



**New York City Campaign Finance Board**  
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**Testimony of Paul Seamus Ryan**  
**Executive Director**  
**New York City Campaign Finance Board**

**New York City Council Governmental Operations Committee**

**June 14, 2024**

Thank you, Chair Restler and members of the Committee on Governmental Operations, State & Federal Legislation, for the invitation to appear before you today. My name is Paul Seamus Ryan, and I am the new Executive Director of the New York City Campaign Finance Board (CFB). This is my first time officially testifying before the City Council and I am hopeful that we will continue to have a productive partnership during my tenure.

The Campaign Finance Board is a nonpartisan, independent City agency that administers the City's matching funds program and directly reaches voters through our NYC Votes initiative. The CFB's mission is to make our local democracy more open, transparent, and equitable. We eliminate barriers to participation by providing access to the information and resources New Yorkers need to vote or run for office. We also reduce the corrupting influence of money in politics by enhancing the impact of New Yorkers' small-dollar contributions.

To execute this very important mission, the law that serves as a backbone for our agency can be improved to better account for modern-day fundraising practices, while also furthering transparency to the public and simplifying compliance for campaigns. It is our view that this hearing provides an opportunity to improve parts of the law to the benefit of *all* campaigns and *all* New Yorkers.

As for the legislation before us today, the first bill I will discuss is Introduction 953, which amends the legal definition of intermediaries and limits people with business dealings with the city from engaging in certain intermediary activity. Intermediaries, often referred to as "bundlers," are individuals or entities

that serve as a conduit between contributors and a campaign by delivering contributions to, or soliciting contributions for, candidates. Bundling contributions is a legal and constitutionally protected way to fundraise. However, some individuals engage in this behavior seeking political power through access and influence with candidates and officeholders. In short, they try to leverage the funds they raised to receive special treatment from public officials. Of course, the real problem for democracy is when public officials respond with such special treatment.

Intermediary disclosure increases transparency and accountability, providing public information that may highlight potential instances of pay-to-play corruption. New York City is far ahead of the rest of the country in regulating disclosure of intermediaries. In a 1996 report aptly named "Bundles of Trouble?," the CFB recommended requiring intermediary reporting for non-participants and expanding the definition of intermediaries to include solicitation; both recommendations were passed into law soon thereafter. Since the Board's creation in 1988, it has been ahead of the national curve with respect to regulating bundling activity. Indeed, New York City has the most far-reaching bundling disclosure laws of any jurisdiction I am aware of. Federal law, for example, only requires disclosure of bundling by registered lobbyists and their PACs, and only under narrowly specified circumstances.

Here in New York City, a vast majority of campaigns do not report any intermediaries, and the number of campaigns reporting zero intermediaries has remained consistent over time; in 2021, 70% of campaigns reported zero intermediaries, including many of the council members on this committee. We also know that City Council campaigns are less likely to report intermediaries than their borough and city-wide counterparts.

However, for 30% of campaigns that do report intermediaries, the number and dollar amount reported have decreased over time. While there are multiple possible causes of the decrease, we suspect that the largest factor is a shift in how campaigns fundraise. Campaigns now predominantly fundraise online, and contributors give by credit card, compared to in-person fundraising methods where contributors gave by check. For example, in 2021 86% of all contributions were made by credit card, compared to only 20% in 2009. That year 75% of all contributions were made by check.

Bundling was easier for campaigns to identify when intermediaries hand-delivered checks, but it is not as visible when contributors give by clicking an email hyperlink. This is one reason we firmly support the provision in Introduction 953 that would introduce the concept of "referral" hyperlinks to track intermediated contributions. Internally, we have already discussed adding this function to the NYC

Votes Contribute platform, and a legal requirement would ensure this feature also captures campaigns that use 3rd party fundraising systems like ActBlue and WinRed.

The CFB would like to work with the Council on our shared policy goal of improving transparency around intermediaries, and we believe that revising the legal definition of intermediaries is a critical place to start. One way to increase transparency would be to eliminate exemptions around campaign-sponsored events and multiple hosts. Current exemptions carved out by past Councils are not intuitive and should be streamlined. The law could also be amended to place a straightforward monetary threshold on reporting intermediaries. As a bonus, these changes would also increase reporting of intermediaries on the Doing Business Database, who might otherwise not be reported as such under the current definition.

Another section of Introduction 953 would amend the law to apply the current doing business contribution limits to the aggregate total of contributions intermediated by persons on the doing business database. This provision would address a concern that people doing business with city government may be circumventing New York City's strict limits on so-called "pay-to-play" contributions by bundling contributions from other donors. For anyone in the doing business database, the bill would extend these limits to cover bundled contributions, so that no lobbyist, contractor, or other person "doing business" with city government could solicit or deliver contributions to any candidate in excess of those limits.

While we share the Council's goal of limiting the potential for private campaign contributions to impact government decision-making, we are concerned that this provision would undermine transparency and fail to effectively deter pay-to-play activity.

The Council has made a previous effort at limiting the impact of contributions bundled by people in the doing business database. Local Law 167 of 2016 prohibited any such contributions from being matched with public funds. We believe this provision may have had the unintended impact of reducing transparency, rather than restricting influence. For the 2017 election cycle, 24.4% of all intermediaries were listed in the doing business database. For the next citywide election in 2021, conducted after the passage of Local Law 167, only 6.3% of intermediaries appeared in the database—the lowest amount since the creation of the database. With numerous current exceptions to intermediary reporting in the law, potential doing business bundlers could legally avoid disclosure—and ensure their bundled contributions were eligible for matching—by raising funds for a campaign-sponsored event, for instance.

