



# **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 13, 2013, 3 PM to 5 PM  
Erie County Legislature Chambers  
92 Franklin Street, 4<sup>th</sup> Floor  
Buffalo, NY 14202



# Independent Democratic Conference

## 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

May 13, 2013, 3PM to 5PM  
92 Franklin Street, 4<sup>th</sup> Floor  
Buffalo, NY 14202

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JoAnn Mecca  
Lynda Stephens

League of Women Voters of New York  
League of Women Voters of New York

Sam Magavern  
Jennifer Diagostino

Co-Director, Partnership for Public Good  
Executive Director, Coalition for Economic Justice

Michael Halberstam  
Diana Cihak

Associate Professor, SUNY Buffalo Law School  
Founder, WomenElect

Erin Heany,  
Jenn Tuttle

Executive Director, Clean Air Coalition of WNY  
Sierra Club

Ellen Kennedy  
Brian Trzeciak

Citizens Action of NY  
Citizens Action of NY

James Payne  
Frank T. Housh

1000 Black Men  
Attorney

Melanie Prasad  
Bill Nowak

Working Families Party  
Communications Workers of America



The League of Women Voters of New York State  
62 Grand Street, Albany, New York 12207  
Phone: 518-465-4162 Fax: 518-465-0812  
www.lwvny.org E-Mail: lwvny@lwvny.org

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

**TESTIMONY**  
**Of the**  
**LEAGUE OF WOMEN VOTERS OF BUFFALO**  
**Before the**  
**Independent Democratic Conference of the New York State Senate**  
**for the hearing entitled,**  
**"Restoring the Voters' Trust in New York State Government:**  
**Reforming New York State's Campaign Finance and Election Laws by Increasing**  
**Accountability"**

**Buffalo, N.Y.**  
**May 13, 2013**

Good afternoon. My name is JoAnn Mecca and I am here representing the League of Women Voters of Buffalo/Niagara. I want to thank Senator Klein and the members of the Independent Democratic Conference for inviting us to testify at this hearing on reforming New York State's Campaign Finance and Election laws. Today I will be providing the League of Women Voters of New York's basic position on campaign finance reform. On May 20<sup>th</sup>, in Albany, the state League's Legislative Director, Barbara Bartoletti, will provide a more detailed testimony on our policy proposals.

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. We have worked for many years for comprehensive campaign finance reform, including a system of public financing, and we have also been one of the leading advocates for many important reforms of the state's election laws.

Consideration of these matters is especially pertinent now in the wake of the recent scandals that have underscored the pervading corruptive influence of money on our political system. Even though there are 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 within those boundaries. For many years, New Yorkers have been frustrated by the sorry condition of our state's campaign finance system and the far outsized power of wealthy interests in Albany. Despite the

publicly announced commitments of Governors Pataki and Spitzer for comprehensive campaign finance reform, and many legislative proposals over the years, nothing has been achieved.

In some ways the system has gotten worse. 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. 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 campaign contributions for personal spending by incumbents.

The League of Women Voters of New York State believes that strong, well-enforced campaign finance restrictions plus public financing of elections offer a pathway to increasing voter participation, enabling candidates to compete more equitably for public office, and lessening the impact of special interests on governmental processes. 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 small donors.

We also believe that having effective, independent and adequately funded enforcement and reasonable limits on contributions, including contributions to parties, are fundamental to true reform. Robust, independent, adequately funded enforcement, greater restrictions on contributions, and public financing must all go together. Now is the time for the Senate to move to comprehensive reform

Thank you Senators for this opportunity to contribute to the important discussion on Campaign Finance Reform. New Yorkers deserve a transparent, responsive and ethical state government. Comprehensive campaign finance reform is critical to stemming the tide of corruption and giving New Yorkers the state government they deserve. We applaud Senator Klein and the IDC for introducing a package of truly comprehensive campaign finance reform and for helping to move this dialogue forward.



**Testimony of Sam Magavern  
To the Independent Democratic Conference  
On Campaign Finance Reform**

PPG



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On Behalf of Common Cause New York and the Partnership for the Public Good

*May 13, 2013*

As a member of Common Cause New York and as co-director of the Partnership for the Public Good, I am grateful for the opportunity to offer the following testimony. Common Cause is a nonpartisan, nonprofit advocacy organization founded in 1970 as a vehicle for citizens to make their voices heard in the political process and to hold their elected leaders accountable to the public interest. The Partnership for the Public Good is a community-based think tank that unites 134 non-profits and community groups working to build a better Buffalo Niagara.

We believe that the IDC's support for comprehensive campaign finance built around a core of public matching funds is key to achieving this long-delayed reform this legislative session. S.4897 is the most comprehensive proposal, and the IDC is to be commended for being willing to introduce a comprehensive package.

