



Keeping It Clean:

Public Financing in American Elections

Steven M. Levin



Center for Governmental Studies
Solutions for Democracy



**Keeping It Clean:
Public Financing in
American Elections**

Steven M. Levin

Center for Governmental Studies

2006



Center for Governmental Studies

Solutions for Democracy

Board of Directors

Rocco C. Siciliano, Chairman

Tracy Westen, Vice Chairman & CEO

Robert Stern, President

Aileen Adams

Art Agnos

Rebecca Avila

Elizabeth Daley

Linda Douglass

Allen I. Freehling

Jay T. Harris

Aileen C. Hernandez

Robert M. Hertzberg

Stephen D. Rountree

Dan Schnur

Harold M. Williams

The Center for Governmental Studies (CGS), founded in 1983, creates innovative political and media solutions to help individuals participate more effectively in their communities and governments.

CGS uses research, advocacy, information technology and education to improve the fairness of governmental policies and processes, empower the underserved to participate more effectively in their communities, improve communication between voters and candidates for office, and help implement effective public policy reforms.

ISBN 0-9664648-3-4 Copyright © 2006 by the publisher, the Center for Governmental Studies. Permission is given to copy or reproduce this report or portions of this report, provided that proper attribution is given to the Center for Governmental Studies. Single copies of this publication are available from the Center for Governmental Studies, 10951 W. Pico Blvd., Suite 120, Los Angeles, CA 90064, by calling (310) 470-6590 or by going to www.cgs.org.

FOREWORD

This Center for Governmental Studies (CGS) report is the first comprehensive effort to analyze the effectiveness of state and local public campaign financing systems operating in the United States today. *Keeping it Clean* summarizes major attributes of key public financing systems and analyzes available data, reports, press accounts and interviews with administrators, participants, advocates and opponents of these laws. The report identifies the successes of public financing as well as weaknesses in such programs and recommends reforms to improve public financing laws nationwide. Appendices contain comparative, quick-reference charts summarizing the major provisions of all the current state and local public campaign financing laws. This report is part of the ongoing CGS series on *Public Financing in American Elections*.

As part of this series, CGS published detailed, jurisdiction-specific analyses of public financing programs in Los Angeles, *Eleven Years of Reform: Many Successes, More to be Done* (2001); San Francisco, *On the Brink of Clean: Launching San Francisco's New Campaign Finance Reforms* (2002); Suffolk County, NY, *Dead On Arrival? Breathing Life into Suffolk County's New Campaign Finance Reforms* (2003); New York City, *A Statute of Liberty: How New York City's Campaign Finance Law is Changing the Face of Local Elections* (2003) and Tucson, *Political Reform That Works: Public Campaign Financing Blooms in Tucson* (2003).

CGS also published two general reports on public financing: a primer, *Investing in Democracy: Creating Public Financing Elections in Your Community* (2003), and a report on innovative ways to fund public financing programs, *Public Financing of Elections: Where to Get the Money?* (2003) (Copies of these and other CGS reports are available at www.cgs.org.)

CGS thanks the public officials, administrators and advocates on both sides of the public financing debate who assisted in the preparation of this report by providing invaluable information, suggestions and stories about public financing programs in their jurisdictions.

Steve Levin, CGS Political Reform Project Director, authored this report. CGS President Bob Stern and Chief Executive Officer Tracy Westen supervised the study and provided invaluable research and editing suggestions. CGS Interns Maneesh Sharma and Matthew Tye made contributions to the text and Appendices. Rebecca Schwaner designed the cover and Joyce Ouchida designed the report layout. Nancy Volpert provided additional suggestions and support.

Keeping it Clean was made possible by a grant from Carnegie Corporation of New York. The views in this study do not necessarily reflect the opinions of this foundation, and it takes no responsibility for any of the statements or views in the report.

The Center for Governmental Studies has studied campaign finance reforms, and in particular public financing of electoral campaigns, since its founding in 1983. One of the few national organizations to specialize in legislative drafting, CGS has drafted model campaign finance reform ballot initiatives, laws, regulations and policy proposals across the nation.

TABLE OF CONTENTS

| | |
|--|-----|
| FOREWORD..... | iii |
| TABLE OF CHARTS | vii |
| EXECUTIVE SUMMARY..... | ix |
| I. INTRODUCTION | 1 |
| A. Why Public Financing?..... | 2 |
| B. Arguments for Public Financing | 4 |
| 1. Reduces or eliminates real or apparent corruption | 4 |
| 2. Expands the number and diversity of candidates for public office | 5 |
| 3. Increases competition among candidates | 8 |
| 4. Controls the costs of campaigns in some jurisdictions | 9 |
| 5. Increases opportunities for public participation in the political process..... | 10 |
| 6. Improves governance and legislation | 12 |
| C. Arguments against Public Financing..... | 12 |
| 1. Uses taxpayer money to promote partisan political views | 12 |
| 2. Compromises autonomy of political process from governmental administration of elections..... | 15 |
| 3. Tilts towards Democrats more than Republicans and other political parties..... | 16 |
| 4. Fails to stop non-candidate spending..... | 17 |
| 5. Fails to restrain wealthy candidate spending..... | 18 |
| 6. Other considerations | 19 |
| D. Emerging Challenges to Public Financing..... | 20 |
| II. TYPES OF PUBLIC FINANCING | 25 |
| A. Full Public Financing (“Clean Money” or “Clean Elections”) | 25 |
| B. Partial Public Financing (“Matching Funds”) | 26 |
| C. Public Financing to Political Parties..... | 27 |
| D. Refunds, Tax Credits, Deductions, Check-Offs, Add-Ons | 28 |
| E. Free Media Resources | 28 |
| F. Public Financing for Ballot Measures | 29 |
| G. Which Model Is the Best? | 29 |
| H. Sources of Funding..... | 30 |
| 1. Direct budget allocation | 30 |
| 2. Dedicated sources | 31 |
| 3. Income tax check-offs and other tax code provisions | 32 |
| III. JURISDICTIONS WITH PUBLIC FINANCING | 35 |
| A. Full Public Financing | 35 |

| | |
|--|-----|
| 1. Maine (1996)..... | 36 |
| 2. Arizona (1998)..... | 42 |
| 3. New Jersey Pilot Project (2004) | 50 |
| 4. Connecticut (2005)..... | 51 |
| 5. Portland and Albuquerque (2005)..... | 51 |
| B. Partial Public Financing | 52 |
| 1. New York City (1988)..... | 52 |
| 2. Los Angeles (1990)..... | 56 |
| 3. San Francisco (2000) | 62 |
| 4. Tucson (1985)..... | 65 |
| C. Other Forms of Public Financing | 68 |
| IV. LESSONS LEARNED AND RECOMMENDATIONS..... | 73 |
| A. Jurisdictions With Campaign Finance and Electoral Problems Should Consider Adopting a Public Financing Program | 73 |
| B. Adequate Funding Is Essential to Success..... | 74 |
| C. The Benefits of Public Financing Programs May Not Be Immediately Apparent and Plans Must Be Given Time to Work..... | 77 |
| D. Local Public Financing Programs Must Be Carefully Drafted to Avoid Violating State Laws | 77 |
| 1. Bradley v. Johnson..... | 78 |
| 2. Cary, NC..... | 78 |
| 3. New York City..... | 79 |
| E. Non-Candidate Spending and Spending by Wealthy Opponents Can Offset the Gains of Public Financing..... | 79 |
| F. Contributions to Committees and Entities Other Than a Candidate’s Campaign Committee Should Be Aggregated and Limited..... | 81 |
| G. Disbursements to Candidates Must Be Timely | 83 |
| H. Former Participants Should Be Encouraged to Use Public Financing When Running as Incumbents | 84 |
| I. Participating Candidates Who Run Unopposed Should Receive Smaller Amounts of Public Funding..... | 85 |
| J. The Public Should Be Adequately Informed About Public Financing Laws..... | 86 |
| V. CONCLUSION | 89 |
| APPENDIX A: STATE PUBLIC FINANCING CHARTS | 91 |
| APPENDIX B: LOCAL PUBLIC FINANCING CHARTS..... | 115 |
| CGS PUBLICATIONS AND PROJECTS..... | 135 |

TABLE OF CHARTS

| | |
|--|----|
| Chart 1: Costs of Local Public Financing Programs (Per Resident, Per Election Cycle).... | 14 |
| Chart 2: Candidate Participation, Maine General Elections 2000-2004..... | 39 |
| Chart 3: Candidate Participation by Gender, Maine General Elections 2000-2004 | 40 |
| Chart 4: Candidate Participation, Arizona Primary Elections 2000-2004 | 45 |
| Chart 5: Candidate Participation, Arizona General Elections 2000-2004..... | 45 |
| Chart 6: Participating Candidates Winning Arizona General Elections 2000-2004..... | 46 |
| Chart 7: Minority Candidates, Arizona Elections 2004 | 47 |
| Chart 8: Women Candidates, Arizona Elections 2004 | 48 |
| Chart 9: Arizona Voter Turnout, 1996-2004 | 49 |
| Chart 10: Candidate Participation, New York City Elections, 1989-2005 | 54 |
| Chart 11: Independent Expenditures, Los Angeles Elections 1989-2005 | 58 |
| Chart 12: Candidates Agreeing to Spending Limits, Los Angeles Elections 1993-2005..... | 60 |
| Chart 13: Candidates Receiving Matching Funds as a Percentage of Participating Candidates, Los Angeles Elections 1989-2005..... | 60 |
| Chart 14: Candidate Participation, San Francisco Elections 2002-2004..... | 64 |
| Chart 15: Candidates Agreeing to Spending Limits, Tucson Elections 1987-2003 | 66 |
| Chart 16: Candidates Receiving Public Funds as a Percentage of Participating Candidates, Tucson Elections 1987-2003..... | 67 |

EXECUTIVE SUMMARY

Money dominates modern political campaigns. Money enables candidates to disseminate their messages and communicate with voters. While technology has driven down some costs of running a campaign, the overall price of running for office has increased significantly over the past few decades. Candidates today must pay for a dizzying array of campaign costs, ranging from bumper stickers, banner ads and yard signs to television commercials, mass mailings and candidate websites.

To finance the ever-increasing costs of campaigns, candidates must raise and spend staggering sums of money. During the 2003-2004 legislative cycle, state-level candidates running for office in all 50 states raised more than \$1.4 billion.¹ Campaign finance figures for local and federal offices are equally daunting and costs show no signs of going down. Given the high costs of running for public office, candidates have become increasingly dependent on private funding, which requires them to devote a significant portion of their time to raising funds. Candidates spend hours dialing for dollars and often attend several fundraisers per week. Those numbers inevitably go up in the period just before an election.

The dominance of money in politics and candidates' obsession with raising money have wrought a number of undesirable consequences. First, raising money necessarily drains candidates' time away from addressing issues and communicating with voters. Second, candidates' acceptance of money from private funders—especially special interests and wealthy individuals—creates an appearance of undue influence that disillusion voters with the political process. Third, the spectacle of private fundraising discourages voters from participating in the political process because many feel that they cannot contribute enough money to a candidate to “make a difference.” Fourth, the high costs of mounting campaigns prohibit some otherwise well-qualified candidates from seeking office because they lack the resources or access to private funding necessary to finance their campaigns. Fifth, the growth of private money in the political system can distort the governmental process and lower the quality of a jurisdiction's legislation if public officials base their votes more on the wishes of large contributors than the merits of the legislation.

Over time, the inextricable relationship between private money and public elections has engendered a growing crisis of public confidence in elected officials and the democratic system of government. Voters feel irrelevant to the political process. Special interests and wealthy contributors appear to guide policy and legislation. Women, people of color and talented newcomers are deterred from seeking office. The overarching question is what can be done to fix these problems.

¹ See The Institute on Money in State Politics, *State Elections Overview 2004*, available at www.followthemoney.org.

Emergence of public financing

Roughly 35 years ago, campaign finance reformers undertook a new effort to reduce the inordinate role that private money plays in the political process. Of the many strategies and reforms to emerge from that period, public financing of electoral campaigns became one of the most widely-discussed and viable options that state and local jurisdictions could adopt. Public financing refers to government programs that provide public money or other support to qualified candidates to run for public office. To many observers, public financing has become the “*sine qua non* of campaign finance reform.”²

The first public financing program enacted in the United States was the Presidential Election Campaign Fund, created by federal statute in 1971. This was followed at the state level by Maryland, Minnesota and New Jersey in 1974, and at the local level by Seattle, Washington in 1978. Today, public financing programs exist in different forms in 25 states and 13 local jurisdictions.

The country is currently experiencing “*the decade of public financing.*” While the presidential public financing system founders, public financing programs in some state and local jurisdictions have flourished and expanded. Maine, Arizona and Connecticut and the cities of Portland, Oregon and Albuquerque, New Mexico have developed full public financing programs that provide sufficient money to qualified candidates to run their entire campaigns. New York City, Los Angeles and San Francisco have dramatically altered and expanded their matching funds public financing programs to include more candidates and provide more financial resources to participating candidates. The positive effects of these programs are already starting to show: more candidates, more competition, more voter participation and less influence-peddling. With a spate of political scandals at the federal, state and local levels, the trend toward more jurisdictions adopting public financing seems almost inevitable.

Evaluating public financing programs

Given the experience of public financing programs in the United States over the past 35 years, the time is ripe to analyze their strengths and weaknesses in addressing campaign finance and electoral problems. This report, *Keeping It Clean*, represents the first full-fledged effort to do so for state and local programs. By analyzing the laws, reports and data from various jurisdictions, as well as press accounts and interviews with administrators, participants and advocates on both sides of the debate who have dealt firsthand with public financing programs, this report identifies the strengths and weaknesses of state and local public financing programs and makes specific recommendations on how to develop new programs and improve existing programs.

² Daniel Hays Lowenstein, *Election Law: Cases and Materials* (1995), at 733.

Report findings

Balancing the pros and cons of public financing, this report finds that public financing is the most important campaign finance reform to emerge in the past 35 years. Public financing can help correct many of the campaign finance and electoral problems that plague state and local jurisdictions.

Specifically, public financing:

- **Frees candidates from the pressures of fundraising.** Candidates who participate in public financing programs report that they spend less time raising private money and more time communicating with voters on the issues.
- **Reduces the perception that special interest and wealthy private contributors exert undue influence over candidates.** Consistent anecdotal evidence suggests that, because they receive small private contributions or no contributions at all under public financing programs, participating candidates have greater incentive to interact with all voters—regardless of wealth—and are therefore less beholden to special interests and wealthy contributors.
- **Creates opportunities for women, minority and new candidates to participate in the political process.** Statistics show that more women, people of color and political newcomers campaign for office when offered public financing. Many candidates report that they would not have been able to run for public office without the assistance of public funds.
- **Reduces funding disparities between candidates and helps new candidates become more competitive, even though they do not guarantee new candidates' success.** Although incumbents enjoy significant advantages—financial and otherwise—over challengers, public financing reduces the fundraising disparity between new and more established candidates. Statistics show that public financing programs reduce incumbent re-election rates and margins of victory, making elections more competitive.
- **Increases opportunities for voters to become more engaged in the political process by lowering contribution thresholds and increasing voter education.** Public financing programs encourage voters to become more involved in the political process by lowering contribution thresholds to as little as \$5 in the case of full public financing programs. In full public financing systems, small contributions help candidates qualify to receive public funding. In partial public financing programs, small contributions can be matched with public funds in varying ratios, effectively giving small contributors more clout with candidates vis-à-vis special interests and wealthy individuals. Enhanced voter information through candidate debates and voter guides improves opportunities to re-integrate voters into the political process.

The bigger picture

The positive effects of public financing programs cannot be understated. However, public financing alone cannot solve all of a jurisdiction’s campaign finance and electoral problems. Public financing must be adopted as a part of a larger, more comprehensive set of reforms. These include campaign disclosure, contribution limits, expenditure ceilings, redistricting reforms, term limits and ethics rules for lobbyists and government contractors.

Furthermore, while public financing goes a long way toward curing many campaign finance and electoral ills, it is not a panacea for all problems. Campaign finance problems persist even with public financing programs in place. Finding and maintaining adequate funding, for instance, is a significant challenge for public financing programs. Independent expenditures and other forms of “non-candidate spending,” as well as wealthy candidates who spend large quantities of their own fortunes to run for public office, also undermine public financing programs.

While the United States Supreme Court has rejected stand-alone restrictions on independent expenditures and wealthy candidates, there are ways for public financing programs to deal with these problems—though they can be expensive and less effective against candidates and committees with bottomless war chests. Public financing programs must also restrict candidate fundraising for other committees, but not become so restrictive that candidates will not want to participate.

Jurisdiction-specific analyses

Keeping It Clean closely examines the different types of public financing programs, including full public financing (“clean money” or “clean elections”) programs, partial public financing (“matching funds”) programs, and a variety of other forms, including issuing tax credits, financing political parties and providing free media resources to candidates. For each state and local jurisdiction studied, the report gives a brief history and description of the program and analyzes public financing’s impact in four areas: (1) reducing or eliminating real or apparent corruption; (2) increasing the number and diversity of candidates and their competitiveness against incumbents and non-participating candidates; (3) increasing public participation in the political process; and (4) improving a jurisdiction’s governance and the quality of its legislation.

This report first examines the most recent incarnation of public financing, called full public financing, which provides qualified candidates with all of the funding necessary to run a campaign. Full public financing became available for all statewide candidates in Maine (1998), Arizona (1998) and Connecticut (2005), for candidates in some legislative races in New Jersey (2004), for certain offices in New Mexico (2003), and for judicial candidates in North Carolina (2002). In addition, Albuquerque (by voter initiative) and Portland (by legislative enactment) became the first two cities to pass full public financing laws in 2005.

The effects of full public financing vary from jurisdiction to jurisdiction, but the overall results are positive. Jurisdictions with public financing programs generally saw more candidates participating in and winning under the program, more minority and women candidates running for office, greater voter participation and more competitive elections.

These programs were not, however, problem-free. Maine, for instance, is still plagued by private contributions to candidate leadership PACs. Arizona has witnessed a number of constitutional challenges to its law and has initiated enforcement actions against candidates, including three Libertarian candidates who used public money to throw parties and one Republican legislator who was ousted from office for violating parts of the law. New Jersey's 2005 pilot program barely left the ground because the threshold to qualify for public funding was set so high that very few candidates qualified.

