



INFORMATIONAL PACKET
FOR LEGISLATORS & STAFF

TABLE OF CONTENTS

Fair Elections for New York Informational Packet

FAIR ELECTIONS: MAKING ALBANY WORK FOR ALL NEW YORKERS



A campaign for comprehensive campaign finance reform, with small-donor matching, to pass in the 2019 state budget. 200+ supporters!

New Yorkers deserve a responsive, accountable government. To tackle the crises we face in housing, living wage jobs, criminal justice, affordable health care, transportation, climate, fair taxes, and more, we must fix our campaign finance system, which favors the wealthy over everyday, working New Yorkers.

This year, leaders in Albany passed historic voting reforms that make it easier for New Yorkers to exercise their freedom to vote and participate in our democracy. Now, leaders must act to pass a small-donor matching system, with lower contribution limits, as part of the budget process to truly increase the voices of average New Yorkers in the political process, and in turn lessen the power of big money.

The Governor has named Fair Elections reforms, with a small-donor matching system, as a must-pass priority in his budget, and the Assembly and new Senate Majority have supported strong Fair Elections bills for decades. **A broad coalition of individuals and groups across New York is coming together to ensure that comprehensive campaign finance reform, with a small-donor match, is included in the 2019 state budget.** This Fair Elections reform package would:

- ✓ **Increase the power of small donations.** It is critical we implement a small-donor matching system for state elections, including District Attorneys. This gives everyday people the means to run for office and represent their communities while relying on small donations instead of large checks. New York could lead the nation by becoming the first state since *Citizens United* to pass comprehensive campaign finance reform. By matching small-dollar donations with public funding — \$6-to-every \$1 raised — we can amplify the voices of women; of people of color; of the working and middle classes; and of any and all under-represented New Yorkers in the political process. Following the Supreme Court's *Citizens United* decision, small-donor matching funds remains the most powerful way to counter the unlimited, secret money flowing into our elections. Adequate enforcement as well as robust candidate support services would ensure the matching funds program runs smoothly.
- ✓ **Limit the influence of big money.** The very wealthy and corporations shouldn't be allowed to buy elections. The Governor and the Legislature took a step forward by shrinking the "LLC loophole," which allows mega donors to funnel limitless amounts to candidates. We can now put a check on the outsized influence of big donors by fully closing the LLC loophole and by reducing New York's unusually high contribution limits, among other improvements.
- ✓ **Protect New Yorkers' freedom to vote.** This year, New York passed historic voting reforms. We must continue to make it easier for New Yorkers to exercise their freedom to vote including by passing automatic voter registration and codifying into law New York's policy to extend voting rights to all New Yorkers with past convictions.

