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**Submitted to the New York State Legislature  
at the Joint Legislative Budget Hearing  
Concerning Local Government Officials/General Government**

**February 15, 2023**

The Brennan Center for Justice at New York University School of Law appreciates the opportunity to testify in support of funding for New York’s small donor public financing program and other key democracy reforms in the FY 2024 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.

After decades of being criticized for treating democracy as an afterthought, New York has passed some of the boldest democracy reforms in the country, thanks to your leadership. But the Legislature’s accomplishments will only have meaning if they receive the funding needed to realize their promise. This body must commit to ensuring such funding in the FY 2024 budget.

The Brennan Center commends this Legislature for its continued efforts to foster a stronger and more inclusive democracy and set a model for the nation. Your enactment last June of the John R. Lewis Voting Rights Act of New York (NY VRA) put New York at the forefront of fighting race-based vote suppression. November saw the launch of the groundbreaking voluntary small donor public financing program you enacted, the nation’s most robust response to the antidemocratic impact of *Citizens United*. And last month, your law to increase civic engagement via automatic voter registration (AVR) took effect. These gains follow several years of other improvements you created for voters. Together, the policies this body has championed will expand participation in the political process by everyday New Yorkers.

But the fight to protect our democracy is far from over. A recent poll by the nonpartisan Pew Research Center revealed that reducing the influence of money in politics is a top policy priority for Americans this year – a finding consistent across demographics including race, age, and

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<sup>1</sup> The Brennan Center is a nonpartisan 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.

political party affiliation.<sup>2</sup> This problem was on display in New York’s most recent state elections, in which megadonors, some backing election denialists, played an outsized role. Just 200 large individual donors gave more than all 206,000 small donors of \$250 or less combined.<sup>3</sup> We are also emerging from a midterm election where sixty percent of voters across the country had an election denier on their ballot,<sup>4</sup> including here in New York.<sup>5</sup> Election denialism has manifested as dangerous, sustained attacks against election officials, often capitalizing on administrative errors or technical problems that could be prevented by greater resources and better training.<sup>6</sup>

We urge your continued leadership in making New York a beacon of free and fair elections by ensuring needed resources in this year’s budget to support the reforms you have enacted. With the 2024 elections on the horizon, now is the time to bolster voters’ trust in the political process and strengthen a democracy that works for all New Yorkers.

### **I. The Public Campaign Finance Fund Needs Additional Resources**

When the state’s small donor public financing program launched last November, this Legislature’s most significant achievement in reducing the outsized influence of wealth in our democracy became a reality. Candidates from across the state and political spectrum already have begun to opt into the voluntary program.<sup>7</sup> From securing the program’s passage to ensuring that it has had adequate funding in subsequent budgets, this Legislature consistently has stood behind this important reform. We urge you to reaffirm your support, at this moment when it matters more than ever, by ensuring that the program receives adequate funding in the FY 2024 budget.

The Brennan Center supports the Public Campaign Finance Board’s (PCFB) request of \$114.5 million for FY 2024, including \$14.5 million for program administration and \$100 million for matching funds.<sup>8</sup> In doing so, we join more than 100 voting, civil rights, labor, and good

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<sup>2</sup> Pew Research Center, “Economy Remains the Public’s Top Policy Priority; COVID-19 Concerns Decline Again,” February 6, 2023, <https://www.pewresearch.org/politics/2023/02/06/economy-remains-the-publics-top-policy-priority-covid-19-concerns-decline-again/>.

<sup>3</sup> Ian Vandewalker, Brendan Glavin, and Michael Malbin, *Analysis Shows Amplification of Small Donors Under New NY State Public Financing Program*, Brennan Center for Justice and OpenSecrets, January 30, 2023, <https://www.brennancenter.org/our-work/research-reports/analysis-shows-amplification-small-donors-under-new-ny-state-public>.

<sup>4</sup> FiveThirtyEight Staff, “60 Percent of Americans Will Have An Election Denier on the Ballot This Fall,” *FiveThirtyEight*, last updated November 8, 2022, <https://projects.fivethirtyeight.com/republicans-trump-election-fraud/>.

<sup>5</sup> Adrian Blanco, Daniel Wolfe, and Amy Gardner, “Tracking which 2020 election deniers are winning, losing in the midterms,” *Washington Post*, last updated December 18, 2022, <https://www.washingtonpost.com/politics/interactive/2022/election-deniers-midterms/>.

