



March 21, 2023

The Honorable Jim Carlson
Chair
Elections Committee
Minnesota Senate

RE: Statement in Support of Senate File 2845

Dear Chair Carlson and Members of the Committee,

Campaign Legal Center (“CLC”) respectfully submits this statement in support of SF 2845, a bill that would modernize the public financing program for Minnesota elections.

CLC is an organization dedicated to protecting and strengthening democracy across all levels of government. Since the organization’s founding in 2002, CLC has participated in every major campaign finance case before the U.S. Supreme Court, as well as in numerous other federal and state court cases. Our work promotes every American’s right to participate in the democratic process.

CLC is a longtime proponent of public financing in state and local elections, and we commend the Committee for pursuing avenues to modernize Minnesota’s public financing program. Updating the public financing program provides an opportunity to broaden public engagement in democracy and amplify the voices of ordinary Minnesotans in the electoral process. Modern public financing programs, such as small-dollar donor matching and voucher programs, empower individuals to make meaningful contributions to candidates they support and enhance voters’ ability to participate in electoral campaigns.

This statement highlights empirical and academic research demonstrating how public financing of elections can help increase political participation, broaden the pool of candidates who seek public office, and reduce political corruption. We further discuss courts’ long-standing approval of public financing as a tool to strengthen participation in elections and prevent corruption.

I. Benefits of Public Financing in State & Local Elections

Today, over three dozen states, counties, and municipalities have enacted some type of public election financing for candidates, and the number continues to grow.¹ In 2020, Washington, DC successfully implemented its new public financing program;² in April 2023, Denver, Colorado will hold its first election under the city's new small-dollar donor matching program;³ and, most recently, Oakland, California adopted a voucher-style public financing program, which will be implemented for the city's 2024 elections.⁴ The state of New York also is currently in the process of implementing a statewide small-dollar donor matching program, building upon the successful longstanding program in New York City.⁵ The experiences of states and cities around the country demonstrate that public financing augments political participation among the electorate at large, reduces opportunities for political corruption, and enables more candidates to run for and win public office.

The structure and design of existing state and local programs vary considerably, ranging from small-dollar donor matching programs in, among other places, New York City, DC, and Denver to Seattle's Democracy Voucher Program to full grant systems in Arizona, Connecticut, and elsewhere. While there is wide variety among public financing systems now in effect, these programs generally share the common objectives of expanding citizens' engagement in the electoral process, boosting electoral competition, and decreasing candidates' dependence on large contributions. The effectiveness of public financing in advancing these critical aims is borne out in a substantial body of research assessing existing public financing systems.

a. Expanding Citizen Participation in Elections

Empirical evidence indicates that modern public financing programs foster political engagement among a broader and more demographically representative

¹ See CATHERINE HINCKLEY KELLEY & AUSTIN GRAHAM, CAMPAIGN LEGAL CTR., *BUYING BACK DEMOCRACY: THE EVOLUTION OF PUBLIC FINANCING IN U.S. ELECTIONS 19-26* (2018), https://campaignlegal.org/sites/default/files/2018-10/2018-Building-Small-Dollar-Democracy_FINAL.pdf.

² CATHERINE HINCKLEY KELLEY ET AL., CAMPAIGN LEGAL CTR., *DEMOCRATIZING THE DISTRICT: D.C.'S FAIR ELECTIONS PROGRAM IN 2020*, 11 (2021), https://campaignlegal.org/sites/default/files/2021-10/CLC_DemocratizingTheDistrict%20%281%29.pdf [hereinafter *DEMOCRATIZING THE DISTRICT*].

³ See Joel Rubino, *Public funds are helping draw a stampede of Denver mayoral candidates*, DENVER POST (Dec. 2, 2022), <https://www.denverpost.com/2022/12/02/denver-mayor-candidate-field-tied-to-fair-elections-fund-matching-dollars>.

⁴ David Moore, *Oakland Voters Approve 'Democracy Dollars' Program to Boost Participation in City Elections*, SLUDGE (Dec. 15, 2022), <https://readsludge.com/2022/12/15/oakland-voters-approve-democracy-dollars-program-to-boost-participation-in-city-elections>.