200+ FAIR ELECTIONS SUPPORTERS

32BJ SEIU, 350.org, 50 West 93 Street Tenant Association, ACT18 Indivisible, Action Potluck, Action Together Rochester, Advocates for Justice Chartered Attorneys, African American Ministers in Action, ALIGN, Alliance for Quality Education, American Family Voices, American Pakistani Public Affairs Committee, Arab American Institute, Archer K Blood Center for Democracy, The Arena, Association of Tenants of Lincoln Towers, Ben & Jerry's, Bend the Arc, The Black Institute, BlackLine, Black Lives Matter Hudson Valley, Brennan Center for Justice, Briarcliff - Ossining Indivisible, Bronx Progressives, Brooklyn Community Bail Fund, Buffalo Democratic Socialists of America, Campaign for America's Future, Campaign for New York Health, Campaign Legal Center, Capital District Democratic Socialists of America, CCoHOPE Indivisible, Center for Popular Democracy, Central Park Gardens Tenants Association, CGDCNY, Chinese American Planning Council, Churches United For Fair Housing, Citizen Action New York, Citizens for Responsibility and Ethics in Washington (CREW), The Civics Center, Cleanup Carl, Clean Water Action, Coalition for Economic Justice, Color of Change, Common Cause New York, Communities United for Police Reform Action Fund, Community Voices Heard, Concerned Citizens For Change, Cooper Square Committee, The Creative Resistance, CREDO Action, Criminal Justice Task Force, Roc/ACTS, Crown Heights Tenants Union, CWA District 1, CWA Local 1122, CWA Local 1133, CWA Local 1168, Daily Kos, Democracy 21, Democracy Initiative, Democracy Matters, Demos, Downtown Women for Change, Dutchess County Progressive Action Alliance, Empire State Indivisible, Empire State Progressives, End Citizens United, Equal Citizens, Erie County Green Party, Ethical Humanist Society of Long Island, Every Voice, Food & Water Watch, Four Freedoms Democratic Club, Franciscan Action Network, Free Speech For People, Friends of the Earth, The Gathering for Justice, Generation Citizen NY, Grassroots Action NY, Greater NYC for Change, Greenpeace, Housing Works, Inc., Human Services Council, Humanists of Long Island, Indivisible, Indivisible Beekman, Indivisible BlueBlast!, Indivisible Brooklyn, Indivisible CD16 NY, Indivisible CD19 NY, Indivisible Harlem, Indivisible Nation BK, Indivisible Scarsdale, Indivisible the Fight Is On, Indivisible We Stand Upper West Side, Indivisible Westchester, Jews for Racial & Economic Justice, Justice Ministries Committee, Presbytery of New York City, Labor-Religion Coalition of NYS, Left Action, Let's Visit Lee Zeldin, Long Island Activists, Long Island Civic Engagement Table, Long Island Jobs with Justice, Long Island Network for Change, Long Island Progressive Coalition, Long Island Together, Lower Hudson Valley Progressive Action Network, Main Street Alliance, Make the Road New York, MapLight, MAYDAY America, Metropolitan Council on Housing, Metro New York Health Care for All, Mid Suffolk Chapter of the National Organization for Women, Morningside Heights Resistance, Move Forward Staten Island, MoveOn, MPower Change, Muslims For Progress, National Action Network, National Association for the Advancement of Colored People (NAACP), National Council of Jewish Women, National LGBTQ Task Force Action Fund, Natural Resources Defense Council (NRDC), New Progressive Alliance, New York City Loft Tenants, New York Civic Engagement Table, New York Communities for Change, New York Immigration Coalition, New York Lawyers for the Public Interest, New York Progressive Action Network, New York State Council of Churches, New York Public Interest Research Group (NYPIRG), Nobody Leaves Mid-Hudson, No IDC NY, North American Climate, Conservation and Environment (NACCE), Northeast NY Coalition for Occupational Safety & Health, Northwest Bronx Indivisible, NY19Votes, NYCAIC's #HALTsolitary campaign, NYCD16 Indivisible, NYC Democratic Socialists of America, NYS NAACP Conference of Branches, NYS Nurses Association (NYSNA), Open Buffalo, Our Revolution, Partnership for the Public Good, People Demanding Action, People For the American Way, People's Action, The People's Empowerment Project/Democracy Coffee, People Power Patchogue, Persist81, Planned Parenthood Empire State Acts, Presente.org, Progressive Action of Lower Manhattan, Progressive Change Campaign Committee, Progressive Democrats of America, Progressive East End Reformers (PEER), Progressive Power Inwood Heights, Progressive Schenectady, Progressive Turnout Project, Public Citizen, Putnam Progressives, Rally+Rise, Reinvent Albany, RepresentUs, Resist and Replace, Suffolk County, Showing Up for Racial Justice, Rochester (SURJ ROC), Rise and Resist, Riverside Edgecombe Neighborhood Association, ROCitizen, Rockaway Youth Task Force, Rockland Citizens Action Network, Rockland United, runNYC, RWDSU, SEIU, Sierra Club, Sierra Club Atlantic Chapter, Small Planet Institute, Solidarity Committee/Capital District, South Country Unites, Stand Up America, St Nicks Alliance, Strong Economy For All Coalition, Suffolk Progressives, Sunrise Movement, Sunrise NYC, Tenants and Neighbors, Tenants Political Action Committee, Theatre of the Oppressed NYC, Tioga Progressives, Transformative Justice Coalition, True Blue New York, Ulster People for Justice & Democracy, Union Vale Indivisible, Unitarian Universalist Association, Up2Us, Upper West Side MoveOn/Indivisible Action, Uptown Progressive Action, VOCAL-NY, Voter Rights Action, Washington County Progressives, We of Action New York, WESPAC Foundation, Inc, Westchester Citizen Therapists, Westchester for Change, and Working Families Party.

(List updated February 4, 2019)

EDITORIALS: MAJOR NEWSPAPERS SUPPORT FAIR ELECTIONS

"It is time to design and enact a fair, honest and affordable system of publicly-funded elections."
—**Albany Times Union Editorial Board**, November 10, 2018

"Albany: Put New York's Needs Before Your Own"
—**New York Times Editorial Board**, December 20, 2018

"The state should also consider adopting public financing of campaigns, a matching system that would take back power from well-funded special interests and make elections more competitive. Such a system has worked well, over all, for New York City."
—**New York Times Editorial Board**, September 5, 2018

"A new class of senators clobbered Independent Democratic Conference incumbents on platforms of wringing big money out of politics and will be raring to get the job done. The moment for change has arrived. Cuomo can get on board, or consider his third term a failure."
—**New York Daily News Editorial Board**, November 8, 2018

"NYS Legislature has unique opportunity to fix Albany"
—**Syracuse Post-Standard Editorial Board**, January 8, 2019

"Public financing of campaigns is probably the best solution to rid money from politics."
—**Newsday Editorial Board**, March 3, 2018

"They need to reduce the temptation and corruption that money has on elections following the example of New York City which is moving toward more public funding of elections and starting with the elimination of the loophole that allows some businesses to give unlimited amounts to favored candidates."
—**Times Herald Record Editorial Board**, November 7, 2018

FAIR ELECTIONS IN THE NEWS

More News Coverage at FairElectionsNY.org/News

DAILY NEWS

Go the distance on civic reform: New York is taking strong steps for the first time in a generation; it must finish the job

By MICHAEL WALDMAN JAN 14, 2019

Stop the presses: Albany is doing something right. And no, that's not a typo.

Today, legislators will likely enact a slew of election reforms to bring New York in line with the rest of the country. Then, tomorrow, Gov. Cuomo outlines his annual budget, which should contain even more sweeping changes that would lead the nation. The democracy movement has arrived in the Empire State.

