New York City Campaign Finance Board
100 Church Street, 12th Floor, New York, NY 10007
212.409.1800 | www.nyccfb.info

Testimony of
Beth A. Rotman
Executive Director, New York City Campaign Finance Board
Hearing about 2021 NYC Elections & New York City Campaign Finance Board's Post-Election Report
New York City Council Governmental Operations Committee
December 13, 2022

Thank you for inviting me to testify Chairwoman Ung and distinguished Council members. Thank you for holding this hearing so we may discuss some of the key findings about the 2021 New York City elections. My name is Beth Rotman, and I am the Executive Director of the New York City Campaign Finance Board. I have great respect for the work of New York City Council's Governmental Operations Committee.

As you may know, I am newly appointed to the role of Executive Director at the NYC Campaign Finance Board. I am not new, however, to the work of empowering and amplifying the voices of everyday working-class Americans who believe that working class voices should matter most in our democracy. This is what happens when democracy works for all of us: *we the people*.

Before my appointment, I was the National Director of Money in Politics and Ethics at Common Cause. I also created and led the small donor democracy program for the state of Connecticut. Because of the Connecticut small donor program, that state became the first in the country to pass healthcare for front line service workers across the state, undoubtedly saving lives during the pandemic. Small donor democracy programs have real impacts on working people's lives.

Thank you for participating in the program and thank you for your work on this committee which partners with the Campaign Finance Board to ensure the NYC program stays strong.

I am thrilled to head the NYC Campaign Finance Board. **Our independent nonpartisan body oversees New York City's small donor democracy program and engages voters via NYC Votes.** The Campaign Finance Board has enjoyed a long arc of progress over its 30-year history, and our updated flagship small donor democracy program is a centerpiece of the progress.

Our partnership with this committee has been central to our progress for New Yorkers. Indeed, I believe we last saw such sweeping and fundamental changes (as those enacted for the 2021 cycle) only after then Mayor Bloomberg spent over $100 million dollars to seek office. At that time, the city's enhanced disclosure requirements did not apply to nonparticipants. It seemed unconscionable that the public would not have meaningful transparency into spending at that level. So, the Board worked with City Council leadership and this committee to expand the program to include disclosure for nonparticipants, together with other key reforms. I was the deputy general counsel of the Board who drafted those changes with the counsel for this

esteemed committee. **Changes like this have kept the program vibrant, relevant, and influential. We saw this very markedly in 2021.**

The 2021 elections were unlike any we've seen before in NYC. Term limits created opportunities for a diverse array of hopefuls. Two-thirds of the city's 51 Council districts had no incumbent on the ballot.

The cycle kicked into gear with the pandemic still raging in NYC and beyond, and concerns about safety thoroughly disrupted the traditional rhythms of campaigning at the neighborhood level. The pandemic made in-person fundraising very rare, and accelerated reliance on online tools. And, even with all of this, *in 2021 we paid approximately $130 million in public funds to over 300 candidates.*

Indeed, 2021 was a groundbreaking year for the New York City campaign finance program, with many of the cycle's history-making candidates publicly crediting the program's generosity for empowering their grassroots campaigns.

The New York City program fundamentally changes how New Yorkers run for city office. The new $8-to-$1 matching formula was implemented and amplified the voices and small dollar donations of nearly $18.3 million in small dollar contributions from New Yorkers.

In accordance with the City Charter, the CFB publishes a Post-Election Report every four years to provide a comprehensive analyses of New York City's campaign finance program. The report includes input from staff across the entire agency, from candidate services, and accounting to legal and data analysis.

Record-breaking number of "first-timers":

A key mission of the NYC Campaign Finance Board is reducing barriers to running for office, with special attention paid to women and candidates of color from diverse backgrounds due to the systemic challenges historically faced by women and non-wealthy or privileged candidates when running for office.

The 2021 cycle saw a record-breaking number of first-time grant recipients—over 77%
The 2021 cycle had the largest number of first-time grant recipients in our program's history. Over 77% of the program's 308 participants were first-time public funds recipients.

Furthermore, **96%** of all sitting City Council members participated in the 2021 program, and **all 51** members have been program participants at one time.

This is truly extraordinary.

With the new legal limits and so many program participants, the overall rates of small contributions in the 2021 primary and general elections were greater than prior elections.

- **In the primary, 84.6% of all contributions raised by dollar amount were small contributions. That figure was 79% for the general election.**

- **Most of these small contributions came from New York City residents.** The rate of individual contributions by New York City residents was over 70% for the 2021 primary and general elections.

- **The program participation rate of candidates on the ballot were 94% in the primary election and 81% in the general.** (That's 10% and 17% higher than the rates in the 2017 primary and general elections respectively.)

While these are extraordinary participation numbers, we nonetheless want to improve the candidate experience. Small donor democracy programs are **voluntary** programs—candidates must elect to join, and join again, even once they may have some protections of incumbency and ability to raise the big bucks. This is one of the many reasons your experience matters to us.