Administratively, applying the proposed aggregate limit to doing business intermediaries would create an additional burden for campaigns. We believe this added administrative burden would fail to provide additional protection against influence-seeking behavior, and potentially hide more bundling activity away from public view.

Another step to increase disclosure would be requiring campaigns to submit documentation associated with fundraising events—lists of hosts and attendees—with each disclosure statement, instead of in the post-election audit process. Overall, there are a few ways to legislate on this topic, and we look forward to discussing these options further with the Council.

The next bill under discussion today is Introduction 952. The CFB broadly supports the section of this bill that would provide a 30-day deadline to respond to our existing right to request information from campaigns. However, many requests for information are delivered as part of the disclosure statement review process. We have concerns that this provision, if enacted, would conflict with Local Law 187 of 2016, which prevents the CFB from setting a disclosure statement review deadline any earlier than the subsequent disclosure statement deadline. We are more than happy to discuss this issue with the Council to identify a solution.

Relatedly, under this bill, a candidate who fails to respond to a CFB request for information pertaining to specific contributions, intermediaries, or possible intermediaries within 30 days of our request would become ineligible to receive any public funds at all (*i.e.*, the disqualification from public funding does not relate only to the contributions at issue in the CFB's request for information). Under this provision, a candidate could respond to a CFB request in the heat of an election only a few days late, with information confirming that all related contributions are lawful and were correctly reported, yet still be completely disqualified from the public matching funds program.

This legislation also adds additional steps to the auditing process that would require the CFB to affirmatively verify certain contributions directly with a contributor before they can be matched with public funds. Candidates are rightly concerned with expediting the audit process. In fact, every time we visit the Council, we get asked about how we can perform audits faster. Perhaps you will ask me about audits today! This legislation would slow down the audit process significantly by adding additional steps to the process of qualifying to receive matching funds.

This legislation applies additional scrutiny to contributions exceeding \$50 made via intermediary or by cash or money order. Cash and money order contributions already require a contribution card and are limited to \$100. The Campaign Finance Board would be prohibited from matching such contributions

with public funds unless the Board is able to affirmatively verify that the purported contributor did in fact make the contribution and was not reimbursed for that contribution. Numerous serious logistical challenges to obtaining such verification make it likely that a very high percentage of such contributions would be ineligible for matching funds.

We are concerned the additional scrutiny of cash and money order contributions will have an unintended disproportionate impact on unbanked contributors, who are the predominant users of cash and money orders. According to the federal Department of Consumer and Worker Protection, 9.4% of New York City households are unbanked. This is significantly higher than the national average of 5.4%. Federal Deposit Insurance Corporation survey data reports that most households were unbanked because they lacked the funds necessary to meet minimum balance requirements.

CFB analysis of contributions made in 2021, show that cash and money order contributions over \$50 are more likely to come from the Bronx and Queens Council Districts 20 and 31, places with lower voter turnout compared to the rest of the City. This is exactly the group of people we want to engage more in the democratic process by incentivizing and matching their small contributions, instead of erecting additional barriers to their participation. In fact, many of the districts whose candidates and contributors would be most impacted by this bill are NYC Votes priority neighborhoods—places we've identified for extra outreach as part of our mandate to reach underrepresented communities.

The most diverse City Council was recently elected in 2021; this is the time to build on progress making the Council a more inclusive body. We believe this bill would make it more difficult for people from diverse backgrounds to have their contributions matched with public funds and, by extension, make it more difficult for candidates relying on such supporters to receive public funding, discouraging them from running for office.

We do not deny that there have been, and will be, instances of a small number of individuals attempting to take advantage of the public matching funds program. On the other hand, a vast majority of campaigns are just trying to do the right thing and comply with the law. The proposed verification process seemingly assumes that all covered contributions, including, under the proposed expansion of the definition of intermediary, those made by credit card through a personalized hyperlink, are fraudulent and invalid unless and until proven otherwise by CFB staff in collaboration with the donor. In our effort to uncover straw donors, we may throw a lot of babies out with the bathwater.

We look forward to finding a solution that doesn't adversely impact unbanked contributors, other legitimate donors, and the candidates who rely on their support.

Some jurisdictions, for example, verify the identity of individual contributors by comparing the names and addresses of contributors against voter file records, a technique that is useful but limited because lawful contributors are not required to be registered voters. We are also looking into technology solutions—like anomaly detection or signature comparison software—that might enhance our auditing processes.

The last bill under discussion today is Introduction 954, which would require the CFB to communicate an acknowledgment of a contribution to each contributor; we are largely supportive of the aims of this bill. We believe it furthers the CFB's broad mandate to make democracy more inclusive and accessible to everyone in this city and provides an additional method of oversight to carry out that mandate.

Campaigns don't always mention the matching funds program when fundraising, so this is a great tool to spread awareness of the program and further our mission to engage underrepresented communities. It also doubles as a useful enforcement tool that happens after a contribution is made, but before a campaign's full audit begins, and may expose one type of straw donor scheme, wherein the reported contributor is unaware of the scheme. (In a straw donor scheme involving reimbursement, the straw donor would be unlikely to contact the Board to report their crime.)