And it couldn't come at a more urgent moment. Our elections are a mess. Campaign finance rules are notoriously lax. Turnout scrapes near the bottom nationwide. Last year, the executive director of the city Board of Elections claimed polling-place chaos was "the sign of a healthy and robust democracy." Really?

New York has become a case study in what *not* to do. Recently North Carolina defended that state's notorious voter suppression law. Their excuse: At least we are not as bad as New York.

Now there's a chance for real change. Voters across the country made clear they want to revitalize our democracy. Candidates here ran with the same message. All key state leadership positions are held by people who have insisted they back reform.

They can make it happen, and they'll have no excuse if they don't.

The first move comes today. Most important: early voting and the first stage of changing the state Constitution to allow no-excuse absentee balloting.

Already, nationwide, one in three people vote before election day. Not here.

Legislators will also close a campaign finance loophole that lets funds flow from real estate titans and other corporate interests.

A very good start, and the first real progress on these issues in New York in decades. But we can't just bump along. The biggest reforms remain to be done. They would vault New York to national leadership.

Most important: comprehensive campaign finance reform, a public financing system akin to New York City's successful model. Small contributions would receive public matching funds. This would give ordinary citizens a louder voice, even in the face of super PACs and dark money.

New York would deliver the country's most serious response to the Supreme Court's erroneous Citizens United ruling, which opened the floodgates of money into our politics as never before.

Cuomo has championed this change for years and has indicated it would be in his budget plan. Now, for the first time, he has a sympathetic Legislature in both chambers. Campaign finance reform would be a significant legacy achievement.

The other necessary reforms not in today's package would modernize voting. Automatic voter registration is now the law in 15 states, including New Jersey. It would add hundreds of thousands to the rolls, while improving accuracy and security. It's a bold policy that would transform our elections.

And New York should finish the job of restoring voting rights for those with past criminal convictions.

The House of Representatives has made sweeping democracy reform a top priority. Sen. Chuck Schumer has pledged to fight for change in the Senate, too.

Now Albany has its turn. Will it lead, or will it lag?

We're all cynical about the possibility of real reform. Politicians often flinch, and many don't want it at all. But this is a rare moment, when people see that the best way to respond to attacks on democracy is to strengthen it.

One of New York's greatest governors, Al Smith, said it best: "The only cure for the ills of democracy is more democracy."

Waldman, president of the Brennan Center for Justice at NYU Law, is the author of "The Fight To Vote."

DAILY NEWS

Fight for lower rents by fixing campaign finance: Moving to a system that prioritizes small-dollar donations will weaken the influence of the real-estate lobby

By ZELNOR MYRIE and JONATHAN WESTIN | JAN 14, 2019

Unless we get landlord money out of New York politics, we will never be able to strengthen renters' rights.

If we don't act fast, 100,000 will be homeless in New York. Development is booming in cities across the state and displacing longtime residents. Corporate landlords are buying up as many homes and apartment buildings as they can get their hands on and hiking rents. The affordable housing crisis is reaching levels not seen since the Great Depression.

Despite all this, Albany has punted. For too long, the Legislature has neglected these tenants and refused to take meaningful action for them statewide.

To understand why, consider the cash. Every year, landlords and real estate developers are among the largest contributors to the governor, the Senate and the Assembly. In the last election,

members of the Real Estate Board of New York and their firms gave at least \$21.5 million — more than one-tenth of the money entering state elections, [according to Politico](#). Real estates interests routinely spend millions on New York’s elections using a series of shell companies, LLCs and shady loopholes to buy access to Democrats and Republicans.

It doesn’t matter who’s in power. Where the power goes, the money follows. With Democrats taking control of the Senate, New York City developers — who had long supported the Senate Republicans in power — unleashed hundreds of thousands of dollars to support Senate Democrats the final days of the election. Why the flip? By placing their chips with a good bet, they’re hoping for a decent payout.

For the real estate industry, these donations are a calculated investment to protect and expand their soaring profits. Albany returns the favor by granting favorable tax breaks for developers and blocking meaningful action on the rent laws, which protect millions of tenants and families. Upstate, in the Hudson Valley and on Long Island, families are still reeling from the 2008 foreclosure crisis. More and more are becoming renters instead of homeowners. Shockingly, the overwhelming majority of those tenants outside of New York City have absolutely no protections from illegal evictions and exorbitant rent increases.

Albany neglects these tenants and refuses meaningful action for tenants statewide. If we are going to protect the 10 million tenants across New York state, we have to start by giving tenants a bigger say in our elections. Millions of tenants lose their voice, because landlords are able to spend wildly in each election cycle.

These 10 million tenants deserve fair elections and a more responsive, accountable government. A landlord should not be able to give unlimited amounts to support candidates through shell corporations and LLCs to ensure landlord-friendly policies that pad their profits at the expense of tenants.

We need a small-donor public financing system that allows grassroots candidates to compete against a corporate-driven financing system that now exists. Small donor matching makes it easier for elected officials to represent the values of the people of New York by encouraging candidates to spend their time talking to regular voters.

