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- Identification: My name is Michael Malbin.
 - Professor of Political Science at the University at Albany
 - Co-founder and Executive Director of the Campaign Finance Institute (CFI) in Washington DC. CFI is a specialized, completely nonpartisan think tank committed to the idea that sound policy should be based on objective, fact-based research.
 - I have been writing about money and politics since the 1970s.
 - For more than ten years CFI's research has played a leading role in the effort to understand and enhance small-donor citizen empowerment.
- When people think about corruption, what often comes to mind are individual officials who betray the public trust by making decisions that serve the private interests of those who give the officials something of value in return.
 - Yes, there are examples of this kind of individual *quid pro quo* corruption and the laws ought to deal with them.
- But I urge you not to lose sight of another kind of more systemic corruption: the corruption of representation that occurs when candidates spend so much of their time raising campaign money from rich contributors. I have nothing against rich contributors, but the system needs broader participation. Surveys make it clear that those who can afford large contributions do not have the same policy interests or priorities as most citizens. When office holders spend so much time hearing from big donors, they get a slanted view of the public's priorities.
- How can you deal with this? Let's be clear about what will *not* work. You cannot deal with the issue adequately if you depend only on new restrictions. I am not against reasonable restrictions. For example, I support contribution limits on *all* money that goes to candidates *and* political parties. But in a post-Citizens-United world, restrictions are not enough. The priority needs to be on a systemic solution.
- What would that be? To paraphrase a well-known quotation: the best guardian against corruption is an *informed and engaged* citizenry. Notice that there are two parts to this.
- For a *better informed* citizenry, this state needs much better *transparency* laws for all campaign related expenditures, including independent spending and electioneering. It also needs much better enforcement and much better electronic implementation. I would urge

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you to look at the State Open Campaign System prepared by Reinvent Albany and the Brennan Center. In the interest of full disclosure, I am on the advisory board for SOCS.

- The other part is a *better engaged* citizenry. This is where public financing comes in.
 - CFI has ranked all of the states both in terms of the percentage of the adults who give campaign contributions, and the percentage of the candidates' money that come from small donors. New York State is near the bottom on both rankings.
 - Contrast that with New York City.
 - A higher percentage of the population gives in city than state elections.
 - Small donors are responsible for a higher percentage of the money for the city's candidates for any of the states (except the Clean Money states).
- In addition, the money comes from a more representative mix of donors.
 - CFI published a study jointly with the Brennan Center last year comparing candidates from the city who ran for City Council and State Assembly.
 - The candidates for City Council raised their money from a far more diverse and representative donor pool than the ones for State Assembly.
 - The donors in city elections were also much more likely to come from poor and high minority neighborhoods.
- **CFI'S COST ESTIMATES:** Finally, the cost of doing this would not be very high. The commission's staff has specifically asked me to address this subject, based on two publications we released that analyzed the cost of the bill that passed the Assembly and the one introduced by the Senate Independent Democratic Conference. The numbers I will present are CFI's later analysis, prepared in June, of the Governor's program bill. The bottom line numbers were just about the same as the two previous ones, but I offer this one because the assumptions were more refined and more clearly articulated.
- **COST OF MATCHING FUNDS:** CFI's analysis of the Governor's program bill indicated that on the most expensive reasonable assumptions about participation, the Governor's bill would have cost \$165.7 million for matching funds over the course of four years, including one gubernatorial and one midterm election cycle. Per year, this averaged out to \$41.4 million per year or \$2.12 per New Yorker. After rigorous analysis and review, this was very close to the estimate you will find in the Division of the Budget's cost estimate for the program bill.
 - **EXPLANATORY FOOTNOTE:** CFI's publications included four estimates, all beginning from the actual donors and candidates of 2010 and 2012. Two were static and two projected growth in the numbers of candidates and donors. The above figure of \$41.4 million per year is for the highest of the four estimates for the Governor's bill. This estimate was based on all of the following assumptions, resulting in what we consider to be an extremely conservative estimate:
 1. Each 2010, 2012 candidate would attract enough new small donors to double his/her money eligible for matching.
 2. Triple the number of primary challengers would decide to run, with each new challenger's fundraising profile equivalent to the average primary challenger of 2010-2012, and with each candidate's small donor money

double the current average. We expect (but the numbers do not assume) that most of the new primary challengers would emerge in districts that tend to vote heavily for one or the other major party in the general election.

