

FY 2019 NEW YORK STATE EXECUTIVE BUDGET

**GOOD GOVERNMENT AND ETHICS REFORM
ARTICLE VII LEGISLATION**

MEMORANDUM IN SUPPORT

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MEMORANDUM IN SUPPORT

A BUDGET BILL submitted by the Governor in
Accordance with Article VII of the Constitution

AN ACT to amend the election law, in relation to the disclosure of the identities of political committees, persons, organizations, or agents making certain expenditures for political communications (Part A); to amend the election law, in relation to motor vehicle registration and to establish early voting; and to repeal section 5-212 of the election law relating thereto (Part B); to amend the public officers law and the legislative law, in relation to outside employment and income (Part C); to amend the election law, in relation to political contributions by limited liability companies or other corporate entities (Part D); to amend the executive law and the general municipal law, in relation to requiring the financial disclosures of certain local officials (Part E); to amend the election law, in relation to establishing contribution limits and a public campaign financing system; to amend the state finance law, in relation to establishing the New York state campaign finance fund; and to amend the tax law, in relation to establishing a New York state campaign finance fund check-off (Part F); to amend the public officers law, the civil practice law and rules and the executive law, in relation to the freedom of information law; and to repeal section 88 of the public officers law, section 70-0113 of the environmental conservation law and subdivision 4 of section 308 of the county law relating thereto (Part G); to amend the executive law, in relation to including certain not-for-profit organizations and foundations within the jurisdiction of the inspector general (Part H); to amend the executive law, in relation to giving the inspector general jurisdiction over state procurement (Part I); to amend the education

law, in relation to the implementation and enforcement of SUNY and CUNY financial control policies, including the policies of affiliated nonprofit organizations and foundations (Part J); to amend the executive law, the state finance law and the public authorities law, in relation to the appointment of a chief procurement officer (Part K); to amend the election law, in relation to government vendor contributions (Part L); and to direct the preparation of a report on the feasibility of single identifying codes or numbers (Part M)

PURPOSE:

This bill contains provisions needed to implement the Good Government and Ethics Reform portion of the FY 2019 Executive Budget.

This memorandum describes Parts A through M of the bill which are described wholly within the parts listed below.

Part A – Increase Transparency in Digital Political Ads

Purpose:

This bill would require that online and social media advertising be held to the same regulations and disclosure standards as all other traditional media outlets.

Summary of Provisions and Statement in Support:

In response to reports of Russian interference in the 2016 US Presidential Election, New York State is taking steps to protect the sanctity of our election process. A three-step approach will be taken to ensure that future elections in New York State will not be influenced by foreign nations. This proposal will:

- **Expand the State’s definition of political communication** to include paid internet and digital advertising. By doing so, any political advertisement posted online or to social media outlets will be subjected to the same standards as those posted to more traditional media outlets (TV, Radio, Print).
- **Require digital platforms to maintain public records of all political advertisements purchased by a person or group and published on that digital platform.** This retention and publication policy would help discourage individuals or entities from attempting to disseminate false, inflammatory, or contradictory information.
- **Require online platforms to make reasonable efforts to ensure foreign individuals or entities do not purchase political advertisements intended to influence the election process.** Under this new law, digital ad buyers will be required to register as an independent expenditure committee, just as they would if they were purchasing time on television. Foreign entities will be prohibited from forming an independent expenditure committee and, as a result, would be unable to purchase and publish political advertising online.

In addition, any paid political ads online will be required to clearly and conspicuously display the person or entity who paid for the ad and confirm that it was not authorized or requested by a candidate for public office.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill would take effect immediately and would apply to all communications made 60 days after this bill has become law.

Part B – Early Voting & Automatic Voter Registration

Purpose:

This bill would provide for a system of opt-out voter registration for qualified Department of Motor Vehicles (DMV) customers; and early voting in all special, primary, and general elections.

Summary of Provisions and Statement in Support:

This bill would provide for a system of opt-out voter registration for qualified persons applying for a motor vehicle driver's license, a driver's license renewal, or an identification card issued by the DMV. Current law allows qualified DMV customers to apply to register to vote when conducting certain DMV transactions. This bill would automatically forward voter registration applications for any qualified persons to local boards of elections, unless the DMV customer explicitly opts out of registration.

