

CAMPAIGN FINANCE REFORM COMMISSION

December 1, 2019

The Honorable Andrew M. Cuomo
Governor of the State of New York
State Capitol
Albany, New York 12224

The Honorable John J. Flanagan
Minority Leader of the New York State Senate
Legislative Office Building, Room 909
Albany, NY 12247

The Honorable Carl E. Heastie
Speaker of the New York State Assembly
Legislative Office Building, Room 932
Albany, New York 12248

The Honorable Brian Kolb
Minority Leader of the New York State
Assembly
Legislative Office Building, Room 933
Albany, NY 12248

The Honorable Andrea Stewart-Cousins
Temporary President and Majority Leader
of the New York State Senate
Legislative Office Building, Room 907
Albany, New York 12247

Dear Governor Cuomo, Minority Leader Flanagan, Speaker Heastie, Minority Leader Kolb, and Majority Leader Stewart-Cousins:

We are pleased to submit this report on behalf of the Campaign Finance Reform Commission. Pursuant to Part XXX of Chapter 59 of the Laws of 2019, this report sets forth the Commission's recommendations with respect to creation of a public campaign finance system, adjacent reforms to the New York State Election Law, and related and necessary reforms to New York's electoral processes to provide for the most robust yet feasible public campaign finance system in the nation.

In furtherance of its statutory mandate, the Commission considered a broad range of pertinent data, beginning with the factors delineated in the statute. The Commission held public hearings that were broadcast live over the Internet and are archived on the website which is available at:

<https://campaignfinancereform.ny.gov/hearings-and-meetings>.

The Commission carefully reviewed the public testimony and extensive written submissions received in connection with the question of creating a public campaign finance system for New York State's statewide and legislative elected officials.

The enclosed report contains our findings, determinations and recommendations, which were adopted by the members of the Commission on November 25, 2019.

Respectfully submitted,

Henry Berger

Mylan Denerstein

Kimberly Galvin

DeNora Getachew

Jay Jacobs

John Nonna

David Previte

Crystal Rodriguez

Rosanna Vargas

**CAMPAIGN FINANCE REFORM
COMMISSION**

Report to the Governor and the Legislature

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Members of the Campaign Finance Reform Commission

Henry Berger, appointed jointly by the Governor, Assembly Speaker, and the Senate Majority Leader, is an election law attorney with more than 40 years of experience litigating issues in state and national elections. He is also a former Special Counsel for the City of New York.

Mylan Denerstein, appointed by Governor Andrew Cuomo, is a litigation partner in the New York office of Gibson, Dunn & Crutcher, and Co-Chair of Gibson Dunn's Public Policy Practice Group. Ms. Denerstein previously served as Counsel to the Governor from 2011 to 2014. Prior to that she served as the Executive Deputy Attorney General for Social Justice and Deputy Commissioner for Legal Affairs for the New York City Fire Department and as a federal prosecutor in the U.S. Attorney's Office for the Southern District of New York.

Kimberly Galvin, appointed by Assembly Minority Leader Brian Kolb, is Co-Counsel and Co-Director of the State Board of Elections' Campaign Finance Compliance Unit. Ms. Galvin previously served as Chief of Staff and Counsel to the Republican Leader in the New York State Assembly.

DeNora Getachew, appointed by Senate Majority Leader Andrea Stewart-Cousins, is the New York City Executive Director of Generation Citizen. Ms. Getachew was previously Campaign Manager and Legislative Counsel for the Brennan Center's Democracy Program and Policy Director for the Public Advocate's Office.

Jay Jacobs, appointed by Governor Andrew Cuomo, is current Chairman of the State Democratic Party and longtime Chairman of the Nassau County Democratic Party. Mr. Jacobs was first elected to the position of Nassau County Democratic Chairman in 2001, and served as the Chairman of the New York State Democratic Committee from 2009 to 2012, returning to the post in 2019. He is also an at large member of the Democratic National Committee.

John Nonna, appointed by Senate Majority Leader Andrea Stewart-Cousins, is County Attorney for Westchester county and co-founder of the Democratic Lawyers Council. Mr. Nonna previously served as a Westchester County Legislator and as Mayor of Pleasantville.

David Previte, appointed by Senate Minority Leader John Flanagan, is principal attorney at Hinman Straub, PC and former Chief Counsel to the New York State Senate Majority.

Crystal Rodriguez, appointed by Assembly Speaker Carl Heastie, is current chief of staff to Buffalo State College President Katherine S. Conway-Turner. Previously, Ms. Rodriguez was the chief diversity officer for the City of Buffalo where she developed the Opportunity Pledge to encourage diversity and provide opportunity to all in Buffalo, and made it easier for businesses to apply for New York State's Minority and Women Owned Business Enterprises (MWBE) certification. Prior to working for the City of Buffalo, she served as a law clerk in the New York State Unified Court System and worked as an adjunct professor at SUNY Buffalo.

Rosanna Vargas, appointed by Assembly Speaker Carl Heastie, is currently serving as associate law clerk to a NYC Civil Court Judge in Bronx County criminal court. Prior to that, Ms. Vargas

served as the Bronx Democratic Commissioner and later as the President of the Board of Commissioners for the Board of Elections of the City of New York. Ms. Vargas also has commercial litigation experience representing clients in trials, mediations and arbitrations in state and federal courts.

SUMMARY OF THE COMMISSION'S RECOMMENDATIONS

Part I

Campaign contribution limits: this act proposes recommendations, which have the force of law, to lower the campaign contribution limits in Election Law §14-114 for candidates seeking statewide and legislative office. Specifically, the contribution limit for candidates seeking statewide office is now \$18,000, reduced from \$69,700, divided equally between the primary and general elections. For candidates seeking the office of state senator, the campaign contribution limit is now \$10,000, divided equally between primary and general elections; the state Senate contribution limit is reduced from \$7,500 in the primary election and \$11,800 in the general election. For candidates seeking the office of state assembly member, the campaign contribution limit is now \$6,000, divided equally between primary and general elections; the state Assembly contribution limit is reduced from \$4,700 in each of the primary and general elections. Note that these lower contribution limits apply equally to both participating and non-participating candidates in the proposed public campaign finance system.

Part II

Public Campaign Finance System: this act proposes recommendations, which have the force of law, to create a voluntary public campaign finance system for statewide and legislative candidates. Specifically, the program establishes reporting requirements for participating candidates and sets initial eligibility requirements for participation in the program, including registering a candidate's political committee with the State Board of Elections; meeting all the requirements of law to have his or her name on the ballot, including those contained in Part IV (A) or (B) of our recommendation; having an actual, credible opponent; and complying with procedures for pre-existing campaign funds.

Qualifying thresholds: the program requires gubernatorial candidates to secure at least \$500,000 in in-state donations from at least in-state 5,000 donors to qualify for participation in the program, sets the qualifying thresholds for the three statewide offices at \$100,000 from at least 1,000 donors. For legislative candidates, candidates for state senate must receive \$12,000 from at least 150 donors, and candidates for state assembly must receive \$6,000 from at least 75 donors. Additionally, legislative thresholds are subject to an adjustment based on the state's average median income ("AMI"); all districts below the AMI would be lowered to 66.67% of the base threshold, so that the Senate threshold for below-AMI districts would be reduced from \$12,000 to \$8,000 and for the Assembly the threshold for below-AMI districts would be reduced from \$6,000 to \$4,000. If the AMI provision is deemed unconstitutional, the Assembly threshold then defaults to \$5,000 and a minimum of 75 donors and the Senate threshold then defaults to \$10,000 and a minimum of 150 donors for all districts.

Caps on public funds: the program establishes the maximum amount of public funds that a participating candidate can receive as follows:

- Gubernatorial candidates can receive a maximum of \$3.5 million for a primary election and \$3.5 million for a general election (with the general election limit covering the combined ticket of governor and lieutenant governor);

- Lieutenant Governor candidates are limited to \$3.5 million in a primary election;
- Attorney General and Comptroller candidates are limited to \$3.5 million in a primary election and \$3.5 million in a general election;
- State senate candidates are limited to \$375,000 in a primary election and \$ 375,000 in a general election;
- State assembly candidates are limited to \$175,000 in a primary election and \$175,000 in a general election.

Match ratios: For all races, only small-dollar donations, those made by donors contributing \$250 or less, will be matched, and candidates must return all matching funds from any donor who exceeds \$250 in any election cycle.

For statewide races, the match ratio is 6:1. For legislative races, the program provides a progressive match system for low-dollar contributions, or contributions under \$250. The first \$50 in contributions is matched at 12:1, contributions of \$51 to \$150 are matched 9:1 and contributions of \$151-\$250 are matched 8:1.

Qualified expenditures: the program specifies which types of expenditures can be procured with matching funds granted under the program and which types of expenditures cannot be paid for with matching funds.

Public Campaign Finance Board: the program creates a Public Campaign Finance Board (“PCFB”) within the State Board of Elections (“SBOE”) to administer participation in and enforcement of the public campaign finance program. The PCFB and the SBOE may use existing staff of the SBOE and hire such additional other staff as are necessary to carry out its duties. PCFB Commissioners shall be the four SBOE commissioners, and three additional commissioners that shall be appointed as follows: one appointed by the legislative leaders from one major political party, one appointed by the legislative leaders from the other major political party, and one by the Governor. The three additional PCFB commissioners will serve five-year terms, beginning on July 1, 2020. The PCFB shall issue rules and regulations on how the program will operate and will develop a mandatory training program to assist participating candidates in navigating and staying compliant with the program. The PCFB shall also conduct audits of participating candidates to ensure proper compliance with and proper administration of the program. Such audits shall be done on an ongoing basis and will be completed within 18 months of the election. Such audits are necessary to ensure compliance with the program’s provisions, to recoup any unintentional overpayments of matching funds, and to determine what, if any, enforcement action shall be taken against the committee, candidate, and/or treasurer. The PCFB is also authorized to conduct administrative hearings regarding alleged violations of program eligibility and is authorized to impose civil penalties upon findings of violations, in accordance with a penalty schedule that is set out in regulation. The PCFB is also charged with issuing cyclical reports every two years on the usage rates of the voluntary public campaign finance program and recommended changes to the program.

Part III

Funding sources: This act proposes recommendations, which have the force of law, to create a New York State Campaign Finance Fund (“the Fund”) within the State Finance Law. The Fund, comprised of funds from a public campaign finance tax check-off, abandoned property funds, and the general fund, is to be expended on matching funds to participating candidates and administrative expenses associated with the program. This act also makes amendments to the State Finance Law to allow for transfers of funds from the abandoned property fund into the Fund.

This act proposes recommendations, which have the force of law, to create a tax check-off for New York State tax filers to contribute funding to the public campaign finance system.

Part IV

Party thresholds: The Commission proposes recommendations, which have the force of law, setting out new thresholds to become a political party in New York State. To become a political party in New York State, the political body must now receive at least 2% of the total votes cast for governor, or 130,000 votes, whichever is greater, in a gubernatorial election year and at least 2% of the total votes cast for president, or 130,000 votes, whichever is greater, in a presidential election year. Note that these two thresholds work independently of one another. Also note that this provision takes effect on January 1, 2020, so that all existing parties must requalify at the November 2020 elections.

Independent nominating petitions: The Commission proposes recommendations, which have the force of law, establishing a new signature requirement for Independent Nominating Petitions for statewide office of 45,000 signatures or 1% (one percent) of the total number of votes, excluding blank and void, cast for the office of governor during the last gubernatorial election, whichever is less, with at least 500 signatures or 1% of enrolled voters, whichever is less, from each of one-half of the congressional districts in the state. Note that this provision also takes effect on January 1, 2020, so beginning in the November 2020 elections, all independent nominating petitions filed for statewide office must satisfy these thresholds.

Part V

Effective date: The recommendations take effect on January 1, 2020; however, the contribution limits and the public campaign program recommended herein have a start date of November 9, 2022. The voluntary public campaign finance system will be in full effect for the primary and general elections for the Legislature in 2024 and the statewide races occurring in 2026.

STATUTORY MANDATE

The provisions of law which established this Commission are found at Part XXX of Chapter 59 of the Laws of 2019, a full copy of which is attached as an appendix to this report. These provisions establish a one-time commission to consider the creation of a system of voluntary public campaign financing for statewide and state legislative public offices, and the parameters of such a system.

This Commission is tasked with making recommendations which have the force of law and supersede existing law. The Commission took this important responsibility very seriously and was guided and constrained by the provisions of Part XXX.

The Commission is required to “make its recommendations in furtherance of the goals of incentivizing candidates to solicit small contributions, reducing the pressure on candidates to spend inordinate amounts of time raising large contributions for their campaigns, and encouraging qualified candidates to run for office. The commission shall also review and recommend changes to certain aspects of the state election law as detailed herein.” (*See*, Part XXX at §1(a)).

The Commission must determine and identify details and components reasonably related to administration of a public financing program, and must also determine and identify new election laws in the following areas:

- (a) ratio of public matching funds to small contributions;
- (b) limits on total receipt of public funds depending on the office sought by a candidate under the program, including geographic differences in such limits, if any;
- (c) candidate eligibility thresholds for the program;
- (d) contribution limits applicable to candidates participating in the program;
- (e) eligible uses of matchable contributions and public funds; contributions to participating candidates above the matchable portion shall be governed by election law § 14-130;
- (f) related conditions of compliance with the program;
- (g) an appropriate state agency to oversee administration and enforcement of the program, or recommendation of a new agency if the commission deems such recommendation appropriate;
- (h) resources necessary to administer and enforce the program;
- (i) effective date of the program;
- (j) rules and definitions governing: candidates' eligibility for public financing; political party qualifications; multiple party candidate nominations and/or designations; and civil violations of public financing rules.

This program must operate within a total maximum cost of no more than \$100 million annually (Part XXX, § 3).

The Commission's report is to be submitted by December 1, 2019 and requires that "any findings, conclusions, determinations and recommendations in the report must be adopted by a majority vote of the commission. Each member of the commission shall report their vote and describe their reasoning for their determination" (*See*, Part XXX, §5).

These recommendations "shall have the force of law" and "shall supersede, where appropriate, inconsistent provisions of the election law," and the Legislature is free to abrogate these recommendations by statute prior to December 22, 2019 (*See*, Part XXX, §5).

FINDINGS AND DETERMINATIONS

Based upon the public testimony and extensive written submissions, and upon its own research and deliberations, the Commission's findings are as follows:

Overall System:

- (1) This Commission is tasked with making recommendations for new laws with respect to how the State should implement such a system of voluntary public campaign financing for state legislative and statewide public offices, and the parameters of such a program. The Commission's enabling statute also sets specific policy goals to orient the infrastructure behind the public campaign finance program we propose: incentivizing candidates to solicit small contributions, reducing the pressure on candidates to spend inordinate amounts of time raising large contributions for their campaigns, and encouraging qualified candidates to run for office. Additionally, the enabling legislation mandates that we consider all details and components reasonably related to administration of a public financing program, and specifies a list of ten elements comprising topic that we must consider as part of our efforts to create a public campaign finance system.

Part I

Campaign contribution limits:

- (2) The first finding of the Commission is that we recommend a lowering of campaign contribution limits for statewide and state legislative candidates currently contained in Election Law §14-114. As part of the Commission's discussion during its open meetings, Commissioners heard from campaign finance experts and believe it is a valid hypothesis that lower contribution limits will encourage participation in the program. Lowering contribution limits will incentivize candidates to seek contributions from donors who may have fewer financial resources but nonetheless remain relevant to the policy positions a candidate may form and decisions that candidate would make if elected to office. If the contribution limits are lower than currently authorized, candidates can reduce the amount of time they dedicate to seeking larger contributions and dedicate additional time to interacting with donors with more limited financial resources. Lower contribution limits may also encourage additional candidates to seek office when those individuals may feel that current, higher limits would force them to court contribution limits from high-dollar donors.
- (3) It should be noted that campaign contributions of candidates participating in the proposed public campaign finance system is one of the ten elements specifically proscribed for our consideration in the Commission's enabling legislation, so the Commission believes that a robust and effective public finance system would lower contribution limits for participating candidates.
- (4) The Commission finds that any effective system must also include lower contribution limits for non-participating candidates. The Commission is tasked with determining all reasonably related components of a public campaign finance system, and the contribution limits of non-participating candidates are reasonably related to candidates

who secure public matching funds since participating and non-participating candidates could run against each other in a given statewide or legislative race. Further, the Commission has been granted the authority to supersede any relevant provisions of the Election Law and the Commission's recommendations will supersede any inconsistent provision of the Election Law. Since Election Law §14-114 currently contains contribution limits, this statute is within the Commission's jurisdiction. Additionally, a number of states and localities with public campaign programs apply uniform campaign contribution limits to participating and non-participating candidates, thus the equity established by mandating lower contribution limits for participating and non-participating candidates would be far from novel¹.

- (5) From a policy perspective, lowering limits for all candidates would encourage participation in the public matching funds component of the program, and a higher number of candidates utilizing the program would increase its prominence in the New York State electoral process. Without lowering contribution limits for non-participating candidates, participating candidates could be discouraged from continuing to participate in the voluntary public matching funds program due to concerns that they would be outraised and outspent by non-participating candidates who collect larger private donations. This consequence could undercut the enabling legislation's policy goal of heightening the amount of small-dollar contributions made to political candidates and fail to mitigate the resources that candidates currently dedicate to securing large-dollar contributions. Additionally, given that the public campaign finance program in New York City allows for equal participant and nonparticipant contributions, and given that our objective is to encourage participation in the public campaign finance program, we find that both participants and nonparticipants should share the same maximum amounts of contributions. Further, as noted in submissions made to the Commission by the Brennan Center for Justice, available for review on the Commission's website, the reduction of contribution limits can help reduce the potential for corrupt practices, or the perception thereof, to continue in state government.
- (6) While the Commission heard testimony calling for even lower contribution limits than we ultimately recommend, we believe that the limits we have recommended achieve the policy goals underlying such action while reflecting the reality that political campaigns in New York State can be financially taxing such that candidates will remain mindful of funds available to pay for campaign expenditures. Further, an overly judicious reduction of contributions could result in the unintended consequence of amplifying the value of other sources of paying for campaign expenses, such as independent expenditures. While some stakeholders have advocated for benchmarking statewide and legislative contribution limits to federal limits, the Commission finds that the reality of high costs of elections for federal candidates causes reliance of such

¹ See, Florida (Fla Stat § 106.08); Hawaii (Haw Rev Stat § 11-357); Maryland (Md Code, Elec Law § 13-226); Massachusetts (Mass Gen Laws ch 55, § 7A); Michigan (Mich Comp Laws § 169.252); Minnesota (Minn Stat § 10A.27); New Jersey (NJ Stat § 19:44A-11.3); and Rhode Island (RI Gen Laws § 17-25-10.1); additionally, New York City's equity on contribution limits for both participating and non-participating candidates has been upheld in New York State courts (See, McDonald v. New York City Campaign Finance Bd., 40 Misc.3d 826, 845 (Sup. Ct., N.Y. Co., 2013)).

candidates on funding streams, such as political action committees and independent expenditures, that are less representative of a candidate's constituencies and negatively alters behaviors of such candidates to be responsive to the expenditures stemming from those funding streams, instead of remaining responsive to the candidate's electoral base of voters.

Part II

Qualifying Thresholds:

- (7) The second major component of our recommendation is to establish the qualifying thresholds for candidates to participate in the voluntary public campaign finance system. We believe that to ensure that our recommended public campaign finance system operates robustly while also remaining cognizant of the enabling legislation's annual cost ceiling for the program, we have established qualifying thresholds for participation in the public finance system. The Commission believes it can create metrics to ensure that funds are not dedicated to frivolous or uncompetitive campaigns, including candidates meeting all the requirements of law to have his or her name on the ballot, inclusive of those contained in Part IV (A) or (B) of our recommendation. We desire to create a voluntary public finance system responsive to the taxpayers who fund the program, so candidates must first demonstrate a viable base of support by collecting a minimum number of small donations from a specified number of contributors. With average qualifying contributions in the range of \$80-\$100, we find that the qualifying threshold metrics recommended will allow for candidates with sufficient expressions of support from the communities they seek to represent to receive public funding while providing a public matching program that avoids overly burdensome access to such funding.
- (8) Regarding the qualifying thresholds for legislative races, the Commission recognizes that legislative districts across the Empire State vary widely in terms of socio-economic standing. Candidates in adjoining legislative districts face vastly disparate economic realities of their constituencies when raising funds for qualification in the public matching program. By employing the Average Median Income ("AMI") metric in determining the qualifying thresholds for legislative races, candidates seeking to participate in the program and represent districts with lower economic status relative to other districts can still attempt to qualify in the program. We find that the AMI-adjustments to qualifying thresholds for lower-income districts helps to ensure that all New Yorkers, regardless of the relative economic standing of the legislative districts in which they reside, can have a voice when participating in the political process and can seek to ensure that their contributions to their candidates of choice carry equal value for them.
- (9) The Commission has recommended that only contributions made within the confines of a district for which a candidate seeks election will be matched with public funds. While we understand that some stakeholders believe that donors from outside of a district should have an equal value in their contributions, we determined that restricting public matching to in-district contributions more directly attains the stated policy goals of the program, as stated in the enabling legislation. Matching in-district

contributions will focus participating candidates on the small-dollar contributors who reside in their districts and allows for a heightened amplification of the voices of such donors when candidates may otherwise face competing interests and a limit amount of attention to a multitude of voices clamoring for a candidate's attention. Further, reducing the pressure on candidates to spend inordinate amounts of time raising large contributions from outside of a district will provide heightened expectations that candidates will remain responsive and engaged with constituents who will help fund and elect such candidates. Additionally, limiting matching funds to in-district contributions will encourage qualified candidates to seek elected office by empowering candidates to see that the voices of constituents will factor prominently in policy considerations for candidates and decisions if such candidates are later elected. This elevation of in-district contributions seeks to lessen candidates' focus on out-of-district contributors who may be more chiefly concerned with more polarizing, ideological issues and may not be concerned on localized policy issues of chief importance that factor more prominently in concerns of the candidate's constituents. Also, we seek to ensure the most effective and equitable program in the nation for both statewide and legislative candidates, and this public matching program is most equitable for all participating candidates when all such candidates can hear the voices of their respective constituencies. Since statewide candidates can only receive matching funds for in-state contributions, which allows for the public matching program to serve the interest of New Yorkers who fund this program, providing for matching of only in-district contributions to legislative candidates provides such equity to legislative and statewide candidates in the scope of their respective geographical areas of representation.

- (10) Further, the Commission finds that this prioritization of in-district contributions for the receipt of public matching funds is not intended to reduce an out-of-district donor's desire to contribute to the candidates of his or her preference; such donors remain able to make donations as they see fit. However, participating candidates will be motivated to remain responsive to their electorate by focusing on continued engagement with their constituents on policy issues that are of the utmost importance to such voters.

Caps on public funds:

- (11) The Commission's third recommendation sets caps on the amount of funds participating candidates can receive in an election cycle. We believe that these limits on public funds balance the important interests of incentivizing sufficient participation of the public campaign finance program while providing for necessary fiscal stewardship over the financial resources to be dedicated to this program and remaining within the enabling legislation's proscribed \$100 million annual cost for the program. We find and determine that this cost concern is most acute in in circumstances where there are multiple candidates in party primaries and/or multiple qualifying general election candidates from a variety of parties.

Match ratios:

- (12) The Commission's fourth recommendation sets a 6:1 match ratio for all statewide

racers. Since statewide candidates are able to raise matchable funds from anywhere in the state, they are not subject to the same restrictive limitations of in-district matching that are imposed on legislative candidates. Thus, the 6:1 match is sufficient for statewide candidates, and this match ratio is responsive to the amount of public dollars that stakeholders have requested in written testimony submitted to the members of the Commission and during oral testimony made during the Commission's public hearings held across the state.

- (13) The recommendation does, however, create a progressive match ratio, whereby the first \$50 would be matched at 12 times the amount contributed, the \$51-\$150 portion at 9 times the contribution, and the \$151-\$250 at 8 times the contribution amount, for a 9.2:1 match that incentivizes a higher number of small-dollar donations for legislative races. By providing the highest ratio of public dollars to the lowest amounts of dollars donated by small-dollar contributions, this progressive system encourages participating candidates to engage with and seek donations from more of the smallest-dollar donors to maximize public match funds. We find that higher match ratios on small-dollar contributions will provide for increased voter participation in the political process, as demonstrated by recent increases to the match ratio for small-dollar contributions, as approved by voters in New York City. Further, we provide for such match ratios to apply equally both primary and general elections, which will encourage continued engagement of the electorate throughout an election cycle and ensure sustained changes in behavior for participating candidates who seek input from their small-dollar donors. While a number of stakeholders and interested members of the public advocated for a 6:1 match on small-dollar donations, our recommendation exceeds this match ratio and further amplifies the voices of constituents for participating candidates.
- (14) Additionally, we have recommended that public campaign finance matching funds should be available only to contributions from contributors who donate \$250 or less, and require candidates to return all matching funds from any donor who exceeds \$250 in any election cycle. In response to points raised by stakeholders, we determined that the intent of a voluntary public campaign finance system most responsive to the needs of individual voters across the state and most likely to amplify the voices of such voters by most directly linking these constituencies with candidates for elected office is to match only small-dollar contributions instead of the first \$250 of all donations. Omitting matching funds for large-dollar donations will more acutely direct participating candidates to constituents in their districts who may advance diverse opinions on policy issues and may otherwise have avoided participation in the political process due to a feeling that their voices were not effectively heard or their positions cannot be represented in the political landscape.

Qualified expenditures:

- (15) The Commission's fifth recommendation enumerates a list of allowable and non-allowable expenditures, as well as metrics for competitive elections and small-party primary elections, to ensure that the public campaign finance system will secure and continue to sustain voter confidence. We relied upon New York City's public

campaign finance program for such operational components of the recommended program, since the New York City program has been cited by stakeholders as a model for our recommended program, and we find these provisions supported by the statutory mandate of this Commission and endorse their adoption.

- (16) The Commission has recommended to allow candidates to choose to retain those contributions from any prior such election and roll them forward to the next election, up to the contribution limit allowed for funds so transferred. However, such contributions that are rolled forward shall not be eligible to receive matching funds and shall not apply to meeting public financing qualification thresholds. From a policy perspective, we note that the New York City public finance program contains such a provision.

Public Campaign Finance Board:

- (17) The Commission's sixth recommendation establishes a Public Campaign Finance Board ("PCFB") within the State Board of Elections to administer the operations of the voluntary public campaign finance system we have enacted. We believe that nesting an agency responsible for administering the program within the State Board will provide both participating candidates and the general public with an efficient and effective administration of the public campaign finance system. We found particularly instructive the State Board's testimony at our October 22, 2019 public hearing that the State Board's bipartisan structure lends itself to increased public and candidate confidence that a public financing program would be implemented in a uniform and fair way. The State Board's existing institutional knowledge of election laws and procedures, experience with the previous pilot program for the State Comptroller public finance system, and its existing systems and compliance and enforcement infrastructure allows for more efficient operations upon the PCFB's creation compared to crafting a new executive agency. Of particular importance to our considerations is the ready availability of highly experienced staff, including those in the Board's Compliance, Elections Operations, and Information Technology Units, and efforts needed within the State Board for reprogramming software to be used when administering the public campaign finance system.
- (18) On the issue of independence of the PCFB, we believe that a bipartisan structure within PCFB would compel the Unit to act as a continuous counterbalance or check on the operations of the adjacent Unit staff and a reasonable degree of fairness, as the State Board currently uses when handling its work in a bi-partisan fashion. To avoid the potential for gridlock, the recommendation provides for a tie-breaking mechanism similar to procedures in place for the State Board's other operations. We also found particularly instructive the State Board's testimony that the bi-partisan nature of the State Board was intended by the Legislature to offer the public a level of confidence that the electoral processes in this State would enjoy a large degree of independence. Additionally, we are cognizant of comparisons to New York City's Campaign Finance Board ("NYCCFB"), a standalone agency administering New York City's public finance system. While the NYCCFB shares some similarities with

the operational elements of the PCFB, we find that both the number of races the PCFB would administer and the competitiveness of both general and primary elections for state-level elections justifies nesting the PCFB within the State Board, rather than modeling NYCCFB's standalone structure.

Part III

Funding sources:

- (19) The Commission has recommended the creation of fiscal mechanisms to fund the public campaign finance system we have proposed. We find that these provisions are fundamentally and directly related to the successful operation of the public campaign finance system, since they dedicate funding streams for the program. Further, the Commission's enabling legislation provides for consideration of resources necessary to administer the program, and public matching funds cannot be provided to qualified, participating candidates if such funds cannot be dedicated under state law for such purpose. Similarly, the enabling legislation separately directs the Commission to create a public campaign finance system that can operate within a \$100 million annual budget; statutory encumbrances of public funds are necessary for the Commission to plan adequately for the fiscal soundness of this public campaign finance program and ensures that the Commission is acting in the best interests of state taxpayers who are funding the continued existence and success of the public campaign finance program.

Party thresholds:

- (20) Part XXX, §2(j) of Chapter 59 of the Laws of 2019 specifically tasked the Commission with addressing the election law as it pertained to party threshold. The Commission has recommended amendments to Election Law §1-104(3) that raise thresholds for political parties to receive ballot access. The primary motivation for the Commission addressing party ballot access is to craft a public campaign finance system that remains within the enabling statute's limitation of a \$100 million annual cost. Since candidates who seek to participate in the proposed public campaign finance system will appear on ballots as associated with a political party and voters often rely on a candidate's association with a political party to inform their choices of candidates, the ability of a party to demonstrate bona fide interest from the electorate is paramount in ensuring the success of a public campaign finance system. The Commission finds that setting a rational threshold for party ballot access, based on a demonstration of credible levels of support from voters in this state, helps to ensure that political parties whose candidates will draw down on public funds under the public matching program reflect the novel and distinct ideological identities of the electorate of New Yorkers who ultimately fund this public campaign finance program.
- (21) By raising the party ballot access threshold to 2% of the total votes cast for governor or president, or 130,000 votes, whichever is greater, we have retained a measure of proportionality between the number of voters in New York State and the ability of political parties that assert a bona fide representative status for those voters that has been the longstanding policy of this State for centuries. Additionally, we believe that increasing party threshold will actually increase voter participation and voter choice,

since voters will now be less confused by complicated ballots with multiple lines for parties that may not have any unique ideological stances. If ballots are simpler in appearance and the parties listed on those ballots can relate to concrete ideological perspectives that voters can identify with, voters can make more resolute choices between candidates appearing under those party lines and rely upon the knowledge that such parties have sufficient popular support from the electorate of this state.

Independent nomination petitions:

- (22) As a corollary to raising the threshold for political party ballot access, we have also recommended increasing the signature thresholds for candidates who file independent nominating petitions to 45,000 signatures or 1% (one percent) of the total number of votes, excluding blank and void, cast for the office of governor at the last gubernatorial election, whichever is less, with at least 500 signatures or 1% of enrolled voters, whichever is less, from each of one-half of the congressional districts in the state.

Part V

Effective date:

- (23) The Commission has provided that the effective date of its recommendation to establish a voluntary public campaign finance system take effect on January 1, 2020, with the public campaign program having a start date of November 9, 2022, based on the State Board's recommendation, and the PCFB having sufficient time for the PCFB and SBOE to secure necessary staff and resources for its successful operations once the mandates of the recommendation commence. In its testimony, the State Board stated its belief that developing the necessary software and hiring the appropriate staff to ensure the success of the public campaign finance system's administrative agency would require approximately two and a half years, leading to a build-out date concluding in 2022. The public campaign finance system would then apply to races in the 2024 election cycle, the first election cycles after the administrative build-out is planned to be completed at the State Board. The State Board cited the administrative burdens of injecting a public campaign finance system in the midst of an election cycle, as it experienced during the public finance pilot program for State Comptroller.

Additional Considerations:

- (24) During the Commission's first meeting, held on August 21, 2019, the Commission voted to package its recommendations on a voluntary public campaign finance system in a single, non-severable product, due to the complexity and inter-relation of the various components of the proposed system. The Commission's vote at its final meeting, held on November 25, 2019, reflected this packaging of a proposed public finance system into a single recommendation, as presented in the "Recommendations" section of this report. It is the expressly stated intent of this Commission that each of the recommendations made in this report be interpreted as non-severable from any other recommendation, except for the one instance where explicitly provided for in the Recommendations section.
- (25) While some interested parties have called for our recommendation to address topics, such as lower limits on party housekeeping accounts and on contributions by doing business contributors any labor unions, and modifying the allowable scope of

independent expenditures, we believe that the scope of our recommended public campaign finance program allows for an effective system that will be attractive to segments of the voting population who may be currently participating in the electoral system at lower levels than they desire while remaining a fiscally responsible program in the eyes of all New Yorkers. While contributions to party housekeeping accounts and unions may have an indirect relationship on our proposed public campaign finance system, we believe that our system can operate efficiently without wading into those topics. We note that the Legislature remains free to amend such limits upon further consideration. Additionally, we believe the components of our public finance system can alter the behavior of candidates who otherwise dedicate resources to respond to independent expenditure spending by redirecting their efforts to interacting with constituents instead. If the Legislature, after studious consideration of the impact of our proposed system in the future, believes that additional changes to the regulation of independent expenditures are necessary to maximize our system's focus of candidates toward small-dollar donors, such changes can be enacted.

RECOMMENDATIONS

During the November 25, 2019 public meeting of the Commission, a majority of the Commissioners voted to approve the following recommendation for a public campaign finance system:

The Public Campaign Financing and Election Commission, pursuant to Chapter 59, Laws of 2019, Part XXX, makes the following findings:

Reform of New York State's campaign finance system is crucial to improving public confidence in the state's democratic processes and continuing to ensure a government that is accountable to all of the voters of the state regardless of wealth or position. New York's current system of campaign finance, with its large contributions to candidates for office, has created the potential for and the appearance of corruption. Furthermore, whether or not this system creates actual corruption, the appearance of such corruption can give rise to a distrust of government and citizen apathy that undermine the democratic operation of the political process.

The high cost of running for office in New York discourages qualified candidates from running for office and creates an electoral system that encourages candidates to spend too much time raising money rather than attending to the duties of their office, representing the needs of their constituents, and communicating with voters.

The recommendations contained herein reduce the possibility and appearance that special interests exercise undue influence over state officials; increase the actual and apparent responsiveness of elected officials to all voters; encourage qualified candidates to run for office; and reduce the pressure on candidates to spend large amounts of time raising large contributions for their campaigns.

The recommended limitations on contributions further the government's interest in reducing real and apparent corruption and in building trust in government. The contribution levels are sufficiently high to allow candidates and political parties to raise enough money to run effective campaigns. In addition, the graduated contribution limitations reflect the campaign needs of candidates for different offices.

Moreover, a system of voluntary public financing furthers the government's interest in encouraging qualified candidates to run for office. The Commission's recommendations for a voluntary public funding program will enlarge the public debate and increase participation in the democratic process. In addition, the matching fund program reduces the burden on candidates and officeholders to spend time raising money for their campaigns.

Therefore, these recommendations further the important and valid government interests of reducing voter apathy, building confidence in government, reducing

the reality and appearance of corruption, and encouraging qualified candidates to run for office, while reducing candidates' and officeholders' fundraising burdens.

To that end, the Commission recommends the following become effective for the primary election to be held in 2024:

Part I

A. The limits for contributions to candidates for nomination to state public office otherwise provided for in Election Law § 14-114, subdivision one are, not more and not less than: (a) Governor, Lieutenant Governor, Attorney General and Comptroller, \$9,000; (b) State Senator, \$5,000; and (c) State Assembly, \$3,000. These amounts shall not be increased or decreased by the cost of living adjustment otherwise provided for in the Election Law.

B. The limits for contributions to candidates for election to state public office otherwise provided for in Election Law § 14-114, subdivision one are, not more and not less than: (a) Governor, Lieutenant Governor, Attorney General and Comptroller \$9,000; (b) State Senator, \$5,000; and (c) State Assembly, \$3,000. These amounts shall not be increased or decreased by the cost of living adjustment otherwise provided for in the Election Law.

Part II

To establish a system of public campaign financing, the Commission further makes the following recommendations. References to section numbers for this are to sections of the Election Law:

A. For purpose of the system established herein, the following terms shall have the following meanings:

1. The term "authorized committee" shall mean the single political committee designated by a candidate pursuant to these recommendations to receive contributions and make expenditures in support of the candidate's campaign for such election.
2. The term "PCFB" shall mean the Public Campaign Finance Board established herein unless otherwise specified.
3. The term "contribution" shall have the same meaning as appears in subdivision nine of section 14-100.

4. The term "contributor" shall mean any person or entity that makes a contribution.

5. The term "covered election" shall mean any primary, general, or special election for nomination for election, or election, to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, State Senator, or Member of the Assembly.

6. The term "election cycle" shall mean the two-year period starting the day after the last general election for candidates for the state legislature and shall mean the four year period starting after the day after the last general election for candidates for statewide office.

7. The term "expenditure" shall mean any gift, subscription, advance, payment, or deposit of money, or anything of value, or a contract to make any gift, subscription, payment, or deposit of money, or anything of value, made in connection with the nomination for election, or election, of any candidate. Expenditures made by contract are deemed made when such funds are obligated.

8. The term "fund" shall mean the New York state campaign finance fund established herein.

9. The term "immediate family" shall mean a spouse, domestic partner, child, sibling, or parent.

10. The term "item with significant intrinsic and enduring value" shall mean any item, including tickets to an event, that are valued at twenty-five dollars or more.