So, one of the things we are doing now is bringing more innovative tech solutions to the candidate experience, to help your engagement with us, and with contributors.

- For one thing, we are exploring ways to improve the NYC Votes Contribute platform, our credit card processing platform, by making it easier to use and more appealing. The platform already streamlines the disclosure process and delivers some documents automatically.

- **Most of the 2021 candidates used the platform.** In fact, **98.8%** of all public funds recipients and nearly 94% of all city candidates used Contribute to raise contributions. And, about **1 in 3** contributions made during the 2021 cycle were made via the Contribute platform.

Independent expenditure trends

For the past decade, we have worked to ensure that New York City elections include robust disclosure of independent spenders' fundraising and spending. This enables us to track patterns and ensure the public can follow the money.

We note a few big trends in independent spending, including a huge increase in digital advertising. We also found that very few ads included negative messaging. Also, most of the independent expenditures were related to the mayoral race, with 77% of the total independent expenditures in the mayoral race originating with ten entities.

Recommendations:

We always conclude our post-election analysis with recommendations for improvement. **First, we recommend that NY State prohibit campaigns from receiving cryptocurrency donations.** *Cryptocurrency is designed for anonymity and campaign finance laws aim for transparency.*

- Further, cryptocurrencies are not governed by a central authority and have erratic valuations. Because cryptocurrencies have erratic valuations, the amount of a cryptocurrency contribution given one day could exceed a legal contribution limit the next day. So, campaigns must track Bitcoin through liquidation, which complicates and slows the campaign finance compliance disclosure process.

Crypto was designed for anonymity, and while we enjoy innovation overall—this is not a positive one for campaign finance. Campaign finance requires traceability and backup documentation, not blockchain, or any other public distributed ledger system.

- Allowing cryptocurrencies as a form of campaign contribution, would weaken protections against corruption and complicate the disclosure process. We do not recommend following the path of the Federal Election Commission (FEC), which has allowed campaigns to receive Bitcoin donations since 2014, which they consider "in-kind contributions." Indeed, the California Fair Political Practices Commission shares our generally advised approach, advising California campaign donors to liquidate the cryptocurrency and transmit the sum received to the campaign via the permissible form (cash, check, etc.) and within contribution limits.

We also recommend that the State of New York take steps to eliminate potential foreign influence on ballot proposals. This type of measure typically enjoys broad bipartisan support.

- While federal law prohibits foreign entities from spending money to influence elections, the Federal Elections Commission ruled that the law does not apply to ballot measures. States can prohibit foreign funding of ballot measures, and at least eight states have done so. Federal legislation prohibiting any foreign spending to influence ballot measures has been introduced by both Democrats and Republicans and is pending in Congress.

  Currently, New York law bolsters elements of FECA's provisions, however, foreign actors could still exploit legal loopholes to contribute to those advocating for and against ballot proposals. New York should close this loophole.

  This type of measure often enjoys broad bipartisan public support. For example, a strong bipartisan majority of eight-in-ten voters favor Congress banning foreign individuals and entities from spending money to influence ballot initiatives, according to a recent innovative survey by the Program for Public Consultation (PPC) at the School of Public Policy at the University of Maryland. Broadly, Americans across all political affiliations agree that foreign individuals, governments, and other entities should not interfere with US ballot measures, according to the PPC.

<u>Conclusion</u>

The Post-Election Report is an opportunity for the New York City Campaign Finance Board to shed light on the incredible work of the Board and Board staff. It also serves as a chance to showcase candidates' and everyday New Yorkers' enthusiasm for our democracy. We hope this information is helpful to members of the City Council, government agencies, community organizations, voters, and everyone else who shares our dedication to improving and supporting democracy in New York City. Thank you.

BRENNAN CENTER FOR JUSTICE

Written Testimony of Marina Pino
Counsel, Elections and Government Program
Brennan Center for Justice at NYU School of Law[1]

Before the New York City Council Committee on Governmental Operations
RE: New York City's Campaign Finance Program in the 2021 Citywide Elections & Preconsidered Legislation

December 13, 2022

The Brennan Center for Justice at New York University School of Law welcomes the opportunity to testify before the New York City Council Committee on Governmental Operations on the success of New York City's small donor public financing program and the importance of reasonable disclosure requirements in ballot contests. For more than twenty-five years, the Brennan Center's nonpartisan expertise has informed policies that protect and expand democracy at the state, local, and federal levels, including public campaign financing programs and common-sense measures to bring greater transparency to election spending.[2]

The Success and Influence of the New York City Matching Program

For more than 30 years, New York City's public financing program has served as a necessary counterweight to the power of wealth to influence our government. The program has helped bring more candidates and donors from different backgrounds into the political process and has given candidates the flexibility to spend more time interacting with their constituents, particularly those from under-served communities.[3]

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

[2] *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, 2021, https://www.brennancenter.org/our-work/research-reports/small-donor-public-financing-plays-role-electing-most-diverse-new-york; Michael Malbin, et al., *Donor Diversity Through Public Matching Funds*, Brennan Center for Justice & Campaign Finance Institute, 2012, https://www.brennancenter.org/our-work/research-reports/donor-diversity-through-public-matching-funds; Angela Migally, Susan Liss, and Frederick A.O. Schwartz, Jr., *Small Donor Matching Funds: The NYC Election Experience*, Brennan Center for Justice, 2010, https://www.brennancenter.org/our-work/research-reports/small-donor-matching-funds-nyc-election-experience.