This bill would also authorize early voting in all special, primary, and general elections. Specifically, it would:

- Require early voting polling sites to be open for a period of 12 days prior to special, primary, and general elections;
- Require that the number of early voting polling sites be based on the number of registered voters in each county, and that each county offer at least one site; and

Provide that any registered voter in a county can vote at any early voting polling place within their county, subject to certain limitations.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

Sections five through 11 would take effect on the first of January after enactment and would apply to any election held 120 days or more after the effective date, except that subsections one through four would be effective April 1, 2019.

Part C – Requires Legislature to seek an advisory opinion on outside income

Purpose:

This bill would require members of the Legislature to solicit a formal advisory opinion from the Legislative Ethics Commission regarding whether outside employment presents any conflicts of interest in order to provide elected members with support and guidance in abiding by public officer's law.

Summary of Provisions and Statement in Support:

By examining employment from non-state activities on a case by case basis, this measure would help guide our elected representatives, prevent conflicts of interest, and increase the public's trust in all their elected officials. To further support deliberations and discussions regarding outside employment and conflicts of interest, as well as reinforce the public's trust in the process, a designee from the Office of Court Administration would serve on the Commission for the purpose of reviewing applications for approval of outside employment.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill would take effect January 1, 2019.

Part D – Close the LLC Loophole

Purpose:

This bill would explicitly include Limited Liability Companies (LLCs), and any other corporate entity, as subject to campaign finance limits already articulated in law, thereby closing the "LLC loophole". This action would result in LLCs and any other corporate entity being subject to the same campaign finance limits imposed on corporations and joint stock associations and would allow for a more transparent campaign finance system.

Summary of Provisions and Statement in Support:

As a result of widely criticized case law, the State Board of Elections presently treats LLCs as "individuals". By classifying an LLC this way, a single individual owning multiple

LLCs is free to legally donate sums of money well in excess of either the corporate or individual campaign donation limits. There is little transparency attached to these donations.

This bill would explicitly include Limited Liability Companies (LLCs), and any other corporate entity, as being subject to campaign finance limits already articulated in law, thereby closing the “LLC loophole”. This would subject LLCs to a campaign donation limit of \$5,000 per calendar year (just like corporations and joint stock associations) and establish additional requirements related to LLCs, including:

- Disclosing the identity of all direct and indirect owners of the membership interest in the LLC, and the proportion of members’ ownership interest in the LLC for purposes of attribution of the LLC donation to that individual and for purposes of transparency behind political donations; and
- Requiring that all contributions made to a campaign or political committee by an LLC be attributed to each member of the LLC in proportion to the member’s ownership interest.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill would take effect immediately upon enactment.

Part E – Financial Disclosure Requirements for Local Elected Officials

Purpose:

This bill would establish financial disclosure requirements for certain local elected officials to promote transparency in local government, and decrease conflicts of interest at the local government level.

Summary of Provisions and Statement in Support:

This bill would require all County Executives, County Managers, Chairs of County Boards of Supervisors, as well as all other local elected officials who earn an annual government salary of more than \$50,000, to file annual statements of financial disclosure with the Joint Commission on Public Ethics. The Commission would be responsible for review and disclosure of improprieties to authorities.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill would take effect January 1, 2019.

Part F – Institute Public Financing & Enact Additional Campaign Finance Reforms

Purpose:

This bill would reform the State’s campaign finance system by requiring disclosure of certain campaign contributions, reducing campaign contribution limits, and enacting a voluntary public campaign finance system.