This report also covers partial public financing (or "matching funds") programs, which provide qualified candidates with some, but not all, of the money necessary to wage a campaign. They do so by matching private contributions with public money at ratios of up to \$4-to-\$1.

Matching funds programs have taken off in local jurisdictions including New York City (1988), Los Angeles (1990), San Francisco (2000) and Tucson (1985). Like their full public financing counterparts, jurisdictions with matching funds have seen a reduction in real and apparent corruption, more candidates running for office, greater competition between candidates and increased voter involvement in elections. Partial public financing has been successful in New York City, where candidates can receive \$4 or more in public funds for every \$1 in private money that they raise. In Tucson, the public apparently looks more favorably upon publicly financed than privately financed candidates, as evidenced by the fact that they voted out of office two local candidates who refused to participate in the program. Even as Los Angeles and San Francisco consider expanding or already have expanded their successful programs, they still face problems in the form of non-candidate spending.

Keeping It Clean also looks at a wide variety of other forms of public financing, including tax incentives for individuals who contribute to public financing funds, funding to political parties and free media resources to candidates. While a number of jurisdictions offer these forms of public financing, their programs are generally less developed, less adequately funded than full and partial public financing programs, and thus less successful. Certainly it is more difficult to measure the effectiveness of these programs because there is less data and information available in these states. Nevertheless, one can generally conclude that a program's success is directly related to the adequacy and generosity of available funding.

Report recommendations

Keeping It Clean examines problems common to many public financing programs and makes specific recommendations on how to address these problems. The report pays particular attention to the problem of non-candidate spending in elections.

The most important recommendation is for jurisdictions without public financing programs to consider their adoption. For jurisdictions with public financing in place, the remaining recommendations suggest improvements that will enhance their programs' effectiveness. Based on its findings, CGS makes the following recommendations regarding public financing:

- **Encourage jurisdictions which lack competitive campaigns and effective campaign finance regulations to adopt public financing programs;**
- **Ensure adequate funding for programs as a whole as well as for individual candidates over the course of several elections;**
- **Ensure that local public financing laws are consistent with state laws;**
- **Include triggers to provide participating candidates with additional funding when confronted with high-spending opponents and independent expenditures;**
- **Include provisions allowing candidates running unopposed or against weak opposition to receive a diminished amount of public funding;**
- **Control fundraising by candidates for separate committees and entities;**
- **Develop methods to attract new candidates and hold on to former participants; and,**
- **Educate the public about public financing programs.**

Keeping It Clean concludes that, while no political reform is without shortcomings, public financing—in combination with other reforms—is perhaps the best mechanism to solve campaign finance and electoral problems in a given jurisdiction. Whether a jurisdiction is enacting a public financing law, or whether it is debating between the different public financing options, this report is intended to provide the information and analysis that will help it think more creatively about campaign finance solutions.

★ ★ ★

CGS creates innovative political and media solutions to help individuals participate more effectively in their communities and governments. CGS uses research, advocacy, information technology and education to improve the fairness of governmental policies and processes, empower the underserved to participate more effectively in their communities, improve communication between voters and candidates for office, and help implement effective public policy reforms.

Keeping It Clean and the *Public Financing in American Elections* series of which it is a part were made possible by grants from Carnegie Corporation of New York. The statements made and views expressed are solely the responsibility of the Center for Governmental Studies.

I. INTRODUCTION

There is a crisis today in American politics—a crisis of confidence in our elected officials, a loss of faith in our democratic government, and an increasing frustration at the irrelevance of individual voters in our political process. This is a crisis so fundamental that it threatens to shake the very roots of our political democracy. It is a crisis that has turned off voters that more often stay at home than go to the polls

It is a crisis caused, in major part, by the unholy alliance of private money and public elections. The heart of the debate over money and politics concerns the very survival of our democratic process.¹

Americans' distrust of politicians and their disenchantment with the political system have reached epic proportions in recent years. Politician job approval ratings are consistently low. Voter turnout has sunk in most elections. A 2004 Harris Interactive poll found that over 80 percent of Americans believed that "big companies" and "political action committees" exerted too much power and influence over politicians.² A majority of Americans feel "disconnected from government and ignored by the political process." Nearly half the electorate says they have no impact on what the government does.³ While many Americans express dissatisfaction with the nation's campaign finance systems,⁴ they do not know how to fix them or even consider them a high priority.

Many campaign finance reformers see public financing of campaigns as the best way to reduce the role of private money in the political process. Public financing provides public money or other resources to qualified candidates to help them run for public office. By making candidates less dependent on private funding, public financing directly tackles the perception that private funding negatively influences the political process. "This model challenges the basic assumption that public elections ought to be privately financed."⁵

Without pressure to raise private funding to mount competitive campaigns, candidates are able to spend more time discussing the issues with broader segments of the electorate. Elected officials are less dependent on special interests or wealthy contributors, thereby reducing the perception that they can be bought by the highest bidder. Public financing creates greater opportunities for the public to become involved in the political process, providing resources to minority, women and new candidates who do not have personal wealth or access to wealthy contributors. Public financing controls the costs of campaigns by encouraging candidates to accept expenditure limits, which the United States Supreme Court has ruled must be voluntary to be constitutional.⁶

Many campaign finance reformers see public financing of campaigns as the best way to reduce the role of private money in the political process.

Public financing of campaigns dates back to the early twentieth century, when Progressive Era reformers such as Theodore Roosevelt proposed government subsidies for political campaigns as a way to curb the political influence of the wealthy elite created by the industrial revolution.⁷ However, it was not until the early 1970s, in response to growing concern over the role of money in federal elections and to abuses uncovered during the Watergate scandal, that Congress finally adopted a comprehensive scheme for regulating campaign finance, which included a federal public financing program for presidential campaigns.⁸ Although critics have described the Presidential Election Campaign Fund, established in 1971, to be “in deep trouble”⁹ because more candidates are refusing to participate in the program, it did start a movement toward public financing in both state and local jurisdictions over the following 35 years. In 1974, Maryland, Minnesota and New Jersey became the first states to offer public financing to candidates. In 1978, Seattle, Washington became the first local government to enact public financing, although this program was later repealed.

Public financing programs currently exist in different forms in 25 states and 13 local jurisdictions. In recent years, Arizona, Maine and Connecticut have enacted laws providing for full public financing of qualified candidates. In 2005, Portland, Oregon and Albuquerque, New Mexico became the first cities in the United States to introduce full public financing for local candidates.¹⁰

The time is ripe to analyze the experience of public financing programs over the past 35 years and to evaluate their strengths and weaknesses. By analyzing several “representative jurisdictions,” this report will derive lessons and propose specific recommendations to improve existing and future laws. Legislators and reformers interested in enacting meaningful change in their own jurisdictions can use this report as a guide to avoiding past pitfalls.

A. Why Public Financing?

Waging a successful campaign for public office depends on a candidate’s ability to communicate his or her message to voters. Communication with voters, however, is expensive. As one author has stated:

*No political campaign can run without money. Without it, there are no television ads, no newspaper ads, no bumper stickers—not even leaflets. Moreover, there is nothing wrong with candidates sending letters to voters’ homes or using television advertisements to deliver their campaign messages—such activities are essential to a vital electoral process. But as long as the political campaign takes place within our market economy, these communications will cost money.*¹¹

Even as such innovations as the Internet, e-mail and podcasting lower the costs of running for public office, the overall costs of waging a competitive campaign are still staggeringly high and prohibitively expensive for the average citizen. In the 2002 California gubernatorial election, for instance, the top four candidates raised an average \$27.34

million, while state Assembly and Senate candidates raised over \$265,000 and \$417,000, respectively.¹² One editorial posed the issue as follows:

*The problem is not that politicians won't resist the money offered to them; it's that they can't. While ideally candidates should be able to connect directly with voters through the force of their ideas as portrayed in news accounts, the reality is that winning office and governing takes more. Paid political ads are a powerful force in American politics, and to ignore that is likely to accept defeat.*¹³

Given the skyrocketing costs of campaigns for public office, candidates have become increasingly dependent on private funding, which requires them to spend a significant portion of their time before and after the election fundraising. The negative effects of this cannot be underestimated. First, raising funds drains a candidate's time away from communicating with the public. Candidates who spend a large portion of their time dialing for dollars must rely on surrogates to design their media or spread their messages.

Second, candidates' obsession with raising money inevitably creates an appearance of undue influence that disenfranchises voters from the political process. Voters understandably conclude that major contributors receive greater access to or influence over the public officials in exchange for their contributions. Their suspicion depresses voter turnout.

Third, the high costs of waging a political campaign prohibit some otherwise well-qualified and talented candidates from running for public office altogether, because they lack the personal resources or the access to wealthy contributors necessary to finance their campaigns. Because women and people of color typically earn less performing the same work as their white male counterparts, those would-be candidates are especially affected by the high costs of running for office. "Women [and people of color] are underrepresented in American government due to many factors, including a history of discrimination and disenfranchisement, as well as a relative lack of access to money to run political campaigns. The role that [public financing] can play in increasing the representation of women [and minorities] is beginning to unfold."¹⁴

Fourth, relatively few people feel they can or should take part in the political process because they do not have enough money to contribute to a candidate to "make a difference." Less than 2 percent of the U.S. population makes financial contributions of over \$200 to federal candidates. "[W]ith regard to democratic exchange and governance, the need for commitment from a diverse, broad base of perspectives suggests that dominance by a homogenous donor class representing less than 2% of the voting-age population is problematic."¹⁵ The lack of widespread participation in the democratic process threatens the integrity of the democratic system and the notion of "one person, one vote."

Perhaps most importantly, the escalating costs of running a political campaign and the growth of private money in the political system can distort the governmental process and lower the quality of a jurisdiction's legislation if politicians base their votes more on the wishes of their largest contributors than on the merits of the legislation. While it is not

easy to prove allegations of influence-buying, and even more difficult to rate legislation as “better” or “worse” with a public financing program in place, the mere possibility that private money in politics can impair legislation and policy is sufficiently compelling to explore public financing as a solution for better government. Many campaign finance reformers pose the issue as follows: It is not a matter of how a jurisdiction can afford to create public financing, but rather a matter of how it *cannot* afford to create public financing.

The measure of any public financing program, therefore, is not only whether the program increases opportunities for public officials and voters alike, but also whether it ultimately produces better legislation and policy.

B. Arguments for Public Financing

Some have said that public financing is the reform that makes all other reforms possible. By this they mean that as long as private money plays a part in elections, politicians will be subject to influence from their largest contributors at the expense of the general public.

Some have said that public financing is the reform that makes all other reforms possible.

To evaluate the validity of this statement, one must weigh the arguments supporting and opposing public financing, keeping in mind the constitutional parameters set forth by the United States Supreme Court in the *Buckley v. Valeo* decision. In

Buckley, the Court likened campaign contributions and expenditures to speech, which meant that they could not be restricted without a compelling government interest.¹⁶ The Court ruled that the prevention of corruption or the appearance of corruption was a sufficiently compelling justification for limiting the size of contributions, but not expenditures. However, the Court also found that public financing could be offered in exchange for a candidate’s voluntary limit on spending. The Supreme Court is set to revisit the spending limits issue in the 2006 term in a case from the state of Vermont.¹⁷

1. Reduces or eliminates real or apparent corruption

One of the most important arguments articulated in favor of public financing is that it reduces or eliminates the reality or appearance that special interests and wealthy contributors exert undue influence over the candidates to whom they contribute money.

*The disproportionate influence of wealthy donors is perhaps the most common complaint about contemporary American politics. Whether or not donations buy votes or legislative access . . . , the appearance of this distortion is a reality to the vast majority of citizens who are not able to donate to political campaigns, threatening the legitimacy of the democratic process. Any public subsidy proposal must be evaluated by the degree to which it removes the appearance or actuality of the undue influence of donors.*¹⁸

Some public financing programs tackle this problem by prohibiting a candidate who has accepted public funds from raising virtually any money from private donors—except for small qualifying contributions and seed money (explained in more detail below). These public financing programs cut any strings or obligations that candidates might have to the donors that contributed to their campaigns, and they open the door for increased grassroots campaigning, such as door-to-door meetings and small neighborhood gatherings.¹⁹ According to Arizona Corporations Commissioner Marc Spitzer, a participant in and vocal supporter of the state’s Clean Elections Act:

*Clean Elections makes the campaign more fun for candidates. I’ve campaigned in places I had never been before. I didn’t need to attend big fundraisers. I had to appeal to voters across the board. A large majority of the people who gave to my campaign had never given contributions before. And I knew I could count on their support because the people actually cared about the candidate.*²⁰

The absence of “soft corruption,” a term Spitzer uses to describe the disproportionate impact that paid lobbyists have over legislators, and the return of political power to the general public, is not lost on voters. As Spitzer characterizes it: “I can go and tell my constituents that I did not accept a dime from the big Enrons, and they like that.”²¹

Although not always easy to quantify, one way to measure whether public financing reduces or eliminates real or apparent corruption is to analyze the amount of private funding that a candidate receives compared to the amount of public funding he or she receives. If corruption is based upon the notion that people make contributions in exchange for policy and legislation favorable to their interests, then it follows that influence-peddling should diminish as the amount of private contributions decreases. Even if actual legislative vote-buying through campaign contributions does not take place—and certainly such forms of explicit corruption are rare and difficult to prove—a reduction in the amount of private money to campaigns reduces or eliminates the appearance that a campaign contribution buys favorable policy or increased access to a legislator.

Another way to gauge whether public financing reduces real or apparent corruption is through jurisdiction-specific public opinion polls about the trustworthiness of politicians. A recent poll by the North Carolina Center for Voter Education, for instance, found that nearly nine out of ten people polled believed that campaign contributions to state judicial candidates could lead to conflicts of interests.²² Other polls have reached similar conclusions.

2. Expands the number and diversity of candidates for public office

A second argument in support of public financing is that it increases political opportunities for new candidates. According to Barbara Lubin, Executive Director of the Arizona Clean Elections Institute (an advocacy group supporting Clean Elections), “public financing opens the electoral process to people who otherwise could not have participated under traditional models. This is true for both voters and the people they elect.”²³ In evaluating

whether a public financing program is successful, one must determine whether more candidates are running in an election as a result of public financing, and whether those candidates are winning. Additionally, one must determine whether more women and minority candidates are running for public office and winning.

Statistics show that public financing, in conjunction with term limits and other factors, encourages more people to run for public office, and that publicly financed candidates are starting to win a greater percentage of the elections in which they run. The public financing program in Arizona, which is considered by many to be the shining star of public financing programs, illustrates this point.

In November 2004, the Arizona Citizens Clean Elections Commission (“CCEC”), the government agency that administers the state’s Clean Election Act, announced that 59 percent of statewide and legislative candidates had participated in the 2004 primary elections, up from 56 percent in 2002 and 26 percent in 2000.²⁴ Furthermore, publicly financed candidates won seven of nine statewide offices in the 2002 election, which many saw as a huge test for the public financing program in Arizona.²⁵ According to Colleen Connor, former Executive Director of the CCEC, more candidates who otherwise would not have had the resources to mount a competitive campaign for public office are running in Arizona elections because of the public financing program, and more participating candidates are winning.²⁶ A May 2003 report by the United States General Accounting Office (“GAO Report”) on the early experiences of the public financing programs in Arizona and Maine found that 55 percent or more of the candidates that participated in the programs in both states considered public financing a great or very great factor in their decision to run for office in 2000.²⁷

Of course, it is not always easy to determine whether more candidates are running as a result of public financing, because other factors may influence a candidate’s decision to run. One such factor is term limits. A 2004 report on the Clean Elections Act in Maine found that the number of candidates and contested elections in that state did in fact increase after the Act was passed, but it could not determine whether the increase was

Statistics show that public financing, in conjunction with term limits and other factors, encourages more people to run for public office, and that publicly financed candidates are starting to win a greater percentage of the elections in which they run.

attributable to public financing or to a new term limits law which prevented several incumbents from running again, or both.²⁸

It is also difficult to determine whether a candidate’s victory in a race resulted from his or her acceptance of public financing, or whether some other factors played a role. One could hardly claim that public financing is “working” because a

publicly financed candidate won an election where his or her opponent was implicated in a scandal or died before the election. Other factors which could determine an election’s outcome include the amount of independent expenditures,²⁹ issue ads³⁰ or member

communications³¹ in a race, the amount of money spent by a privately financed candidate, and whether term limits prevented a popular incumbent from running again. Public financing is thus one of many factors that could increase the number of candidates running for and winning public office, and it would be an exaggeration to claim that it is the sole factor, though it is an important one.

There is also evidence to support the argument that public financing programs have encouraged more women, people of color and people from various social and economic backgrounds to run for public office, and that those candidates are winning a greater percentage of elections. For instance, the combination of term limits and increased public financing for candidates participating in the New York City Campaign Finance Program in the 2001 city election attracted more participants than ever before in the history of the program and resulted in “an even more diverse group of candidates than has typically been seen in the city, including the emergence of new immigrant voices from the Asian-American and Russian-American communities, among others.”³²

In Arizona’s 2002 elections, the number of Native American and Latino candidates running for office nearly tripled from the 2000 elections.³³ In addition, ten openly gay candidates running in the 2002 legislative election received public financing to support their candidacies. In 2000, Meg Burton Cahill, a Tempe potter who showed up at press conferences in blue jeans and Hawaiian shirts, ran a publicly financed “blue-collar” campaign against a powerful incumbent Republican and won. In the following election, Cahill ran successfully against eight competitors (including teachers, school administrators, and small business owners) who were Democrats, Republicans and Libertarians.³⁴

Public financing also provides increased opportunities for third party candidates who otherwise would not have had sufficient resources to wage a competitive campaign. In Maine, eight of 11 Green Party candidates and seven of 12 Libertarian Party candidates participated in the public financing program in the 2002 legislative races. At the same time, those who support public financing must accept that, even with certain qualification protections, programs will disburse public funds to third party and fringe candidates with less popular ideologies or campaign practices. In the 2002 Arizona gubernatorial race, for instance, Independent Party candidate and former Secretary of State Richard Mahoney used public funds to wage a particularly nasty television ad campaign against front-runners Janet Napolitano and Matt Salmon. One article found that based on the number of votes he received, Mahoney spent nearly \$20 per vote using public funds.³⁵

Whether or not candidates wearing Hawaiian shirts are good for politics and policy remains to be seen. As Arizona’s Spitzer noted, “public financing elects candidates that are more in tune with what the people want, but sometimes the people aren’t right.”³⁶ What can be said, however, is that public financing seems to break the stranglehold that special interests, wealthy contributors and lobbyists exert on politicians, and it is therefore more consistent with the concept of representative democracy.