Strong enforcement is a key element of a strong campaign finance system and essential to protect any public matching fund system. Exactly how a strong enforcement system is configured – a 5 member Campaign Finance Board within the Board of Elections as proposed in the Silver bill that has passed the Assembly, a 7 person Campaign Finance Board within the Board of Elections with penalties enforced by the AG as proposed by the IDC bill, or granting expanded enforcement authority to the AG as the Governor has suggested – is less important than that there be strong enforcement that wins the public's confidence.

At the final hearing on May 20, Common Cause New York will submit detailed written testimony with its recommendations regarding possible ways to strengthen various aspects of S4897.

In the meantime, I would like to emphasize one key point: public financing works. It works in New York City and in many states around the country. A recent report from Demos titled “Fresh Start: the Impact of Public Financing in Connecticut” shows just how feasible and valuable public financing is. Connecticut passed its system in 2008. In 2012, 77 percent of successful candidates used public financing.

The Demos report found that public financing:

- Allowed legislators to spend more time with constituents;
- Increased the number of donors;
- Decreased the influence of lobbyists;
- Spurred more – and more diverse – candidates to run for office;
- Led to a more substantive legislative process with more bipartisan votes and more important bills passed.

If Connecticut can do it, so can we. It is well past time for real campaign finance reform in New York State. Thank you.



237 Main Street, Suite 1200 | Buffalo, NY 14203 | P: 716.892.5877 | F: 716.852.3802

[CEJbuffalo.org](http://CEJbuffalo.org)

Good afternoon. Thank you for the opportunity to offer testimony at today's public hearing. I also want to thank Citizen Action and the Clean Air Coalition for their tremendous work on this issue so far.

My name is Jennifer Diagostino, and I am the Executive Director of the Coalition for Economic Justice. CEJ is a 501(c)(3) nonprofit that is an affiliate of the national Jobs with Justice network and the New York State Labor-Religion Coalition. We unite our member, faith, and community organizations and activists with allies and resources to win campaigns that produce economic justice for all by building strong, diverse, sustainable communities.

For the past few years, CEJ has co-anchored the statewide Getting Our Money's Worth alliance – a broad coalition of public policy experts, government watchdogs, labor unions, community and religious organizations, and concerned small business owners, workers, and taxpayers committed to ensuring reform of wasteful economic development programs.

I'm here today to talk about the link between financial disclosure and corporate subsidy programs, the need to minimize the role of corporate money in our political system. Subsidy programs are New York State's main tools for "job creation" and economic development. They give public money to private businesses – usually in the form of tax breaks – to open, expand, move, or consolidate facilities. In return, corporations agree to retain or create jobs and to invest in the community.

Unfortunately, New Yorkers often get little return on their investment on these expensive projects. There is little monitoring of the quality of jobs created and the outcomes gained by the community, little transparency in how subsidy decisions are made, and little recourse for local taxpayers to hold corporations accountable when they break their agreements. As a result, corporate subsidy programs are giving public money to companies that often fail to create jobs, let alone good local jobs.

New York State spends an average of \$7 billion each year on corporate subsidy programs. I'm going to say that again: New York State spends an average 7 billion – billion with a b – public dollars each year on private corporations. Decisions about how this money is allocated are made by local elected officials or the board members of state and local authorities that they appoint, often without opportunity for public input on how those dollars are spent. Further, any meaningful statewide reform to our corporate subsidy programs would need to be passed by the New York State legislature and signed into law by the Governor.

Meanwhile, corporations contribute more and more to the campaign accounts of political candidates. They do it directly, but we have also seen them abuse 501(c)(4) social welfare organizations time and time again to dump unlimited, unreported amounts of money into campaigns and circumvent existing campaign finance regulations. Because the candidate with the most money usually wins, these corporate-sponsored candidates are often the ones who become our elected representatives. The lack of transparency in our campaign finance and corporate

subsidy systems – both how corporations spend money on political campaigns and how public money is doled out to corporations – opens the door for pay-to-play schemes, where elected decision makers are beholden to corporate sponsors, rather the constituency whose interests they are supposed to represent.

You'll hear [you've heard] from others in their testimony today that the small-donor matching portion of the publicly financed fair elections reform that we're talking about today will cost us about \$2 per New Yorker per year. What you haven't heard is that our corporate subsidy system costs New York State government \$356 per person per year. So we already spend 128 times more giving public money to private corporations than we're talking about spending to pull corporate power out of our elections. That's not fair, and it's not right.

We need transparency in our campaign finance system. We need lower contribution limits. And we need publicly financed fair elections to level the playing field. These things will make candidates who don't have huge campaign war chests more competitive, minimizing the role of corporate money in politics. Fair elections will provide voters real choices and put power back in the hands of the people, where it belongs.



## Testimony of Erin Heaney, Executive Director of the Clean Air Coalition of Western New York to the New York State Senate Independent Democratic Conference

May 13<sup>th</sup>, 2013

Good afternoon, my name is Erin Heaney. I am the Executive Director of the Clean Air Coalition of Western New York.