[3] *See, e.g.*, Clark, Millard, and Paez, *Small Donor Public Financing Plays Role in Electing Most Diverse New York City Council*; Michael J. Malbin, Peter W. Brusoe, and Brendan Glavin,

Enthusiasm for public financing in the 2021 elections was stronger than ever, with robust participation in the program among candidates and donors alike. After New Yorkers voted overwhelmingly to increase the public match ratio to $8-to-1 in 2018, the program saw record-breaking participation in 2021. Almost 94 percent of candidates in the primary and 81 percent of candidates in the general participated in the program, representing an increase in participation over the primary and general elections in 2013 and 2017.[4] In total, the program paid $126.9 million in public funds to 308 candidates, matching nearly $18.3 million in contributions from New Yorkers.[5]

Among many benefits of the newly strengthened program, it has helped make the city's government more reflective of the people it serves. Powered by public financing, in 2021, the city elected the most demographically representative council in history.[6] Women, who are 52 percent of city residents, increased their representation on the council to 61 percent.[7] People of color, who are 68 percent of city residents, increased their representation on the council to 67 percent.[8]

New York City's system also fosters stronger ties between candidates and their communities. This benefit is especially important at a time when megadonors across the country leverage unfettered private wealth to shape our politics.[9] New York City continues to buck that trend. As the New York City CFB reported, in the 2021 cycle small-dollar contributions were by far the most important source of candidate fundraising.[10] The city saw the highest rate of small-dollar individual contributions over the last three cycles, with 84.6 percent in the primary and 79 percent in the general.[11] Most individual contributions came from New York City residents.[12]

With its continued success in fighting back against the influence of unfettered wealth in our politics, New York City's public financing program has served as a powerful model for reform across the nation. Over the last decade, states and cities across the country have implemented small donor match programs modeled after New York City's. In Denver, which is in the midst of its first cycle of public financing, more than two-thirds of mayoral candidates and 90 percent of at-large council candidates are participating in the city's recently enacted program ahead of next year's elections.[13] And in the first cycle of Washington, DC's program in 2020, participating candidates

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Small Donors, Big Democracy: New York City's Matching Funds as Model for the Nation and States, 11 ELECTION L.J. 3 (2012).

[4] *Id.* at 16.

[5] New York City Campaign Finance Board, *2021 Post-Election Report*, 2022, 9, http://www.nyccfb.info/PDF/2021_Post-Election_Report.pdf.

[6] Clark, Millard, and Paez, *Small Donor Public Financing Plays Role in Electing Most Diverse New York City Council*.

[7] *Id.*

[8] *Id.*

[9] *Id.*

[10] New York City Campaign Finance Board, *2021 Post-Election Report*, 13.

[11] *Id.* at 14.

[12] *Id.* at 3.

[13] Sandra Fish, "More than 70 candidates are running for Denver mayor or City Council. Here's what to watch in the 2023 election," *The Colorado Sun*, December 7, 2022,

tended to outraise and outspend their privately financed counterparts.[14] Other programs will soon launch in Baltimore County[15] and Prince George's County in Maryland.[16]

Perhaps the most groundbreaking example of this program's influence, however, was the launch of New York State's new statewide public financing program last month. Just two weeks ago, elected leaders, agency officials, and democracy reform advocates celebrated the launch of New York State's public campaign finance program on the steps of City Hall. New York City's program paved the way for this historic moment. The state's program draws on many of the tried-and-true aspects of city's program and stands to be the strongest statewide program in the nation—one with the promise to empower more New Yorkers and meaningfully bring their voices into the political process. The Brennan Center looks forward to seeing the reform's benefits unfold in future statewide and legislative elections.

Improving Campaign Transparency

Just as the city's small donor public financing program empowers New Yorkers to take a more meaningful role in financing campaigns, common-sense campaign finance transparency requirements empower voters to make better-informed choices at the ballot box. The Brennan Center applauds the City Council for considering legislation to increase transparency in municipal ballot campaign spending.

The bill before this Committee addresses an important gap in the city's otherwise robust campaign disclosure law by applying existing donor disclosure and "paid for by" disclaimer rules for candidate elections to municipal ballot contests.[17] It sensibly brings light to dark money spending in these contests while still capturing only the largest spenders seeking to sway voters. This is an important step. Secret spending in state and local elections, even at relatively modest levels, can have an outsized impact. Across the country, there are numerous examples of economically motivated special interests spending considerable sums to influence voters in ballot races, often taking advantage of gaps in disclosure rules to hide their spending from public scrutiny.[18] Some

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https://coloradosun.com/2022/12/07/what-to-watch-as-denvers-2023-municipal-election-kicks-into-high-gear/.