11. (a) The term "matchable contribution" shall mean a contribution not less than five dollars and not more than two hundred fifty dollars, for a candidate for public office to be voted on by the voters of the entire state or for nomination to any such office, a contribution for any covered elections held in the same election cycle, made by a natural person who is a resident in the state of New York to a participating candidate, and for a candidate for election to the state assembly or state senate or for nomination to any such office, a contribution for any covered elections held in the same election cycle, made by a natural person who is also a resident of such state assembly or state senate district from for which such candidate is seeking nomination or election, that has been reported in full to the PCFB in accordance with sections 14-102 and 14-104 by the candidate's authorized committee and has been contributed on or before the day of the applicable primary, general, runoff, or special election. Any contribution, contributions, or a portion of a contribution determined to be invalid for matching funds by the PCFB may not be treated as a matchable contribution for any purpose.

(b) The following contributions are not matchable:

(i) loans;

- (ii) in-kind contributions of property, goods, or services;
- (iii) contributions in the form of the purchase price paid for an item with significant intrinsic and enduring value;
- (iv) transfers from a party or constituted committee;
- (v) anonymous contributions;
- (vi) contributions whose source is not itemized as required by these recommendations;
- (vii) contributions gathered during a previous election cycle;
- (viii) illegal contributions;
- (ix) contributions from minors;
- (x) contributions from vendors for campaigns hired by the candidate for such election cycle;
- (xi) contributions from lobbyists registered pursuant to subdivision (a) of section one-c of the Legislative Law; and
- (xii) any portion of a contribution when the aggregate contributions are in excess of two-hundred fifty dollars from any one contributor to such participating candidate for nomination or election.

13. The term "nonparticipating candidate" shall mean a candidate for a covered election who fails to file a written certification in the form of an affidavit pursuant to these recommendation by the applicable deadline.

14. The term "participating candidate" shall mean any candidate for nomination for election, or election, to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, State Senator, or Member of the Assembly, who files a written certification in the form determined by the PCFB.

15. The term "post-election period" shall mean the period following an election when a candidate is subject to an audit.

16. The term "qualified campaign expenditure" shall mean an expenditure for which public matching funds may be used.

17. The term "threshold for eligibility" shall mean the amount of matchable contributions that a candidate's authorized committee must receive in total in order for such candidate to qualify for voluntary public financing under this title.

18. The term "transfer" shall mean any exchange of funds between a party or

constituted committee and a candidate or any of his or her authorized committees.

19. The term “surplus” shall mean those funds where the total sum of contributions received and public matchable funds received by a participating candidate and his or her authorized committee exceeds the total campaign expenditures of such candidate and authorized committee for all covered elections held in the same calendar year or for a special election to fill a vacancy.

B. Political committee registration. 1. Political committees as defined pursuant to subdivision one of section 14-100 shall register with the state board of elections before making any contribution or expenditure. The state board of elections shall publish a cumulative list of political committees that have registered, including on its webpage, and regularly update it.

2. Only one authorized committee per candidate per elective office sought. Before receiving any contribution or making any expenditure for a covered election, each candidate shall notify the PCFB as to the existence of his or her authorized committee that has been approved by such candidate. Each candidate shall have one and only one authorized committee per elective office sought. Each authorized committee shall have a treasurer.

3. (a) Detailed reporting. In addition to each authorized and political committee reporting to the PCFB every contribution and loan received and every expenditure made in the time and manner prescribed by sections 14-102, 14-104, and 14-108, each authorized and political committee for participating candidates shall also submit disclosure reports on March fifteenth of each election year reporting to the PCFB every contribution and loan received and every expenditure made. For contributors who make aggregate contributions of one hundred dollars or more, each authorized and political committee shall report to the PCFB the occupation and business address of each contributor and lender. The PCFB shall revise, prepare, and post forms on its webpage that facilitate compliance with the requirements of this section.

(b) PCFB review. The PCFB shall review each disclosure report filed and shall inform authorized and political committees of relevant questions it has concerning: (i) compliance with requirements of this title and of the rules issued by the PCFB and (ii) qualification for receiving public matching funds pursuant to this title. In the course of this review, it shall give authorized and political committees an opportunity to respond to and correct potential violations and give candidates an opportunity to address questions it has concerning their matchable contribution claims or other issues concerning eligibility for receiving public matching funds pursuant to this title.

(c) Itemization. Contributions that are not itemized in reports filed with the PCFB shall not be matchable.

(d) Option to file more frequently. Participating candidates may file reports of contributions as frequently as once a week on Monday so that their matching funds may be paid at the earliest allowable date.

C. Proof of compliance. Authorized and political committees shall maintain such records of receipts and expenditures for a covered election as required by the PCFB. Authorized and political committees shall obtain and furnish to the PCFB any information it may request relating to financial transactions or contributions and furnish such documentation and other proof of compliance with this title as may be requested. In compliance with section 14-108, authorized and political committees shall maintain copies of such records for a period of five years.

D. Eligibility. 1. Terms and conditions. To be eligible for voluntary public financing under this title, a candidate must:

- (a)** be a candidate in a covered election;
- (b)** meet all the requirements of law to have his or her name on the ballot, subject to the requirements of Part IV, subparts A or B;
- (c)** in the case of a covered general or special election, be opposed by another candidate on the ballot who is not a write-in candidate;
- (d)** submit a certification in the form of an affidavit, in such form as may be prescribed by the PCFB, that sets forth his or her acceptance of and agreement to comply with the terms and conditions for the provision of such funds in each covered election and such certification shall be submitted at least four months before a primary election and on the last day in which a certification of nomination is filed in a special election pursuant to a schedule promulgated by the PCFB;
- (e)** be certified as a participating candidate by the PCFB;
- (f)** not make, and not have made, expenditures from or use his or her personal funds or property or the personal funds or property jointly held with his or her spouse, or unemancipated children in connection with his or her nomination for election or election to a covered office, but may make a contribution to his or her authorized committee in an amount that does not exceed three times the applicable contribution limit from an individual contributor to candidates for the office that he or she is seeking;
- (g)** meet the threshold for eligibility set forth in subdivision two of this section;
- (h)** continue to abide by all requirements during the post-election period; and
- (i)** not have accepted contributions in amounts exceeding the contribution limits set forth for candidates in paragraphs a and b of subdivision one of section 14-114 during the election cycle for which the candidate seeks certification;
 - (i)** Provided however, that, if a candidate accepted contributions exceeding such limits, such acceptance shall not prevent the candidate from being certified by the PCFB if the candidate in a reasonable time, as determined

by rule, pays to the fund or returns to the contributor the portion of any contribution that exceeded the applicable contribution limit.

(ii) If the candidate is unable to return such funds in a reasonable time, as determined by rule, because they have already been spent, acceptance of contributions exceeding the limits shall not prevent the candidate from being certified by the PCFB if the candidate submits an affidavit agreeing to pay to the fund all portions of any contributions that exceeded the limit no later than thirty days before the general election. If a candidate provides the PCFB with such an affidavit, any disbursement of public funds to the candidate made under these recommendations shall be reduced by no more than twenty-five percent until the total amount owed by the candidate is repaid.

(iii) Nothing herein shall be interpreted to require a candidate who retains funds raised during any previous election cycle to forfeit such funds. Funds raised during a previous election cycle may be retained and used by the candidate for the candidate's campaign in the next election cycle but funds shall not qualify for satisfying the threshold for participating in the public campaign finance program established herein nor shall they be eligible to be matched. The PCFB shall adopt regulations to ensure that contributions that would satisfy the applicable contribution limits authorized herein shall be transferred into the appropriate campaign account.

(iv) Contributions received and expenditures made by the candidate or an authorized committee of the candidate prior to the effective date of this title shall not constitute a violation of this title. Unexpended contributions shall be treated the same as campaign surpluses under subparagraph (iii) of this paragraph. Nothing in this recommendation shall be construed to limit, in any way, any candidate or public official from expending any portion of pre-existing campaign funds for any lawful purpose other than those related to his or her campaign.

(v) A candidate who has raised matchable contributions but, in the case of a covered primary, general or special election, is not opposed by another candidate on the ballot who is not a write-in candidate, or who chooses not to accept matchable funds, may retain such contributions and apply them in accord with this title to the candidate's next campaign, should there be one, in the next election cycle.

2. Threshold for eligibility.

(a) The threshold for eligibility for public funding for participating candidates shall be in the case of:

(i) Governor, not less than five hundred thousand dollars in contributions including at least five thousand matchable contributions shall be counted toward this qualifying threshold;

(ii) Lieutenant Governor, Attorney General and Comptroller, not less than one hundred thousand dollars in contributions including at least one thousand matchable contributions shall be counted toward this qualifying threshold;

(iii) State Senator, except as otherwise provided in paragraph (c) below, not less than twelve thousand dollars in contributions including at least one hundred fifty matchable contributions shall be counted toward this qualifying threshold; and

(iv) Member of the Assembly, except as otherwise provided in paragraph (c) below, not less than six thousand dollars in contributions including at least seventy-five matchable contributions shall be counted toward this qualifying threshold.

(b) However, solely for purposes of achieving the monetary thresholds in (a) (i) through (iv) above, the first two hundred and fifty dollars of any contribution of more than two hundred fifty dollars to a candidate or a candidate's committee which would otherwise be matchable except that it comes from a contributor who has contributed more than two hundred fifty dollars to such candidate or candidate's committee, is deemed to be a matchable contribution and shall count towards satisfying such monetary threshold but shall not otherwise be considered a matchable contribution.

(c) With respect to the minimum dollar threshold for participating candidates for State Senate and State assembly, in such districts where average median income ("AMI") is below the AMI as determined by the United States Census Bureau three years before such election for which public funds are sought, such minimum dollar threshold for eligibility shall be reduced by one-third. The PCFB shall make public which districts are subject to such reduction no later than two years before the first primary election for which funding is sought.

(d) Any participating candidate meeting the threshold for eligibility in a primary election for one of the foregoing offices shall be applied to satisfy the threshold for eligibility for such office in any other subsequent election held in the same calendar year. Any participating candidate who is nominated in a primary election and has participated in the public financing program set forth herein, must participate in the general election for such office.

F. Limits on public financing. The following limitations apply to the total amounts of public funds that may be provided to a participating candidate's authorized committee for an election cycle:

1. In any primary election, receipt of public funds by participating candidates and by their participating committees shall not exceed:

(a) for Governor \$3,500,000

(b) for Lieutenant Governor, Attorney General or Comptroller \$3,500,000

(c) for State Senator	\$375,000
(d) for Member of the Assembly	\$175,000

2. In any general or special election, receipt of public funds by a participating candidate's authorized committees shall not exceed:

(a) for Governor and Lieutenant Governor (combined)	\$3,500,000
(b) for Attorney General	\$3,500,000
(c) for Comptroller	\$3,500,000
(d) for State Senator	\$375,000
(e) for Member of the Assembly	\$175,000

3. No participating candidate for nomination for an office who is not opposed by a candidate on the ballot in a primary election shall be entitled to payment of public matching funds, except that, where there is a contest in such primary election for the nomination of at least one of the two political parties with the highest and second highest number of enrolled members for such office, a participating candidate who is unopposed in the primary election may receive public funds before the primary election, for expenses incurred on or before the date of such primary election, in an amount equal to up to half the sum set forth in paragraph one of this section.

4. Nothing in this section shall be construed to limit the amount of private funds a candidate may receive subject to the contribution limits contained in section 14-114. Any contribution so received which are not expended in the general election may be applied to the next covered election for an office for which such candidate seeks nomination or election.

5. A candidate only on the ballot in one or more primary elections in which the number of persons eligible to vote for party nominees in each such election totals fewer than 1,000 shall not receive public funds in excess of \$5,000 for qualified campaign expenditures in such election or elections. For the purposes of this, the number of persons eligible to vote for party nominees in a primary election shall be as determined by the State Board of Elections for the calendar year of the primary election. A candidate for office on the ballot in more than one primary for such office, shall be deemed, for purposes of this recommendation, to be a single candidate.

G. Payment of public matching funds.

1. Determination of eligibility. No public matching funds shall be paid to an authorized committee unless the PCFB determines that the participating candidate has met the eligibility requirements of this title. Payment shall not exceed the amounts specified in subdivision two of this section, and shall be made only in accordance with the provisions of this title. Such payment may be made only to the participating candidate's authorized committee. No public matching funds shall be used except as reimbursement

or payment for qualified campaign expenditures actually and lawfully incurred or to repay loans used to pay qualified campaign expenditures.

2. Calculation of payment.

(a) In any election for a public office to be voted on by the voters of the entire state or for nomination to any such office, if the threshold for eligibility is met, the participating candidate's authorized committee shall receive payment for qualified campaign expenditures of six dollars of public matching funds for each one dollar of matchable contributions, obtained and reported to the PCFB in accordance with the provisions of this title. The maximum payment of public matching funds shall be limited to the amounts set forth herein for the covered election.

(b) In any election for state senate or state assembly or for nomination to any such office, if the threshold for eligibility is met, the participating candidate's authorized committee shall receive payment for qualified campaign expenditures for matchable contributions of eligible private funds per contributor, obtained and reported to the PCFB in accordance with the recommendations herein, of: twelve dollars of public matching funds for each of the first fifty dollars of matchable contributions; nine dollars of public matching funds for each of the next one hundred dollars of public matchable contributions; and eight dollars for the each of the next one hundred dollars of public matchable contributions. The maximum payment of public matching funds shall be limited to the amounts set forth in herein for the covered election.

3. Timing of payment. The PCFB shall make any payment of public matching funds to participating candidates as soon as is practicable. But in all cases, it shall verify eligibility for public matching funds within four days, excluding weekends and holidays, of receiving a campaign contribution report filed in compliance with section 14-104. Within two days of determining that a candidate for a covered office is eligible for public matching funds, it shall authorize payment of the applicable matching funds owed to the candidate. The PCFB shall schedule at least three payment dates in the thirty days prior to a covered primary, general, or special election. If any of such payments would require payment on a weekend or federal holiday, payment shall be made on the next business day.

4. Notwithstanding any provision of this section to the contrary, the amount of public funds payable to a participating candidate on the ballot in any covered election shall not exceed one-quarter of the maximum public funds payment otherwise applicable and no participating candidate shall be eligible to receive a disbursement of public funds prior to two weeks after the last day to file a designating petitions for a primary election unless the participating candidate is opposed by a competitive candidate. The PCFB shall, by regulation, set forth objective standards to determine whether a candidate is competitive and the procedures for qualifying for the payment of public funds

5. Electronic funds transfer. The PCFB shall, in consultation with the office of the

Comptroller, promulgate rules to facilitate electronic funds transfers directly from the campaign finance fund into an authorized committee's bank account.

6. Irregularly scheduled elections. Notwithstanding any other provision of this title, the PCFB shall promulgate rules to provide for the prompt issuance of public matching funds to eligible participating candidates for qualified campaign expenditures in the case of any other covered election held on a day different from the day originally scheduled including special elections. But in all cases, the PCFB shall (a) within four days, excluding weekends and holidays, of receiving a report of contributions from a candidate for a covered office claiming eligibility for public matching funds, verify that candidate's eligibility for public matching funds; and (b) within two days of determining that the candidate for a covered office is eligible for public matching funds, it shall authorize payment of the applicable matching funds owed to the candidate.

H. Use of public matching funds; qualified campaign expenditures.

1. Public matching funds provided herein may be used only by an authorized committee for expenditures to further the participating candidate's nomination for election or election, including paying for debts incurred within one year prior to an election to further the participating candidate's nomination for election or election.

2. Such public matching funds may not be used for:

- (a) an expenditure in violation of any law;
- (b) an expenditure in excess of the fair market value of services, materials, facilities, or other things of value received in exchange;
- (c) an expenditure made after the candidate has been finally disqualified from the ballot;
- (d) an expenditure made after the only remaining opponent of the candidate has been finally disqualified from the general or special election ballot;
- (e) an expenditure made by cash payment;
- (f) a contribution or loan or transfer made to or expenditure to support another candidate or political committee or party committee or constituted committee;
- (g) an expenditure to support or oppose a candidate for an office other than that which the participating candidate seeks;
- (h) gifts, except brochures, buttons, signs, tee shirts and other printed campaign material;
- (i) legal fees to defend against a criminal charge;
- (j) any expenditure made to challenge the validity of any petition of designation or nomination or any certificate of nomination, acceptance, authorization,

declination, or substitution;

(k) payments made to the candidate or a spouse, domestic partner, child, grandchild, parent, grandparent, brother or sister of the candidate or spouse or domestic partner of such child, grandchild, parent, grandparent, brother or sister, or to a business entity in which the candidate or any such person has a ten percent or greater ownership interest;

(l) an expenditure made primarily for the purpose of expressly advocating a vote for or against a ballot proposal, other than expenditures made also to further the participating candidate's nomination for election or election;

(m) payment of any settlement, penalty or fine imposed pursuant to federal, state or local law;

(n) payments made through advances, except in the case of individual purchases less than two hundred fifty dollars; or

(o) expenditures to facilitate, support, or otherwise assist in the execution or performance of the duties of public office.

I. Composition, powers and duties of the public campaign finance board.

1. There shall be a Public Campaign Finance Board within the State Board of Elections that shall be comprised of the following commissioners: the four State Board of Elections commissioners and three additional commissioners, one jointly appointed by the legislative leaders of one major political party in each house of the legislature, one jointly appointed by the legislative leaders of the other major political party in each house of the legislature, and one of whom shall be appointed by the Governor. Each commissioner must be a New York state resident and registered voter, and may not currently be, or within the previous five years have been, an officer of a political party or political committee as defined in the election law, or a registered lobbyist. The chair of the PCFB shall be designated by the PCFB from among the three additional commissioners. Each of the three additional commissioners shall receive a per diem of three hundred and fifty dollars for work actually performed not to exceed \$25,000 in any one calendar year. They shall be considered public officers for purposes of sections 73-a and 74 of the Public Officers Law. The three commissioners so appointed pursuant to this recommendation will be appointed for a term of five years to commence on July 1, 2020 and may be removed by his or her appointing authority solely for substantial neglect of duty, gross misconduct in office, inability to discharge the power or duties of office, after written notice and opportunity to be heard. During the period of his or her term as a commissioner appointed hereunder, each such commissioner is barred from making, or soliciting from other persons, any contributions to candidates for election to the offices of Governor, Lieutenant Governor, Attorney General, Comptroller, Member of the Assembly or State Senator. Any vacancy occurring on the PCFB shall be filled within thirty days of its occurrence in the same manner as the member whose vacancy is being filled was appointed. A person appointed to fill a vacancy occurring other than

by expiration of a term of office shall be appointed for the unexpired term of the member he or she succeeds. Four members of the PCFB shall constitute a quorum, and the PCFB shall have the power to act by majority vote of the total number of members of the commission without vacancy. All members of the PCFB shall be appointed no later than 1st day of July 2020 and the PCFB shall promulgate such regulations as are needed no later than the 1st day of July 2021.

2. The PCFB and State Board of Elections may utilize existing State Board of Elections staff and hire such other staff as are necessary to carry out its duties. It may expand its staffing, as needed, to provide additional candidate liaisons to assist candidates in complying with the terms of this public campaign finance system as provided for in these recommendations, as well as auditors, trainers, attorneys, technical staff and other such staff as the PCFB determines is necessary to administer this system. Annually, on or before the first of every year, the PCFB shall submit to the Governor and the Division of Budget a request for appropriations for the next state fiscal year to fully support the administration of the public campaign finance program established herein and shall make such requests for appropriations public at the time of such submission to the Governor. If appropriations for PCFB submitted by the Governor pursuant to Article VII of the New York State Constitution differ from those sought by the PCFB, the Division of Budget shall publicly state the reasons for such difference.

3. Public information, candidate education and counseling. The PCFB shall develop a program for informing candidates and the public as to the purpose and effect of the provisions of this title, including by means of a webpage. The PCFB shall prepare in plain language and make available educational materials, including compliance manuals and summaries and explanations of the purposes and provisions of this title. The PCFB shall provide compliance counseling and guidance to candidates seeking to participate in public financing as provided for in this title, as well as to such candidates who participate. The PCFB shall prepare or have prepared and make available materials, including, to the extent feasible, computer software, to facilitate the task of compliance with the disclosure and record-keeping requirements of this title.

4. Rules and regulations. The PCFB shall have the authority to promulgate such rules and regulations and provide such forms as it deems necessary for the administration of this title.

5. Database. The PCFB shall provide an interactive, searchable computer database that shall contain all information necessary for the proper administration of this title including information on contributions to and expenditures by candidates and their authorized committee, independent expenditures in support or opposition of candidates for covered offices, and distributions of moneys from the fund. Such database shall be accessible to the public on the PCFB's webpage.

6. Any advice provided by PCFB staff to a participating or non-participating candidate with regard to an action shall be presumptive evidence that such action, if taken in reliance on such advice, should not be subject to a penalty or repayment obligation

where such candidate or such candidate's committee has confirmed such advice in a writing to such PCFB staff by registered or certified mail to the correct address, or by electronic or facsimile transmission with evidence of receipt, describing the action to be taken pursuant to the advice given and the PCFB or its staff has not responded to such written confirmation within seven business days disavowing or altering such advice, provided that the PCFB's response shall be by registered or certified mail to the correct address, or by electronic or facsimile transmission with evidence of receipt.

7. The PCFB and its proceedings shall be subject to Articles six and seven of the Public Officers Law.
8. Notwithstanding any other provision of law including, but not limited to, subdivision 1 of section 3-104 the Election Law, the PCFB shall have sole authority to investigate all referrals and complaints relating to the administration of the program established hereunder and violations of any of its provisions, and it shall have sole authority to administer the program established herein and to enforce such provisions of this program except as otherwise provided herein.
9. The PCFB may take such other actions as are necessary and proper to carry out the purposes of this recommendation.

J. Audits and repayments. 1. Audits. (a) The PCFB shall audit and examine all matters relating to the proper administration of this title and shall complete all such audits no later than one and one-half years after the election in question. This deadline shall not apply in cases involving potential campaign-related fraud, knowing and willful violations of article fourteen of the Election Law, or criminal activity.

(b) Every participating candidate for statewide office who receives public funds as provided herein, and every candidate for any other office who receives \$500,000 or greater in public funds as provided herein, shall be audited by the PCFB along with all other candidates in each such race. Such audits shall be completed within one and a half years of the election in question.

(c) Except as provided in paragraph (b) above, the PCFB shall select not more than one third of all participating candidates in covered elections for audit through a lottery which shall be completed within one year of the election in question. A separate lottery shall be conducted for each office. The PCFB shall select senate and assembly districts to be audited, auditing every candidate in each selected district, while ensuring that the number of audited candidates within those districts does not exceed fifty percent of all participating candidates for the relevant office. The lottery for senate and assembly elections shall be weighted to increase the likelihood that a district for the relevant office is audited based on how frequently it has not been selected for auditing during the past three election cycles. The PCFB shall promulgate rules concerning the method of weighting the senate and assembly lotteries, including provisions for the first three election cycles for each office.

(d) The cost of complying with a post-election audit shall be borne by the candidate's

authorized committee using public funds, private funds, or any combination of such funds. Candidates who run in any primary or general election must maintain a reserve of three percent of the public funds received to comply with the post-election audit.

(e) The PCFB shall issue to each campaign audited a final audit report that details its findings.

2. Repayments.

(a) If the PCFB determines that any portion of the payment made to a candidate's authorized committee from the fund was in excess of the aggregate amount of payments that such candidate was eligible to receive pursuant to this title, it shall notify such committee and such committee shall pay to the PCFB an amount equal to the amount of excess payments. Such committee shall first utilize the surplus for repayment of such sums and then such other funds as it may have. Provided, however, that if the erroneous payment was the result of an error by the PCFB, then the erroneous payment will be deducted from any future payment, if any, and if no future payment is to be made then neither the candidate nor the committee shall be liable to repay the excess amount to the PCFB. The candidate and the candidate's authorized committee are jointly and severally liable for any repayments to the PCFB.

(b) If the PCFB determines that any portion of the payment made to a candidate's authorized committee from the fund was used for purposes other than qualified campaign expenditures and such expenditures were not approved by the PCFB, it shall notify such committee of the amount so disqualified and such committee shall pay to the PCFB an amount equal to such disqualified amount. The candidate, the treasurer, and the candidate's authorized committee are jointly and severally liable for any repayments to the PCFB.

(c) If the total sum of contributions received and public matching payments from the fund received by a participating candidate and his or her authorized committee exceed the total campaign expenditures of such candidate and authorized committee for all covered elections held in the same calendar year or for a special election to fill a vacancy, such candidate and committee shall use such surplus funds to reimburse the fund for payments received by such authorized committee from the fund during such calendar year or for such special election. Participating candidates shall make such payments not later than twenty- seven days after all liabilities for the election have been paid and in any event, not later than the day on which the PCFB issues its final audit report for the participating candidate's authorized committee; provided, however, that all unspent public campaign funds for a participating candidate shall be immediately due and payable to the PCFB upon a determination by the PCFB that the participant has delayed the post-election audit. A participating candidate may make post-election expenditures with public funds only for routine activities involving nominal cost associated with winding up a campaign and responding to the post-election audit. Nothing in this title shall be construed to prevent a candidate or his or her authorized committee from using campaign contributions received from private contributors for otherwise lawful expenditures.

3. Rules and regulations. (a) The PCFB shall promulgate regulations for the certification of the amount of funds payable by the Comptroller from the fund established pursuant to this recommendation, to a participating candidate that has qualified to receive such payment. These regulations shall include the promulgation and distribution of forms on which contributions and expenditures are to be reported, the periods during which such reports must be filed, and the verification required. The PCFB shall institute procedures which will make possible payment by the fund within four business days after receipt of the required forms and verifications.

(b) All rules and regulations promulgation pursuant to this recommendation shall promulgated pursuant to the State Administrative Procedure Act. The PCFB's determinations pursuant to such regulations and these recommendations shall be deemed final.

K. Enforcement and penalties for violations and other proceedings.

1. Civil penalties. Violations of any provisions of the recommendations regarding public campaign financing stated herein or regulation promulgated pursuant to this recommendation shall be subject to a civil penalty in an amount not in excess of fifteen thousand dollars and such other lesser fines as the PCFB may promulgate as a regulation. Candidates may contest alleged failures to file, late reports and reports with noticed deficiencies and have an opportunity to be heard by the PCFB. The PCFB shall promulgate a regulation setting forth a schedule of fines for such infractions including those that it may assess directly on violators. The PCFB shall investigate referrals and complaints. After investigation, it may recommend dismissal, settlement, civil action, or referral to law enforcement. The PCFB may assess penalties and it is authorized to commence a civil action in court to enforce all penalties and recover money due.

2. Notice of violation and opportunity to be heard. The PCFB shall:

(a) determine whether a violation of any provision of this title or regulation promulgated hereunder has been committed;

(b) serve written notice upon each person or entity it has reason to believe has committed a violation and such written notice shall describe with particularity the nature of the alleged violation including a written reference to a specific law or regulation alleged to have been violated;

(c) provide such person and entity an opportunity to be heard pursuant to the State Administrative Procedure Act and any regulations of the PCFB; and

(d) if appropriate, assess penalties for violations, following such notice and opportunity to be heard.

3. Criminal conduct. Any person who knowingly and willfully furnishes or submits

false statements or information to the PCFB in connection with its administration of this title shall be guilty of a misdemeanor in addition to any other penalty as may be imposed under this chapter or pursuant to any other law. The Attorney General, upon referral from the PCFB, shall have exclusive authority to prosecute any such criminal violation. The PCFB shall seek to recover any public matching funds obtained as a result of such criminal conduct.

4. Court proceedings. Proceedings as to public financing brought under this title shall have preference over all other causes in all courts.

(a) The determination of eligibility pursuant to this title and any question or issue relating to payments for campaign expenditures pursuant to this title may be contested in a proceeding instituted in the Supreme Court, Albany County by any aggrieved candidate.

(b) A proceeding with respect to such a determination of eligibility or payment for qualified campaign expenditures pursuant to this chapter shall be instituted within fourteen days after such determination was made. The PCFB shall be made a party to any such proceeding.

(c) Upon the PCFB's failure to receive the amount due from a participating candidate or such candidate's authorized committee after the issuance of written notice of such amount due, as required by this title, the PCFB is authorized to institute a special proceeding or civil action in Supreme Court, Albany county to obtain a judgment for any amounts determined to be payable to the PCFB as a result of an examination and audit made pursuant to this title or to obtain such amounts directly from the candidate or authorized committee after a hearing at the PCFB.

(d) The PCFB shall settle or, in its sole discretion, institute a special proceeding or civil action in Supreme Court, Albany county to obtain a judgment for civil penalties determined to be payable to the PCFB pursuant to this title or to impose such penalty directly after a hearing at the PCFB.

L. Reports. The PCFB shall review and evaluate the effect of this title upon the conduct of election campaigns and shall submit a report to the legislature on or before January first, two thousand twenty-five and every second year thereafter, and at any other time upon the request of the Governor and at such other times as the PCFB deems appropriate. These reports shall include:

1. a list of the participating and nonparticipating candidates in covered elections and the votes received by each candidate in those elections;
2. the amount of contributions and loans received and expenditures made on behalf of these candidates;
3. the amount of public matching funds each participating candidate received, spent, and repaid pursuant to this program;

4. analysis of the effect of this title on political campaigns, including its effect on the sources and amounts of private financing, the level of campaign expenditures, voter participation, the number of candidates, the candidates' ability to campaign effectively for public office, and the diversity of candidates seeking and elected to office; and

5. recommendations for further legislative and regulatory enactments, including changes in contribution limits, thresholds for eligibility, and any other features of the system.

M. Debates for candidates for statewide office. The PCFB shall promulgate regulations to facilitate debates among participating candidates who seek election to statewide office. Participating candidates are required to participate in one debate before each election for which the candidate receives public funds, unless the participating candidate is running unopposed. Nonparticipating candidates may participate in such debates.

N. Severability.

If any clause, sentence, or other portion of paragraph (c) of subdivision 2 of subpart D of Part II of this recommendation be adjudged by any court of competent jurisdiction to be invalid, then subparagraphs (iii) and (iv) of paragraph (a) of subdivision 2 of subpart D of Part II shall read as follows:

(iii) State Senator, except as otherwise provided in paragraph (c) below, not less than ten thousand dollars in matchable contributions including at least one hundred and fifty matchable contributions in an amount greater than five dollars and no greater than the limits in this chapter, of which the first two hundred and fifty dollars shall be counted toward this qualifying threshold; and

(iv) Member of the Assembly, except as otherwise provided in paragraph (c) of this subdivision, not less than five thousand dollars in matchable contributions including at least seventy-five matchable contributions in an amount greater than five dollars and no greater than the limits in this chapter, of which the first two hundred and fifty dollars shall be counted toward this qualifying threshold.

Part III

To establish a system of voluntary public campaign financing, the Commission further makes the following recommendations:

A. (a) There is hereby established in the joint custody of the state Comptroller and the commissioner of taxation and finance a fund to be known as the New York state campaign finance fund.

(b) Such fund shall consist of all revenues received from the New York state campaign finance fund check-off pursuant to subsection (h) of section six hundred fifty-eight of

the tax law, from the abandoned property fund pursuant to section ninety-five of this article, from the general fund, and from all other moneys credited or transferred thereto from any other fund or source pursuant to law. Such fund shall also receive contributions from private individuals, organizations, or other persons to fulfill the purposes of the public financing system.

(c) Moneys of the fund, following appropriation by the legislature, may be expended for the purposes of making payments to candidates pursuant to title two of article fourteen of the election law and for administrative expenses related to the implementation of article fourteen of the election law. Moneys shall be paid out of the fund by the state Comptroller on vouchers certified or approved by the PCFB, or its duly designated representative, in the manner prescribed by law, not more than five working days after such voucher is received by the state Comptroller.

(d) Notwithstanding any provision of law to the contrary, if, in any state fiscal year, the state campaign finance fund lacks the amount of money to pay all claims vouchered by eligible candidates and certified or approved by the board, any such deficiency shall be paid by the state Comptroller, from funds deposited in the general fund of the state not more than four working days after such voucher is received by the state Comptroller.

(e) Commencing in two thousand twenty-five, if the surplus in the fund on April first of the year after a year in which a Governor is elected exceeds twenty-five percent of the disbursements from the fund over the previous four years, the excess shall revert to the general fund of the state.

(f) No public funds shall be paid to any participating candidates in a primary election any earlier than thirty days after certification of participation pursuant to subpart E of Part II of this recommendation and not later than ten days after such primary election.

(g) No public funds shall be paid to any participating candidates in a general election any earlier than the day after the day of the primary election held to nominate candidates for such election.

(h) No public funds shall be paid to any participating candidates in a special election any earlier than the day after the last day to file certificates of party nomination for such special election.

(i) No public funds shall be paid to any participating candidate who has been disqualified or whose designating petitions have been declared invalid by the appropriate board of elections or a court of competent jurisdiction until and unless such finding is reversed by a higher court in a final judgment. No payment from the fund in the possession of such a candidate or such candidate's participating committee on the date of such disqualification or invalidation may thereafter be expended for any purpose except the payment of liabilities incurred before such date. All such remaining public funds shall be repaid to the fund.

B. As often as necessary, the PCFB shall certify the amount it has determined necessary to fund estimated payments from the fund established pursuant to subpart A of this Part

III for the primary, general, or special election. Notwithstanding any provision of this section authorizing the transfer of any moneys in the abandoned property fund to the general fund, the Comptroller, after receiving amounts sufficient to pay claims against the abandoned property fund, shall, based upon a certification of the public campaign finance board and at the direction of the director of the budget, transfer the requested amount from remaining available monies in the abandoned property fund to the campaign finance fund established by section ninety-two-t of this article.

C. The income tax liability of an individual for any taxable year is the amount of tax imposed under this article reduced by the sum of the credits (as shown in his or her return) allowable under section 658 of the Tax Law.

Part IV

To establish a system of public campaign financing of elections and ensure the financial stability of that system, the Commission further recommends:

A. That the definition of “party” as appears in subdivision 3 of section 1-104 of the election law mean any political organization which, excluding blank and void ballots, at the last preceding election for Governor received, at least two percent of the total votes cast for its candidate for Governor, or 130,000 votes, whichever is greater, in the year in which a Governor is elected and at least two percent of the total votes cast for its candidate for president, or 130,000 votes, whichever is greater, in a year when a president is elected.

B. The requirement for signatures for an independent nominating petition for candidates to be voted for by all the voters of the state as appears in subdivision 1 of section 6-142 of the election law, be set at 45,000 signatures or one percent of the total number of votes, excluding blank and void ballots, cast for the office of Governor at the last gubernatorial election, whichever is less, with at least 500 signatures or one percent of enrolled voters, whichever is less, from each of one-half of the congressional districts in the state.

Part V

The Commission’s recommendations set forth herein shall become effective on the first of January, 2020, except that Part I and those recommendations for implementing and providing funds to candidates under the system of public finance so recommended, shall become operative the ninth of November, 2022 for participants in the primary and general elections to be held in 2024.

STATEMENT IN SUPPORT

Recommendation on Public Matching Funds

Match Ratios:

This Commission is expressly directed to “specifically determine and identify new election laws in the following areas: (a) ratio of public matching funds to small contributions” Part XXX, Sec. 2 (a). This directive places our consideration of match ratios at the forefront of an effective and robust campaign finance system. By instituting a progressive match system that prioritizes smaller-scale low-dollar donations, the proposed 9.2:1 overall match ratio is one of the highest match ratios in the nation² and most acutely directs participating candidates to their constituents who may have small amounts of financial resources for engagement in the political process, yet still seek an opportunity to voice their opinions on policy issues. Figure 1 depicts various aspects of public matching programs in other states.