I am here today to add my voice to the others here today to clearly say: now is the time for publicly financed elections. I am very pleased to see the Senators here today have included provisions for the enactment of a small donor matching system in your campaign finance reform bill.

The Clean Air Coalition is a small, grassroots environmental health and justice organization. We have over 200 dues paying members and work with over 3,000 residents throughout Erie county annually. We were formed by residents in the Town of Tonawanda, many of whom were sick from chronic illness that they believed to be linked to the 53 industrial plants in their neighborhood. The town is home to a coal-burning power plant, chemical plants, petroleum plants and many other companies that emit cancer-causing chemicals.

For the last 10 years, the Clean Air Coalition of WNY has fought to bring one company, Tonawanda Coke, into compliance with the law. The company has been emitting dangerous levels of benzene, a known human carcinogen. Our members have worked tirelessly, meeting with elected officials, negotiation with the NYS Department of Environmental Conservation, did extensive media work, canvassed and collected thousands of signatures. And after 10 years of advocacy, justice was served. The plant was raided by the feds, EPA got the company to sign a consent order and just a few months ago a jury found the company guilty of violating the Clean Air Act. Due to more aggressive enforcement action, benzene emissions in the town have dropped by over 80% in recent years. Our work has literally saved lives.

This is a great example of a victory. But it shouldn't take 10 years to get our voices heard in Albany. It should not take years to get our elected officials attention. In the years we were fighting Tonawanda Coke, the company contributed over \$50,000 to elected officials. It wasn't a fair playing field.

We continue to have very serious challenges in Tonawanda. The NYS DOH did a health study that was released to the public just a few months ago. In Tonawanda, we have high levels of air pollution and high levels of cancer and birth defects. We need tougher enforcement of the law and we need innovative programs that can help companies reduce their pollution. If we are going to make Tonawanda a healthier place, we need our voices to be heard in Albany just as loud as corporate polluters.

When you pass publicly financed elections, you be supported by a growing grassroots movement of residents who are sick and need their voices heard in their own government.

However, we all know that simply introducing a bill including public financing is not enough. Today, I encourage you to work with your colleagues in the State Senate to **pass** a bill with publicly financed elections before the end of this legislation session.

Publicly financed elections will be instrumental in transforming Albany's 'show me the money' culture. By enacting a small donor matching system, you can create new incentives that encourage candidates for elected office to pay attention to the voters instead of large, corporate polluters. In Tonawanda, we've seen how large corporations voices can drown out the voices of ordinary people. Large corporations whose emissions have contributed to high levels of air pollution have also contributed significant

amounts of money to elected officials. For example, Huntley NRG the coal-burning power plant in Tonawanda have given over \$100,000 and NOCO, a petroleum distribution terminal that emits benzene has given nearly \$200,000 in recent years. We want our elections funded by regular people, not wealthy polluters.

When candidates for office no longer rely on big campaign contributions to fund their campaigns, they can focus exclusively on the needs of regular people and craft public policy that responds to and fulfills their needs - policy that is protective of public health and that prevents our members and workers from getting cancer and other chronic illnesses.

This year, you have the chance to restore our faith in democracy by passing comprehensive campaign finance reform with publicly financed elections at its core. I urge you to use your authority to bring the bill to the floor that includes public financing and pass the bill this year.

Thank you.

Erin Heaney

341 Delaware Ave.  
Buffalo, NY 14202  
716-852-3813  
erin@cacwny.org

Good afternoon and welcome to Buffalo and the beautiful chambers of the Erie County Legislature.

My name is **Diana Cihak** and I am the founder of an organization that encourages women to run for office – **WomenElect**.

WomenElect was founded because we discovered that the abysmal percentage of women holding public office was not due to the fact that women didn't win when they ran against men for office. It was because women don't say yes to running for office. Our program is a leadership development program that helps women assess both their internal and external strengths, networks and message to get them to say yes when asked to run for office.

During the course of running this new program we have discovered that well qualified, motivated women are eager to run for office so that they can make a positive impact on their communities – and that they bring the spirit of public service to the task. They are very often motivated by that sense of service more than the idea that they will make a career of being an elected official.

But women also put many self-imposed barriers on their entry into the political realm and it is one of those barriers that I want to discuss today.

This is a generalization of course, but I must say a pretty accurate one in my experience – women have a harder time asking people to provide financial support to their political campaigns than men do. Now of course, fundraising is hard for almost everyone with a few rare exceptions. But for many reasons women approach fundraising with an overwhelming apprehension – especially when asking for larger dollar amounts.