[14] Hazel Millard & Mariana Paez, *How Public Campaign Financing Empowers Small Donors Nationwide*, Brennan Center for Justice, 2022, https://www.brennancenter.org/our-work/analysis-opinion/how-public-campaign-financing-empowers-small-donors-nationwide.

[15] Bennett Leckrone, "Baltimore County Officials Announce Plan for Tiered Public Campaign Financing System," *Maryland Matters*, November 15, 2021, https://www.marylandmatters.org/2021/11/15/baltimore-county-officials-announce-plan-for-tiered-public-campaign-financing-system/.

[16] Rachel Chason, "Prince George's approves matching funds for local candidates—starting in 20216," *Washington Post*, October 24, 2018, https://www.washingtonpost.com/local/md-politics/prince-georges-approves-public-finance-system-for-local-candidates/2018/10/24/47f7b75a-d738-11e8-a10f-b51546b10756_story.html.

[17] Under current law, an entity that makes an independent expenditure of $5,000 or more with respect to a *candidate* must report specific information concerning its funding sources to the Campaign Finance Board. New York City Charter § 1052(a)(15)(b).

[18] Chisun Lee & Douglas Keith, *Secret Spending in the States*, Brennan Center for Justice, 2016, 14, https://www.brennancenter.org/our-work/research-reports/secret-spending-states.

of this spending may even come from foreign governments and corporations, who are barred from spending money on candidate elections but permitted to spend money to influence voters in ballot contests.[19]

Accordingly, we support common-sense legislation to require individuals and entities spending significant amounts on ballot measure campaigns to disclose the sources of their spending.[20] Such disclosure laws foster a more informed electorate, which promotes the vital First Amendment value of an enlightened self-government. A growing body of social science research demonstrates that when voters know the interests spending large amounts to influence their votes, they can make more informed choices that align with their policy preferences. This is especially important for ballot initiatives, where voters may lack a comprehensive understanding of a measure's contemplated policy benefits and are also deprived of common informational cues that help them select candidates (like the candidate's background and party affiliation).[21]

To strengthen this bill further, we respectfully urge this body to consider an amendment to the bill. As drafted, the bill eliminates the phrase "in any covered election" from the city's existing independent expenditure disclosure regime in section 1052(a)(15)(b) of the City Charter. We recommend retaining that phrase to ensure that the scope of the law's application is clear.

The Brennan Center commends the City Council for taking up this important issue and stands ready to assist the Council in its work to build a more inclusive and informed democracy for all New Yorkers.

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[19] *See, e.g.*, Ryan Byrne, "Signatures verified for Maine ballot initiative designed to void international hydroelectric transmission project," *Ballotpedia News*, March 6, 2020, https://news.ballotpedia.org/2020/03/06/signatures-verified-for-maine-ballot-initiative-designed-to-void-international-hydroelectric-transmission-project/; Steve Mistler, "Documents Shed Light On Effort To Fund Casino Campaign, Now Facing $4M Fine for Ethics Violations," *Maine Public Radio*, November 3, 2017, https://www.mainepublic.org/politics/2017-11-03/documents-shed-light-on-effort-to-fund-casino-campaign-now-facing-4m-fine-for-ethics-violations; Shawn Musgrave, "Offshore money pours into slot machine initiative in Massachusetts," *GBH News*, November 13, 2015, https://www.wgbh.org/news/2016/11/03/offshore-money-pours-into-slot-machine-initiative-in-massachusetts.

[20] *See, e.g.*, Rio Grande Found. v. City of Santa Fe, et al., Brennan Center for Justice, 2018, https://www.brennancenter.org/our-work/court-cases/rio-grande-foundation-v-city-santa-fe-et-al.

[21] *See, e.g.*, Elizabeth Garrett & Daniel A. Smith, *Veiled Political Actors and Campaign Finance Disclosure Laws in Direct Democracy*, 4 ELECTION L.J. 295, 298 (2015) (noting that knowledge of who is spending money to influence a contest is a "particularly credible" informational cue to help voters make reasoned choices consistent with their policy preferences); Cheryl Boudreau, *Making Citizens Smart: When do Institutions Improve Unsophisticated Citizens' Decisions?* 31 POL. BEHAV. 287, 292-94, 303 (2009) (finding that voters learning a speaker's interest were contrary to their own helped subjects make choices aligned with their own interests under some circumstances); Elizabeth R. Gerber & Arthur Lupia, *Campaign Competition and Policy Responsiveness in Direct Legislation Elections*, 17:3 POL. BEHAV. 287, 290 (Sept. 1995) ("[H]ow campaign statements affect a voter's beliefs depends on her assessment of the campaigner's incentive to tell the truth.").