We would like the legislation to allow us to contact contributors by email and phone, instead of, or in addition to, by mail. Currently, campaigns are not required to disclose contributor emails or phone numbers to the CFB—a section of Introduction 952 requires campaigns to collect phone and email, but not to disclose that information to the CFB. Our friends in Portland, Oregon send similar acknowledgments to their contributors and report higher response rates over email and phone for certain contributors.

The CFB is grateful for the opportunity to provide testimony on three bills being considered by this committee today. We are committed to working with the Council to arrive at thoughtful, comprehensive solutions to improving the law, while maintaining the integrity and accessibility of the matching funds program, which doesn't work unless campaigns can use it.

As you can surely tell, the CFB shares this Committee's goals of strengthening oversight and enforcement of campaign finance rules. As I close, I want to underscore that we believe this needs to happen on *our* end, by finding efficient and effective processes to identify any issues that may arise. It is entirely possible to strengthen the integrity of our system while maintaining its accessibility and inclusivity.

We're not going to out-regulate a bad actor. Someone intent on carrying out a straw donor scheme is going to find a way to do that, even if we make it harder for all donors and all campaigns to use the program. But we can make it a lot harder for those bad actors to get away with it, which we agree is of the utmost importance in this moment.

Thank you again for the opportunity to testify. I am happy to answer any questions you might have.



THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
BRAD LANDER

**Testimony of New York City Comptroller Brad Lander**  
**New York City Council Committee on Governmental Operations, State & Federal Legislation**  
**In support of Intro. 0951 – Amending the NYC Charter in relation to NYC Comptroller Audits of**  
**Community Boards & Public Administrators**

June 18, 2024

Thank you, Chair Restler and Members of the New York City Council’s Committee on Governmental Operations, State & Federal Legislation for convening this hearing.

As you know, the Audit Bureau conducts audits and other analyses of City agencies to meet its mission of promoting efficient City government, improving the quality of government services, and maintaining the integrity of City operations. The Audit Bureau in the NYC Comptroller’s office is comprised of dedicated public servants who are committed to ensuring there is effective oversight in the City’s delivery of key services and programs.

In my term as Comptroller, our Audit team has executed their Charter-mandated duties to ensure accountability in government while trying to maximize the potential impact of each audit. We are thinking creatively about how to better engage New Yorkers directly impacted by our work and who will benefit from more effective City services.

For example, our office launched a NYCHA Participatory Audit Committee, made up of NYCHA residents from across the five boroughs, who have worked with members of our team to help identify problems in public housing and make recommendations on audits to provide greater information and transparency. We also released an audit earlier this year of DOT’s speed camera program, which found that speed cameras effectively reduce speeding and crashes – but also that drivers are increasingly using illegally obscured, temporary, or ghost license plates to avoid fines, and cheating the City out of more than \$100 million each year and growing.

In addition to mandated audits, the Audit Bureau also mobilizes for shorter-term investigations that help provide more immediate information on urgent crises – such as our investigation into the 60-day-rule for asylum seeker families evicted from shelters. These are just a few examples of the kind of work we want to continue doing to make sure City government is working for New Yorkers.

That is why I support Intro 951 to amend the NYC Charter to modify the New York City Comptroller’s auditing duties to allow our office to pursue targeted audits that fulfill our office’s Charter mandates, while also making more efficient use City resources and funding. Intro 951 would allow the Comptroller to treat all community boards as a single combined agency and all public administrators’ offices as a single combined agency. These changes would enable our Audit bureau to reallocate agency resources and time for more impactful audits such as those described above.

The Office of the New York City Comptroller remains committed to ensuring that we maintain rigorous oversight over City agencies and elected offices to improve transparency and accountability. I thank the committee for your consideration and strongly urge you to pass this bill.





## **Reinvent Albany Testimony to Council Committee on Governmental Operations**

### **Oversight Hearing on NYC Campaign Finance Board and Laws**

June 14, 2024

Good morning, Chair Restler and Committee on Governmental Operations. I am Tom Speaker, Legislative Director for Reinvent Albany. We work for transparent and accountable government, including clean, fair elections. Thank you for holding this hearing today.

First, a special thank you to Chair Restler and his staff for reaching out to Reinvent Albany and consulting with us and our colleagues with expertise in campaign finance administration. We really appreciate Chair Restler's energy and willingness to take on some thorny problems.

Reinvent Albany's staff is extremely familiar with the major issues faced by the NYC campaign finance system and the Campaign Finance Board (CFB), and collectively we have worked on these issues for decades. Broadly, we think the New York City campaign finance system is not in crisis, public matching funds are well protected, and that the CFB does a very good job protecting public funds while helping campaigns navigate complicated rules and getting them matching funds.

We think New York City public matching funds are safe, despite the inevitable, highly publicized attempts to steal them. Pause for a moment and consider this – according to the FBI, every year there are over 100 bank robberies in New York. Yet no one believes this is a crisis or a crime wave. Why? Because bank robbers get caught, and very few get away to spend their loot in peace. But they still keep on trying – because that's where the money is.

Dirtbags are always going to try to steal New York City's public matching funds. Like bank robbers, they cannot be stopped from trying, but they can almost always be caught, and in the case of the straw donors, illegal bundlers, and other crooks, we think they almost always are.

The key challenge for this City Council and the Campaign Finance Board is to keep the bank open for honest users, while making sure the bad guys are identified and do not get away, and we think CFB is doing that. We looked at the CFB's latest data on campaigns that got public matching funds in the 2017 election cycle, and found that 86% of 2017 campaigns were not penalized or paid minor fines (67% paid no fines, 19% paid fines of \$5,000 or less).

