. Your bill is full of them. What we need the most is a small donor matching funds system that replaces the current big-money campaign finance with a solid alternative. An alternative where candidates can run for office obligated to no one but the voters in their district. A system where small donors and regular people are valued, and where elected officials faced with deep pocketed lobbyists can walk away and say no thank you.

All of the other "reforms" in your bill, minus Wilson-Pakula reform of course, are completely necessary to make the perfect campaign finance system in New York State. But I'm not looking for perfect today, or this session. I'm looking for a start. And in order to get this state on a path where voters can begin to believe you are all here for them, for the right reasons, and to do the public good – that start must be a small donor matching funds system.

So do lower limits, do strong enforcement, do greater transparency, and above all else, do public financing of elections.

I am grateful for your public hearings. It's given the public a chance to come out to all four and show you that you have our overwhelming support. In fact, the folks who showed up to now all four of your hearings are a good representation of where all voters are at. The same poll cited before showed that 78% of all New Yorkers believe "reforming New York's campaign finance laws is key to cleaning up Albany, rooting out corruption and improving the work of state government." And 74% of them support a proposal to reform the law that would provide public matching funds for small donations, lower contribution limits, disclosure of spending of outside groups and strict enforcements.

So now, we must begin to move past the public hearing stage to the bills moving through committee stage, to the bill to a floor stage. Time is ticking, and we expect you all to come

through on your promise that your new coalition government will move a progressive agenda this session including a campaign finance reform bill.

What we need now, more than ever before are actors. We need people in this building, instead of saying things can't happen or won't happen, to MAKE things happen. We need you all to embrace your inner action figure and become the supermen and wonder woman of New York State.

And we need you all to put politics and bickering aside and sit down with your Senate colleagues and come up with a bill that includes public financing of elections and get it on the Senate floor for passage.

The Assembly has done their thing – they passed Fair Elections for NY two weeks ago. Now it's time for you to pass a bill. And then we move on to a negotiation and final passage of the one thing that will finally begin to stop the stranglehold of money in our political system and return some resemblance of trust to our government.

That is what we expect from you all.

With great power comes great responsibility.

I thank you for your support of this issue. But it's not your support you'll be judged on. It's your ability to get it done.



**Testimony of Robert Werner
National Field Director, Americans for Campaign Reform**

Presented to a hearing sponsored by the Independent Democratic Conference

Restoring the Voters Trust in New York State Government: Reforming New York State's Campaign Finance and Election Laws by Increasing Accountability, Closing Loopholes, and Implementing Public Finance

May 20, 2013

Americans for Campaign Reform (ACR) is a national non-partisan organization committed to strengthening American democracy through comprehensive campaign finance reform. ACR is co-chaired by former US Senators Bill Bradley, Bob Kerrey, and Alan Simpson, and we have attracted support from nearly 175 former Members of Congress on a bi-partisan basis, including New Yorkers Sherwood Boehlert, Amo Houghton, Mike Arcuri, and Scott Murphy. We are active participants in the effort to enact significant campaign finance reform in Albany, working closely with the Brennan Center for Justice, New York Leadership for Accountable Government (NY LEAD), and the New York Fair Elections Coalition.

ACR supports voluntary public funding of elections through a system which encourages candidates to rely on small donations from a large number of supporters, provides matching funds to maximize the impact of small donations, requires full disclosure of money spent to influence elections, has reasonable contribution limits and provides each eligible candidate with the resources necessary to run an effective, competitive and winning campaign. Such a public funding system should be based on the following principles:

- Our leaders should be elected by, and accountable to, the voters based on their ideas, ability, experience, and character, not their access to individuals, entities or special interests that can give and raise large campaign contributions. A public funding system should support candidates who can show widespread support by building a base of small donor contributions.
- No individual, organization or entity should be allowed to contribute to a candidate, political party or political committee at a level that gives rise to the appearance or reality that such contributions will provide the contributors with undue access or influence and increase the potential for real and apparent corruption.