**So the fundraising barrier perception alone is one of the biggest reasons women say no when asked about running for political office.**

**In addition, many women who are well qualified to run are not equipped with a large network of high worth donors that they can reach out to that will support their campaigns.**

**Public financing of campaigns would dramatically help women gain ballot access by allowing them to raise funds in small donation amounts that will be matched, thereby allowing them to be viable candidates.**

And that, in turn, will demonstrate to more capable, accomplished women that the path to public service is a path that is open to them.

Strong data exists that shows when more than 3 women serve on the board of a large corporation that company attains and sustains a higher profitability margin. It is the work ethic and spirit of collaboration that women bring to their professional careers that allow smart companies to utilize the advantage that more women in leadership bring to their bottom line.

We need to do the same in government. By encouraging more women to run for office and giving them the tools they need to achieve the ballot, we will see a more collaborative approach to governing that will have a positive impact on citizens across the state. Public financing of campaigns is a powerful tool that will help accomplish the goal of electing more women to state office.

**For this reason I encourage you to champion and pass campaign finance reform *this year* including public financing of campaigns. Thank you.**

NYS Senate Public Hearing  
Fair Elections comments  
Lynda Stephens, 266 Hartwell Road, Buffalo, NY 14216  
May 13, 2013

My name is Lynda Stephens. I am a Buffalo resident.  
Thank you for the opportunity to testify.

I support strong campaign finance reform legislation that greatly reduces maximum contributions, requires full disclosure of every aspect of contributions, establishes strict enforcement, and bans political party housekeeping account contributions to individual candidates.

The reform legislation should also create a public financing opportunity for candidates for state offices who meet specified minimum demonstrated voter support in order to qualify for the public matching funds. The New York City model of public financing has shown us that public financing can work; that the pool of candidates increases; that access to political office expands and becomes more economically and ethnically diverse. In other words, the array of officeholders begins to more closely mirror the people they represent.

NYS Legislators vote massive public financing for private businesses through various subsidy programs including IDAs – I'm told \$6.9 billion. Those private sector subsidies amount to \$356 for each person who resides in NYS!

The cost of supporting democracy with public financing will be much, much less.

I urge you and your colleagues to vote for democracy.

You might even find some savings in those private business subsidy programs to use for the public matching funds.

Data source:

ALIGNny (research)  
19.378 million population  
\$6.903 million subsidies



Brian Trzeciak  
Lead Organizer  
Citizen Action of New York  
739 Main Street  
Buffalo, NY 14222

**Testimony of Brian Trzeciak on the need for publicly financed elections given before the New York State Senate Independent Democratic Conference, May 13, 2013**

Good afternoon. My name is Brian Trzeciak, and I am the Lead Organizer of Western New York Chapter of Citizen Action. I would like to thank you for this opportunity to address you today. It's always good to have elected officials visit Buffalo, the second most populated city in New York State. We have a voice here and an underdog mentality that we are all proud of. Buffalo has been struggling ever since the 1950's. We've watched industry move out of the city and the rich get richer as the poor get poorer due to the choices of corporations. We are a rust belt city because of these choices. Passing publically financed fair elections in New York State will help not only the state improve but the city of good neighbors as well.

There is a quote from Edmund Burke that seems appropriate today: "The only thing necessary for the triumph of evil is for a good man to do nothing." I bring this up because we have a cancer of apathy running rampant in our citizens due to the ever proven fact that the government does not seem to serve the people who elect it.

It's no secret that elections cost money, and it's common sense that those who contribute to politicians expect to be represented. Those of us who want to have a voice and to have people represent our needs must get in line behind big donors who are holding our political system hostage. If we were to go door to door right now and talk with voters and unregistered citizens, they would say that they are not being heard, and what money they would contribute wouldn't make a dent compared to the big money corporations who invest in politicians.

We are not Bank of America, JP Morgan Chase, Citigroup, PepsiCo, Pfizer, and other corporations who have contributed over 670 thousand dollars in the last election cycle. We are 581,929 registered voters in Erie County alone, and our contributions did not come close to that number. The reason is that in our current system, our money cannot compete. We cannot play in this game that was created. And this game gives an overwhelming advantage to corporations and big money. These corporations mentioned above, due to their contributions to elections, have cost New Yorkers at least \$2.4 billion dollars in tax revenue by taking advantage off of offshore tax havens. Their investment has been paying off at our expense.

When you pass publicly financed elections, you be supported by a growing grassroots movement of New Yorkers who demand real democracy and a government that responds to their needs. The

majority of voters also believe that New York needs publicly financed elections. According to a March 2013 Siena Research Institute poll, 61 percent of likely voters said that they are in favor of public campaign financing. According to a Lake Research poll, 79% of New Yorkers favor a system of public matching funds for small donations in particular. It's clear that the people of this state will not accept a campaign finance reform package without some form of publicly financed elections.