CITIZENS UNION OF THE CITY OF NEW YORK
Testimony before the City Council Committee on Governmental Operations
New York City's Campaign Finance Program in the 2021 Citywide Elections

City Hall
December 13, 2022

Good morning members of the New York City Council Committee on Governmental Operations. My name is Ben Weinberg, and I am the Director of Public Policy at Citizens Union. Citizens Union is an independent and nonpartisan good government group dedicated to making democracy work for all New Yorkers. For 125 years, we have worked to expand voter participation, reduce the impact of big money in elections, and open the city's political system. We thank you for the opportunity to speak today about the 2021 election cycle.

This election was historic for several reasons. Because of term limits, the cycle ushered one of the largest turnovers in city government New York has seen. With the introduction of Ranked Choice Voting, voters and candidates faced a new way to vote and campaign. And the expansion of public funding for campaigns made it easier for more people to run for office with the support of their community.

Under these circumstances, New York City's unique system of campaign finance provided the democratic infrastructure that allows our city to hold healthy, competitive, diverse, and fairer elections.

This testimony provides a short analysis of the impact of the campaign finance program on electoral competitiveness, representation, and type of donations. We recommend reforms concerning pay-to-play issues and super PAC spending (Independent Expenditures), brought to light during the 2021 cycle.

Citizens Union also supports the preconsidered legislation before the committee today, T2022-2607, to expand disclosure requirements for independent expenditures spending on municipal ballot proposals. A memo of support for this legislation is found at the end of this document.

<u>Public campaign finance led to a competitive and diverse pool of candidates</u>

The 2021 election cycle election saw unprecedented democratic gains. The total number of candidates soared, with the primary field having more than double the candidates than the 2013 primary. On average, 7.5 people ran for every open seat in 2021 compared to 4.1 people in 2013. In addition, The number of female candidates almost tripled. 152 women ran for city offices in the 2021 primary, compared to 52 candidates in 2013. In 2013, only 35 women ran in open-seat races; in 2021, that

number was 116 – 231% higher. [1] Furthermore, more women and people of color won elections, with the City Council becoming the most diverse and representative in New York City's history. [2]

There are several reasons for those democratic gains, including the introduction of Ranked Choice Voting and the renewed interest in local politics in recent years. But it is New York City's generous public campaign finance system that allows a broader spectrum of candidates to run for office.

Indeed, more people enjoyed public campaign funds in 2021 than ever before: a total of 308 candidates were paid public funds in 2021, more than double the 149 candidates who received public dollars in 2013. Participation in the voluntary matching funds program became the norm, with 94% of candidates on the primary ballot and 81% of general election candidates participating. In fact, all 59 current city elected officials were matching funds program participants.[3]

A small-donor, local election

The expansion of public funding in the 2021 cycle led candidates to rely less on private donations and spend more with voters and their communities. With more candidates running than ever before, the total dollars fundraised from private individuals actually decreased in this election: candidates raised a total of $72.8 million in private funds, compared to $94.8 million in 2013.[4]

The private money raised to fund our candidates is of a particular kind: most of it comes from local, individual, small-donor contributions. 84.6% of all donations in the 2021 primary were small, compared to 65.7% in the 2013 primary election. And NYC residents were the source of 71.6% of primary contributions, compared to 66.2% in the 2013 primary. Notably, almost all contributions in the 2021 municipal election came from individuals.[5] This is vastly different than state election, where corporations, political committees, and unions make up the majority of donations in some races.

The public campaign finance program improves accountability in New York City government by crowding out large donors and empowering constituents to participate in local campaigns.

Independent spending in our local elections – and how to protect fair elections

Super PAC spending in New York City elections significantly increased in the last decade. Independent Expenditures (IEs) spent over $40 million in the 2021 municipal election - more than double that in 2013 - including spending in 48 out of the 51 Council races. The same IEs are also spending more and more money on state assembly and senate races in New York City.

With the continuing proliferation of outside money into our local elections, the council members should consider the following measures to help protect our democracy and level the funding playing field:

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[1] Ranked Choice Voting in the 2021 Primary Election: Preliminary Analysis of Turnout, Candidate Diversity, and Voters' Impact on Results. Citizens Union, July 2021. https://citizensunion.org/wp-content/uploads/2021/07/RCV-Analysis-After-June-2021-Primary-Turnout-Candidates-Voters-Impact.pdf

[2] Small Donor Public Financing Plays Role in Electing Most Diverse New York City Council. Brennan Center for Justice, November 2021. https://www.brennancenter.org/our-work/research-reports/small-donor-public-financing-plays-role-electing-most-diverse-new-york

[3] New York City Campaign Finance Board 2021 Post Election Report http://www.nyccfb.info/PDF/2021_Post-Election_Report.pdf

[4] New York City Campaign Finance Board, Campaign Finance Summary.