3. Increases competition among candidates

A corollary to the argument that public financing attracts more candidates to run for office is that more elections become contested. Elections are no longer simply a matter of voters “going through the motions” to re-elect an incumbent candidate. Public financing increases the number of contested races³⁷ in some jurisdictions, even if it does not always reduce incumbent re-election rates or margins of victory.

Proponents of public financing like to say that public financing “levels the playing field” for new candidates against more established candidates, but a few points should be made about this argument. First, one must distinguish between “leveling the playing field” and reducing disparities between new and more established candidates. In reality, the advantages of incumbency—name recognition, a full-time staff, press attention and franking privileges, to name a few—are so great that they make it highly unlikely a new candidate will ever operate on an entirely even playing field with a more established opponent. What public financing can do is reduce the disparity in money and resources between new and established candidates.

Second, the Supreme Court has rejected equalization of candidate resources as a compelling government interest to justify the enactment of campaign finance legislation. “[T]he concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment”³⁸ So while proponents of public financing may tout equalization of candidate resources as an added bonus, they cannot use such a rationale as constitutional justification to pass legislation. To date, the only accepted rationale justifying the enactment of public financing legislation is one that seeks to reduce or eliminate corruption of public officials.

Public financing increases the number of contested races in some jurisdictions, even if it does not always reduce incumbent re-election rates or margins of victory.

A recent study comparing various states’ public financing programs conducted by Kenneth Mayer, Timothy Werner and Amanda Williams of the University of Wisconsin-Madison Political Science Department (hereinafter “University of Wisconsin Report”) found that

public financing can significantly increase the level of electoral competition under the right set of circumstances. The report found that elections in two states with full public financing programs, Arizona and Maine, had become much more competitive.³⁹ Arizona in particular experienced a significant jump in the number of contested races in 2002 and 2004, from under 40 percent in 2000 to over 50 percent in 2002 and 2004. Not only was this increase large, it also reversed the previous trend of fewer contested elections between 1994 and 2000.⁴⁰ The same report found that two states, Hawaii and Wisconsin, which did not invest sufficient resources in their public financing programs (i.e., public funds made up only a fraction of what candidates raised and spent), were less effective in increasing electoral competition than states which generously funded their programs.⁴¹

Opponents of public financing often criticize programs for protecting incumbents. They argue that because incumbents already have significant advantages in name recognition, experience and ability to mobilize supporters, not to mention fundraising, the spending limits that accompany public financing could adversely affect challengers who need to outspend incumbents to be competitive. In fact, this has not happened. Incumbent re-election rates in Arizona, Maine and Minnesota have all dropped between 1998 and 2004. In Arizona, the incumbent re-election rate has dropped from 98 percent in 1998 to 75 percent in 2002 and remained low at 77 percent in 2004. The 2005 University of Wisconsin Report that presented these figures did not count incumbents thrown together by a 2002 redistricting plan (which made elections significantly more competitive in Arizona), nor did it count incumbents unable to run because of term limits. Put simply, “there is no merit to the argument that public funding programs amount to an incumbent protection act.”⁴²

This decline in incumbency re-election rates is significant, but one should not consider it in a vacuum. It is difficult to determine whether clean money was the sole factor in reducing incumbent re-election rates, or whether it was merely a contributing factor. More likely than not, it was the latter. In fact, the decline in incumbency re-election rates was far less significant between 1998 and 2000, before redistricting had taken place. The first true test of Arizona’s public financing program will come in 2006, when researchers do not have to worry about a new redistricting plan.

Anecdotal evidence also supports the argument that public financing increases the number and diversity of candidates and makes elections more competitive. Says Arizona Corporations Commissioner Spitzer, “Clean Elections empowers non-establishment candidates. It increases competition by giving challengers who could not otherwise run a shot against incumbents.”⁴³ The GAO Report is replete with testimony from participating candidates who claim that they would not have been able to launch a campaign or run as a candidate without public funding. “Without the public financing program,” commented one candidate, “I seriously doubt that I would have ever run for office. And, I am sure that many other candidates were similarly influenced by the program.”⁴⁴

4. Controls the costs of campaigns in some jurisdictions

The costs of running for public office are spiraling upwards, significantly faster than the cost of living or other price indices. Escalating campaign costs deter candidates from running for office. By conditioning the provision of public funds to a candidate on his or her acceptance of expenditure limits, public financing programs aim to reduce the level of candidate spending. Proponents of public financing argue that if programs can decrease the level of candidate spending, then total campaign spending should also decline.

Total campaign spending, however, consists of two components: candidate spending and non-candidate spending (which takes the form of independent expenditures, issue ads and member communications). Public financing clearly caps spending by those who accept it, but it does not restrain spending by candidates who reject it or by those who spend

independently. For this reason, public financing programs have not necessarily controlled the total level of candidate spending or the total level of spending in campaigns. In fact, early statistics in Maine and Arizona show that both candidate spending and non-candidate spending have increased significantly in recent years.⁴⁵

Though still dwarfed by candidate spending, non-candidate spending has increased substantially across most jurisdictions. The 2001 and 2005 citywide elections and the 2003 City Council elections in Los Angeles saw dramatic increases in the levels of non-candidate spending, especially independent expenditures, from previous elections. It is difficult to ascertain exact figures on non-candidate spending because certain forms, such as member communications and issue ads, are not regulated or required to be reported in most jurisdictions. Thus, the total figures for non-candidate spending might be higher than many jurisdictions report.

Many support increased campaign spending because they believe it generates greater voter information. Others argue that campaign spending should be limited because it eventually reaches a point of diminishing returns. High spending can also drown out the voices of candidates with lesser resources.

Finding the appropriate amount of funding can be difficult. On the one hand, public funding should not be so little so as to render the participating candidate helpless against a privately-funded candidate. On the other hand, public funding should not be so high that a candidate's messages are needlessly duplicative. This is especially true as jurisdictions face budget constraints. Public funding to a candidate should give a candidate enough to stay competitive with non-participating candidates, but less than what might be considered excessive or superfluous.

5. Increases opportunities for public participation in the political process

Critics of public financing argue that contributing money is a convenient and even crucial form of political participation for politically interested people who are too busy to participate in other ways. Programs that take away this opportunity to participate, therefore, make a person less connected to the political process.⁴⁶

According to Professor Spencer Overton, however, widespread citizen participation, defined as “purposeful activities in which citizens take part in relation to government,” is “a crucial democratic value” that justifies campaign finance reform as much as the need to reduce or eliminate corruption or the need to increase competition.⁴⁷ Civic participation can take many forms, including voting, public advocacy and becoming involved with a campaign, either financially or through volunteering. Participation limited to a small donor class, however, is problematic for several reasons, not the least of which is that this class dominates the discussion of major issues, creating a narrow set of ideas and viewpoints and obstructing fully-informed decisions by public officials.

Widespread civic participation, on the other hand, serves several purposes: exposing decision makers to a variety of ideas and viewpoints; enhancing the legitimacy of government decisions, thereby increasing the likelihood that the citizenry will voluntarily comply with such decisions; allowing government priorities to reflect evolving problems and needs; and furthering the self-fulfillment and self-definition of individual citizens who play a role in shaping the decisions that affect their lives.⁴⁸

Public financing increases opportunities for civic participation by lowering the political cost of entry so that a greater number and diversity of people can participate in the political process. Jurisdictions which enact public financing programs generally see an increase in the number of contributions made by voters because the “average donation to Clean Elections candidates is almost universally affordable.”⁴⁹ Partial public financing programs also encourage greater interaction between candidates and small contributors by limiting the size of contributions that are matched with public funds.

Arizona’s full public financing program serves as an example of how lowering the cost of public participation to a \$5 qualifying contribution has increased the total number of contributions among voters. A report by the Arizona Clean Elections Institute found that the number of contributors to gubernatorial campaigns more than tripled from 11,234 voters in 1998 to 38,579 voters in 2002, after Clean Elections had been implemented.⁵⁰ The average contribution per donor for Janet Napolitano, the eventual winner of the 2002 gubernatorial election, was \$12, compared to \$293 for Matt Salmon, the runner-up who did not participate in the Clean Elections program.⁵¹ The report also found that Clean Elections increased the ethnic, economic and geographic diversity of contributors, as demonstrated by an increase in donations from low and middle income zip codes and an increase in donations from areas with large Latino populations.

In jurisdictions with partial public financing, more voters are likely to make contributions—and not necessarily in such big amounts—because the government will match their contributions with public money, thereby making the contribution worth more to a participating candidate than the same contribution would mean to a non-participating candidate. With the implementation of a \$4-to-\$1 matching funds system, New York City saw a dramatic increase in contribution dollars from a record number of contributors in its 2001 elections. In spite of the reduced contribution limits imposed in that election, contributors gave over \$54.7 million to candidates (an increase of over 85 percent from the previous election), and over half of all contributors donated in amounts of \$100 or less to one or more candidates.⁵²

Many jurisdictions that have enacted public financing programs have seen an increase in voter turnout. Although it is not always possible to link increased turnout solely to public financing, some would argue that public financing makes people feel more a part of the political process. Increased competition resulting from public financing would also increase voter turnout.

6. Improves governance and legislation

Public financing proponents argue that putting publicly financed candidates into office improves the quality of a jurisdiction’s governance and its legislation. This is obviously a more difficult argument to prove. Even if one could rate governance or legislation as “better” or “worse” with a public financing program in place, it is difficult to make a connection between the good legislation and public financing. Statistics supporting the notion that public financing improves legislation are difficult to find. Rather, most accounts of improved governance or legislation are anecdotal in nature.

Public financing proponents point to the Maine legislature’s adoption of universal health care coverage and to Arizona’s prescription drug legislation as support for the argument that jurisdictions with public financing craft better legislation than jurisdictions without public financing. Even with these supporting cases, however, it is altogether possible that external factors, such as a common event or disaster unifying political forces, a groundswell of public support for or opposition to an issue, or the emergence of an unusually dynamic leader, contributed to passage of beneficial legislation. Many would agree that it is simply too early and too difficult to determine whether public financing benefits a jurisdiction’s governance and legislation in the long-term.

However, one thing about public financing is certain: legislators are more likely to be elected democratically and are more likely to represent a broader segment of the population than just those who contributed to their campaigns. Whether public financing improves policy is not as important as the fact that public financing is more consistent with representative democracy.

C. Arguments against Public Financing

While public financing addresses many of the ills associated with private money in politics, the concept itself is not without its critics. Opponents of public financing offer a number of reasons why public financing should not be adopted.

1. Uses taxpayer money to promote partisan political views

Perhaps the most often articulated complaint about public financing is that governments—especially those facing budgetary pressures—should not use taxpayer money to subsidize political views that taxpayers may disagree with or find offensive. This argument breaks down into essentially three components. First, from a philosophical perspective, some oppose increases in government spending in general. Second, some object to the specific costs of a public financing program in relation to other government programs, questioning, for example, how the government could subsidize political campaigns at the expense of improving infrastructure or hiring more public safety officers. Third, some oppose government “sponsorship” of political views they disagree with or the views of candidates that are out of the political mainstream. Others oppose on philosophical grounds

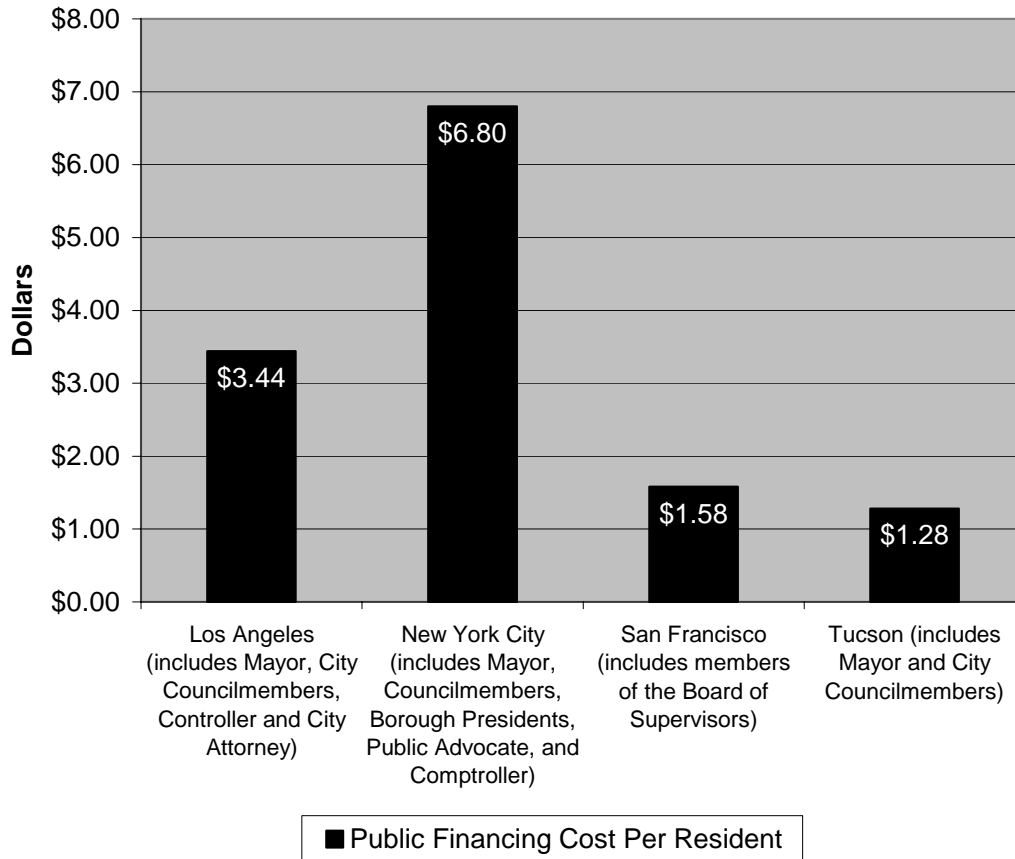
government support of any political speech, believing that such speech should be subsidized only by private individuals.

Whether one agrees with the first argument depends in large part about how one feels about government programs vis-à-vis reducing the influence of private money in politics. It follows that the more a person opposes government programs in general, the less he or she would support public financing at all—whether the costs of the program are minimal or whether the program only covers mainstream candidates.

Most public funding programs actually cost relatively little compared to the size of a jurisdiction's overall budget.

A response to those that claim that taxpayer money should not be used to promote political views at the expense of other governmental programs is that most public funding programs actually cost relatively little compared to the size of a jurisdiction's overall budget. The cost of even the largest public financing programs (like those in Arizona and New York City) represent only a small fraction of the jurisdiction's budget. Between 1998 and 2001, for example, New York City disbursed \$42.7 million in public funds out of a budget of \$146.6 billion—only 0.003 percent of the total budget.⁵³ As Mayor Rudolf Giuliani stated in 1991: “The amount of money [distributed through the public financing program] is, in the budget of New York City ... infinitesimal. You can't find it. It's a percentage of a percentage of a percentage of a percentage.”⁵⁴

**Chart 1: Costs of Local Public Financing Programs
(Per Resident, Per Election Cycle)**



A comparison of public financing costs with other expenditures in a budget is instructive. Currently, the City of Los Angeles appropriates about \$2.5 million per year from its budget to provide some, but not all, of the money necessary for qualified candidates to run their campaigns. An expanded version of the program which would provide qualified candidates with all of the money necessary to run their campaigns is estimated to cost between \$8 and \$10 million per year. As a comparison, the 2005 City budget includes \$9.7 million for advertising and public relations materials, supplies and services for Los Angeles World Airports, \$6.7 million for salaries, expense and equipment for the Mayor’s Office and \$4.8 million for marketing and public relations for the Harbor Department. Clearly creating a balanced budget in a jurisdiction involves making trade-offs between competing interests, but many would argue that instilling public trust in politicians and the political process is one interest that should be factored in among the many others.

Public financing programs must strike a balance between encouraging “serious” candidates who have thoughtful views, applicable experience and significant community support, and fringe and non-serious candidates who have little experience or maturity for elected office or who hold extreme or offensive views. Often it is difficult to establish a qualifying threshold that is high enough to make fringe candidates ineligible to receive public funds,

but low enough to reward serious candidates who genuinely need public funds to become competitive.

A recent case study in the state of New Jersey illustrates this point. In 2004, the New Jersey Legislature implemented an experimental full public financing Pilot Project in two of its legislative districts—both of which were heavily Democratic. The law required a candidate to collect 1,000 contributions of \$5 and 500 contributions of \$30 by check only. (In Arizona, which has similarly sized legislative districts, the qualifying threshold was only 210 contributions of \$5, which could be made by cash or check.) Both Republicans and Democrats who wanted to see the Pilot Project get off the ground made earnest efforts to generate the sufficient number of contributions for the Republican candidates to qualify for public funds. The Democratic governor even extended the deadline for candidates to qualify. But in the end, their efforts failed: only one of five campaigns qualified for public funding, and no Republican candidates qualified.⁵⁵ If the program survives, the Legislature will need to lower the qualifying threshold so that more mainstream candidates can participate.

Government programs often support policies or goals that some may disagree with. Yet in a democracy, majority wishes hold sway over minority views. Public financing at least creates a public dialogue in which all views can be heard. Philosophically, public financing may be analogized to government support of public parks, candidate debates or other free speech forums, which generally enhance speech opportunities for candidates and allow voters to hear and evaluate candidates' views. Government support of neutral speech platforms has long been viewed by courts as a positive good.

2. Compromises autonomy of political process from governmental administration of elections

Critics of public financing argue that public financing undermines the independence of the political process from the governmental administration of elections. In their minds, politics and campaigning should remain separate from the impartial governmental duty of administering elections. Public financing runs the risk that governments will support some candidates over others.