In recent days, we've heard blatant lies from the Senate Republicans about the cost of fair elections. Let me be clear, it won't cost hundreds of millions a year. That's a lie. The campaign finance institute did a peer review study of FE and determined that the true cost will be no more than 25 to 40 million, or \$2 per New Yorker per year. For less than the price of a cup of coffee, New Yorkers can have faith that our campaign finance system ensures that lawmakers work for them and not wealthy interests. Senators, we hope you tell your colleagues to stop spreading this misinformation.

We have a way to cure this cancer of apathy among the voters of New York State and in Buffalo. If we pass legislation, like the bill passed in the Assembly to provide a matching system of funds, our contributions would matter. We would have a say in our government and more citizens would be engaged in the political process.

I know you are all good men. I know that Senator Grisanti is a good man. He has voted on a bill that will grant same sex couples the right to marry. That bill has directly affected my family, and I appreciate the Senator for putting aside politics to do what is right. We urge Senator Mark Grisanti to join Senator Kennedy, Assemblywoman Crystal People-Stokes, and Assemblyman Sean Ryan to do what is right. We urge you to do the same and pass publically financed fair elections for New York State.

With more people engaged in the democratic process and with more people taking more of a stance in the politics in Buffalo, we will see our city rise from out of the rust. We can no longer afford to sit idly by and let corporations reap the benefits of our hard work and make decisions for us.

We are the people, and it's time for us to have a say in our government.

Some folks are squeamish about using tax payer dollars to pay for elections.

I want to directly address that question.

I can't think of a better investment to insure that all of our taxpayer dollars are used more wisely.

Think about it.

Special interests are currently have a monopoly on significant campaign financing.

They use their donations to protect their financial interests and many times that means raising the costs of state government.

It might be through tax policy, IDA giveaways, or other policies that favor their business.

It might be through laws that hinder competition, weaken consumer or environmental protections or otherwise give them an advantage.

Many special interests see campaign donations as investments and are determined to get a financial return on that investment.

How much would you think that adds to the state budget? 1%?

The 2013-14 budget is \$141.3 billion. 1% is 1.4 billion .

Even if it's 1/10<sup>th</sup> of 1%, that's over \$140 million – far more than the projections I've seen for the cost of public financing.

The \$331 million cost estimate was produced by the Senate Republicans, who staunchly oppose using public funds for election. The Campaign Finance Institute, which bills its self as non-partisan, pegged the four-year cost of public financing between \$104 million and \$162 million.

As a state taxpayer and a citizen, I would be willing to pay a little more for a democracy that works for the people the way it's supposed to.

But I hope you can now see that public financing, by reducing the influence of special interests, is likely to save taxpayers money and reduces pressures to expand the state budget.

*Bill Nowak*  
*CWA Healthcare Co-ordinating Council*

## **One Candidate – One [Ballot] Line**

### **NYS Fair Elections Reform should include the following solutions:**

- Adopt a “One Candidate – One (Ballot) Line” statutory rule to end what is known as fusion voting.
- Public financing of candidates running for public office in New York State.

### **What a One Candidate – One (Ballot) Line Rule will accomplish.**

- More voter choices.
- More people will participate in their government because more ballot lines will be available to a wider range of candidates.
- More “issue-driven” elections will result that provides voters with more real choices in the voting booth.
- It will be easy to implement.
  - Election Law Article 6 can be modified to provide a short time period after petitions are filed for each candidate to “accept” ONE party’s nomination.
  - After a candidate has “accepted” one party’s nomination, if his or her name had appeared on a petition of another party [whether with an “authorization” requirement or not], the other party can have time to substitute a new candidate.
  - The current Election Law provision for a “Committee on Vacancies” can be used to select particular Party’s “new” candidate if the one they wanted has “accepted” the designation or nomination of another party.
- No need to repeal the Wilson-Pakula rule [although that is preferable to reduce the corruption factor in NY political process].

Submitted 5-13-13 by: Jerome D. Schad, 199 Meadowview Lane, Williamsville, NY 14221-3531. Telephone: 716.634.8906; Cell 716.445.0842; Fax 716.632.2048; E-mail [Jerome.schad91@gmail.com](mailto:Jerome.schad91@gmail.com)



## TESTIMONY OF ANTHONY J. LUPPINO

May 13, 2013

Good afternoon. My name is Anthony Luppino. I have taken time off from work today to attend this public hearing and to urge the New York State Senate to pass strong Campaign Finance Reform Legislation – including public financing of election campaigns – this legislative session.

Now some have argued that public financing of election campaigns is not a prudent use of taxpayer money. I beg to differ. As a middle class taxpayer in New York State, I want to say very clearly that the investment of some of our tax dollars into the public financing of campaigns is one of the best possible uses of taxpayer funds that I can think of. Why? Because it is likely to improve the way the rest of our tax dollars are spent.

But even more importantly, it is an investment of our tax dollars that will improve our democracy. It will help make elected officials more accountable to the voters and less beholden to the special interests. It will open the political process to new candidates with new ideas who are now effectively blocked from seeking elective office by the often insurmountable obstacle of having to raise huge amounts of money. Public financing will make it possible for more of our citizens to become viable candidates with the resources needed to present their ideas and messages to the voting public. And this will be a good thing - a healthy thing - for our democracy.