If we do not change how elections are financed in New York, we will never be able to truly win for tenants. The state of New York will skyrocket past 100,000 homeless people, and into the largest housing crisis we’ve ever seen.

The answer is clear. We need to act fast to get Albany working for all New Yorkers, not just wealthy special interests. It’s time for our leaders in Albany to get serious about getting landlord money out of New York politics and bringing the voices of tenants in through small donor public campaign financing.

Myrie is chair of the state Senate’s Elections Committee. Westin is executive director of New York Communities for Change.

Data Analysis: New York's Big Donor Problem & Why Small Donor Public Financing Is an Effective Solution for Constituents and Candidates

The Problem

Data show that New York State elections are almost completely dominated by big donors. The problem is even worse than in federal elections, where the outsize influence of big donors is well known.

In the 2018 New York State elections:

- Just 100 people donated more to candidates than all 137,000 estimated small donors combined. Closing the LLC loophole and restricting corporate contributions, alone, will not solve this problem.
- Small donations amounted to only 5% of all donations to 2018 New York State campaigns. By contrast, small donations amounted to nearly 19% of all donations to 2018 federal campaigns. New York consistently ranks among the worst states in the country when it comes to small donor participation.
- The majority of donations came from people or entities who gave more than \$10,000.
- Out-of-state donors gave nearly three times more than all small-donor New Yorkers combined. Nearly all of that out-of-state money (close to 90%) came in donations of \$1,000 or more.
- Big New York donors under-represent the geographical, socioeconomic, and racial diversity of the state. Two-thirds of big donors (who gave \$10,000 or more) came from just three affluent counties: New York, Nassau, and Westchester. Big donors tend to be white, employed, wealthier, and enjoy higher education compared to small donors, according to census data.

The Solution

A well-designed public financing program that matches small donations for candidates who choose to opt in will significantly increase the participation of everyday New Yorkers as donors and the diversity of New York's donor class.

A \$6-to-\$1 small donation match program as in Gov. Cuomo's current public financing bill (and similar to past bills in the Legislature) could have dramatically increased the role of small donors if it had applied in the 2018 New York State election.

- Assembly candidates could have raised more than four times as much from small donors. Small donors could have been the single biggest source of Assembly campaign funds.
- Senate candidates could have raised five times as much from small donors.
- Small donors could have been the biggest source of funding for a majority of legislative candidates in 2018.
- Nearly every Assembly candidate and almost 90 percent of Senate candidates could have raised as much or more in funds under small donor public financing than they actually did.

A comparison of how small donors in New York City behave in Assembly elections (without public matching funds) versus in City Council elections (with public matching funds) shows how significantly a public financing program for state elections could boost small donor participation and diversity.

- Far more residents of poor Black, Latino, and Asian neighborhoods donated to City Council candidates than to Assembly candidates. For example, in Brooklyn’s Bedford-Stuyvesant, City Council candidates attracted nearly 25 times more small donors than Assembly candidates (almost 8,000 small donors compared to an estimated 331) and more than 7 times more in donations (\$637,000 compared to \$87,000).
- City Council races drew small donors from almost 90 percent of the city’s neighborhoods, while Assembly races attracted small donors from only 30 percent of city neighborhoods.
- City Council donors came from neighborhoods more representative of NYC as a whole – with lower incomes, greater poverty, more people of color – than did Assembly donors.

Multiplying the impact of small donors will boost the representativeness and diversity of New York State’s donor class. In the 2018 New York State elections:

- Small donors lived in neighborhoods that, on average, better reflected the socioeconomic and racial diversity of the state as a whole than the neighborhoods where large donors lived.
- More than 85% of small donations came from in-state.
- Small donors hailed from every county in the state.
- A \$6-to-\$1 matching program would have significantly increased the diversity of donors even in affluent counties. Small donations would have increased from 5% to 19% of all donations in New York and Nassau counties and from 5% to 17% in Westchester.

For sources and methodology, go to:
<https://www.brennancenter.org/analysis/nypf>.

For Immediate Release

December 20, 2018



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The Campaign Finance Institute is now a Division of the National Institute on Money in Politics

Newly Released:

Small-Donor Matching Funds for New York State Elections: A Policy Analysis of the Potential Impact and Cost

There is every reason to believe campaign finance reform will be high on the agenda for the New York State Legislature in 2019. The state’s governor, Andrew Cuomo has proposed small-donor matching fund programs since he took office in 2011, but his proposals have foundered in the Republican-led Senate. After the 2018 election put Democrats in a majority in both chambers, the Assembly and Senate will each have as its leader someone who has been on record as a sponsor of small-donor matching funds. While nothing can ever be certain, the odds clearly have changed.

In light of this situation, the Campaign Finance Institute (CFI) today has released “[Small-Donor Matching Funds in New York State Elections: A Policy Analysis of the Potential Impact and Cost](#).” The [full report](#) is based on a rigorous analysis of how key provisions in the governor’s past bills would have affected each of the candidates who ran in 2014 or 2018. While the legislative details may change in 2019, this is a reasonable starting point for future discussion.