Some critics take this argument one step further, warning that government might actually regulate the content and style of a candidate's message. For example, some jurisdictions restrict or prohibit certain kinds of expenditures. In 2004, three Libertarian candidates in Arizona were indicted for using over \$100,000 in public funding and to court young voters at local hotspots rather than spend it on more traditional campaign expenses.⁵⁶ While most people do not like the idea of candidates using public money to throw parties (as was alleged in the Arizona case), drawing the lines between "legitimate" campaign expenses and impermissible expenses may be difficult because it is arbitrarily based on a set of tastes or morals.

Public financing supporters counter this argument by pointing out that many laws, including the First Amendment, prevent governments from discrimination in favor of

some candidates and against others. Governments administering public campaigns funding must remain scrupulously neutral.

Public financing's defenders also argue that government already spends money to administer elections, and that giving qualified candidates the funds necessary to run a clean and competitive campaign should be considered an integral part of election administration. As one public financing supporter stated: "The government already pays for polling places and voter guides. Why shouldn't it pay for qualified candidates to run as well? Giving these candidates a shot would show that the election is more than just a farce and a way to keep an incumbent in office."⁵⁷

3. Tilts towards Democrats more than Republicans and other political parties

One criticism leveled against public financing is that Democrats use—and are therefore advantaged by—programs more than Republicans and other political parties. In the 2004 Maine general election, for instance, Democrats were more likely than any other party to accept public funds: 86 percent of all Democratic legislative candidates participated in the public financing program. This rate outpaced Green Party candidates (73 percent), Republican candidates (70 percent) and Independents (67 percent). In fact, Democrats made up 50 percent of the candidates who accepted public funds, even though there were more Republicans than Democrats on the ballot. Similarly, Democrats were more likely than Republicans and third party candidates to participate in Arizona's public financing program in each of its past three elections. In 2004, 70 percent of Democrats accepted public funds, compared to 59 percent of Republicans and 13 percent of Libertarians. Democratic participation in New York City's public financing program has also far outpaced that of Republican candidates.

One can attribute the disparity in political party participation in public financing programs to a number of factors. First, Republicans are more likely to be ideologically opposed to the concept of public financing than Democrats.⁵⁸ Second, statistics in places like New York City are skewed because Democrats tend to dominate City Council elections in those jurisdictions. For instance, all Democratic City Council incumbents easily defeated Republican challengers and won re-election in 2003; they also won all contested races in 2005. Most Democratic candidates preferred to accept public funds rather than raise private money in races where there was no real competition.⁵⁹ Finally, there is some evidence that Republicans enjoy a significant fundraising advantage over Democrats—in part because their base of supporters is wealthier—which renders less necessary Republicans' acceptance of public funds.

While the concept of public financing is appealing in general, many do not like the idea that some individuals or parties use the program more than others. Some would prefer to see equal percentages of Democrats, Republicans and third party candidates running with public funds, even if they do not run in even numbers. For a public financing program to generate bipartisan support, it will need to be designed to appeal to Republicans and

Democrats alike, and to provide opportunities for third party candidates who have generated sufficient levels of support.

4. Fails to stop non-candidate spending

No factor has altered the dynamics of recent local and state elections more than the emergence of so-called “non-candidate spending,” which takes the form of independent expenditures by individuals or organizations not affiliated with the candidates, issue ads (also known as “electioneering communications”) and member communications. The Supreme Court has ruled that outside groups, as long as they do not coordinate expenditures with a candidate, may spend money in unlimited amounts because there is no risk of either real or apparent corruption to a candidate.

Non-candidate spending, however, has the potential to offset many of the gains created by public financing and to influence election outcomes significantly. More troubling still is the fact that some jurisdictions with public financing programs do not even require disclosure of non-candidate or independent spending by outside groups. This means that outside groups can spend large sums of money attempting to influence an election, and voters will not know who paid for the communications. Finally, it is no longer clear that independent spending has no corrupting effect on candidates. Heavy independent spending for a candidate who is narrowly successful may well incur that candidate’s gratitude, and the threat of independent negative spending can chill a candidate’s willingness to tackle controversial issues.

This report will delve deeper into non-candidate spending in the sections below. However, a few cases of non-candidate spending illustrate how important it has become in recent elections. In Los Angeles, non-candidate spending exploded from less than \$300,000 in 1993 to more than \$4.2 million in the 2005 election.⁶⁰ Most of this independent spending was from unions and land developers who hoped to benefit from the candidates they supported. Furthermore, member communications played a big role in the 2001 Los Angeles election after California voters passed a ballot measure exempting such communications from reporting requirements.⁶¹

No factor has altered the dynamics of recent local and state elections more than the emergence of so-called “non-candidate spending.”

In San Francisco, issue ads have played a prominent role in recent mayoral and supervisorial elections. Several mailers that were sent out shortly before the December 2003 mayoral run-off election attacked candidate Matt Gonzalez on a number of issues, but they did not expressly advocate the election of his opponent, Gavin Newsom. In one 2004 supervisorial race, outside pro-business groups spent an estimated \$300,000 either attacking incumbent candidate Jake McGoldrick or supporting his opponents.⁶² Because these issue ads were not required to be disclosed, it was impossible to determine just how much was spent.

Following these elections, San Francisco enacted legislation requiring disclosure of electioneering communications made 90 days before the election and including such communications within the type of communications that could cause the lifting of the expenditure ceilings.⁶³

Finally, in Maine, private contributions to candidates decreased as a result of the state's clean money law, but non-candidate spending, including spending for independent expenditures and issue ads, increased dramatically.⁶⁴ The GAO Report found that the amount of reported independent expenditures increased significantly in the 2000 and 2002 elections in Maine and Arizona.⁶⁵ Furthermore, the GAO Report found in a survey of participating and non-participating candidates strong agreement with the statement that independent expenditures would become increasingly important in future elections.⁶⁶

It is important to note that non-candidate spending occurs almost exclusively in competitive races compared to non-competitive races. This is not coincidental. Candidates and outside groups alike want to elect or defeat certain candidates, and they do not see the need to spend large amounts of money where the race is not competitive. But this phenomenon also underscores an important point: that outside groups make independent expenditures not solely to support a candidate they like, but also because they also expect to receive something from the candidate in return—whether it is access, favorable treatment or a combination of the two. The rise in non-candidate spending in recent elections gives support to the adage that political money will find a way to flow where certain channels have been closed.

For this reason, non-candidate spending in the form of independent expenditures, issue ads and member communications has become a significant threat to the integrity of public financing programs and to the political process itself. Many public financing laws include provisions seeking to limit the impact of non-candidate expenditures on candidates and elections, but unless and until the Supreme Court revises its opinion about non-candidate groups being able to raise and spend money in unlimited amounts, these provisions will never completely eliminate the corrupting influence that independent expenditures may have on the political process.

5. Fails to restrain wealthy candidate spending

High spending by wealthy, self-financed candidates also undermines the effectiveness of public financing programs. When wealthy candidates choose not to participate in public financing programs and then make expenditures from their personal fortunes over the applicable limits, it gives them a spending advantage over candidates who have accepted public financing and limited their spending. High spending by wealthy candidates furthers the belief that public office can be bought.

The problem of high-spending candidates has been particularly pronounced in cities like Los Angeles and New York City. In Los Angeles, millionaire Richard Riordan used \$9.7 million of his personal wealth to finance his successful 1993 mayoral campaign.⁶⁷ In New York City, billionaire Michael Bloomberg used a record-setting \$72 million of his personal

wealth to finance his winning 2001 campaign for Mayor. Bloomberg outspent his opponent (and public financing participant) Mark Green by a margin of 4-to-1, even though Green received additional funding once Bloomberg exceeded the spending limits. Bloomberg once again used over \$85 million of his personal wealth—or about \$112 per vote—in his successful 2005 re-election bid.⁶⁸

While jurisdictions cannot prevent wealthy candidates from using their own fortunes to finance their campaigns, they can enact countervailing provisions that lift the spending limits and raise the contributions limits whenever a non-participating candidate has exceeded the applicable spending limits. Some jurisdictions, like Los Angeles, New York City and Portland, go one step further by increasing public funding for participating candidates who have been outspent by wealthy opponents. While “high spending opponent triggers” are recommended in this report and are indeed necessary for a public financing program to be successful, they do place an additional financial burden on the system.

6. Other considerations

Finally, opponents of public financing object to the specific details of public financing laws that they contend are difficult to implement or enforce. Specifically, they ask: Who should qualify for public funding? Where should the public monies come from? How much should candidates receive? When should they receive it? Detractors also worry about abuses of the public financing system; that is, they worry that candidates will use public monies for non-campaign or frivolous campaign expenses. The most common complaint is that candidates should not use public funds to pay their family members for certain services.⁶⁹ Public financing opponents also complain that publicly financed candidates should not be allowed to run negative campaigns, as many of them have.⁷⁰

Over the past 35 years, jurisdictions adopting public financing laws have successfully addressed these and many other questions. Still, developing workable solutions to a wide range of technical issues has often been more difficult than one might expect, and the inability to do so has often presented significant obstacles to enacting comprehensive campaign finance reform.

A few final comments about public financing programs are in order. First, public financing is but one of many campaign finance reforms designed to help mitigate public disenchantment with the political and electoral process, but it is by no means the only one, and it should not be considered in a vacuum. Most experienced observers and participants agree that public financing should be combined with contribution limits, expenditure ceilings, responses to non-candidate spending and an effective disclosure program, including electronic online filing and disclosure. Many also agree that a combination of policies dealing with other political reform issues such as redistricting, term limits, voter

registration and electoral reforms, are ultimately necessary to improve the political and electoral process.

Second, campaign finance reform is a slow process, often taking place in increments rather than in large packages. Because campaign finance rules (or lack thereof) that are currently in place in many jurisdictions tend to benefit incumbents in power, these jurisdictions have little incentive to change the *status quo*. Change is often likely to take place following a campaign finance or political scandal and generally must be initiated by reformers or public leaders willing to split from their parties or fellow politicians.

D. Emerging Challenges to Public Financing

Although jurisdictions such as Connecticut, Portland and Albuquerque have developed new public financing programs, momentum for public financing has slowed or faced significant obstacles in other jurisdictions. Public financing programs have recently been terminated in Massachusetts and several local jurisdictions due to budgetary constraints, conflicts with state laws and philosophical reasons.⁷¹ The City of Oakland recently suspended public financing in one of its elections because it could not provide sufficient resources to candidates to wage competitive campaigns. Citing abuses in the system, a Miami-Dade County Commission committee voted in November 2005 to put a moratorium on the county's public financing program until voters have a chance to reaffirm it in 2006.⁷²

In addition, even as the City of Los Angeles considers whether to transition from partial public financing to full public financing, candidates in the 2005 city races who once accepted public funding and won their elections opted not to accept public funding when running as incumbents. That some jurisdictions are repealing and suspending public financing programs and former participants in public financing programs are not using the programs as incumbents, could indicate that support for public financing is ebbing.

One possible explanation for this phenomenon is that the electoral system is so awash in private money—whether in direct contributions to candidates or in independent expenditures and issue ads—that some candidates find it more advantageous to reject public funds and face possible criticism than to accept the funds. This counter-trend may re-open the debate on whether public financing is effective as a campaign finance solution.

Also troubling is the emergence of a new class of wealthy candidates who spend large sums of money on campaigns. In addition to the example of Mayor Bloomberg above, the two candidates in the 2005 New Jersey gubernatorial election, Democrat John Corzine and Republican Douglas Forrester, spent a combined \$71 million on their campaign, most of it their own money.

That made the race New Jersey's most expensive gubernatorial contest by far, more than doubling the spending record set in 2001. It also was close to becoming the state's most expensive campaign of any kind, a record set in 2000 when Corzine spent \$63 million winning his Senate seat.⁷³

The 2005 New Jersey gubernatorial race represented the first election in which a candidate did not accept public financing from the program.

A candidate who spends large amounts of money from his or her personal fortune necessarily raises the costs of public financing programs that increase their funds to match against wealthy candidates. This can have the effect of undermining public support and diminishing participating candidates' ability to mount an effective and competitive campaign against the wealthy candidate. Taking the trend of wealthy candidates winning office to the extreme, one could envision state and local governments predominantly run by wealthy individuals.

Notes

¹ Ellen S. Miller and Philip M. Stern, "Democratically Financed Elections," in *Changing America: Blueprints for the New Administration* (1992), at 759.

² Harris Interactive Poll, March 19, 2004, available at www.harrisinteractive.com.

³ T.R. Reid, "Most Americans Feel They're On the Sidelines of Political Process, Poll Finds," *Washington Post*, March 18, 2004, at A06.

⁴ See Gallup Poll, January 20, 2004, available at www.gallup.com/poll.

⁵ Miller and Stern, *supra* note 1, at 764.

⁶ See *Buckley v. Valeo*, 424 U.S. 1 (1976).

⁷ See Center for Governmental Studies, *Investing in Democracy: Creating Public Financing of Election in Your Community* (2003) (hereinafter "*Investing in Democracy*"), at 1.

⁸ Under the Presidential Primary Matching Payment Account Act, the federal government will match up to \$250 of an individual's total contributions to an eligible Presidential primary candidate. A candidate qualifies to receive matching funds by raising over \$5,000 in each of at least 20 states (i.e., over \$100,000). Although an individual may contribute up to \$2,100 to a primary candidate, only a maximum of \$250 per individual applies toward the \$5,000 threshold in each state. Candidates who receive matching payments must agree to limit their committee's spending, limit their personal spending for the campaign to \$50,000, and submit to an audit by the Federal Elections Commission. See 26 U.S.C. Sections 9033(a) and (b) and 9035; 11 C.F.R. Sections 9033.1, 9033.2, 9035.1(a)(2) and 9035.2(a)(1).

⁹ Campaign Finance Institute, Task Force on Financing Presidential Nominations, *So the Voters May Choose...Reviving the Presidential Matching Fund System* (2005), at 1. Although the Presidential matching funds program is an intriguing case study in public financing and worthy of its own analysis, this report will focus solely on public financing programs in U.S. states and local jurisdictions.

¹⁰ At the time of this writing, the state of California and the cities of Los Angeles (CA), San Diego (CA) and Salt Lake City (UT) were also considering full public financing for candidates in their respective jurisdictions.

¹¹ Elizabeth Daniel, *Subsidizing Political Campaigns: The Varieties & Values of Public Financing*, Brennan Center for Justice (2000), at 1.

¹² See California: State at a Glance, available at www.followthemoney.org.

¹³ Editorial: Not even a movie star can outshine money in our politics, *Portland Press Herald*, March 24, 2005, at A12.

¹⁴ Northeast Action, *Women. Legislators. Leaders.: Women Speak Out in Support of Clean Elections* (2005), available at www.northeastaction.org.

¹⁵ See Spencer Overton, "The Donor Class: Campaign Finance, Democracy and Participation," *University of Pennsylvania Law Review*, Vol. 153, No. 1, November 2004, at 75.

¹⁶ *Buckley*, 424 U.S. at 26.

¹⁷ See *Randall v. Sorrell* (Docket No. 04-1528), *Vermont Republican Party v. Sorrell* (Docket No. 04-1530), and *Sorrell v. Randall* (Docket No. 04-1697), which have been consolidated for argument. The questions presented before the Court are as follows:

1. Whether Vermont's mandatory limits on candidate expenditures violate the First Amendment and this Court's decision in *Buckley v. Valeo*, 424 U.S. 1 (1976).
2. Whether Vermont's treatment of independent expenditures by political parties and committees as presumptively coordinated if they benefit fewer than six candidates, and thereby subject to strict contribution and expenditure limits, is consistent with the First Amendment and this Court's decision in *Colorado Republican Federal Campaign Comm. v. Federal Election Comm'n*, 518 U.S. 604 (1996).
3. Whether Vermont's contribution limits, which are the lowest in the country, which allow only a single maximum contribution in an entire two-year general election cycle, and which prohibit even state political parties from contributing more than \$400 to their gubernatorial candidate, fall below an acceptable constitutional threshold and should be struck down.

¹⁸ Daniel, *supra* note 11, at 6.

¹⁹ See Arizona Clean Elections Institute, *Road to Victory: Clean Elections Shapes 2002 Arizona Elections* (December 2002) (hereinafter "*Road to Victory*"), available at www.azclean.org.

²⁰ Interview with Mark Spitzer, Arizona Corporations Commissioner, May 2, 2005.

²¹ *Id.*

²² See North Carolina Center for Voter Education, "Voters Believe Money Influences Courts, Support Bold Reforms, Says New Study by N.C. Center for Voter Education," June 28, 2005, available at www.ncvoterred.com. Judicial conflicts of interests present a greater problem because judges—perhaps more so than legislators—are expected to meet the highest standards of impartiality. The fact that this impartiality could be compromised by private funding of judicial candidate campaigns prompted the North Carolina General Assembly to pass legislation in 2002 to establish a public financing program for candidates for the state's Court of Appeals and the Supreme Court.

²³ Interview with, Barbara Lubin, Arizona Clean Elections Institute, April 11, 2005.

²⁴ See Citizens Clean Elections Commission, Press Release, November 3, 2004, available at www.ccec.state.az.us.

²⁵ See Citizens Clean Elections Commission, 2002 Elections Fact Sheet, available at www.ccec.state.az.us.

²⁶ Interview with Colleen Connor, April 25, 2005.

²⁷ See United States General Accounting Office, *Campaign Finance Reform: Early Experiences of Two States That Offer Full Public Funding for Political Candidates* (May 2003) (hereinafter "GAO Report"), at 4. Because the GAO report came out soon after the public financing programs in Maine and Arizona were enacted, its analysis has been criticized as "tentative" in nature and "too cautious in [its] analysis." See Kenneth R. Mayer, Timothy Werner, Amanda Williams, *Do Public Funding Programs Enhance Electoral Competition?*, paper presented at the Fourth Annual Conference on State Politics and Policy: Laboratories of Democracy: Public Policy in the American States, Kent State University, April 30 – May 1, 2004 (updated March 2005), available at www.campfin.polisci.wisc.edu (hereinafter "University of Wisconsin Report"), at 13.

²⁸ Raymond J. La Raja and Matthew Saradjian, *Clean Elections: An Evaluation of Public Funding for Maine Legislative Contests*, Center for Public Policy and Administration, University of Massachusetts (2004), at 18.

