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**Testimony of Adam Skaggs
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Presented at a Hearing Sponsored by the Independent Democratic Conference

Entitled

***Restoring the Voters' Trust in New York State Government:
Reforming New York State's Campaign Finance and Election Laws by
Increasing Accountability, Closing Loopholes & Implementing Public Financing***

Valley Cottage Library, Valley Cottage, New York

May 8, 2013

On behalf of the Brennan Center for Justice at N.Y.U. School of Law, I want to thank Senator Carlucci and his colleagues in the Independent Democratic Conference for holding this hearing. New Yorkers across the state have grown alienated from their elected leadership because of grave concerns about the “show me the money” culture of corruption that pervades Albany. We commend the IDC’s attention to the myriad problems with New York’s campaign finance system and recognition that the time for comprehensive campaign finance reform is now.

My name is Adam Skaggs, and I am senior counsel at the Brennan Center. The Brennan Center is a non-partisan public policy and legal advocacy organization that is one of many groups participating in the Fair Elections for New York Coalition.¹ Along with good government watchdogs, labor and environmental groups, and business and civic leaders from across the state, we advocate campaign finance reform to mitigate the impact of huge campaign contributions on New York elections and address the rampant corruption that continues to tarnish Albany.

¹ The Brennan Center’s work focuses on the fundamental issues of democracy and justice. The Center’s Money in Politics project works to reduce the real and perceived influence of money on our democratic values. Our counsels defend campaign finance, public funding, and disclosure laws in courts around the country, and provide legal guidance to state and local reformers through counseling, testimony, and public education. The views expressed in this testimony are solely those of the Brennan Center.

The latest round of arrests and indictments announced this week is just the latest reminder of the deep problems caused by big money in our politics. Just as New York City responded to a virtual tsunami of corruption in the 1980s by reforming its campaign finance system and enacting a matching system of public financing,² Albany must seize this moment and pass a similarly comprehensive set of reforms this session.

The problems we face are systemic, and the solution must be comprehensive. Piecemeal, limited measures will not lead to the culture change that we desperately need. Meaningful change will occur only if we enact sweeping campaign finance reform — including a small donor matching system; robust, independent, and bipartisan enforcement; lower contribution limits; and meaningful transparency.

We condemn those who resist change and defend the status quo as strongly as we applaud the broad range of proposals included in the Integrity in Elections Act of 2013. How many more arrests will it take before reform opponents stop defending a system that works for lobbyists and special interests, but not everyday New Yorkers? How much further must the public trust be eroded by tawdry scandal before the defenders of the current corrupt system finally acknowledge what is obvious to voters? While the recent bribery arrests prove that some elected officials are willing to engage in illegal conduct for personal gain, the perfectly legal — and utterly routine — trading of official influence for campaign cash is the cancer that must be removed from our political system.

Our problems are real and growing, and inaction is not an option.

Over the last decade, at least 19 state elected officials have been criminally charged with or convicted of corruption. The corruption has infected the highest levels of state government: from Comptroller Alan Hevesi, to three of the last five Senate Majority Leaders or Co-Leaders who have been indicted or convicted on corruption charges, it seems no level or branch of government is immune.

The result has been undeniable damage to public trust. Eighty-seven percent of New Yorkers think that corruption is a somewhat serious or very serious problem.³ Last month, eight out of 10 New Yorkers said they expected more legislators are likely to be arrested for corruption.⁴ They've already been proven right — and surely will be proven

² See generally JACK NEWFIELD & WAYNE BARRETT, *CITY FOR SALE* (1988).

³ Jon Campbell, *Poll: Voters Want More from Cuomo in Corruption Fight*, JOURNAL NEWS (White Plains, N.Y.), Apr. 17, 2013, available at <http://www.lohud.com/article/20130417/NEWS/304170078/Poll-Voters-want-more-from-Cuomo-corruption-fight?gcheck=1>.

⁴ Press Release, Siena Research Inst., *Siena College Poll: 81% of Voters Say More Arrests of Legislators for Corruption Are Likely; About 1/3 Say Their Legislator Could Be Arrested* (Apr. 22, 2013), available at http://www.siena.edu/uploadedfiles/home/parents_and_community/community_page/sri/sny_poll/SNY%20April%202013%20Poll%20Release%20--%20FINAL.pdf.

right again if we do not enact fundamental reforms to restore the public trust. Only by adopting a small donor matching system, lower contribution limits, and effective, independent enforcement will we have any hope of restoring New Yorker's faith in government.

We must reduce New York's sky-high contribution limits and enact a small donor matching system with effective, enforcement.

Reform will be insufficient to address the cultural change we need if it does not include significantly lower contribution limits and a small donor matching program. Besides a handful of states with no campaign contribution limits, New York's limits are the very highest in the nation. With such exorbitant limits, and consistently higher spending in elections, candidates are under powerful pressure to focus on the small number of donors who can afford to give the most. In 2012, legislative candidates raised 74 percent of their funds from donors of \$1,000 or more and interest groups; only 8 percent came from individuals who gave \$250 or less.⁵ Because they are dependent on a tiny slice of the population to fuel their campaigns, policymakers are pressured to cater to the interests of the donor class if they hope to keep their jobs.

Reducing contribution limits across the board to a level in line with federal law and the laws of New York's sister states will narrow the difference between what the average person can afford to contribute and the amount of the largest contributions. Reasonable, commonsense contribution limits would represent a positive first step toward a government that works for all New Yorkers, not just the wealthiest.