The CFB is doing excellent work getting matching funds to campaigns and keeping those funds safe – so why is there so much complaining from campaigns and the press? The simple answer is that too many audits – including most high-profile audits – take far too long to wrap up. We understand this is annoying to campaigns, who want to close the book on activities that took place three or four years ago. We also know slow audits irritate the press and public because fines that are imposed years after violations make the CFB appear weak and ineffectual at safeguarding public funds.

We know there is always going to be some dissatisfaction with a system that punishes offenders after the campaign audit is completed rather than when they are caught, but that is an inherent part of the NYC campaign finance process and is difficult to change. However, the CFB can hugely reduce the time it takes to do audits, and our understanding is that this is their new administration's top priority.

Reinvent Albany sees three major problems for the New York City campaign finance system, not all of which can be fixed by the City, the Council, and the CFB:

1. Independent expenditures are a highway off-ramp for big-money contributors.
2. Audits take too long, which undermines public confidence in CFB and the system.
3. Rules on doing business and intermediaries are full of giant loopholes and inconsistencies that undermine confidence in the fairness of the system.

Generally, Reinvent Albany believes that the broadest possible disclosure of campaign fundraising activities is preferable to continuously increasing restrictions on a fairly small segment of those active in campaigns and governance. In other words, we would strongly support expanding the definition of “doing business” over further restricting what those already classified as doing business can do. For instance, it makes no sense to us that the members of the board of a nonprofit that has hundreds of millions of city contracts are not considered to be doing business, while maybe three or four out of hundreds of that organization's staff are.

## **Reinvent Albany Position on Proposed Council Bills**

### ***[Int. 952 of 2024 \(Restler\)](#) – In relation to the verification of intermediated contributions to candidates for election and contributions requiring contribution cards***

#### **Reinvent Albany opposes this bill as written.**

This bill requires the CFB to make “reasonable efforts” to verify with bundled donors that their donations are genuine. The CFB must attempt to contact the donor when their contribution to a candidate exceeds \$50, and also establish a clearer timeline under which campaigns must respond to inquiries about intermediaries. Campaigns that do not respond to the CFB within 30 days would be disqualified from receiving matching funds and have this change of status publicly posted.

Though well intentioned, we think this bill would create undue work for CFB, and probably slow down audits by consuming a large amount of the time of staff who verify donor information. We also believe it would discourage small donors by requiring them to verify their identity with the CFB. Finally, small campaigns with limited resources could be forced to endure public humiliation when disqualified from receiving funds.

The most widespread complaint about the public matching program is that audits take too long. Given this, we believe the Council should instead pass legislation that accelerates the auditing process and create more transparency (without, of course, reducing the CFB’s independence or oversight). As written, this bill will add an unnecessary administrative layer that ultimately harms the program.

We do support the provision in this bill that requires email and telephone numbers to be supplied with donations, as this will speed up the CFB’s audit process.

### ***[Int. 953 of 2024 \(Restler\)](#) – In relation to limiting bundling of campaign contributions by persons who have business dealings with the city***

#### **Reinvent Albany supports this bill, but is concerned that it may lead to less disclosure from candidates.**

The bill would make it so that individuals in the doing-business database cannot bundle more than the doing-business contribution limit for individual candidates. For example, a lobbyist for Reinvent Albany could not bundle more than \$400 for a mayoral candidate, as \$400 is the doing-business contribution limit.

On principle, letting individuals in the DBD fundraise for candidates creates an obvious

risk for undue influence and hurts public trust. However, we have heard that there has been a drop in disclosure of bundling from campaigns, possibly due to the new restrictions that prohibit bundled donations from being matched. If this is true, it's possible that this bill could further discourage disclosure, which is why we believe that strengthening disclosure rules is preferable to increasing restrictions.

Before moving forward, we ask the Council to closely examine campaign finance data to determine what effect new laws have had on disclosure on bundling.

***[Int. 954 of 2024 \(Restler\)](#) – In relation to acknowledgment of campaign contributions made in connection with covered elections***

**Reinvent Albany does not support this bill as we are unsure of its cost.** We urge the Council to request a cost analysis from the CFB before moving forward. The CFB already has limited resources, and this bill may further strain the agency.

We encourage the Council to consider the following:

**1. Require campaigns to quickly report *all* event intermediaries to the CFB once a certain amount is raised.** NYC Law designates a single person as the intermediary for a fundraiser, even if multiple people were involved in organizing the event ([NYC Charter §3-702\(12\)](#)). Further, intermediaries are only required to report for house parties if the party's expenses exceed \$500 ([NYC Charter §3-703\(6\)\(b\)\(i\)](#)). When the cost exceeds \$500, the house party must be reported as an in-kind contribution to the campaign. However, if the house party costs under \$500 *and* a single contribution exceeds \$500, one of the hosts must be reported as an intermediary for that contribution.

We recommend making it so that if a certain amount is raised at the event, *all* organizers would be considered intermediaries. Though it would require more frequent reporting, the law would bring a great deal of sunlight to bundling in NYC.

**2. Close the doing-business loophole that requires lobbyists, but not the people paying them, to be included in the DBD.** This absurd loophole subverts the basic goal of doing-business restrictions, which is to reduce the potential for pay-to-play. Under current law, a wealthy person and their family face no doing-business restrictions when they pay a lobbyist millions of dollars to influence legislation. This makes no sense, since the lobbyist faces restrictions for working to advance the interests of their clients, but the clients themselves do not.

