

**Testimony of Nicole A. Gordon
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New York City Campaign Finance Board**

**City Council Committee on Governmental Operations
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Good afternoon, Chairman Perkins and members of the Committee. I am Nicole A. Gordon, Executive Director of the New York City Campaign Finance Board. With me are Deputy Executive Director Carole Campolo, General Counsel Sue Ellen Dodell, and Amy Loprest, Director of Campaign Finance Administration. I am here today to testify on Intros. Nos. 382, 291, and 447, all of which would amend the Campaign Finance Act.

Our Chairman, Fritz Schwarz, asked that I convey to you his apologies for not being here today. As interim president of the Brennan Center, he is chairing a long-scheduled meeting of the Center's Board today.

It is my understanding that the Council does not intend to pass any changes in the Campaign Finance Act for the 2003 elections. I want to emphasize that the Board agrees, because this would be unfair to candidates who have already had to make their decision about whether to opt in to the Program for 2003.

Intro. 382, as you know, contains recommendations the Board made in its 2001 post-election report, *An Election Interrupted...An Election Transformed*. The recommendations were made after receiving feedback from candidates through the Board's post-election surveys and hearings and on the basis of a detailed statistical analysis of data from the last election cycle. They are aimed at further strengthening a Program that is already well established as a model of campaign finance reform. In order to maintain the effectiveness of the New York City Program, the Council wisely provided in 1988 that the Board should review the operation of the Program and make recommendations after each election. The Council has the ultimate responsibility to study those recommendations and continue to strengthen the Program through legislative change. This body has shown its

commitment to good government reform even when that reform might not be in an individual elected official's self interest. For example, the Council has reduced contribution limits, restricted the source of contributions, and increased disclosure requirements. The Board urges the Council again to consider proposals that will improve the Program.

“Limited” Participants: In addition to the bills before you, the Campaign Finance Board is now proposing a new category of “limited participant” in the Program. Under this new category, self-funded candidates would be able to continue to finance their own campaigns, but would be bound by the Program's expenditure limits, debate and disclosure requirements, and audit by the Board. This arrangement would permit the self-funded candidate, who is not beholden to large contributors, to have his or her campaign expenditures legally limited, thus maintaining an even playing field for other candidates. No other jurisdiction has attempted to address the issue of self-funded candidates in this way. Of course, self-funded candidates may choose not to become “limited” participants in the Campaign Finance Program. For that reason, the Board continues to support changes in the law that will give participants greater protection against high spending non-participants, such as increasing the bonus matching formula to \$6-to-\$1 when extremely high spending by non-participants would trigger an additional bonus.

Debate law: This Committee last considered the Board's proposed changes to the Debate Law earlier this year. Unfortunately, the language on debates was removed before the bill was voted on by the Council, and the Board hopes that this important recommendation will be reconsidered. By allowing sponsors to set standards for debate participants, the Council will help to improve the overall quality and value of the Debate Program. These recommendations were first made following the 1997 election cycle, and the experience of 2001 only underscored the need for these changes as a way to assure that the Debate Program remains effective. The Board is prepared, given objections by the Law Department, to delete the provision in the proposal before you that would require the City to indemnify sponsors and instead simply remove the existing requirement that sponsors indemnify the City.

Matching Rate/Expenditure Limits/Total Public Matching Funds: Included in Intro. 382 is a Board recommendation for a two-tiered bonus system for candidates who face a high-spending non-participant. As you know, the “bonus” is triggered when a non-participant raises or spends half the spending limit. The bonus has three parts: an increased matching rate (of \$5-to-\$1 in place of the usual \$4-to-\$1), an increase in the total amount of public funds a candidate can receive, and lifting of the expenditure limits. The Board proposes that in the case of non-participants who spend an extremely high amount, the bonus match would increase to \$6-to-\$1 and the total in public funds that can be received would also be increased to a higher amount. (A table showing the proposed changes for different offices is attached.)