Figure 1. Comparison of Other Public Matching Systems

State
<p>Florida:</p> <ul style="list-style-type: none"> • The program applies to candidates for Governor/Lieutenant Governor; • A candidate must not be unopposed; • Threshold contributions to qualify-\$150,000; • Qualifying contributions are capped at \$250 among at least 600 donors; • Limits loans or contributions from the candidate’s personal funds to \$25,000 and contributions from national, state, and county executive committees of a political party to \$250,000 in the aggregate, and these loans or contributions do not qualify under the contribution threshold (Title IX, §106.33) <ul style="list-style-type: none"> • If receiving matching funds, the candidate’s total expenditures are limited to \$2 per registered voter [2018 = \$27,091,462 total], and to 60% of that amount if there is only a primary challenge (§106.34) • Matching ratio is 2:1 for the qualifying contributions, then 1:1 for all other contributions (§106.35(2)(a)(2)) • Qualifying matching contributions are those of \$250 or less from an individual, made after September 1 of the calendar year prior to the election; aggregate contributions from an individual in excess of \$250 will be matched only up to \$250. (§106.35(2)(b)) • Administered by Florida Division of Elections
<p>Hawaii:</p> <ul style="list-style-type: none"> • Applies to candidates for Governor and Lieutenant Governor, and participation is triggered by voluntarily filing an affidavit with the Campaign Spending Commission (11-423(a)) <ul style="list-style-type: none"> • Aggregate expenditure limits are \$2.50 per registered voter for Governor, and \$1.40 for Lieutenant Governor [2014: 103,734 registered voters] (11-423(d)(1), (2))

² Florida, Hawaii, Maryland (opposed candidates), Massachusetts have a 1:1 match ratio; Michigan, New Jersey, and Rhode Island have a 2:1 match ratio

- Maximum available public funds are 10% of the expenditure limits [11-425(a)]
- Maximum qualifying contribution from an individual: \$100 [11-428(5)]
- Candidates for Governor must receive \$100,000 in contributions to qualify (meaning 1,000 individual donors); LG-\$50,000 [11-429(a)(1),(2)]
- Qualifying candidates cannot be running unopposed [11-429(a)]
- Once qualified, the gubernatorial candidate receives an amount equal to the qualifying contributions and 1:1 match for all other contributions [11-429(b)]
 - 2014 example: expenditure limit for the general election was \$1,597,208; participating candidate receives 10% of that amount, or \$159,720; candidate must first receive \$100,000 in qualifying contributions during the primary season for the state to provide a matching \$100,000 during the general election. The candidate can then raise an additional \$59,721 in qualifying contributions that the state will match, for a total of \$319,442 (source: NCSL page on public campaign finance)

Maryland:

- Available for Governor and Lieutenant Governor races
- Expenditures limited to \$0.48 times the population of the State (CPI adjustment of \$0.30 in 1997 dollars) (2018: 6,042,718 residents, so \$2,900,504) (15-105)
- Match rate: if opposed in the primary, contributions are matched 1:1; if unopposed in the primary, contributions receive \$1 public dollar for every \$3 in private donations (15-106)

Massachusetts:

- Applies to all statewide offices (Ch.55-C, §1)
- Qualifying contributions from a donor are limited to \$250, but can count for both the primary and general elections (Ch.55-C, §1)
- Qualifying contributions for primary: Governor \$75,000 (thus 300 donors); Lieutenant Governor \$15,000 (60 donors); Attorney General \$37,500 (150 donors); Secretary of State \$15,000 (60 donors); Treasurer and Receiver General \$15,000 (60 donors); Auditor \$15,000 (60 donors) (§4)
- Qualifying contributions for general: Governor and Lieutenant Governor \$125,000; Attorney General 62,500; Secretary 25,000; Treasurer and Receiver General 25,000; Auditor 25,000 (§6)
- Primary and general match ratio is 1:1, up to Governor \$750,000, Lieutenant Governor 312,500, Attorney General 312,500, Secretary 187,500, Treasurer and Receiver General 187,500, Auditor 187,500; and up to the amount in each candidate's primary or general election accounts (§5, §7)
- Expenditure limits: Governor \$1,500,000; Lieutenant Governor 625,000; Attorney General 625,000; Secretary of State 375,000; Treasurer and Receiver General 375,000; Auditor 375,000, separately for the primary and the general elections (§1-A)

Michigan:

- Applies to gubernatorial candidates (169.264(2))
- Match ratio is 2:1 (169.264(1))
- Candidate must receive \$75,000 in contributions to qualify for public matching (169.264(1)(a))
- Candidates cannot receive more than \$990,000 in public funds for a primary election (169.264(3)) and \$1.125 million for the general election (169.265(1)). Minor parties operate under a different cap, based on an equation involving the party's results in prior elections (169.265(2) and (3))

<ul style="list-style-type: none"> • Campaign expenditures are capped at \$2 million per election (169.267(1))
<p>Minnesota:</p> <ul style="list-style-type: none"> • Applies to all statewide candidates, and the threshold for contributions to qualify for participation is \$750 (10A.01(10)) • Provides a public subsidy to candidates if the candidate meets the following contribution amounts: governor and lieutenant governor running together, \$35,000 (700 donors); attorney general, \$15,000 (300 donors); secretary of state and state auditor, separately, \$6,000 (120 donors), counting only the first \$50 received from each contributor (10A.323) • The public subsidy is comprised of an amount from a party account and an amount from the general account (funded from tax write-offs), doled out equally by office (21% for Gov/LG; 4.2% for AG, 2.4% for Secretary of State and State Auditor).
<p>New Jersey:</p> <ul style="list-style-type: none"> • Available for gubernatorial candidates (19:25-15.1) • After raising \$430,000 and spending or committing to spend a minimum of \$430,000, candidates are qualified to a 2:1 match • Candidates who qualify for and receive public funds agree to limit campaign expenditures: \$6.4 million (primary election) and \$13.8million (general election) • Candidates must participate in two official debates to receive public funds • Individual contribution limit is \$4,300
<p>Rhode Island:</p> <ul style="list-style-type: none"> • 2:1 match for contributions up to \$500, then a 1:1 match for contributions exceeding \$500 (17-25-19(b)) • To qualify for public funds, a candidate must raise an amount in qualified private contributions equal to 20% of the total amount eligible to be matched for election as to the office sought; and receive private contributions from a minimum of 250 individuals contributing at least \$25.00 each for candidates for governor and receive private contributions from a minimum of 100 individuals contributing at least \$25.00 each, for candidates for lieutenant governor, secretary of state, attorney general and general treasurer (17-25-20) • Total amount of public funds provided to a candidate shall not exceed \$750,000 in matching funds for a total of \$1,500,000 of spending for candidates for governor; and \$187,500 in matching funds for a total of \$375,000 of spending for candidates for other general offices • Only the first \$2,000 of the aggregate private monetary contributions from a single private source within an election cycle shall be eligible for matching public funds for candidates for governor; only the first \$1,000 of the aggregate private monetary contributions from a single private source within an election cycle shall be eligible for matching public funds for candidates for lieutenant governor, secretary of state, attorney general, and general treasurer • If there is a primary, a participating candidate can expend an additional amount of private funds equal to the lesser of 1/3 of the maximum allowable expenditure amount for the office or the total amount spent by the candidates' opponent or opponents in the primary (17-25-21)

New York City Model:

While other the public matching funds operating in other states provide a helpful context for considering how a public matching program for statewide candidates running in New York State could operate, we can also look toward

New York City’s public campaign finance program for guidance on the success of a public matching program in a populous portion of this state would likely operate, especially in the context of state legislative races. The 2019 special election for New York City Public Advocate is the most recent example of how the electorate views New York City’s public matching program. As Figure 2 demonstrates, New York City’s program can achieve utilization by a high number of candidates, offer candidates a sufficient amount of funding to run their campaigns effectively and in a fiscally sound manner, and provide the portion of the electorate who desires to make smaller-dollar donations with an opportunity to be a relevant contributor to the candidate of their preference.

Figure 2. New York City 2019 Public Advocate Special Election Public Finance Usage Data.

Candidate	Participant (A or B, if yes)	Private Funds	Public Funds	Spending	# of Contributors	Avg. Contribution Size	Within NYC	Outside NYC	Matching Claims
Alicandro, A. Manny	B	84,184	0	83,492	161	212	22,663	11,520	5,713
Eisenbach, David	B	48,479	0	50,647	223	183	29,360	11,435	5,575
Galinsky, Seth E. §	NP	0	0	0	0	0	0	0	0
Mark-Viverito, Melissa	B	665,256	408,359	1,111,754	1,607	157	190,584	62,297	90,149
*Popkin, Gary S. §	NP	0	0	0	0	0	0	0	0
Renee, LaMarr §	UN	0	0	0	0	0	0	0	0
Rich, Jared	B	12,322	0	12,322	177	70	9,850	2,472	5,960
Sheikh, Helal A	NP	12,065	0	11,934	22	298	2,075	4,490	0
Blake, Michael A	A	384,559	838,016	1,215,967	1,963	196	220,412	164,147	128,378
*Disu, Sami	A	1,000	0	1,025	0	0	0	0	0
Espinal, Jr., Rafael	A	240,450	575,296	898,921	1,214	144	154,021	20,418	98,777
Herbert, Anthony L	A	25,865	0	26,871	264	98	23,720	2145	15,355
*Ike, Ifeomasinachi	A	31,843	0	22,261	402	79	19,091	12752	16,496
*Iwachiw, Walter N	A	1,110	0	956	1	610	0	610	0
Kim, Ronald T	A	192,730	590,614	606,533	1,169	113	109,115	23,220	89,676
Konst, Nomiki D	A	189,784	512,568	705,230	2,597	73	113,048	76,736	87,099
*Laurel-Smith, Abbey S	A	2,562	0	1,642	3	854	2,562	0	250
*Maio, Danniell S	A	751	0	738	1	751	175	576	175
O'Donnell, Daniel	A	128,063	615,776	762,267	1,206	106	110,893	17,103	90,081

<u>J</u>									
<u>Rodriguez, Ydani s A</u>	A	223,328	510,560	771,457	999	221	171,090	49,238	98,607
<u>Smalls, Dawn L</u>	A	299,176	800,584	1,072,197	1,363	183	164,124	85,052	114,742
<u>Ulrich, Eric A</u>	A	159,250	635,200	752,910	1,101	144	143,409	15,564	89,405
<u>Walker, Latrice M</u>	A	49,015	0	62,670	459	107	37,321	11,694	22,134
<u>Williams, Jumaane D</u>	A	316,244	1,148,467	1,506,105	3,099	102	267,725	48,519	185,674
<u>Yee, Benjamin L</u>	A	191,271	542,680	702,649	1,001	113	106,389	6,882	86,356
<u>*Zumbluskas, Michael K</u>	A	7,773	0	5,593	26	145	3,408	365	1,933
	<u>Totals</u>	3267080	7178120	10386141	19058		1901035	627235	1232535

* Terminated campaign

§ Small campaign

P-A Participant-Option A

P-B Participant-Option B

NP Non-Participant

UN Undetermined

Recommendation on Party Thresholds

Historical Precedent:

Adjusting the party threshold to reflect prevailing voter turnout levels mirrors the structure of the most recent adjustment to this threshold- enacted in 1935- when the threshold for political party ballot access was raised from 40,000 votes to 50,000 votes, a 20% increase in ballot access threshold votes. In the two elections preceding this threshold increase, voter turnout was 4,816,054 (in 1932, or 90.0% of registered voters) and 3,937,199 (in 1934, or 82.3% of registered voters). It is important to note that following the increase to party threshold, the number of voters in the following gubernatorial election increased by 1.7 million voters (in 1936, 5,456,308 voters submitted ballots in the gubernatorial race). Further, in the two elections preceding the 1935 threshold increase, those races saw six and seven parties, respectively, appear on the ballot; in the two elections following the threshold increase, the number of parties that qualified for ballot access were five and seven parties, respectively. Thus, if the most recent alteration to party thresholds is the truest indicator of New York's electoral landscape in the near future, we believe New York's voters can anticipate higher turnouts in upcoming elections and expect little to no discernable difference in the landscape of political parties following this threshold increase taking effect.

Examples of voter turnout in recent elections showcases the necessity of

instituting a proportional increase in party ballot access thresholds to reflect current voter registration and voter turnout statistics. The 50,000-vote threshold enacted in 1935 meant that a political party needed to secure at least 1.27% of the 1934 turnout number of 3,937,199 voters to secure ballot access in subsequent elections. Since 1932 was the last presidential election occurring prior to the 1935 threshold increase, applying that percentage to the most recent presidential election that occurred in 2016 demonstrates that a party would need to secure at least 99,085 votes out of the 7,801,975 cast in the 2016 election to retain the 1.27% figure applicable in the 1934 election. Further, since the 1935 threshold increase contained a 20% increase in ballot access threshold votes compared to the prior 40,000-vote threshold, a similar 20% increase to this 2016 turnout number would equate to an additional 19,817 votes, and result in a current party ballot access threshold of 118,902 votes to remain equivalent to the percentages applicable in 1934. The 11,098-vote difference between the 118,902 vote threshold and our recommended threshold of the greater of 130,000 votes or 2% of turnout provides for future increases to voter turnout that we anticipate in future election cycles, as demonstrated by the 1.7 million vote increase that occurred after the last adjustment to party ballot access thresholds.

Comparative Analysis of Other States’ Thresholds:

While stakeholders have raised concerns increasing New York’s thresholds for political party ballot access would be discordant compared to the thresholds for other ballot access in other states and would render ballot access inordinately high compared to those other states. While published research comparing thresholds across the nation are sparse and various states employ differing metrics for ballot access (including voter turnout in prior elections or a uniform number of signatures), we have attempted to compile such data for comparison. As noted in Figure 3, the current 50,000-voter threshold places New York 30th in terms of party thresholds. Our recommended increase to the greater of 2% of turnout or 130,000 votes will move New York up to 38th, with a dozen other states retaining higher party ballot access thresholds.

Figure 3. 50 State Overview of Political Party Ballot Access Laws-Signature/Votes Needed

State	Signatures/Votes Needed	Statute	Other/Notes
Alabama	51,508 signatures	§17-6-22 (3%)	2 recognized parties-20% of vote
Alaska	8,494 votes	15.80.010(27)	N/A
Arizona	31,686 signatures	§16-801	N/A

Arkansas	10,000 signatures	§7-7-205(a)(2)	Maintain: 3% of vote for Governor
California	1,271,255 signatures	§5100(c)	Or 0.33% of voters select a party; maintain: 2% of statewide vote
Colorado	252,506 votes (major)	1-1-104(22)	Minor: 10,000 signatures
Connecticut	281,360 votes (major)	CT-732(5)	Minor: 1% of votes for that office
Delaware	35,552 voters (major)	§3001	Party Status: 1/10 of 1\$% of all voters
Florida	672,863 enrollees	97.021(19)	N/A
Georgia	39,020 signatures	21-2-180	N/A
Hawaii	757 signatures		Qualify: 10% of votes for statewide office
Idaho	13,805 signatures		Alt: 18,153 votes
Illinois	227,382 votes	10 IL 5/7-2	N/A
Indiana	4,500 signatures	3-5-2-30	N/A
Iowa	26,540 votes	43.20	N/A
Kansas	21,111 signatures	Ch.25, Art.3, sect.25-302a	N/A
Kentucky	366,365 votes	118.015	N/A
Louisiana	67,173 signatures	18:441(B)(6)	N/A
Maine	31,533 votes	Title 21-A,§302	Retain: 10,000 enrollees
Maryland	23,045 votes	Title 4, §4-103	Retain: Recognized: 10,000 signatures
Massachusetts	44,349 votes	Title VIII, §50-1	N/A
Michigan	42,505 signatures	§168.685	Maintain: 22,132 votes
Minnesota	129,394 votes (major)		Alt (major): 130,568 signatures; minor -25,872 votes
Mississippi	No signatures needed	§23-15-1059	N/A
Missouri	56,060 votes	115.013(11))	Qualify: 10,000 signatures
Montana	12,796 votes	13-10-601	N/A
Nebraska	6,979 votes	32-716(1))	N/A

Nevada	96,077 votes (major)	§293.128	9,607 votes (minor)
New Hampshire	22,944 votes	§652.11	N/A
New Jersey	214,741 votes	19:12-1	N/A
New Mexico	34,822 votes	1-7-7	New party: 3,482 signatures
New York	50,000 votes	1-104(3)	N/A
North Carolina	94,220 votes	163-96	Alt: 11,777 signatures
North Dakota	16,718 votes	16.1-11-30	First: file 7,000 signatures
Ohio	164,894 votes (major)	3517.01	44,295 signatures (minor)
Oklahoma	35,591 signatures	26-1-108	Retain: 29,659 votes
Oregon	140,272 registrants (major)	248.006(1)	Minor: 28,004 signatures; retain (minor): 18,669 votes
Pennsylvania	57,913 votes	§801	N/A
Rhode Island	18,820 votes	17-1-2	Alt: 18,820 signatures
South Carolina	10,000 signatures	§7-9-10	N/A
South Dakota	8,467 votes	12-1-3(12)	New party: 3,387 signatures (12-5-1)
Tennessee	112,164 votes (major)	2-1-104(30)	56,082 signatures (minor)
Texas	417,172 votes	172.001	N/A
Utah	2,000 signatures	20A-8-103	Maintain: 22,283 votes
Vermont	13,704 votes	Title 17, §2103	N/A
Virginia	261,428 votes	24.2-521	N/A
Washington	160,460 votes	29A.04.086	N/A
West Virginia	7,138 votes	3-1-8	N/A
Wisconsin	26,733 votes	5.6.2(1)(b)	Petition: 10,000 signatures
Wyoming	20,323 votes (major)	22-5-204	Minor: 4,064 through 20,323 votes

On the topic of manner of qualification, the various operational mechanisms used by states across the nation create diversity in uniform comparisons. For example, four states use an either/or percentage of vote criteria, and several other states allow alternative qualification using a small percentage of overall registered vote. Eight states allow parties to qualify by imposing significant petitioning standards requiring signatures ranging from ¼ of 1% of the last gubernatorial vote to 5% of the last gubernatorial vote. The remaining few states use either a

petitioning process or a by-district process.

The percent of vote in the gubernatorial/statewide race ranges from a low of ½ of 1% to a high of 20%.

Gubernatorial/statewide office:	.05%	- 1 state	(NM)
	1%	- 9 states	(CT, GA, KA, MD, MI, MN, PA, WV, WI)
	2%	- 6 states	(CO, IN, IO, MS, NC, WY)
	2.5%	- 2 states	(OK, SD)
	3%	- 6 states	(AL, AK, ID, MA, NH, OH)
	5%	- 8 states	(AZ, IL, LA, NE, MO, ND, RI, TX)
	10%	- 3 states	(HI, NJ & VA)
	20%	- 1 state	(AL)

When matched with the presidential vote, the percentage equates to the gubernatorial vote.

Several states require the statewide threshold to be validated by certain per-district requirements on top of the aggregate statewide requirement. [HI, MN, NE, NV, NC]

States vary as to the frequency that parties need to re-qualify to maintain minor party status. Excluding New York, seven states require requalification every year; fifteen states every two years; twenty-seven states every four years. Of the fifteen states that require qualification every two years or at every general election, twelve have thresholds at 2% or higher.

Of the states that currently have a statewide public campaign finance program, the thresholds for minor party ballot status vary greatly from a high of 10% in Hawaii for a 2-year qualification and New Jersey, 10% for a 4-year qualification to a low of ½ of 1% in both the gubernatorial and presidential in New Mexico. Arizona, and Rhode Island require 5% of the vote for achieving the requisite threshold, while Florida requires 5% of registered voters to be affiliated with the party, while Maryland, Minnesota and Michigan require 1% vote in a statewide or gubernatorial race. In Connecticut, minor parties qualify every year and by office, with a 1% of the vote required previously for the office sought. Connecticut is the only state with some form of public campaign financing that allows fusion voting. However, in Connecticut, parties re-qualify annually by individual office. Note that other than South Carolina and Connecticut, no states allow minor parties to reach their statewide thresholds by running candidates nominated by the major parties. Figure 4 provides an overview of the variety across the nation for percentages necessary for party qualification.

Figure 4. 50-50 State Overview of Political Party Ballot Access Laws-Percentage of Vote

STATE	% OF GOVERNOR or Statewide	% OF PRESIDENT or Federal	% OF REGISTR.	% OF VOTE PETITION	YEARS EFFECTIVE
ALABAMA	20%			3% of Gov.	2
ALASKA	3%				2

ARIZONA	5%	5%	0.66%		2
ARKANSAS	3%	3%			2
CALIFORNIA	2% or		0.60%		4
COLORADO	2%	2%		10,000	1
CONNECTICUT	1% / 20%	1%			1
DELAWARE			0.1%		1
FLORIDA	0%/5%		1%		1
GEORGIA	1% REG. Voters		1% REG. Voters		2
HAWAII	10%				2
IDAHO	3%	3%		2% of Pres Vote%	2
ILLINOIS	5%				4
INDIANA	2%				4
IOWA	2%				4
KANSAS	1%			2% of Gov.	4
KENTUCKY		20%			4
LOUISIANA	5%	5%			4
MAINE	5%	5%			2
MARYLAND	1%	OR	1%		4
MASSACHUSETTS	3%	OR	1%		4
MICHIGAN	1%				4
MINNESOTA	1%	1%			2
MISSISSIPPI	n/a	n/a			1
MISSOURI	2%				4
MONTANA	5%				4
NEBRASKA	1%				4
NEVADA		1%			4
NEW HAMPSHIRE	3%				2
NEW JERSEY	10%				4
NEW MEXICO	0.50%	0.50%			2
NEW YORK	50,000				4
NORTH CAROLINA	2%	2% OR		.0025 of Gov.	2
NORTH DAKOTA	5%	5%			2
OHIO	3% or	3% or		1% Gov Vote	4
OKLAHOMA	2.5%	2.5%			4
OREGON	1% or	1% or	0.5%	1.5% Gov Vote	4
PENNSYLVANIA	1% +/- and	1% +/-			4
RHODE ISLAND	5% or	5% or		5% Gov. Vote	1
SOUTH CAROLINA				10,000	1
SOUTH DAKOTA	2.5% or	2.5% or	2.5%		2
TENNESSEE				2.5% Gov Vote	4
TEXAS	5% or				4
UTAH		2% Congr.			4
VERMONT	5%	5%			2

VIRGINIA	10%		4
WASHINGTON		5%	4
WEST VIRGINIA	1%		4
WISCONSIN	1%	1%	4
WYOMING	2%		4

**Other than
NY**

	Every 1 year	7
	Every 2 years	15
	Every 4 Years	27
Threshold:		
2% & up	4-yr States	16
2% & up	2-yr States	12

STATEMENTS OF COMMISSIONERS

COMMISSIONER HENRY BERGER

The enabling legislation that created the Public Campaign Financing and Election Commission mandated that the Commission:

[E]valuate and make recommendations for new laws with respect to how the State should implement such a system of voluntary public campaign financing for state legislative and statewide public offices, and what the parameters of such a programs should be. The commission shall make its recommendations in furtherance of the goals of incentivizing candidate to solicit small contributions reducing the pressure on candidates to spend inordinate amounts of time raising large contribution for their campaigns and encouraging qualified candidates to run for office.

I believe the program we recommend here fulfills that mandate.

The creative variable match of small contributions increases the value of the smallest contributions encouraging candidates to interact with the electorate in their districts to seek these small contributions and encourages members of that electorate to participate in the electoral process by making small contributions within their means knowing that those contributions are increased manyfold by public matching funds. At the same times the contribution limits for the covered offices have been significantly reduced – in the case of statewide offices by nearly three-quarters.

While we have fulfilled our mandate, there are related issues not in the enabling legislation and therefore outside the Commission’s jurisdiction which should be reviewed that, if changed, could make the public campaign finance program even more effective. Among those issues are limitations on contributions from individuals or entities doing business with the state and contribution limits not covered by the legislation including contributions to constituted committees and housekeeping accounts that the legislature should consider.

Nine people came together with differing views on a broad range of campaign finance issues. With broad input from individuals and organizations each with their own views of these issues, the nine people crafted recommendations that differ, sometimes in significant ways, from their individual views but represents an amalgam of those views. I believe the public campaign finance program we have crafted will be an effective and meaningful program and will be the basis for further campaign finance reform not only here in New York State but in other jurisdictions as well.

I support the recommendations.

COMMISSIONER MYLAN L. DENERSTEIN

To: Governor Andrew Cuomo & the New York State Legislature

From: Mylan L. Denerstein

I would like to thank my fellow Commissioners for their service and collegiality. I would also like to thank the hundreds of people and organizations across New York State who testified before or wrote to the Commission. Your comments were extremely valuable to the Commission. Finally, I would like to thank the organizations dedicated to campaign finance reform for their tireless advocacy and support.

I believe the Commission's recommendations to create a statewide system to publicly finance campaigns will serve our state well by a) encouraging in district voter participation and b) encouraging candidates to run for elected office by providing them with access to public funding.

The Commission's recommendations are a historic step forward for our State, and I look forward to what comes next.

Best,

Mylan Denerstein

COMMISSIONER KIMBERLY A. GALVIN

Chapter 59 of the Laws of 2019, part XXX, created the Public Campaign Financing and Election Commission. That legislation, among other things, mandated that the Commission, in pertinent part:

[E]valuate and make recommendations for new laws with respect to how the State should implement such a system of voluntary public campaign financing for state legislative and statewide public offices, and what the parameters of such a program should be. The commission shall make its recommendations in furtherance of the goals of incentivizing candidate to solicit small contributions reducing the pressure on candidates to spend inordinate amounts of time raising large contribution for their campaigns and encouraging qualified candidates to run for office. In addition, the Commission was to recommend an existing agency, or recommend the creation of a new agency to set up, oversee and run the program. The program should not exceed an annual fiscal cost of one hundred million dollars.

It is well known that the Legislature, despite carrying out extensive negotiations on the issue were unable to agree on a program to enact and that the Commission established by this legislation was a compromise. The Commission is made up of political appointees from all the legislative leaders and the Governor. All things being equal, the Commission faced a daunting task in carrying out its mandate. In my opinion, the creation of the Commission in this form, with this broad of a mandate, represents an unconstitutional delegation of

legislative authority. In fact, this issue is currently being litigated.

Despite all of the factors working against the Commission being successful (e.g. no staff, no funding for staff, geographic distance separating the members etc.), I honestly believe, that each Commissioner took their charge very seriously, and worked to the best of their ability to listen, learn, compromise and recommend a program that will fulfill the legislative mandate the we were tasked with. In my opinion, the Commission's recommendations will establish a workable, albeit not perfect, framework for a public financing program in New York State. I respect each one of my fellow Commissioners and thank them for their professionalism and civility in dealing with an unknown group of people on a highly charged issue.

The hearings provided hours of testimony from both the public, advocates and experts in the field. This input was both invaluable and instructive as we endeavored to craft a program. It was obvious that over the course of the process some personal opinions were changed concerning the idea of the program itself and how it should be set up and administered. Admittedly, I initially felt that no public funds, of any sort should be used to match or supplement political contributions. Yet, after listening to the viewpoints of others and studying the issue, I began to understand how a public financing program can empower those voters who currently do not feel that they have a voice in our very expensive election process.

Is it a perfect program that we are recommending? No. If you were to put pen to paper and draft an "ideal" process some of our recommendations would be altered. However, the political process in New York and throughout the country is not an "ideal" one and I do believe that the Commission recommendations are very good, will work and are grounded in reality and practicality.

I offer the following comments on some of the specific recommendations:

- Are the limits set out too high? Maybe. But they are also being recommended at a drastically lower amount than the current limits. In addition, we have not added an automatic, annual CPI increase for the reduced limits.
- Should the limits to parties and constituted committees have been decreased as well? I believe so, but a majority of the Commission argued this type of recommendation was outside the scope of the mandate and, in addition, the candidates need a way to help offset the unlimited spending of the independent expenditure committees.
- Should the Commission have restricted contributions from special interests—corporations of all types and unions? Again, I believe so, but unfortunately a majority did not agree.
- Should the Commission have restricted the "war chest" rollover? Maybe. Only time will show whether this is really an issue. I believe those with "war chests" of any significance will chose not to participate in the program.
- Should the contributions have been different for participants and non-participants? I strongly believe that they should be. In part because, with the contribution limits being the same, the "voluntary" nature of the program seems to have been lost.

- The amplified in-district match recommendation for the legislative races is a positive. I believe that this progressive matching rationale will compensate for the fact that only those in-district contributions are matched and will be effective in getting the candidates to interact with and listen to the constituents in a more direct fashion. In addition, this could just be the “push” needed for someone that wants to run for office, but doesn’t think they can raise enough money, to enter the race. Two results that all are working toward.
- The issues with the most obvious controversies were the party threshold limits and the independent nominating petition signature requirements. Tough ones. I do believe that all involved, even the minor party officers, agreed that a 50,000-vote threshold was too low to become a party in New York. Starting from that understanding, what should the new number be? The Commission is recommending 2% or 130,000 votes for Governor, and/or President, whichever is greater. Assuming there is over 6,500,000 votes cast in a general election, is 130,000 votes too high of a requirement to be called a political party in New York? I don’t think so. That is why I voted yes on this change.

There are several other provisions in the recommendations that I could go over in detail, but I believe the package of recommendations speaks for itself. For anyone that watched the hours of public hearings and additional meetings that were broadcast over the past months, I do not think there are true surprises contained in our recommendations.

In sum, the program being recommended is a workable one, and in time, can be amended as necessary to make it better.

I would also like to add that if there was a known and dedicated funding stream that did not include residents’ tax dollars, I would have voted “yes” on the entire package of recommendations. However, there isn’t one. While I believe the goal and intentions of a public financing program are laudable, on balance, I believe that there are greater priorities that this money should be spent on. For example, I think that a great majority of New Yorkers would prefer that \$100 million a year be spent on addressing issues such as homelessness, mental health, opioid addiction, roads, bridges, senior tax relief and prescription drug coverage. That is why my vote on the total package of recommendations was a “no.”

Kimberly A. Galvin
Commissioner

COMMISSIONER DENORA GETACHEW

Commissioner DeNora Getachew Statement in Support of Proposed Public Financing Commission

The New York State Legislature, through the adoption of the Fiscal Year 2020 budget, mandated a program of voluntary public financing of elections. It also established the Public

Campaign Financing and Election Commission with binding power to implement public campaign financing for legislative and statewide offices, authorizing up to \$100 million annually in public funds.

According to the enabling legislation, the Commission's three main purposes are: (i) "incentivizing candidates to solicit small contributions"; (ii) "reducing the pressure on candidates to spend inordinate amounts of time raising large contributions for their campaigns"; and (iii) encouraging qualified candidates to run for office. The enabling statute gives the Commission the authority to "specifically determine and identify all details and components reasonably related to the administration of a public financing program." The enabling statute also specifies that "each recommendation made to implement a determination pursuant to this act shall have the force of law, and shall supersede, where appropriate, inconsistent provisions of the election law."

The Commission also was authorized to determine specific aspects of the public financing system, including eligibility thresholds, public financing limits and contribution limits for participating candidates. Pursuant with our statutory mandate, the Commission conducted hearings throughout the state and held public meetings to deliberate about the proposal that the Commission ultimately adopted.

In my role as a Commissioner, I carefully examined the precedent supporting public financing systems; existing public financing systems and campaign finance laws, including New York City's strong system; recent public polling related to public financing; New York's ballot access laws; and the expert and public testimony. I voted in favor of the proposal because I believe that it would create a viable system for eliminating corruption, while also amplifying the voice of everyday New Yorkers in supporting candidates for public office and eliminating barriers that prevent New Yorkers, including especially those from historically underrepresented communities, from seeking public office. While I disagreed with concerns raised that we needed to modify certain ballot access laws in order to design a functioning statewide public financing system, given the strong examples set by New York City and Connecticut's public financing systems which coexist with fusion voting and minor parties, my philosophy is that democracy is a full contact sport that requires all participants to build consensus in order to advance an agreed upon policy goal - in this case creating a voluntary public financing system for New York.

It is worth noting that public support for public financing depends on whether it is combined with items such as lowering contribution limits, which is why it was so critical this Commission also consider such related issues during its deliberation. In fact, recent polls show that New Yorkers are supportive of public financing of elections when the program is part of a package of necessary reforms to increase the voice of ordinary citizens. Two Public Policy Polling polls in March and November of 2019 show that at least three-quarters of New Yorkers support a system of public campaign financing that uses public funds to match small contributions made to candidates for state offices. There is similar support for public financing at a national level too. A 2019 Global Strategy Group poll of key battleground districts around the nation showed over 80 percent support for a "clean elections" program that combines a matching system for candidates with a rejection of large campaign contributions.

In assessing how best to design a public financing system, Supreme Court precedent makes

clear that it's important to establish a basic connection between such a system and eliminating corruption. In the seminal Supreme Court case *Buckley v. Valeo*, the Court held that Congress created public financing "to facilitate and enlarge public discussion and participation in the electoral process, goals vital to a self-governing people." 424 U.S. 1, at 92-93 (1976). This holding was upheld in *Bennett vs. Free Arizona* in which the Court held that "[g]overnments may engage in public financing of election campaigns and that doing so can further significant governmental interests, such as the state interest in preventing corruption." 564 U.S. 721, at 754 (2011).

There is widespread public perception of corruption in New York state politics. As noted in one experts' report shared with the Commission, "Governor Cuomo established the Moreland Commission 'in response to an epidemic of public corruption that has infected this State'." The Commission also heard hours of testimony from New Yorkers across the state about the corrupting influence of large donations on elected officials.

The Commission ultimately lowered the State's exorbitantly high contribution limits in order to address this perception of corruption. While I personally advocated for a lower contribution limits for all state elected officials to bring New York's limits closer to contribution limits nationwide, the agreed upon limits are a reasonable step forward. I would be remiss if I didn't note, however, that New York still has among the highest contribution limits in the country.

Establishing a voluntary public matching fund system with an emphasis on small contributions from everyday New Yorkers is a huge step towards reducing the influence of big money in elections and its potentially corrupting effect. I am proud that the Commission established a system that will only match contributions of \$250 or less with public dollars because it will amplify the voices of those who have historically been marginalized in democracy and make sure their voices are heard in the political process. Moreover, the Commission took a great step forward by limiting contributions from state lobbyists from being matched with public dollars. I am also proud that the Commission agreed to incorporate other components of strong public financing systems into our proposal, such as creating thresholds to qualify to participate in the program, requiring candidates to participate in debates, ensuring an audit mechanism, and biannual recommendations from the newly created Public Campaign Finance Board on how to improve the program.

While I advocated that the new program should commence in time for candidates to access it during the 2022 electoral cycle, my hope is that by commencing the program in time for the 2024 cycle will ensure that the State Board of Elections and other agencies and elected officials who will play a role in administering the system will be able to design, test, and launch a comprehensive, state of the art program using the latest technology. This is especially important given the scale of the program with up to two hundred seventeen offices eligible to participate.

There are components of a viable campaign finance program that the Commission discussed, but ultimately decided not to include in its proposal. I respectfully recommend that the Legislature consider the following policy proposals in a future legislative session:

- Permitting contributions from individuals who live outside of the candidate’s district to be matched with public dollars, as is done in the New York City system;
- Establishing different contribution limits for participating and nonparticipating candidates;
- Restricting contributions from those who have contracts with the state from being matched with public dollars;
- Creating a “doing business” contribution limit for lobbyists and those with contracts before the state; and
- Restricting elected officials from transferring funds from previously amassed “war chests.”

Respectfully submitted,

DeNora Getachew
Commissioner

COMMISSIONER JAY S. JACOBS

Establishment of the Commission.

By law, the State established a “public financing and election commission.” Its purpose, as outlined in Part XXX is “to examine, evaluate and make recommendations for new laws with respect to how the State should implement a system of public campaign financing for state legislative and statewide public offices, and what the parameters of such a program should be.

The law clearly sets forth the Commission’s charge and parameters which clearly, by the statute’s unambiguous language, the Commission is charged with doing two important tasks: developing an opt-in public campaign finance program **AND** to modify sections of the existing Election Law related specifically to: “political party qualifications” and “multiple party candidate nominations and/or designations.” Moreover, the statute limits the commission to creating “a public finance program that has a total maximum annual fiscal cost of no more than 100 million dollars.”

ESSENTIAL GOALS OF THE PROGRAM

It is my interpretation that there are several specific and clearly implied goals for this program:

1. To reduce the influence of large money donors by encouraging and magnifying the voice of low dollar donors AND to significantly reduce the overall contribution limits;
2. To encourage more individuals, who demonstrate significant in-district grassroots support, to seek office and become candidates by reducing the impediment of large dollar fundraising;
3. To create a nonpartisan, fair oversight and enforcement agency and the processes necessary to

implement and execute a well-run program; and

4. To create an overall efficient program that protects taxpayer dollars from waste, fraud and abuse while minimizing unnecessary costs of the program.

It is incumbent upon this Commission to develop a program that meets the objectives related to creating a fairer system of campaign finance without wasting taxpayer dollars. As of now there are seven eligible parties that have the potential to run over 1000 publicly financed races. While the New York City public campaign finance matching fund program is, in many ways, a model, it does provide examples of misuse, waste and, even, possibly, fraud.

The 2019 special election for NYC Public Advocate stands as exactly such an example. Seventeen individuals qualified for the ballot. Of those, 11 qualified for public matching funds, each receiving from \$512,568 to a high of \$1,148,567 (Jumaane Williams, the ultimate victor). In total, the City spent \$7,178,000 of taxpayer money on that campaign. A total of only 119,315 New Yorkers chose to vote (a 2.3% turnout). The average cost per voter exceeded \$60. Three candidates stand out: Nomiki Konst (under audit for possible fraud) received \$512,568 in public funds and earned 2739 votes (2.3% - \$187/vote); Rafael Espinal, Jr. received \$575,296 and earned 2802 votes (2.4% - \$205/vote) and Ron Kim who received \$590,614, earning him 2710 votes (2.27% - \$218/vote). Only 3 of the 11 candidates earned over 10% of the vote, the other 8 spending \$4,986,094 to garner the remaining 41% of the vote. This race stands as an example of what a campaign finance program may face when elections are conducted with virtually unlimited ballot access. We need to do more than hope that the example doesn't prove the rule.

PUBLIC SUPPORT & THE HEARING PROCESS

This commission, through four public hearings, one each in New York City, Albany, Long Island and Buffalo, heard testimony from dozens of individuals, experts and advocacy groups, and among the most compelling statements were those from every day people.

While Fair Elections for New York testified, along with others, that public campaign financing is overwhelmingly popular in New York, citing a variety of surveys, the most recent nonpartisan survey done by the Siena College Research Institute paints a very different picture.

While polls and public opinion should not be the leading driver creating public policy, they are an important factor to be weighed and considered when making policy. Creation of a fair, balanced, effective public campaign finance option is an important objective and the testimony along with evidence of overwhelming public skepticism for such a program instruct this Commission, in my view, to be very careful with the uses of taxpayer funds in creating that program. The long-term success of whatever we create today is dependent upon earning increasing public support. That requires us to be careful that when crafting a public finance option program we are vigilant in protecting taxpayer money. Waste, fraud and abuse in a system that starts out with weak popular support guarantees its demise over time. And that would be an unfortunate lost opportunity that we must avoid.

IN-DISTRICT VS. OUT-OF-DISTRICT MATCHES

A public campaign finance matching donor system, according to the statute creating our Commission and the testimony of numerous expert witnesses (including several elected officials) and campaign finance-supporting organizations should be designed to accomplish several laudable goals. Chief among them is to enable more candidates who can demonstrate grassroots community support to run for office.