Summary of Provisions and Statement in Support:

This bill would improve the State’s current campaign finance system and enhance transparency by:

- Requiring that statements filed by political committees include information about intermediaries or “bundlers”;
- Applying a \$25,000 contribution limit to so-called “housekeeping accounts”;
- Requiring campaigns to disclose, within 60 days of receipt, any contributions or loans in excess of \$1,000;
- Creating a new system for public financing of campaigns and establishing contribution limits, as follows:
 - Statewide candidates would have a contribution limit of \$12,000, or \$6,000 each for the primary and general election;
 - State Senate candidates would have a contribution limit of \$8,000, or \$4,000 each for the primary and general election;
 - State Assembly candidates would have a contribution limit of \$4,000, or \$2,000 each for the primary and general election; and
 - District Delegates and At-Large Delegates to a Constitutional Convention would have a contribution limit of \$2,000.
- Amending contribution limits for candidates not participating in the public financing system, as follows:
 - Statewide candidates would have a contribution limit of \$25,000, or \$10,000 for the primary and \$15,000 for the general election;

- State Senate candidates would have a contribution limit of \$10,000, or \$5,000 each for the primary and general election;
 - State Assembly candidates would have a contribution limit of \$6,000, or \$3,000 each for the primary and the general election; and
 - Candidates for District Delegates and At-Large Delegates to a Constitutional Convention would have a contribution limit of \$3,000.
- Establishing system requirements for public financing of campaigns; and
 - Establishing the “New York State Campaign Finance Fund”, allowing certain transfers from the Abandoned Property Fund to the fund, and allowing individuals to designate a portion of their tax liability for deposit into the fund.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill would take effect immediately upon enactment, however affected candidates would be eligible to participate in voluntary public financing beginning with the 2020 primary election.

Part G – Comprehensive FOIL Reform

Purpose:

This bill would comprehensively reform the State’s Freedom of Information Law.

Summary of Provisions and Statement in Support:

Section 1 would amend section 86 of the Public Officers Law to clarify the definition of state legislature, and add a definition of “respective house of the state legislature.”

Section 2 would amend section 87 of the Public Officers Law to incorporate the state legislature into the provisions of FOIL; make proposed terms of a collective bargaining agreement available to the public; clarify that access to records may be denied where disclosure could endanger critical infrastructure; and codify proactive disclosure.

Section 3 would repeal section 88 of the Public Officers Law.

Section 4 would amend section 89 of the Public Officers Law to incorporate the state legislature into the provisions of FOIL; include personal communications between a

legislator and a constituent in the definition of an unwarranted invasion of personal privacy; require commercial entities to renew requests for trademark protection; and outline the process to handle suits by commercial entities to block disclosure.

Section 5 would amend section 105 of the CPLR to define state legislature.

Section 6 of the part would amend section 7802 of the CPLR to include the state legislature within the definition of “body or officer.”

Section 7 would amend section 713 of the Executive Law to make reference to article six of the Public Officers Law, instead of section eighty-eight.

Section 8 would repeal section 70-0113 of the Environmental Conservation Law.

Section 9 would repeal section 308 of the County Law.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill would take effect immediately; provided however that the amendments to paragraphs (j), (k), (l), (m), (n), and (o) of subdivision 2 of section 87 of the Public Officers Law made by section two of this act shall not affect the repeal of such paragraphs and shall be deemed repealed therewith.

Part H – Expand the State Inspector General’s Authority to Include Affiliated Organizations of SUNY & CUNY

Purpose:

This bill would expand oversight by the State Inspector General to include nonprofit organizations and foundations affiliated with SUNY and CUNY.

Summary of Provisions and Statement in Support:

New York’s State Inspector General is charged with ensuring that state government, its employees, and all who partner with the state meet the highest standards of integrity and accountability. Recent investigations have shown financial abuses within the nonprofit organizations and foundations affiliated with SUNY and CUNY. These affiliates manage significant funds used to perform functions on behalf of SUNY and CUNY.

The State Inspector General currently has authority to investigate allegations of corruption, fraud, criminal activity, conflicts of interest, or abuse within SUNY and CUNY. However, their affiliated nonprofit organizations and foundations remain without

oversight. This proposal would expand the State Inspector General's jurisdiction to allow for investigation of these affiliated entities, which supplement government function, but are currently unaccountable.

