



New York City Campaign Finance Board
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**Testimony of Amy Loprest
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**City Council Committee on Governmental Operations
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Good morning Chair Kallos, and members of the Governmental Operations Committee.

I am Amy Loprest, Executive Director of the New York City Campaign Finance Board. With me today are Eric Friedman, Assistant Executive Director for Public Affairs, and Sue Ellen Dodell, General Counsel.

I want to thank the Chair for his leadership on these issues, the members of the committee, and the members who have sponsored the legislation we'll be discussing today.

I would also like to thank the staff with the Council and the CFB who have collaborated on these bills that will strengthen the foundation of New York City's Campaign Finance Program for future elections.

If you're following the campaign for President, you've heard a sustained and substantive discussion about the role of money in national politics.

While several of the candidates have spent considerable time decrying the role that money plays in the political process, it is instructive to note that none of those candidates have chosen to use the existing public financing program for presidential elections.

The last candidate to win a major party nomination while participating in the presidential public financing program for the primaries was Al Gore, in 2000; the last general election candidate to win the presidency using the system was George W. Bush in 2004.

Candidates abandoned the system because it can no longer support a modern campaign for president. Congress created the program in 1974—and has left the framework untouched during the four decades since.

It is fair to say that the business of political campaigning has changed considerably since the 1970's. While campaigns have evolved to embrace cable TV, the Internet, and modern targeting tools—and candidates started campaigning earlier and earlier—the presidential public financing system has remained stuck in the disco era.

In contrast, New York City's program, created nearly 30 years ago, has remained a vital component of the city's political system.

We are required by our governing statute after each citywide election to review the impact of the matching funds program upon the conduct of election campaigns in the city, and to recommend changes to the law. Our post-election report for the 2013 elections, published in September 2014, put forward the proposals we will discuss today.

City lawmakers have regularly refreshed and updated the program, ensuring it stays relevant as City campaigns and elections evolve.

This Council acted decisively to strengthen disclosure of the funding sources for independent expenditures after outside spending flooded the 2013 city elections. At the same time, the Council took action to ban anonymous communications, so that voters can identify the sources of the messages they receive. The CFB supported these proposals.

As a result of the Council's ongoing commitment to help the CFB improve the Act, participation in the public financing system has remained high over the years. More than 90 percent of candidates on the ballot in the 2013 primary elections chose to join the Program.

The matching funds program provides every candidate with the opportunity to access sufficient resources to get their message before the voters. It ensures that access to wealth is no guarantee of electoral success.

Matching funds help participating candidates create a broad base of support. Research shows clearly that individuals from every neighborhood in every borough are investing their small contributions in city campaigns. This foundation helps ensure that the city's diverse voices have an opportunity to be heard here in City Hall.

We appreciate the opportunity to partner with the Council to help ensure the Program continues to best serve the public and the candidates who choose to participate.

It is important to note that there is much we are doing on our own to ensure the Program is prepared to meet the challenges that future elections will bring. We are implementing several projects that will further simplify compliance with the Program's requirements, while maintaining our commitment to the rigorous oversight the public has come to expect.

- Last month, we released NYC Votes Contribute, a first-of-its kind online contribution platform available to all city candidates. NYC Votes Contribute collects all the necessary data from contributors, connects directly to the CFB's disclosure software, automatically generates all the documentation and recordkeeping required by our rules, and transmits it all directly to the CFB. To use the platform, campaigns can embed the contribution tool on their own website, or direct contributors to their candidate's page at www.nycvotes.org.

There are already 27 active campaigns using NYC Votes Contribute, and through today they have raised more than \$10,000 through the platform. Development will continue through the year in response to user feedback.

- Between now and the 2017 election, we have plans to strengthen and improve all the systems that connect our work to candidates and to the public. This includes our disclosure software, C-SMART, which will have an improved and streamlined user interface, and an expanded capacity to receive and organize backup documentation electronically.
- We have begun offering a broader range of candidate trainings in new formats, including online webinars and new voluntary one-on-one candidate consultations for campaigns that have submitted at least one disclosure statement.
- We are continuing to work through our enforcement process for candidates in the 2013 election. We are meeting the deadlines in the Campaign Finance Act to complete our audit work, and match the pace we set for the 2009 audits. Our thorough audit reviews show that the majority of candidates are successfully navigating our system in substantial compliance with the Act and Rules; 60 percent of the audits that have gone before the Board to date have contained no penalties, and more than 70 percent of all candidates finish with penalties under \$1,000.

Beyond these projects, we've identified several changes that require legislative action. The bills before the committee today will help modernize the Program. They will remove outdated or unnecessary requirements the law imposes on campaigns, help candidates better plan their campaigns, and importantly, they will strengthen the law's protections against the influence of pay-to-play. We urge the committee and the Council to approve them.

Int. No. 986, A Local Law to amend the administrative code of the city of New York, in relation to early public funds payments in local elections

First, Int. No. 986 will allow the Board to make payment determinations for candidates earlier in the election year, which will help provide participating candidates with greater certainty about their public funds payments well before they enter the crucial final weeks of the election season.