⁵ Ian Vandewalker et al., *Analysis Shows Amplification of Small Donors Under New NY State Public Financing Program*, Brennan Center for Justice & OpenSecrets (Jan. 30, 2023), <https://www.brennancenter.org/our-work/research-reports/analysis-shows-amplification-small-donors-under-new-ny-state-public>.

portion of the electorate. By providing candidates with a direct incentive to maximize outreach to eligible residents as a potential source of meaningful contributions, small-dollar donor matching programs and voucher programs can galvanize campaigns' engagement of the electorate at large.

Small dollar matching programs have shown strong, lasting positive effects on local participation in campaigns and elections. A study of New York City's matching funds program found that 89% of the city's census-block groups had at least one resident who gave a small-dollar contribution of \$175 or less to a city candidate in the 2009 municipal election.⁶ By way of comparison, individual contributions of \$175 or less to candidates for the New York State Assembly, which had not been eligible for matching funds,⁷ came from residents of only 30% of New York City census-block groups in 2010.⁸

Moreover, the same study determined census-block groups with at least one small donor of \$175 or less to a New York City candidate were statistically less affluent and more diverse than census-block groups with at least one large donor of \$1,000 or more, suggesting small-dollar matching helped to cultivate political participation among groups that are historically underrepresented in the campaign finance system.⁹ A separate analysis of New York City elections concluded that more than half of the individuals who made a campaign contribution during the 2013 city elections were first-time contributors, and 76% of these first-time donors made a small contribution of \$175 or less.¹⁰

Similarly, studies following Seattle's enactment of its Democracy Voucher Program show local participation in the city's campaign finance system reached historic levels in the 2017 and 2019 election cycles. According to an analysis of Seattle's election data, a total of 38,297 Seattle residents assigned Democracy Vouchers to city candidates in 2019, nearly doubling the 20,727 Seattle residents who assigned vouchers in the city's 2017 election.¹¹ The use of vouchers, alone,

⁶ ELISABETH GENN ET AL., BRENNAN CTR. FOR JUST., DONOR DIVERSITY THROUGH PUBLIC MATCHING FUNDS 10 (2012), http://www.brennancenter.org/sites/default/files/legacy/publications/DonorDiversityReport_WEB.PDF.

⁷ The State of New York recently adopted a matching funds program for state offices that is now in place for its 2024 elections. Rebekah F. Ward, *New matching funds for state elections touted at New York City launch event*, TIMES UNION (Dec. 1, 2022), <https://www.timesunion.com/news/article/Public-campaign-finance-launches-in-New-York-17623982.php>.

⁸ *Id.*

⁹ *Id.* at 14; *see also* ADAM LIOZ, DEMOS, STACKED DECK: HOW THE RACIAL BIAS IN OUR BIG MONEY POLITICAL SYSTEM UNDERMINES OUR DEMOCRACY AND OUR ECONOMY (2015), https://www.demos.org/sites/default/files/publications/StackedDeck2_1.pdf.

¹⁰ N.Y.C. CAMPAIGN FIN. BD., BY THE PEOPLE: THE NEW YORK CITY CAMPAIGN FINANCE PROGRAM IN THE 2013 ELECTIONS 41 (2014), https://www.nycfb.info/sites/default/files/pressfiles/2013_PER.pdf.

¹¹ JENNIFER HEERWIG & BRIAN MCCABE, MCCOURT SCH. OF PUB. POL'Y, GEORGETOWN UNIV., BUILDING A MORE DIVERSE DONOR COALITION 2 & n.5 (2020),

represented a nearly three-fold increase over the number of contributors in Seattle elections from before the Democracy Voucher Program was implemented.¹² The swell in local participation facilitated by the Democracy Voucher Program was a citywide phenomenon, with residents of each of the city's council districts giving vouchers to candidates in 2017,¹³ 2019,¹⁴ and 2021.¹⁵

Beyond increasing the absolute number of local campaign contributors, the Democracy Voucher Program helped to diversify Seattle's donor pool. According to an analysis of Seattle's 2017 elections, voucher donors were more socioeconomically representative of Seattle's electorate than monetary contributors, and voucher donors were more likely than monetary contributors to reside in low-income neighborhoods.¹⁶ Additionally, people of color comprised a greater proportion of voucher donors as compared to monetary contributors, and voucher donors closely resembled the demographics of voters in Seattle's 2017 elections.¹⁷ In a subsequent study of Seattle's 2019 elections, the use of vouchers continued to increase across all income groups and all racial groups.¹⁸