“A public financing system will encourage candidates to engage their constituents . . . “

- Testimony of Alex Camarda, REINVENT ALBANY, September 2019, p. 21-22

“The Green Party sees the purpose of public campaign finance as . . . providing elected representatives and candidates increased time to interact with constituents rather than campaign donors.”

- Testimony of Peter A. LaVenja, Jr. – Co-Chair, GREEN PARTY OF NY, September 18, 2019

“The matching funds system is designed to be used to the extent it’s necessary for an individual candidate in order to maximize outcomes driven by the power of every-day constituents’ voices”

- Testimony of Jessica Wisneski, Co-Director, CITIZENS ACTION OF NEW YORK, p.3.

“A sufficiently high match ratio will make small donations valuable enough that candidates who are able to attract a lot of supporters can substantially fuel their campaigns with small donations.” P. 4.

“Incentivize continuous outreach by candidates to constituents – Because candidates need to keep raising matchable contributions in order to keep receiving public funds, the multiple match model is also best for constituents. It incentivizes continuous candidate outreach to community members and gets more regular New Yorkers involved in this critical aspect of the political process.” P. 5.

- Testimony submitted by the BRENNAN CENTER FOR JUSTICE: Responses to Important Legal and Policy Questions Raised in Hearings, October 13th, 2019.

While it is true that numbers of these same witnesses and other experts DID, in fact, argue in favor of some out-of-district matches for the program, invariably, their arguments, which contradicted one of their clearly stated goals, were based on the assumption that a straight 6:1 public match would be insufficient to allow candidates to reach the maximum public funds cap and thus would discourage participation in the program. The Commission overcame that concern, I believe, with a substantially larger match ratio.

What we managed to include was another goal of the publicly financed campaign system, which

is to reduce the need for and impact of wealthy donors. The Commission considered and ultimately accepted a proposal by Commissioner Getachew to disallow any match from any donor who gave more than the maximum \$250 matchable contribution. This proposal was made possible, in my view, because of the fair-minded research and work of Commissioner Galvin who consulted with experts at the State Board of Elections and thus found the way to overcome administrative obstacles, which burdened earlier efforts to accept the idea. Reducing the impact of large donations, clearly, was one of our key objectives and I am glad that we were able to find a way to accomplish it.

“It is widely acknowledged that political giving in New York State is dominated by wealthy donors and special interests with business before the government. Campaign funding from a select few skews policy outcomes because it diminishes the voices of the state’s diverse residents. The 100 top donors contributed more to state candidates in 2018 than all 137,000 estimated small donors combined, according to the Brennan Center for Justice.”

- Testimony of Alex Camarda, REINVENT ALBANY, September 2019, p. 21-22

Those 100 top donors are not evenly disbursed throughout the 150 Assembly districts or 63 State Senate districts. They tend to reside in New York’s wealthiest districts. By limiting the match to only in-district donations, while not a perfect solution, it goes along way to achieving the goal of minimizing the impact of out-of-district high dollar donors. It diminishes the impact of “outside money” which tends to flow from wealthier districts into lower income districts, rather than the reverse.

Among the concerns that the Commission heard about limiting the match to in-district small donations is the difficulty of getting those donations. Asking someone for \$50 is as long a process as asking someone for \$2000. While there may be low donor contributors willing and able to contribute outside of one’s district, the idea that candidates should spend their time in the difficult work of small donor fundraising IN THEIR DISTRICT was most compelling.

MATCH LEVELS

Given the limitation of only in-district matches, it became incumbent on us to find a way to accomplish two objectives:

1. To create a match sufficient enough to overcome the in-district limitation; and
2. To create a system that recognizes the income disparity across districts in the state and to, in some way, compensate lower income districts by magnifying the match at the lower levels of giving.

A variety of creative ideas were discussed by Commission Members but the idea presented by Roger Meadows, an Uber driver, an unaffiliated self-described “individual” came up with a progressive matching concept similar to one used for a public campaign finance matching system in Montgomery County, Maryland. It is that system that the Commission chose to adopt.

Under the Progressive Match System, the maximum \$250 in-district contribution will be matched more than 9:1 – 50% greater than the 6:1 match requested by almost every expert who testified and 15% greater than the 8:1 match now in effect in the NYC Public Finance System.

Contribution	3-Tier 9.2:1	TOTAL Raised	Yield on 100 \$50 Donations	
\$50	12	\$600	\$5000 =	\$60,000
\$50	9	\$450		
\$50	9	\$450		
\$50	8	\$400		
\$50	8	\$400		
TOTAL	9.2	\$2,300	20 Max donors:	\$46,000

Moreover, small contributions, ostensibly from lower income donors, are matched at a higher rate of 12:1 – double the requested 6:1 rate – greatly magnifying the voices of low income donors and helping candidates not only reach their required opt-in thresholds, but greatly enhancing their ability to reach the program’s maximum funding caps.

To reach the in-district Assembly primary cap of \$175,000, for example, at a 9.2:1 match on \$250, a candidate would need to raise just \$19,021 from 76.1 contributors. At a 12:1 match on contributions of only \$50, a candidate would need to raise only \$14,583 from 292 donors to reach the threshold. In a district of more than 120,000 people, surely that is achievable by any candidate who truly has substantive grassroots support in his/her/their district.

THRESHOLDS & QUALIFICATIONS FOR MATCHING FUNDS PROGRAM

Deciding on the qualifying thresholds – both in the total amount of the in-district dollars needed and the number of in-district donors – proved to be more complicated due to the economic diversity of the districts throughout the state. There was widespread agreement that the thresholds needed to be high enough to allow only credible candidates access to taxpayer matching funds, yet not so high as to deny legitimate candidates access to the program due to the economic disadvantages of his/her/they districts. Given the economic disparity, it became clear that we could not take a “one size fits all” approach. We took the testimony of NY State Senator Zellnor Myrie seriously:

“To guard the public fisc, the system should establish qualifying thresholds that demonstrate real community support. It should also not make those qualifying thresholds prohibitively high.” [Testimony submitted September 12th, 2019]

Accordingly, we came to agreement on the base threshold for each office (statewide offices, having access to matchable contributions from all over the state, did not present a problem) and then used the AMI approach to preference lower income districts with lower threshold amounts to be raised.

The half of districts above the AMI would be at the base and the bottom half would be subject to a 33-1/3 reduction in the required threshold.

Given the progressive nature of the match, we felt it unnecessary to adjust the number of contributors required to qualify. There were arguments made to limit only the number of required contributors to in-district, but to allow the threshold dollar amount to be achieved using out-of-district donations. Some argued that to reach the dollar threshold we should not even require the amounts counted to come from just the low donors. I felt that nonsensical on both counts:

1. Using the example of the lowest quartile AMI Assembly District: that would mean that a candidate who raises \$375 - \$5 each from 75 in-district contributors (the minimum number required) and then raises \$4625 outside the district, reaching the requisite \$5,000 threshold, would then qualify. Exactly HOW could we argue that that candidate demonstrated sufficient and credible grassroots community support?
2. Worse yet, allowing the threshold of total dollars to be met by any contribution – not just low dollar – would mean that a candidate could qualify, in the above example, by finding 75 in-district \$5 contributors and two \$2000 plus one \$625 contributors.

While we felt that the Governor's plan's threshold were a bit too high, others were a bit too low. In the end, we agreed upon thresholds that we felt met the test of demonstrating in-district candidate credibility without being excessively difficult for candidates running in low income districts to qualify.

PARTICIPANT & NON-PARTICIPANT CONTRIBUTION LEVELS

The Commission discussed various participant and non-participant contribution levels. We settled on the view, after some discussion and receiving legal guidance, that the Commission could, under its statutory charge, set non-participating levels as well as participating levels under the theory that the whole program sinks under the weight of a disparity so large that it acts as a disincentive for candidates to opt in.

In addition, it was argued by multiple experts that in creating an "opt-in" system, those levels could not be the same as that would be too strong an incentive to participate to withstand Constitutional challenge. The Commission ultimately disagreed and set equal limits for both participants and nonparticipants. The Commission set the contribution levels for each office dramatically lower than existing limits.

ADMINISTRATION, OVERSIGHT & ENFORCEMENT

Most of the witnesses we heard from, including the Brennan Center, called for the establishment of a new, independent oversight and enforcement agency to administer the public campaign finance program. A good number of people and experts testified that the agency we create should be modeled after the New York City Campaign Finance Board. Much of the interest in creating a new board was focused on critiques of the existing State Board of Election, the desire to ensure a nonpartisan enforcement process and a guaranteed budgetary stream for long-term future funding that could be codified.

Nonetheless, I found the testimony of Robert Brehm (Dem.) and Todd Valentine (Rep.), the Co-Directors of the New York State Board of Elections most compelling. They argued in favor of the State BoE administering the public financing program [Testimony on October 22nd, 2019]. Commission Galvin, who is counsel for the Republican Commissioners at the Board, argued persuasively, throughout our deliberations, on the effectiveness and efficiency of keeping the oversight within the existing State BoE.

Having interacted for nearly two decades with the State BoE I personally can attest to the bipartisan, professional culture at the Board. With the exception of the Enforcement Division, which is need of a complete overhaul, the State Board efficiently, effectively and fairly oversees the administration of the state's campaign finance laws and elections. It is our view that with a proper framework for ensuring compliance and enforcement, the State Board of Elections is best suited to administer the program.

Given the State Board's 45 years of experience with the election law, campaign finance limits and disclosure requirements, its existing ability and technology to collect, audit and manage thousands of filings each year, a public finance component with the State Board has the best chance to successful administer and ensure compliance with the rules promulgated for the public finance program. We should not waste time "reinventing the wheel."

Moreover, administration of the program within the State BoE will create efficiency, ensure the free flow of participant and non-participant financial filings and party and other filings while allowing for intra-agency sharing of personnel and resources that will save the program – and the taxpayers – a substantial amount of money.

The State Board of Elections, as created in 1974, is already a bi-partisan agency. Taking the recommendations of both Co-Directors, expanding the existing Compliance Unit "and transforming it into a Public Financing and Compliance Unit (PFC Unit)" would efficiently manage the responsibilities of the existing campaign framework and the one we are newly created. They key to success will be in the non-partisan composition of the proposed Campaign Finance Hearing Panel, which would be established to fairly and appropriately deal with appeals.

PROGRAM COMMENCEMENT DATES

The campaign finance program and new contribution limits will begin implementation on November 9th, 2022. The State Board of Elections shall begin the process of creating the Public Campaign Finance Board (PCFB) and an augmented State BoE Compliance Unit on January 1st, 2020. The next fiscal year budget shall allocate sufficient funds to begin the implementation of a

compliance, enforcement and candidate education system for the Campaign Finance Board within the State Board of Elections. All other aspects commence immediately.

COST, EFFICACY & PARTICIPATION

As the studies prepared by Prof. Michael Malbin demonstrate, the public campaign finance program the Commission has adopted, with administration costs figured in, fall well below the \$100,000,000 maximum annual expenditure of taxpayer funds.

The modeling demonstrates that regardless of whether we limit contributions to only in-district or not, the impact on shifting overall contributions from large donations to small ones is dramatic and profound and will result in greatly amplifying the voices of small dollar donors.

While there are legitimate concerns about the thresholds we decided on and the issue of restricting matches to only in-district contributions, the Progressive Match system that we settled on along with the district threshold modifiers based on the AMI will go along way toward ameliorating whatever limitations were built into the program.

Moreover, it should be noted, when viewing the history of small dollar contributions based on previous elections in order to predict future behavior, that previously, with no matching fund program candidates spent a great deal less time and effort chasing low dollar donors. That will change dramatically with the introduction of matching funds and, with the Progressive Match set forth in the program, the lowest dollars will see their impact amplified significantly.

FUSION VOTING

The statute creating the Commission on Campaign Finance and Elections charged this body, under part (j) to address “Rules and definitions governing: candidate’s eligibility for public financing; political party qualifications; **multiple party candidate nominations and/or designations**; and civil violations of public financing rules.” Accordingly, it was our statutory responsibility.

Clearly, the issue of eliminating what has become known as “fusion voting” was the most controversial aspect of our charge and attracted the most attention from those choosing to testify at our four hearings.

I believe that there are significant ballot access issues related to fusion voting and agree with many who testified in favor of its elimination. There is something to be said when more than 95% of the states (46) in our country have banned fusion voting. Nonetheless, it could not reasonably be established that the practice of fusion voting would have any significant detrimental impact on the costs of a public campaign finance program and so, in the end, the Commission chose not to reference it in its recommendations.

PARTY QUALIFICATIONS

Overview of the Issue:

Currently, in New York, a minor party gains permanent party ballot status for a period of four years by polling at least 50,000 votes for its candidate at the last gubernatorial election [1-104(3)]. Parties obtaining 50,000 votes or more are ranked on the ballot, from highest to lowest, in order of their total vote.

The 50,000-vote threshold was set back in 1935 – 84 years ago – when registered voters numbered less than half of today’s nearly 13 million registered voters. Clearly, that was a different time with a very different types of campaigning, communicating and fundraising.

Moreover, a group seeking to become a “permanent party” can petition its way onto the ballot by securing 15,000 signatures, statewide, with at least 100 signatures coming from half of the state’s Congressional Districts.

There is widespread agreement that the current threshold is too low. NYS Comptroller, Thomas DiNapoli, in a letter to the Commission, dated October 24th, 2019, in defending the practice of fusion voting conceded that “it may be appropriate to review current thresholds.” Even the Working Families Party National Chairman Dan Cantor has opined that raising the threshold would “require minor parties to show substantial popular support and will reduce ballot clutter.” [POLITICO, November 11th 2019]

The Rationale:

Why do Party Qualification Thresholds & Independent Nominating Petitions impact public campaign financing?

A. Legislative Direction:

The statute creating the Commission, in its charge, specifically directed the Commission in section 2(j) to review party qualifications which are defined by the thresholds needed to obtain permanent party status and by the signature requirement to obtain party status on the ballot. Furthermore, the statute creating this Commission explicitly referenced the necessity of our keeping a close eye on the cost of the program: “a public finance program that has a total maximum annual fiscal **cost of no more than 100 million dollars.**”

B. Public Skepticism:

While there have been several advocate-driven polls that seem to argue otherwise (based largely on the phraseology of the questions asked), according to a Siena survey of 735 registered voters conducted between April 8-11, 2019, when asked whether they support the proposed expenditure

of 100 million dollars annually to fund “a system of public campaign financing for statewide and legislative races” only 23% supported the proposal while 63% opposed, 13% having no opinion. Moreover, with small variations, that view held across all political, regional, ethnic, religious, and economic groups.

C. Examples of the potential for wasting taxpayer dollars:

The ballot access issues relate directly to public financing of elections because the matching dollars our program provides must be made available to every candidate, no matter how many there are or what party line they run on.

The recent example of the NYC Public Advocate special election where 17 candidates made the ballot, 11 qualifying for taxpayer funding is cautionary. While a Special Election that was open to all parties, this could mirror what general elections in the future look like with many parties.

Those 11 candidates, combined, spent over \$7,165,000 of taxpayer money. More than half of them received about \$550,000 each, most of them earning just 2% of the vote in an election that brought out just 119,315 voters – a 2.3% turnout overall.

One of the key policy objectives, clearly stated throughout the testimony before the Commission, is to increase the number of candidates and make elections more competitive. There is no question but that the introduction of public campaign financing will create more candidates for public office. In fact, THAT is exactly one of the key stated goals of the whole program. Simply, the more parties there are, the more potential there is for primary and general election candidates – each, potentially, having access to public matching funds.

D. The Connection Between Candidates & Parties & Campaign Finances:

The argument was made that a public campaign finance system has nothing to do with parties as the money goes to the candidate – not the party. In fact, there are numerous examples of minor parties encouraging candidates to attend and contribute to party fundraising events just prior to the making of endorsement decisions and minor parties that operate campaign consulting services that charge candidates for staff, field operations and the like, often at a substantial mark-up. There are sufficient enough examples of money flowing directly from candidates TO parties to sufficiently refute that contention.

What are the Party Qualification thresholds around the country?

New York is among the states requiring the lowest proportionate standards for a minor party to qualify for permanent party status. Thirteen states require parties to qualify every two years, while nine states require minor parties to either re-qualify every year or qualify by every office they seek to run a candidate in. **Of the three states that allow NY-style multiple-name fusion voting, both Connecticut and South Carolina require requalification of party status every year.** States vary as to the criteria that they apply for qualifying thresholds. Most states use either a percent of votes cast in the gubernatorial election, statewide or the presidential election. Those thresholds range from a low of .05% to a high of 20% of the total vote. Only New York

allows minor parties to meet its threshold requirement by running a major party candidate at the top of its ticket. For the remaining states, achieving the threshold, without fusion voting, is a great deal more difficult.

The Impact of the change on the various minor parties:

The argument made by opponents of raising the threshold – or in favor of an insignificant increase in the threshold – is that it will kill the minor parties. The purpose of raising the threshold is NOT to “kill” any particular party or parties, but to ensure that parties who qualify for “permanent” party status meets meet the standard to: **“require minor parties to show substantial popular support.”** **The question, then, is not whether a party should have to show “substantial support,” but what is the proper threshold to demonstrate “substantial support?”**

The key to minor parties’ meeting the threshold is (1) truly having a meaningful base of support; and (2) conducting even a minimal campaign to increase voter participation on their line. Achieving a higher threshold will require minor parties seeking “permanent party status” to actually campaign and ask voters to vote for their party’s nominee on their minor party line. This will (1) help to elect the candidate that they actually nominate and (2) begin functioning like a legitimate party organization.

INDEPENDENT NOMINATING PETITIONS

The Commission recommended that we amend Section 6-142 of the Election Law to change the signature requirement for Independent Nominating Petitions 45,000 signatures or 1% (one percent) of the total number of votes, excluding blank and void, cast for the office of governor at the last gubernatorial election, whichever is less, with at least 500 signatures or 1% of enrolled voters, whichever is less, from each of one-half of the congressional districts in the state.

Since 1994 there have been 7 elections for governor. There have been anywhere from 5 to 10 individual candidates for governor running in each of those elections representing groups such as varied as:

- Right-to-Life Party
- Tax Cut Now
- Socialist Workers
- Natural Law
- Worker’s World
- Marijuana Reform
- Unity
- Libertarian
- Constitution
- Peace & Justice
- The Rent’s Too Damn High
- Populist

- Socialism & Liberation
- Taxpayers
- Anti-Prohibition
- Freedom
- Women's Equality
- Stop Common Core (later the Reform Party)
- Sapien Party
- Save America Movement

All of these candidates for governor, at the head of these parties, would legally have been entitled to qualify for taxpayer matching campaign funds. At just \$3,500,000 for the general election, assuming an average of 7 candidates JUST on the gubernatorial line, the taxpayers would be spending \$24,500,000.

Most of these parties were one-offs; meaning that they achieved ballot status by obtaining the 15,000 signatures including 100 in each of half of the state's CDs, but then did not achieve even the 50,000 votes required for permanent party status. Nonetheless, each of the candidates running on those lines would have been eligible for taxpayer funded campaign finance matching dollars had such a system been in place.

Increasing the signature requirement for an Independent Nominating Petition would bring it into line with other offices: congressional candidates require 3,500 signatures (27 CDs = 94,500 signatures statewide); State Senate requires 3,000 (63 seats = 189,000 signatures statewide); Assembly candidates need 1500 signatures (150 seats = 225,000 signatures statewide).

Currently, 24 states have similar signature requirements that are percentage of vote or registration-based that, in New York, would translate to an amount in excess of 45,000. Another 14 states have signature requirements that, based on NY's population would be between 15,000 and 49,000. The national average, based on the NY's population would be 91,610.

CONCLUSION

Commission members were challenged by a short time schedule, no budget, no designated chairperson and, at the start, no staff. We are indebted to Commissioner of Labor, Karen Coleman and her team along with the David Gonzales and the team from the NY Department of State who, together, handled all the logistics for the Commissions hearings and meetings across the state. We owe a lot to Professor Michael Malbin, Director of The Campaign Finance Institute, for his ongoing support in providing extensive financial modeling and cost and program impact estimates which guided the Commission's work.

We are equally indebted to Jeremy Creelan, Seth Agata and James McGuire and Dan Horowitz for the extensive legal work and bill drafting done to create the final product. Many thanks for the help and support and the drafting of the Commission's report provided by Charles Pensabene, on loan from SUNY System Administration.

I know that every member of the Commission joins me in extending thanks to the Brennan Center, Reinvent Albany, the State Board of Elections and all of the individuals that took the time to either attend one of our hearings and testify in person who provided written testimony, all of which was carefully reviewed.

Throughout four long public hearings the members of this Commission made sure that every voice was heard. We remained in session at each venue until the last person who signed up was heard from. Though criticized for lack of transparency, we held our meetings in open and sought out the views of every expert that has studied this issue.

As for the members of the Commission, I can only say that each was not only well-intended to produce a workable, meaningful end product, but each was extremely talented, brought their own unique experiences, perspective and ideas to create a product that we all can be proud of. This was a team effort and while we most certainly did not agree on every aspect of the final product we present, whatever disagreements there were, were mitigated by compromise and respectful discussion at all times. Having worked on the Commission, I can say that every one of the members - from both parties – all of whom worked without compensation, taking time away from their day-jobs and family, were dedicated, hard-working and committed to delivering a public campaign finance program that all New Yorkers can be proud of. I know that I am.

Jay S. Jacobs
Commissioner
November 28th, 2019

COMMISSIONER JOHN M. NONNA

Report of Commissioner John M. Nonna

The Governor and Legislature delegated to the Campaign Finance Reform Commission the mission to recommend a public campaign finance reform program for legislative and statewide public offices. Questions have been raised as to whether the Legislature could properly delegate to the Commission the authority to make such recommendations. That issue is for the courts to decide. The Commission's job was to carry out the mandate of the Governor and Legislature. We worked to develop a public campaign financing program that we believe will be fair and effective, encouraging candidates to participate, lowering contribution limits and enhancing the voice of small donor constituents. We have had the benefit of testimony and opinion from groups and individuals that have studied public campaign financing programs, made helpful recommendations and advanced relevant policy considerations. While our recommendations may not be acceptable to all, the process necessitated finding common ground and reaching compromise. Not all the components of the program are precisely what I would have preferred, but such is the process of achieving a legislative recommendation. The Commission worked hard to reach common ground. I believe that the result is a public campaign finance program that is meaningful and can work. The program includes some

innovative features that should encourage participation such as a higher match for lower level contributions and lower qualifying contributions for legislative districts below average median income.

One issue presented to the Commission was the threshold for party qualifications. The enabling legislation creating the commission authorized the Commission to determine and identify new election laws in the area of “political party qualifications.” The current requirement of 50,000 votes dates back to 1935. A fair argument could be made that it should be updated. Any new threshold, however, needs to be reasonable in light of voter turnout. The initial proposal was 3% of the voter turnout in the gubernatorial and presidential years. We were able to reach a consensus reducing the percentage to 2%. In addition, we eliminated from consideration a ban on fusion voting that, in my view, would be contrary to a long line of Court of Appeals precedent holding that such action would be unconstitutional.

There are aspects of campaign finance reform that that were beyond the Commission’s authority under the enabling legislation such as contributions to constituted committees and housekeeping accounts. These issues and others relating to campaign finance require legislative attention.

We could not let this opportunity to establish a workable public campaign finance program slip away from us. If we did, we would have failed in our mission. Once in practice, the program will be subject to review and refinement. I believe the Commission fulfilled its mission. Accordingly, I support the recommendations.

John M. Nonna

COMMISSIONER DAVID C. PREVITE

David C. Previte

Public Campaign Finance Commission, Member

Opinion:

I vote in the negative for the following reasons:

Charge of the Commission:

“The Commission shall make its recommendations in furtherance of the goals of incentivizing candidates to solicit small contributions, reducing pressure on candidates to spend inordinate amounts of time raising large contributions for their campaigns, and encouraging qualified candidates to run for office.”

Process:

The Commission conducted four public hearings and four open meetings across the state, receiving hours of solicited expert testimony, public comment, and thousands of emails and other written correspondence from the public, elected officials, political parties, and good government groups.

Since its inception, criticism has mounted against the Commission critiquing initial delegation, member composition, process, and everything in between. With rare exception, the critic and the advocate became the same. In one breath demanding the Commission enact bold pro-democracy reform, and in the next chastising the anti-democratic nature of an unelected commission with the power to enact law.

Organizations formed to fight for and defend a democratic process, grounded in accountability, transparency, and responsiveness, seem to have forgotten our system is rooted in process, not results. In the elected, not the appointed.

Advocating for a Commission of unelected individuals to enact sweeping changes to our electoral process, with a taxpayer cost of \$100 million per year, is tacit approval of the Commission and its authority. Prioritizing outcome over process, is constructive forfeiture of the inherent protections established in the legislative process.

To my knowledge, not one group took the unequivocal position that laws be enacted through the legislative process. Rather, the pro-democracy advocate seized the opportunity to use undemocratic methods to enact what they believe to be pro-democracy reform. Good government watchdogs, turned a blind eye in allowing the ends to justify the means. Vacillating between praise and scorn, criticism of the process appeared to be nothing more than veiled criticism of the outcome.

Our democracy will always be in need of defense. The importance of checks and balances, accountability, transparency, and responsiveness to the people are necessary irrespective of how the system is working to serve any particular interest. Millions of New Yorkers needed good government groups and pro-democracy advocates to stand with them rather than becoming complicit in the very same process they so frequently point to as needing reform.

Ironically, good government groups and pro-democracy advocates illustrated, through their own actions, the corruptibility of self-interest and the critical importance of a democratic process built to guard against it.

Commission Recommendations vs. Enacted Law:

While the Commission's recommendations are supposed to carry the force and effect of law, the Commission does not have the ability to create or amend existing law. Legislation would have to be passed by both houses of the legislature and signed by the governor for that to happen.

That means, the New York State election law in its current form will remain on the books while the Commission's recommendations stand separate and apart from the law. The public will be required to figure out which provisions of the election law to ignore and which to follow.

Absent action from the legislature, recommendations side-by-side existing law will leave those seeking office reviewing both. This complicated task will involve determining if existing laws and regulations are

in conflict or are otherwise inconsistent with the Commission’s recommendations. This new layer of recommendations will create complications in an already difficult, archaic area of law. But prospectively, matters will get worse.

The legislature passed some 50 pieces of legislation outside of the budget amending the election law in 2019 alone. Future legislatures will likely continue to make changes to the law as they see fit.

Absent codification, the public, in the immediate future, will then have to review the statutory law, and not only compare it to the Commission’s recommendations, but determine if the statutory law precedes or succeeds conflicting recommendations. If the statutory law succeeds the recommendations (meaning the law was passed after the issuance of the recommendations), then it will be the recommendations that the individual will be expected to ignore.

A similar construct was used for recent legislative pay raises. The recommendations of the Pay Commission are currently in effect, while the statutory law the pay recommendations supersede remain on the books. The difference, however, is legislative pay schedules arguably need to be followed by only one individual, the state comptroller. Additionally, the legislative pay laws are infrequently amended with the last pay raise occurring some 20 years ago. Most importantly, unlike the election law, a pay schedule is not a complicated regulatory scheme that carries civil and criminal penalties.

The legislative intent of the Commission is to empower everyday New Yorkers to participate and run for office. A regulatory maze, however, runs afoul of the Commission’s purpose, as one can only assume the well-heeled and connected will be able to find their way, while others continue to get lost.

Public Campaign Finance:

Although the program advanced by the Commission is in many respects the first of its kind, there are several jurisdictions across the United States that have enacted some form of publicly funded campaigns, with the most notable system operating in New York City since 1988.

Advocates believe several policy objectives will be achieved through public campaign financing such as higher turnout, more competitive races, increased minority and women candidates, and the end of corruption. There is little evidence, however, establishing these programs produce much more than taxpayer waste, candidate subsidies, and unnecessary bureaucracy.

One need look no further than the “gold standard” program in NYC to see abysmally low turnout³, high incumbency rates, one party control, continued corruption, and audit oversight lagging years behind Election Day.⁴

Proponents of public campaign finance also seem to ignore the results of the 2018 election cycle when arguing the necessity of the program. In the absence of a public campaign finance program, New York experienced historic turnout, competitive statewide elections, high levels of incumbent loss (on both sides

³ <https://www.city-journal.org/html/de-blasios-democracy-pipedream-15740.html>

⁴ <https://www.city-journal.org/html/new-york%E2%80%99s-campaign-finance-delusion-13698.html>

of the aisle), women and minority victories, and change in majority control of one house of the legislature.⁵ Then in 2019, despite opposition from the “powerful” money interests that advocates claim control government, a legislative session that enacted significant legislation these same “powerful” interests strongly opposed.

In addition to historical evidence to the contrary, unless the U.S. Supreme Court overturns Citizens United⁶, the notion of removing large special interest money from our elections is simply not possible. The right of an individual or entity (i.e., Super PACs/Independent Expenditure Committees) to spend unlimited amounts in support or opposition of a candidate is protected by the U.S. Constitution. Further restricting candidates, who, unlike independent expenditure committees, are accountable to voters, only strengthens the influence of special interests by increasing the appeal and potency of independent expenditures.

Furthermore, the argument that \$100 million dollars available for public match under this program, suffices to combat independent expenditures is misleading. The proposed program would fund up to 217 races comprising; four statewide, 63 state Senate, and 150 Assembly offices. The vast majority of state level races are not truly competitive, as the outcome is predictable. Infusing non-competitive races with taxpayer money will not magically transform them into fertile battlegrounds of democracy, but rather result in tremendous taxpayer waste. In New York City, 95% of incumbents elected to city government hold their seats.⁷ Access to tax dollars drove candidates into New York City’s February 2019 special election for Public Advocate, where 11 candidates qualified for matching funds at a cost of over \$7.1 million public dollars.⁸ In the end, eight candidates did not even come close to 10% of the vote.⁹

Unlike the taxpayer (responsible for funding this program), the independent expenditure committee carefully targets spending to maximize impact. Irrespective of a robust public campaign finance program, independent expenditure money will continue to focus on a limited number of races. Thus, in addition to waste in noncompetitive races, the program will create a potential funding deficit in competitive races where money is needed most. A participating candidate in a competitive race would be harmfully constrained by fundraising limitations, while unaccountable and unrestricted independent expenditures pour limitless special interest money into the race and potentially influence the outcome.

Corruption:

Corruption was an issue raised throughout the process. Those who testified raised past instances of corruption as examples of why the system needs to be reformed. Not to be confused with government corruption, campaign corruption, is relatively rare at the state level. The cases cited by advocates, however,

⁵ <https://www.politico.com/states/new-york/albany/story/2018/11/07/politico-map-new-york-state-senate-results-686383>

⁶ Citizens United v. Federal Election Comm'n, 558 U.S. 310

⁷ <https://www.city-journal.org/html/new-york%E2%80%99s-campaign-finance-delusion-13698.html>

⁸ <http://nyccfb.info/media/press-releases/nyc-campaign-finance-board-issues-third-public-funds-payment-of-the-2019-public-advocate-special-election/>

⁹ [https://ballotpedia.org/Public_advocate_election_in_New_York,_New_York_\(2019\)#February_special_election](https://ballotpedia.org/Public_advocate_election_in_New_York,_New_York_(2019)#February_special_election)

had nothing to do with campaign finance. Generally speaking, corruption cases typically deal with elected officials exchanging government action for personal gain, not campaign contributions.

Arguments that campaign contributions control or have undue influence over legislative action are more relevant to the Commission's charge. Those arguments, however, rely on two assumptions: 1.) Contributions are the basis for policy support or opposition rather than policy support or opposition being the basis for contributions; and, 2.) A legislator choosing campaign contributions over constituents serves the interests of a legislator.

In order for legislation to be even considered by the Governor, it must be publicly introduced, aged, approved by a committee, brought to the floor for a vote and approved by a minimum of 108 members (32 in the Senate/76 in the Assembly) after the opportunity for open debate. Legislation must clear each of these hurdles in both houses of the legislature. Each house of the legislature comprises independently elected members representing diverse and disparate political, economic, and geographic interests. Reaching agreement between 108 elected officials is an extremely difficult process.

Throughout the process bills are independently analyzed by legal, policy, and finance staff experts – in both houses. Outside groups are also closely monitoring legislation and voicing support or opposition. Stakeholders are engaged and public comments are received in an effort to inform members of legislative impact.

In my experience, legislators are hypersensitive to the impact a piece of legislation will have on their constituents. Action inconsistent with the interests of their district is counterproductive and expensive. Advocates of a public financing seem to suggest legislators operate in some sort of campaign contribution vacuum, providing votes to the highest bidder. In reality, the legislative process is extremely adversarial, with legislators pitted against legislators, all trying to deliver for their districts in an effort to win reelection every two years. Their actions are under constant scrutiny from the media and political opponents who put every bill voted on under a microscope, in search of anything that can be exploited for political gain. Support by one is met with opposition from another. Controversy gives rise to media attention and negative advertising. Media attention and negative advertising informs the electorate. An informed electorate demands accountability.

Having to defend an unpopular position or vote, especially those that appear to be motivated by campaign contributions, is a costly endeavor. A legislator who chooses a contribution over their constituents will likely have a short-lived political career. Serving one's district well is politically self-serving. Whether genuine or motivated by a desire to maintain power matters not. Acting contrary to the interests of the district, is detrimental not only the constituent but also the elected. Convincing one legislator, let alone, 108 independently elected legislators to ignore these considerations and their own political interests, in favor of a contribution is not as simple as it sounds.

Imparting corrupt or ill-conceived motives to a legislator or the system as a whole, without appreciation for in-district considerations, insults not only the elected but the constituent. Doing so also provides fodder to the recent trend of groups threatening removal of office through the primary process for failure to do as the advocate demands. A legislator acting on behalf of his or her district is not corrupt. A fractional group

leveraging primaries to get what they want, has the potential to deprive constituents of honest services far more than a contribution

In no way am I suggesting New York is not in need of ethics reform, but rather publicly funded campaigns will not serve as the good government panacea prescribed by advocates. Restricting campaign contributions does nothing to deal with the elected official engaging in quid pro quo activities that result in personal gain, not campaign donations.

General concerns aside and assuming public campaign finance is a worthy taxpayer investment, the program submitted to the legislature has several structural flaws. The NYC program, irrespective of any particular fault or shortcoming, at the very least, attempts to root out undesirable money from the system. The program approved by the Commission, however, does little to empower small dollar donors, only magnifies the role special interests play, and adds to the incumbent advantage over challengers.

The Program:

Qualifying Thresholds:

Office	Aggregate Amount	Number of “Small” Donors
Governor:	500,000	5000
Statewide:	100,000	1000
Senate:	12,000	150
Assembly:	6,000	75

Qualifying thresholds are arguably the most important element of the program. Simply put, the program cannot work if candidates do not participate. In a new program that requires behavioral change from both the candidate and the donor, the functionality of the program hinges on workable thresholds.

Appropriate qualifying thresholds, should be set: 1. low enough for qualified candidates to participate; 2. high enough to preclude non-qualified candidates; and, 3. at a level that results in an alignment of candidate fundraising practices and policy objectives.

The Commission turned to several campaign finance experts for recommendations. These experts created data-based modeling from decades of experience in the NYC program to help guide the Commission in crafting program eligibility.

The Commission, in large part, ignored data-based modeling in favor of their own priorities or subjective whims and set thresholds higher than the recommended thresholds derived from the NYC modeling. Only time will tell if the thresholds established are low enough for candidates to participate, but high enough to prevent wasting tax dollars on candidates who lack sufficient community support.

Generally, I do not take issue with raising the threshold numbers above those derived from NYC modeling. High candidate participation rates should not be the sole measure of success. The program should push

candidates into behavior consistent with stated policy objectives. The qualifying numbers, however, need to be rationally based and consistent. The qualifying thresholds established by the Commission fail to achieve either.

The foundation of the Assembly threshold is difficult to rationalize provided a NYC Council district is roughly one-third larger than an Assembly district. The qualifying amount for NYC Council is (\$5,000), however, the Commission set the Assembly threshold at (\$6,000).

Building from there, the Commission set the Senate threshold at \$12,000, twice the Assembly threshold. The average Senate district (306,072), however, is 2.4 times larger than the average Assembly district (126,510), resulting in a lesser standard on a per capita basis.

With respect to the non-gubernatorial statewide offices, despite not increasing the dollar amount threshold over the NYC modeled recommendations, the Commission doubled the number of donors necessary to qualify for the program, from 500 to 1,000. No justification was stated for the adjustment.

For the office of governor, however, the Commission increased the number of donors by 150% (2,000 to 5,000) over NYC modeling, despite only increasing the dollar amount by 25% (400,000 to 500,000) above NYC modeling. If the Commission acted with consistency, an increase in the number of donors proportional to the dollar amount increase (25%) would establish a donor threshold of 2,225 rather than 5,000. An increase in the number of donors proportional to the other statewide offices increase (100%) the number of donors necessary for a gubernatorial candidate to qualify for the program would be 4,000.

With respect to donor number thresholds, the Commission did not increase the number of donors necessary for the state Senate or the Assembly beyond the threshold number derived from NYC modeling, despite increasing the dollar amount threshold for both.

It is interesting to note, the Commission opted to match contributions below \$50 at a higher level than contributions above \$50. Despite no known corrupting influence of a \$100 contribution over a \$50 contribution, the Commission decided that a smaller donor is preferable to a “large” small dollar donor. However, if you increase the total amount of money needed to qualify for the program without increasing the number of donors, you are allowing a candidate to qualify with fewer donors giving at higher dollar amounts, contrary to the position taken with respect to the progressive match.

