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Concerning Local Government**

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The Brennan Center for Justice at New York University School of Law welcomes the opportunity to testify in support of funding for the implementation of New York's small donor public financing program and other critical voting and election reforms in the FY 2022-2023 state budget. For more than twenty-five years, the Brennan Center's nonpartisan expertise has informed policies that protect and expand democracy at the state, local, and federal levels.

The Brennan Center commends this Legislature for its commitment to broadening democratic participation in our state and championing transformative campaign finance and voting policies, including small donor public financing and automatic voter registration (AVR). The State Board of Elections (SBOE) is preparing to implement these reforms in the coming fiscal year. This November, candidates running in the 2024 legislative elections can begin opting into the state's new small donor public financing system, the nation's most powerful response yet to *Citizens United*. AVR will go into effect shortly thereafter in January 2023. We urge the Legislature to continue supporting the implementation of these reforms and strengthening democracy in our state by advancing other pro-voter measures.

I. Ensuring All New Yorkers Have a Meaningful Voice in their Elections and Government

For too long, too many working New Yorkers have been excluded at the ballot box and in campaign fundraising. Automatic voter registration and small donor public financing together expand access to the vote and to the political process that occurs between elections. These laws combat restrictive practices that limit who is empowered to be a voter and a donor.² With

¹ The Brennan Center is a non-partisan public policy and law institute that focuses on the fundamental issues of democracy and justice and for more than 25 years has studied, litigated, and drafted legislative solutions regarding money in politics, voting, and election administration. The opinions expressed in this testimony are only those of the Brennan Center and do not necessarily reflect the opinions of the NYU School of Law.

² Brennan Center for Justice, "Guide: New York State's New Small Donor Public Financing Program," December 18, 2020, <https://www.brennancenter.org/our-work/research-reports/guide-new-york-states-small-donor-public->

adequate resources for successful implementation, these reforms together will dramatically expand access to and participation in New York's elections and government, bringing our state closer to achieving an inclusive, multiracial democracy.

Beyond these two policies, there is still much more that this Legislature should do to give all New Yorkers a more meaningful voice in the political process. This body must adopt the John R. Lewis Voting Rights Act of New York. Among other provisions, the bill would establish a preclearance program, improve language assistance, create protections against voter intimidation, and increase transparency in election administration.³ If enacted, it would be the strongest voting rights law in the country.⁴ Its passage is all the more urgent for New Yorkers after Congress failed to enact similar federal protections last month. In addition, this body again must pass – and voters need an opportunity to reconsider – constitutional amendments on same-day voter registration and no-excuse absentee voting, time-tested reforms with majority support from New Yorkers.⁵

To fully deliver on these reforms, this Legislature must also improve election administration at the state and local levels. New York consistently ranks among the worst of the fifty states in elections performance, a direct outgrowth of flaws in administration.⁶ Passing comprehensive legislation to correct these structural flaws at the state and local boards of elections (BOEs) would reinforce this Legislature's efforts to protect and expand access to elections and government for all New Yorkers.⁷

With malicious, racist attacks on the democratic process continuing to rise, the need for New York to keep leading on reform is urgent. Last year, state legislatures across the country introduced more than four hundred bills designed to restrict access to the ballot, especially impacting Black and brown voters.⁸ Our state is not immune to these types of anti-democratic impulses. Last fall, New York witnessed well-funded efforts to sow doubt in elections and their

[financing-system](#); Brigid Berlin, "NY's Automatic Voter Registration Law Hailed As 'Profound Reform' To Elections," *Gothamist*, December 22, 2020, <https://gothamist.com/news/nys-automatic-voter-registration-law-hailed-profound-reform-elections>.

³ New York State Senate Bill S. 1046A, John R. Lewis Voting Rights Act of New York (NYVRA), 2021–22 legislative session, January 6, 2021, <https://www.nysenate.gov/legislation/bills/2021/S1046>.

⁴ New York Civil Liberties Union, "New York Needs a Comprehensive State Voting Rights Act," April 2021, https://www.nyclu.org/sites/default/files/field_documents/2021-nyclu-onepager-vra.pdf.

⁵ Siena College Research Institute, "Only One-Third of Voters Say Cuomo Should Run for Re-election," July 1, 2021, <https://scri.siena.edu/2021/07/01/only-one-third-of-voters-say-cuomo-should-run-for-re-election/>. See generally National Conference of State Legislatures, "Same Day Voter Registration," last updated September 20, 2021, <https://www.ncsl.org/research/elections-and-campaigns/same-day-registration.aspx>; National Conference of State Legislatures, "Table 1: States with No-Excuse Absentee Voting," last updated January 3, 2022, <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-1-states-with-no-excuse-absentee-voting.aspx>.