This bill would enhance state oversight by expanding the definition of a “covered agency” under the State Inspector General’s jurisdiction to include the affiliated nonprofit organizations and foundations of SUNY and CUNY. This would grant the State Inspector General authority to investigate complaints of corruption, fraud, criminal activity, conflicts of interest, or abuse within each university and its affiliates, and to refer potential criminal findings within these entities for prosecution.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill would take effect sixty days after becoming law.

Part I – Clarify State Inspector General's Authority over State Procurements

Purpose:

This bill would clarify authority of the State Inspector General in oversight of state procurements.

Summary of Provisions and Statement in Support:

The State Inspector General currently has the authority to investigate allegations of corruption, fraud, criminal activity, conflicts of interest, or abuse within all state agencies and authorities, including those allegations related to state procurements. However, the State Inspector General’s current authority is limited to officers and employees of the state.

This proposal would define where the State Inspector General is able to investigate officers and employees and contracted parties relating to such state procurements. It would establish the State Inspector General’s authority to investigate complaints of corruption, fraud, criminal activity, conflicts of interest, or abuse within these entities related to state procurements, and to refer potential criminal findings for prosecution.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill would take effect sixty days after becoming law.

Part J – Implement and Enforce Financial controls at SUNY and CUNY Foundations

Purpose:

This bill would require the adoption of financial control policies by the nonprofit organizations and foundations affiliated with SUNY and CUNY.

Summary of Provisions and Statement in Support:

An Interim Report released the by the State Inspector General into an investigation of corruption within CUNY found that the foundations and nonprofit organizations established to supplement functions of the University were severely prone to financial mismanagement. One of the most significant factors related to this mismanagement (as noted in the Interim Report) was the lack of financial control policies within these foundations and organizations and lack of financial policy oversight by CUNY.

This proposal would require the adoption of significant written financial control policies by the affiliated nonprofit organizations and foundations of SUNY and CUNY in order to create internal accountability and minimize the potential for corruption, fraud, criminal activity, conflicts of interest or abuse within these organizations. The adoption of policies to prevent financial mismanagement within these organizations would be overseen by the State Inspector General.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill would take effect one hundred eighty days after becoming law.

Part K – Establishment of a NYS Chief Procurement Officer

Purpose:

This bill would create a Chief Procurement Officer to oversee all State procurements.

Summary of Provisions and Statement in Support:

This bill would authorize the creation of a Chief Procurement Officer in the Executive Chamber, who shall serve as the principal officer tasked with oversight of state procurements. The Chief Procurement Officers' duties would include:

- Oversight of the integrity and uniformity of procurement practices across the State;
- Disclosing reportable matters to the State Inspector General;
- Ensuring state procurement staff are prepared and positioned to conduct effective and ethical procurements; and
- Serving as a member or chair of the Procurement Council

Public authorities will also be required to provide the Chief Procurement Officer with reports on procurements as required pursuant to Public Authorities Law § 2879.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill would take effect on the sixtieth day after enactment.

Part L – Amendment of Government Vendor Contributions

Purpose:

This bill would prohibit campaign contributions from parties involved in State procurement.

Summary of Provisions and Statement in Support:

This bill would prohibit campaign contributions by persons or entities that are actively bidding on or have recently bid on any government procurement contract. The prohibition would apply to contributions to office-holders and candidates associated with the branch of government requesting the procurement, and the prohibition would extend until the close of the bidding period, or until six months after the final contract award for the winner.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill would take effect on the one hundred eightieth day after enactment.

Part M – Report on the feasibility of single identifying codes or numbers

Purpose:

This bill would explore the feasibility of implementing a single identifying code for contractors, vendors, and other State payees to improve the State's oversight and monitoring of business activities.

Summary of Provisions and Statement in Support:

In order to improve the oversight and monitoring of State business, this bill would require a study concerning the feasibility of assigning a single identifying code to contractors, vendors, and other payees to track such entities and expenditures. The group would be required to submit its findings and recommendations to the Governor and Legislature on or before September 1, 2018.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill would take effect immediately.

The provisions of this act shall take effect immediately, provided, however, that the applicable effective date of each part of this act shall be as specifically set forth in the last section of such part.