Additionally, as discussed in greater detail within the topic of contribution limits, the question of participation is rather moot. The Commission setting contribution limits at the same level for participating and non-participating candidates, removes essentially any reason for a candidate not to participate.

Contribution Limits:

Office	Primary	General
Statewide Offices:	\$9,000	\$9,000
Senate:	\$5,000	\$5,000

Assembly:

\$3,000

\$3,000

Based on the testimony and comments provided to the Commission, there seems to be significant confusion about New York campaign finance laws. Countless individuals cited the need to combat corporate and LLC money as justification for using tax dollars to subsidize political campaigns. The law as it exists today, limits corporate and LLC contributions to a total of \$5,000. If you were to divide the \$5,000 aggregate limit equally among state offices (213 legislative and four statewide) a corporation or a LLC is able to give a total of \$23 per office, but in no case greater than \$5,000 to any one candidate or committee.

Unions, PACs and individuals, however, can give up to the candidate and party contribution limit, without an aggregate limit. That being the case, under the Commission's recommendations, a union, PAC, or individual is able to contribute up to \$1,602,000 directly to state elected officials, not including \$117,000 to each of the state party, county party, and legislative campaign committees. Unions, PACs, and individuals are by far the primary source of money in our system, not corporations and LLCs.

Unions are in a league of their own. They are able to contribute directly, through affiliated PACs, and/or self-funded independent expenditure committees. Unlike other PACs that raise money through actual fundraising efforts, unions direct a portion of membership dues to their associated political action committee(s). These PACs amass significant war chests through scheduled membership dues derived contributions. The union's political action committee not only makes direct contributions to candidates and committees (up to the maximum individual limit) but can also transfer funds to their affiliated independent expenditure committees. The independent expenditure committee then floods the airwaves, social media, mailboxes, and telephones with candidate support or opposition messaging. If the goal is to shift from a campaign finance system dominated by concentrated sources to a system funded by small donations, then this area of the system needs to be addressed.

It should be noted that federal law prohibits contributions from corporations, LLCs, and unions, treating each of the entities the same. Additionally, federal law has separate contribution limits for individuals and PACs, while New York treats the two the same. If money corrupts, then money at corruptible levels should be removed, regardless of source. Every dollar that remains from concentrated sources dilutes small dollar donors and thus weakens the program. Refusing to deal with PAC and union money, the Commission decided to keep the money it wanted in the system, rather than adhere to its purpose.

A majority of Commission members took the position that unions are different, as they represent working people. While that is true, it is more accurate to say they represent working men and women who belong to the union. Unions would be working themselves out of existence, if the benefit secured is to the benefit of all workers, members and non-members alike. Furthermore, if a union is nothing more than a pass through of small contributions of its individual members, then we should be matching a union contribution as such.

Individuals are free to give directly to the candidate or committee of their choice. A contribution once given is no longer under the control of the donor (prohibited earmarked contribution). Thus, when the individual gives to a union or a PAC, the contribution loses individual status. If not appropriate to match the union contribution with tax dollars then there is no reason to treat them as individuals.

Unions and PACs are not the only loopholes and inconsistencies that remain in the Commission's recommendations. Several other key components of the NYC model, necessary to ensure participating candidates rely on small dollar donations are also missing from the recommendations set to become law.

1.) Contribution Limits: Generally, the contribution limits established by the Commission are too high. Participating candidates should have to rely on small dollar donors. The recommended program is not structured to accomplish that goal. Additionally, the limits also lack rationality and consistency. For example, in the final meeting, the Commission increased the Assembly limit from \$5,000 to \$6,000, without any justification and then rejected a corresponding change in the Senate limit. In doing so, the proportionality between the Assembly and Senate limits was lost. As previously stated, a Senate district is 2.4 times the size of an Assembly district. If the Assembly limit is \$6,000, a corresponding Senate contribution limit would be \$14,400, not the recommended \$10,000. Conversely, with the goal of reducing contribution limits, if the Senate limit is \$10,000 the Assembly limit should be \$4,167, not \$6,000. The legislature appears to have understood this concept in setting the current contribution limits, with the Senate limit more than twice as much as the Assembly limit.

2.) Participating/Non-Participating Parity: Advocates claim the Commission is recommending several program elements that will have a negative impact on participation (i.e., in-district match, high qualifying thresholds, etc.). By setting contribution limits for participating and non-participating candidates at the same level, there is no reason for a candidate not to participate. Advocates may equate high participation rates with success, but doing so under this construct undermines the program, for the following reasons:

- A candidate will not have to choose between high dollar fundraising and a campaign focused on the small contributors, as they are able to do both.
- The incumbent will have a tremendous advantage in both the in-district match and with statewide big donor special interests.
- A candidate that does not believe taxpayer funds are appropriate for political campaigns will be forced to choose between principle and a significant fundraising disadvantage.
- The taxpayer does not get the behavioral change they were told their investment would yield.

Contribution parity only works if contribution limits are set at a level where big dollars are no longer a choice. The Commission did the exact opposite by removing the choice between participation and nonparticipation rather than the choice between large and small dollar donors.

3.) Spending Cap: NYC imposes a spending cap on participating candidates, however, the Commission did not include any limitation on spending for participating candidates. Without a spending limit, small dollar donations and the corresponding tax dollars provided to the candidate, will serve as nothing more than a base subsidy. Candidates will likely outsource to vendors a small dollar contribution program (direct mail, telemarketing, social media outreach) necessary to draw down public match dollars, while continuing to fundraise from the same sources and in the same frequency as they do now. Without a spending cap, failure to continue to raise as much as they can, will be to the candidate's own competitive disadvantage. A spending cap imposed on participating candidates, would remove motivation by a candidate to continue to raise funds they cannot spend. A properly set spending cap in relation to available public funds forces a candidate to rely on small dollar donors, rather than small donors being a mere component of their financial

plan. Almost all inequities and loopholes in the recommended program would be in large part mitigated through a spending cap. Similarly, almost all virtues of the program are lost without one.

4.) War Chests: NYC allows a candidate to keep money raised and unspent for use in future elections, but, unlike the Commission's recommendations, does so in the context of a spending cap. In addition to the previously discussed limit on endless fundraising, a spending cap is necessary to limit the war chest advantage. If the candidate can only spend up to a certain amount, war chests that exceed spending limits have no practical purpose in the next election. The spending cap limitation ensures the candidate remains engaged with small dollar donors, the taxpayer is not subsidizing a candidate with more cash on hand than is needed to fund the race, and the challenger's efforts are not overwhelmed by an incumbent's bank account.

5.) Party Contributions to Candidates: NYC does not differentiate party contributions to their candidates from any other contribution. From a contribution perspective, the party is no more important than the individual donor. The Commission's recommendations, again deviate from the NYC model and allows the party to contribute or spend unlimited amounts on participating candidates. Allowing this level of concentrated money to flow to the participating candidate violates the agreement between the candidate and the public. The participating candidate is intended to forgo special interest money in exchange for taxpayer support. With the party able to fund the participating candidate, the candidate is in breach. The taxpayer, nonetheless, is forced to honor their side of the agreement.

The ability of large donors to conduit money to candidates through party committees remains. The Commission is advancing a program that will allow one wealthy individual to provide a greater level of funding (albeit indirectly) to the candidate, than potentially the aggregate of all small dollar donors and possibly even the total amount of corresponding public match funds combined. Undue influence of the wealthy few directly contradicts the charge of the Commission and undermines the integrity of the program and the participating candidate.

Furthermore, failure to regulate party contributions and expenditures with respect to participating candidates, puts the party in a position of power in relation to the candidate. By allowing money to flow without restriction from the party to the candidate, the candidate becomes more beholden to the party, and less dependent on the small dollar donor. The party, able to raise essentially unlimited amounts from special interest sources and wealthy individuals, remains beholden to those interests. If the party beholden to special interests picks winners and losers by way of financial support, the Commission's recommendations move us more in the direction of Tammany Hall than clean elections. Worse yet, the public is now under the false impression that the candidate is running a clean election campaign, free of special interest money.

It should be noted, that Federal law, like NYC, also does not allow unlimited spending or contributions from the party to the candidate. In addition to prescribed limits, parties are able to perform what are referred to as "exempt activities" but permissible expenditures require a volunteer component.

In District/Out of District Match:

The treatment of out-of-district contributions received a great deal of public attention. Originally, the Commission decided that all in-state contributions should be matchable. Then in a 5-4 vote, the Commission reversed its position and decided that only in-district contributions would be eligible for a match.

Those who favor in-district only matches, argue that it is necessary to focus candidates solely on constituents. Opponents of in-district only matches, contend the limitation on in-district contributions will not allow candidates to draw down enough public funds to make the program a viable option.

Despite opposing an out-of-district match when the Commission first considered the issue, I voted against the reversal. My vote against in-district only matches was not due to any change in position but rather in wanting for justification. I agree, matching out-of-district contributions shifts the focus from in-district to the rest of the state, but also find the notion of tax dollars subsidizing a contribution of an individual who is not a constituent of the recipient candidate to be inappropriate. I see no reason why taxpayers should be forced to amplify the contribution of an individual residing in Buffalo for a Long Island race.

Although empowerment of the small dollar donor is the objective, it is not the goal. The goal is to strengthen the voice of the constituent. In the context of campaign finance, the small dollar donor serves as a proxy for the constituent. An out-of-district donor does not serve as a proxy for the in-district constituent and thus does not warrant public match. A system that allows a candidate to raise the majority of funds from out-of-district donors is not much different than the system that is being reformed. I struggle to see the distinction between a few large dollar donors drowning out the many and the many small dollar donors outside the district drowning out the voice of the constituent.

Public Match Ratio:

Office	Ratio	Limitation
Statewide:	6:1	In-State Contributions
Senate & Assembly:	12:1 \$50	In-District Contributions Only
	9:1 \$100	
	8:1 \$100	

A public match of 6:1 was recommended by the majority of good government groups and advocates.

The Commission decided to advance a progressive match schedule, not utilized in NYC and existing in only one jurisdiction, Montgomery County, Maryland. The legality of such a program is unknown. Nonetheless, with limited data and legal questions remaining, the Commission saw fit to advance it.

In my mind, match ratios raise many of the same concerns as large contributions. Both provide for candidate speech disproportionate to constituent support. One dollar of support matched with six taxpayer dollars is really six dollars of taxpayer funded candidate support based on only one dollar of electoral support. In a

non-publicly funded program, a large donor can arguably outweigh many small donors, but the large donor's contribution represents a direct correlation between the donor's support and contribution. In a publicly funded program, that correlation is lost. The small donor's contribution, after matched with public dollars, represents only a fraction of actual support. A participating candidate is really a taxpayer funded candidate subsidized by small donors.

Therefore, the match ratio represents the societal value of small contributions, not electoral support. Based on public polling, where the majority of New Yorkers oppose this program¹⁰, the societal value would dictate a 0:0 match, so my opinion will be conceptual only. In concept, the match ratio should be set no higher than necessary to allow the candidate who forgoes other money to compete.

The progressive match schedule was adopted by the Commission as a method for a candidate to draw down sufficient funding from in-district contributions. For reasons previously stated, opting for a progressive match on in-district contributions only, is far preferable to a flat match (6:1) on all in-state contributions. I, however, remain confused as to why an increased flat match on in-district contributions was not the solution. The constitutionality of campaign finance laws often hinge on the state taking action necessary for the avoidance of corruption or the appearance of corruption. If a contribution in the range from \$5-\$250 has the potential to corrupt or create an appearance of corruption than we should not be classifying it as a "small contribution", and in no event be matching it with taxpayer dollars.¹¹

If amounts within the same range do not present issues involving corruption, then it is unclear why we are treating them differently. To amplify the support of a \$50 contribution over the support of a \$51 contribution lacks any basis. If the progressive schedule averages out to a 9:1 match, then it is preferable to match all contributions deemed "small" at the same level.

Maximum Public Funds:

The Commission set the maximum public fund amounts for candidates as follows:

Office	Primary	General
Statewide Offices:	\$4,000,000	\$4,000,000
Senate:	\$375,000	\$375,000
Assembly:	\$175,000	\$175,000

Similar to qualifying thresholds, the maximum public funds available to candidates lacks rationality. The maximum amount a candidate can receive in public funds should represent the amount necessary to be a competitive candidate. Commission members and experts relied too heavily on the 2018 elections, which were anomalous.

¹⁰ <https://scri.siena.edu/wp-content/uploads/2019/04/SNY0419-Crosstabs5214.pdf>

¹¹ *McCutcheon v. Federal Election Commission*, 572 U.S. 185

The Commission would have been better served by relying more heavily on what a campaign for the respective office costs rather than what has been spent in the past. No data was collected or analyzed with respect to actual costs or historical independent expenditure spending levels.

Past spending being fueled by a completely different fundraising model also was not taken into account. Under the Commission's recommendations, candidate contribution limits are reduced significantly. Additionally, since the 2018 elections, LLC contribution limits have been reduced from the individual limit to the corporate limit of \$5,000. By using historical spending, flawed or otherwise, the Commission ignores what is being removed on the fundraising side and assumes the reductions have no impact on spending.

The Commission's reliance on spending data from an outlier election cycle, while ignoring the money since removed from the system, unnecessarily puts the public on the hook for amounts that are not justified. A candidate in an election will draw down as much as possible, needed or not. Since unspent public dollars are returned to the state, the candidate will be incentivized to spend what they have, needed or not. Without a need-based assessment or other methodology the maximum public funds established by the Commission lack a rational basis that may result in taxpayer waste or candidate funding deficiency.

Administration and Oversight:

Not only will public campaign finance not adequately address public corruption, the creation of a public campaign finance system will increase it. Rather than eliminating corruption, we are creating a whole new category of corruption. A system that offers candidates public money is a system that will be gamed. In 2005, then-New York City Councilman Larry Seabrook filed with the New York City Campaign Finance Board a "statement of need," to ask for \$71,000 in taxpayer dollars because the system allowed the match.¹² Seabrook, who wound up convicted of crimes related to the abuse of his office¹³, faced a little known Republican in a Bronx district where Democrats outnumbered Republicans 16:1. In 2014, authorities arrested Councilman Ruben Wills, who stole over \$30,000 in taxpayer funds. As a participant in the city's public finance program, the state's Attorney General charged that Wills created a shell company to pay himself \$11,500 in taxpayer dollars.¹⁴

NYC recognizes the incentive to game the system and audits every campaign to ensure compliance. The process is onerous and expensive, but it is necessary. The Commission, however, opted, at the insistence of good government groups, for random audits in the interest of administrative ease over safeguarding public money.

On the matter of oversight, advocates and good government groups almost universally supported the creation of a new "independent" agency or board to administer and enforce the program. Regardless of merit, a state agency should not be established by recommendation of another commission. Establishment of a state agency should be in law and permanent with clarity of purpose and carrying the full support of the legislature and executive branch to ensure proper funding.

¹² <http://www.nypress.com/news/a-fearsome-candidate-NANP1020051123311239995>

¹³ <https://nypost.com/2012/07/26/seabrook-guilty-of-funneling-1-5m-in-taxpayer-funds-to-friends-family/>

¹⁴ <https://nypost.com/2014/05/07/nyc-councilman-ruben-wills-arrested/>

That aside, the \$100 million available for the program is inclusive of administrative costs. The more spent on administration, the less available for the program. A new agency would, without question, cost a great deal more than the NYS Board of Elections that not only has the requisite infrastructure, but also the expertise. The Commission's decision to utilize the staff of the current Board to the greatest extent possible makes the most financial and administrative sense.

Supporters of a new agency point to the bipartisan makeup of the current board of elections as an issue needing to be addressed. Rather they urge a new independent commission be established. No one on the Commission nor those providing testimony, could define "independent." Likely, because no such thing exists and the very reason our entire governmental system is built on checks and balances.

Rather than the inherent protections of checks and balances, the Commission opted to concentrate power by establishing a board of political appointments made by the same offices that the board has jurisdiction over with individuals administering the program and enforcing the rules against the political opponents of their appointing authorities. That being said, the Commission established a Public Campaign Finance Board as close to bi-partisan as possible, despite the continued push by advocates to create something far worse.

Under the current Board of Elections, bipartisan agreement is required. Gridlock and inaction are claimed to be the result, but the facts do not support the argument. The introduction of an "independent" enforcement counsel in 2014 has led to far less enforcement, not more. For example, prior to the "independent" enforcement counsel, the Board brought civil actions against every non-filer. The "independent" enforcement counsel, since inception, has brought none.

The Commission and advocates seem to believe that a bipartisan board takes politically motivated action, but a partisan board is judicious and disinterested; and that appointees of two parties scratch each other's backs, but appointees of one party will hold each other accountable. This is not only nonsensical, but dangerous.

When the current Board of Elections was established, the state legislature and executive branch were similarly under one party control. The board, however, was established with equal representation from the two parties that received the most votes in the preceding gubernatorial election. This was done to guard against the potential of a weaponized board.

The Board of Elections is unlike any other state agency. Efficiency and competence are not the only factors at play. The Board operates at the intersection of power and those attempting to seize power. One party control of the program should concern everyone. A Democrat challenging a Democrat incumbent is protected by having a Republican there. A Republican challenging a Republican incumbent is protected by having a Democrat there. A partisan controlled gatekeeper is a threat to anyone fighting for change.

Party Thresholds and Independent Petitions:

The potential elimination of fusion voting became the most contentious element before the Commission. The practice, in place since the 19th Century, allows candidates to run on both major party lines and fuse their ticket with a third party.

This practice has been upheld by the courts¹⁵ and is protected by the Constitution. Further, the Commission was solely charged with recommending, “new laws with respect to how the State should implement such a system of voluntary public campaign financing for state legislative and statewide public offices, and what the parameters of such a program should be,” as detailed in Part XXX, Section 1 of Chapter 59 of the Laws of 2019.

Leaders and members of third parties, like the Conservative Party and the Working Families Party, spoke against any attempts by the Commission to eradicate their voices in the electoral process.

In fact, the end of fusion would be a costly move that would generate more candidates who would require more taxpayer funded campaign dollars. The argument that fusion itself costs money lacked merit since access to funds is determined on a candidate basis, regardless of how many party lines they may hold.

The Commission instead chose to increase the number of votes necessary to gain or maintain party status significantly, which was last updated in the 1930s when it was set at 50,000.

Third parties must now receive 130,000 votes or two percent of the vote, whichever is higher in both presidential and gubernatorial election years.

By this standard, only the Conservative Party would survive. In 2018, the Working Families Party received 118,000 votes on its line, and other third parties far fewer.¹⁶

While political party qualifications are explicitly referenced in Part XXX, Section 2 (j) of Chapter 59 of the Laws of 2019, the legality remains unclear and could present constitutional issues.

In concept, if parties are held to higher thresholds, creating a proportional relationship to independent petitions needed to be adjusted. The Commission, therefore, raised that bar to 45,000.

Conclusion:

Advocate claims aside, there is no evidence that even well-established public campaign finance programs increase turnout, improve competitiveness, or reduce corruption. With the exception of independent expenditure money, a properly structured program, however, can effectively achieve the stated policy objectives of the enabling legislation, such as reducing special interest money, empowering small dollar donors, and curtailing the requirement of endless fundraising. Despite my general objection to public campaign financing, I entered this process prepared to be supportive of a system structured to meet these achievable goals.

Instead of following a clear directive, the Commission chose to replace empirical evidence and data-driven analysis provided by experts to generate sound thresholds for candidate qualifications, donor limits and match ratios with subjective whims. While the program subsidizes small donors on a progressive scale, it fails to restrict “big money” in the electoral process as other systems do. Under this system, top dollar

¹⁵ https://www.brennancenter.org/sites/default/files/2019-08/Report_More-Choices-More-Voices.pdf

¹⁶ <https://www.politico.com/states/new-york/albany/story/2019/11/25/everybody-except-minor-parties-gets-something-in-campaign-finance-deal-1229430>

contributors will donate to major parties and money will flow to favored candidates. Big union money and PAC money will also continue to flow to candidates. It protects spending without caps and incumbent war chests. In the end, this setup favors power and those who have it.

By ignoring a clear directive, the Commission has turned a laudable but questionable use of taxpayer money into taxpayer waste.

COMMISSIONER CRYSTAL J. RODRIGUEZ

Earlier this year, New York State Legislature created the Public Campaign Financing and Election Commission and charged this body with evaluating and making recommendations with respect to the creation and implementation of a public campaign financing program. This program ideally would encourage candidate participation by removing barriers associated with raising funds for campaign expenses and giving constituents a voice by matching their small contributions.

I believe the Commission had fulfilled its duty.

The system for progressive matching for smaller donations is extremely creative and one that gives a voice to in-district donors; a constituency that should be the priority for elected officials.

By selecting the New York State Board of Elections, the commission has acted responsibly in housing this program with the professionals best able to implement it and to enforce its rules in accordance with Legislative intent.

A significant amount of time and thorough contemplation went into every aspect of the decisions this commission made. Coming to a consensus was not always easy, but I am proud to have had the opportunity to work with the other commissioners and I am equally as proud of what has been produced. This report is a solid foundation from which a program can be implemented and further developed into one of the country's best campaign finance programs.

I fully support the recommendations as submitted by this Commission, and my service to it has been an honor and pleasure.

COMMISSIONER ROSANNA VARGAS

STATEMENT BY COMMISSIONER ROSANNA VARGAS

Our duty, as members of the Commission on Campaign Finance and Elections was to fulfill our mandate to present recommendations for an opt-in public campaign finance system.

The in-district matching system the Commission endorsed encourages voters in low-income communities to contribute within their means, even if it is just \$10 or \$20. It allows the general public to have a

louder voice within their own communities and does not magnify the power and influence of individuals who live outside of a candidate's community.

The system we have recommended incentivizes candidates to solicit small contributions from their own constituents. It encourages qualified candidates who can demonstrate in-district grassroots support to run for office.

The Commission worked long and hard and, in the end, with compromises that I support, the Commission fulfilled its mandate.

I support the recommendations.

Rosanna Vargas
Commissioner

APPENDIX A- MEETING SUMMARIES

August 21 Meeting

Commissioner Jacobs convened the meeting, and proposed a plan for conducting the meeting. Commissioner Berger provided the Commission with an agenda for this first meeting. The Commissioners then made introductions.

Commissioner Berger then read provisions of the Commission's enabling statute governing the scope of the Commission's jurisdiction. Commissioner Nonna raised the issue of contribution limits, and Commissioner Berger stated that this topic was related and merited additional discussion in future meetings. Commissioner Galvin inquired about the administrative costs of a public finance system, and Commissioner Berger stated his belief that the \$100 million annual cost of the program in the enabling legislation includes such administrative costs. Commissioner Galvin agreed with that analysis.

Commissioner Berger raised the issue of scheduling public hearings: September 10 in New York City, September 18 in Albany, October 22 in Suffolk County, and October 29 in Buffalo. The Commission voted unanimously in favor of these hearing dates.

Commissioner Berger then read proposed rules for the public hearings. Commissioners Vargas and Galvin raised amendments to the proposed rules. Commissioner Previte raised concerns with the three-minute time limit on speakers. Commissioner Denerstein raised the possibility of an electronic location for statements submitted by speakers. Commissioner Getachew raised the potential for an expert-only public hearing. Commissioner Berger raised the potential for an additional hearing, with speakers being invitation-only; Commissioner Previte requested guidelines for such a meeting. The Commission adopted these rules unanimously.

Commissioner Berger then raised a procedure for adopting recommendations at the conclusion of the Commission's efforts. Commissioner Jacobs distributed a resolution to the Commission outlining a voting procedure for such recommendations, with one vote on the proposed legislation drafted by the Commission being non-severable and being voted on as a single package. The resolution stated that the adoption of a meaningful, significant campaign finance plan, with a system of voluntary public campaign financing, will be complex and will require the significant expenditure of public funds, so the Commission will endeavor to create a plan, the various components of which shall not be severable from each other and shall be voted on, at the end of the Commission's process, in one vote by each member, in favor or opposed to the entire proposed plan. Commissioner Galvin raised the language from the Commission's enabling legislation contrary to that principle. Commissioner Previte inquired about severability in light of future litigation and future legislation on the topic of creation of a public campaign finance system. The resolution was adopted, with Commissioners Galvin and Previte voting in the negative. Commissioner Galvin then raised the issue of packaging various topics together in a single piece of recommended legislation, with Commissioner Jacobs stating that the Commission was empowered to do so. Commissioner Denerstein then raised the potential for discussing this

issue with appointed Commission staff, and Commissioner Nonna raised the potential for future recommendations on this topic.

The Commission then convened in Executive session.

September 10 Meeting

Held at Borough of Manhattan Community College, New York, NY

Commissioner Jacobs convened the meeting, and the Commissioners introduced themselves. Commissioner Jacobs then began the public testimony from experts, and Commissioner Denerstein provided the public with information on the Commission's website.

Richard Briffault, Professor from Columbia University, provided an overview of public campaign finance systems, the constitutional framework for public funding, and current public finance systems. He stated that public finance strengthens democratic participation generally and small donor fundraising specifically. The use of public finance system allows for candidates to do their jobs better and focus on constituents and official responsibilities, and provides for stronger competition in elections. He also stated public funding provides more equity for challenger candidates compared to incumbent candidates, and increases diversity in pools of candidates.

He stated that evidence supports that public financing reduces the number of uncontested elections while also lowering margins of victory for incumbent candidates, and increases incumbent accountability to constituents. He also stated evidence supports public financing increases the numbers of candidates who are women or people of color.

He believes public funding reduces the likelihood that candidates will be subservient to the donors who financed their elections, and allows candidates to be more responsive to broader amounts of the electorate.

He stated that public funding has been held constitutional, citing the Buckley v. Valeo decision by the United States Supreme Court. He stated the Court's basis for upholding public financing systems, including the reduction of influence by large donors, increasing communication between candidates and the electorate, and removing candidates from the rigors of fundraising. The Court believes that public funding facilitates public discussion and participation in the electoral process.

He also cited subsequent cases upholding public funding. In a 2010 decision, the Court considered Arizona's public funding system, holding that a court could not use high levels of opposition spending to trigger additional public funds for the targeted candidate.

He stated at least fourteen states provide public funding systems, and a number of states have or are considering public funding systems. He stated that elections in those districts have become more competitive, and have seen more diverse candidates alongside increased voter participation. He noted New York City's public finance system. For such systems, he stated that these systems have matching ratios, clean money programs, or voucher programs. He believes small-donor matching grants provides an ongoing incentive for soliciting funds from

constituents, and from the perspective of voters, such a system closely matches campaigning. It also links the amount of funding to the intensity of a candidate's campaigning efforts.

He cited components of a public finance system that would likely be successful. Making a program attractive to viable candidates must agree to participate, and can only occur if the system provides funds adequate and timely campaign funds to candidates. He noted the presidential public funding system to show the necessity for such factors. He advocated against requiring candidates to accept a funding limit in order to receive public funds; most programs impose a spending limit, but such limit can act as unilateral disarmament when an opposing candidate is independently wealthy or the participating candidate faces high outside oppositional spending. He instead advocated for a cap on such campaign spending. He believes public funding in both primary and general elections to spur sufficient competition among candidates. He also believes a program's allocation of public dollars to political candidates justifies imposing thresholds to receive such public funds and can impose a sufficient showing of grassroots support or that the candidate actually faces an electoral challenger. He also supports the public funds being used on spending related to the campaign.

Commissioner Nonna inquired about the authority to impose campaign contribution limits. Professor Briffault believes other systems impose such systems, but was not familiar with the Commission's enabling statute on that issue.

Commissioner Berger asked if spending limits were imposed, how they can be imposed on high spending, non-participants or on independent expenditures. Professor noted that the Arizona decision does not provide direct guidance, but such a challenge on additional funding in response to such triggering mechanisms may difficult to defend.

Commissioner Nonna asked if other states have provisions that the Commission should consider when creating a system for New York State. Professor Briffault noted the New York City model has been tested, expressed skepticism with a voucher program, and advocated for a periodic studying of the efficacy of the system. He believes the system should include a method for adaption and amendment as changes occur over time.

Commissioner Rodriguez inquired how public financing systems would increase diversity in candidate pools.

Commissioner Previte inquired about the structure of the federal presidential public finance system. Professor Briffault noted that a major issue is the system's funding levels were not kept current, and the lack of access to funds for primary elections made that system less attractive.

Commissioner Galvin inquired about the enactment methods in other states.

Ayirini Fonseca-Sabune, Chief Democracy Officer for New York City, discussed the Democracy NYC program and provided the current status of public engagement with the electoral system. She believes that the New York City model can inform the State's public finance system. She cited recent changes to New York City's system, including increasing the match ratio from 6:1 to 8:1 and increasing the total amount of public funds available to participating candidates from 55% to 75% of the expenditure limit, which was later increased to 89%. Campaign contribution

limits were reduced from \$5,100 to \$2,000 for mayoral candidates, and from \$2,850 to \$1,000 for City Council candidates, both participating and non-participating. She noted the success of these revisions in the recent special election for Public Advocate, stating that the most common donation was \$10, down from a \$100 most common donation in the last such general election for Public Advocate. She stated that 90% of census blocs included donors to City Council candidates, compared to 30% in Assembly races.

She believes a match ratio must be large enough to encourage candidates to rely on small donors, and incentivize all candidates to participate. She stated that in the 2013 City Council race, 92% of candidates participated in the public finance system. She believes an incentive to use the system would be lower campaign contribution limits on all candidates, noting the relatively high limits in New York State compared to other jurisdictions.

She believes the Commission should refrain considering changes to the fusion voting system. She noted that the New York City system operates in conjunction with fusion voting, and participating candidates receive funds regardless of the number of ballot lines on which they appear.

Commissioner Denerstein inquired about amendments to the New York City system. Ms. Fonseca-Sabune will follow up with the Commission on changes that could be made to the City system.

Commissioner Berger asked about the role of matching funds per cycle versus per election. Ms. Fonseca-Sabune encouraged adoption of a system that works across New York State.

Commissioner Previte inquired about public matching under fusion voting and the increase in costs if fusion voting were to be eliminated and the number of candidates were to increase. Ms. Fonseca-Sabune stated that such changes had not been considered under the New York City system.

Commissioner Nonna inquired about caps on funds in minor party primary elections. Ms. Fonseca-Sabune noted that the cap is a factor of elections with less than 1,000 voters.

Commissioner Getachew inquired about the authority of the Campaign Finance Board administration. Ms. Fonseca-Sabune stated that Commission may inquire with CFB representatives on the efficacy of an independent system on the statewide level.

Michael Malbin, Professor at Rockefeller College and Director of the Campaign Finance Institute, analyzed the Executive's proposed campaign finance program. He stated that the system should be employed in primary and general elections, and found virtually all candidates would receive a net increase in funding under the public finance system compared to the current private fundraising efforts. He believes the program would cost approximately \$240 million over four years. He stated that qualifying thresholds should be lowered to allow for increased candidate participation rates. He believes the Executive proposal would go a long way to achieving the goal of creating a successful public campaign finance program, with minor amendments.

On matching rates, Malbin believes the proposed 6:1 match ratio would achieve the desired goals, and a lower ratio would not yield sufficient participation, but notes that a higher match ratio, such as 8:1 could be considered. He supports a differentiation between in-district and out-of-district contributions. He noted a variety in which contributions are matched.

He supports the Brennan Center's qualifying thresholds over the Governor's proposal.

On contribution limits, he notes that New York's limits are substantially higher than the other 38 states with limits and impacting the limits of non-participating candidates will have a wider impact on the operations of the system.

He stated that the Campaign Finance Institute's estimated cost of the program is approximately \$60 million per year, inclusive of administrative costs, with the State Board of Elections estimating the cost of the program at over \$100 million per year. Commissioner Galvin clarified the match ratio, which Professor Malbin stated was 6:1. Commissioner Berger inquired about the number of contested elections, and Professor Malbin stated one contested election per district in the covered elections. Commissioner Jacobs inquired about this estimate in the context of Assembly races, and Professor Malbin clarified that the estimate is based on incumbent spending rather than spending to the cap on campaign spending under the proposed system. Commissioner Galvin inquired about rising costs if the program meets its stated goal of encouraging more candidates to run, and Professor Malbin stated that most candidates would not reach the spending cap.

Professor Malbin stated that in public finance systems, candidates would have more resources to combat independent expenditures.

Alex Camarda, Senior Policy Advisor for Reinvent Albany, supports a strong public finance system. On effective administration and enforcement, the agency should be independent and have robust resources and staff, at \$22 million in administrative costs. He called for random and scheduled administrative audits.

He believes the program should begin in the 2021-2022 election cycle. The qualifying thresholds in the Governor's proposal should be reduced. The match caps should be on a cycle, not a specific election, and should be lowered for statewide elected officials compared to the Executive proposal.

He recommends a public match cap for small contributions only. Commissioner Berger inquired about consecutive contributions from small donors, and the administrative burdens of tracking disbursement of public funds in such event.

He also recommends disbursing public funds earlier in the election cycle, so candidates can rely more fully on public funds. He suggests adoption of clear expenditures guidelines and provide a detailed list of prohibited expenditures.

He suggested lower contribution limits on participating and non-participating candidates, with emphasis on Illinois and Florida. He believes party committee contribution limits should be lowered.

Commissioner Jacobs inquired about metrics based on average median income; Mr. Camarda stated that while Reinvent Albany did not specifically consider this topic, a higher match on in-district contributions may be helpful.

He suggested limiting war chests of stockpiled contributions from previous cycles. He also proposed that participating candidates should be required to participate in public debates.

Commissioners Berger and Previte inquired the scope of mandatory audits by the administrative board. Commissioner Previte inquired about the independence of a proposed agency.

Evan Davis from the Committee to Reform the State Constitution discussed the administrative agency handling the proposed public finance system. He believes the State Board cannot demonstrate the necessary independence when the Board is comprised of bi-partisan appointees. He supports the creation of a new agency, with the appointees hailing from the three branches of government. He also advocated that this agency should have purview of the entirety of the campaign finance system in New York State, not just the operation of the proposed public finance system. Mr. Davis believes the enabling legislation is broad enough to authorize the consolidation of existing campaign finance administration within the novel independent agency tasked with handling a public campaign finance system. Commissioners Galvin and Previte inquired about the appointing mechanism being sufficiently independent. Mr. Davis clarified that the appointments should be non-partisan, rather than bi-partisan, to avoid pro-incumbent bias.

On the topic of campaign contribution limits, Mr. Davis stated that limits for non-participants should be lowered in order to encourage increased usage of the program. Commissioner Nonna stated that the Commission has jurisdiction over the relationship between a public finance system and campaign limits, to which Mr. Davis agreed.

Chisun Lee, Senior Counsel at the Brennan Center for Justice, stated that a small number of large-dollar contributions creates a culture of distrust with the state's political process. The Brennan Center recommends a small-donor match system as a public finance system. Ms. Lee believes this system will increase small-donor participation. The Center found that such a system could increase from 5% to 30% the number of contributions from small-dollar donors compared to the private fundraising process currently in place. She also stated that a 6:1 match can attract a more diverse pool of donors into the political process, including in low-income areas.

Joanna Zdanys, counsel to the Brennan Center's Democracy program, stated that matching contributions at a sufficiently high ratio will encourage candidate participation and direct engagement with constituents. The Center recommends matching the first \$200 donated at a 6:1 rate, so a \$10 contribution would be worth \$70 to the candidate. Commissioner Berger inquired about New York City's recent increase from a 6:1 to 8:1 match rate, and Ms. Zdanys recommends considering a higher ratio for in-district contributions. Commissioner Jacobs inquired about differential match ratios based on average income in a district; Ms. Lee stated that any such approach requires prior modeling to consider the costs of and a legal analysis of such a structure.

Commissioner Nonna inquired about the composition of the administrative agency handling the public finance system. Ms. Zdanys stated that it should be a five-member board, nominated by legislative leaders and brought forth by the Executive, and appointed upon advice and consent of the state Senate.

Commissioner Denerstein inquired about the Center's perspective on reducing campaign contribution limits, and Ms. Lee stated the limits must be reduced to encourage participation in the proposed system.

Fritz Schwarz, Chief Counsel for the Brennan Center, provided a historical context for the New York City public campaign finance system. On the issue of independence of the administrative agency, Ms. Schwarz cited the reference to diverse party affiliation of the Campaign Finance Board's membership. He also suggested adopting the New York City system's requirement that the Board issue a report on necessary changes that election cycle may warrant.

Commissioner Berger asked about the onboarding of administrative responsibilities to the Campaign Finance Board when New York City instituted its public finance system. Mr. Schwarz noted that early rounds of audits were protracted.

Commissioner Galvin then proposed a resolution clarifying that the Commission could only discuss and make recommendations on fusion voting within the context of a public finance system. Commissioners Denerstein and Nonna made a motion to table the resolution so that the Commissioners could more carefully consider the contents of the resolution. The motion to table the resolution passed 7-2, with Commissioners Galvin and Previte voting in the negative.

Laura Ladd Bierman, Executive Director of the League of Women Voters of New York State, stated the League's desire for a public campaign finance system. She believes a public campaign finance system would stop the trend of the citizenry's cynicism with the political process. She also believes the administrative agency should be independent, and lower contribution limits, including limits on party contributions, must accompany a public finance system. She believes campaign contribution limits for participants and non-participants should be lowered to levels consistent with federal limits. She believes contributions from lobbyists and entities doing business with the state should be prohibited, and party housekeeping limits should be lowered. She believes a small donor matching system will convey to voters that their votes matter and that elected officials will listen to their constituents.

Commissioner Berger inquired if spending caps would be an essential function of a public finance system. Commissioner Previte asked about proposed incumbency rate reductions under a public finance system in light of recent state-level elections without a public finance system. Commissioner Previte also inquired about the nexus between public corruption and a public campaign finance system.