⁶ MIT Election Data & Science Lab, "Elections Performance Index," accessed February 3, 2022, <https://elections.mit.edu/#/data/map>.

⁷ Joanna Zdanys, Hazel Millard, Chisun Lee, Derek Tisler, and Martha Kinsella, *How to Fix the New York City Board of Elections*, Brennan Center for Justice, September 9, 2021, <https://www.brennancenter.org/our-work/policy-solutions/how-fix-new-york-city-board-elections>; Derek Tisler, Hazel Millard, Brianna Cea, and Mariana Paez, *How to Fix Election Administration in New York State*, Brennan Center for Justice, December 15, 2021, <https://www.brennancenter.org/our-work/policy-solutions/how-fix-election-administration-new-york-state>.

⁸ Brennan Center for Justice, "Voting Laws Roundup: December 2021," last updated January 12, 2022, <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-december-2021>.

administration to defeat pro-voter reforms on the ballot.⁹ And vote suppressors in Congress repeatedly have used our state’s poor track record to justify blocking the Freedom to Vote Act, the most significant federal civil rights bill in the last fifty years.¹⁰ It has never been more important for New York to push back against this anti-democratic wave and prioritize bold reform.

II. Adequately Funding the Public Campaign Finance Fund

We applaud Governor Hochul for including \$10.53 million in the executive budget for the Public Campaign Finance Board (PCFB), the entity within the SBOE responsible for implementing and enforcing the new small donor public financing law.¹¹ These funds will cover the administrative costs of implementing the program ahead of its launch this fall, including hiring additional staff and acquiring new office space. The new staff’s responsibilities will include designing program technology, developing accessible educational resources for candidates, and creating a searchable database for the public – all of which will help ensure the system is cost effective, as well as efficient and easy for candidates and constituents to use.¹²

We urge the Legislature to include more funding in the budget for the Public Campaign Finance Fund, which will be used to match small donations from everyday New Yorkers to the candidates who qualify to participate in the program’s first cycle. The executive budget currently provides \$10 million from the abandoned property fund for this purpose.¹³ This sum, while a good start, does not go far enough to begin to meet the projected costs of the program’s first disbursements in 2024.¹⁴ The Legislature should increase this appropriation to \$40 million, approximately half of the projected total of matching funds to be disbursed in the 2024 legislative cycle.¹⁵ Providing this funding now will build candidate and voter confidence in the program’s solvency and provide assurance to campaigns that they can plan their fundraising strategies around collecting small contributions from constituents, rather than courting large donors.

⁹ Ryan Whalen, “NY GOP, Conservative Party Chairs Urge ‘No’ Vote on Ballot Props,” *Spectrum Buffalo*, October 21, 2021, <https://spectrumlocalnews.com/nys/buffalo/politics/2021/10/21/ny-gop-and-conservative-chairs-urge-no-vote-on-ballot-props>; Dana Rubinstein, “Why New Yorkers Rejected Ballot Proposals on Voting and Redistricting,” *New York Times*, November 3, 2021, <https://www.nytimes.com/2021/11/03/nyregion/ny-ballot-measures.html>.

¹⁰ Sen. Dan Sullivan (@SenDanSullivan), Twitter, January 11, 2022, 4:00 p.m., <https://twitter.com/sendansullivan/status/1481008139524886531?s=21> (“Chuck Schumer & Joe Biden argue ‘Jim Crow 2.0’ schemes in red states warrant nuking the legislative filibuster. If that were true, then why don’t their states—New York and Delaware—measure up to a Republican-led state, like Alaska, on critical voting rights issues?”).

¹¹ FY 2023 Executive Budget Bill, S. 8000, 139 (N.Y. 2022), <https://www.budget.ny.gov/pubs/archive/fy23/ex/approps/stateopsbudget.pdf>.

¹² See generally 2020 N.Y. Sess. Laws Ch. 58 (S. 7508-B/A. 9508-B), Part ZZZ.

¹³ FY 2023 Executive Budget Bill, S. 8003, 267 (N.Y. 2022), <https://www.budget.ny.gov/pubs/archive/fy23/ex/approps/local.pdf>.

¹⁴ Michael J. Malbin and Brendan Glavin, *Small Donor Public Finance in New York State: Major Innovations – With a Catch*, The Campaign Finance Institute, January 2020, 28-30, http://cfinst.org/pdf/state/ny/Small-Donor-Public-Finance-in-NY_Jan2020.pdf.

¹⁵ We recommend allocating \$40 million in the FY 2022-2023 budget and again in the FY 2023-2024 budget. Malbin and Glavin, *Small Donor Public Finance*, 28-30.