²⁹ An independent expenditure is an expenditure made by a person or group in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate, which is not made in concert or cooperation with or at the behest of the affected candidate or committee. See, e.g., 2 U.S.C. Section 431(17); Cal. Govt. Code Section 82031.

³⁰ An issue ad, also known as an "electioneering communication," is a communication which clearly identifies a candidate for public office (usually within a certain time period before the election) which does not expressly advocate the election or defeat of the candidate. See, e.g., 2 U.S.C. Section 434(f)(3).

³¹ A member communication is a communication to members, employees, shareholders, or families of members, employees or shareholders of an organization for the purpose of supporting or opposing a candidate. See, e.g., Cal. Govt. Code Section 85312.

-
- ³² New York City Campaign Finance Board, *An Election Interrupted: The Campaign Finance Program and the 2001 New York City Elections* (2002) (hereinafter “*An Election Interrupted*”), at 11.
- ³³ See *Investing in Democracy*, *supra* note 7, at 8.
- ³⁴ See Marc Cooper, “Running clean in Arizona: reforms have proven so popular that after two years they may be here to stay,” *The Nation*, October 14, 2002, at 20.
- ³⁵ See David Pittman, “Arizona Clean Election Law Series,” *Tucson Citizen*, July 30, 2003, at 7A.
- ³⁶ Interview with Marc Spitzer, May 2, 2005.
- ³⁷ According to the GAO Report, a contested race was one in which two or more members were running for one seat, or, in the case of Arizona (where there are multimember house district races), three or more members running for two seats. See GAO Report, *supra* note 27, at 31.
- ³⁸ *Buckley*, 424 U.S. at 48-49.
- ³⁹ See University of Wisconsin Report, *supra* note 27, at 22.
- ⁴⁰ See *id.* at 17.
- ⁴¹ See *id.* at 22.
- ⁴² See *id.* at 20-22.
- ⁴³ Interview with Marc Spitzer, May 2, 2005.
- ⁴⁴ See GAO Report, *supra* note 27, at Appendix VI.
- ⁴⁵ See generally, GAO Report, *supra* note 27, at 51-60.
- ⁴⁶ Daniel, *supra* note 11, at 7.
- ⁴⁷ Overton, *supra* note 15, at 101.
- ⁴⁸ *Id.* at 101-102.
- ⁴⁹ See Arizona Clean Elections Institute, Inc., *Reclaiming Democracy in Arizona: How Clean Elections has expanded the universe of campaign contributions*, available at www.azclean.org, at 8.
- ⁵⁰ See *id.* at 3.
- ⁵¹ See *id.* at 8.
- ⁵² See *An Election Interrupted*, *supra* note 32, at 45.
- ⁵³ Center for Governmental Studies, *A Statute of Liberty: How New York City's Campaign Finance Law is Changing the Face of Local Elections* (2003), at 30.
- ⁵⁴ New York City Campaign Finance Board, *A Decade of Reform 1988 – 1998, Vol. 1* (1998), at 71.
- ⁵⁵ See Kaitlin Gurney, “N.J. ‘clean elections’ pilot comes up short,” *Philadelphia Inquirer*, September 23, 2005, at B07.
- ⁵⁶ See Robbie Sherwood and Amanda J. Crawford, “Clean Elections Funding Involved,” *Arizona Republic*, July 20, 2004, at B1.
- ⁵⁷ Interview with Marc Spitzer, May 2, 2005.
- ⁵⁸ See Lowenstein, *Election Law: Cases and Materials* (1995), at 734.
- ⁵⁹ This caused widespread discussion about why large amounts of public funds were being spent in noncompetitive races to “subsidize sure winners.” New York City Campaign Finance Board, *2003 City Council Elections: A Report by the Campaign Finance Board* (September 2004), at 1.
- ⁶⁰ Jeffrey L. Rabin, “Laws Fail to Limit Political Spending,” *Los Angeles Times*, June 6, 2005, at B1.
- ⁶¹ See Los Angeles City Ethics Commission, *Campaign Finance Reform in Los Angeles: Lessons from the 2001 City Elections* (October 2001) (hereinafter “*Lessons from the 2001 City Elections*”).
- ⁶² See John Wildermuth, Rachel Gordon, “Apolitical ads look mighty partisan,” *San Francisco Chronicle*, December 5, 2003, at A27; see also Suzanne Herel, “Pro-business groups pony up in hope of ousting McGoldrick,” *San Francisco Chronicle*, October 30, 2004, at B4; Suzanne Herel, “Contribution limits don’t crimp spending,” *San Francisco Chronicle*, October 27, 2004, at B1.
- ⁶³ See San Francisco Campaign and Governmental Conduct Code Section 1.161.5 (2005).
- ⁶⁴ La Raja and Saradjian, *supra* note 28, at 14.
- ⁶⁵ GAO Report, *supra* note 27, at 59.
- ⁶⁶ See *id.*, at 60.
- ⁶⁷ See *Lessons from the 2001 City Elections*, *supra* note 61, at 3.
- ⁶⁸ See Sara Kugler, “Updated totals show Bloomberg’s second-term splurge topped \$85 million,” *New York Newsday*, January 13, 2006. See also Patrick D. Healy, “In New York Mayoral Campaign, It Seems You Are

What You Rent,” *New York Times*, April 6, 2005, at B1; Patrick D. Healy, “Democrats are Locked out of City Hall for 4 Straight Terms,” *New York Times*, November 9, 2005, at A1; Sara Kugler, “Re-Election Cost Bloomberg \$77 Million,” Associated Press, December 5, 2005, available at www.ap.com.

⁶⁹ See, e.g., Terri Hardy, “Campaign ordinance criticized,” *Sacramento Bee*, September 14, 2005, at B1.

⁷⁰ Robert J. Franciosi of the Goldwater Institute wrote: “Receiving Clean Elections money certainly did not make candidates clean campaigners.” See Robert J. Franciosi, *Is Cleanliness Political Godliness? Arizona’s Clean Elections Law after Its First Year*, Goldwater Institute (November 2001), at 11. At the time of this writing, the Goldwater Institute had released another report finding that Clean Elections Act had failed to live up to its stated goals. See Allison R. Hayward, *Campaign Promises: A Six-year Review of Arizona’s Experiment with Taxpayer-financed Campaigns*, Goldwater Institute (March 28, 2006). In addition, the Arizona legislature was considering a proposal which would divert funding away from Clean Elections, increase the cap on individual contributions to privately funded candidates, and relax penalties on candidates who violate campaign finance laws, effectively eviscerating the Clean Elections program. If passed by the Legislature, the proposal would go before voters. See Robbie Sherwood, “Proposal would gut Clean Elections,” *The Arizona Republic*, April 12, 2006, available at www.azcentral.com.

⁷¹ These jurisdictions include Cincinnati (OH), King County (WA), Petaluma (CA), Sacramento County (CA), Seattle (WA) and Suffolk County (NY).

⁷² See Daniel A. Ricker, “Campaign-financing program put on hold,” *The Miami Herald*, November 14, 2005.

⁷³ Josh Gohlke, “Taking Trenton by Storm,” *The Bergen Record*, November 9, 2005, available at www.northjersey.com.

II. TYPES OF PUBLIC FINANCING

Public financing takes a variety of forms. While full public financing (also known as “clean money” or “clean elections”) and partial public financing (or “matching funds”) are the most recognizable forms of public financing, other forms, including public financing to political parties, refunds, tax credits, deductions, check-offs, add-ons and free media resources, are found in state and local jurisdictions throughout the United States.

A. Full Public Financing (“Clean Money” or “Clean Elections”)

Full public financing programs provide qualified candidates with all of the funding necessary to run a campaign. Candidates first demonstrate their eligibility to receive funding, typically by collecting a specified number of small “qualifying” contributions (usually around \$5).¹ The purpose of the qualification threshold is twofold: to ensure that candidates have a broad base of support before receiving public money to wage a campaign, and to prevent fringe candidates with little support from receiving public money. Once a candidate meets the qualification threshold, he or she must cease all private fundraising activities and agree to abide by the jurisdiction’s expenditure limits as a condition for receiving public funds. The candidate then receives a disbursement of public funds in an amount equal to the spending limit. The candidate may not accept any further private contributions and may not use his or her own money to finance his or her campaign.

Three states, Maine, Arizona and Connecticut, have full public financing programs for all statewide and legislative candidates. In May 2005, the City Council of Portland, Oregon, enacted the first full public financing program in a local jurisdiction. And in October 2005, voters in Albuquerque, New Mexico approved a full public financing program by a margin of 69 percent to 31 percent. More jurisdictions, including the state of California and the cities of Los Angeles and San Diego, are also considering clean money programs.

One difficult question created by full public financing programs is whether public officials who accept public money and win their elections should also be allowed to seek private contributions for their officeholder accounts. Officeholders solicit funds

for these accounts to enable them to carry out certain duties and obligations associated with holding public office, such as attending constituent fundraisers, traveling to and engaging in professional development activities and conferences, and communicating with constituents via newsletters and e-mails. Some jurisdictions, such as the City of Los Angeles, allow public officials who used public financing to accept limited contributions from private sources for officeholder accounts, as long as the funds are used for political

Full public financing programs provide qualified candidates with all of the funding necessary to run a campaign.

purposes.² In Arizona, Governor Janet Napolitano recently vetoed a legislative proposal to raise the contribution limits for all state legislators' officeholder accounts.

Some believe that accepting private contributions for officeholder accounts undermines the policies of "clean elections" by reintroducing opportunities for money-based special influence. The Arizona Citizens Clean Elections Commission recently voted to form a committee to study whether allowing higher contribution limits for the officeholder accounts is consistent with the principles of the Clean Election Act.³

B. Partial Public Financing ("Matching Funds")

In partial public financing programs, candidates can raise private contributions which are then matched at varying ratios with public money. A candidate, for example, might receive \$250 in public funding for each private contribution of \$250 that he or she raises. Partial public financing programs are older and more widespread than full public financing programs because they are generally less expensive and sometimes more palatable to legislators and voters alike. In 2003, the city of Sacramento, California became one of the latest jurisdictions to enact a partial public financing program for local candidates.

Partial public financing programs work in several ways. Most often, programs disburse public funds to match private contributions raised by the candidate according to a set formula. The ratio of public funds to private funds varies by jurisdiction. Some jurisdictions give candidates \$0.50 in public funds for every \$1 raised, while others may give candidates \$4 in public funds for every \$1 raised. Local jurisdictions including New York City, Los Angeles and Tucson and states including Florida, Minnesota and New Jersey operate public financing programs with matching funds. Jurisdictions will often place limits on

In partial public financing programs, candidates can raise private contributions which are then matched at varying ratios with public money.

the size of a matchable contribution (*e.g.*, only contributions up to \$250 are matched), the source of matchable contributions (*e.g.*, only contributions from residents of the local jurisdiction are matched) and the total amount of public funds a candidate may receive (*e.g.*, candidates may only receive up to 50 percent of the spending limit in public funds).

Some partial public financing programs distribute public funds to qualified candidates as a lump-sum grant in a pre-established amount. Grants may be distributed both before or after the election. Some jurisdictions use a combination of matching funds and lump-sum grants.

C. Public Financing to Political Parties

Another approach to public financing is to provide public funds to qualified political parties in the jurisdiction. The parties either spend the money on party activities or funnel it to selected candidate races. Many early state public financing programs followed this approach. Parties qualify for funds by obtaining a specified percentage of the popular vote in the most recent election. Some states like Arizona, Maine and Minnesota give public money to political parties *and* to specified candidates, while other states like Alabama, Idaho, Indiana, Iowa, Kentucky, New Mexico and Virginia give public money only to political parties designated by the taxpayer. Political parties that receive public financing typically use those funds to defray the costs of political party conventions.

Although critics see this type of public financing as benefiting only Democrats and Republicans at the expense of third parties, this type of public financing ensures that public money goes only to parties considered “mainstream” in that jurisdiction and not to parties which have minimal support.

UCLA Professor Daniel Lowenstein has championed using political parties as conduits for the distribution of public money:

[P]olitical parties constitute an excellent conduit for the allocation of public funds. By and large, the parties can be expected to place the funds where they will do the most good. Public financing, then, can provide the greater part of the funds needed in competitive elections, obviating the need for private funds in amounts that come only from special interests. Public financing that is sufficient to fill the gap between what is needed and what can be raised in “clean” money, need not be prohibitively expensive because the parties will avoid wasting money in hopeless districts.⁴

Channeling public funding through political parties or political party leadership has advantages and disadvantages. One advantage is that political party leaders are in the best position to determine where the funds are needed. To the extent that political parties put money in less competitive races to make them more competitive, public financing can be a good thing.

Yet providing public financing to political parties also has its disadvantages. For one, many people do not trust political parties any more than they trust individual candidates and would rightfully be concerned about how political parties spent public monies. Political parties would likely spend money to defray their own expenses, such as staff salaries and party conventions, or allocate most of the money to incumbents rather than worthier candidates. In addition, party leaders might punish those candidates who do not strictly follow party lines.

D. Refunds, Tax Credits, Deductions, Check-Offs, Add-Ons

Some states offer refunds, tax credits or deductions to individuals who contribute to candidates or political parties.⁵ In addition, some states allow taxpayers to check a box on their tax returns to designate a specified amount of their taxes for distribution to a specific political party or to a special fund, which is then distributed to political parties.⁶ Such “check-offs” do not affect the taxpayer’s refund. Other states allow taxpayers to add a specified amount onto their income tax payment for distribution to a specific political party or to a public financing fund.⁷ These “add-on” systems reduce the taxpayer’s refund. The charts in the Appendices of this report provide details of state public financing programs with these features.

E. Free Media Resources

Many jurisdictions around the country provide candidates with non-cash resources, such as free candidate statements in voter information guides, free media time for televised debates or free opportunities to videotape statements or interviews on government or public access cable TV channels or Internet websites.⁸ There are production costs to the jurisdiction that offers mixed and written media voter information materials, but technology continues to drive them down.

Clearly these types of programs provide benefits to both the candidates who use them and to the voters who utilize the resources. Free use of a television studio and free candidate statements in the voter information guide save candidates money but still allows them to communicate their message to voters, thereby reducing the pressure to raise more money. By the same token, voters who read the voter information guide and watch publicly sponsored debates and video statements learn more about the candidates, giving them an incentive to become more involved in the political process. One advantage of programs that provide free media resources to candidates is that they often require candidates to refrain from referring to their opponents, which means that campaigning of this sort is far less negative than privately-funded candidate commercials.

While such resources are not necessarily linked to spending limits or other campaign finance restrictions, they may be considered a form of public financing. Various advocacy organizations, most notably the Campaign Legal Center’s Media Policy Program (formerly the Alliance for Better Campaigns), champion candidates’ free access to public airwaves as the best way to revitalize democracy and create an open and vibrant political debate. The Center for Governmental Studies supports free use of new media to give candidates greater access to the public.

F. Public Financing for Ballot Measures

A relatively new idea that has emerged in public financing circles is the idea of using public monies to support or oppose state and local ballot measure campaigns. In ballot initiative jurisdictions, money has come to dominate ballot measure campaigns and voters increasingly view the initiative process with the same skepticism that they view the legislative process. A September 2005 survey by the Public Policy Institute of California, for instance, found that 92 percent of California voters thought that special interests control the initiative process.⁹

Some reformers have talked about publicly financing ballot measure campaigns as a way to counter the corrosive effect of special interests on the process. Their proposal could work in a number of ways, but the basic premise is to provide a certain amount of public money to the opponents of especially well-funded ballot campaigns to provide a more balanced discussion of the issues rather than just the proponents' arguments.

Although the proposal is appealing in the abstract, providing public funding for ballot measure campaigns is problematic. The biggest problem is identifying who the opponents are and figuring out a way to distribute funds if more than one group exists. Although the proponents of a ballot measure are often unified, opponents of a ballot measure may oppose the measure for varying reasons. Sometimes opponents' positions contradict each other, and sometimes they carry little or no weight with voters. The question then becomes which of these groups should receive public funding, and in what amounts. Without developing clear guidance on this matter, most voters and lawmakers would be reluctant to spend taxpayer money on these campaigns.

G. Which Model Is the Best?

With so many public financing alternatives available to jurisdictions, which of the public financing models works best? Each model has its own advantages and disadvantages that will make it more or less suitable for a particular jurisdiction.

Some public financing advocates believe full public financing is the best and “purest” way to accomplish all of the reformers' goals: reducing or eliminating real or apparent corruption, increasing diversity and competition amongst candidates, increasing public participation in the political process and improving a jurisdiction's legislation and policy.

As Susan Lerner, Executive Director of the California Clean Money Campaign (an advocacy group in support of clean elections), recently wrote, “When candidates voluntarily accept Clean Money Funds, they can't take any money from private contributors. The public is thus

Some public financing advocates believe full public financing is the best and “purest” way to accomplish all of the reformers' goals.

ensured that the candidates running for office are accountable only to the voters, since the public pays for their campaigns, not companies or individuals who want [government] contracts.”¹⁰ However, full public financing is generally the most expensive option.

Some advocates support partial public financing or matching funds programs as the best option, especially for larger jurisdictions on a budget. These jurisdictions can start matching private money with public money in low ratios and increase the ratio as the public financing fund starts to grow. Because candidates can still receive private contributions under matching funds programs, the potential for corruption or the appearance of corruption is still present; however, this potential is greatly minimized because private contributions are generally limited and thus smaller, and candidates receive most of their money from the government, a neutral source. Supporters of this approach also see value in requiring candidates to seek modest contributions. This requires them to meet voters and persuade them that they should support the candidate’s positions with personal contributions.

Finally, where a jurisdiction lacks even the most basic financial resources to launch a public financing program, it can still implement programs by giving money to major political parties in the state (to be distributed to individual candidates or used for party activities), or by providing relatively inexpensive media resources, such as free video statements on the jurisdiction’s website or written statements in the voter pamphlet, free of charge or at a reduced rate to the candidate. Generally the extra cost of providing such resources is minimal. Such gestures help candidates communicate their messages without using potentially corrupting private money to do so.

The type of public financing that a jurisdiction decides to enact is a matter of negotiation and compromise. In the end, most proponents of public financing would agree that some form of public financing is better than none at all.