Under the Act, candidates must be on the ballot to qualify for public matching funds. This requirement prohibits payments to participating candidates until the petitioning process ends and the ballots are set. As a result, candidates who qualify for the first payment may receive funds no earlier than five weeks before the primary.

The timing of payment determinations can make planning difficult for some campaigns. Candidates who fail to qualify for public funds at the earliest date have limited time during the busiest weeks of the election cycle to resolve the issues preventing their payment. An earlier payment date would provide campaigns with the incentive to qualify earlier, and provide opportunities to fix compliance issues in a timely way.

The bill would allow payments as early as four business days after the June 10 certification deadline for candidates who meet threshold by the May 15 disclosure statement.

To protect against the possibility of large payments to candidates who subsequently fail to make the ballot, these early payments are capped: \$250,000 for mayoral candidates; \$125,000 for public advocate and comptroller candidates; \$50,000 for borough president candidates, and \$10,000 for Council candidates. For comparison, a mayoral candidate who has met the threshold (\$250,000 in matching-eligible contributions) qualifies for a total payment, at minimum, of \$1.5 million. Council candidates who meet the minimum threshold (\$5,000 in matching claims) qualify for a payment of at least \$30,000.

Initial research suggests that the danger of paying candidates who meet threshold but fail to earn a place on the ballot is small. In 2013, there was no candidate running in the primary election who had disclosed contributions sufficient to meet the threshold through May 15 and subsequently failed to make the ballot. Int. No. 986 also requires that candidates who receive an early payment but fail to campaign for office must return the public funds they receive.

Because we are now in the middle of the third year of the four-year election cycle, we urge the Council to amend the bill so that it takes effect only for elections after 2017.

Int. No. 985, A Local Law to amend the administrative code of the city of New York, in relation to eliminating public matching funds for contributions bundled by people doing business with the city

Contributions from people who are doing business with city government are strictly limited. Lobbyists, contractors, grantees, and other business-doers may give no more than \$400 to a mayoral candidate, \$320 to a borough president candidate, or \$250 to a City Council candidate.

Yet the law allows those same individuals to bundle unlimited amounts to the same candidates, a loophole that undermines the intent of the law to prevent or limit the appearance of “pay-to-play” corruption. Lobbyists, developers, contractors and others who must observe the strict “doing business” limits can bundle contributions for many times what those limits allow them to give directly. And they do: of the ten top-dollar intermediaries from the 2013 election cycle, six were listed in the Doing Business Database.

Those contributions should not be matched with public funds.

Int. No. 985 will make these contributions non-matchable, which will limit their impact and decrease the potential for quid pro quo corruption that may be associated with potential city contractors or lobbyists who bundle contributions for candidates.

An analysis of campaign disclosures from the 2013 elections shows that bundlers are significantly more likely to be doing business with the city than contributors overall. Individuals in the Doing Business Database account for 19 percent of all intermediaries, but just 2 percent of all contributors.

In the 2013 election cycle, more than \$203,000 in contributions were bundled by someone in the Doing Business Database and claimed for matching funds. If Int. No. 985 had been in place, an estimated \$1.2 million in public matching funds would not have been disbursed to campaigns.

In the 2017 election cycle to date, more than \$29,000 in matching claims reported by campaigns have been bundled by someone doing business with city government. The potential impact on matching funds payments to date in the 2017 elections is more than \$176,000.

The disparity in the totals suggests that passing Int. No. 985 now should have a significant impact on fundraising for the 2017 elections, as most of the bundling activity we expect to see in 2017 is yet to occur. New York City's law has some of the strongest and broadest restrictions on "pay-to-play" at any level of government; this legislation is an important measure that will strengthen those limits even further.

Int. No. 990, A Local Law to amend the administrative code of the city of New York, in relation to prohibiting contributions from non-registered political committees to candidates who are not participating in the city's public matching program

Candidates who opt out of the matching funds program must observe the same contribution limits as participants; they must also observe the ban on corporate contributions. These requirements for nonparticipants were upheld in 2013 in *McDonald v. New York City Campaign Finance Board*.

The Act allows participating candidates to accept contributions from political committees only if they have registered with the Board. In registering, political committees affirm they will not use money from prohibited sources (like corporations, limited liability companies, or partnerships) to make contributions to candidates. Int. No. 990 will ensure participants and non-participants alike will observe this requirement.

Int. No. 1002, A Local Law to amend the administrative code of the city of New York, in relation to requiring the conflicts of interest board to maintain records of compliance with the conflicts of interest law for participants in the city's public matching program

Candidates for public office in New York City are required to file personal financial disclosures with the Conflicts of Interest Board (COIB). To be eligible to receive public funds, the Act directs participating candidates to provide a paper receipt to the CFB indicating the disclosure has been filed with the COIB.

The disclosure requirement should and will continue as a condition for public funds eligibility. However, Int. No. 1002 will eliminate the paperwork burden of notifying the CFB from the candidates.

Int. No. 988, A Local Law to amend the New York city charter, in relation to allowing for flexibility with respect to the voter guide

The CFB prepares and prints a Voter Guide for all regularly-scheduled elections in which there are contested races for mayor, public advocate, comptroller, borough president, or City Council, and in years that local referenda are on the ballot. The Charter requires the CFB to print and distribute a Guide to each household with a registered voter before each primary and general election.