Public financing of election campaigns will be a good thing for incumbents as well, for those of you who are presently serving as elected officials in public office. I know that most of you ran for elective office to make a difference and to serve your constituents. I know that most of you hate “dialing for dollars” to raise the enormous sums of money needed for your reelection campaigns. Public financing will help free you from this burden and will make it possible for you to spend much less time on the phone asking the 1% for campaign contributions, and much more time representing the 99%.

For all of these reasons and more, I think the time has come for public financing of election campaigns in New York State. It is the right thing to do and it will benefit all New Yorkers. I strongly urge the New York State Senate to join the Assembly and get it done this spring.

Thank you.

## Fair Elections Talking Points for IDC Hearing

### Most Important Points:

- Pass the Fair Elections Act! We the people of NY demand action - hearings are a good start, but we'll only be happy when the Senate PASSES legislation establishing publicly financed elections.
- Work together with the other pro-reform Senators (such as Andrea Stewart-Cousins) to build majority support in the Senate and Assembly for a Fair Elections bill.
- Get public financing done, this year! Now is the time.
- The vast majority of New Yorkers agree with us. According to the most detailed poll (by Lake Research), 79% of New Yorkers support a system of public matching funds for small donations from New Yorkers.
- Majorities of Democrats, Republicans, and Independents support publicly financed Fair Elections.
- There are several vital reforms that should be included in any bill to clean up Albany. The most important is the creation of a system of publicly financed elections. Also important are lower limits on donations, closing the LLC loophole, and ending pay-to-play donations.
- This is an issue which effects all other issues; if we care about jobs and wages, affordable housing, energy and the environment, education funding and fair taxation, we need to get Fair Elections for New York
- The coalition of organizations which supports Fair Elections for New York is well over 100 strong, drawn from diverse interests and spread across all of New York State, from Long Island to Buffalo.

### Sample testimony:

Hello, thank you for holding these important public hearings. My name is [name], and I'm here as a citizen of [city, borough, etc.] [or "I'm here representing Xorganization]. I want to add my voice to the many gathered here today to clearly say: now is the time for Fair Elections. This year, 2013, we must work together to finally pass a system of citizen-funded elections for New York State. I am very pleased to see the Senators here today in support of Fair Elections, and I want to encourage you to take the next step: work with your fellow Senators to PASS THE BILL this spring. I know building consensus in Albany can be hard, but this year a majority of members of the Assembly and the Senate have indicated that they will vote in favor of a bill that creates publicly financed Fair Elections. That means there is no excuse for not working together to get such a bill to the floor for a vote. You can do it, and we are counting on you to do it. When you pass Fair Elections, you will have the support of not just the many of us here today, but the vast majority of New Yorkers. Matching funds for small donors are extremely popular - nearly 80% of New Yorkers say they want them - and they've been very successful everywhere they've been implemented. If you, as our State Senators, lead the way to Fair Elections, we the people will be forever thankful.

Thank you again for holding these hearings, and please, let this be just the beginning of your efforts to pass Fair Elections this spring.

# STATE OF NEW YORK

LEGISLATURE OF ERIE COUNTY  
CLERK'S OFFICE

BUFFALO, N.Y., December 20, 2012

TO WHOM IT MAY CONCERN:

**I HEREBY CERTIFY**, That at the 26th Session of the Legislature of Erie County, held in the Legislative Chambers, in the City of Buffalo, on the Twentieth day of December, 2012 A.D., a Resolution was adopted, of which the following is a true copy:

**A RESOLUTION TO BE SUBMITTED  
BY LEGISLATOR GRANT, MAZUR, MILLS, HOGUES,  
MARINELLI, HARDWICK, LOUGHRAN, RATH,  
McCRACKEN, DIXON & LORIGO**

WHEREAS, the Erie County Legislature strongly supports needed reforms to New York State Election Law that will ensure that the vote of every legally registered voter be counted; and

WHEREAS, this Honorable Body has sought and received an explanation from the Erie County Board of Elections, to wit, Democratic Commissioner Dennis Ward and Republican Commissioner Ralph Mohr, regarding the impediments to having every vote counted, notably certain "write-in" votes and certain affidavit ballot votes cast by persons who do not vote at their designated polling place; and

WHEREAS, as a consequence of this briefing, the Erie County Legislature is seeking changes to the New York State Election Law, specifically Section 9-112(3) and the corresponding Election Law Section 104(20) dealing with the definition of a write-in vote, as well as the administrative rule on the same matter found in Section 6210.15(a)(5) of the New York State Board of Elections Rules and Regulations; and