Further, the University of Washington's Center for Studies in Demography & Ecology analysis revealed that Seattle residents who gave vouchers to city campaigns in 2017 were substantially more likely to vote on Election Day than residents who did not use their vouchers. Almost 90% of voucher donors voted in 2017, while only 43% of Seattle residents who did not use their vouchers cast a vote that year.¹⁹ Importantly, the amplified voter turnout was consistent even after

<https://georgetown.app.box.com/s/r2skgxfnc230ukkb3dfqgm4576phzabd> [hereinafter DIVERSE DONOR COALITION].

¹² Jennifer Heerwig & Brian McCabe, *Diversifying the Donor Pool: How Did Seattle's Democracy Voucher Program Reshape Participation in Municipal Campaign Finance?*, 18 ELECTION L.J. 323, 331 & n.15 (2019) (comparing 2017 voucher users to 2013 cash contributors).

¹³ SEATTLE ETHICS & ELECTIONS COMM'N, DEMOCRACY VOUCHER PROGRAM BIENNIAL REPORT 2017, at 16 (2018),

https://www.seattle.gov/documents/Departments/EthicsElections/DemocracyVoucher/Biennial%20Reports/Final%20-%20Biennial%20report%20-%202003_15_2018%280%29.pdf.

¹⁴ SEATTLE ETHICS & ELECTIONS COMM'N, DEMOCRACY VOUCHER PROGRAM BIENNIAL REPORT 2019, at 16 (2019),

https://www.seattle.gov/documents/Departments/EthicsElections/DemocracyVoucher/Outreach%20Fund/2019_Biennial_Report.pdf.

¹⁵ See SEATTLE ETHICS & ELECTIONS COMM'N, DEMOCRACY VOUCHER PROGRAM BIENNIAL REPORT 2021, at 12 (2021),

https://www.seattle.gov/documents/Departments/EthicsElections/DemocracyVoucher/Biennial%20Reports/2021_Biennial_Report_FINAL.pdf.

¹⁶ Heerwig & McCabe, *Diversifying the Donor Pool*, *supra* note 12, at 332-33.

¹⁷ *Id.*

¹⁸ DIVERSE DONOR COALITION, *supra* note 11, figs.2 & 3.

¹⁹ JENNIFER HEERWIG & BRIAN MCCABE, UNIV. OF WASH. CTR. FOR STUDIES IN DEMOGRAPHY & ECOLOGY, EXPANDING PARTICIPATION IN MUNICIPAL ELECTIONS: ASSESSING THE IMPACT OF SEATTLE'S DEMOCRACY VOUCHER PROGRAM, fig.10 (2018),

https://www.jenheerwig.com/uploads/1/3/2/1/13210230/mccabe_heerwig_seattle_voucher_4.03.pdf. Evidence from other jurisdictions also indicates that public financing can reduce voter "roll-off," the phenomenon of voters abstaining from voting in down-ballot races on Election

controlling for residents' voting history; among city residents who voted in less than half of the prior elections in which they were eligible, voucher donors were four times more likely to vote than city residents who did not return their vouchers.²⁰ These findings strongly suggest that participation in the Democracy Voucher Program prompted greater engagement in the city's electoral process more broadly.

As the findings from New York City and Seattle demonstrate, modern public financing programs can bring new and diverse donors into the campaign fold. Further, these experiences demonstrate that adopting a public financing system that responds to emerging campaign practices can both maintain the viability of the system and encourage more citizens to participate in our democracy. Based on evidence from jurisdictions with these public financing models, modernizing the public financing program in Minnesota could have a transformative effect on citizen participation in state elections.

b. Enabling More Candidates to Run for and Win Elected Office

Empirical analyses similarly show that public financing emboldens more citizens to run and be competitive for elected office. By reducing barriers to entry, public financing also increases opportunities for candidates from underrepresented groups or who lack access to deep-pocketed networks to run for office: For example, four years after Connecticut implemented a state program in 2008, representation in the state legislature grew for women and reached its highest levels for Latino representation.²¹ Similarly, the number of Native American and Latino candidates nearly tripled after Arizona implemented its Clean Elections program.²²

Candidates utilizing small-dollar donor matching programs across the country themselves regularly cite the availability of public funding through those programs as a crucial factor in giving them the opportunity to enter elections and run competitive campaigns.²³ And those candidates are able win: For example, in New York City, several historic "firsts" for elected office from historically

Day. See MICHAEL G. MILLER, SUBSIDIZING DEMOCRACY: HOW PUBLIC FUNDING CHANGES ELECTIONS AND HOW IT CAN WORK IN THE FUTURE 77 (2013) (finding voter roll-off decreases about 20% in Connecticut elections with a publicly financed candidate).