Ultimately, however, to ensure that large donors do not completely freeze regular voters out of our elections and politics, the state must adopt a small donor matching system of public financing. By giving candidates a strong incentive to raise much of their money from New Yorkers of average means, and by supercharging the small contributions these New Yorkers make, a small donor matching system will empower ordinary voters and restore them to their rightful place in our democracy.

Under a small donor matching system, public funds would be disbursed only where candidates succeed with grassroots fundraising. Such a system will amplify the voices of ordinary New Yorkers, and multiply their influence in Albany. The use of such a system in New York City has dramatically increased the diversity of donors, greatly increasing the influence and voice of small donors who lack access to large sums of money.⁶ And

⁵ CAMPAIGN FINANCE INST., 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 (2013), *available at* http://www.cfinst.org/Press/PReleases/13-04-01/Updated_CFI_Research_on_Public_Matching_Funds_Proposal_for_New_York_State.aspx.

⁶ ELISABETH GENN, MICHAEL MALBIN, SUNDEEP IYER, BRENDAN GLAVIN, DONOR DIVERSITY THROUGH PUBLIC MATCHING FUNDS (2012), *available at*

the city's public funding system has succeeded in making elections more competitive, allowing candidates to spend less time fundraising and more time engaging with constituents, and substantially increasing the number of people who donate to campaigns.⁷

Matching small donations from regular New Yorkers will also increase the diversity of donors as it brings more people into the class of political donors. New York City's system has encouraged new donors from low-income and minority communities; these New Yorkers are far more likely to contribute to City candidates participating in the small donor system than they are to state candidates who run with no matching system.⁸

Finally, as my colleague Ian Vandewalker recently explained in testimony presented at the IDC's hearing in New York City, when public financing is paired with robust enforcement, it leads to dramatic decreases in corruption.⁹ Effective enforcement coupled with public financing in New York City and Connecticut yielded substantial drops in corruption in those jurisdictions. It goes without saying, in light of recent events, that Albany could benefit from similar change.

Senator Klein and his IDC colleagues must bring a comprehensive reform bill to the Senate floor — and pass it.

As seems inevitable, there are powerful forces in Albany that benefit from the current corrupt system and are committed to maintaining that status quo. For this reason, we were pleased when Senator Klein introduced the Integrity in Elections Act,¹⁰ and we urge

http://www.brennancenter.org/sites/default/files/legacy/publications/DonorDiversityReport_WEB.PDF.

⁷ See ANGELA MIGALLY & SUSAN LISS, SMALL DONOR MATCHING FUNDS: THE NYC ELECTION EXPERIENCE (2010), *available at* <http://www.brennancenter.org/sites/default/files/legacy/Small%20Donor%20Matching%20Funds-The%20NYC%20Election%20Experience.pdf>. Public financing programs in other states have been found to increase voter participation and the competitiveness of elections. See also LAURA MOY, MARCUS WILLIAMS, MIMI MARZIANI, & ADAM SKAGGS, MORE THAN COMBATING CORRUPTION: THE OTHER BENEFITS OF PUBLIC FINANCING (2011), at <http://www.brennancenter.org/analysis/more-combating-corruption-other-benefits-public-financing>.

⁸ GENN ET AL., *supra* note 6, at 16-22.

⁹ *Restoring the Voters' Trust in New York State Government: Reforming New York State's Campaign Finance and Election Laws by Increasing Accountability, Closing Loopholes & Implementing Public Financing: Hearing Before the N.Y.S. Senate Independent Democratic Conference, 2013 Leg., 236th Sess. 4 (N.Y. 2013)* (statement of Ian Vandewalker, Brennan Ctr. for Justice), *available at* <http://www.brennancenter.org/analysis/senate-testimony-campaign-reform-will-restore-voters-trust-albany>.

¹⁰ S. 4897, 2013 Leg., 236th Sess. (N.Y. 2013).

Senator Klein and the IDC to move the bill to the floor without delay. With the Assembly moving this week to pass its own campaign finance reform bill, the momentum for change is increasing.

It is true that there are differences between the IDC bill and the Assembly's approach, but these distinctions should not detract from the broad agreement on the need for meaningful, comprehensive reform. Now is the time to focus on the common elements — lower limits, small donor matching, enforcement and transparency — and not to let small differences derail reform. For example, while the Brennan Center finds many commendable proposals in the IDC's bill, we are a longtime supporter of (and counsel to) strong third parties, and are concerned that a simple repeal of Wilson Pakula could destroy the ability of third parties in New York to function effectively. We believe our collective focus must be on measures that will change the culture of corruption in Albany and do not support measures that will make it more difficult to pass comprehensive campaign finance reform. But we believe above all else that disagreement on relatively minor differences between the Senate and Assembly approaches must not delay movement toward passage of sweeping reform.

Historical experience tells us that disagreement on the margins is no reason to delay reform — and that even if compromise is necessary to move forward, the most important thing is building a strong foundation for an effective campaign finance system. Both in New York City, and more recently in Connecticut, promising initial reforms have only been strengthened over time. The experience in these two jurisdictions demonstrates how legislators who have experienced the benefits of a small donor matching system first-hand can be expected to strengthen such a system over time.

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In short, the consistent experience in public funding jurisdictions has been that public financing is a beneficial change that proves immensely popular with candidates and the public. Elected officials who see the benefit of participation in the system will be motivated to strengthen it over time as they see public faith in government restored.

We are faced this session with a historic opportunity to transform Albany's culture of corruption and demonstrate national leadership. The forces opposing reform have mobilized, but the support for transformative change is overwhelming. We urge the members of the IDC to seize the mantle of reform and pass a comprehensive reform bill through the Senate, and we offer our eager and committed assistance. Thank you.