WHEREAS, this Honorable Body has concluded that the changes it seeks would end the wrongful disenfranchisement of voters who write-in the name of their candidate when that name is already printed on the ballot; and

WHEREAS, the current law (Election Law Section 9-112(3)) is obsolete, as it hearkens back to the time of mechanical machine voting employing levers, when it was theoretically possible to pull a lever for a candidate and also to write that same candidate's name again as a write-in, resulting in two votes cast by one voter; and

WHEREAS, this "double" vote is no longer possible with the new electronic scanning machines utilizing pre-printed paper ballots, yet existing statutory language results in a voter's ballot being ruled "void" if the voter fills in the bubble next to a candidate's name and again writes that same candidate's name, apparently in error yet with the intention to reinforce the voter's preference; and

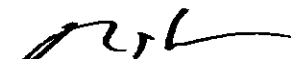
WHEREAS, voters do not realize that this practice, under current law, nullifies their vote for a single candidate of their choice; and

WHEREAS, another current law nullifies the affidavit ballot of a voter if the voter did not cast his or her ballot in their correct polling place; and

WHEREAS, the consolidation of election districts and polling places has led to voter confusion, and if the elections inspectors make an error and do not direct the voter to the correct polling place, that voter's right to be heard in the "ballot box" is taken away by the automatic nullification of his or her vote as the result of a ruling by the local board of elections that is now supported by current state law; and

WHEREAS, the Erie County Legislature has reviewed the state statute in this circumstance as well, and proposes changes to Election Law Section 9-209(a)(iii) and its effect in overturning the Court of Appeals decision in Panio v. Sunderland, 4 N.Y.3d 123 (2005); and

ATTEST



# STATE OF NEW YORK

LEGISLATURE OF ERIE COUNTY  
CLERK'S OFFICE

BUFFALO, N.Y., December 20, 2012

TO WHOM IT MAY CONCERN:

**I HEREBY CERTIFY**, That at the 26th Session of the Legislature of Erie County, held in the Legislative Chambers, in the City of Buffalo, on the Twentieth day of December, 2012 A.D., a Resolution was adopted, of which the following is a true copy:

WHEREAS, this Honorable Body believes that effectuating this needed change in state law would end the wrongful disenfranchisement of voters who vote by affidavit ballot at the incorrect polling place, often through no fault of their own; and

WHEREAS, the Erie County Legislature expresses bi-partisan support for the proposed New York State Election Law reforms advanced in this resolution.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature authorize and direct Chair Betty Jean Grant, Majority Leader Thomas Mazur, Minority Leader John Mills, Majority Counsel Jerome D. Schad, Esq. and Minority Counsel Ronald Bennett, Esq. to execute a letter and any other appropriate documents and to submit this package of reforms, to wit, the proposed changes to Election Law Section 9-112(3) and Election Law 104(20) to the Election Law Committees of both the New York State Senate and New York State Assembly; and be it further

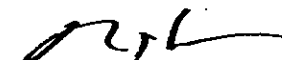
RESOLVED, that these proposed reforms be conveyed to members of the Western New York Delegation to the New York State Legislature for sponsorship consideration and legislative advocacy so that, one day, every legally qualified voter will have his or her vote counted in the State of New York; and be it further

RESOLVED, that certified copies of this resolution be sent to the Governor of New York State, the Majority Leader of the State Senate, the Speaker of the Assembly, Erie County Democratic Elections Commissioner Dennis Ward, Republican Elections Commissioner Ralph Mohr and all others deemed necessary and proper.

REFERENCE: INTRO 26-2 (2012)

AS AMENDED

ATTEST



Proposed Amendment to  
Election Law  
Section 9-209(2)(a)(iii)

To give effect to ballots of properly registered and eligible voters who appear at a wrong polling place to cast their vote and who are given an affidavit ballot to do so.

The current voter disenfranchisement problem:

In each election, ballots of many voters are not counted for the simple reason that these voters appeared at the wrong polling place and, after poll inspectors do not find their names in the poll book, the voters were given an affidavit ballot and affidavit ballot envelope with which to cast their ballot.

If voters are lucky enough to present themselves at the correct polling place but the wrong election district table at that polling place and they are handed an affidavit ballot and ballot envelope, their votes are valid because Election Law Section 9-209(a) (iii) so provides and the Court of Appeals decision in *Panio v. Sunderland*, 4 N.Y.3d 123 (2005) so holds.

Unfortunately, if those voters appeared at the wrong polling place, not just at the wrong election district table in the correct polling place, the Court of Appeals decision in *Panio v. Sunderland* holds that their ballot shall not be counted. The Court held, among other things, that the 457 “affidavit ballots cast by voters who had gone to the wrong polling place and therefore voted in the wrong election district should not be counted.” 4 N.Y.3d at 128.

Every year, local Boards of Election, being constrained to follow the Court of Appeals holding in *Panio v. Sunderland*, invalidate affidavit ballots on the sole ground that the voter cast his or her ballot at the wrong polling place. In a close election, those votes could be outcome-determinative.