[5] New York City Campaign Finance Board 2021 Post Election Report

1. **Improve regulation of "coordination" between IEs and campaigns**

   In the 2021 primary, every leading mayoral candidate had their own "personal" IE established only to support them, despite participating in the campaign finance program. In fact, most IE spending in the mayoral race came from single-candidate super PACs. Some were heavily funded by candidates' immediate family members. [6]

   The vast use of candidate-specific IEs in the mayoral race creates an alternative spending universe to the CFB-regulated one, and throws a wrench in our campaign finance system. We must do more to limit this practice, which allows candidates to circumvent the program's spending limits and puts in question the separation between campaigns and the IEs that support them.

   New York City Charter only forbids coordination by "candidate, [or] any agent or political committee authorized by a candidate."[7] The Charter should be amended, or regulations should be promulgated, to clearly define coordination between the Independent Expenditure entity and candidate. They should also include specific reference to the candidate's family members as well as their former government or campaign staff.

2. **Ease spending limits for matching funds program participants who face negative, high-spending, IE-funded campaigns**

   IE spending occurred in virtually every council race: Independent organizations spent in 48 out of the 51 Council races, with the three others being uncontested or very closed seats. Negative IE-funded campaigns were a major issue in some council races. All negative IE spending came from just three groups, which spent hundreds of thousands of dollars to defeat 11 City Council candidates, mostly in Brooklyn and Queens.[8]

   Candidates participating in the voluntary matching funds program are at a disadvantage when IEs, not bound by city or state limits, spend heavily in their race to oppose them. City law currently provides relief for participating candidates who face high-spending *opponents* who do not take part in the program by gradually raising the spending limit for the program participants.[9]

   Citizens Union believes the Council should consider extending a similar spending limit relief to small-donor campaigns that face high-spending and negative independent expenditure opposing them, in order to allow candidates to access more funds to respond to outside spending. This legislation should be drafted in a targeted and effective way.

3. **Expand donor disclosure rules for independent expenditures on municipal ballot proposals**

   The City has strict disclosure requirements for IEs that spend money on candidates, but those rules do not apply to IE spending intended to influence municipal ballot proposals. Citizens Union supports the legislation before the Council today, which would require similar disclosure rules for IE

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[6] 'Climate mayor' bankrolled by dad with massive carbon footprint. New York Post, May 2021 https://nypost.com/2021/05/31/climate-mayor-bankrolled-by-dad-with-massive-carbon-footprint/

[7] New York City Charter §1052(a)(1)(15)

[8] New York City Campaign Finance Board 2021 Post Election Report

[9] §3-706(3)

spending on city ballot proposals, including funding sources, owners and officers of IEs, and a "paid for by" disclosure in communications.

Although there was no municipal ballot proposal before the voters in 2021, independent expenditures have been involved in the last few municipal ballot proposals. Extending these rules to ballot proposal campaigns is a reasonable response to new challenges facing our campaign finance system. Similar disclosure rules in elections for city offices have helped voters learn who is funding campaigns and reduced the effect of "dark money" in our city.

Reduce pay-to-play practices related to campaigns

Elections provide the opportunity for special interests to gain access and leverage with future and current elected officials through campaign donations and support. Previous election cycles exposed loopholes in the City's laws that were used to foster disproportionate influence for the well-connected few at the expense of the public. The 2021 election revealed similar issues concerning the involvement of lobbyists and people with business before the City in campaigns. Citizens Union recommends the following reforms:

1. **Prohibit the use of public funds to purchase campaign services from firms that also lobby**

   Citizens Union believes that participants in the city's campaign finance program should be banned from using public matching funds to purchase strategic campaign consulting services from firms that also lobby the City. We have recommended implementing such a provision before.

   This practice received renewed public attention in the 2021 election after multiple leading mayoral candidates entrusted their campaigns to powerful lobbying firms. For example, Andrew Yang's campaign was led by employers of Tusk Strategies, the largest lobbying firm in the city in 2020.[10] Eric Adams' senior political consultants operated Pitta Bishop & Del Giorno, a lobbying outfit representing clients with business before the City.[11] Other candidates hired similar advisors.[12] And this practice is common in down-ballot races as well: The Advance Group provided campaign consultancy services for borough president candidates and a dozen candidates for City Council.[13] It lobbies the Council, borough president offices, and city agencies on behalf of dozens of clients.