Susan Lerner, Executive Director of Common Cause New York, stated that an effective public finance system depends on consideration of the amount of funding necessary to run an effective campaign to determine the match ratio, and how much of an expenditure would be comprised of public funds. Commissioner Berger inquired about expenditure limits, and Ms. Lerner stated that

recent federal case law makes such inclusion difficult. Commissioner Nonna inquired about which elections would be covered, and Ms. Lerner stated that primary and general elections should be included, and also noted that term limits increases the importance of the primary election being included in the matchable system. Commissioner Vargas inquired how to set appropriate maximums, and Ms. Lerner stated that recent spending is informative to make such determination. Ms. Lerner also stated that setting qualifying thresholds too high may decrease utilization of the system.

Ms. Lerner also stated that an independent administrative agency creates constituent confidence in the public finance system, and believes a staff of between four and sixty employees would make the agency handle responsibilities effectively. Commissioner Getachew further inquired about the size of the administrative agency, and Commissioner Galvin inquired about the audits conducted by the agency. Ms. Lerner believes that technology can be utilized to conduct effective audits. Commissioner Previte inquired about the timeframe to create the infrastructure of the administrative agency, and Ms. Lerner stated that the Commission's recommendations could contain provisions for a work group within the agency addressing this issue. Commissioner Rodriguez inquired about appointments of the leadership of the administering agency. Ms. Lerner stated that the agency should have a non-partisan administration.

Alex Rabb, Dan Cantor, and Heather McGee, all of the Working Families Party, cited Court of Appeals case law upholding fusion voting. Specifically, In *Matter of Callahan*, the Court stated that the Legislature could not prohibit fusions that express the will of voters. In *Hopper v. Britt*, the Court stated that the Legislature could not indirectly inhibit a fusion of candidates by overturning a statute referring minor party references back to the major party listing of the candidate, finding it more difficult to inhibit a voter from choosing the candidate of their choice. In *Devane v. Touhey*, the Court struck down a law prohibiting a candidate from receiving a nomination of a party and an independent body. Mr. Cantor discussed the value of minor parties allowing voters to express views not within the purview of major parties. He also stated that non-fusion states face spoiler candidates, which undercuts voter choice. Ms. McGee provided a historical context for third party formation to explain the current need for allowing fusion voting.

Commissioner Nonna inquired about public campaign finance systems, and Ms. McGee stated that the Party supports a public finance system. Commissioner Jacobs inquired about fusion voting impairing voter choice and confusion of voters when a candidate has two mutually exclusive ideologies when endorsed by multiple parties. Commissioner Jacobs also inquired about the potential for more primary elections under fusion voting increasing the costs of a public campaign finance system. Mr. Cantor clarified that public financing provides funds to a candidate, regardless of the number of parties endorsing that candidate. Commissioner Jacobs further inquired about the necessity of major party candidates securing minor parties lines as a margin of victory in tightly contested races and the necessity of candidates to secure endorsements from minor parties to mitigate the potential for primary challenges.

Commissioner Getachew inquired which states currently offer both a public financing system and fusion voting; Mr. Cantor stated that Connecticut offers both systems. Commissioner Berger

inquired about fusion voting on candidate competition; Mr. Cantor believes fusion voting encourages healthy ideological competition.

Edward Murray from the New York City Bar Association supports a public campaign finance system. He cited examples of processes for administering campaign finance systems based on the current Chief Enforcement Counsels, and suggested streamlined procedures for the administrative handling of public campaign finance law violations. Commissioner Galvin inquired about the data underscoring the testimony, and Commissioner Prevote inquired about how an agency could be independent.

Fredrick Schaffer, Chair of the New York City Campaign Finance Board, and Amy Loprest, Executive Director of the Campaign Finance Board, discussed the history of and policy goals underpinning the CFB. Mr. Schaffer stated that in the 2013 election cycle, over 90% of census blocs contained at least one public finance system donors. Additionally, 90% of candidates participate in the primary election matching funds program and 2/3 of candidates participate in the general election matching funds program. Initially, the program offered a 1:1 match, increased to 4:1 then 6:1 for the first \$175 dollars. Recently, the match ratio was increased to 8:1 on the first \$250 for citywide candidates and \$175 for City Council candidates, in addition to increasing the availability of public matching funds. Contribution limits were also reduced by approximately half. The mix of lower contribution limits and higher match ratios allows for increased participation in the program while removing the potential for candidates to be influenced by large-dollar donors.

The program also places stricter limits on donations from individuals doing or seeking the business of the City, at \$400 at citywide races, \$320 for borough races, and \$250 for city council candidates.

On thresholds, candidates must demonstrate viability while not facing overly taxing barriers to qualification for the program's matching funds. City Council candidates must raise \$5,000 and 75 in-district contributions, mayoral candidates must raise \$250,000 and 1,000 city contributors.

Disclosure and enforcement procedures hold candidates accountable. CFB works diligently to provide guidance to candidates. The Board has an independent, non-partisan composition, with the Mayor and City Council Speaker appointing two appointees each, and they cannot be enrolled in the same party, and the Chair is chosen by the Mayor in consultation with the Speaker. The Board's budget is permanent and protected.

The program had an initial campaign contribution limit on each election within an election cycle, and subsequent reforms consolidated the per-election limits to a per-cycle limit and also further reduced the limit. Mr. Schaffer noted that a uniform approach for limits works for New York City, and noted that differential rates may create administrative complexities.

Candidates must demonstrate that they face a serious opponent to receive higher amounts of public funds, and caps small election public funds. Mr. Schaffer also stated the benefits of robust disclosure on the public campaign finance system.

Commissioner Berger inquired about the protection of the CFB's budget; Ms. Loprest cited the New York City Charter provisions governing the budget. Commissioner Jacobs inquired about the potential for changes to the New York City system; Mr. Schaffer stated that the new 8:1 match for the Mayor to reduce larger contributions may warrant continued consideration. Commissioner Galvin inquired about an in-house criminal referral process; Mr. Schaffer stated that staff reviews the relevant materials and referrals are made to prosecutors without public hearings. Commissioner Previte inquired about the scope of audits; Mr. Schaffer believes robust audits increase voter confidence in the CFB.

Rachel Bloom, Director of Public Policy and Programs at Citizens Union, supports a public campaign finance system to increase voter confidence in the electoral system. She recommends that a 6:1 match would make elections more competitive but would encourage competition between candidates. She recommends lower campaign contribution limits on participating and non-participating candidates, PACs, and party housekeeping accounts. She supports doing business contribution limits to combat the possibility for public corruption and will increase voter confidence, and supports the Executive proposal on this topic and the New York City version of this limitation. She also advocated for robust periodic disclosures by participating candidates. Ms. Bloom also supports an independent administrative agency similar to the CFB.

Zephyr Teachout, Professor at Fordham University, supports inclusion of primary and general elections in a proposed public campaign finance system to reduce the potential for corruption in the primary election process. She also supports a 6:1 match ratio, and advocated for an independent administrative agency.

Commissioner Jacobs then concluded this portion of the hearing.

Commissioner Jacobs convened the public hearing portion of the meeting. Commissioner Berger inquired about upcoming hearings, and Commissioner Jacobs provided dates, times, and locations for those meetings.

Robin Bahr, League of Women Voters of the City of New York, supports reforms to New York's campaign finance system as a way for citizens to engage in the electoral process and to enhance candidate participation. She stated support for a set of comprehensive reforms, including a small-donor public finance system, and independent administrative agency, and a reduction of campaign contribution limits.

Joel Lafave opposes amendments to the fusion voting system, citing case law supporting the system. He believes the Commission does not have jurisdiction over fusion voting. He also believes a public finance system operating to the exclusion of fusion voting would violate the relevant case law.

Scott Reing, Chairman of Putnam County Democratic Committee, stated his preference for ending fusion voting because it reduces voter choice and unduly amplifies the relationship between minor parties and major parties in control of county elections, often to the minimization of major parties and their enrolled voters.

Dorothy Siegel supports a public campaign finance system, and urged the Commission to refrain from amending the fusion voting system.

Wennie Chen, from the New York Immigration Coalition, supports a small-donor public campaign finance system to encourage engagement of underserved constituent communities. She cited examples of high-value donors being concentrated in a small number of districts, and cited the value of a public finance system encouraging diversity in future political candidates.

State Senator Robert Jackson supports a public campaign finance system similar to the system in New York City, and advocated that the Commission refrain from amending the fusion voting system. He believes a public finance system with a 6:1 match ratio, lower campaign contribution limits, and an independent administrative agency would amplify the voices of voters. He believes fusion voting provides for increased voter choices in elections.

Ellen Martin stated that she supports a public campaign finance system to restore integrity in state government and a mechanism to combat public corruption. She also stated that in the 2018 election cycle, the one hundred highest donors contributed more to candidates than one hundred thirty-seven thousand small donors. She believes a public finance system would incentivize voter involvement in the political process.

State Senator Brad Hoylman cited from the Commission's enabling statute to underscore the policy goals behind the Commission. He believes a 6:1 match would encourage small-dollar contributions to further such goals. He also supports lower contribution limits for participating and non-participating contribution limits and an independent administrative agency to support the system. He opposes amendments to the fusion voting system.

Jumane Williams, New York City Public Advocate, supports a public campaign finance system with a 6:1 match for primary and general elections, lower contribution limits, and an independent administrative agency. He also supports preservation of the fusion voting system.

Juwanza Williams from Vocal New York support a public campaign finance system with a 6:1 match for primary and general elections, lower contribution limits, and an independent administrative agency. He supports the current fusion voting system.

Assemblymember Robert Carroll urged the Commission to refrain from promulgating recommendations on a public campaign finance system and to defer to the Legislature to enact a statutory framework for the system. He believes the Commission's work should focus on studying the most effective public finance system and compiling research to inform the Legislative's future deliberation of legislation on a public campaign finance system. He believes the Commission's function is in violation of the delegation authority in the New York State Constitution. He also believes the three-week window for legislative action would not be sufficient to consider amendments to the Commission's recommendations.

Scott Stringer, New York City Comptroller, cited benefits of the New York City public campaign finance system that the Commission should consider when recommending a state system. He believes a public campaign finance system provides voters with enhanced choice in

the electoral process. He believes the domain of considering changes to the fusion voting system remains with the Legislature.

Nathylin Flowers Adesegun from Vocal New York supports a public campaign finance system to provide equity for candidates to engage sufficiently with voters and engage a diversity of candidates in the political system.

Assemblymember Linda Rosenthal supports a public campaign finance system and fusion voting. She believes a public finance system would amplify voter voices in policy debates. She supports a 6:1 match, lower campaign contribution limits, and an independent administrative agency. She believes this system will encourage competition for novel policy ideas in the public sphere.

Matthew Cain supports a public campaign finance system and refrain from amending fusion voting. He believes a public campaign finance system and fusion voting can operate in conjunction.

Jon Kaiman, Deputy Suffolk County Executive, opposes fusion voting because it distorts perceptions of ballot access for voters.

Christopher Torres supports a public campaign finance system and fusion voting. He believes a public campaign finance system will encourage diversity in candidates for elected office.

State Senator Gustavo Rivera supports a public campaign finance system with a 6:1 match to increase pools of candidates for elected office and increase candidates engaging with constituents. He opposes amendments to the fusion voting system.

Jay Shaffner supports a public campaign finance system and opposes changes to fusion voting. He believes amendments to fusion voting would decrease voter choice.

Jessie Laymon from Citizen Action supports a public campaign finance system that amplifies the voices of small-donors, including a 6:1 match ratio in primary and general elections. He also supports fusion voting.

Assemblymember Harvey Epstein stated that small donors comprised five percent of contributors in the 2018 cycle. He supports lowering contribution limits and supports a 6:1 match ratio, with low qualifying contribution thresholds to encourage utilization of the public campaign finance system. He supports fusion voting and does not believe the Commission's authority covers amendments to fusion voting. Commissioner Berger cited the provision of the enabling statute covering the Commission's mandate to consider fusion voting. Assemblyman Epstein responded by stating that the Commission's findings on fusion voting should only be used to inform future considerations of amendments passed by the Legislature.

New York City Councilmember Ben Kallos cited the benefits of the New York City public campaign finance system for the Commission's consideration of elements of a state system. He believes campaign contribution limits should be reduced, corporate donations should be eliminated, and unused public matching funds should be returned.

Katherine Robbins from the Campaign for New York Health cited examples in healthcare reform as the basis for supporting a public campaign finance system.

John Downing supports a public campaign finance system, with a 6:1 match ratio, to amplify voter voices and the benefits of an independent administrative agency for the system.

New York City Council Speaker Corey Johnson supports a public campaign finance system, and cited examples of the benefits of the New York City public campaign finance system. He believes a public system increases voter confidence in the electoral system. He also opposes changes to the fusion voting system.

Daniel Altschuler from Make the Road supports a public campaign finance system and opposes changes to fusion voting. He also noted that the Commission's public hearings should provide translation services.

Assemblymember Yuh-Line Niou supports a public campaign finance system to encourage trust in the democratic process. She believes the system should have a 6:1 match, lower campaign contribution limits, and an independent administrative agency. She opposes changes to fusion voting, and believes changing fusion voting would run counter to the goals behind creating a public campaign finance system.

Blair Horner from New York Public Interest Research Group supports a public campaign finance system, but challenged the truncated timeframe for the Commission's deliberations. He urged modeling the state public campaign finance system on the system operating in New York City. He also believes the Commission should refrain from amending fusion voting.

Therese Revesz supports a public campaign finance system with a 6:1 match and a properly funded, independent administrative agency that works proactively with participating candidates. She opposes changes to fusion voting.

State Senator Jessica Ramos supports a public campaign finance system and opposes changes to fusion voting. She believes a public campaign finance system should support the goals of increasing voter participation in the democratic process.

Sandra Radff supports a public campaign finance system to increase input from voters in consideration of public policy issues.

Assemblymember Diana Richardson supports a public campaign finance system to encourage an increased diversity in political candidates and to foster elected officials being responsive to their constituents.

Richard Thomas, former mayor of Mount Vernon, believes reforms to the electoral process should clarify the role of agencies administering such systems.

Barry McCoy, New York State Democratic Committee member, opposes fusion voting because he believes it provides an outsized role to minor party leadership in influencing choices of candidates available to voters. He cited examples of such concerns in recent elections.

Teri Hagedorn from the New York Chapter of Represent Us supports a public campaign finance system mirroring the New York City system. She cited examples of the benefits of a public campaign finance system, including increased donations to political candidates a low cost to taxpayers.

Bienvenido Polanco (with translation) stated support for a public campaign finance system to focus candidates on issues important to underrepresented constituents.

Elzora Cleveland opposed the Commission's adoption of a resolution to ratify the Commission's recommendations. She supports a public campaign finance system and opposes changes to the fusion voting system.

Bertha Lewis supports a public campaign finance system, but urged the Commission from refraining on amending the fusion voting system.

Catherine Pfordresher supports a public campaign finance system and opposes changes to fusion voting. She supports a 6:1 match ratio and an independent administrative agency. She believes fusion voting is a separate topic from campaign finance reform.

Jonathan Reiss from Upper West Side Action supports a public campaign finance system based on the New York City system and believes it would restore voter confidence in the political process.

Lucia Diaz (with translation) believes that a public campaign finance system would allow for equity in political candidates hearing voices of voters on issues of concerns to such voters. She opposes amendments to the fusion voting system.

Margaret Kwanteng from the New York Professional Nurses Union supports the current fusion voting system as a way to increase voter participation. She also supports a public campaign finance system.

Regina Hodge supports a public campaign finance system to amplify the voices of voters and increase diversity in pools of political candidates, but opposes changes to the fusion voting system.

Elena Sassower from the Center for Judicial Accountability supports a public campaign finance system, but believes that the Legislature should ratify such a system.

Deborah Porder supports a public campaign finance system to encourage voter participation in the electoral process. She also believes that the Commission does not have authority to amend fusion voting, and any amendments to fusion voting would decrease voter engagement.

Myra Saul supports a public campaign finance system to increase voter involvement in the electoral system, and opposes changes to the fusion voting system.

David Toruno supports a public campaign finance system but opposes changes to the fusion voting system, and believes fusion voting increases political involvement of minority communities. He believes a public finance system would increase voter engagement.

Guillermo Cancio opposes a public campaign finance system, and believes more direct reforms would combat public corruption.

Shemu Barry supports a public campaign finance system to encourage increased participation in the democratic process.

George Alboro supports a public campaign finance system similar to the New York City system. He opposes amendments to fusion voting.

Bright Limm opposes changes to fusion voting, stating that reductions to fusion voting would suppress voter choice.

Daniel Calabro opposes changes to fusion voting and urged the Commission to avoid linking consideration of public campaign finance system with fusion voting.

Karen Peterson supports a public campaign finance system would provide equitable influence to voters and reduce frustration in the political process. She supports a low contribution threshold to encourage utilization of the public system, and an early release of public matching funds.

Francine Hesselkorn opposes fusion voting since parties may have unique political interests.

Daniella Liebling supports a public campaign finance system and opposes the current fusion voting system. She believes qualifying thresholds should be low, and participation should require participation in public debates. She believes fusion voting encourages undue practices between political parties.

Danielle Brecker supports a public campaign finance system with a 6:1 match, lower campaign contribution limits, and an independent administrative agency.

William Boc supports a public campaign finance system and the current fusion voting system.

Eric Frumin supports a public campaign finance system and opposes changes to the fusion voting system. He believes fusion voting will encourage voter confidence in the political process and increase civic engagement.

Josephine Fields supports a public campaign finance system.

Elliot Roseboro supports the current system of fusion voting and cited recent examples of the benefits of fusion voting.

Rachel Levine supports a public campaign finance system but opposes the practice of fusion voting. She believes minor parties wield disproportionate political power compared to other parties, and cited examples of such practices.

James Hong opposes changes to the fusion voting system because doing so would undercut diversity of opinion across the political spectrum. He supports the creation of a public campaign finance system, and believes fusion voting and public campaign can exist simultaneously.

Joseph Mpa supports fusion voting and a public campaign finance system. He believes fusion voting helps voters feel that their vote counts as part of the electoral process.

Eric Spriuell supports fusion voting and believes changing this system would decrease voter turnout. He supports a public campaign finance system.

Feliz Guzman believes a public campaign finance system would increase civic engagement on public consideration of policy issues.

Kimberly Cooley described personal experiences to state her support for a public campaign finance system as a method to allow for more expansive voter participation in the electoral system.

Michael Beltzer supports a public campaign finance system to allow meaningful dialogue between candidates and constituents, and also supports a democracy voucher program.

Commissioner Jacobs then concluded the meeting.

September 18th Meeting

Location: Rockefeller College, Albany

Commissioner Getachew convened the meeting with introductions by each Commissioner.

Peter LaVenia, Co-Chair of the Green Party of New York, stated that a public finance system will increase voter engagement, but believes the Governor's matching funds program does not properly restrict outside influence by not changing relatively campaign contribution limits, does not sufficiently limit party transfers, imposed too restrictive qualifying thresholds for the system, and matching funds increases too drastically the funding differences between candidates. He instead supports a clean elections campaign finance system since it eliminates private fundraising while still providing for competitive elections. He supports a ban on fusion voting because it provides unfair advantages to candidates with multiple ballot lines compared to candidates with one ballot line, spurs patronage for minor party leaders, and creates dilution of minor parties' political ideologies. Commissioner Galvin inquired about the Green Party rules for fusion voting. Commissioner Nonna inquired about academic studies of clean elections systems. Commissioner Previte asked how candidates qualify under clean elections systems. Commissioner Getachew inquired about qualifying contributions sufficient to encourage candidates to participate, with Mr. LaVenia advocating for lower components.

Jessica Wisneski from Citizen Action of New York stated that there is widespread public support for public campaign finance, and provided a historical context for a public campaign finance systems. She recommended a pilot program of small sampling of a public campaign finance system implemented in a short period would be most effective. She also supports a matching fund program to increase flexibility in light of varying campaign costs. She noted that other public finance systems in other states demonstrate that public systems deter nuisance candidates and improves competition between candidates. She advocated for no regional differentiation in funding of candidates under a public system.

Commissioner Previte inquired about relative costs of media purchases across New York State, and the potential for increasing the relative power of independent expenditures. Ms. Wisneski also advocated for lowering campaign contributions limits for both participating and non-participating candidates. Commissioner Jacobs inquired about differential match ratios based on average income within a district. Ms. Wisneski also advocated against amendments to the fusion voting system being handled outside of the legislative process. Commissioner Galvin inquired about the delegation of lawmaking authority regarding a public finance system. Commissioner Nonna inquired about proposals lowering contribution limits between participating and non-participating candidates, and the viability of a clean elections system. Ms. Wisneski believes limits should be lowered for both participating and non-participating candidates, and that the New York City matching funds system is more appropriate to fund the relatively high costs of campaigns in New York State compared to lower campaign costs in states with clean elections programs. Commissioner Previte asked about the administrative costs of a public campaign finance system, and utilization rates of the allocated funds for the program. Commissioner Getachew inquired about an independent agency to administer a public campaign finance system. Commissioner Rodriguez inquired about nominations to the agency.

Tom Wood, Plattsburgh Town Councilmember, supports a public campaign finance system, with at least a 6:1 match and qualifying donations from in-district only. He also supports a lowering of campaign contribution limits. He also supports the current fusion voting system.

Joan Mandle, Executive Director of the Democracy Matters Institute, supports a public campaign finance system to counter voter apathy in the electoral system.

William Ritchie, reading testimony for Anita Thayer, cited instances of minor political party endorsements being supported by major party candidates and provided an overview of the process for minor parties to cross-endorse candidates.

Assemblymember Christopher Tague opposes a public campaign finance system and stated that the costs proposed for the public campaign finance system risks the potential to be spent on campaign practices that citizens may not support, and the system may result in taxpayers supporting candidates with whom they do not agree.

Chad Radock supports a small-donor public matching system. He stated that the cost of the system per resident would be less than \$3, but would help restore voter confidence in the political process.

Ivette Alphonso supports reforms to the campaign finance system to encourage additional candidates to seek office and dedicate themselves to public service.

Connecticut State Senator Matthew Lesser provided an overview of Connecticut's system providing for both fusion voting and a public campaign finance system. He stated that the Connecticut system does not allocate funding per party endorsement, but instead provides funds per candidate. Commissioner Galvin inquired about the interaction of minor parties in the Connecticut system; Senator Lesser stated that the system provides a viability test and lower match system for minor party candidates. Commissioner Jacobs inquired about the number of

minor party primaries in Connecticut, and Senator Lesser believes minor parties are only authorized, not required, to offer primaries. Commissioner Nonna inquired about Connecticut's alternate method for qualifying for a public funds grants, and Senator Lesser explained the alternate qualification process for minor parties. Commissioner Jacobs inquired about the ability of parties to access the ballot.

John Reilly stated that a public campaign finance system should apply to local elections, and opposes the fusion voting system because it allows for outsized influence on the electoral process. He supports a 6:1 match ratio.

Assemblymember Jake Ashby advocated for additional opportunities for deliberations on the topics considered by the Commission.

Robb Smith believes a public campaign finance system will increase participation in the democratic process. He also believes the public campaign finance system will increase the voices of small donors, who will direct candidates to community-based policy proposals.

John Furman read statements of local elected officials, which included support for a 6:1 match ratio, support for lower campaign contribution limits, and opposition to changes to the fusion voting system.

Robert Perry supports a public campaign finance system as a means of ensuring more equity in public policy considerations, such as in housing and school aid.

Frank Cardinale opposes fusion voting, citing examples of gamesmanship of controlling minor party lines.

Beverly Breakman, UAW Region 9A Regional Director cited improved electoral engagement in Connecticut as a result of that state's public campaign finance system, but noted the New York City's system may be more appropriate for New York State due to the relatively high costs of running elections in New York State. She also cited the co-existence of fusion voting and a public campaign finance system in Connecticut.

Deborah Wright, Political Director for UAW Region 9A, opposes changes to the fusion voting system and believes a public campaign finance system will encourage community-supported political candidates to seek elected office.

Dana Balter supports a public campaign finance system with a 6:1 match ratio. She believes small-donor match will amplify the voices of community members in the consideration of policy ideas.

Jamaica Miles believes a public campaign finance system will allow for everyday New Yorkers to feel engaged in the political process.

Thomas Kearny supports a public campaign finance system to ensure more diverse candidates can seek office and more equitably represent their constituents.

Patrick Cousins cited examples of how minor political parties provide alternatives for voters disheartened with the major party system.

Omari Shakur supports the fusion voting system and cited the policy topics that can be discussed in the political process.

Diane Berry supports fusion voting because it allows for increased voter choice and voter engagement.

Larry Dudley opposes fusion voting because it provides for improper deal-making between political candidates.

Susan Weber supports fusion voting and a public campaign finance system.

Amshula Jayaram supports a public campaign finance system to provide for increased ethnic diversity in the political process.

Lynne Boecher opposes fusion voting because it leads to increased voter confusion.

Diana Lopez opposes amendments to fusion voting because it provides for increased voter choice. She supports a public campaign finance system to increase independence of elected officials.

Emily Martinczak supports a public campaign finance system to provide for increased participation by citizens in the political process. She opposes changes to the fusion voting system.

Julian Martinczak supports public campaign finance to allow for single-issue candidates to focus the political system on increased policy debate on those topics.

Bridget Arduini supports fusion voting because it provides for a diversity of political expression. She supports a public campaign finance system to increase the voices of small-dollar donors.

Matthew Edge supports a public campaign finance system to reduce the outsized voice of opponents of climate change intervention.

Steven Redler supports a public campaign finance system to restore voter confidence in the electoral system. He supports a 6:1 match, and lower campaign contribution limits in line with federal limits. He opposes changes to fusion voting.

Katelin Penner supports a public campaign finance system to allow for increased consideration of a large array of policy issues and to allow underrepresented communities to have a voice in the political process.

Thomas Keefe cited examples in the Albany area underscoring the benefits of fusion voting.

Thomas Poelker supports a public campaign finance system and opposes fusion voting due to the resources it draws away from political candidates and misleads voters.

Kaleb Winters supports a public campaign finance system and the banning of electoral fusion because it allows for dilution of minor party ideologies.

Karen Scharff opposes amendments to fusion voting, with that issue remaining in the purview of the Legislature, and supports a public campaign finance system. She stated that Opportunity to Ballot candidates would not be covered by a campaign finance system.

Elisa Sumner opposes the fusion voting system because it detracts from efforts of political candidates and creates additional administrative burdens on the elections operations system.

Deborah Blalock opposes fusion voting due to its usage by other parties to vault their candidates into office and leads to party packing.

Joseph Seemen supports a public campaign finance system, and cited his experience with running for office to demonstrate how a public finance system would allow for candidates to focus on policy issues instead of dedicating resources to fundraising. He opposes changes to the fusion voting system.

Jasmine Gripper supports a public campaign finance system to allow for increased involvement of voters in the political system and amplify the voices of more constituents in advocating for community-based policy issues, such as education funding. She supports the fusion voting system.

Mary Clark supports the current system of fusion voting, and believes the scope of the Commission's jurisdiction is limited to fusion voting specifically in the context of a public campaign finance system.

Sam Allen supports a public campaign finance system that provides for increased responsibility to constituent issues.

Ellen Egger Aimone supports a public campaign finance system, and shared her experiences in the difficulty in sufficiently raising campaign funds when managing political campaigns.

Sister Honora Kenney supports a public campaign finance system and the current system of fusion voting. She believes fusion voting provides a check on outsized political power and allows for voters to express disagreement with elected officials on policy issues.

Maurice Brown supports a public campaign finance system and the current system of fusion voting. He believes fusion voting enhances voter choice. He supports a public campaign finance system to provide avenues for a more diverse candidate pool.

Ann Sullivan supports a public campaign finance system and favors the current system of fusion voting. She believes fusion voting provides for increased voter turnout. She also believes a public campaign finance system will allow for candidates to focus on issues important to their constituents.

Philip Markham supports the current fusion voting system, and provided a historical context for the fusion voting system.

Jason Clark opposes the fusion voting system, citing examples of the outsized role of deal-making conducted by minor party leaders. He also advocated for reducing the number of petition signatures for countywide elected officials for qualify for ballot access.

Tom Speaker, Policy Analyst for Reinvent Albany, supports an independent administrative agency for the public campaign finance system. He explained the group's proposal for filling positions on the Board, with no more than two members being from the same political party, and for confirming Board members once nominated.

Mark Schaeffer supports a public campaign finance system and the current system of fusion voting.

Carlyn Cowen supports a public campaign finance system with a 6:1 match ratio and lower campaign contribution limits. She believes this system will allow diverse communities to amplify their voices in the political process and increased engagement on policy issues.

Sandra Oxford supports the fusion voting system by allowing for a higher number of voters to engage in the political process. She also believes the Commission should refrain from amending the fusion voting system when considering a public campaign finance system.

Todd Kerner supports a public campaign finance system but opposes the fusion voting system. He believes that the fusion voting system increases costs of elections, since fundraising events occur at higher intervals due to minor parties.

Jeffrey Hannon supports increased opportunities for public engagement with the Commission's efforts.

John Paredes believes the Commission can institute reforms to provide for increased voter participation in the political process.

Commissioner Getachew then adjourned the public hearing.

October 14, 2019 Meeting

Held at Westchester Community College, Valhalla, NY

The meeting began with a discussion of retaining legal counsel to support the efforts of Commission. The Commission approved James McGuire for providing legal advice to the Commission by a vote of 5-2-1, with Commissioners Galvin and Getachew voting in the negative, and Commissioner Vargas abstaining. The Commission also approved Jeremy Creelan to draft legislation that conveys the final recommendations of the Commission by a vote of 6-1-1, with Commissioner Galvin voting in the negative and Commissioner Previte abstaining. The Commission then approved Charles Pensabene to provide support to the Commission in drafting the final report summarizing its findings by a vote of 7-1, with Commissioner Galvin voting in the negative.

The Commission then moved to a discussion of a campaign finance system. The first topic the Commission discussed was contribution limits. The discussion began by Commissioner Nonna proposing that the contribution limits of the four statewide elected officials participating in the public finance system be reduced from \$25,000 to \$8,500 or \$6,000 for a primary election and \$16,500 for a general election.

The discussion then shifted to address contribution limits on non-participating candidates, with Commissioner Jacobs favoring limits that encourage opt-in to the public finance system by non-participating candidates. Commissioners Nonna and Galvin suggested an approximately 50% distinction on limits between participating and non-participating candidates. Commissioner Berger stated his belief that the Commission should act upon non-participating contribution limits and give appropriate deference to the courts to adjudicate. Commissioner Previte the stated his desire to allow for severability on those provisions to avoid the potential consequence of severed provisions having a disparate impact on the remaining public finance structure should certain provisions be struck down in future legal challenges.

Commissioner Galvin then suggested that the Commission exercise jurisdiction over non-participating candidates, and Commissioner Previte echoed those sentiments by stating that the success of a public finance system would be relational between participating and non-participating candidates as well as independent expenditures. Commissioner Berger highlighted the potential weakness of New York City's public finance system since that spending cap is not affected by independent expenditures, and suggested a rational cap and the Commission's avoidance of limiting independent expenditures due to the legal precedent in *Buckley v. Valeo*.

Transitioning back to contribution limits, Commissioner Jacobs then suggested the following limits for candidates participating in the public finance system: \$12,000 for statewide offices, with a \$6,000 limit in each of the primary and general elections. The Senate races would have an \$8,000 limit, with a \$4,000 limit in each of the primary and general elections. The Assembly races would be limited to \$4,000, with a \$2,000 limit in each of the primary and general elections. For non-participating candidates, there would be a \$16,000 limit for statewide races, \$12,000 in the Senate, and \$7,000 in the Assembly.

The Commissioners then discussed various aspects concerning the separation of limits between primary and general elections in a given election cycle.

The Commissioners then shifted their conversation to consider thresholds for candidates to qualify for participation in the public finance system, focusing on the following three topics: how much money a candidate must raise to qualify, the range of contributions that would count toward qualification, and the geographical limitations on counting contributions.

On geographical limitations, Commissioner Galvin opened the discussion by noting that for legislative races, the limits should be within district and for statewide within state. Commissioner Denerstein noted some systems do not require an in-district contribution tally for candidates to qualify. Commissioner Berger raised policy considerations for such limits, noting that they could increase candidate outreach conduct within a district. Commissioner Jacobs pointed out that a number of low-dollar contributions could meet the in-district threshold, then a candidate could pivot to target a large number of out-district to hit a monetary threshold for qualification.

Michael Malbin, a professor from Rockefeller College, stated that 61% of Assembly candidates would qualify with the proposal being discussed by the Commission, and within only in-district contributions qualifying a candidate, 40% would have qualified by Labor Day. Commissioners Galvin and Previte discussed ways to change the metrics to increase contributions while still

accommodating income differentials across districts. Commissioner Galvin also noted the difficulty in administering an average median income (“AMI”) factor differential.

Commissioner Jacobs disagreed with using only a geographical threshold to trigger qualification without a meaningful monetary threshold because otherwise candidates would just find de minimis donations in district in order to qualify. Commissioner Previte desired keeping the threshold number of donors the same across an elected office, and reducing the monetary threshold in economically challenged districts in order to create policies that cause the impact the Commission is tasked with instituting.

Commissioner Jacobs noted that the Commission’s proposed legislation will be applicable in all future election cycles, so incentivizing small donor contributions will encourage long-term participation, and using a modified AMI factor will help achieve that goal. Commissioner Getachew cautioned against making the system so economically inaccessible so as to undercut the function of the system.

On the topic of a low monetary value for qualifying contributions, Commissioner Jacobs suggested using the monetary threshold relatively low enough so there can be widespread support. Commissioner Berger noted a recent amendment to New York City Council donation structure that lowered qualifying contributions to \$5, and noted Commissioner Jacobs’ point of \$1 failing to be indicative of support from the constituent community; Commissioner Galvin also noted that \$1 contributions are administratively burdensome.

Commissioner Berger suggested a range of qualifying donations of between \$5 and \$250, stating a belief that such a construct will change candidate behavior by soliciting small, in-district contributions.

Commissioner Getachew pointed out the economic dichotomy in New York City in that it contains some of the nation’s richest and poorest districts, and suggested equitable limits across districts. Commissioner Berger then stated that a limitation to in-district contributions may require AMI-based distinctions to provide equity. Commissioner Berger then raised two options for consideration: contributions from anywhere in state with no variation in AMI across legislative districts, or only in-district contributions qualifying but allowing for AMI-based variations in legislative districts. Commissioner Berger then solicited discussion from the Commissioners.

Commissioner Galvin favored the first option, with an increased number of qualifying contributions in order to achieve additional candidate engagement in-district.

Note that due to technical difficulties in the broadcast and recording of this meeting, the archived video does not capture this portion of the Commission’s discussion. Commissioners Jacobs, Previte, Berger, Getachew and Vargas all raised policy concerns favoring the second option to demonstrate support in-district to qualify and to support economic equity across legislative districts. Commissioner Jacobs voiced support for the second option as a mechanism to demonstrate support for a candidate based on in-district, grassroots interest in order to qualify for

matching funds. Commissioner Berger stated a general preference for in-district only matching until the candidate qualified for matching funds. Commissioner Getachew inquired about AMI for in-district only matching, and Commissioner Previte supports this for equity purposes. Commissioner Vargas noted that legislative districts do not have uniform income levels and generally supported an AMI distinction. Commissioner Berger then stated a general consensus among the Commissioners for supporting in-district contributions to qualify and the use of a modification based on the \$62,765 AMI figure within a legislative district.

Note that the archived video of the Commission's discussion captures the remainder of the meeting. The discussion then shifted to the monetary amount raised and the minimum number of donors necessary for a candidate to qualify. For gubernatorial races, the discussions began on the relative merits of 6,500 donors and \$650,000 threshold or 5,000 donors and \$600,000 threshold. As a result of a discussion, the Commissioners reached a general consensus of a 6,000 donor and \$600,000 threshold for gubernatorial races.

Commissioner Nonna stated a preference for \$18 million in total match funds for the Governor's race, based on Brennan Center and past Executive proposals. This \$18 million figure would be broken out by \$8 million for the primary election and \$10 million for the general election, \$1.6 million in matchable funds. He also stated his belief that a higher amount of total campaign limits the efficacy of independent expenditure groups. The Commissioners expressed a general consensus surrounding the \$8 million/\$10 million split for gubernatorial races.

Commissioner Jacobs cited the estimated global cost of the public finance system at approximately \$68 million annually, with \$25 million in administrative costs. Commissioner Berger cited the Brennan Center's estimate of \$57 million, plus administrative costs. The Commissioners noted that these estimates stay within \$100 million parameter set by the Commission's enabling legislation, while providing a reasonable amount of funding that allows for campaigns to function.

For the three remaining statewide offices, the Commissioners discussed the Lieutenant Governor operating under a \$4 million limit for the primary election. Also, they discussed the Attorney General and Comptroller having that same \$4 million limit for their primary and general elections.

The Commissioners also referenced the Brennan Center's recommendation of a \$3 million cap on statewide elections, based on prior spending, and Reinvent Albany's recommendation of a \$4 million cap for each of the three statewide primary and general elections, based on the last election cycle's spending levels. Commissioner Previte noted these limits do not account for matching funds, so the future spending would exceed prior cycles. Commissioner Berger stated his estimates that matchable funds would put these statewide candidates at just over \$5 million, which tracks prior spending. For the three statewide races, the Commissioners reached a general consensus of a \$100,000/1,000 donor threshold.

For Senate races, the Commissioners began by discussing the Brennan Center’s recommendation of \$750,000 threshold split evenly at \$375,000 for each of the primary and general elections.