²⁰ HEERWIG & MCCABE, EXPANDING PARTICIPATION, *supra* note 19, fig.10.

²¹ J. MIJIN CHA & MILES RAPAPORT, DEMOS, FRESH START: THE IMPACT OF PUBLIC CAMPAIGN FINANCING IN CONNECTICUT, 13 (2013), <https://www.Demos.org/research/fresh-start-impact-public-campaign-financing-connecticut>.

²² STEVEN M. LEVIN, CTR. FOR GOVERNMENTAL STUDIES, KEEPING IT CLEAN: PUBLIC FINANCING IN AMERICAN ELECTIONS, 7 (2006), <https://www.policyarchive.org/handle/10207/4523/>.

²³ See, e.g., BREAKING DOWN BARRIERS : THE FACES OF SMALL DONOR PUBLIC FINANCING, BRENNAN CTR. FOR JUSTICE, 7-12 (2016), [HTTPS://WWW.BRENNANCENTER.ORG/SITES/DEFAULT/FILES/PUBLICATIONS/FACES_OF_PUBLIC_FINANCING.PDF](https://www.brennancenter.org/sites/default/files/publications/faces_of_public_financing.pdf); NIRALI VYAS ET AL., BRENNAN CTR. FOR JUSTICE, SMALL DONOR PUBLIC FINANCING COULD ADVANCE RACE AND GENDER EQUITY IN CONGRESS, 10 (2020) https://www.brennancenter.org/sites/default/files/2020-10/FINAL%20-%20SDPF%20Could%20Advance%20Race%20and%20Gender%20Equity%20in%20Congress.10.15.2020_10AM_v2_0.pdf; see also DEMOCRATIZING THE DISTRICT, *supra* note 2, at 14.

underrepresented groups are connected to its small-dollar donor matching program, including the first Black mayor, first Asian American member of the City Council, and first Black woman elected to citywide office.²⁴ More recently, Montgomery County, Maryland’s small-dollar donor matching program supported the election of a historically diverse County Council.²⁵

A broader assessment of legislative elections in the states also identified a correlation between the availability of public financing and heightened competition in elections. According to an analysis of monetary competitiveness in 47 states’ elections between 2013 and 2014, only 18% of legislative races were competitive over that timeframe.²⁶ However, a substantially higher percent of races—41%—were monetarily competitive in the five states with public financing available to legislative candidates.²⁷ Further, three of the five *most* monetarily competitive states had established public financing for legislative candidates, while none of the five *least* monetarily competitive states offered public funds to candidates.²⁸ Notably, as highlighted in that analysis, Minnesota’s existing public financing program has made it a national leader in this arena. Minnesota can build upon this tradition by thoughtfully modernizing its public financing system.

c. Reducing Opportunities for and the Appearance of Corruption

A central goal of public financing systems is to reduce opportunities for corruption by enabling candidates to run competitive campaigns and win elected office without having to depend on large contributions. By increasing candidates’ ability to rely on small contributions and public funds, these systems reduce the opportunity for corruption and the appearance that elected officials are beholden to major campaign donors.

Small-dollar donor matching programs have reduced candidates’ reliance on large donations. An analysis of New York City’s long-running matching funds program found that the city’s implementation of multiple matching funds in 2001, providing at the time a 4:1 match for residents’ contributions of \$250 or less, significantly increased both the total number of small dollar contributors to city candidates, as well as the proportional importance of these small dollar contributors to competitive city council candidates participating in the matching funds

²⁴ Vyas, *supra* note 23, at 10; Angela Migally & Susan Liss, Brennan Ctr. for Justice, Small Donor Matching Funds: The NYC Election Experience 21 (2010), https://www.brennancenter.org/sites/default/files/2019-08/Report_Small-Donor-Matching-Funds-NYC-Experience.pdf.