**3. Close the doing-business loophole that exempts board members and officers of organizations with billions of dollars in New York City contracts**

**from being listed as doing business.** New York City pays out billions a year to non-profit organizations providing social service and health services. The board members of those organizations face no restriction on their campaign contributions, bundling, or acting as an intermediary. Indeed, it is common to see board members of these organizations acting as co-hosts for campaign events. This is a massive opportunity for pay-to-play by some of the most politically active people in New York City – which is why this crucial reform languishes.

#### **4. Ask CFB to assess how it can use online credit card donation forms and other technology to increase compliance with the law.**

Over 80% of contributions campaigns report to CFB are via credit card, most via third party vendors like ActBlue. Some campaigns for NYC office already attempt to use their ActBlue contribution pages to ensure donors are complying with doing-business restrictions, per Example 1 at right.

Why not have all credit card donors click a yes/no box like this for all contribution rules – like using text below (Example 2) from an ActBlue page for a state candidate – so that the donor has to proactively acknowledge they have read the basic rules and are complying with them before their contribution is processed?

Thank you for allowing me to testify. I welcome any questions you may have.

#### *Example 2*

##### **Contribution rules**

1. I am a U.S. citizen or lawfully admitted permanent resident (i.e., green card holder).
2. I am at least eighteen years old.
3. I certify that this contribution is being made from my own personal funds, is not being reimbursed in any manner, and is not being made as a loan to the committee.
4. The address I have provided is my residential address and not a P.O. Box.

By proceeding with this transaction, you agree to ActBlue's [terms & conditions](#).

#### *Example 1*

**Are you an owner, principal officer or senior manager of an organization that does or is proposing to do business with the City?**

- Yes  
 No

If a contributor has business dealings with the City as defined in the Campaign Finance Act, such contributor may give only up to \$250 for city council member, \$320 for borough president, and \$400 for mayor, public advocate or comptroller.

Find out the rules on contribution from people doing business with the City of New York





## **TESTIMONY OF COMMON CAUSE/NY TO NEW YORK CITY COUNCIL COMMITTEE ON GOVERNMENTAL OPERATIONS Oversight Hearing on NYC Campaign Finance Board and Laws June 14, 2024**

Thank you for the invitation to testify today. I am Susan Lerner, Executive Director of Common Cause/NY. Common Cause is a nonpartisan, nonprofit organization founded to serve as a vehicle for citizens to make their voices heard in the political process. We fight to strengthen public participation and faith in our institutions of self-government and are strong supporters of campaign finance regulation at the state and federal level throughout the country. For decades, we have supported the passage and implementation of public funding programs at the municipal, county, state, and federal levels. We have actively supported the NYC campaign finance public financing system and have held it up as a model to other jurisdictions, particularly the way in which the system has steadily evolved, changing to meet the shifting campaign landscape in New York City. This opportunity to engage in a dialogue with the Council about ways to strengthen and improve the system is, therefore, welcome.

First, I would like to say that we are very much in accord with the impetus behind the three specific measures which are being discussed today, Int. 952, Int. 953 and Int. 954. They seek to address issues, like the use of straw donors and intermediaries/bundlers, which raise significant challenges for the public financing system. That said, we believe that two of these measures need further analysis and adjustment to find the most practical solutions which balance competing factors and interests. We regard this hearing as the start of a discussion which, we hope, can arrive at a consensus fairly quickly, so that requirements can be in place for next year's important municipal election.

### **Int. 952**

This bill is a thoughtful approach to an increasingly uncovered problem that we believe needs more work. The bill sends a mixed message as to the ultimate responsibility for ascertaining whether a contribution has been verified. It is unclear whether it is the CFB's responsibility or campaigns. It is often difficult to ascertain what seems like simple information after the fact. Individuals may or may not respond to calls or emails. Postal mail is often easily ignored, sometimes difficulty in obtaining the requested information masks a problematic contribution; other times it is the result of inattentiveness, absence, illness, or an individual's unwillingness to respond to an unknown entity or person. If such a severe penalty as withholding matching funds were instituted, there would need to be some way to establish good faith, although unavailing, efforts to obtain the requested information. The disruption to a campaign to answer the CFB's request for information in the thick of the campaign cannot be underestimated. It is clear that proposed 11(b) to Section 3-705 is meant to address that





reality. But it seems to be contradicted by the severe penalty proposed in new subdivision 5 to Section 3-711.

We recommend that the entire concept of cards be re-examined in light of the increasing digitalization of all transactions from inception. Rather than requiring each campaign to maintain separate information, it might be more efficient to capture or transmit the information from inception of the transaction directly to a CFR database, tagged to each campaign, to which campaigns have access. Transactions that failed to provide the requested information could be blocked, as incomplete acknowledgements of policies on website sales frequently are.

We join in on Reinvent Albany's Recommendation 4 regarding using online credit card donation forms to ensure compliance with the required information from donors, although we would set a short time limit for the CFB to assess how to set it up and report back regarding any suggested changes in the law.