New York's new small donor public financing program will lead the way for other states, with its progressive tiered match that gives the smallest contributions from district residents the greatest boost. Recent studies on small donor public financing show the promise of this policy to empower more Americans and strengthen the connection between candidates and their constituents. For instance, during the 2020 elections in Washington, D.C., more than 75 percent of small donors who contributed to publicly financed council candidates reported that it was the first time they had contributed to a council campaign in recent cycles. That election saw greater participation from small donors and greater small donor diversity, with more donors from lower-income neighborhoods and communities of color contributing to campaigns.¹⁶ In New York City, publicly financed candidates for local office rely more on their constituents for support, strengthening the connection between elected representatives and voters.¹⁷

III. Improving Election Administration to Break Down Barriers for New York Voters

Small donor public financing and voting reforms depend on effective administration by New York's state and local BOEs. The state's more than 13 million registered voters still too frequently face hurdles when registering and voting, worsened by systemic flaws in election administration. For more than a year, the Brennan Center has researched how the state and local BOEs can improve voter service, including examining the practices of better-performing and comparably large and diverse elections jurisdictions. Our research shows that simple but effective legislative solutions are available to address the resource, professional, and structural issues that hinder effective administration.

We support requests from local BOEs for more state funding in the final FY 2022-2023 budget. Based on the Brennan Center's conversations with local BOE commissioners, securing adequate funding and resources is a fundamental challenge for New York's local BOEs. Commissioners blame underfunding for insufficient staff training, difficulty recruiting top talent, outdated voting machinery, and difficulty implementing new voting reforms – all of which disserve voters.¹⁸ During the last presidential election, at least 35 of the state's 62 counties had to resort to private grants to meet the needs of running elections mid-pandemic when government funding was not enough.¹⁹ The state must ensure regular and ongoing funding for these agencies. State

¹⁶ Catherine Hinckley Kelley, Austin Graham, and Aseem Mulji, *Democratizing the District: D.C.'s Fair Elections Program in 2020*, Campaign Legal Center, October 2021, 11-12, 16-17, https://campaignlegal.org/sites/default/files/2021-10/CLC_DemocratizingTheDistrict%20%281%29.pdf; Brian McCabe and Kenan Dogan, *Expanding Donor Participation in the District*, September 2021, 11-14, https://mccourt.georgetown.edu/wp-content/uploads/2021/09/DC_Fair_Elections_Report_Sept2021.pdf. See generally Office of the District of Columbia Auditor, *Fair Elections Program Amplifies 'Voices of Everyday Voters'*, August 2, 2021, <https://dcauditor.org/report/fair-elections-program-amplifies-voices-of-everyday-voters/>.

¹⁷ Nirali Vyas, Chisun Lee, and Joanna Zdany, *The Constituent-Engagement Effect of Small Donor Public Financing*, Brennan Center for Justice, September 9, 2019, 7, https://www.brennancenter.org/sites/default/files/2019-09/Report_Constituent-Engagement%20Effect_.pdf.

¹⁸ Tisler et al., *How to Fix Election Administration*, 15.

¹⁹ Center for Tech and Civic Life, "Election Offices that Received CTCL COVID-19 Response Grants," March 12, 2021, <https://www.techandciviclife.org/grant-update-march/>.

governments covering costs for election administration is not uncommon. Delaware, Colorado, Michigan, and New Jersey provide all or partial funding for elections.²⁰

With additional resources, local BOEs in New York can address still other hurdles that impede effective election administration. Stakeholders across New York, including voters, poll workers, commissioners, lawmakers, and advocates, cite insufficient training as one of the most pervasive problems that BOEs face.²¹ Other professional improvements would better equip boards of elections to manage the challenges of modern-day election administration, including open and transparent hiring and appointment processes for staff and commissioners and robust recruitment programs for poll workers and especially student poll workers. These commonsense measures will help election officials statewide fulfill their duties and, in doing so, ensure all New Yorkers have fair and equal opportunities to cast their ballots.

We applaud this Legislature's continued efforts to strengthen New York's democracy. Adequately funding the new small donor public financing system and AVR, as well as boards of elections responsible for implementing new voting reforms, is essential to deliver on these achievements for the people of New York. We are ready to be of service throughout their implementation and as the Legislature considers additional policies to protect and expand our democracy.

²⁰ National Conference of State Legislatures, "Election Costs: What States Pay," August 3, 2018, <https://www.ncsl.org/research/elections-and-campaigns/election-costs.aspx>; Del. Code Ann. tit. 15, § 4514, § 201A, § 215 (2022); Colo. Rev. Stat. § 1-5-505.5 (West 2022); Mich. Comp. Laws § 168.624g (2022); N.J. Stat. Ann. § 19:45-1.1 (West 2022).

²¹ Tisler et al., *How to Fix Election Administration*, 8.