

Statement Regarding New York State Campaign Finance Commission Report

The purpose of campaign finance reform is to reduce the influence of large contributions in our political system, to encourage small contributions and participation by average citizens and to make elections more open and more competitive. The recent report and recommendations of the NYS Campaign Finance Commission unfortunately represents a missed opportunity to achieve those goals. Indeed, the package of so-called ‘reforms’ would effectively eliminate small parties in exchange for a campaign finance program that will be ineffective in reducing the influence of big donors. That’s not a deal worth doing. Therefore, Citizens Union, while a long-time supporter of public financing of campaigns, cannot endorse this package, and sadly, must urge the legislature to reject and replace it with legislation that corrects the following flaws:

- 1. Lack of Independent, Nonpartisan Oversight.** Citizens Union is deeply troubled that the administration of the extensive and complex public campaign finance program is assigned to the State Board of Elections (“SBOE”), whose members will comprise a majority on the new campaign finance board, even with an expanded membership. Citizens Union has long found the performance of the SBOE to be inadequate, and adding a complex new responsibility does not bode well for effective implementation. It is crucial that the public finance managing entity should establish, from the outset, a culture of independence and nonpartisan (rather than bi-partisan) administration, such as that of the New York City public financing system. Of greatest concern is that the structure of the proposed entity and track record of the SBOE are entirely at odds with the need for any new reform effort to succeed. The agency responsible for implementing and enforcing the public financing program should be structured to be independent, nonpartisan, and capable of resisting political pressures. We also believe that the auditing provisions, which limit the ability of the enforcement agency to audit a campaign other than through random selection and subject the auditing to unduly strict time constraints, will hamstring effective enforcement. Strict oversight of contributions and expenditures and other compliance with a new law is a sine qua non to establish the reality and appearance of appropriate disbursement of public funds.
- 2. High Contribution Limits.** The contribution limits, while significantly below the current limits in New York law, are still far too high. Thus, there remains ample opportunity for substantial donors to make huge contributions and maintain the influence they currently have on the governmental process. In addition, the recommendations will continue to allow candidates to bring their accumulated “war chests” from prior elections into the system and will make no change in the amount of contributions to party committees. As a result, incumbents will continue to have a substantial financial advantage.
- 3. Complexity.** The program as designed will be very complex to administer. The decision to match only in-district contributions will raise difficult issues regarding determining residency, likely to become more complicated with periodic redistricting and when individuals move. Many individuals do not keep track of their legislative districts, and therefore both the campaigns and the proposed new oversight entity will be challenged to make sure the appropriate contributions are matched. Setting up three tiers for matching also will be challenging, particularly as people

make multiple contributions to candidates. Not matching contributions of more than \$250 – thus requiring public funds to be returned if a contributor eventually exceeds the \$250 limit – may be a sound policy choice but raises yet another set of difficulties for campaigns and enforcement of a fledgling program. A complex system that could lead to unintended rule violations will discourage less established candidates from participating and would undermine public confidence in the system.

4. **No Doing Business Restrictions.** The Commission’s report does not include any restrictions on donations from individuals or entities that do business with the state, thus leaving the reality and appearance of “pay-to-play” intact, as well as the possible influence of campaign contributions on procurement decisions. Regulations incorporated in New York City’s system set very low contribution limits for those “doing business with the city” and make those non-matchable. New York City also has a Doing Business Database to track entities involved in economic agreements with the city, which has proven to be a useful tool for campaign finance accountability. Governor Cuomo’s original reform proposal also included restrictions on donors who are in the process of bidding for a contract with the State.
5. **Restricted Ballot Access.** The Commission’s recommendations will impose an extreme burden on third party and independent candidates who seek to run for office, particularly for statewide office. Citizens Union has long advocated making it easier to gain access to the ballot by reducing signature requirements and simplifying petitioning procedures. The Commission’s revisions go strongly in the opposite direction. They unnecessarily increase the vote threshold to become a party, and the petition requirements for independent candidates. In addition, they require state political parties to win those votes every two years, including in presidential elections when they are naturally less involved. It is unlikely that any small party will be able to meet these qualifications.
6. **Timeline for implementation.** The different effective dates set out in the Commission’s report raise concern about the reasoning behind those choices. It is significant that the increased requirements for third parties and independent candidates go into effect immediately, however the remaining provisions are delayed well beyond what is administratively necessary. The contribution limits will not go into effect until after the statewide elections in 2022, and the matching funds program will not begin until the elections for the legislature in 2024 and for statewide offices in 2026. This will allow incumbents to amass and carryover huge “war-chests”, thus reducing the possibility for real competition.
7. **Lack of Severability.** Finally, the absence of a severability clause in the Commission’s set of recommendations, in the face of third parties challenging the recommendations at least in part because of their effect of ballot access, turns even a weak public campaign finance initiative into a hostage of the deal to eliminate small parties.

We urge the legislature to reject the Commission’s proposals and instead enact true campaign finance reform that addresses the substantial shortcomings of the Commission’s recommendations.