H. Sources of Funding

For all types of public financing, jurisdictions must come up with specific mechanisms to fund their programs. This can be a difficult process for jurisdictions that are struggling with budget deficits. However, adequate and guaranteed funding for a program is perhaps the *single most important factor* in determining the program’s success. This has forced jurisdictions to develop innovative strategies for funding public financing programs.

Sources of funding can be divided into three main categories: direct budget allocations, dedicated sources (such as fines paid by candidates for violating election laws) and tax return provisions. Often jurisdictions combine funding from multiple sources.¹¹

1. Direct budget allocation

One source of funding for public financing programs is through a direct appropriation of funds from a jurisdiction’s general tax revenues. Paying for public financing programs

through a direct allocation, however, is often a sensitive subject; critics of the programs may argue that the money could better be spent elsewhere. Still, as noted above, even the most expensive public financing programs are relatively inexpensive compared to other government programs and in the context of a jurisdiction's overall spending.¹² Jurisdictions such as Los Angeles, New York City and Florida use direct appropriations from their budgets to fund their respective public financing programs.

Critics see two problems with funding public financing through direct appropriations from a jurisdiction's general fund. First, it is possible that as a program becomes popular among candidates, it might run out of money. This might end up being the case in 2006 in Maine, where the Clean Election program is proving to be more popular now than when it was originally conceived. When public financing was first made available in the 2002 elections, only two out of 13 candidates for governor accepted the money. For the 2006 race, however, seven of the 12 announced candidates have applied for public financing. While they may not all end up qualifying to receive funding, there is at least a possibility that the Clean Election Fund will run out of money.¹³

Another problem with direct appropriations is that the state legislature could simply refuse to appropriate the money in a given year. This happened in Massachusetts. In June 2003, the state legislature effectively repealed the state's Clean Elections law by failing to provide funding for it in the state budget. Those that adopt public financing programs must ensure that they are free from tampering; that is, legislators and governmental agencies should not be able to raid or reduce public financing coffers whenever they wish.

2. Dedicated sources

Another way to pay for public financing programs is to use money from dedicated sources—usually by imposing fines on unpopular citizens or unfavorable activities. Examples of dedicated sources include administrative and civil penalties paid by people who violate campaign finance or ethics laws, surcharges on civil and criminal fines, and other earmarked funds.

Although administrative and registration fees on Arizona state lobbyists were originally seen as a reliable revenue source for clean elections, an Arizona state court declared them unconstitutional.¹⁴ The Arizona public financing program currently receives the majority of its money from surcharges on civil and criminal fines. The money for the new public financing program in Connecticut (about \$16 million per year) will come from unclaimed property, such as abandoned bank accounts, that is collected each year and turned over to the state's general fund.

One potential cost-saving political reform that a local jurisdiction could implement to help subsidize a public financing program is instant run-off voting (or "ranked choice voting"). Instant run-off voting replaces the two-stage election process of a primary and run-off election. In an instant run-off system, the voter ranks candidates for a single office in order of the voter's preference. If no candidate receives a majority of the votes cast, the last place finisher is eliminated and that candidate's ballots are redistributed to the voter's second

choice, until one candidate accumulates a majority of the votes cast. Instant run-off voting eliminates the need for a separate run-off election, saving cities both time and resources. Cities could then apply the money they save from consolidating elections to paying for their public financing programs. Instant run-off voting works well in local, non-partisan elections, but would not work particularly well in state partisan races, where primaries and run-offs are needed to identify the best candidates from the parties. In addition to saving jurisdictions money, instant run-off voting also increases voter participation, as was the case in the 2004 and 2005 San Francisco elections.¹⁵ The biggest disadvantage of instant run-off voting is that many consider it a difficult concept to explain to voters.

Other proposed ideas include generating revenue through “sin taxes” on alcohol, cigarettes, gambling and slot machines, as well as taxes on mail-order and internet purchases.¹⁶ Like direct allocations, paying for public financing through dedicated sources can also be politically sensitive, as legislators struggle to determine which people and which activities should be tapped, and how much money to assess.

3. Income tax check-offs and other tax code provisions

Many jurisdictions, including the federal government, rely on voluntary tax return check-offs of a minimal amount (usually between \$2 and \$5 per person) or some other tax mechanism to fund public financing programs, viewing them as the least controversial ways to raise money. At least fourteen states allow income taxpayers to designate a specified amount of their tax to be deposited to a public financing fund without affecting their overall tax liability. Another seven states allow taxpayers to donate a portion of their tax refund to the fund through tax “add-ons,” which do increase the participant’s tax bill. Four states offer taxpayers deductions or credits for political contributions up to a specified amount.¹⁷

The biggest problem with voluntary tax provisions is that not enough taxpayers are always willing to donate to the program, making such mechanisms unreliable at best. For example, only about 15 percent of Maine taxpayers elect to make contributions to the Clean Elections fund on their tax returns. Many people tend to become parsimonious around tax time.

What is surprising is that check-off participation for public financing programs, where a taxpayer’s liability is unaffected, has declined as well. For example, the percentage of tax filers that use the check-off for the presidential public financing program—probably the most recognized check-off system—has declined from over 20 percent in the late 1970s to 10 percent in 2004. The Campaign Finance Institute, which issued a report on improving the Presidential Public Financing System in 2005, attributes this decline in participation not to declining support for public financing programs, but rather to other factors, such as the dearth of public education about the check-off system, a substantial increase in the number of filers who have no tax liability (which makes them ineligible to use the check-off box) and filers’ increasing use of professional accountants and electronic filing to file their returns, which reduces their awareness about the check-off system.¹⁸

Notes

¹ Prior to the qualifying period, candidates may raise small contributions (generally limited to \$100) during the exploratory period. The purpose of this seed money is merely to get the candidate's campaign off the ground.

² See Los Angeles Municipal Code Section 49.7.12 (2005).

³ See Paul Davenport, "Despite Veto, Legislators Want Higher Contribution Limits," *Arizona Capitol Times*, June 3, 2005, available at www.azcapitoltimes.com.

⁴ Daniel Hays Lowenstein, "Frameworks Of Analysis And Proposals For Reform: A Symposium On Campaign Finance: On Campaign Finance Reform: The Root Of All Evil Is Deeply Rooted," in 18 *Hofstra L. Rev.* 301, 350-351 (1989).

⁵ Minnesota offers a \$50 refund, while Arkansas, Montana, Oregon, Virginia offer tax credits or deductions for political contributions.

⁶ These states include Arizona, Idaho, Iowa, Kentucky, New Mexico, and Utah.

⁷ These states include Alabama, Arizona, Maine, Maryland, Nebraska, North Carolina, Vermont, and Virginia.

⁸ For a more in-depth analysis of free media resources, see Center for Governmental Studies, *Video Voter: Producing Election Coverage for Your Community* (2004).

⁹ See Public Policy Institute of California, PPIC Statewide Survey September 2005, at vi and 25.

¹⁰ Susan Lerner, "Campaign finance reform should be priority," *Los Angeles Daily News*, May 14, 2005, at 1.

¹¹ For a comprehensive report on how jurisdictions have found innovative ways to fund public financing programs, see Center for Governmental Studies, *Public Financing in Elections: Where to Get the Money?* (2003) (hereinafter "*Where to Get the Money?*").

¹² Elizabeth Daniel, *Subsidizing Political Campaigns: The Varieties & Values of Public Financing*, Brennan Center for Justice (2000), at 17.

¹³ Paul Carrier, "Popularity may drain Maine's Clean Election Fund," *Portland Press Herald*, January 30, 2006, at A1.

¹⁴ See *May v. Bayless*, No. CV 2001-006078 (Mar. Cnty. Super. Ct. Apr. 2, 2002).

¹⁵ For a discussion of the effect of instant run-off voting in San Francisco, see www.sfrcv.com.

¹⁶ See *Where to Get the Money?*, *supra* note 11, at 9-10.

¹⁷ See Center for Governmental Studies, *Investing in Democracy: Creating Public Financing of Election in Your Community* (2003), at 28.

¹⁸ See Campaign Finance Institute, Task Force on Financing Presidential Nominations, *So the Voters May Choose...Reviving the Presidential Matching Fund System* (2005), at 19.

III. JURISDICTIONS WITH PUBLIC FINANCING

To better understand how the different types of public financing work in practice, an evaluation of those programs in selected jurisdictions is useful. The standards by which to judge a public financing program are whether the program:

- Reduces or eliminates real or apparent corruption;
- Increases the number and diversity of candidates;
- Makes those candidates more competitive;
- Increases public participation in the political process; and
- Changes or improves the jurisdiction's governance and legislation.

In some jurisdictions, it is simply too early or too difficult to establish a clear link between that jurisdiction's public financing program and the quality of its governance and legislation. In those cases, analysis of this factor has been eliminated. The majority of the analysis in this chapter will cover jurisdictions with full and partial public financing. A smaller portion will be devoted to jurisdictions with other forms of public financing.

A. Full Public Financing

Full public financing programs represent the purest form of public financing. Candidates raise only minimal amounts of private funding—for example, \$5 from 500 people—to gauge the level of the public support. After they qualify, candidates receive all their financing from public funds, and private contributions are prohibited. One would hardly expect a candidate to be beholden to someone making a \$5 qualifying contribution compared to \$500 or \$5,000 for non-participating candidates.

Four states—Arizona, Connecticut, Maine and Massachusetts—have enacted full public financing programs *for all state candidates*, and at the time of this writing, the legislature in California is also considering full public financing programs for all candidates. Of the four state programs, however, only two are currently in operation: Maine and Arizona. Connecticut's public financing program does not take effect until December 31, 2006, which means it will not affect Assembly races until 2008 and the race for governor until 2010. Massachusetts voters passed a Clean Election initiative in 1998, but the legislature repealed the law in June 2003.

In 1997, the state of Vermont passed a comprehensive campaign finance reform law which included a full public financing program for qualifying candidates for governor and lieutenant governor. The law imposed contribution limits and mandatory expenditure limits on *all* candidates, regardless of whether they voluntarily participated in the public financing program. Following the passage of Vermont's reforms, opponents of campaign spending limits challenged the law in federal court. While the district court found

Vermont's mandatory expenditure limits to be unconstitutional,¹ a three-judge panel of the Second Circuit Court of Appeals reversed,² finding two compelling government interests for curtailing the free speech rights of campaigns: the first was protecting the candidate's time (an argument which had previously been rejected in *Buckley*), and the second was the elimination of corruption or the appearance of corruption (which the *Buckley* Court used to justify limits on contributions, not expenditures). Refusal by an *en banc* panel of the Second Circuit to rehear the case pitted the Second Circuit decision in conflict with two opposing decisions about mandatory expenditure limits by the Sixth Circuit and the Tenth Circuit. In granting *certiorari* to hear the case, the U.S. Supreme Court is poised to revisit its opinion on expenditure limits and perhaps contribution limits for the first time since *Buckley*.

Some states provide full public financing to some, but not all, candidates.³ New Mexico, for instance, recently approved full public financing for candidates for the state's Public Regulation Commission.⁴ North Carolina adopted full public financing for general election judicial candidates for state appellate and supreme courts.⁵ A recent poll found that North Carolina's judicial public financing program to be tremendously popular with voters. "Because of concerns of corruption, 75 percent of voters polled favored North Carolina's system of public campaign financing for judicial elections."⁶

Most observers agree that it is preferable to provide generous public financing grants to candidates in a fewer number of seats than to provide smaller grants to candidates in a greater number of seats. In July 2005, the Oakland City revised its public financing law to provide public financing only to City Council candidates with matching funds of up to 30 percent of the expenditure limit, whereas it had previously provided public financing for all city offices with matching funds up to only 15 percent of the expenditure limit.⁷

1. Maine (1996)

In 1996, Maine became the first state to provide full public financing for all statewide and legislative candidates when voters passed the Maine Clean Elections Act by citizen initiative.⁸ Upon raising the necessary number of \$5 qualifying contributions and agreeing to accept a cap on their spending, participating candidates in Maine receive a lump sum of funds from the State Treasurer. This sum is based on average campaign spending by candidates for the same office in the prior two elections.⁹ In addition to the initial distribution of funds, candidates are eligible to receive matching funds from the state if the contributions or expenditures of an opposing candidate, an independent expenditure committee or a combination of the two, exceed the spending limit. Matching funds are capped at a maximum of two times the amount of the original public subsidy. Although they face no spending limits, non-participating candidates are required to raise money in relatively small amounts (\$250 for legislative races and \$500 for the gubernatorial race) and must file campaign finance reports more frequently than participating candidates.

The Clean Elections program is funded by a combination of sources, including a \$2 million appropriation by the state legislature (which accounts for most of the funding),

finances for violations of the Clean Elections law, taxpayer check-offs and \$5 qualifying contributions. The program is administered by the Maine Commission on Governmental Ethics and Elections Practices.

Supporters of the Clean Election law aimed to lessen the role of private money in elections and enhance opportunities for newcomers to run for office.¹⁰ Although the GAO Report and a 2004 study of the Act by Professor Raymond La Raja and Matthew Saradjian found the data somewhat inconclusive as to whether the Act accomplished these goals during the first few years of the program, the 2004 legislative elections answered many lingering questions. Candidate participation increased in that election, as did the program's popularity with voters. In the 2004 legislative elections, 308 of 391 candidates (78 percent) accepted public funding,¹¹ and candidates whose campaigns were publicly financed now comprise 145 of 186 members (78 percent) of the legislature—the highest percentage in all of the states.

Although Maine's public financing program is a success, it is not without problems. Funding for the 2006 gubernatorial election is at risk of running out because there are so many candidates interested in participating in the program. Another problem is that participating candidates can use political action committees to raise money from private sources to help other candidates, raising \$825,000 in the 2004 election.¹² One lawmaker introduced legislation to prevent publicly funded candidates from raising private money through political action committees, but this legislation was ultimately defeated. Even public financing proponents opposed it, arguing that the restriction would have driven several candidates in legislative leadership roles to reject public financing and return to private fundraising altogether.¹³

Maine's public financing program has also been plagued by reports of candidate abuse. In October 2005, the Commission on Governmental Ethics and Elections Practices held hearings into allegations that a third party candidate, Julia St. James, misappropriated over \$36,000 in public funds.¹⁴ While such cases involve only a small fraction of candidates who participate in the program,¹⁵ enforcement agencies must actively investigate and punish any potential wrongdoing.

a) Impact on real or apparent corruption

One way to determine whether public financing has reduced real or apparent corruption in Maine is by comparing the level of private contributions before and after the Clean Election Act was passed. The La Raja and Saradjian report found that total private funds for legislative candidates decreased from \$3 million in 1998 to \$1.6 million in 2000, and just \$894,000 in 2002. The decline in the overall amount of private funding was accompanied by a decline in contributions from business political action committees, from \$785,000 in 1999 to post-reform levels of \$418,000 in 2000 and \$374,000 in 2002.¹⁶ According to La Raja and Saradjian, the decline in private funding results directly from more candidates participating in the Clean Elections program, which in turn "reflects an important achievement for those who argue that less private money means less corruption in the political system."¹⁷

In a 2003 poll of Maine citizens aware of the public financing program, twice as many respondents answered that the law had greatly or somewhat increased their confidence in state government than those who felt the law had greatly or somewhat decreased their confidence—by a margin of 17 percent to 8 percent.¹⁸ One criticism of the GAO Report, however, is that it was conducted too soon after the Clean Election law came into effect. In fact, 26 percent of those polled responded that it was too soon to tell whether the Clean Election law has increased or decreased confidence in state government.

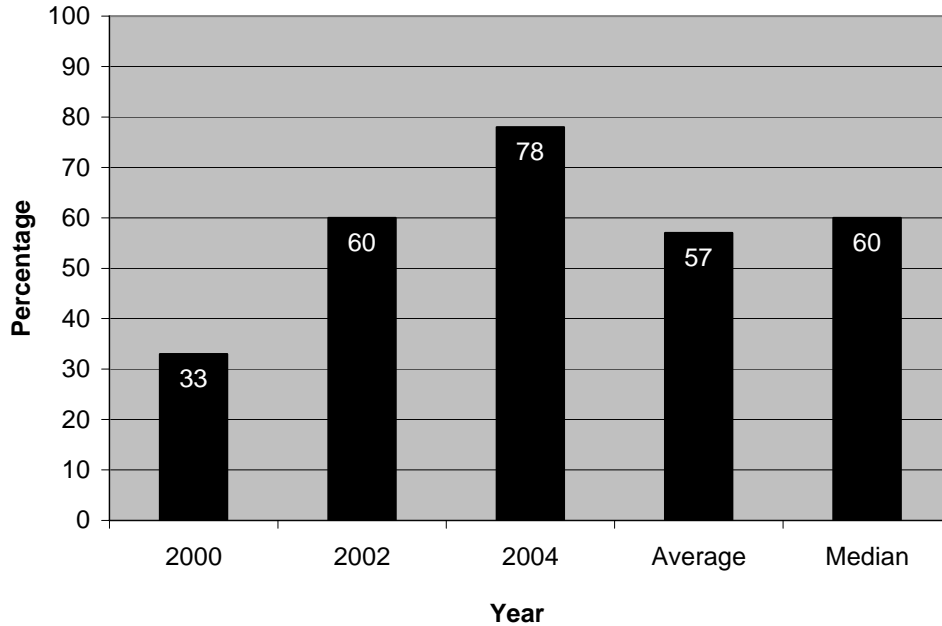
Although Maine’s public financing program has reduced the amount of private funding that candidates receive, it has generated significant non-candidate spending, particularly in competitive races where the outcome was determined by less than a 20-point margin.¹⁹ In competitive districts, independent spending occurred in 72 percent of the contests in 2002, compared with only 18 percent of non-competitive contests. It is not surprising that independent spending is higher in competitive races than non-competitive races. Even if they are not directly coordinating with a candidate, those who make independent expenditures usually do so expecting to get something in return from the candidate. However, independent expenditures occurred in relatively small amounts, and they still only reflected a small percentage of overall spending: about 17 percent of total spending in competitive House races and 10 percent of total spending in competitive Senate races.²⁰

The fact that independent spending appears in 77 percent of contests where both major candidates are publicly funded, in 69 percent of contests when one major candidate is publicly funded, and in 58 percent of the races where none of the major candidates receives public funds, indicates that the rise in independent spending in Maine cannot solely be attributed to the public financing program. Still, public financing in combination with contribution limits may spur additional independent spending. This should concern proponents of public financing, for increased non-candidate spending—particularly in a jurisdiction like Maine, where campaign spending in legislative races is relatively low—can offset some of the advantages of public funding. Moreover, because independent spending is increasingly devoted to issue ads, that are not regulated or disclosed in most jurisdictions, the impact of independent spending could be far greater than one might expect.

b) Impact on candidates

Maine’s public financing program is popular among candidates. As mentioned above, the percentage of candidates accepting public funding increased from 2000 to 2004, when 78 percent of the candidates used the program (See Chart 2.) Surveys taken of legislative candidates who participated in the program in 2004 reveal that many would not have run for office had they not received public funds to finance their campaigns.