<sup>6</sup> See *Election Officials Under Attack*, Brennan Center for Justice and Bipartisan Policy Center, June 16, 2021, <https://www.brennancenter.org/our-work/policy-solutions/election-officials-under-attack>.

<sup>7</sup> New York State Board of Elections, “Public Campaign Finance Candidate List,” accessed February 9, 2023, <https://publicreporting.elections.ny.gov/PCFBCandidateRegList/PCFBCandidateRegList>.

<sup>8</sup> Public Campaign Finance Board, “Resolution Approving the Public Campaign Finance Board’s Request for Appropriations to the Governor and Division of Budget, Pursuant to Section 14-207(2) of the Election Law,” accessed February 9, 2023, <https://pcfb.ny.gov/system/files/documents/2022/12/new-york-state-pcfb-budget-resolution-2022-22-06-002.pdf>.

government groups who have called on our state’s leaders to ensure that the PCFB receives ample funding.<sup>9</sup>

The executive budget’s proposed \$39.5 million for the program, while a start, falls short of what is needed to realize the program’s promise.<sup>10</sup> The executive budget commendably meets the PCFB’s request of \$14.5 million for administrative needs.<sup>11</sup> This funding will enable the agency to hire staff and implement the technology necessary to put the program on a firm foundation for candidates who choose to participate. But by providing only \$25 million for matching funds – one quarter of the agency’s request – the executive budget fails to cement a commitment to the reform. With the first cycle of the program already underway, a greater commitment of matching funds will give prospective candidates — and voters who wish to engage as small donors — confidence in the program’s future.

The program this Legislature enacted wisely includes time-tested aspects of longstanding public financing programs but adds features that respond to candidate realities in the era of super PACs. Participating candidates face no limit on total fundraising and spending, should campaign needs exceed allowable matching funds. At the same time the program responds to the declining political power of nonwealthy constituents in multiple ways. The progressively tiered match for legislative campaign contributions provides the greatest match to the smallest amounts.<sup>12</sup> And by matching in-district donations only, at significant levels, the program boosts the voices of local residents against outside spenders and aligns candidates’ campaigning for votes with their fundraising.<sup>13</sup>

Data analysis shows the new public financing program will significantly increase the political importance of small-donor New Yorkers and free candidates to spend more time campaigning for votes than raising big checks while still raising competitive sums compared to past cycles.<sup>14</sup> In legislative elections, the program could have increased the financial power of small donors from

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<sup>9</sup> Brennan Center for Justice, et al., *Coalition Letter Urges New York State Leaders to Protect and Strengthen Democracy in 2023*, last updated January 12, 2023, <https://www.brennancenter.org/our-work/research-reports/coalition-letter-urges-new-york-state-leaders-protect-and-strengthen>.

<sup>10</sup> FY 2024 Executive Budget Bill, S. 4000, 147 (N.Y. 2023), <https://www.budget.ny.gov/pubs/archive/fy24/ex/approps/stateopsbudget.pdf>; FY 2024 Executive Budget Bill, S. 4003, 282 (N.Y. 2023), <https://www.budget.ny.gov/pubs/archive/fy24/ex/approps/local.pdf>.

<sup>11</sup> FY 2024 Executive Budget Bill, S. 4000, 147 (N.Y. 2023), <https://www.budget.ny.gov/pubs/archive/fy24/ex/approps/stateopsbudget.pdf>.

<sup>12</sup> See Julia Fishman and Joanna Zdanys, *Major Strides for Public Campaign Financing*, December 9, 2022, <https://www.brennancenter.org/our-work/analysis-opinion/major-strides-public-campaign-financing>.

<sup>13</sup> Nirali Vyas, Chisun Lee, and Joanna Zdanys, *The Constituent-Engagement Effect of Small Donor Public Financing: A Statistical Comparison of City Council (2017) and State Assembly (2018) Fundraising in New York City*, Brennan Center for Justice, September 9, 2019, 1, 7, <https://www.brennancenter.org/our-work/research-reports/constituent-engagement-effect-small-donor-public-financing-statistical>.

<sup>14</sup> Vandewalker, Glavin, and Malbin, *Analysis Shows Amplification of Small Donors Under New NY State Public Financing Program*.

11 percent of all donations in 2022 to 67 percent.<sup>15</sup> In statewide elections, small donors' financial power could have increased nearly sevenfold, from 6 percent to 41 percent of all campaign funds.<sup>16</sup>

By ensuring the program has the resources it needs to meet its potential, this body can provide other states with a model for empowering everyday voters.