The main proposals would reduce the state’s high campaign contribution limits, eliminate a glaring contribution loophole used by limited liability corporations (LLCs), and introduce a small-donor matching fund system for state elections modeled after the successful one in New York City. The goal would be to combat corruption and the appearance of corruption by making the state’s elected officials less dependent on large donors while heightening the connections between them and their less wealthy constituents.

CFI’s analysis is based on reports that candidates filed with the New York State Board of Elections through November 2018, after the records were processed and standardized by the [National Institute on Money in Politics](#) (NIMP). The analysis will be updated when final 2018 reports are filed at the end of January, and as newly revised legislative bills are filed in 2019.

KEY FINDINGS

- There would be a major shift in the balance of small and large donors.
- Virtually every candidate would do better.
- The cost would be modest – less than one penny per day per New Yorker.
- The qualification rules for public funds need some rethinking.

The Campaign Finance Institute (CFI) is a nonpartisan and rigorously objective research institute founded in 1999. In 2018 CFI became part of the equally nonpartisan and objective National Institute on Money in Politics. Michael J. Malbin was co-founder and remains the director of CFI. He is also a Professor of Political Science at the University at Albany (SUNY). Brendan Glavin is CFI's data and systems manager.

The key findings in the report are these:

- Lowering the contribution limits, closing the LLC loophole, and instituting a system of matching funds, would in fact substantially increase the importance of small donors to candidates across the board while decreasing their dependence on large donors.
- Virtually every candidate in the system, with a few major exceptions, would be better off financially under the proposed system than under the status quo.
- The cost of the proposed system would be modest – less than one penny per day for each New Yorker over the course of four years.
- The one major problem with the proposal as currently drafted is that the requirements to qualify for matching funds are set too high for most candidates. Without an adjustment, many would not benefit as intended. However, a simple adjustment would correct the problem fully.

In 2010, the U.S. Supreme Court in *Citizen United v. FEC* paved the way for mega-donors to underwrite independent spending. In that same year, in a decision that dealt a setback to one feature in some Clean Elections-style systems, the Supreme Court upheld public financing more broadly. Since these cases local governments in Washington DC, Baltimore (Maryland), Montgomery County (Maryland), Howard County (Maryland), Prince George's County (Maryland), Suffolk County (New York), Seattle (Washington), and Denver (Colorado) have taken steps to enact or implement new matching fund or voucher systems. New York City and Los Angeles have upgraded theirs. Washington State narrowly turned back a referendum for vouchers in 2016. South Dakota adopted a voucher referendum in 2016 only to have it reversed by the legislature in 2017.

Despite all of this action, no state has adopted and successfully implemented a public financing system for gubernatorial and legislative elections since Connecticut in 2006. New York's would be the first new system statewide since *Citizens United*. If adopted, it would surely be taken as a signpost by others.

30

PRACTICAL AND OBJECTIVE RESEARCH FOR DEMOCRACY

The Campaign Finance Institute, a division of the National Institute on Money in Politics, is the nation's pre-eminent think tank for objective, non-partisan research on money in politics in U.S. federal and state elections. CFI's original work is published in scholarly journals as well as in forms regularly used by the media and policy making community. Statements made in its reports do not necessarily reflect the views of the National Institute on Money in Politics' Directors or financial supporters.

An Effective Small Donor Public Financing Program for New York State

A well-designed public financing program that matches small donations for candidates who choose to participate will significantly amplify the voices of everyday New Yorkers and enable elected officials to spend more time serving their constituents. To work well, the program must be administered fairly, efficiently, and with candidate-supportive services and procedures. Governor Cuomo’s FY 2020 small donor public financing bill contains many of the elements of a successful program and closely resembles past proposals of the Legislature. A number of improvements should be considered, based on the experience of existing programs and of candidates who have participated in these programs.

Summary of Governor’s FY 2020 Public Financing Bill with Recommendations

Eligible candidates: Senate, Assembly, Governor, Lieutenant Governor, Attorney General, Comptroller.

Qualifying thresholds: To show enough viability to qualify for public matching funds, candidates must meet certain eligibility criteria, including raising a threshold dollar amount and number of small donations. But eligibility criteria should not be so high as to exclude many sitting elected officials, who are obviously viable candidates. **Recommendation:** The thresholds in the Governor’s proposal may be higher than optimal. An analysis by SUNY Albany political scientist Michael Malbin, as well as the thresholds in New York City’s program, provide guidance for setting appropriate thresholds.¹

Office	Threshold in Governor’s Bill
Governor	\$650,000 , including at least 6,500 contributions in sums between \$10 and \$175 per contributor, from NYS residents
Lieutenant Governor; Comptroller; Attorney General	\$200,000 , including at least 2,000 contributions in sums between \$10 and \$175 per contributor, from NYS residents
Senator	\$20,000 , including at least 200 matchable contributions in sums between \$10 and \$175 per contributor, from residents of the district
Assembly	\$10,000 , including at least 100 contributions in sums between \$10 and \$175 per contributor, from residents of the district

Matchable contributions and match ratio: Participating candidates are entitled to \$6 for every \$1 they raise for the first \$175 of an eligible contribution. For example, a donation of \$10 from a constituent is worth \$70 to a participating candidate. A constituent donation of \$175 is worth \$1,225. Matchable contributions are those made in the relevant election cycle by a natural person residing in New York and that meet certain other requirements. Non-matchable contributions include loans, anonymous contributions, and contributions from lobbyists and campaign vendors.