New Yorkers expect resources for election information that provide the same interactivity and convenience they have in their everyday lives. More and more, they are relying on their laptops, smartphones, and tablets to access information to help them make their choices on Election Day. The CFB's online Guide has become a vital resource for many of those voters.

To the extent feasible, Int. No. 988 will allow New Yorkers who prefer to access the Guide electronically to opt out of receiving the Guide in the mail. The bill offers the potential to reduce our reliance on paper, and decrease the most significant costs of the Voter Guide—printing and postage.

Int. No. 987, A Local Law to amend the administrative code of the city of New York, in relation to increasing the minimum amount of money raised to participate in the first official campaign finance board debate for local offices

Courts have consistently upheld the constitutionality of limiting participation in debates to candidates who meet objective, nonpartisan, and non-discriminatory standards.

Pursuant to Local Law 58 of 2004, the Act contains basic, minimum criteria for participation: candidates must raise and spend more than one-fifth of the threshold for public funding, demonstrating that they have achieved a minimal level of public support.

The thresholds for debate participation have not changed—even as spending limits have increased more than 20 percent over the same period of time. An increased standard, tied to the expenditure limit, is a better objective indicator of viability. The Board proposes that candidates should be required to raise and spend 2.5 percent of the expenditure limit for the office they seek.

Other clarifications to the debate law would help provide certainty for candidates and the public. For instance, the law should be clear that outstanding liabilities and loans do not count towards debate eligibility. The requirements should be uniform for participants and non-participating candidates.

Anyone who has paid attention to the ongoing presidential race has experienced the challenge of producing debates that are both informative and engaging. Int. No. 987 will provide CFB the ability to help debate sponsors produce compelling debates that best serve the needs of New York City voters.

Int. No. 1001, A Local Law to amend the administrative code of the city of New York, in relation to requiring disclosure of entities that own entities that do business with the city

As noted above, individuals with an ownership interest in entities doing business with city government are covered by the doing business limits.

It is not uncommon, however, for business entities to be owned by other business entities—especially in real estate. In these cases, neither these entities nor the individuals who control them are listed in the Doing Business database. These shell companies can obscure the identity of the firm’s ultimate owner and decision-maker.

As a result, the individual who controls the firm doing business with the city may be shielded from coverage by the lower, more restrictive contribution limits in the Act. Int. No. 1001 will require that doing business entities report not only the names of their own officers and owners, but also those of any entity with a significant ownership interest.

Int. No. 980, A Local Law to amend the administrative code of the city of New York, in relation to realigning contribution limits to transition and inauguration entities with contribution limits to campaigns

Legislation passed before the 2001 election allowing candidates to create transition and inauguration entities (TIEs) set the contribution limits for those entities identical to those for campaigns. Pursuant to the Act, campaign contribution limits were increased by ten percent in 2002 to reflect changes in the Consumer Price Index, but TIE contribution limits were not changed.

Amendments to the Act over the years have harmonized other campaign and TIE regulations—for instance, by prohibiting TIEs from accepting contributions from corporations and other business entities. By equalizing the contribution limits for campaigns and TIEs, Int. No. 980 will reduce confusion among both contributors and elected officials.

Generally, we have proposed some technical changes to the bills to Council staff. Most important among these are effective dates that allow CFB the time necessary to implement these changes. We look forward to working with the Council further to address those technical issues as these bills move forward.

Finally, we want to thank the committee for the two resolutions you are considering today. These are especially timely. Tomorrow, NYC Votes will lead more than 200 volunteers to Albany as part of a coalition of community organizations and civic groups to push for legislation that will bring New York’s elections into the 21st century. Our Vote Better NY campaign is seeking to convince legislators to pass meaningful election reform this session. We thank the Council for your support and advocacy on these issues, and invite you to join the effort on social media or in person.

Year after year, New York ranks among the least-engaged, lowest-turnout states in the nation. Earlier this month, we saw many of the reasons why. New Yorkers deserve better.

First and foremost, our pen-and-paper voter registration system is outdated and error-prone. We join the call you've raised today to urge legislators in Albany to start to solve this problem by passing the Voter Empowerment Act.

The VEA will establish universally-accessible online voter registration. It will provide for automatic registration through a broad range of state agencies. It will automatically update a voter's registration when he or she moves within the state, and provide for pre-registration for 17- and 18-year olds. It will allow more voters to participate in New York's closed-tight primaries, by allowing voters to affiliate with a party up until ten days before an election.

The VEA is a core component of the Vote Better NY agenda, along with early voting and better ballot design. New Yorkers should have more than one day to vote, and they deserve to have ballots that make it easy to express their preference.

No-excuse absentee voting is another reform that would grant voters greater flexibility, and encourage more New Yorkers to incorporate voting into their busy schedules.

More information on these and other reforms—as well as the full range of voter engagement activities we've conducted through our NYC Votes campaign—are included in our annual Voter Assistance Report, which was delivered to the Council last week.

Thank you for the opportunity to testify here today on this legislation. I am happy to answer any questions you may have.