## **II. This Legislature's Transformative Voting Reforms Need Funding**

The Brennan Center also urges this body to ensure that the budget supports reforms you recently enacted to advance voting rights. Last June, New York emerged as a national leader in restoring legal protections against race-based voter discrimination by passing the NY VRA.<sup>17</sup> This historic law puts this state one step closer to ensuring all New Yorkers have a meaningful voice in our politics. We urge you to ensure that the final budget includes \$5 million for enforcing the law, as well as the voting and elections database that will be important in realizing the NY VRA's promise. The Senate already passed legislation to create such a database earlier this session, the Assembly should similarly pass it without delay.<sup>18</sup>

This body has also taken important steps to reduce barriers to voter registration. Last month, the state's AVR law went into effect which, if properly implemented, could result in an increase of as many as 1.1 million registered voters across our state.<sup>19</sup> The executive budget provides the funds necessary to support implementation, including building an online voter registration (OVR) platform that will enable agencies to easily enroll eligible voters.<sup>20</sup> We urge you to ensure that those funds remain in the final budget.

## **III. Local BOEs Need More Resources to Carry Out These Crucial Reforms**

To fully deliver on the above reforms and better serve voters, this body must also prioritize strengthening and funding election administration across the state. The Brennan Center supports the bipartisan requests from New York's local election officials for more state funding. The historic Senate Elections Committee's statewide hearings in 2021 and the Brennan Center's independent research make clear that a lack of resources plays a significant part in the poor quality of voter service that too many New Yorkers experience.

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> Brigid Bergin, "Hochul marks Juneteenth holiday by signing New York voting rights act," *Gothamist*, June 20, 2022, <https://gothamist.com/news/hochul-marks-juneteenth-holiday-by-signing-new-york-voting-rights-act>.

<sup>18</sup> S. 657 (N.Y. 2023), <https://legislation.nysenate.gov/pdf/bills/2023/S657>; A. 885 (N.Y. 2023), <https://legislation.nysenate.gov/pdf/bills/2023/A885A>.

<sup>19</sup> Johan Sheridan, "NYS Legislature passes automatic voter registration," last updated July 23, 2020, <https://www.news10.com/news/ny-news/nys-legislature-passes-automatic-voter-registration>; see also Peter Egziabher, *It's Time for Automatic Voter Registration in New York*, May 29, 2019, <https://www.brennancenter.org/our-work/analysis-opinion/its-time-automatic-voter-registration-new-york>.

<sup>20</sup> FY 2024 Executive Budget Bill, S. 4004, 116 (N.Y. 2023), <https://www.budget.ny.gov/pubs/archive/fy24/ex/approps/capitalprojectsbudget.pdf>.

Local election officials serve at the front lines of our democracy, and increasingly do so under threat and with insufficient support.<sup>21</sup> New York’s local BOEs need more resources than their localities provide to hire and train staff, purchase new equipment, and adequately implement changes to the state’s election laws.<sup>22</sup> Overreliance on county-level funding leaves local BOEs operating with stark disparities in resources, with voters paying the price at the ballot box.<sup>23</sup>

This year’s budget must address this need. Research shows that additional state operational funding of \$65 million – \$5 per registered voter – would bring New York’s spending per registered voter in line with similarly large and diverse states that better support local election administrators.<sup>24</sup> For example, California spent approximately \$2.31 more per voter in 2016 and \$8.68 more per voter in 2020, averaging to \$5.49 more per voter than New York spent.<sup>25</sup> And in 2022, the Pennsylvania state legislature approved with bipartisan support \$45 million in funding to supplement county election offices’ budgets to help them implement recent changes to state law expanding voter access.<sup>26</sup> This sum amounts to an additional \$5.09 per voter in state funds. New York should similarly increase state funding for local BOEs to ensure they have the necessary resources to run free and fair elections across the state.

In addition, boards of elections across the state will soon need to replace aging and outdated voting machines, the vast majority of which are more than 10 years old.<sup>27</sup> Doing so will cost approximately \$81.5 million.<sup>28</sup> It is an investment well worth making, as machine failures can quickly lead to other problems including longer lines and technical glitches that, in today’s social media-driven climate, can quickly erupt into misinformation and damaged public faith in the integrity of our elections. To begin to address this need, we support the executive budget’s reappropriation of existing grants to the State Board of Elections to help counties purchase

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<sup>21</sup> Brennan Center for Justice, *Local Election Officials Survey (March 2022)*, March 10, 2022, <https://www.brennancenter.org/our-work/research-reports/local-election-officials-survey-march-2022>; see also 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, 15, <https://www.brennancenter.org/our-work/policy-solutions/how-fix-election-administration-new-york-state>.