Commissioner Galvin raised the issue of limiting what political parties would spend on candidates, and Commissioner Berger stated the prior spending practices concerned a small number of highly contested Senate races. Commissioner Previte noted the potential for increased independent expenditure spending in that small number of competitive races in light of public campaign finance limits. Commissioner Berger urged consideration of a system built around typical spending in Senate races, not in races that are outliers from typical spending trends.

For Assembly races, the Commissioners began by discussing a \$350,000 limit, split evenly at \$175,000 for each of the primary and general elections.

Under the AMI-variable construct, the Commissioners discussed a structure where there would be a 75% of the baseline threshold donation amount in second quarter of districts, and 50% of the baseline threshold donation amount in lowest quarter of districts. Commissioner Jacobs stated that AMI impacts these numbers because some districts can reach the donation threshold quickly, while other districts may not meet the threshold over the course of an election cycle. He further stated that assuming an AMI-variable construct is legal, the Commission should start off with 6:1 match ratio subject to AMI modification in each district, and with a separation of threshold amounts and match ratios to create severability in the event of litigation.

For the minimum number of qualifying donors and minimum amount of donations in Senate races, the Commission discussed the Executive proposal, which stated a minimum of 200 donors and \$20,000 in donations, averaging \$100 per donation.

After discussing comparisons of the size of Senate, Assembly, and New York City Council districts in creating proportionality between legislative candidates, the Commissioners reached a general consensus for \$18,000/150 donors in the Senate, and \$7,500/75 donor threshold for the Assembly.

The Commission then took up a discussion of which types of donors would be prohibited from inclusion in qualification of candidates participating in the public finance system. The Commissioners analyzed various types of donors, including corporate donors, LLCs, foreign nationals, companies doing business with the State, lobbyists, and labor unions.

The Commission then began discussions on the matching rate, including a higher in-district match ratio and a separate out-of-district ratio for legislative districts. On legislative districts, Commissioner Jacobs initiated a discussion of an in-district ratio of 8:1, paired with an out-of-district ratio of 6:1, which would amplify in-district voices compared to out-district without punishing districts with lower contributions in-district. Commissioner Nonna urged keeping an out-of-district ratio to avoid unequal benefits between participating and non-participating candidates. On the subject of differential ratios, Commissioner Jacobs stated his preference for at least an 8:1 or higher ratio to emphasize in-district candidate outreach efforts, while

Commissioner Previte stated a preference for a 6:1/4:1 system. Commissioner Jacobs mentioned a desire to keep a two-point differential to properly incentivize the use of the system.

Commissioner Galvin then raised issues with administrative and budgetary problems with an independent entity inside of the State Board of Elections, stating the potential for exacerbating ongoing issues with divisions of costs for various units with the State Board.

The Commission then discussed future meetings before adjourning.

October 22 Meeting

Location: Suffolk County Legislature, Smithtown, NY

Commissioner Vargas convened the meeting, and began introductions of the Commissioners.

The first entity offering testimony was the New York State Board of Elections (“SBOE”), represented by Co-Executive Directors Todd Valentine and Robert Brehm, alongside Co-Counsel Brian Quail. Director Valentine began with a request to administer the public finance program within the State Board of Elections. SBOE believes the structure of SBOE lends to a uniform and fair administrative of such program, especially since SBOE handled the pilot program. SBOE countered perceived bi-partisan gridlock by citing the relative rarity of such occurrences and highlighting the ability of SBOE to reach a consensus on issues in conflict. Next, SBOE cited its experience in handling and tracking campaign finance filings for political races, which SBOE believes would be difficult for a novel agency to handle.

Director Brehm then discussed SBOE’s compliance efforts regarding campaign finance responsibilities, and highlighted the efforts on on-boarding compliance with the LLC Loophole legislation enacted during in the 2019 legislative session. Director Brehm also stated that an administrative process for handling reviews of public finance determinations should have an odd number of members to avoid gridlock as well as changes to Election Law Article 16 to provide an infrastructure for such reviews. Director Brehm also noted that logistics of handling payments for state expenditures can be challenging, so a structure for a public campaign finance system should address this issue.

Mr. Quail then stated the existing infrastructure within SBOE is more efficient for administering a public campaign finance system compared to developing such infrastructure within a new governmental agency. He then discussed the role of Elections Operations Unit in such a system. On the issue of administrative determinations regarding eligibility for the public finance system, he stated a need to create a sufficiently detailed process to provide fairness to candidates, especially the need for a tie-breaking vote. He also stated the role of the Compliance and Enforcement Units in such a system.

Commissioner Berger inquired about the role of Enforcement Counsel in the public finance program. Director Brehm stated that SBOE should handle routine level enforcement issues, such as failing to file or failing to update a compliance report, and fines and penalties would deter for

lower-level violations while still allowing for more serious violations to be referred to Enforcement Counsel. Commissioner Berger then stated concerns with the inability of Enforcement Counsel to enforce election laws, and the potential for including civil jurisdiction over enforcement within a campaign finance system. Director Brehm stated the need for an expedited panel and the ability to enforce violations of the law. Director Valentine stated the need for proper compliance in handling enforcement of violations. Commissioner Berger asked about the structure of the appeals panel, and Director Brehm stated that it could be comprised of members skilled in the topic, appointed for terms, provided they have independence. On the topic of budget, Commissioner Berger inquired about a separate budget automatically made a part of the Executive Budget and handled by the Legislature in enacting a final budget. Director Brehm stated that a public finance unit could be integrated in SBOE structure and adequately identify its expenses.

Commissioner Nonna clarified that the Public Finance Unit's scope of practice. Director Brehm stated that SBOE would hire new employees and task them with separate responsibilities, but could share responsibilities with existing SBOE staff when appropriate. Commissioner Nonna then inquired about the commencement date of the program, and Director Valentine stated it would be operate if timed to begin at the beginning of the new election cycle.

Commissioner Jacobs asked if SBOE's proposed structure would save the taxpayers money by being more efficient. Director Brehm clarified that two levels of management, between Directors and a Board, could create conflict. Commissioner Jacobs stated his belief that a system built within SBOE would be more financially efficient. Director Brehm stated that compared to the New York City system, state-level races often have competitive primary and general elections, so staffing the public finance system with existing SBOE staff in the busier periods could be more administratively efficient. Commissioner Jacobs then stated his belief that another agency handling the system could require additional information-sharing processes. Commissioner Brehm also stated existing computer systems within SBOE could be adapted more easily than a new agency developing that software.

Commissioner Getachew inquired about the appointment of administrative board members. Mr. Quail stated that existing Article 16 language provides a system for appointing hearing officers, but stated no strong opinion on appointing members. Mr. Quail then discussed some models for appointing the members, citing existing SBOE staff, other states appointing judiciary members, or other stakeholders appointing the members. Mr. Quail also stated that fairness and public confidence in appointments would be paramount to the process. Commissioner Getachew inquired about a separate agency handling the public finance system. Director Valentine stated that existing laws within the Election Law would need to be amended to authorize a new agency to handle tasks, such as enforcement and compliance, and stated the existing authority within the law for SBOE to handle such responsibilities. Commissioner Galvin then cited the Enforcement Counsel Unit determining with SBOE what responsibilities needed attention.

Commissioner Previte then inquired about the risks of partisan appointments for board members when political opponents of their appointing authorities would be regulated by the appointees. Director Brehm stated that checks within state government, such as Comptroller review of

expenditures, could mitigate those concerns. Commissioner Previte also inquired about the funding of the program, and if administrative funding is included within funding available to candidates participating in the program. Director Valentine stated that a new agency would be less financially efficient, thus detracting from funds available to participating candidates.

Next, Suffolk County Executive Steve Bellone provided testimony. He stated that a public finance system should be implemented, as Suffolk County has done. He also stated that fusion voting should be eliminated to combat political corruption, as seen in examples in Suffolk County. He advocated for a ban on fusion voting to provide for a more independent judicial system.

James Coll, from Change NYS, stated that existing election laws restrict candidate access to the ballot. He stated that a public campaign finance system would not benefit independent candidates. He stated that the Commission's delegated authority is unconstitutional because the Commission's recommendations will automatically have the force of law, in opposition to the State Constitution's delegation of lawmaking authority.

State Assemblyman Phil Ramos stated that a public campaign finance system would assist with democracy, citing the small number of large-dollar donors compared to small-dollar donors in the 2018 state election cycle. Assemblyman Ramos also stated that small-donor matching funds would create a model for campaign finance reform in the wake of the Citizens United decision. He stated a preference for decoupling fusion from the public finance issue in the Commission's determinations, and believes third party candidates further citizen involvement.

Skylar Johnson highlighted issues with potential candidates face when fundraising, and the perception that fundraising activity relates to candidate viability. He also stated that public financing will reinstate voter confidence in the electoral system.

State Assemblyman Michael Montesano stated that the \$100 million annual cost of a public finance system will not prevent undue influence in the political system. He stated the problems with providing public funds for campaigns when candidates cannot use government time when engaging in campaign activity.

Joseph Sackman, from Wolf-PAC, stated that removing money from politics would assist in government officials targeting policy issues. He also cited data on political influence from wealthy donors compared to donors contributing lower amounts. He advocated for New York's role in creating a model for other states, and such a system could restore public confidence in political representative.

State Senator Alexandra Biaggi stated that the Commission can create a system to empower citizens, and the Commission's recommendations can help candidates interact with voters without dedicating time to fundraising. She stated that Commission's original intent is to target campaign finance systems. She stated that fusion voting is not within the purview of the Commission, and past attempts to address fusion voting were handled by courts. She stated a preference for fusion voting and highlighted the value fusion voting provides to voters. She stated the need for public financing to tackle political corruption.

Michele Lamberti, League of Women Voters of Nassau County, stated a desire to reduce campaign contributions for all political candidates, not just in those participating in the public finance system. She stated that New York has the highest limits of the 39 states that limit contributions. She asked for an independent agency to handle campaign finance laws, similar to New York City, and the agency enforcing the public system should handle campaign limits. She stated a desire for a prohibition on bans on campaign contributions from lobbyists and to place limits on housekeeping accounts. She desired new reporting for bundling of campaign contributions.

State Senator Phil Boyle cited letters from 47 Democratic and Republican lawmakers in New York State that support fusion voting. He then cited the interaction of public financing of candidates and fusion voting, citing the increased costs to the public if the state had to fund multiple candidates running for each office without fusion voting.

Lisa Tyson, Director of Long Island Progressive Coalition, stated public financing of elections would assist voters. She advocated for a January 1, 2022 start date, a 6:1 match, lower limits for all candidates, competitive qualification metrics, and an independent agency administering the program. She cited a matching program to amplify the voices of underrepresented New Yorkers. She cited examples of political corruption as the need for public financing. She also stated a preference that fusion voting and third parties assist in the democratic process.

State Assemblyman Joseph DeStefano stated that the \$100 million cost of the public finance program could instead be dedicated to infrastructure development and education funding. He also cited the potential for robocalls to be financed with public funds. He also stated that funding for candidates should come from the candidate's fundraising efforts instead of from public money.

Luke Elliot-Negri stated that fusion voting is not the root cause of independence issues regarding judicial elections. He provided an overview of how judicial candidates are selected, and cited the lack of role for third parties in such selection process. He stated that reduced power of party leaders in the selection of judicial candidates would assist in ensuring voter confidence.

Suffolk County Legislator Bridget Fleming supported a public financing program, which would be a model for other states to allow greater participation in the political process. She cited the Suffolk County local law that takes effect in 2021, creating a county-level public finance system, which increases participation in the political process. She stated the fundraising efforts take up too much time of elected officials compared to governmental service. Commissioner Galvin inquired about the effective date of the Suffolk program, which begins for Suffolk County county-level legislative candidates in 2021 and county-wide offices in 2022.

Bridget Foley stated the need for a public finance system to counter further efforts for policy addressing climate change.

State Assemblyman Walter Mosley stated his support for a public campaign system, including a 6:1 match, to empower the electorate in the political process. He expressed concern with the Commission addressing fusion voting. He believes the enabling legislation is limited to public

finance of elections, and cited multiple instances of the Court of Appeals affirming the concept of fusion voting.

Lailani Gibson, from the Long Island Progressive Coalition, stated that the financial realities of campaigning can keep candidates from pursuing elected office. She also stated that moneyed influence has an outsized role in the political process. She believes a public financing system would allow for candidates of color and candidates who are female would be encouraged to seek public office under a public matching system.

Ana Flores Acosta, Make the Road New York, stated her desire for a public finance system, and advocated for the Commission to refrain from addressing fusion voting. She cited examples of policy topics that could be furthered by additional voter involvement in the political process. On the public finance system, she advocated a 6:1 match, reduced contribution limits for larger donors, and an independent administrative agency.

Eliana Fernandez, Lead Organizer Make the Road New York-Long Island, advocated for a public finance system and asked the Commission to not address fusion voting. She cited instances where wealthy donors have acted against the interests of her group's efforts. On fusion voting, she stated the importance of fusion voting for her group's members.

Rodger Snyder, Chair of Suffolk County Green Party, stated his desire to end fusion voting. He stated that the New York is one of a handful of states that allows fusion voting. He believes cross-endorsements of candidates and manipulation of minor party lines creates problems for minor parties. He believes fusion voting is misused and has diluted the voices of third party members. He believes fusion voting leads to corruption and deprives voters of a true choice among candidates.

James Brown, Secretary of Nassau County Green Party, states that strong campaign finance reform and ending fusion voting would increase participation in the political process. He advocated for a level playing field of ideas, instead of the influence of money in politics. On the New York City system and the proposed system, he stated that matching funds can add supplements to private campaign funding without targeting root causes of corruption. He advocated for a grant-based system in Arizona, Maine, and Connecticut, which differs from a matching fund system. On fusion voting, he advocated a ban on the Green Party because it runs separate candidates.

Virginia Capon, President of The Three Village Democratic Club, stated that public financing would remove money from politics and cross-endorsements reduces voter choice in elections. On fusion voting, since often a candidate appears on multiple lines, minor parties often force candidates off of the ballot due to close election results and withheld cross-endorsements.

Peter Henninger, Chair of Stony Brook College Democrats, advocated for the ban of fusion voting. Fusion voting creates issues for college students voting. Further, he stated that fusion voting removes the possibility of an independent judiciary, and stated that New York is the only state that allows fusion voting in judicial races.

Joshua Koff from Stony Brook College Democrats advocated for a ban on fusion voting. He stated that minor parties often fail to represent different ideologies and simply allow for back-room deals between political parties. He cited a Supreme Court case upholding a fusion voting ban in Minnesota on First Amendment groups, and New York Court of Appeals cases demonstrate how to ban fusion voting.

Shoshana Hershkowitz, Suffolk Progressives, stated that Suffolk County has a history of fusion voting on lines that are diametrically opposed on issues. She believes fusion voting should be handled separately from a public finance system. On a public finance system, she stated the difficulty of underrepresented citizens from running for office.

Geraldine Maslanka, Progressive East End Reformers, cited examples of the outsized role of money in politics, and believes a public finance system would assist in mitigating those issues. She stated that the Commission should address only public financing, and should not address fusion voting.

Joan Ritter stated if a matching program was created, participants should only be dedicated to candidates from parties with a 2% minimum of enrolled voters.

Eugene Pagano cited newspaper editorials on the topic of fusion voting, and believes that all parties should field separate candidates.

Elizabeth Schneider from Planned Parenthood of Hudson and Louis Marcella of Planned Parenthood Nassau County stated the public financing would allow for everyday New Yorkers to participate equitably in the political system, and cited a study showing that civic participation is voting is correlated to higher positive healthcare outcomes.

Vivian Valoria-Fisher supported the need for a public finance system. She stated that fusion voting should be banned. She cited instances of candidates appearing on various lines in the same race in recent Suffolk County elections.

Dahlia McManus, Deputy Director of New York State Working Families Party, stated that the Opportunity to Ballot process allows non-enrolled voters to challenge a party's designated candidate for an office through a write-in process. She stated that in New York City, a candidate's name must be on the ballot and the candidate must have an opponent, so a write-in candidate could not seek public matching funds through the Opportunity to Ballot process.

Bruce Miller, Trustee of Village of Port Jefferson, addressed the flaws with cross-party endorsements and believes the practice foster corruption while also undercutting the voice of voters.

Michael Gendron supports a public finance system that allows for greater input from voters across the socio-economic spectrum. He stated that higher contributions limits small donors, and called for an independent agency to handle a public finance system. He believes the Commission should refrain from addressing fusion voting, and the Commission lacks the jurisdiction to handle the topic.

Peggy Perkins stated that a public finance system would allow for a systemic increase in voter participation.

William Bailey stated that a public finance system would allow for voters to keep elected officials accountable. He favors fusion voting because it allows for additional opportunities for voter engagement in the political system.

Benjamin Britton stated that a public finance system would increase participation in the political process. He supports fusion voting to allow a diversity of candidates to seek public office.

Rodman Serrano, Long Island Civic Engagement Table, stated that a public finance system would increase participation in the political system.

Janet Farfan (in translation) stated that a public campaign finance system would allow for opportunities to address arising policy issues in her community. She also stated that the Commission refrain from acting on fusion voting.

Rodger Meadows stated that only in-district donations should be matched. He also advocated a sliding scale: as the donation amount increases, the match ratio decreases. He stated that New York has the highest inequality rate, and such a metric would direct elected officials to this concern.

David Calone stated that a public finance system would create competition for the vetting of policy ideas and for candidates addressing issues of importance to voters.

Erika Lorshbough, NYCLU, supports a public finance system to amplify the voices of underrepresented voters. She highlighted First Amendment concerns on charting boundaries for a public finance system. She also advocated for withholding any action on fusion voting not connected to the public finance system. She stated that the hierarchy of the state constitution does not provide for the ability for legislation amending fusion voting, the enabling legislation is not clear on this topic, there are negative optics on this issue, and the inclusion of a fusion voting in recommendations could jeopardize the Commission's recommendations on the public finance system.

State Assemblyman Ed Ra stated that the Commission lacks constitutional authority for action, and the proper venue for enacting a public finance system and changes to fusion voting is through legislative action. He also cited various Assembly votes regarding public finance systems. He cited voter preference for not funding robocalls and attack ads in political campaigns. He stated a lack of identified funding for a public voting system. He also stated that a public finance system would not alter fundraising practices of elected officials. He called for the Commission to issue non-binding recommendations to assist the Legislature in future deliberations on the public finance system.

Michael Como stated that a preference for lower campaign contribution limits and in-district matching funds at a 6:1 ratio. He believes that a public finance system will help encourage participation in government.

Greg Fischer a public finance system would amplify the voices of middle-class voters. He advocated for a phase-in of matching funds, and should be in-district only. For fusion voting, he stated cross-endorsement aids in candidate diversity.

Jay Schoemfeld stated a preference for SBOE to administer a public campaign finance system. He also advocated for lower campaign contribution limits.

Casey Marlow stated that fusion voting creates voter confusion and empowers ideologically indistinct parties to create an undue influence on the current election cycle.

The Commission concluded public testimony and transitioned into a discussion of the elements of the campaign finance program, with Commissioner Denerstein joining the discussion.

Commissioner Berger stated that limiting the match to in-district contributions would direct candidates to face their constituents while avoiding issues with in-district and out-of-district administration; he advocated for a change in the proposed matching rate.

Commissioner Nonna raised the potential for limits on in-district contribution matches on decreasing usage of the public finance system. Michael Malbin stated that a decrease in qualifying contributions may tend to decrease participation in the system. He stated that 10:1 or 12:1 would not substantially increase participation in such system. Commissioner Galvin stated that a limit to in-district in those districts with an AMI adjustment may push candidates out of the system to raise larger amounts of funds. Commissioner Berger believes such candidates are still able to fundraise, but without receiving public match funds.

Commissioner Jacobs stated matching funds being limited to within the state would undercut the policy goal of directing candidates to consider issues raised by in-district residents.

Commissioner Nonna said that a higher in-district match would still provide a greater weight to candidates to consider in-district issues. Commissioner Previte reiterated that there may be challenges in qualifying based on sufficient in-district contributions, compared to the relative quicker ability to raise funds outside of the district.

The Brennan Center stated there may be no issue with limiting matches to in-district donations, but not matching outside-of-district may discourage candidates from small-dollar fundraising outside of district and instead funnel candidates to only raise large-dollar donations when outside of the district. Commissioner Vargas stated that the higher match ratio for in-district donors would encourage candidate focus on issues raised by the candidate's constituents. Commissioner Galvin then proposed a lower match out-of-district, such as 6:1 up to \$100, and 8:1 in-district up to \$250.

In response to Commissioner Rodriguez's question about district-specific matching, Michael Malbin proposed that the Commission consider what a candidate would need to run an election, and then determine match rates. Commissioner Berger stated that even in lower-income districts, there may be higher-dollar donations. Commissioner Previte stated that combatting independent expenditures requires a broader donor base, including political liabilities for the geographic locations of contributions. Commissioner Jacobs disputed the relevance of such optics to in-district voters.

Commissioner Jacobs suggested an 8:1 match on \$200, with a multiplier of ratios on \$50 donation increments. Michael Malbin stated that Montgomery County, Maryland matches at different rates for increments up to that jurisdiction's limit. Commissioner Jacobs stated that this concept may remove the need for AMI, but retained a preference for using AMI in qualification for the program. He stated that too restrictive of a system can drive candidates out of the system to seek higher-dollar contributions, and the Brennan Center echoed that contribution limits should be lowered for both participating and non-participating donors to amplify that concept. Commissioner Getachew stated out-of-district contributions may still merit matching since those donors are still concerned about the policies of an adjacent candidate.

Commissioner Rodriguez stated that a guiding principle should be amplification of voter voices, not candidate voices, so accomplishing that may merit a matching in-district. Professor Malbin stated that candidate participation in the system is the most efficient way to increase voter participation.

Commissioner Getachew raised concerns about creating an overly complicated system that is not feasible, or will not trigger sufficient candidate or voter engagement.

Commissioner Jacobs then made a motion for all matchable funds to be matched only in-district. Commissioner Getachew raised a concern that models demonstrating viability should be reviewed first. The Brennan Center stated that participating candidates in New York City engage with constituents at statistically higher levels compared with Assembly candidates, which justifies a higher in-district match in a proposed system. Commissioner Berger encourages candidates with a community-reach.

Preliminary Vote: Galvin-no (some out-of-district match, higher in-district) Previte-no (pending a model); Nonna-no (pending a model); Jacobs-yes; Denerstein-yes (no out-of-district match at all); Vargas-yes; Berger-yes; Rodriguez-yes; Getachew-no (5-yes; 4-no, so motion passes).

Commissioner Previte then raised a point of clarification regarding contribution limit and the threshold dollar amount. Commissioner Berger stated that New York City only counts matchable contributions toward the matchable amount (2,000 limit, \$250 is matched, and the \$250 matched counts toward threshold amount).

Commissioner Nonna asked for clarification on why Commissioner changed their votes regarding only in-district qualifying donors. Commissioner Berger stated that limits to in-district contributions would amplify constituent voices, pending the modeling for specifics on viability of campaigns.

Commissioner Jacobs requested modeling on in-district only contributions and various match ratios. Commissioner Previte stated that higher match ratios may be politically unpalatable for New Yorkers since residents may balk at high public dollar values going to match relatively low amounts of private campaign contributions.

Commissioner Denerstein stated that not matching out-of-district contributions further amplifies in-district voices, even if out-of-district donors contribute to adjacent candidates.

Commissioner Previte stated that last meeting had a number of AMI-conditional votes, and now that AMI appears to be disfavored, so those issues merit additional review.

Commissioner Vargas then concluded the meeting.

October 29 Meeting

Location: Burchfield Penney Arts Center, Buffalo State College, Buffalo, NY

Commissioner Rodriguez convened the public meeting. Commissioner Berger provided commissioners with instructive provisions from the New York City Charter or regulations and stated the language is publicly available.

Gamileh Jamil from the New York Immigration Coalition supports a small-dollar public finance system, and stated that this program will echo the recent amendments to the Election Law. She believes a small-dollar component of the program will provide for increased diversity in candidates. The Coalition called for an independent board to administer the program, lower qualifying thresholds and donor numbers for participation in the program, and lower campaign contribution limits.

Byron Brown, Mayor of the City of Buffalo, stated that a public finance system would restore voter confidence in elected officials, more voter engagement on civic issues, and increased attention to local issues by elected officials. He also believes a public finance system should be coupled with lower campaign contributions to increase access for diverse candidates to seek elected office.

Louisa Pacheco stated the role of organizing citizens to increase voter engagement in the election process. She also stated her support for fusion voting, and cited Court of Appeals precedent to guide the Commission's efforts on that topic.

Jawanza Williams supports a public campaign finance system with 6:1 match, lower contribution limits, and an independent administrative agency to handle the system. He also supports fusion voting to allow for increased voter engagement.

Assemblyman Michael Norris stated that the topics under the purview of the Commission should be handled by the Legislature, instead of through delegation to the Commission. He addressed issues with the costs associated with a public finance system. He also supports fusion voting as a First Amendment right of association.

David Chudy supports fusion voting as an enhancement to democracy, and stated that the Legislature should instead amend the state constitution if a removal of fusion voting is preferred. He advocated against raising ballot access thresholds for political parties. He proposed consideration of an indexing system for a more incremental of party ballot access thresholds, should the Commission favor such action.

Sarah Buckley, Working Families Party State Committee member, stated the Commission should not address fusion voting in its review of the state Election Law. She cited examples of political

outreach conducted by minor political parties. She also supports a system with a 6:1 statewide match, 8:1 in-district match, and an independent administrative agency.

Nick Langworthy, Chair of the New York State Republican Committee, objected to the political nature underlying the creation of the Commission. He also objected to the timing behind the release of the Commission's recommendations. He does not support a public campaign finance system.

Robert Dando believes a public campaign finance system would increase citizen involvement in the political process. As a local political candidate, he cited the financial problems can deter candidates from seeking office. He also believes a public campaign finance system would increase political candidates personally engaging with constituents. He also supports fusion voting as a mechanism to increase voter involvement.

Jeremy Zellner, Chair of Erie County Democratic Committee, opposes fusion voting. He believes fusion voting increases costs for printing ballots and triggers higher election law litigation, citing half of all such litigation occurring in New York State. He also stated that fusion ballots increases voter confusion with complicated ballots. He believes fusion voting reduces voter choice since voters are often forced to choose only cross-endorsed candidates. He favors minor parties more fully competing for voter engagement with that party's platform. Commissioner Galvin clarified that the State Board of Elections pays for ballots.

Roger Cook, Working Families Party member, supports a public finance system, but opposes changes to fusion voting. He cited examples of minor parties advocating for policy changes in major party candidates.

Assembly Angelo Morinello stated his objection to the enabling legislation that created the Commission. He stated a preference for dedicating the costs of the public system to other programming. He also stated a preference for reducing campaign contribution limits to meet the goals of the Commission without using public money of taxpayers to support political views with which they may disagree. He also stated his belief that the Commission is unconstitutional due to the delegation containing the Commission's enabling legislation.

Mary Hammele from Citizen Action cited examples of large-money donations to New York political candidates and linked those interests in reducing voter participation and a lack of engagement from additional political candidates. She supports a small-donor public finance system to increase voter engagement in the political process.

Assemblyman Andrew Gooddell stated that a public finance system would provide additional advantages to incumbent political candidates with pre-existing fundraising abilities and connections compared to their political challengers, and such disadvantage would be amplified by a match ratio. He stated that a higher match ratio would also increase the potential for campaign finance fraud.

Rex Stewart stated the opposition to the Commission's authority that underscored his participation in the lawsuit against the Commission. He supports fusion voting to allow minor parties to initiate discussions of policy topics with major political party candidates.

Samra Brouk stated that a public finance system would remove barriers for political participation. She supports lower contribution limits on political candidates as a way to increase diversity in political candidates. She supports a small-donor matching program to amplify voices of constituents in political races.

Laura Friedenbach supports a public campaign finance system but stated concerns that Commission's recommendations may not sufficiently reach goals underpinning a public finance program, such as matching donations for in-district contributions only, too high of contribution limits and qualifications for the program, and a non-independent administrative agency.

Nicholas NyHart, from the Every Voice Center, supports a public finance system, and advocated for a program attractive to future candidates. He stated that matching in-district contributions only would not attract sufficient participation. He advocated a 6:1 match ratio, reduction of contribution limits, and a reduction of proposed qualifications for program participation.

Thomas Roulley supports a public finance system, and stated a preference for a fair elections system, such as in Connecticut. He opposes Commission action that would eliminate minor political parties.

Ralph Lorrigo, Erie County Conservative Party Chair, stated that the Commission members have not filed oaths of office and cited Public Officers Law provisions supporting that position. He also opposes the constitutionality of the Commission's findings.

Tom Best, Town of Hamburg Councilman, supports a public finance system and opposes changes to fusion voting. He believes changes to fusion voting would further increase political divisions. He cited examples of minor parties allowing for candidates to seek office where major parties would restrict candidates from running viable races. He believes a public finance system would provide for equity in the elections process.

Henry Kayutkin supports a public finance system, and instant run-off voting. He believes fusion voting provides for a more equitable system of approval voting compared to first-around-the-post systems. Commissioner Jacobs clarified that instant run-off voting is similar to ranked choice voting.

Judith Hunter, Chair of Democratic Rural Conference of New York State, supports public campaign finance system in rural counties, but advocated against a uniform system due to drastically different median incomes across New York's counties. She advocated for a "party-for-a-day" fusion voting system to provide for voter choice without corruptive issues associated with minor parties.

Janet Massaro, Buffalo-Niagara League of Women Voters, supports a public campaign finance system, alongside lower contribution limits for participating and non-participating candidates in line with federal limits and an independent administrative agency. She advocated limits on party housekeeping accounts and limiting lobbyist or doing business contributions.

Christie Nelson supports a public campaign finance system to reinstate public trust in the elections process.

Ellen Kennedy from Citizen Action supports a public finance system, as it would allow for increased issue debate instead of constant fundraising efforts. She advocated against amendments to fusion voting and believes minor parties operate with sufficient independence from major parties while still providing voters with a distinct choice for representation.

Linda Hurley stated her bases for participating the lawsuit against the Commission is the potential for amending fusion voting. She discussed the case law that upholds the grounds for fusion voting.

Michael Huttner supports fusion voting and cited examples of the role of fusion voting in influencing policy issue discussions in the education context.

Rebecca Bylewski supports an end to fusion voting because some minor parties have gone astray from the principles underpinning the creation of that minor party. She also stated that minor parties may wield more power than major party chairs to influence the outcomes of elections.

Diana Cihak stated that a public campaign finance system would encourage women to run for office, as it would ease fundraising burdens that are especially disproportionate for women of color.

Jesse Lenney supports fusion voting and believes that fusion voting provides an opportunity for voters to contribute further to the political process. He read two statements from local political candidates who support fusion voting.

Jumirna Alcober supports a public campaign finance system with a 6:1 match ratio and lower contribution limits. She believes a public finance system would allow for an amplification of underrepresented voices in the elections process.

David Mongiello supports reforms to the election process, specifically the party positions. He also cited recent examples of major parties exerting control of minor parties.

Joseph Kissel addressed concerns for independent candidates, especially funding concerns for such candidates. He also cited recent examples of major parties exerting control of minor party lines, which he believes subverts the political process.

Jerome Schad supports a public finance system due to the prohibitive costs of elections that dissuade candidates from running for office. He also supports reforms to fusion voting due to the practice restricting candidates from securing ballot access and restraining voter choice.

Christine Wood from Public Citizen supports a public campaign finance system because it will amplify the voices of citizens. She cited recent federal legislative efforts to create a small-donor matching program. She believes a program should have a 6:1 match ratio, lower campaign contribution limits, extension to primary and general elections, and avoid changes to fusion voting.

Katrina Martin opposes amendments to fusion voting, citing personal examples of the opportunity for candidates to seek office through minor party lines.

Philip Rumore opposes amendments to fusion voting since changes to that system would allow for larger control over the elections process by major party operations. He also believes fusion voting allows for increased participation by larger number of voters.

Richard Lipka supports fusion voting as it allows for increased voter choice.

Scott Bylewski supports reforms to fusion voting to allow for minor parties to stand on their own merits, and minor parties exert disproportionate power over the political system relative to their enrollment.

Eugene Hart supports fusion voting and public campaign finance. He believes fusion voting allows for additional candidates to participate in the political process. He believes a public campaign finance system would allow for an increased number of candidates to become involved in political races. He opposes changes to party qualification for ballot access.

Jenna Piasecki supports a public campaign finance system but opposes changes to fusion voting. She believes fusion voting expands constituent engagement in the elections process and allows for third party voters to feel that their votes are not spoiled.

Jim Anderson supports a public campaign finance system that would allow for increased voter participation in the elections process and provide for responsive political representation. He opposes amendments to fusion voting. He cautioned the Commission from creating a system that would unduly benefit incumbents, and advocated for an independent administrative agency.

Commissioner Rodriguez then concluded the public testimony portion of the meeting.

Shifting to a discussion of the progressive match structure of the program, Commissioner Jacobs stated that a candidate would allow for a match of twelve times within the \$50 donation bracket. Commissioner Berger stated that this structure would incentivize small dollar donations, and combined with the in-district restriction, merits consideration of the budget of such matching structure. Commissioner Jacobs raised the benefit of having such match ratio would assist candidates in qualifying for program participation, with an additional \$900 in public funds resulting from such structure.

Commissioner Berger raised a concern with caps on participating and non-participating candidates, stating that this progressive structure provides both types of candidates with equitable standing. Commissioner Previte asked for additional justification for the progressive match structure, due to the lack of potential corruption stemming from low-dollar contributions. Commissioner Jacobs stated that the model for this structure, Montgomery County, Maryland, is currently used. Commissioner Berger stated that the rational basis for the progressive structure is that it will encourage participation in the political process. Commissioner Previte inquired if the progressive structure does not reach this rational basis goal in the same manner as a flat rate ratio. Commissioner Jacobs stated that this progressive structure better accommodates lower-income districts compared to a uniform ratio where donations are less likely to occur.

Commissioner Galvin inquired if a progressive structure would unduly benefit incumbent candidates. Commissioner Berger stated that the entire election system benefits incumbents, but

this structure would work to create equity between incumbents and challengers, especially in lower-income districts where small-dollar donations are more likely to be made. Commissioner Jacobs stated that the progressive structure benefits challengers because the challenger is likely to secure lower-dollar donations at the outset, which amplifies the challenger's donations.

Commissioner Previte raised party contributions for candidates participating in the public finance system, since such candidates would appear to receive a discordant amount of contributions from a party compared to the contributors covered by the prior discussion of the Commission. Commissioner Jacobs noted that the enabling statute did not contemplate such considerations, since it addresses candidates but not political parties. Commissioner Getachew stated her belief that the statute covers party contributions. Commissioner Previte urged the Commissioners to secure the opinion of counsel on that issue.

Commissioner Berger then asked that discussion of AMI-adjusted thresholds be tabled until further review by the Commissioners. The Brennan Center stated that its analysis focused on New York City Council candidates over a four-year period, instead of just in qualifying periods. Commissioner Berger inquired about the process for modeling such data. Commissioner Jacobs stated his concerns with a system of an Assembly threshold of \$7500 from 75 donors is based on the average \$100 donation, but may not account for higher donations within the \$250 cap; he stated a preference for a campaign finance system that balances the credibility of a candidate with a sufficient showing of grassroots, popular support within a district. He also cited the impact of such a system, based on the 2019 New York City Public Advocate special election. Commissioner Berger stated that the City Council contributions can be matched from anywhere within New York City, and a third of all candidates fail to qualify for participation in the New York City program, so imposing a comparatively higher threshold for the Assembly is counterintuitive.

Commissioner Denerstein advocated for the Commission to narrow the list of topics that the Commission will address in structuring a public campaign finance system, with the goal of encouraging small donors within a district and increased candidate engagement. Commissioner Previte stated that the Commission's final recommendations may lead to a novel set of issues once the program becomes operational, so the Commission should focus on a program that is rational and justifiable to the public.

Commissioner Getachew echoed the policy goals stated by Commissioner Denerstein, and also stated that a small-donor system should not distinguish among the pool of small donors. Commissioner Jacobs stated that the economic make-up of certain legislative districts prohibits a uniform chance of qualifying for the program, and believes a progressive structure would help alleviate those economic realities.

Commissioner Berger inquired on NYPIRG's concerns; Blair Horner of NYPIRG urged the Commission to consider New Jersey's law on combating pay-to-play issues, and asked for a written analysis of the Montgomery County system relied upon by the Commission. Commissioner Previte stated that the provisions of law concerning such ethics issues may exceed the jurisdiction of the Commission. Commissioner Getachew requested the opinion of counsel

concerning provisions of the Public Officers Law generally, and Commissioner Jacobs stated that the Commission's efforts could be limited to campaign contribution laws specifically.

Commissioner Jacobs then raised discussion on limits for use of public matching funds. Commissioner Berger cited the New York City Administrative Code as a model for use on the statewide level, with augmentation for inapplicable or otherwise necessary provisions on the statewide level.

Commissioner Berger then raised discussion of small primaries, which in New York City are less than 1,000 eligible voters and New York City prohibits the use of public matching funds for such primary elections. Commissioner Berger also raised the New York City Campaign Finance Board's authority to make rules over non-competitive primary elections. Commissioner Jacobs inquired about conditions, and Commissioner Berger stated that the New York City provisions define which races are considered competitive.

On non-individual contributors, Commissioner Berger stated that and only individual contributions should be matched. Commissioner Previte raised concerns over the optics of labor unions donating to candidates under a public finance system. Commissioner Denerstein focused the landscape of non-individual contributors in New York State. Commissioner Berger advocated for leaving non-corporate donations within the purview of the Legislature.