Matching funds caps: The total amount of public matching funds available to a candidate is limited, but there is no limit on total additional fundraising or spending by participating candidates once they have maxed out on public financing.

Office	Public Funds Cap – Primary	Public Funds Cap – General	Total Public Funds Cap
Governor	\$8 million	\$10 million (shared with Lieutenant Governor)	\$18 million (including \$10 million shared with

¹ Michael Malbin and Brendan Glavin, *Small-Donor Matching Funds for New York State Elections: A Policy Analysis of the Potential Impact and Cost*, Campaign Finance Institute, 2018, 10.

			Lieutenant Governor in general election)
Lieutenant Governor	\$4 million	\$10 million (shared with Governor)	\$14 million (including \$10 million shared with Governor in general election)
Attorney General	\$4 million	\$4 million	\$8 million
Comptroller	\$4 million	\$4 million	\$8 million
Senate	\$375,000	\$375,000	\$750,000
Assembly	\$175,000	\$175,000	\$350,000

Contribution limits: Contribution limits are reduced for both participating candidates and nonparticipating candidates. To better solve New York’s big donor dominance problem, limits should be further reduced. And to make public financing a more attractive option for candidates, which is necessary to achieve the civic improvement aims of the program, the difference between limits for participating candidates versus nonparticipating candidates should be reduced.

Recommendation: Reduce most contribution limits further, and reduce the difference between limits for participating candidates versus nonparticipating candidates.

Office	Limits in Governor’s Bill – Participating	Limits in Governor’s Bill – Nonparticipating
Statewide	\$12,000/cycle (\$6,000 primary + \$6,000 general)	\$25,000/cycle (\$10,000 primary + \$15,000 general)
Senate	\$8,000/cycle (\$4,000 primary + \$4,000 general)	\$10,000/cycle (\$5,000 primary + \$5,000 general)
Assembly	\$4,000/cycle (\$2,000 primary + \$2,000 general)	\$6,000/cycle (\$3,000 primary + \$3,000 general)

Cost and sources of funds: The most aggressive cost estimate by Professor Malbin – which assumes that *every* statewide and legislative candidate who ran in 2018 would opt in and that the number of donors who made matchable contributions would increase significantly – is an annual cost of \$37 million in matching funds and \$21 million for administering the program.² The \$58 million total amounts to less than 1/10 of 1% of the state’s \$175 billion budget, or less than \$3/year per New Yorker. Funding sources include a \$40 tax check-off (\$80 for joint filers), the abandoned property fund, contributions from individuals and organizations, transfers from other funds or sources when authorized by law, and backup funding from the general fund.

Administration: Gov. Cuomo’s FY 2020 proposal houses oversight of the small donor public financing program in the State Board of Elections. Though Gov. Cuomo’s FY 2020 proposal contains a number of candidate-supportive improvements over his past proposals, further improvements are recommended based on the experience of successful programs such as Connecticut’s and of candidates who have participated in the New York City program. His proposal directs the SBOE to:

- **Provide candidate-support services.** The Board must develop training materials on compliance and other aspects of the public financing program for candidates, as well as means (including, if feasible, a computer system) to assist with reporting requirements.

Recommendation: Require that a minimum number of additional staff be hired specifically to serve as Candidate Liaisons, to train and assist candidates in

² Malbin and Glavin, *Small-Donor Matching Funds for New York State Elections*, 10.

participating with the public financing program. Candidates should not have to hire specialized compliance staff in order to participate without incident in public financing. (S.7593 (2018) designated at least four additional staff members. Connecticut's State Elections Enforcement Commission (SEEC) employs designated staff members in this role.)

- **Provide candidates legal guidance in advisory opinions.** The Board must issue advisory opinions on questions submitted by candidates, among others, and determine “reasonable times to respond to such requests.”

Recommendation: Set a “no later than” point in time to respond to candidate questions, to ensure that campaigns may proceed without delay.

- **Presume noncompliance was unintentional if a campaign relies on Board's advice.** Any formal or informal advisory opinion issued by the Board, when relied on in good faith, will be presumptive evidence that a campaign did not intentionally fail to comply.

Recommendation: This presumption based on good-faith reliance should extend to the advice of Board staff, not just of the Board proper, as campaigns will interact far more frequently with Board staff. (S.7593 (2018) extended this presumption to Board staff and applies to advice given to participating and nonparticipating candidates alike.)

- **Review disclosure reports.** The Board must review participating candidates' disclosure reports and inform candidates of any questions concerning compliance and eligibility to receive matching funds. The Board must then give candidates “an opportunity to respond to and correct potential violations” and address its questions.

Recommendations: (1) Include a deadline by which the Board must review disclosure reports and alert candidates of any deficiencies, to reduce delay and surprise for campaigns. (2) Include a reasonable period of time for campaigns to respond to Board notices.