### **Int. 953**

Common Cause NY supports this bill. Expanding the bundling restrictions to include individuals who do business with the city is a natural next step to address the ongoing challenge presented by persistent efforts of those who do business with the City to gain access and influence in the face of the public financing system. Bundling is a recognized way to garner influence, particularly where campaign finance regulation sets reasonable campaign contribution limits, as is the case in New York City. As has been noted, "Donors gain clout, attention, and other rewards from candidates by bundling funds to the far ends of contribution limits."<sup>1</sup> Allowing bundling to flourish without limitations undercuts the public financing system. Int.953 is an appropriate response.

To the extent that concerns have been raised that the limitations on bundling result in fewer disclosures of bundling rather than a decrease in bundling, that is a compliance and enforcement problem that should be directly addressed. It is not a valid reason to avoid expanding the bundling restrictions to individuals whom the everyday New Yorker would logically expect to be held accountable under those restrictions.

We also note that including "use of a personalized hyperlink" within the definition of delivery by an intermediary is past due and simply catches up with existing technology in extensive use.

### **Int. 954**

Generally, Common Cause NY is very much in favor of directly reaching out to contributors to acknowledge their participation. We question whether it might be more cost effective to send out a number of postcards determined to be a risk-limiting statistical sampling and look forward to learning

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<sup>1</sup>E.Scofield, *Bundle Up: The Chilling Role Of Fundraising Bundlers In American Politics*, *Southern California Interdisciplinary Law Journal*, Vol. 31:565, 2022



from the Campaign Finance Board. The bill could be improved by setting expectations as to the timing of such mailings. Is it the contemplation of the bill that the CFB will send out confirming postcards on a rolling basis, as soon as it receives information about a contribution? Or would the requirement be satisfied by a mailing that includes all contributors in a specific time period, such as every month or every 3 months? We also suggest using this mailing to promote the CFB's voter guide.

### **Additional Recommendation**

We note that in 2021 we opposed Int. 2453-2021, which would increase expenditure limits when Independent Expenditures were made above a certain limit. We believe it is time to readdress this issue and would entertain supporting a measure that sets appropriate trigger thresholds for IE spending (minimum of 100% of expenditure limits) with appropriate increases in expenditure limits. Such increases should be limited to those targeted by the Independent Expenditure and not apply across the board to all candidates. We would not support completely lifting expenditure limits in response to IE spending.

Thank you for the opportunity to testify.





**Testimony of Joanna Zdanys  
Senior Counsel-Manager, Elections and Government Program  
Brennan Center for Justice at NYU School of Law<sup>1</sup>**

**Before the New York City Council  
Committee on Governmental Operations, State & Federal Legislation  
RE: Oversight: NYC Campaign Finance Board and Laws  
June 14, 2024**

The Brennan Center for Justice appreciates the opportunity to provide testimony on three bills<sup>2</sup> concerning oversight at the New York City Campaign Finance Board (CFB). For nearly thirty years, the Brennan Center’s nonpartisan expertise has informed policies that protect and expand democracy at the state, local, and federal levels. Since the Center’s inception, our staff have studied, litigated, and drafted legislative solutions regarding money in politics and have advised on the development, implementation, and improvement of public campaign financing systems nationwide.

**The Democracy-Strengthening Benefits of New York City’s Matching Funds Program**

Since 1988, New York City’s small donor matching funds program has provided an important counterweight to the outsized influence of wealth in our government. The voluntary program has helped to bring more New Yorkers into the political process as candidates and donors. And, it has given campaigns, especially those in historically under-served communities, greater flexibility to spend more time engaging with their constituents.<sup>3</sup>

Among its many documented benefits, the program has played an important role in promoting a city government that is representative of the people it serves. After a wide margin of city voters approved increasing the program’s public match ratio to 8-to-1 in 2018, the program saw record-breaking participation and helped usher in the most diverse and representative City Council in New York City’s

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<sup>1</sup> The Brennan Center is a nonpartisan public policy and law institute that focuses on the fundamental issues of democracy and justice. The opinions expressed in this testimony are only those of the Brennan Center and do not necessarily reflect the opinions of the NYU School of Law.

<sup>2</sup> New York City Council, *Int. No. 0952-2024*, Sess. 2024 – 2025 (2024); New York City Council, *Int. No. 0953-2024*, Sess. 2024 – 2025 (2024); New York City Council, *Int. No. 0954-2024*, Sess. 2024 – 2025 (2024).

<sup>3</sup> See, e.g., Gregory Clark, Hazel Millard, and Mariana Paez, “Small Donor Public Financing Plays Role in Electing Most Diverse New York City Council,” *Brennan Center for Justice*, November 5, 2021, <https://www.brennancenter.org/our-work/research-reports/small-donor-public-financing-plays-role-electing-most-diverse-new-york>.

history.<sup>4</sup> Women, who are 52 percent of city residents, increased their representation on the council to 61 percent.<sup>5</sup> People of color, who are 69 percent of city residents, increased their representation on the council to 67 percent.<sup>6</sup> These gains remained consistent following the 2023 City Council elections.<sup>7</sup>

The program has also broadened donor participation and strengthened the ties between candidates and the communities that they seek to represent. Data show that publicly financed City Council candidates rely far more on in-district donors, including small donors, for campaign support than their privately financed counterparts in the City Council and State Assembly running to represent the same neighborhoods.<sup>8</sup> And, the program has made small donors the most important source of campaign fundraising in city elections.<sup>9</sup> In 2021, 84.6 percent of all primary contributions and 79 percent of general election contributions came from small donors.<sup>10</sup>

With its continued track record of success in pushing back against the unfettered influence of wealth in elections, the program has been an influential model for reform across the country. It laid the groundwork for New York State's historic new matching funds program, the most significant statewide response to *Citizens United* enacted anywhere in the country.<sup>11</sup> And new city and county matching funds programs have proliferated over the last decade, from Denver, Colorado, to Washington, D.C. and its surrounding counties, and most recently Evanston, Illinois.<sup>12</sup>

### Comments on Legislation Before the Council

Allegations of abuse of the matching funds program are deeply serious. If proved, they are an affront to

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<sup>4</sup> Clark, Millard, and Paez, "Small Donor Public Financing Plays Role in Electing Most Diverse New York City Council."