**Chart 2: Candidate Participation,
Maine General Elections 2000-2004**



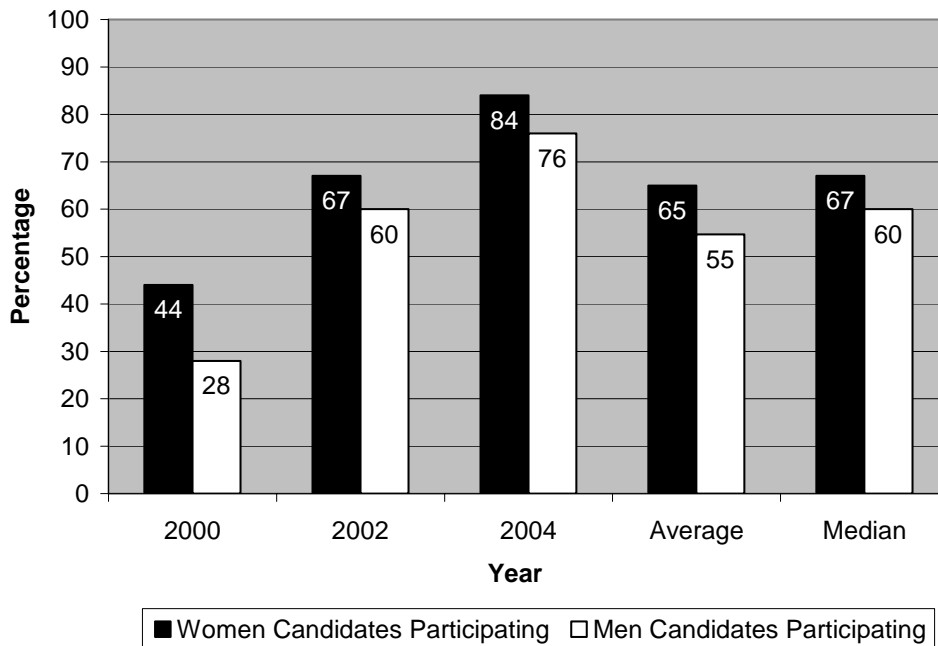
Note: Data for the 2002 election includes gubernatorial candidates
Source: Maine Citizens' Leadership Fund; GAO Report

The La Raja and Saradjian report found that participation rates increased for all types of candidates, especially among newcomers to the political system. Between 2000 and 2002, the proportion of candidates accepting public funds rose among incumbents (from 27 percent to 51 percent), challengers (from 33 percent to 67 percent) and open-seat candidates (from 40 percent to 67 percent). These statistics support one of the goals of reformers, “namely, to help ‘outsiders’ raise money for elections against incumbents.”²¹

Maine’s public financing program has also increased the diversity of candidates. While it is difficult to assess the impact of its Clean Elections program on increasing diversity of minority candidates (in large part because Maine’s general population, according to census figures, is 97 percent white),²² public financing has played a role in encouraging more women to run for office in that state. Numerous studies have found that women tend to take advantage of public funding more than men: in Maine, by a ratio of 67 percent to 60 percent between 2000 and 2004.²³ (See Chart 3.) As importantly, a survey of 2002 Clean Election candidates found that by a margin of 62 percent to 48 percent, more women than men considered the availability of a Clean Election option in Maine to be a “very” important factor in the candidate’s decision to run for public office.²⁴

Surveys taken of legislative candidates who participated in the program in 2004 reveal that many would not have run for office had they not received public funds to finance their campaigns.

**Chart 3: Candidate Participation by Gender,
Maine General Elections 2000-2004**



Source: Maine Citizens' Leadership Fund

One could attribute the increase in candidate participation in Maine's public financing program to the equalizing effect that public funding has on campaigns in that state. In sharp contrast to campaigns in other jurisdictions, challengers in Maine have narrowed the gap in average contribution totals with incumbents, and in some cases they have achieved fundraising parity or surpassed incumbent fundraising totals. "The reforms appear to reverse earlier financial distributions that give a distinct advantage to incumbents."²⁵

In addition to examining how Maine's public financing program affects the number and diversity of candidates, one must also measure the extent to which the program has affected electoral competition. The University of Wisconsin Report examined electoral competition in legislative elections in three different areas:

- *Contested races*: the percentage of incumbents who faced a major party opponent;
- *Competitiveness*: the percentage of opponents who were in a competitive race (defined as one in which the winner received less than 60 percent of the two-party vote); and
- *Re-election rate*: the percentage of incumbents who ran and were re-elected to office.²⁶

The University of Wisconsin Report found that the percentage of contested incumbents in Maine increased in both 2002 and 2004. In fact, Maine's contested rate in 2004 (98 percent) was higher than it was at any point since 1990—which is impressive in a state already known for its high rate of contested elections. La Raja and Saradjian report similar

findings, but they do not definitively attribute rising rates to the Clean Elections program. According to their report, other factors, such as term limits and the relatively low cost of running for office in that state, played a bigger part in increasing the rate of contested elections.²⁷

The University of Wisconsin Report found that competitive races nearly doubled in Maine, from 35 percent in 1998 (pre-Clean Elections) to 64 percent in 2004 (post-Clean Elections). Finally, Maine has witnessed a decline in its incumbent re-election rates since the implementation of the public financing program.²⁸

These indicators of electoral competition have led the authors of the University of Wisconsin Report to note: “With the 2004 results in hand, we can say that public funding appears to have significantly increased the competitiveness of State House elections, based on the percentage of incumbents who face major party opponents and run in reasonably close races.”²⁹

c) Impact on public participation

One can measure whether a jurisdiction’s public financing program has increased public participation in the political process in a number of ways, including voter turnout rates, the levels of small qualifying contributions and public opinion polls. Reformers claim that public financing works if they can show that more people show up at the polls, indicating greater excitement and less disappointment with candidates. Similarly, while an increase in the level of large contributions is cause for concern among reformers, an increase in the level of small qualifying contributions is a positive sign, for it shows that the public wants to take part in the political process but does not want public officials to be beholden to wealthy special interests. Finally, public opinion polls are the most direct way to gauge whether the public supports publicly funded candidates vis-à-vis privately funded candidates.

Evidence whether Maine’s public financing program has increased public participation is mixed. On the one hand, polls indicate general support for the theoretical components of the program. Yet statistics do not show that Maine’s public financing program has had an apparent effect on voter turnout, and little data exists whether more people are giving small qualifying contributions to publicly funded candidates.³⁰

One final indicator of whether public financing has increased participation in the political process—albeit a fairly minor one—is whether taxpayers elect to make contributions to the Clean Elections fund on their tax returns. According to Jonathan Wayne, Executive Director of the Maine Commission on Governmental Ethics and Elections Practices, about 15 percent of Maine taxpayers do elect to make such a contribution to the fund.³¹

d) Impact on governance and legislation

Public financing proponents point to Maine as an example of how public financing frees legislators from obligations to special interest groups, thereby paving the way for them to enact meaningful policy. A 2004 report by Public Campaign (a major national supporter of

public financing legislation) pointed to the Legislature’s adoption of Maine Rx+, a new prescription drug program, that went into effect in January 2004, as evidence that publicly financed public officials create better legislation because they are not beholden to health care and pharmaceutical special interests.³² In that report, Senate Majority Leader Sharon Treat (who sponsored the program) cited public financing and the severing of ties between lawmakers and the pharmaceutical industry as one of the primary reasons for the passage of the program.

On balance, the Clean Elections Act has had a number of positive effects on the state. It has significantly reduced the amount of private money in the state’s elections, it has increased the number and diversity of candidates and it has raised the level of electoral competition. Maine’s program will continue to serve as a model and a laboratory for full public financing at the state level.

2. Arizona (1998)

Since its passage by initiative in 1998, Arizona’s full public financing program has become the most visible and closely observed program in the country. The Clean Elections Act applies to candidates for legislative and statewide offices. Qualified candidates are eligible to receive lump sum payments for both the primary and general elections. Participating candidates may receive matching funds when opposing non-participating candidates or when independent expenditure groups exceed the primary or general election spending limits. Participating candidates are also required to participate in debates before the primary and general elections.³³

Arizona’s public financing program, which is administered by the Citizens Clean Elections Commission (“CCEC”), receives its revenues from several sources, including a surcharge of 10 percent on all civil and criminal fines and penalties, voluntary Fund donations, small qualifying contributions received by participating candidates and civil penalties assessed against violators of the Act.³⁴ The program was also funded originally by lobbyist fees, but this provision was invalidated by an Arizona state court.³⁵ Although controversial, the surcharge on civil and criminal fines and penalties accounts for a majority of the Clean

Since its passage by initiative in 1998, Arizona’s full public financing program has become the most visible and closely observed program in the country.

Elections fund, and it has increased the size of the fund significantly. The constitutionality of this surcharge was litigated by Steve May, a Republican state legislator, who claimed that it violated the First Amendment, since it coerced individuals into subsidizing

candidates whose views they opposed. While a state Court of Appeals agreed with May’s interpretation, the Arizona Supreme Court upheld the law’s constitutionality in October 2002.³⁶

Arizona's public financing program has received significant attention because information and data about the program is so readily available. Numerous Arizona state and federal courts have heard cases involving challenges to the Clean Elections law. The majority of those cases have upheld the provisions of the Act as constitutional.³⁷

The stringency of the Clean Elections Act and the CCEC was recently tested in a high-profile enforcement action involving David Burnell Smith, a publicly financed candidate for the state House of Representatives. Smith exceeded the expenditure ceilings by \$6,000, even though he had agreed under the Act not to do so. Following an investigation and hearing, the Commission unanimously voted in March 2005 to invoke the so-called "political death penalty" provision of the Act, ousting Smith from office and requiring him to repay the public monies as well as pay a fine.³⁸ Smith appealed the ruling on the ground that the Commission did not have the authority to overturn an election. In January 2006, the Arizona Supreme Court ordered Smith to leave office, marking the first time that a legislator has been ousted from office for violating a public financing law.³⁹

At least three problems have emerged in the Arizona public financing program. First, many have argued that the CCEC's enforcement of the laws has been one-sided, benefiting Democrats at the Republicans' expense. Second, although shadow campaigns involving independent expenditures and issue ads have plagued other states, Arizona has had to deal with shadow campaigns by state political parties, which can raise "soft money" in unlimited amounts and spend that money on behalf of candidates. According to Colleen Connor, formerly of the CCEC, the infusion of spending from state political parties, independent expenditure and issue ad spending has distorted the political process. While the Act cannot impose limits on political parties spending money on candidates, the state can regulate the amount of money a political party receives in soft money. Connor would recommend doing so.⁴⁰ Finally, while candidate participation remained high in 2004, many candidates who accepted public financing and won became less likely to support or use public financing again, presumably because it became easier to raise private money as an incumbent. This trend also emerged in Los Angeles City elections.

a) Impact on real or apparent corruption

Whether Arizona's public financing program has reduced the influence of special interests depends on whom you ask. According to a November 2001 report by the Goldwater Institute, which watches state government spending and opposes public financing, the Clean Elections Act has had no apparent effect on the legislature. Legislators who accepted public money voted almost exactly the same as their privately funded colleagues.⁴¹ According to the Goldwater Institute Report, "[I]t is probably surprising for most to learn that the evidence for any systematic effect (that is, excluding the occasional bribery scandal) of money on electoral victory or legislative action is unclear."⁴²

A report by the Arizona Clean Elections Institute, on the other hand, suggests that the threat of actual and apparent corruption in Arizona is real, and that the state's public financing program goes a long way toward reducing the influence of special interests and lobbyists and re-connecting legislators with voters. According to that report, 79 percent of

the candidates with the largest war chests won their races in the 1998 elections, compared to only two percent in 2002 after implementation of the Clean Elections. In addition, the Clean Elections Act expanded grassroots campaigning in that it:

*opened the door for increased voter communication by candidates. Through the collection of \$5 qualifying contributions, candidates returned to walking door-to-door and attending small neighborhood gatherings—traditional aspects of grassroots campaigning that, in recent years, were replaced by high-dollar advertising and big dollar events.*⁴³

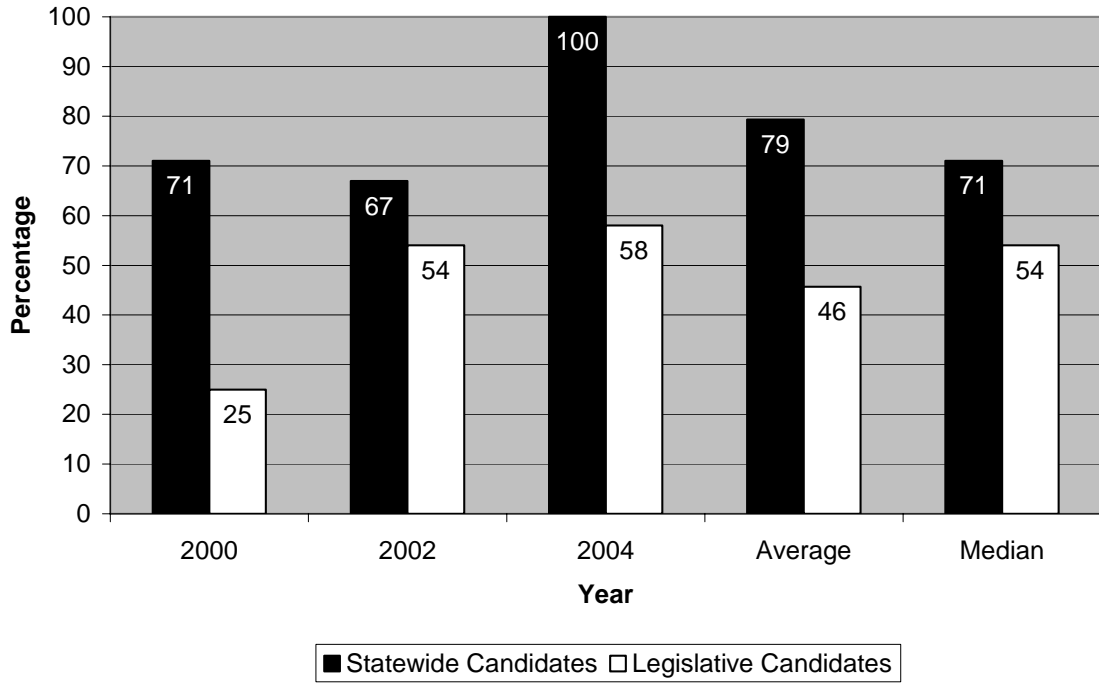
The GAO Report corroborates the anti-corrupting influence of Arizona’s program—although to a limited extent. Polls of Arizona voters with knowledge of the public financing program revealed that most thought it was too early to tell or had no effect on special interests’ relationship to legislators.

Frank conversations with members of interest groups, however, reveal that private campaign contributions helped donors obtain access to public officials (even if they did not secure those officials’ votes on certain matters), and that the introduction of public financing had a positive effect on government because the relationship between lobbyists and the public officials tended to be “more professional” and to focus more “on the contents or merits of proposed legislation rather than on campaign contributions.”⁴⁴

b) Impact on candidates

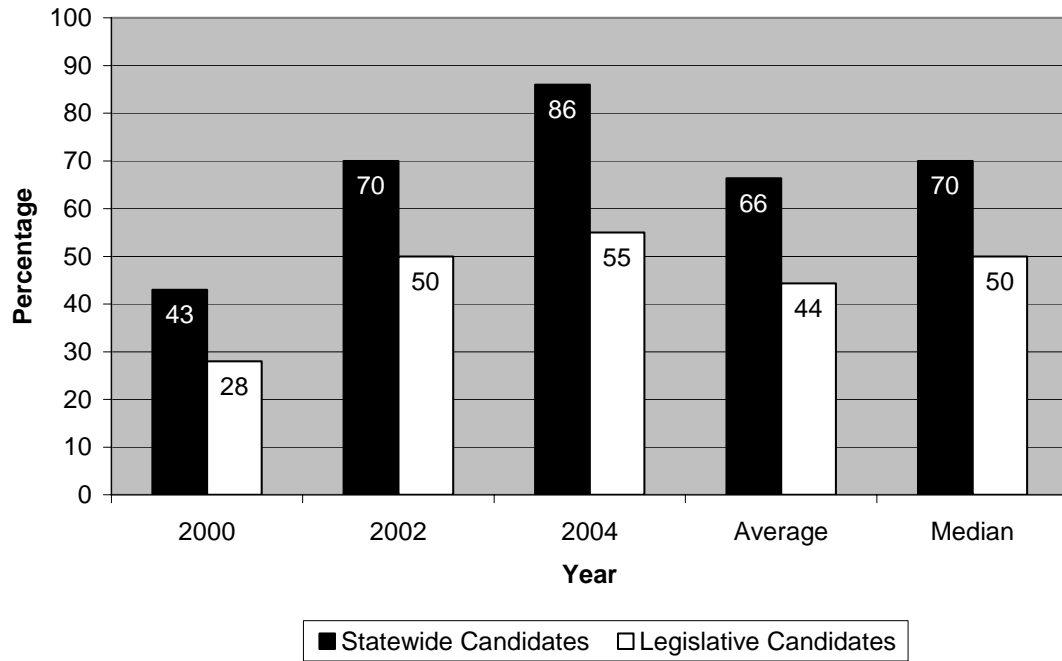
Arizona’s public financing program has dramatically increased the number and diversity of candidates, and also increased electoral competition. Arizona’s public financing program is widely used by candidates. As the charts below indicate, participation in the public financing program by statewide and legislative candidates alike has for the most part increased in both the primary and general elections. (See Chart 4 and Chart 5.)