   Campaign advisors develop unique relations with candidates and receive an easier access to their office if the candidate wins.[14] We are concerned about the possibility of lobbyists having undue influence with the politicians they helped to elect. While there may be limits on what the law can regulate - we do not take the position that campaigns cannot hire these lobbyists - we do believe

[10] Andrew Yang's Mayoral Campaign is Being Run by a Lobbying Firm. City & State New York, April 2021. https://www.cityandstateny.com/politics/2021/04/andrew-yangs-mayoral-campaign-is-being-run-by-a-lobbying-firm/182966/
[11] Eric Adams Gets NYC Mayoral Campaign Advice from Lawyers Who Lobby Him. The City, May 2021. https://www.thecity.nyc/2021/5/31/22462414/eric-adams-gets-nyc-mayoral-campaign-advice-from-lobbyists
[12] See for example, Consultants, Advisors and Staff: Who's Running the Democratic Mayoral Campaigns. Gotham Gazette, May 2021. https://www.gothamgazette.com/city/10486-consultants-advisors-staff-who-is-running-mayoral-candidate-campaigns
[13] New York City Campaign Finance Board Follow the Money database.
[14] See for example: Emails Show Lobbying Firm Had Wide Reach During de Blasio's First Term. Politico NY, August 2017. https://www.politico.com/states/new-york/city-hall/story/2017/08/16/emails-show-lobbying-firm-had-wide-reach-during-de-blasios-first-term-113937

that taxpayer dollars should not be used to foster a practice that is going to give a disproportionate influence to the few at the expense of the public.

2. Ban bundling by lobbyists and people on the Doing Business with the City Database

To limit real or perceived pay-to-play, donation limits for individuals with business ties to city government and registered lobbyists are substantially limited, and those donations are not matched. But those individuals can still bypass those restrictions by "bundling" donations from others.

Our analysis found over 50 individuals on the Doing Business Database–including lobbyists and owners of companies with substantial contracts with city government–who acted as bundlers in the 2021 election, most of them fundraising for mayoral campaigns. For example, a president of a company with contracts before the City, whose donation limit is set at $400, bundled $47,500 for a mayoral candidate. A registered lobbyist from Queens who represents several real-estate companies and can legally give only up to $250 for a City Council candidate, managed to bundle over $13,000 in donations for the reelection campaign of Chair of the Land Use Committee. And some lobbyists bundled for multiple candidates, getting thousands of dollars for each. In total, bundlers, or intermediates as they are officially called, have raised over $1.4 million in the 2021 election cycle.

Bringing in large amounts of dollars to a campaign increases the chances for the bundler to receive access to the officeholder. Allowing people on the Doing Business Database to use this loophole undermines the goals of the campaign finance law.

3. Improve the regulation of nonprofits affiliated with elected officials

In 2016, Local Law 181 brought nonprofits that are affiliated with elected officials under certain campaign finance regulations. However, the law missed some opportunities to ensure that organizations under the influence of an elected official are appropriately regulated to prevent the circumvention of campaign finance rules, or the appearance, thereof.

First, although the law restricts the acceptance of certain donations to affiliated organizations, and conflict of interest rules prohibit officeholders from soliciting donations from anyone with a pending issue before them, fundraising for affiliated organizations still creates ethical problems. Press reports revealed these nonprofits raised hundreds of thousands of dollars from entities who have lobbied the City, and that elected officials ignored ethics guidelines issued by the Conflicts of Interest Board by contacting donors who had business before the City.[15] **The law should be amended to prohibit elected officials from soliciting funds for affiliated organizations**.

[15] De Blasio Fought for 2 Years to Keep Ethics Warning Secret. Here's Why. The New York Times. December 2021 https://www.nytimes.com/2021/12/08/nyregion/bill-de-blasio-donors-nyc.html. Eric Adams' Campaigns and Nonprofit Reaped Big Bucks from Lobbyists and Developers Seeking Help. The City, April 2021. https://www.thecity.nyc/2021/4/18/22391194/eric-adams-campaign-contributions-lobbyists-developers. Brooklyn BP Eric Adams Uses Nonprofit to Raise from Donors with Business Before City – Skirting Campaign Finance Rules in Quest for City Hall. New York Daily News, August 2019. https://www.nydailynews.com/news/politics/ny-eric-adams-nonprofit-donors-business-before-city-campaign-finances-20190811-ifhehrejurbi7l3pswqza6hjua-story.html.

Second, community programs organized by affiliated nonprofits are often used to promote an elected official's image.[16] The official's presence in printed and digital communications could overshadow the information about an event, suggesting the aim of the communications is self-promotion rather than informing the public. **Citizens Union believes the law should be amended to limit how prominently an elected official is featured in communications of their affiliated nonprofit.**

Third, under current law, an organization affiliated with an elected official is defined as an entity for which the official or their agent is the principal officer with control over the organization, or which was created by the official or their agent in recent years. This definition is too narrow. **To properly determine whether an official "controls" an organization or whether it is independent, we recommend that additional factors be considere**d, including whether the official's political operation and the organization share office space, other resources, or consultants; whether the organization sponsors programs prominently featuring the official; and whether the organization has directors or managers with close ties to the official. The law does, however, leave open the possibility for the Conflicts of Interest Board to develop criteria to define "control" in such a way.