<sup>5</sup> Clark, Millard, and Paez, "Small Donor Public Financing Plays Role in Electing Most Diverse New York City Council."; U.S. Census Bureau, "Quick Facts: New York, New York," *U.S. Census Bureau*, accessed June 7, 2024, <https://www.census.gov/quickfacts/fact/table/newyorkcitynewyork#>.

<sup>6</sup> Clark, Millard, and Paez, "Small Donor Public Financing Plays Role in Electing Most Diverse New York City Council."; U.S. Census Bureau, "Quick Facts: New York, New York."

<sup>7</sup> Analysis on file with the Brennan Center for Justice.

<sup>8</sup> Nirali Vyas, Chisun Lee, and Joanna Zdanys, "The Constituent-Engagement Effect of Small Donor Public Financing: A Statistical Comparison of City Council (2017) and State Assembly (2018) Fundraising in New York City," *Brennan Center for Justice*, September 9, 2019, <https://www.brennancenter.org/our-work/research-reports/constituent-engagement-effect-small-donor-public-financing-statistical>.

<sup>9</sup> New York City Campaign Finance Board, *2021 Post-Election Report*, 2022, 13, [https://www.nycfb.info/PDF/2021\\_Post-Election\\_Report.pdf](https://www.nycfb.info/PDF/2021_Post-Election_Report.pdf).

<sup>10</sup> New York City Campaign Finance Board, *2021 Post-Election Report*, 14. These data are the most recent available.

<sup>11</sup> New York State Public Campaign Finance Board, "New York State Public Campaign Finance Program," *New York State Public Campaign Finance Board*, accessed June 12, 2024, [pcfb.ny.gov](https://pcfb.ny.gov); Ian Vandewalker, Brendan Glavin, and Michael Malbin, "Analysis Shows Amplification of Small Donors Under New NY State Public Financing Program," *Brennan Center for Justice and OpenSecrets*, January 30, 2023, <https://www.brennancenter.org/our-work/research-reports/analysis-shows-amplification-small-donors-under-new-ny-state-public>.

<sup>12</sup> Lily Ogburn, "Small Donor Match Fund Aims to Level Election Playing Field," *The Daily Northwestern*, October 3, 2023, <https://dailynorthwestern.com/2023/10/03/city/small-donor-match-fund-aims-to-level-election-playing-field/>; Brennan Center for Justice, *Guide to Public Financing Programs Nationwide*, last updated June 10, 2024, <https://www.brennancenter.org/our-work/research-reports/guide-public-financing-programs-nationwide>.



the millions of voters the system was intended to serve. We commend the City Council for assessing these concerns. As you consider these three proposals, we urge you to study both their utility in safeguarding public funds from misuse and their potential unintended impacts on political equity and participation.

### ***Int. No. 0952-2024: Verified Contributions***

Int. 0952-2024 defines a new category of “verification-required contributions”: contributions aggregating over \$50 from a single contributor that are either (1) delivered or solicited by an intermediary or (2) that require a contribution card under city law.<sup>13</sup> The bill requires the CFB to make “reasonable efforts” to verify these contributors and states that the CFB “shall not” provide matching funds until it has verified the relevant contributor or intermediary. A campaign that fails to respond to the CFB’s inquiries within 30 days will be disqualified from receiving public matching funds, and the agency must publicize the campaign’s disqualification on its website.

While the considerations that motivated this bill are serious, we are concerned about the potential impact of significant new requirements on lesser-resourced campaigns and community-based donors, and the unintended weakening of the program’s ability to promote equity in our political system. The Brennan Center respectfully opposes this bill unless or until its sponsors are able to demonstrate that such impacts are not a concern.

The bill risks imposing a disproportionate compliance burden on campaigns and donors in lower-income districts and communities of color. Nearly 306,000 New York City households – 9.4 percent of the city’s population – are unbanked.<sup>14</sup> These households are concentrated in neighborhoods that are predominantly Black and/or Latino and that have the highest poverty rates and the lowest median household incomes.<sup>15</sup> Donors who are unbanked tend to rely on cash or money orders to donate to campaigns, the same vehicles that require contribution cards and that therefore would require agency verification under this bill.<sup>16</sup>

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<sup>13</sup> City law requires contribution cards for cash contributions and, with some exceptions, money orders. New York City Campaign Finance Board, *Campaign Finance Handbook: 2023 and 2025 Election Cycle*, 2022, 22, [https://nyccfb.info/PDF/candidate\\_services/2025\\_Campaign\\_Finance\\_Handbook.pdf](https://nyccfb.info/PDF/candidate_services/2025_Campaign_Finance_Handbook.pdf).