- **Provide notice of violations and an opportunity to contest.** When the Board determines that a violation of the law has occurred, candidates must be given written notice and an opportunity to appear before an independent hearing officer to contest the charge. (Connecticut's SEEC must provide candidates the opportunity to respond at a hearing before issuing any penalties or requiring repayment of public funds. S.7593 (2018) provided that a candidate may not be fined without an opportunity to be heard.)

- **Issue penalties.** The bill provides a maximum civil penalty for a violation of the program's requirements, \$15,000. The Board retains the discretion to issue lesser penalties.

Recommendations: (1) Require the Board to publish a list of lesser penalties with examples of common infractions and violations, to provide campaigns with guidance and ensure uniformity of enforcement as to all candidates. (2) For the same reasons, require the Board to publish examples of common mitigating and aggravating circumstances when assessing penalties.

- **Conduct post-election audits.** The Board must audit all participating statewide candidates and up to 50% of participating legislative candidates (selected by weighted lottery) within one year of the relevant election. (Connecticut's SEEC applies the 50% weighted lottery approach to auditing legislative candidates, rather than audit 100% of all candidates like New York City, to reduce burdens to candidates.)

Recommendations: (1) Extend audit requirement to nonparticipating candidates in the same contests as those where participating candidates will be audited. This is important for fairness, to ensure that participating in public financing is not a disadvantage to candidates. (2) Require the Board to provide candidates selected for audit with reasonable advance notice, to enable candidates to prepare. (Connecticut’s SEEC and other public financing jurisdictions audit both participating and nonparticipating candidates. The SEEC must provide candidates with advance notice of any audit.)

Additional Recommendations for Improved Administration

In addition to recommendations for improving specific aspects of Gov. Cuomo’s current proposal, the following improvements would help to achieve the fair, efficient, and candidate-supportive services and procedures important for a successful small donor public financing program.

- **Designate a nonpartisan official as tie breaker for advisory opinions and other significant administrative decisions.** Currently the Governor’s proposal lacks a mechanism for proceeding to issue advisory opinions and make other significant administrative decisions in the event of a deadlock on the bipartisan Board. Yet to succeed the program will need to provide candidates with timely and clear guidance on an ongoing basis. (Connecticut’s five-member SEEC includes one nonpartisan member.)
- **Authorize Board staff to achieve voluntary compliance through informal methods including conversations with campaigns.** This flexibility is useful to ensure efficient administration of the program and avoid unduly burdening candidates with formal compliance procedures. (Connecticut’s SEEC, which is authorized by law to “attempt to secure voluntary compliance, by informal methods of conference, conciliation and persuasion,” has employed this method with great success.)
- **Require confidentiality of preliminary investigations.** To better protect candidates’ rights and reputations, investigative proceedings prior to consideration by the Board should be designated confidential. (S.7593 (2018) contained a similar requirement. In Connecticut, complaints and preliminary investigations are kept confidential.)
- **Authorize enforcement staff to dismiss de minimis violations that do not warrant a formal hearing.** If conducted with appropriate standards and procedures, this flexibility to dismiss minor, technical violations that do not rise to the level requiring formal enforcement will allow efficient administration. (Connecticut’s SEEC has developed a standardized internal process for determining whether a violation is sufficiently serious to be raised in an audit.)
- **Provide dedicated funding for administration and enforcement.** Currently the Governor’s proposal lacks such dedicated funding. Yet effective administration of a widely-used public financing program will require considerable resources. A specific and adequate level of funding should be provided. (S.7593 (2018) dedicated 35% of the appropriation from the general fund for the SBOE to pay for enforcement.)

Legislators and staff: Contact the Brennan Center for Justice for further information at (646) 292-8343

THE NEW YORK STATE ASSEMBLY



January 29, 2019

Hon. Speaker Carl E. Heastie
New York State Assembly
Legislative Office Building, Room 932 Albany, New York 12248

Dear Speaker Heastie:

We are strong supporters of the Fair Elections legislation you had introduced in 2016, and that had been introduced and passed in various iterations by others in the Assembly over the past several decades. As members of the Assembly we believe creating a voluntary system of public funding for all Assembly, Senate, and statewide elections. We also encourage the inclusion of district attorney races. Creating this alternative to the current campaign finance system is critical to increasing participation in the democratic process and restoring our constituents' trust in state government. We thank you for your leadership on this issue.

Governor Cuomo has included a small donor matching system in his Executive Budget proposal. We expect the Senate will also include a small donor matching system in their one-house budget proposal, given the strong historical support the issue has from Majority Leader Stewart-Cousins and her conference. Achieving the long held goal of enacting public funding of elections at the state level is now more possible than ever before.

We are aware of the concerns regarding administering a public campaign finance system held by a number of our colleagues. It is imperative that we create an administrative agency for campaign finance at the state level that is truly fair and supportive of candidate's success within the system. Too many have experienced systems that are overly punitive, to the point of criminalization. But we believe we can create a system that actually supports candidates in successfully using a small donor public financing that enhances democracy, participation and ensures the public's trust. We look forward to working together to make this a central part of finalizing a system in law.

Because of the unique opportunity this year's budget process presents, **we strongly advocate including campaign finance reform measures—including, crucially, a small donor matching funds system, lower outside limits for state-level races and a fair administrative agency—in the Assembly one-house budget proposal.**

As the negotiations proceed, we stand with you to fight for a Fair Elections system to be included in the FY 2019 once and for all.