<sup>22</sup> Tisler et al., *How to Fix Election Administration*, 15–16.

<sup>23</sup> *Id.* at 15.

<sup>24</sup> *Id.* at 6, 16 (noting that Delaware covers the full cost of administering elections, Colorado covers the full cost of elections when only a state issue or question is on the ballot and partial costs for other elections when state issues and questions are on the ballot, and Michigan reimburses local jurisdictions for the necessary costs to run presidential primaries).

<sup>25</sup> Research on file with the Brennan Center for Justice.

<sup>26</sup> Research on file with the Brennan Center for Justice.

<sup>27</sup> Verified Voting, “The Verifier – First Year in use in New York – November 2022,” accessed February 9, 2022,

<https://verifiedvoting.org/verifier/#mode/navigate/map/fieldedEquip/mapType/ppEquip/year/2022/state/36> (demonstrating the vast majority of voting machines across the state are over 10 years old); Turquoise Baker, Lawrence Norden, Warren Stewart, and Megan Maier, *Voting Machines at Risk in 2022*, Brennan Center for Justice and Verified Voting, March 1, 2022, <https://www.brennancenter.org/our-work/research-reports/voting-machines-risk-2022> (explaining why counties need to replace old voting machines).

<sup>28</sup> Research on file with the Brennan Center for Justice.

equipment and make improvements to election technology.<sup>29</sup> We also urge you to support the executive budget's reappropriations for pre-paid return postage for absentee ballots and early voting expenses.<sup>30</sup>

Along with proper budget resources, our leaders must enact legislation to improve professionalism, transparency, and accountability at our local boards of elections. For too long, New York has lagged other states in voter service, and election administration scandals too frequently make headline news.<sup>31</sup> We applaud the Senate for passing a package of a dozen bills to reform our state's BOEs at the beginning of this session.<sup>32</sup> If enacted and sufficiently funded, these bills will bring a suite of best practices in election administration to New York.<sup>33</sup> The Assembly must pass them, and the governor must sign them, without delay.

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We applaud this Legislature's continued efforts to strengthen New York's democracy. Adequately funding the small donor public financing program, critical voting reforms including the NY VRA and AVR, and the boards of elections serving voters, is essential to delivering on these achievements. The Brennan Center is ready to be of service throughout their implementation and as the Legislature continues its efforts to protect and expand our democracy.

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<sup>29</sup> FY 2024 Executive Budget Bill, S. 4004, 116 (N.Y. 2023), <https://www.budget.ny.gov/pubs/archive/fy24/ex/approps/capitalprojectsbudget.pdf>.

<sup>30</sup> FY 2024 Executive Budget Bill, S. 4003, 283 (N.Y. 2023), <https://www.budget.ny.gov/pubs/archive/fy24/ex/approps/local.pdf>.

<sup>31</sup> See Tisler, et al., *How to Fix Election Administration in New York State*; 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>; see also Tom Magnarelli, "After 2020 election 'failure,' Oneida County elections commissioners resign," *WRVO Public Media*, February 16, 2021, <https://www.wrvo.org/politics-and-government/2021-02-16/after-2020-election-failure-oneida-county-elections-commissioners-resign>; *New York Times* Editorial Board, "The N.Y.C. Elections Board is a Disaster. This Is the Last Straw," *New York Times*, June 30, 2021, <https://www.nytimes.com/2021/06/30/opinion/nyc-mayor-election-boe-votes.html>; Jeff Coltin, "Reports of broken scanners, long lines on Election Day," *City & State*, November 6, 2018, <https://www.cityandstateny.com/politics/2018/11/reports-of-broken-scanners-long-lines-on-election-day/177966/>.

<sup>32</sup> The New York State Senate, "Press Release: Board of Election Professionalization Package Passes Senate," January 17, 2023, <https://www.nysenate.gov/newsroom/press-releases/board-election-professionalization-package-passes-senate>.

<sup>33</sup> See Tisler, et al., *How to Fix Election Administration in New York State*; see also Zdanys, et al., *How to Fix the New York City Board of Elections*.