<sup>14</sup> That rate is nearly double in the Bronx, at 17.2 percent. New York City Department of Consumer and Worker Protection, “Department of Consumer and Worker Protection Research Finds 305,700 NYC Households are Unbanked,” *New York City Department of Consumer and Worker Protection*, February 2, 2024, <https://www.nyc.gov/site/dca/news/008-24/departement-consumer-worker-protection-research-finds-305-700-nyc-households-unbanked>.

<sup>15</sup> New York City Department of Consumer and Worker Protection, “Department of Consumer and Worker Protection Research Finds 305,700 NYC Households are Unbanked.”

<sup>16</sup> A 2023 study by the Federal Reserve showed that unbanked adults used money orders at 2.5 times the rate of banked adults, and that reliance on money orders is more common among lower-income adults, Black and Hispanic adults, and adults with disabilities. Board of Governors of the Federal Reserve System, *Report on the Economic Well-Being of U.S. Households in 2022*, May 2023, 40, <https://www.federalreserve.gov/publications/2023-economic-well-being-of-us-households-in-2022-banking-credit.htm>.

Several negative unintended consequences could follow. The bill could disincentivize campaigns from accepting cash and money order donations, to avoid potential compliance challenges. Doing so could exclude many historically under-represented New Yorkers from having their voices heard in the political process. It may instead incentivize candidates to fundraise outside of their districts among wealthier and whiter enclaves in the city. The bill also risks placing the greatest compliance and enforcement burdens – including disqualification – on lower-income candidates and candidates of color running to represent their neighbors in city government.

If the Council moves forward with this legislation, we offer several recommendations:

- *Ensure adequate due process.* Candidates participating in public financing should not be able to ignore agency inquiries without consequence. But they must be afforded meaningful and adequate due process. The Council should further assess how this bill's requirements and penalties would be implemented and regulated, to ensure that meeting the important goal of protecting the public and voters from potential fraud does not undermine the important equity-promoting benefits of the program. The Brennan Center stands ready to support this effort to the extent the Council might find it helpful.
- *Raise the verification threshold.* The legislation wisely sets a minimum threshold for triggering donor verification requirements. We recommend raising the threshold from \$50 to \$100. Doing so will help lessen the bill's burden on truly small donors and the candidates running to represent them. It will also put less strain on agency resources.

This approach would exempt cash contributions from mandatory verification, because campaigns cannot receive cash contributions over \$100. But another bill before the Council, Int. No. 0945-2024, which we discuss below, addresses concerns about the origin of cash contributions.

#### ***Int. No. 0953-2024: "Doing Business" Intermediary Limits***

Int. No. 0953-2024 would limit the total contributions that individuals doing business with the city can intermediate. The proposed new intermediary limits are identical to existing limits for direct contributions from individuals in the city's Doing Business Database: \$400 per cycle for citywide offices, \$320 per cycle for Borough President, and \$250 per cycle for City Council.<sup>17</sup> Currently, there are no limits on how much money an individual doing business with the city can deliver as an intermediary, though the underlying contributions cannot be matched with public funds.<sup>18</sup>

The legislation's goals are laudable and its imposition of a limit, rather than an outright ban, on intermediated contributions is reasonable. We respectfully recommend modestly raising these intermediary limits, however, given the different nature of bundling versus giving direct contributions. While we agree that bundled contributions from these individuals should be limited, we note that limits set too low may incentivize some "doing business" intermediaries to seek influence through less

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<sup>17</sup> New York City Campaign Finance Board, "Doing Business FAQs," accessed June 12, 2024, <https://www.nycfb.info/candidate-services/doing-business-faqs/>.

<sup>18</sup> New York City Campaign Finance Board, "Doing Business FAQs."

transparent channels that, under the current Supreme Court, are constitutionally protected from limits on what they can receive and spend.

***Int. 0954-2024: Donor Outreach***

Int. 0954-2024 requires the CFB to mail an acknowledgement to all contributors listed in campaigns' disclosure reports to afford them the opportunity to dispute a contribution or raise any inaccuracies. The Brennan Center supports the aim of this legislation. We note that enacting this requirement will create new demands on the CFB's administrative resources. If enacted, the city's budget should include additional funding for the agency to ensure that these required communications do not siphon resources away from other oversight needs.

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The Brennan Center stands ready to assist the City Council in its work to further strengthen this program and build a more inclusive democracy for all New Yorkers.



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 952-3.9 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 6/14/24

(PLEASE PRINT)

Name: SUSAN LERNER

Address: 80 Broad St NY, NY

I represent: Common Cause/NY

Address: 80 Broad St, NY, NY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: June 14, 2024

(PLEASE PRINT)

Name: Sharon Brown

Address: 130-10 140 Street suite 1

I represent: Rose of Sharon Enterprises

Address: Jamaica NY 11436

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: BEN WEINBERG

Address: \_\_\_\_\_

I represent: CITIZENS UNION

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 952 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 6/14/24

(PLEASE PRINT)

Name: Joanna Zdanys

Address: \_\_\_\_\_

I represent: Brennan Center for Justice at NYU Law

Address: 170 Broadway NY NY 10271

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 952, 953, 954 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 6-14-2024

(PLEASE PRINT)

Name: Tom Speaker

Address: \_\_\_\_\_

I represent: Reinvent Albany

Address: 377 Broadway NY NY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 952 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 6/14/24

(PLEASE PRINT)

Name: Paul S. Ryan

Address: 100 Church St. Fl. 12

I represent: Campaign Finance Board

Address: 100 Church St. Fl. 12

Please complete this card and return to the Sergeant-at-Arms