²⁵ Julia Fishman & Joanna Zdanys, *Major Strides for Public Campaign Financing*, Brennan Center for Justice (Dec. 9, 2022), <https://www.brennancenter.org/our-work/analysis-opinion/major-strides-public-campaign-financing>.

²⁶ Zach Holden, *2013 and 2014: Monetary Competitiveness in State Legislative Races*, NAT’L INST. ON MONEY IN POL. (Mar. 9, 2016), https://www.followthemoney.org/research/institute-reports/2013-and-2014-monetary-competitiveness-in-state-legislative-races#ftnref_4_link.

²⁷ *Id.* tbl.2.

²⁸ *Id.* tbls.3 & 4. Among the five states with the most monetarily competitive elections, Connecticut, Maine, and Minnesota offer public financing to legislative candidates. *Id.*

program.²⁹ These effects were consistent across challengers, incumbents, and open-seat candidates.³⁰

More recently, in Washington, DC, the size of the average donation to city council candidates fell by about 50% after the city implemented its small dollar matching program in 2020.³¹ In that election, candidates who participated in the program received 76% of their contributions from small dollar donors who lived in the District; candidates who did not participate in the program relied more heavily on large donations, receiving only 27% of their contributions in small donations from DC residents.³²

A review of Seattle’s municipal election data demonstrates its Democracy Voucher Program, first implemented in 2017, has similarly reduced the importance of large donors in local campaigns. An academic study of contributions made in Seattle’s 2013 election, prior to the city’s enactment of public financing, determined that “high-dollar donors” of \$500 or more provided nearly 40% of city council candidates’ total campaign funding in 2013, even as these donors comprised only 9% of the overall donor pool in city council races.³³ In Seattle’s 2013 mayoral election, the impact of high-dollar donors was even more pronounced, with mayoral candidates raising, on average, 55% of their campaign funds from contributors of \$500 or more.³⁴

By comparison, Seattle candidates who participated in the Democracy Voucher Program in 2017, 2019, and 2021 were far less dependent on high-dollar donors. As a condition of program participation, candidates were subject to a \$250 limit on monetary contributions.³⁵ In lieu of high-dollar donations, candidates in the 2017 city elections collectively raised 82% of their contributions from donors who gave \$199 or less.³⁶ Importantly, Seattle’s subsequent election cycles demonstrated

²⁹ Michael J. Malbin et al., *Small Donors, Big Democracy: New York City’s Matching Funds as a Model for the Nation and States*, 11 ELECTION L.J. 3, 9-10 (2012) http://www.cfinst.org/pdf/state/nyc-as-a-model_elj_as-published_march2012.pdf.

³⁰ *Id.*

³¹ KENAN DOGAN & BRIAN J. MCCABE, MCCOURT SCH. OF PUB. POL’Y, GEORGETOWN UNIV., *Expanding Donor Participation in the District: An Analysis of the Fair Elections Program in Washington, DC*, 1 (2021) https://mccourt.georgetown.edu/wp-content/uploads/2022/02/DC_Fair_Elections_Report_Sept2021_ACCESSIBLE.pdf.

³² DEMOCRATIZING THE DISTRICT, *supra* note 2, at 11.

³³ Jennifer Heerwig & Brian McCabe, *High-Dollar Donors and Donor-Rich Neighborhoods: Representational Distortion in Financing a Municipal Election in Seattle*, URBAN AFF. REV. 1, 16, 23 (2017).

³⁴ *Id.* at 18.

³⁵ SEATTLE ETHICS & ELECTIONS COMM’N, DEMOCRACY VOUCHER PROGRAM BIENNIAL REPORT 2017, at 18 (2018), https://www.seattle.gov/Documents/Departments/EthicsElections/DemocracyVoucher/Final%20-%20Biennial%20report%20-%202003_15_2018.pdf.

³⁶ SEEC Chart of 2017 City Elections Contributors, sortable by size and type, <http://web6.seattle.gov/ethics/elections/charts.aspx?cycle=2017&n1=contributions&n2=size&n3=groupings&n4=allcategories&n5=allcandidates&n6=number#aChartTop> (last visited Apr. 8, 2022).

that the 2017 elections were not an outlier: In 2019 and in 2021, candidates in Seattle elections collected 90% of their contributions from donors who gave \$199 or less.³⁷

In short, both small-dollar donor matching funds programs and voucher programs can markedly reduce the primacy of large contributions in elections—validating the anti-corruption interests those programs are intended to serve.