Unfairness of the Court of Appeals’ wrong-polling-place invalidity rule:

In a perfect world, when a voter presents himself or herself at the wrong polling place, the election inspector would, with one-hundred percent accuracy, implement Election Law Section 8-302(e) and direct that voter to their correct polling place to vote. In a perfect world, thus, a voter would never cast an affidavit ballot at the wrong polling place.

When a voter presents himself or herself at a polling site and the poll clerk or election inspector cannot find the person’s name in the poll book, Election Law Section 8-302(e) provides, in part, that the poll clerk’s or election inspector’s duties, as follows:

Whenever a voter presents himself or herself and offers to cast a ballot [and the voter's name does not appear in the poll book], a poll clerk or election inspector shall consult a map, street finder or other description of all of the polling places and election districts within the political subdivision in which said election district is located and if necessary, contact the board of elections to obtain the relevant information and advise the voter of the correct polling place and election district for the residence address provided by the voter to such poll clerk or election inspector.

In spite of the clear duty on poll clerks and election inspectors to cure the voter's wrong polling place appearance by determining and advising the voter of the correct polling place at which the voter should vote, the Court of Appeals, in the *Panio* decision, treats these errors solely as voter fault and no responsibility for such errors is laid at the feet of the poll clerks or election inspectors at polling sites on Election Day.

What is unfair is that an affidavit ballot should not even be offered to a prospective voter if the election inspector properly inquires as to the voter's residence and the election inspector competently checks the available street finders to be able to inform the voter of the correct polling location to which the voter should then proceed to vote.

The most unfair aspect of applying the *Panio* wrong-polling-place rule is that it can easily void a voter's ballot which, if he or she had voted at the correct polling place, would have been a ballot for the same candidates he or she would have had the opportunity to vote for if the voter had arrived at his or her correct polling place.

Additionally, application of the *Panio* wrong-polling-place rule is affected by the happenstance of whether a particular polling location is large – and thus can house 5, 6 or even 8 election districts under one roof – or whether it is small - with only 2 or 3 election districts under one roof. In the former situation, a voter's error in go to the wrong election district will not result in his or her vote being voided but in the latter situation if the wrong election district is also in the wrong location, the voters' ballot is voided because of the *Panio* rule.

It would be far fairer if the voter's affidavit ballot were counted as to those offices listed on the ballot cast in the wrong polling place that were common to the offices on the ballot in the voter's correct polling location. Where voters appear at the correct polling location, but cast their ballot in the wrong election district, the votes cast for the offices common to both are valid and only those offices not in the voter's correct election district are void or not counted. This common-sense process should be extended to the wrong-polling-place voters as well.

#### Avoidance of excessive ballot objections on procedural, non-substantive, grounds:

Objections to wrong-polling-place voters under the *Panio* decision are often coupled with objections to the completeness of the information supplied by the voters on the affidavit ballot

envelopes. A Board of Elections' assessment of whether an affidavit ballot should even be opened becomes, itself, the subject of many objections in the canvass process.

Because affidavit ballots are part of the Board of Election's manual canvass of the ballots cast in each election and that canvass is carried out at the county level, the Board of Elections has data with which to determine (a) if particular affidavit voters are who they say they are, (b) if their party affiliation is what they indicate, and (c) if their address is accurate such that the board is able to determine "where" the voter should have presented himself or herself to vote. A voter's ballot should not have its validity rise or fall solely on some minor irregularity in the information on the affidavit ballot envelope provided by the board.

Election Law Section 9-209(2)(a)(iii) should be amended to permit local Boards of Election to count ballots cast by voters whom the Board of Elections can verify as voters eligibility to vote - regardless of some minor irregularity in the information provided on an affidavit envelope or the voter's appearance at the wrong polling location.

#### The Proposed Amendment of Election Law Section 9-209(2)(a)(iii):

The following proposed revision to Section 9-209(a)(iii) would, this writer suggests, correct the wrong-polling-place invalidity rule and permit counting of ballots where a voter has made some minor irregularity in the form of his or her affidavit ballot envelope.

(iii) If the board of elections determines that a person was entitled to vote at such election, the board shall cast and canvass such ballot if such board finds that (a) the voter appeared at the correct polling place, regardless of the fact that the voter may have appeared in the incorrect election district, (b) the voter appeared at the wrong polling place but is otherwise eligible to vote and, in that case, the board shall count only those votes cast for offices common to the wrong polling place location and the voter's correct polling place location, and (c) any irregularities or omissions on the affidavit envelope did not prevent the board from being able to verify the voter's eligibility to vote in the election.

The above change will give effect to voter intent when otherwise eligible voters appear at a polling place to cast their ballot and, for whatever reason, are not at the correct location and are offered an affidavit ballot with which to cast their vote.