3. The candidates who were previously unchallenged in the primary will increase fundraising to meet the new challenge.
 4. The scenario also assumes a substantial increase in the number of general election candidates in districts whose winners were previously unopposed or where candidates did not file reports with the Board of Elections. For these districts, we assumed the new challengers would receive the same amount of matching funds as the average challenger from the current candidate pool (\$71,000 for the Assembly; \$168,000 for the Senate).
- **COST OF ADMINISTRATION:** In addition to the cost of matching funds, there would also be a cost for enforcement and administration. In testimony before the Senate's IDC hearing in May, the Board of Elections offered an implausible estimate of administrative costs that was based on multiplying the New York City Campaign Finance Board's budget by the number of candidates who would be running in state elections of the course of four years. This makes no sense. In reality, some costs would go up but others would go down. The cost of auditing and enforcement would go up with the number of candidates. Other costs would stay the same, such as those related to policy making. Still others, like rent for an office, would go down. And others, such as those for the city's expensive voter guide, were not in the state bill at all. Based on a more plausible, differentiated methodology, the NYCCFB's estimate for scaling its system statewide was between \$17.5 and \$20.9 million per year.
 - **THE COMBINED COST** of matching funds plus administrative costs therefore would be about \$60 million per year.
 - **COST OR RISK OF DELAY:** Finally, I need to emphasize the costs of inaction.
 - Some are monetary, such as the costs of various special interest provisions enacted into law, any one of which could easily be higher than the total cost of this new system. But other costs are less tangible.
 - The main point of matching funds is to offer an alternative to candidates who would like to have one.
 - According to CFI's analysis, almost every candidate who ran in 2010 and 2012 would have been financially better off with lower contribution limits combined with matching funds.
 - But many candidates are frightened. After *Citizens United*, independent spending surged. Every competitive candidate worries about that. As of now, the options for candidates are few and they are seriously problematic for the system. Weak enforcement has encouraged some candidates to endorse single-candidate Super PACs. We saw that in the presidential election. The practice is growing. It has not yet come to most states but it will. It is absurd to expect candidates to be passive. If the only path is to cultivate mega-donors to Super PACs, some will do so. In another election or two, this will become the new normal.
 - Matching funds can be a real alternative. Independent spending by outside is not as effective as candidates' money. A small-donor matching fund system gives candidates the incentive to build up their lists of supporters who have not maxed

out. Get a small donor committed and that person can give again – and volunteer. In the end, this is the best defense against an outsider’s money bomb.

- The problem is that there is very little time to get this in place so candidates see how it will work before single-candidate Super PACs become the new normal.
- This is why I was concerned to see rumors about passing public financing through a constitutional amendment. This would take far too long. We will be facing a different campaign world by then.
- This is a policy change that needs to happen quickly. In fact, with \$60 million per year in budget implications, it **should be included in the Governor’s executive budget in January 2014**. The full system already cannot be implemented for the elections of 2014. The state needs to pass a program with the basic policy framework now, and then it needs to start hiring so it can start the administrative and computer programming expenditures to be made during the next fiscal year. We know from the Affordable Care Act that you cannot rush a complicated website development project. Starting early in the next fiscal year is the only way the system can run smoothly by 2015.

I would be happy to respond to your questions.

SAMPLE OF RELEVANT CFI PUBLICATIONS ON NEW YORK:

Small Donors, Big Democracy: New York City’s Matching Funds as a Model for the Nation and States. By Michael J. Malbin, Peter W. Brusoe and Brendan Glavin. *Election Law Journal*, Vol. 11 No.1, 2012, pp. 3-20.

FROM THE ABSTRACT: The City of New York gives participating candidates six dollars in matching funds for each of the first \$175 that a city resident donates. This article asks whether a similar approach could become a model for others. The argument has three parts. The first is an empirical analysis of New York City’s campaign finance records since 1997, showing that (a) multiple matching funds do increase the *proportional* role of small donors; (b) they have also increased the *number* of small donors; and (c) they help shift the *demographic and class profile* of those who give. The second part applies a modeling method to the states to show these results could readily be obtained elsewhere. The third section presents broad theoretical, constitutional and policy themes.

Donor Diversity through Public Matching Funds. By Elisabeth Genn, Sundeep Iyer, Michael J. Malbin and Brendan Glavin. May 2012. This joint study by CFI and the Brennan Center for Justice offers powerful evidence that New York City’s public financing system has contributed to a much higher level of small donor participation from lower income and higher minority neighborhoods than the ones for donors to candidates in state elections.

What Is and What Could Be: The Potential Impact of Small-Donor Matching Funds in New York State Elections. By Michael J. Malbin and Peter W. Brusoe. April 2012. New York’s Governor has proposed a system of public matching funds for state elections similar to New York City’s. This paper predicts that such a system would increase the role of small donors in state elections from the present 6% of all candidates’ funds to as much as 54%. This would make small donors the most important financial constituents for candidates instead of the least important.

SHORTER ANALYSES AND RELEASES:

April 1, 2013: *Public Matching Funds in NY State, Reversing the Financial Influence of Small & Large Donors, Would Leave the Candidates “Whole” While Costing New Yorkers only \$2/Year.*

December 20, 2012: *VT and RI Had the Highest Percentages of Adults Contributing in 2010 and 2006 State Elections, NY, UT, CA and FL the Lowest.*