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- Our campaign finance system must allow every eligible individual to have a meaningful opportunity for his/her voice to be heard and to participate in voluntarily supporting the candidates of their choice. Matching small contributions with public funds in an amount that empowers each small donor should be the foundation of any public funding system.
 - Candidates who qualify for public funds must have access to sufficient funds to communicate their ideas, values and perspectives, and to engage their opponents, so that they can fully make their case as to why they should be elected and, so that the voters can then make an informed choice. After each election, there should be an independent review to identify any adjustments needed to qualifying requirements and funding levels consistent with the goals and principles of the public funding system
 - The rights of independent and third party candidates must be respected.
 - Changes in society and technology often require elections and campaigns to evolve and adapt to most effectively reach voters. Our campaign finance system should encourage and support such changes to the extent they support the goals and principles of the system.
 - Efficient, effective and independent administration and enforcement of the campaign finance system is necessary to allow citizens and candidates to have confidence in the system and our democracy. Recognizing the problems inherent in legislators administering and enforcing the system that governs their own reelection, there must be an independent, non-partisan commission to administer and enforce the law and make appropriate adjustments to the rules, including qualifying and funding levels. It is essential that effective investigation and enforcement be balanced with robust candidate assistance services to help with compliance.

Americans for Campaign Reform applauds that hard work that many legislators have put forth over these past months to craft policy proposals aimed at improving our democracy. Reform will open up the political process to more voices, a greater diversity of candidates, and allow our political leaders to spend the bulk of their time governing, not chasing after campaign contributions.

Successful reform in New York will not only improve how Albany works, it has national implications. New York can lead the way, providing a beacon to the nation.

President Theodore Roosevelt, a son of New York, proposed a system of public funding of elections in 1905. This is in keeping with the grand tradition of innovation that New Yorkers have often led in the past, and enacting campaign finance reform with public funding of elections at its centerpiece in 2013 will continue that tradition.

My name is Charlotte Allen, and I'm a recent graduate of The University at Albany, where I interned for Democracy Matters. I'd like to thank the Independent Democratic Conference for the opportunity to speak on publicly financed Fair Elections.

As an intern for Democracy Matters, I had the chance to communicate with students from various political organizations on campus; overwhelmingly, the attitude toward our government was a cynical one.

In line with the growing trend of supporting wealthy, private interests instead of fighting for the public good, our elected officials passed SUNY 2020, forcing students to face tuition hikes despite the deteriorating quality of education and services provided by our public universities. It has become clear to students that our representatives are no longer working for us.

Beyond the practical implications of a government run by corporate-backed officials, students are also concerned about the negative effects our current election system has on the state of our democracy. The existing system is a restrictive one. The only way we can level the playing field is by implementing publicly financed elections – a non-partisan measure that a majority of New Yorkers support. This will lead to a more inclusive, more representative government that will truly work for the people.

Working with other pro-reform senators to implement publicly financed elections is a necessary step if we hope to meaningfully tackle other pressing issues in New York, such as job growth, environmental policies, and education policies.

I think I speak for most students when I say it is vital to pass the Fair Elections Act this year.

D.A. Soares talking points:

The recent alleged criminal acts of certain members of the New York State government are deeply troubling.

What's even more troubling is that it seems with each passing legislative session, state lawmakers are consistently finding themselves in the crosshairs of law enforcement.

It unfortunately seems that certain members of government suffer from "Tappanzenesia" and think that crossing the bridge allows for a free pass on behavior.

How can the citizens of New York State believe in the power of government when some Assemblymen and Senators violate the trust of their constituents?

It's time to end the pay to play culture.

It is time for the Senate to pass comprehensive legislation that addresses these problems.

We have seen the 2013 Fair Election Act pass the NYS Assembly.

This legislation addresses fair funding issues, disclosure of independent expenditures, clarified legal definitions, and tougher enforcement of campaign finance laws.

I speak today from the position of a prosecutor who is tasked with investigating and prosecuting those who break the law.

It must be stated today that law expansion must accompany funding to allow for the expansion to have any merit.

The ability for a law to be effective relies on the ability of law enforcement to realistically enforce it.

When a legislature enacts a strict law, the resources to carry out investigations must be allocated.

In this case, for the intent of the legislature to root out political corruption and bribery to be realized, funding must be allocated to law enforcement, whether at the federal, state or local level.

These law expansions will strengthen DA's offices like mine to root out corruption and prosecute illegal campaign financing acts that violate public trust.

Just because elected officials write the law, it does not mean they are above the law.