Thank you,

If Assembly Members would like to join in signing on to this letter, please email Meagan Molina at molina@nilyrozie.org to confirm.

CHAIRMAN, MAJORITY MEMBER

ELECTIONS

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COMMUNITY DEVELOPMENT

JUDICIARY

SOCIAL SERVICES

NEW YORK
STATE
SENATE



SENATOR ZELNOR Y. MYRIE
20TH SENATE DISTRICT

ALBANY OFFICE:
ROOM 903
LEGISLATIVE OFFICE BUILDING
ALBANY, NEW YORK 12247
(518) 455-2410
FAX: (518) 426-6856

EMAIL ADDRESS:
MYRIE@NYSENATE.GOV

TO: Senate Colleagues
FROM: Zellnor Myrie
DATE: February 8, 2019
SUBJECT: FY 2019 Budget Sign-on Letter – Fair Elections

Dear Colleagues:

I am circulating the attached letter to Senate members of the Democratic Conference asking for your support for the Senate's 2019-20 one-house budget proposal to include language that would enact a fair elections system similar to the "Fair Elections Act" introduced in 2016.

This would entail creating a voluntary system of public funding for all Assembly, Senate, and statewide elections and lowering outside limits for state-level races. We would also strongly encourage the inclusion of district attorney races in the public funding system.

In the 2018 elections, only 100 people donated more to state candidates in the 2018 elections than all 137,000 estimated small individual donors (\$175 or less) combined. Today, we have the opportunity to adopt alternatives to our campaign finance system to address this disparity, and increase participation in the democratic process for candidates and voters who would feel empowered to be a part of the electoral process.

I would very much like to have the support of my colleagues. If you would like to join me in signing on to this letter, please email Moriah Pickard at pickard@nysenate.gov to confirm by February 15th. If you have any questions, please contact Chaka Laguerre at chaka.senate@gmail.com or ext. 2410.

Thank you,

A handwritten signature in black ink, appearing to read "Zellnor Myrie", written over a light blue circular stamp.

Zellnor Myrie

CHAIRMAN, MAJORITY MEMBER
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EMAIL ADDRESS:
MYRIE@NYSENATE.GOV

February 8, 2019

The Honorable Andrea Stewart-Cousins
Temporary President and Majority Leader
New York State Senate
Room 907 LOB
Albany, New York 12247

Dear Majority Leader Stewart-Cousins:

We, the undersigned, write today to respectfully urge you to include a Fair Elections proposal — comprehensive campaign finance reform with a small-donor matching system — in the Senate Majority one-house budget in early March, and to negotiate for a strong program to be included in the final state budget. We hope to see the inclusion of a robust, fair, and impartial candidate-support unit within the enforcement agency to help candidates understand and comply with the law. We voice our strong support for Fair Elections.

Our current campaign finance system allows a class of super-wealthy donors unfair and undeserved sway over public policy in New York State, at the expense of every day New Yorkers. In the 2018 elections, only 100 people donated more to state candidates than all 137,000 estimated small individual donors (\$175 or less) combined.

We need a quick, dramatic shift in our system of campaign finance, away from the large, privately financed system we have today to one that truly empowers and amplifies the voices of women, people of color, working and middle class families, and all under-represented New Yorkers in the political process.

Senate Democrats have always strongly supported a voluntary system of public funding for all Senate, Assembly, and statewide elections. Creating this alternative to the current campaign finance system is critical not only to increasing participation in the democratic process but to also for restoring our constituents' trust in state government. This trust has been deteriorating for decades, by a former Senate who took millions in campaign cash from big real estate, Wall

Street, hedge funds, insurers, and fossil fuel giants. Our constituents are rightly wary of whether or not Albany can change.

We also encourage the inclusion of District Attorney races as a part of any small donor matching funds system. District Attorneys play a critical role in the lives of so many of our constituents, and their role is vital in meeting our overall goal as a conference for a more fair and just criminal legal system. District Attorney candidates around the state should have the same option to participate in a small-dollar, people-focused campaign finance system.

Governor Cuomo has included a small donor matching system in his Executive Budget proposal. We expect the Assembly will also include a small donor matching system in its one-house budget proposal, given the strong historical support Fair Elections has received from the majority in that house. (As you know, Fair Elections legislation has been introduced previously by Speaker Heastie, and introduced and passed in various iterations in the Assembly over the past several decades.)

We strongly advocate including campaign finance reform measures—including, crucially, a small donor matching funds system and lower outside limits for state-level races—in the Senate one-house budget proposal. It is important to consider the inclusion of District Attorneys, as well as measures that ensure a fair administration of the program, with a focus on candidate support. We should not allow a budget to be enacted without Fair Elections.

We thank you for your long-term leadership on this critical issue. We stand ready to push with you to ensure that this status-quo-busting democracy reform is in the final budget on April 1.

Sincerely,

A handwritten signature in black ink, appearing to read 'Zellnor Myrie', with a large, sweeping flourish at the end.

Zellnor Myrie,
20th Senate District

CC: Senator Krueger, Chair, Finance Committee