Administrative and budgetary independence

Finally, the success of New York City's campaign finance system also depends on the independence and effective administration of the program by the Campaign Finance Board (CFB). The agency's independence from political pressure results from nonpartisan, well-respected appointments to the Board and legal provisions that protect the CFB from politicization. Top among those is the unique budgetary protection that prohibits the mayor from modifying the CFB's proposed budget. That Charter provision, approved by voters in 1998, is essential for the regular functioning of the system and the trust New Yorkers entrust in it, and the Council should maintain it.

The New York City campaign finance system has been a national model for decades, thanks in part to ongoing reforms implemented by the City Council. Previous reforms helped to curb outside spending, limit pay-to-play practices, and level the electoral playing field. We thank the Council for conducting a post-election review process and working to improve the campaign finance system.

[16] How a Top New York Mayoral Candidate Used a Charity to Boost His Profile. Politico NY, April 2021. https://www.politico.com/news/2021/04/30/eric-adams-charity-485070

MEMORANDUM OF SUPPORT
Preconsidered Intro. T2022-2607

A Local Law to amend the New York city charter, in relation to requiring disclosure of the identity of contributors to entities making independent expenditures in support of or in opposition to any municipal ballot proposal or referendum

December 13, 2022

Summary of provisions

Preconsidered Intro. T2022-2607 (Brooks-Powers) would require independent expenditure entities (IEs) that spend money on municipal ballot proposal elections to disclose certain donors in the same manner IEs that spend money on city offices are required to do. These include the funding sources of IEs that spend more than $50,000, the owners, officers, and board members of IEs, and a "paid for by" disclosure, with names of donors, on campaign material.

Statement of Support

This bill would strengthen New York City's robust campaign finance system by expanding disclosure requirements for independent spenders to campaigns for municipal ballot. Similar disclosure rules in elections for city offices have helped voters learn who is funding campaigns and reduced the effect of "dark money" in our city. Extending these rules to ballot proposal campaigns is a reasonable response to new challenges facing our campaign finance system. Citizens Union notes certain parts of the bill's language should be changed before approval.

Details of Position

New York City has some of the strictest disclosure rules in the country concerning unlimited outside spending. Under City Charter Section 1052(a)(15), every independent spender must disclose how much they have spent, what they have spent money on, and whether it was in support of or in opposition to a candidate or ballot initiative. However, contribution and donor disclosure are not as strict when it comes to ballot initiatives. IEs that spend money on ballot initiatives are exempt from disclosing most of their donors and funding sources. They are not required to post "paid for by" notices on their campaign material, as other IEs do.

The results of the 2021 November vote on statewide ballot proposals have demonstrated the significant impact that big-money spending can have on a referendum. According to news reports, 3 million dollars were spent on an opposition campaign through one political party's "housekeeping" account, funded by one individual billionaire.[17] Popular voting reforms were ultimately rejected on the ballot.

[17] Why New Yorkers Rejected Ballot Proposals on Voting and Redistricting, New York Times, 11/03/21 https://www.nytimes.com/2021/11/03/nyregion/ny-ballot-measures.html; Billionaire funded barrage of ads against ballot questions, Times Union, 11/12/21 https://www.timesunion.com/state/article/Billionaire-funded-barrage-of-ads-against-ballot-16616524.php

Independent expenditures have been involved in the last few municipal ballot proposals as well. In 2018, voters were asked to vote on three ballot questions. Independent expenditures spent a total of $125,659 on supporting and opposing the questions, but only $1,241 was reported as contributions. In 2019, five questions were on the ballot. Independent expenditures supporting and opposing the questions totaled $1,279,388, yet $0 of contributions were reported.[18] Clearly, the amount of outside money making its way into our city elections is on the rise.

Citizens Union supported some of the above-mentioned ballot proposals and opposed others. But no matter what one's position on those questions might be, **New York voters have a right to know who is funding the campaigns to convince them to vote one way or another. Independent expenditures should disclose their source of funding when spending on ballot proposals.**

However, Citizens Union notes that the current bill deletes the words "in any covered election" from City Charter Section 1052(a)(15)(b). This change could be interpreted to mean that disclosure rules apply to non-city elections, which are not under the jurisdiction of the City Charter. The Council should redraft that section before moving the bill forward.

[18] NYCCFB Independent Expenditure Summary data for 2019 and 2018.

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[1] Why New Yorkers Rejected Ballot Proposals on Voting and Redistricting, New York Times, 11/03/21 https://www.nytimes.com/2021/11/03/nyregion/ny-ballot-measures.html; Billionaire funded barrage of ads against ballot

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questions, Times Union, 11/12/21 https://www.timesunion.com/state/article/Billionaire-funded-barrage-of-ads-against-ballot-16616524.php

[2] NYCCFB Independent Expenditure Summary data for 2019 and 2018.

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: _____

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: 12/13/22

(PLEASE PRINT)

Name: Allie Swatek

Address: _____

I represent: New York City Campaign Finance

Address: 100 Church St. 10007 Board

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: 12/13/22

(PLEASE PRINT)

Name: Beth Rotman

Address: _____

I represent: NYC Campaign Finance Board

Address: 100 Church St 10007

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