The Board concluded in its post-election report that the expenditure limits for City Council and the amounts in public funds going to these races was driving up the cost of campaigns more than is reasonably necessary. As a result, the Board has recommended lowering (to \$292,000) expenditure limits for City Council (which in 2005 will be \$343,000 for the primary and general elections combined), lowering (to \$140,000) the total amount in public funds for City Council races (which will be \$165,000 for the primary and general elections combined in 2005), and lowering the matching rate to \$3-to-\$1. It is important to note, however, that the Board did not recommend a reduction in the matching rate by itself and certainly, as stated above, the rate should not in fairness be changed now, after candidates have opted in to the Program based upon the existing rate. To reduce the matching rate without also reducing the expenditure limit and the total amount in public funds would disproportionately hurt non-incumbents and candidates from less affluent neighborhoods. The Board also recommends simplifying expenditure limits for all offices. The Board’s recommendations are based on a detailed study of the record and are designed to preserve a level playing field. The Board cannot support the recommendation made in Intro. 291 seeking to reduce the matching rate from \$4-to-\$1 to \$2-to-\$1 which, the Board believes, would seriously impair a challenger’s ability to mount a competitive campaign, as well as the ability of candidates with less access to monied resources to compete effectively.

Lowering contribution limits: In the past, the Board has recommended reductions in the contribution limits. The objective has been to reduce the risk that large contributors could

exercise undue influence without at the same time unduly impairing participants' ability to raise funds to wage competitive campaigns. The Board repeats its 1998 recommendation to lower the contribution limits for City Council candidates to \$2,000. In 2001, 99% of all contributions to Council candidates did not exceed \$2,000, but the 1% that exceeded \$2,000 accounted for nearly 13% of all contribution dollars. Almost half of all City Council candidates received no contributions this large. In 2001, the contribution limit for citywide candidates was \$4,500. Contributions over \$4,000 accounted for 24.5% of the citywide candidates' total fund-raising, although such contributions represented only 4% of the total number of contributions for these candidates. Our analysis shows that high-end contributions continue to play a disproportionate role in the totality of funds available to citywide candidates. This is, to a significant degree, offset by the \$4-to-\$1 matching rate for small contributions, but as long as the contribution limit is higher than the matchable amount, there will be incentive to seek the bigger contributions. Further, if no change is made, the current inflation-adjusted contribution limit for citywide candidates of \$4950 will be 24% higher than the combined primary and general election contribution limit for presidential candidates. The Board believes these high contribution limits are entirely inappropriate and should be changed for the 2005 elections. The Board recommends a contribution limit of \$4,000 for citywide candidates, \$3,000 for borough-wide candidates, and \$2,000 for City Council candidates. The Board would strongly oppose the recommendation made in Intro. 447, seeking to increase contribution limits. This would increase the influence of wealthy contributors, disadvantage candidates and contributors from less wealthy districts, and would be a step backward for the Campaign Finance Program and a reversal by the Council, which wisely reduced contribution limits in 1998. Indeed, it is clear to the Board that the Program limits even now are extraordinarily high for local office.

Restriction on all organizational contributions: The ban on corporate contributions approved by New York City voters in 1998 directly addressed the dangers of corruption, erosion of confidence in the democratic process, and the unfair advantage in the political marketplace created by corporate contributions. The Board believes that the same rationale applies to other organizational contributions, including unions, partnerships, limited liability companies, and all political committees. Banning all organizational contributions would also

significantly simplify reporting and compliance for candidates in the Program. Some candidates had difficulty distinguishing between contributions from corporations and other organizations, or failed to understand the political committee registration process, often resulting in a temporary suspension in public funds payments, and/or penalties.

Use of government resources: In 1998, the City Council passed an amendment to the Charter prohibiting certain uses of government funds and resources by city employees or officers for political purposes. The Board recommends the current law be strengthened by lengthening the prohibition on the use of government resources for mass mailings before an election from 30 to 90 days, but without impinging on an elected official's need to respond to constituents who have been in contact with his or her office. The Board also urges banning altogether the use of government resources for distributing gifts to promote an officeholder's candidacy. The Board further recommends that the Conflicts of Interest Board be granted explicit authority to investigate and determine whether violations of this section have occurred, and, if a violation has been detected by the Conflicts of Interest Board, that the Campaign Finance Board be given the authority to investigate and determine whether a prohibited use of government resources also violates the Campaign Finance Act.

Another issue that the Board will continue to study is how to strengthen the Council's new approach to the disbursement of matching funds under the Campaign Finance Program to Program participants faced by nominal opposition.

The Board is hopeful that the Council will consider Intro. No. 382 sooner rather than later so that any changes can be in place as early as possible for the 2005 election cycle.

Thank you, and I would be pleased to answer any questions you may have.