II. The Constitutionality of Public Financing is Well Established

Courts have also recognized that public financing of elections promotes core principles of our democratic system. In *Buckley v. Valeo*, the U.S. Supreme Court upheld public financing as a constitutional means “to reduce the deleterious influence of large contributions on our political process” and “to facilitate communication by candidates with the electorate.”³⁸ The Court expressly recognized that public financing is consistent with the First Amendment, describing the presidential public funding program as “a congressional effort, not to abridge, restrict, or censor speech, but rather to use public money to facilitate and enlarge public discussion and participation in the electoral process, *goals vital to a self-governing people*.”³⁹ Since *Buckley*, federal and state courts have continued to affirm the democratic value of public financing as a tool to prevent political corruption and to strengthen citizen engagement in elections.⁴⁰

In 2011, the Supreme Court again endorsed the constitutionality of public election financing, even as it invalidated Arizona’s “trigger” provisions that gave

³⁷ SEEC Chart of 2019 City Elections Contributors, sortable by size and type, <http://web6.seattle.gov/ethics/elections/charts.aspx?cycle=2019&n1=contributions&n2=size&n3=groupings&n4=allcategories&n5=allcandidates&n6=number#aChartTop> (last visited Apr. 8, 2022); SEEC Chart of 2021 City Elections Contributors, sortable by size and type, <http://web6.seattle.gov/ethics/elections/charts.aspx?cycle=2021&n1=contributions&n2=size&n3=groupings&n4=allcategories&n5=allcandidates&n6=number#aChartTop> (last visited Apr. 8, 2022).

³⁸ 424 U.S. 1, 91 (1976) (per curiam).

³⁹ *Id.* at 92-93 (emphasis added).

⁴⁰ See, e.g., *Republican Nat’l Comm. v. Fed. Election Comm’n*, 487 F. Supp. 280, 284 (S.D.N.Y. 1980) (“If the candidate chooses to accept public financing he or she is beholden unto no person and, if elected, should feel no post-election obligation toward any contributor of the type that might have existed as a result of a privately financed campaign.”), *aff’d.*, 445 U.S. 955 (1980); *Vote Choice, Inc. v. DiStefano*, 4 F.3d 26, 39 (1st Cir. 1993) (validating government interest in public financing “because such programs . . . tend to combat corruption”); *Rosenstiel v. Rodriguez*, 101 F.3d 1544, 1553 (8th Cir. 1996) (recognizing public financing reduces the “possibility for corruption that may arise from large campaign contributions” and diminishes “time candidates spend raising campaign contributions, thereby increasing the time available for discussion of the issues and campaigning”); *Green Party of Conn. v. Garfield*, 616 F.3d 213, 230 (2d Cir. 2010) (finding Connecticut program worked to “eliminate improper influence on elected officials”); *Ognibene v. Parkes*, 671 F.3d 174, 193 (2d Cir. 2011) (explaining that public financing system “encourages small, individual contributions, and is consistent with [an] interest in discouraging entrenchment of incumbent candidates”).

publicly financed candidates additional public funds in direct response to opponents' spending or independent expenditures.⁴¹ In *Arizona Free Enterprise Club's Freedom PAC v. Bennett*, the Court reiterated that "governments may engage in public financing of election campaigns and that doing so can further significant government interests, such as the state interest in preventing corruption."⁴² Thus, while it foreclosed the release of public funds in *direct response* to private campaign spending, the Court declined to "call into question the wisdom of public financing as a means of funding political candidacy" or the constitutionality of these laws in general.⁴³

III. Conclusion

We support the modernization of Minnesota's public financing program through the adoption of small-dollar donor matching funds program. We appreciate the opportunity to submit this statement and would be happy to provide additional information or answer any questions the Committee may have.

Respectfully submitted,

/s/

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⁴¹ *Ariz. Free Enterprise Club's Freedom PAC v. Bennett*, 564 U.S. 721 (2011).

⁴² *Id.* at 754 (internal quotation marks, brackets, and citation omitted).

⁴³ *Id.* at 753.

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