Commissioner Rodriguez then concluded the discussion, and adjourned the meeting.

November 13 Meeting

Location: Westchester Community College

Commissioner Denerstein convened the meeting, and the Commissioner introduced themselves.

Commissioner Nona made the motion for convening executive session for the purposes of obtaining legal advice, which was seconded by Commissioner Rodriguez.

At the conclusion of executive session, Commissioner Denerstein reconvened the meeting. She began the discussion of contribution levels.

Commissioner Jacobs raised contribution limits for participants compared to non-participants. He proposed a reduction to \$25,000 for statewide candidates, \$10,000 for Senate candidates, and \$6,000 for Assembly, each of which evenly divided between primary and general elections and amounts applicable to both participants and non-participants.

Commissioner Previte voiced his favor of a differential between participants and non-participants and stated that this proposal would not incentivize a change in behavior or encourage sufficiently participation in the public campaign finance system.

Commissioner Getachew stated that the proposed limits remain too high compared to federal limits, and believed lower limits that are benchmarked to New York City Council limits, due to similarities between Assembly and City Council districts. She supports similar limits between

participating and non-participating candidates. She supports limits of \$4,200-participating and \$6,500-non-participating for Senate, \$2,850-participating and \$5,150-non-participating for Assembly.

Commissioner Berger also voiced concerns with the proposed contribution limits, citing a distinction between federal and state limits. He believes the proposed limits are too high, and believes a bifurcation between participants and non-participants is more reasonable. He preferred a \$12,000-participating and \$16,000-non-participating statewide limit.

Commissioner Nonna supports lower than proposed contribution limits. He then referenced the Brennan Center's proposed limits, and the Brennan Center noted that limits should be lowered and its formerly proposed limits should be lower based on the discussions of the Commission thus far. Commissioner Berger advocated for a middle ground between proposed limits and those limits proposed by the Brennan Center, with a number between \$12,000 and \$16,000 is reasonable for statewide races, due to the current costs of campaigning.

Commissioner Jacobs then clarified that each office's limits would be discussed separately. In summarizing the limits that had previously been proposed and discussed, he proposed a Senate limit \$10,000 for both participating and non-participating, and an Assembly limit at \$5,000 for both participating and non-participating. Commissioner Previte favored reducing the limits and not creating parity between participants and non-participants.

Commissioner Denerstein suggested reaching a consensus on issues. Commissioner Berger made a motion for parity between participating and non-participating candidates. Commissioner Getachew favored a discussion of all of the program's components together. Commissioner Galvin stated that due to the number of components, the program's components should be discussed separately. Commissioner Jacobs suggested separate consideration, with time for the Commissioners to raise issues at the end of the discussion.

Commissioner Berger made the motion, and Commissioner Jacobs seconded the motion. The vote: Commissioners Getachew, Galvin, and Previte voted in the negative.

Commissioner Berger then moved for an Assembly limit of \$5,000 total, divided equally between primary (\$2,500) and general (\$2,500) elections. Commissioner Jacobs seconded. The vote: Commissioners Getachew, Galvin, and Previte voted in the negative. Commissioner Previte clarified that a Senate district is 2.4 times the size of the Assembly, so a rational basis would be using a similar multiplication.

Commissioner Berger proposed a Senate limit of \$10,000 total, divided equally between primary and general elections. Commissioner Jacobs seconded the motion. The vote was 5-4, with Commissioners Galvin, Previte, Nonna, and Getachew voting in the negative.

Commissioner Berger proposed a statewide limit of \$15,000 total, divided equally between primary and general elections. Commissioner Jacobs moved to table the discussion, stating that statewide offices would not receive a proportional limit compared to the Legislature.

Commissioner Galvin motioned for a vote on the proposed statewide limit. Commissioner Jacobs stated his desire for tabling the statewide limit, citing the Assembly's prior passage of a \$25,000

limit. Commissioner Denerstein also supported usage of the Assembly's previously considered limit. Commissioner Vargas inquired about a timeframe for consideration of such limit if it were tabled. Commissioner Galvin stated that a consensus vote can be made with the Commission reserving the ability to reconsider it in future meetings. Commissioner Rodriguez inquired about the Assembly's vote on the legislative limits, and Commissioner Vargas clarified that the Assembly's limits were close on legislative offices. Commissioner Jacobs clarified for a rationale on limits contained in the Assembly-passed bill. Commissioner Nonna seconded the motion to table; Commissioners Galvin, Previte, Nonna, Berger, Getachew voted no on tabling.

Commissioner Berger then began discussion on the statewide limit. Commissioner Nonna proposed a \$12,000 limit. Commissioner Galvin expressed her support for a \$15,000 limit, Commissioner Getachew suggested a \$7,100 limit, with different limits for participating and non-participating candidates. Commissioner Previte expressed opposition to parity between participating and non-participating candidates, and his opposition to a \$12,000 or \$15,000 limit. Commissioner Galvin seconded the motion for Commissioner Berger's \$15,000 limit. The vote was Vargas, Rodriguez, Getachew, Denerstein, Jacobs Nonna, and Previte voting no, so the motion failed 2-7.

Commissioner Previte then proposed a \$20,000 limit. Commissioner Galvin seconded the motion. The Commissioners voted no unanimously.

Commissioner Jacobs then proposed a rule allowing for candidates to retain funds received during a non-contested election for use in a contested election. Commissioner Galvin clarified about the scope of this rule, and Commissioner Berger stated that the transferred money would not be matchable, with the matching funds from the prior cycle being returned to the issuing entity. Commissioner Nonna said that this money can be used for campaign uses, but would not be used for qualification in the public matching system in the later election cycle. Commissioner Berger clarified that if such a candidate seeks a different office in future cycles, the transferred funds are capped at the limits of the later office being sought. Commissioner Berger clarified that this rule applies to remaining funds, not just funds received in non-competitive races. The Commissioners amended the language of the motion based on the discussion.

Revised motion: Move to allow candidates having raised funds for a prior election to choose to retain those contributions and roll them forward to the next election, up to the contribution limit so transferred. Such funds are not matchable and do not apply to meeting qualification thresholds.

Commissioners Previte, Galvin, Getachew voted no, so the motion passed 6-3.

Commissioner Jacobs moved to proposals on thresholds for participation in the public matching system. He recommended a lowering of the previously discussed proposal to read as follows: move to reduce the threshold for qualification for participation in the gubernatorial race from the currently agreed upon \$600,000 with 6,000 contributors to \$500,000 with 5,000 contributors. Commissioner Berger seconded Commissioner's Jacobs' motion. The vote was 8-1, with Commissioner Previte voting no.

Commissioner Jacobs then proposed a motion on qualification thresholds.

Commissioner Jacobs then discussed that districts in the lower half of AMI would be a 2/3 of the threshold, moving Senate to \$8,000 with 150 contributors and Assembly to \$4,000 with 75 contributors, with a severability clause if the AMI did not apply, rendering Assembly threshold at \$5,000 and Senate threshold at \$10,000. Commissioner Denerstein clarified that these numbers translate to an average contribution of \$80. Commissioner Rodriguez clarified that AMI is a separate proposal, and Commissioner Denerstein clarified the relative number of districts covered by AMI, with about 50% of districts being covered. Commissioner Berger believes that the qualification thresholds should be linked with the AMI component, with which Commissioner Getachew concurred.

Commissioner Jacobs then proposed a revised motion to read as follows: Move to set the threshold for qualification for participation in races for the state senate at \$12,000 with 150 contributors. Assembly would be set at \$6,000 with 75 contributors, and the Commission would adopt a simple AMI per-district adjustment to the thresholds for qualification for State Senate & State Assembly which provides no adjustment for districts above the Average Median Income and adjusts all districts below the AMI to 66.67% of the base threshold such that the Senate threshold for below-AMI districts would be reduced from \$12,000 to \$8,000 and for the Assembly the threshold for below-AMI districts would be reduced from \$6,000 to \$4,000. The severability clause related to the AMI per-district threshold adjustments should provide that if struck down by the courts that the Assembly threshold will default to \$5,000 and the Senate threshold shall default to \$10,000 for all districts.

Commissioners Nonna, Jacobs, Denerstein, Berger, Getachew, Rodriguez, and Vargas voted yes, and Commissioners Galvin and Previte voted no, so the motion passed 7-2.

Commissioner Denerstein then raised FOIL requests filed with the Commission. She proposed that the Department of State be requested to process FOIL requests and also process FOIL decision appeals. The Commissioners were unanimous for such request.

Commissioner Berger then clarified that the Commissioner's recommendations specifically provide for no indexing of such numbers. Commissioner Previte inquired if the indexing for party committees was also to be addressed by the Commission. Commissioner Berger clarified that such issue is not within the purview of the Commission. Commissioner Rodriguez cautioned against such a decision prior to determining limits on statewide races.

Commissioner Jacobs then raised that the public finance cap for the Governor is too high, and suggested it be reduced to \$10 million. Commissioner Nonna raised the caps for legislative races, and Commissioner Jacobs stated his belief that those caps are appropriate.

Commissioner Jacobs also stated his preference for designing a properly functioning campaign finance system that encourages grassroots candidates while also allowing for taxpayers to feel that the system is appropriately using their tax dollars.

Commissioner Jacobs then raised the progressive match rates proposed. The first \$50 would be at 12 times the amount contributed, the first \$100 at 9 times, and the second \$100 at 8 times the

amount, for a 9.2:1 match. Commissioner Berger clarified if the 6:1 match ratio discussed would address concerns raised by the public, and Commissioner Jacobs believes this proposal meets and exceeds this match ratio. Commissioner Previte voiced opposition to the proposed match ratios, and mentioned that the November 13 meeting equalizes the participating and non-participating contributions, which creates an inconsistency in the rationale for proposing a progressive match ratio system.

Commissioner Getachew then stated that restricting the matching of out-of-district contributions would hamstring races in lower-income districts, so she proposed a 4:1 match for out-of-district contributions to counteract this concern. Commissioner Jacobs stated the rationale of restricting out-of-district matching to focus candidates on constituent issues, and further cited that under limits proposed by the Commission, an Assembly primary candidate would need to raise \$19,000 in district under the 9.2:1 matching system. Commissioner Rodriguez also noted that this structure does not prohibit out-of-district contributions, but instead prioritizes in-district contributions. Commissioner Berger noted that in New York City, Council candidates receive twice the contributors as analogous state-level races, so this system will encourage in-district interaction between candidates and constituents, which reasonably furthers the campaign finance system.

Commissioner Nonna then raised the potential for raising the match ratios for low-dollar contributions even higher, with 15:1 for the first \$50, 10:1 for the second \$100, and 8:1 for the third \$100. Commissioner Jacobs stated his support for higher ratios, but wants to consider the fiscal cost to such ratios. Commissioner Galvin raised her concerns with even higher match ratios and stated that a number of experts have expressed support for a 6:1 match ratio. Commissioner Getachew stated that candidates and thus donors in lower-income districts may not be incentivized without out-of-district match ratios. Commissioner Jacobs stated his belief that a lack of necessity surrounds matching out-of-district contributions. Commissioner Galvin raised the potential for restricting party committee spending on legislative candidates from party committee donations made only in the candidate's district, and Commissioner Berger raised the need for similar limits on independent expenditures to balance on such a limitation. Commissioner Berger also stated that the reality of modern campaigns poses the potential to drown out in-district contributions. Commissioner Getachew then suggested a 4:1 match ratio on just a \$100 contribution from out-of-district, and Commissioners Berger and Galvin raised administrative concerns with such a process.

Commissioner Berger then posed three concerns: in-district-only matching, the desire for a progressive system, and if a progressive system is favored, at what ratios. Commissioner Getachew also noted that an additional concern is matching only small contributions or matching low-dollar portions of larger-dollar contributions, and the former is more likely to incentivize grassroots constituent engagement compared to the latter type of matching. Commissioner Nonna raised the prior vote on restricting matching of out-of-district matching (5-4 vote, with Commissioners Galvin, Previte, Nonna, and Getachew voting no), and inquired if the Commission's consensus had changed since that time. The Commission's vote stood.

Commissioner Berger then raised a progressive matching system, and the Commission's consensus stood.

Commissioner Berger then raised the ratios for a progressive system. Commissioner Nonna proposed the first \$50 would be 15:1 instead of 12:1, with the next two tiers remaining 9:1 and 8:1. Commissioner Berger suggested the public may not tolerate such ratios. Commissioner Berger moved the first \$50 being matched 12:1, the second \$100 being matched 9:1, and the last \$100 being matched 8:1. Commissioner Jacobs clarified that for the Assembly, 76 \$250 donations would be needed, and under Commissioner Nonna's proposal, 4.2 fewer \$250 donations would be needed. Commissioner Rodriguez asked for a chart depicting the proposals.

Commissioner Berger then raised a proposal to track New York City's standards for participation in the public campaign finance system only in a competitive election. Commissioner Galvin inquired if a fundraising threshold was one of the standards. Commissioner Previte inquired about candidates with challengers who are receiving matching funds, and if a sudden interest in a candidate will provide for public funds. The Commission expressed support for this proposal.

Commissioner Berger then raised a proposal for small-party primary elections, which would also track New York City's language on such a structure. The Commission also expressed support for this proposal.

Commissioner Berger then raised a proposal on what public funds may be spent on, which would also track New York City's language on such approved and disapproved expenditures. The Commission also expressed support for this proposal.

Commissioner Getachew then proposed an administrative and enforcement unit within the State Board of Elections, with assistance from the Compliance Unit, audit procedures, penalties for civil violations, reporting requirements, and a budget process. Commissioner Galvin raised concerns with some of the administrative components and operational aspects of the proposed unit. Commissioner Jacobs echoed Commissioner Galvin's support for placement of the administrative and enforcement unit within the State Board. Commissioner Berger stated his belief that the State Board should house the administrative unit, and compared and contrasted his preferences for the unit compared to the structure and operations of the New York City Campaign Finance Board, and he recommended the unit's reports being made on election cycles instead of annually. Commissioner Galvin also raised the operations and logistics of releasing funds to qualified candidates should be optimized so that payments are not delayed.

Commissioner Berger noted that the CFB creates a budget for administrative costs and a budget for matching funds to avoid issues with disbursement and operations of the program.

Commissioner Previte raised the point that the Commission interprets the enabling legislation's \$100 million language to be inclusive of the administrative costs, but advocated for statutory language to make the administrative budget more permanent. Commissioner Jacobs inquired about the current structure of the State Board, and Commissioner Galvin clarified the appointing process and advocated for a combination of the current four commissioners and the public finance-specific commissioners to take action.

Commissioner Jacobs then raised a commencement date for the public campaign finance system. He proposed a start date of November 15, 2022, based on the State Board's recommendation, with the Unit beginning on its work on January 1, 2020. Commissioner Rodriguez clarified about what races would be impacted, and Commissioner Jacobs clarified that the system applies to legislative races in the 2024 cycle and to the statewide races in the 2026 cycle.

Commissioner Denerstein then raised the remaining schedule of the Commission's meetings. The Commissioners discussed planning future meetings.

Commissioner Denerstein then adjourned the meeting.

November 25 Meeting

Location: Westchester Community College, Valhalla, NY

Commissioner Jacobs convened the meeting, and Commissioners made introductions.

Providing an overview of the Commission's agenda at this meeting, Commissioner Jacobs then began discussion on appointing a FOIL officer for the Commission. Commissioner Jacobs then stated that Commissioner Berger will discuss the Commission's recommendation, and that Commissioner Galvin will discuss the Commission's report. Commissioner Jacobs then discussed the Commissioners submitting written comments for the Commission's report, and delivery of the completed report to the legislative and executive leaders.

Commissioner Jacobs made a motion to designate the records access officer and records appeals officer at Department of State to handle FOIL requests and appeals concerning the Commission. The Commission voted unanimously for this designation.

Commissioner Jacobs then made a motion on campaign contributions for statewide elected officials to be set at \$18,000. Commissioner Vargas then began discussion of an amendment to the contribution limits for state Assembly candidates. Commissioner Previte raised that the Commission has handled contribution limits on a per office basis, and his desire to continue handling each office separately; Commissioner Jacobs clarified that the Commission will consider the Assembly limit, then the statewide limit. Commissioner Vargas made a motion to amend the Assembly limit to \$6,000 (split evenly between primary and general elections), up from the \$5,000 limit that the Commission previously considered. Commissioner Previte stated that increasing the Assembly limit would create discord with the proportional limit on the Senate at \$10,000, and stated a preference for also increasing the Senate limit. Commissioner Nonna stated his belief that the limits proposed are already too high. Commissioner Vargas stated a rationale for this increase based on the proposed statewide candidate limit. Commissioner Getachew stated that the legislative limits are to be proportional, and raised concerns with higher limits. The vote on the \$6,000 Assembly limit was 2-6, with Commissioners Berger, Galvin, Getachew, Jacobs, Nonna, Previte, voting in the negative and Commissioner Denerstein not present for this vote. On the motion to set the statewide limit at \$18,000, Commissioner Nonna raised concerns with high limits but stated that in the spirit of consensus and to be compatible

with other mechanisms of the public campaign finance system, he can vote in favor of this limit. On a voice vote, the Commission was unanimous in setting the statewide contribution limit at \$18,000.

On the public finance caps for the four statewide races, Commissioner Jacobs proposed a limit of \$7 million, split evenly between the primary and general elections. Commissioner Nonna clarified that the proposed match caps for the legislative races remain the same as previously discussed at prior Commission meetings. The Commission voted unanimously on this motion for statewide caps.

Commissioner Getachew moved to limit public campaign finance matching funds for every candidate to only contributions from contributors to that candidate who donate an aggregate of \$250 or less during any one election cycle and to require such candidates to return all matching funds from any contributor who, through the entire election cycle, exceeds \$250 in aggregate contributions. Commissioner Vargas clarified if the donations in excess of \$250 count toward threshold amounts, and Commissioner Berger clarified that these contributions count. Commissioner Previte discussed his concerns with the contents of this motion on the viability and utilization of this proposed public campaign finance system. The Commission voted unanimously in favor of this motion.

Commissioner Nonna then proposed an amendment to the progressive match ratio on the first \$50 contributed to a 15:1 ratio. Commissioner Previte stated concerns with favoring a segment of small-dollar contributions over other small-dollar contributions, and a 15:1 match would exacerbate these concerns. Commissioner Jacobs stated concerns with the overall fiscal costs of a 15:1 match and believes that a 12:1 reaches the goals of the progressive match system while remaining in the costs set in the enabling legislation. He then cited examples of contributions for a participating Assembly candidate to reach the maximum funds available to participating candidates. Commissioner Vargas believes a 12:1 match ratio provides a reasonable ratio. The motion failed 1-8, with Commissioners Berger, Denerstein, Galvin, Getachew, Jacobs, Previte, Rodriguez, and Vargas voting in the negative.

Commissioners Berger and Galvin discussed details of the program administration and the administrative agency handling the public campaign finance system. Commissioner Berger described the creation of a Public Campaign Finance Board, comprised of seven people, including the four existing State Board of Elections Commissioners. One of the three Board members is appointed by the legislative leaders of the majority party, one by the minority leaders, and one by the Governor. The Commissioners receive \$350 a day, up to an annual maximum of \$25,000 for their work, and are considered Public Officers.

On mechanics, the Compliance Unit of the State Board of Elections will handle such tasks, including logging contributions, determining eligibility, and audits. The Public Campaign Finance Board then makes regulations, hears allegations of violations, imposes penalties, arranges for enforcement of penalties, and makes recommendations on criminal matters. The Campaign Finance Board can make additional staff hiring. Commissioner Berger then stated that the Compliance Unit staff makes mechanical efforts, and the PCFB makes policy-and

enforcement-level determinations. Commissioner Previte clarified about appointing authorities when political party leadership has changed during the appointed Board member's term. Commissioner Berger also described cyclical reporting to be made by PCFB every four years. Commissioner Previte stated a preference for two-year cycles, and Commissioner Berger clarified that New York City's Campaign Finance Board reports on a four-year cycle. Commissioner Galvin stated that State Board of Elections will make annual reports to the Legislature, which provides additional guidance to legislative candidates. Commissioner Getachew stated that legislative races coincides with presidential elections, when turnout is higher, so more frequent reporting would help in such scenario. Commissioner Berger stated that PCFB will make regulations regarding participation in public debates. Commissioner Galvin clarified an 18-month timeframe for completion of audits. Commissioner Galvin also clarified that the State Board has the experience and qualifications to handle the administration of a public campaign finance system, and stated that funding is necessary for the continued operation of this function. Commissioner Berger then proposed an amendment for two-year reporting, starting in 2025. The Commission voted unanimously on this amendment.

Commissioner Galvin clarified that criminal matters within the purview of the PCFB are to be referred to the Attorney General, and Commissioner Berger clarified that the Attorney General is to act upon referral, but not to exercise original jurisdiction. Commissioner Previte stated that funding restrictions may be the cause for hesitance of local district attorneys to bring criminal actions in election law matters. Commissioner Previte inquired about private rights of action, and Commissioner Berger clarified that the existing grounds for a private right of action in Election Law Article 14 would carry through to the Commission's recommendation.

Commissioner Jacobs then moved that the Public Campaign Finance Board be constituted by seven members, the four Commissioners of the State Board of Elections (2 Republican & 2 Democratic) plus a member selected each by agreement of the Senate Majority Leader & Assembly Speaker; the Senate Minority Leader & Assembly Minority Leader; and one by the Governor. Moreover, a majority being required for action, such majority must include at least one of the three members so selected who are not serving as Commissioners to the State Board of Elections. The Commission unanimously approved this structure.

Commissioner Jacobs then revisited the failed vote on the \$6,000 Assembly contribution limit. On the motion, the motion on the \$6,000 limit was approved 5-2-2, with Commissioners Galvin and Previte voting in the negative, and Commissioners Nonna and Getachew abstaining.

Commissioner Previte then proposed a motion to increase the Senate contribution limit to \$12,000 to provide equity with the \$6,000 Assembly limit. Commissioner Getachew stated concerns with higher contribution limits, with which Commissioner Nonna agreed. The vote was 1-8, with Commissioners Berger, Denerstein, Galvin, Getachew, Jacobs, Nonna, Rodriguez, and Vargas voting in the negative. Commissioner Previte noted his concern with a lack of rationale for the proposed contribution limits, and Commissioner Berger clarified that a pure proportionality on such limits would lead to outsized costs for the public campaign finance program.

Commissioner Jacobs then moved to amend Section 1-104 (3) of the Election Law to change the definition of party as a body receiving 50,000 votes for Governor to a body receiving at least 2% of the total votes cast for governor, or 130,000 votes, whichever is greater, in a gubernatorial election year and at least 2% of the total votes cast for president, or 130,000 votes, whichever is greater, in a presidential election year.

Commissioner Berger stated that the current 50,000 limit was set in 1935, when turnout was half of the current turnout amount. He believes that a lack of adjustment in the intervening time period has led to incongruity in the parties meeting the threshold. He believes that a large number of small parties, and their associated primaries, could jeopardize the funding limit in the enabling legislation for the public campaign finance system. Commissioner Jacobs stated that credible parties can reach the thresholds, both in past elections and in future elections.

Commissioner Previte stated his preference for not calling parties credible based on their turnout results; instead, he favors staying within the overall fiscal concerns of the public campaign finance system. Commissioner Nonna stated that the Commission has the authority to recommend changes to party qualifications in its enabling legislation. He also believes the current definition of a party is outdated, and the Commission can create a reasonable definition of a party threshold. He also believes in the spirit of compromise, and in order to ensure a viable campaign finance system, party thresholds can be amended as part of the compromise.

Commissioner Getachew inquired about other states with turnout thresholds, and Commissioner Jacobs cited examples nationwide of such thresholds. He also noted that no state with multiple-year thresholds (both gubernatorial and presidential year benchmarks) also has fusion voting.

Commissioner Galvin stated that eligibility for \$7 million in public funds is based on a 130,000-vote threshold is not overly onerous, especially when the prior gubernatorial turnout was over 6 million voters. Commissioner Denerstein advocated for increased voter turnout generally.

Commissioner Previte stated that complexities of the existing Election Law concerning the presidential selection process warrants separate consideration by the Legislature after the Commission's recommendation takes effect. Commissioner Getachew voiced concerns with a high threshold in light of the other components of the Commission's recommendation. On the vote on the party threshold, the motion passed 6-3, with Commissioners Getachew, Previte, and Vargas voting in the negative.

Commissioner Jacobs then moved to amend Section 6-142 of the Election Law to change the signature requirement for Independent Nominating Petitions to 45,000 signatures or 1% (one percent) of the total number of votes, excluding blank and void, cast for the office of governor at the last gubernatorial election, whichever is less, with at least 500 signatures or 1% of enrolled voters, whichever is less, from each of one-half of the congressional districts in the state.

Commissioner Nonna raised concerns about the enabling statute authorizing this motion. Commissioner Jacobs then reread the motion for clarity. Commissioner Previte raised concerns with consistency and fiscal concerns behind this topic. Commissioner Berger stated that party designating petitions are three times the requirements for independent nominating petitions, but statewide candidates must secure 15,000 signatures on designating or independent signatures, with inconsistent pools of eligible signers. He also noted a historical gap in updating this

number, and believes an amendment to this number is logical. On the enabling legislation, he believes independent nominating petitions are not included in the Commission's jurisdiction, but this change is necessary and warranted under the Election Law. Commissioner Jacobs stated that since 1994, the seven gubernatorial elections had between five and ten candidates, and cited various parties for such candidates; he believes this topic is a separate and distinct measure from party qualifications, and that these candidates are eligible for public matching funds, which can draw down on the available funding for the program, with up to \$25 million being allocated for such parties in only the gubernatorial race. Commissioner Galvin stated a preference for a consideration of 25,000 signatures, due to the physical space of such a high number of signatures, and the efforts required in the event of a challenge to such petitions. Commissioner Nonna stated that candidates from these parties still have to prove their eligibility for public matching funds. Commissioner Jacobs contrasted the 3,500 independent signature requirement for congressional candidates, and noted the total 94,500 signatures required for all of New York's congressional districts combined. Commissioner Galvin noted the time limit to secure independent signatures in what is effectively 1,000 signatures per day, and Commissioner Previte noted the recent change to the election calendar. Commissioner Galvin made a motion for a 25,000 signature threshold, and the motion failed 2-7, with Commissioners Berger, Denerstein, Getachew, Jacobs, Nonna, Rodriguez, and Vargas voting in the negative.

On the 45,000 signature threshold, the Commission voted 3-5-1 with Commissioners Galvin, Getachew, Nonna, Rodriguez, and Vargas voting in the negative, and Commissioner Previte abstained,

On the 30,000 signature threshold, the Commission voted 4-5, with Commissioners Getachew, Nonna, Previte, Rodriguez, and Vargas in the negative.

Commissioner Jacobs stated that the Commission plans to submit its report by December 1, and Commissioners should submit their written justifications.

Commissioner Berger then proposed a motion that in the event that after submission, but before the legislature's time to act has expired, the Commission finds non-substantive but required changes to its report and bill draft, the Commission shall notify the legislature of the same and those edits shall be included in the proposal as part of the Commission's final plan. In no way shall such proposed edits alter the substance of the agreements that are contained therein but shall be technical in nature. On a voice vote, the Commission approved this motion unanimously.

Commissioner Previte then suggested that a similar increase on independent signature numbers is necessary to provide equity for ballot access compared to parties using designating petitions. He then moved to reconsider the motion concerning the 45,000 signature threshold for independent nominating petitions, with a discussion on the fiscal impact. Commissioner Jacobs stated that raising party thresholds without raising independent nominating petitions would provide discordant results, especially since all registered voters are eligible to sign such petitions, while only party enrollees can sign a party's designating petition. He believes that the sophistication of modern fundraising requires higher constraints on the utilization of public matching funds, and a higher signature requirement more accurately reflects the political expression and support

surrounding such candidates. Commissioner Previte noted that signing a petition is likely a lower level of electoral expression compared to voting for a particular candidate. Commissioner Nonna stated his concerns with revisiting votes, but believes the chief concern is ensuring a viable public finance system. The Commission then voted 8-1 to approve the 45,000 independent signature threshold, with Commissioner Galvin voting in the negative.

Commissioner Berger then provided an overview of the Commission's recommendation. Part I provides campaign contribution limits for participating and non-participating candidates. Part II contains a public campaign finance system. Commissioner Nonna clarified that contributions between \$5 and \$250 are matchable contributions, and Commissioner Berger listed non-matchable contributions. He also clarified that contributions from a contributor who in the aggregate contributes more than \$250 to such participating candidate for nomination or election are non-matchable. On the definition of surplus, Commissioner Galvin stated that regulations must be made to handle such operations. He then described political committee registration of one committee per candidate, committee reporting requirements, PCFB's ongoing review of disclosure reports, option to file more frequently, and proof of compliance. For eligibility, the candidate must be qualified to be on the ballot, opposed by a non-write in candidate, and submit a certificate at least four months prior to a primary election that declares participation in the program. Commissioner Galvin clarified on "testing the waters" committees.

Commissioner Berger also described post-election compliance, and a prohibition on accepting contributions in excess of the limits. The Commission discussed timing for safe harbor for returns of improper funds, and transferring funds acquired prior to the program's effectiveness.

Commissioner Berger then discussed thresholds for eligibility, including AMI provisions. The Commission then discussed public financing caps on statewide and legislative candidates, and conditions to such caps. The Commission then discussed small party primaries, and scenarios where such candidates should receive more than \$5,000 in public matching funds.

On payment of public matching funds, Commissioner Galvin discussed the operations for this component, drawing on past experience with the Comptroller pilot program. Commissioner Berger then discussed timing of payment, and a temporary 25% limit of public matching funds until a candidate demonstrates a credible opponent. Commissioner Berger then discussed qualified campaign expenditures not allowable to be made with the use of public matching funds.

Commissioner Berger then discussed composition of the PCFB, use of the State Board's compliance staff, and the charge of making public information and education on the public funding program. The Commission discussed how the PCFB will utilize existing and new staff. The Commission also discussed the rationale for the budget language for the PCFB's continued funding. Commissioner Berger then discussed other operational procedures for the PCFB, including PCFB having the sole authority, to the exclusion of the Enforcement Counsel, to handle issues concerning the public campaign finance system. Commissioners Galvin and Berger discussed procedures for audits conducted by the PCFB. Commissioner Berger also discussed mechanisms of and grounds for repayments for excess funds made to participating candidates.

Commissioner Berger then discussed civil penalties imposed by the PCFB, and the procedures for imposing such civil penalties. Commissioner Galvin clarified the Attorney General's criminal jurisdiction is pursuant to the referral from the PCFB.

Commissioner Berger then discussed the PCFB's cyclical reporting, noting the January 1, 2025 start date and such reports occurring every two years.

On the severability of the AMI provision, Commissioner Berger explained the fallback provision, should the first version be struck down by the courts.

For Part III, Commissioner Galvin explained the funding mechanisms for the public campaign finance system. She noted that ensuring the proper hand-off between the State Board and the Comptroller's Office to issue the candidate public funds provides the chief operational concern for the utilization of the program.

For Part IV, Commissioner Berger stated the numbers for party threshold requirements and independent nominating petitions.

For Part V, the Commission discussed the effective dates of the Parts of the recommendation. Commissioner Jacobs clarified that date of Election Day, 2022. Commissioner Previte inquired about the effective date of January 1, 2020, with the enabling legislation's date specifying December 22, 2019.

On the vote to approve the Commission's recommendation, the Commission voted 7-2, with Commissioners Galvin and Previte voting in the negative.

In providing a rationale for their votes, the Commissioners stated the following:

Berger-Yes. He believes the system proposed is workable, and allows for updates over time. He believes it fulfills the mandate of the statute, and the compromises made are reasonable.

Denerstein-Yes. She believes this recommendation will allow New York State to serve as a nationwide leader on public finance.

Galvin- No. She stated her views on public financing changed during the Commission's public hearings. She believes the proposed system will foster grassroots engagement of candidates with their voters. She noted that voters' perspective should be one of empowerment to feel more connected to the political process. However, she noted the funding mechanism for the program causes her to vote against the recommendation.

Getachew-Yes. She stated that this system is a positive step to amplify democracy and the role of voters in the political system. She believes that while there are remaining issues, the amount of consensus advances the goals of the enabling legislation.

Jacobs-Yes. He noted the helpful input from the stakeholder groups, as well as advocacy from interested New Yorkers who testified before the Commission.

Nonna- Yes. He expressed thanks for the stakeholder groups and members of the public who presented their perspectives to the Commission. He believes the Commission's task to create a

public campaign finance system has been met by the Commissioners' labors on the topics of consideration. He noted that while some topics may be outside of the purview of the Commission, a fair compromise on the topics are outweighed by the opportunity to reach consensus on a public campaign finance system.

Previte- No. He expressed thanks for the public who engaged on the Commission's efforts. He discussed components of the recommendation with which he agrees, and believes that while the recommendation addresses some aspects of the enabling legislation, the weight of other aspects of a public finance system remain unaddressed, and the lack of such considerations may undercut the operation of the program.

Rodriguez-Yes. She believes that the Commission's efforts creates a strong foundation to further the democratic process in New York State.

Vargas-Yes. She stated that the Commission's recommendation provides a strong base for further engagement of voters in the political process and can foster additional engagement by voters who may not otherwise participate in the political process.

Commissioner Jacobs then adjourned the Commission.

APPENDIX B- LEGISLATION PART XXX OF CHAPTER 59, L. 2019

PART XXX

Section 1. (a) Establishment of commission. The state shall establish a system of voluntary public campaign financing for statewide and state legislative public offices. There is hereby established a public campaign financing and election commission to examine, evaluate and make recommendations for new laws with respect to how the State should implement such a system of voluntary public campaign financing for state legislative and statewide public offices, and what the parameters of such a program should be. The commission shall make its recommendations in furtherance of the goals of incentivizing candidates to solicit small contributions, reducing the pressure on candidates to spend inordinate amounts of time raising large contributions for their campaigns, and encouraging qualified candidates to run for office. The commission shall also review and recommend changes to certain aspects of the state election law as detailed herein. The commission's report is due by December 1, 2019 and shall have the full effect of law unless modified or abrogated by statute prior to December 22, 2019.

(b) Members of commission. The commission shall be comprised of nine members, two of which shall be appointed by the governor, two of which shall be appointed by the senate majority leader, two of which shall be appointed by the speaker of the assembly, one of which shall be appointed by the senate minority leader, and one of which shall be appointed by the assembly minority leader. The governor, senate majority leader, and speaker of the assembly shall jointly appoint a ninth member to serve on the commission. The commission shall not be fully constituted without the appointment of the ninth member. There shall be no chairperson appointed, and the commission shall be governed by a majority vote, and at all times the commission shall act with a quorum.

2. The commission shall specifically determine and identify all details and components reasonably related to administration of a public financing program, and shall also specifically determine and identify new election laws in the following areas:

- (a) ratio of public matching funds to small contributions;
- (b) limits on total receipt of public funds depending on the office sought by a candidate under the program, including geographic differences in such limits, if any;
- (c) candidate eligibility thresholds for the program;

(d) contribution limits applicable to candidates participating in the program;

(e) eligible uses of matchable contributions and public funds; contributions to participating candidates above the matchable portion shall be governed by election law § 14-130;

(f) related conditions of compliance with the program;

(g) an appropriate state agency to oversee administration and enforcement of the program, or recommendation of a new agency if the commission deems such recommendation appropriate;

(h) resources necessary to administer and enforce the program;

(i) effective date of the program;

(j) rules and definitions governing: candidates' eligibility for public financing; political party qualifications; multiple party candidate nominations and/or designations; and civil violations of public financing rules.

3. The commission shall limit its recommendations to a public financing program that has a total maximum annual fiscal cost of no more than 100 million dollars.

4. (a) The commission shall only meet within the state and must hold at least one hearing at which the public will be afforded an opportunity to provide comments. The commission may hold additional public hearings as it deems necessary. Such additional hearings, if any, may allow for an opportunity to provide public comments.

(b) The members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties hereunder. Nothing contained herein shall prohibit a member of the commission from receiving his or her salary earned by reason of their state employee position.

(c) No member of the commission shall be disqualified from holding any other public office or public employment, nor shall he or she forfeit any such public office or public employment by reason of his or her appointment pursuant to this section, notwithstanding the provisions of any general, special or local law, regulation, ordinance or city charter. No person who holds a party position shall be prohibited or disqualified from serving as a member of the commission.

(d) To the maximum extent feasible, the commission shall be entitled to request and receive and shall utilize and be provided with such facilities, resources and data of any court, department, division, board, bureau, commission, agency or public authority of the state or any political subdivision thereof as it may reasonably request to properly carry out its powers and duties pursuant to this act.

(e) The commission may request, and shall receive, reasonable assistance from state agency personnel as is necessary for the performance of its function, including legal guidance as is necessary from legislative and executive counsel.

5. The commission shall make a report to the governor and the legislature of its findings, conclusions, determinations and recommendations and shall submit such report by December 1, 2019.

Any findings, conclusions, determinations and recommendations in the report must be adopted by a majority vote of the commission. Each member of the commission shall report their vote and describe their reasoning for their determination.

The commission may report recommendations supported by a majority. Each recommendation made to implement a determination pursuant to this act shall have the force of law, and shall supersede, where appropriate, inconsistent provisions of the election law, unless modified or abrogated by statute prior to December 22, 2019.

§ 2. If any clause, sentence, subdivision, paragraph, section or part of this act be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 3. This act shall take effect immediately. While any recommendation contained within the commission's final report that is made to implement a determination pursuant to this act shall remain law, the commission itself, as created herein, shall expire and be deemed repealed on and after December 31, 2019.