**Chart 4: Candidate Participation,
Arizona Primary Elections 2000-2004**



Source: Citizens Clean Election Commission

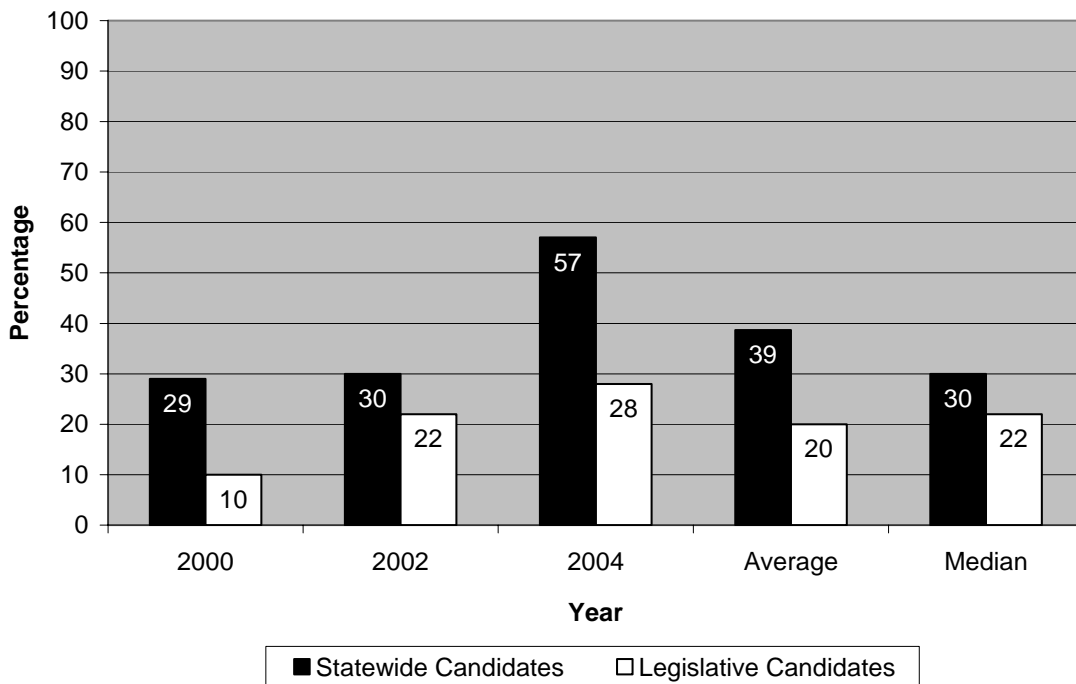
**Chart 5: Candidate Participation,
Arizona General Elections 2000-2004**



Source: Citizens Clean Election Commission

Not only did the number of publicly financed candidates increase between 2000 and 2004, but so did the number of publicly financed candidates who won their elections. (See Chart 6.) In 2004, participating candidates won 52 percent of the statewide and legislative offices. This is an increase from 39 percent in 2002 and 17 percent in 2000.⁴⁵ These figures indicate that Arizona voters are taking publicly financed candidates as seriously as they do non-participating candidates. In fact, some would argue that this trend demonstrates that given the choice between participating and non-participating candidates, voters are starting to prefer the candidate who has accepted public monies to run his or her campaign.

**Chart 6: Participating Candidates Winning
Arizona General Elections 2000-2004**



Source: Citizens Clean Election Commission

Arizona’s Clean Elections law has also provided increased opportunities for women and people of color to run for office. Clean Elections program enables candidates to run for public office who otherwise could not afford to take part in the political process, and it

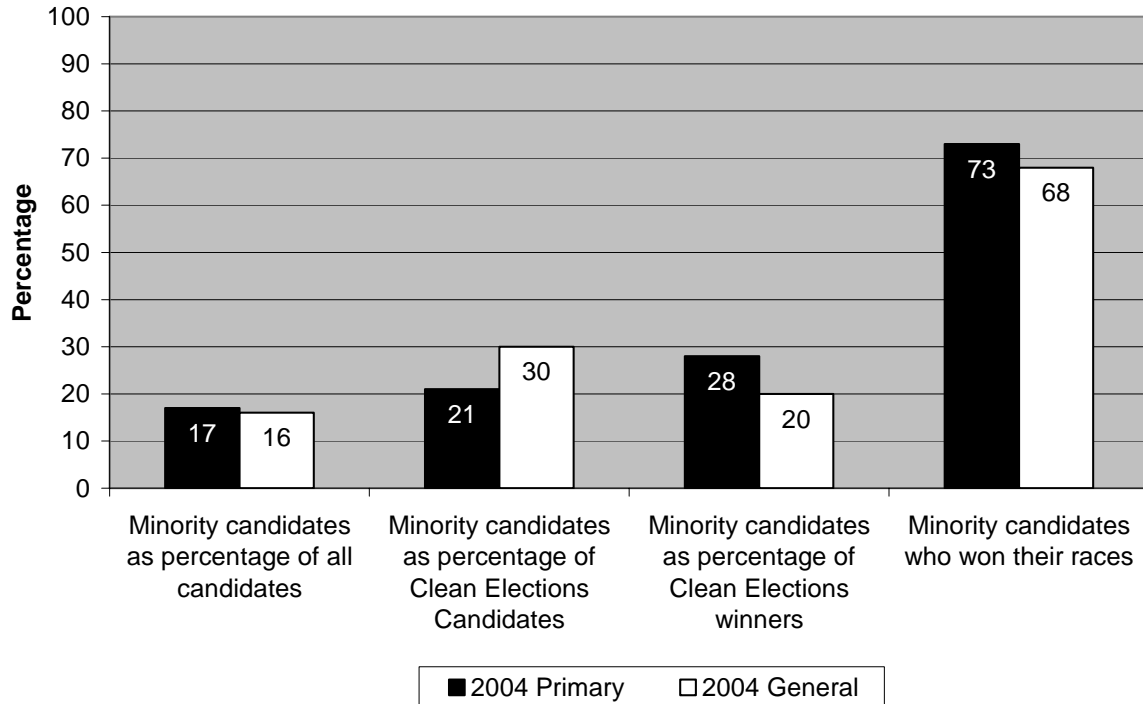
Arizona’s public financing program has dramatically increased the number and diversity of candidates, and also increased electoral competition.

allows more people to participate in the political process. Minorities used public financing in great numbers: 68 percent and 52 percent of minority candidates ran as Clean Elections candidates in the 2004 primary and general elections, respectively.

Moreover, while minorities represented 17 percent and 16 percent of all candidates in the 2004 primary and general

elections, they accounted for 21 percent and 30 percent of all clean elections candidates in those same races. (See Chart 7.) Publicly financed minority candidates also won a significant percentage of the overall elections.

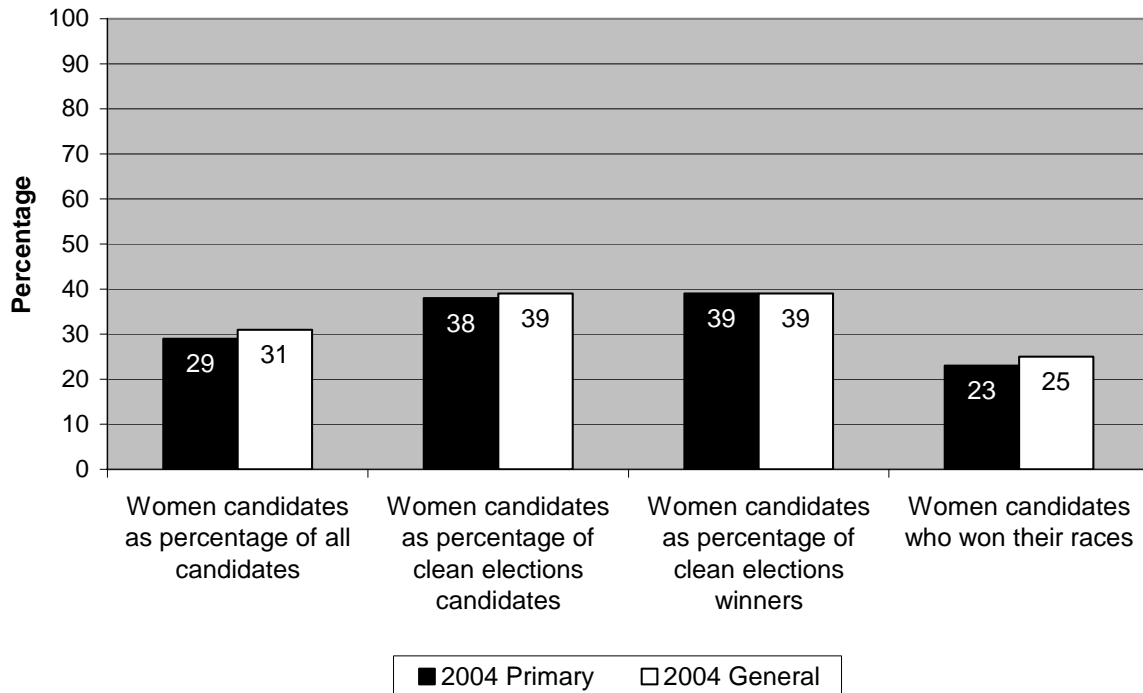
Chart 7: Minority Candidates, Arizona Elections 2004



Source: Clean Elections Institute

In a similar vein, 70 percent of women candidates in the 2004 primary and 67 percent in the 2004 general ran using public funds. They accounted for 29 percent (primary) and 31 percent (general) of all candidates and 38 percent (primary) and 39 percent (general) of all clean elections candidates. (See Chart 8.)

Chart 8: Women Candidates, Arizona Elections 2004



Source: Clean Elections Institute

Finally, public financing has increased electoral competition in Arizona. The indicators in the University of Wisconsin Report (contested races, competitiveness and incumbent reelection rates) have improved or remained stable through the 2002 and 2004 election cycles.⁴⁶ The state experienced a significant jump in the number of contested races in 2002 and 2004, increasing from under 40 percent in 2000 to over 50 percent in 2002 and 2004.⁴⁷ As to competitiveness, the results in the 2004 State House elections were somewhat inconclusive: the percentage of incumbents forced to run in competitive races in 2004 (about 36 percent) was about the same as it was in 2000, down from a record of 47 percent in 2002. However, this measure remains higher than it was in the pre-public financing era.⁴⁸ Finally, the incumbent reelection rate has dropped from 98 percent in 1998 to 75 percent in 2002, and it remained steady in 2004 at 77 percent. These factors present “compelling evidence that Arizona ... [has] become a much more competitive state in the wake of the 1998 Clean Elections program.”⁴⁹

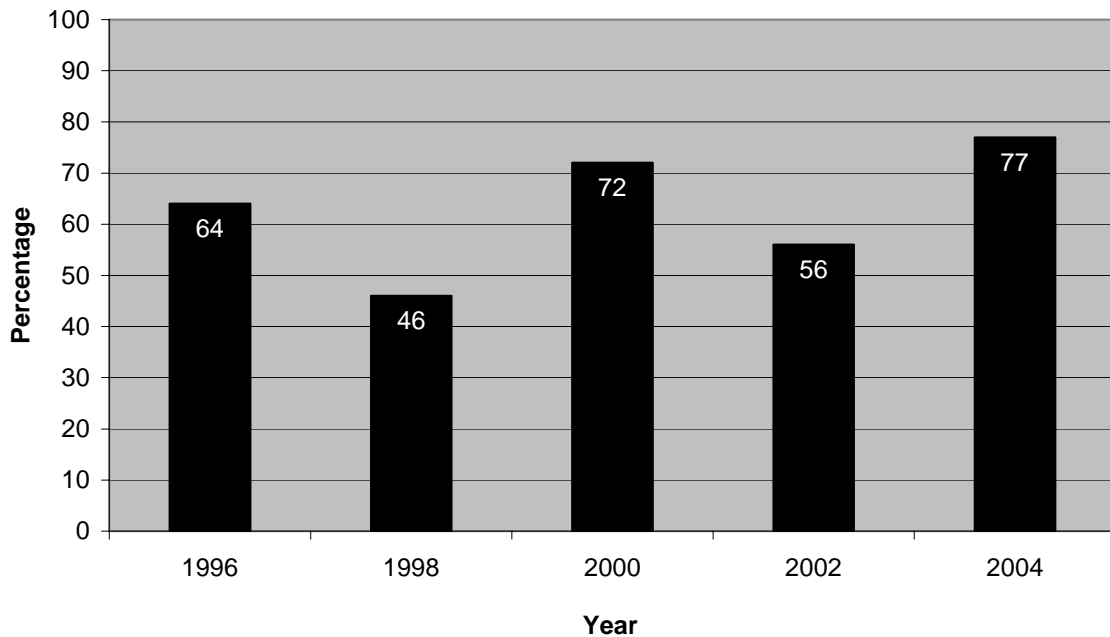
c) Impact on public participation

Arizona’s public financing program has increased public participation in the political process and become popular with the voting public. A 2004 poll by Arizona State University and a local news channel found that 57 percent of voters would reject a ballot initiative aimed at overturning the public financing law, compared with 18 percent who would support it.⁵⁰ The number of donations to political campaigns tripled from 30,000 private donations in 1998 to more than 90,000 \$5 qualifying contributions in 2002.⁵¹

Lowering the political cost of entry to just \$5 also increased the ethnic, economic and geographic diversity of contributors.

The Arizona Clean Elections program has also affected voter turnout. Voter turnout increased by 8 percent, from 64 percent to 72 percent, between the 1996 presidential election (pre-Clean Elections) and the 2000 presidential election (the first under the program). That number went up another five percentage points to 77 percent in the 2004 presidential. Similarly, voter turnout increased by 10 percent, from 46 percent to 56 percent, between the 1998 midterm election (pre-Clean Elections) and the 2002 midterm elections. (See Chart 9.)

Chart 9: Arizona Voter Turnout, 1996-2004



Source: Arizona Secretary of State

Voter education, which is a part of the public financing program, remains one of the more popular aspects of the program with both voters and candidates. All candidates (including non-participating candidates) are given the opportunity to place a statement in the state-published Voter Guide, which in 2002 was mailed to 700,000 registered-voter Arizona households. Interestingly, 86 percent of *all* candidates for statewide and legislative offices, including non-participating candidates, chose to place a statement in the Voter Guide in 2002. The voter education program also includes CCEC-sponsored debates for participating candidates. Although they are not widely attended due to limited awareness, the debates are popular because, as former Director Connor put it, “people like the idea of the debate.”⁵²

d) Impact on governance and legislation

Whether Arizona’s public financing program has improved governance and legislation in that state is still open to debate. Opponents of the Clean Elections Act, like Robert J. Franciosi, author of the 2001 Goldwater Institute Report, claim that the difference in the voting records of participating and non-participating candidates is negligible, and that the costs of the public financing program far outweigh the benefits. Reformers in the Clean Elections Institute, on the other hand, maintain that public financing in Arizona “is changing the influence of special interest money in elections and enabling community leaders not beholden to big money to campaign for public office.”⁵³

The program nevertheless remains popular with voters and candidates alike—so much so that a candidate risks stigmatization for *not* participating in the program. “For campaign finance reformers, then, it remains to be seen whether the flourishing Arizona system is but a quirky aberration or a solid model that can reinvigorate what has been a flagging crusade to win reform state by state.”⁵⁴

3. New Jersey Pilot Project (2004)

New Jersey has had a matching funds system for gubernatorial races since 1974, although it went unused for the first time in the 2005 race between candidates John Corzine and Douglas Forrester. In 2004, the New Jersey State Legislature adopted a full public financing Pilot Project for two of its Assembly district races. Under the legislation, qualified candidates in two Assembly districts deemed competitive would receive full public funding for their campaigns. The law provided that the chair of the State Democratic party and the chair of the State Republican party would each select a district to

Many observers considered the New Jersey election Pilot Project to be a failure in 2005 because the qualification thresholds to receive public funding were set too high.

participate in the program from a prepared list. Each certified candidate would be provided with an amount of money equal to 75 percent of the average amount of money expended by candidates who were members of a political party seeking election to the Assembly in the legislative districts of the certified candidates in the two immediately preceding

general elections for that office, but in no event would the amount be more than \$100,000. The bill also included high spending opponent and independent expenditure triggers, meaning that candidates could receive additional funding up to \$50,000 when they were outspent by non-participating candidates or up to \$50,000 when they were outspent by independent political committees.⁵⁵

Many observers considered the New Jersey Pilot Project to be a failure in 2005 because the qualification thresholds to receive public funding were set too high. The law required a candidate to collect 1,000 contributions of \$5 and 500 contributions of \$30—and

candidates could only collect those amounts by check, not cash. Both Maine and Arizona require far less both in the amount and number of qualifying contributions. Republicans and Democrats made earnest efforts to get the program off the ground by collecting the requisite number of checks and the Democratic governor even extended the deadline for candidates to qualify so as to give more candidates a chance to receive public funding. But in the end, only one of five campaigns qualified for public funding, and no Republican candidates qualified.⁵⁶ Another troubling aspect of the law was that because the Republican candidates failed to qualify for the public monies, the Democratic candidates that did qualify received the full amount of public monies rather than just part of the amount. Legislators are considering whether to extend the program or abandon it altogether for the 2007 legislative elections.

4. Connecticut (2005)

Following political scandals which sent former Governor John Rowland to federal prison, the Connecticut legislature enacted sweeping campaign finance reform, which included a full public financing program, in December 2005.⁵⁷ The program provides full funding to qualified candidates running for all statewide and legislative offices. The program will be administered by State Elections Enforcement Commission.

The law is unique in several regards. First, funding for the program comes from a previously unutilized source: collection of abandoned and unclaimed property, which typically yields about \$20 million per year in the state. This amount should cover the \$16 million that the program is estimated to cost. Second, critical to the passage of the bill was a provision that banned contributions from lobbyists and certain state contractors. Finally, the program provided for separate funding for minor party candidates as well as a three-city pilot program for municipal public financing. The law does not take effect until December 31, 2006, which means it will not affect Assembly races until 2008 and the race for governor until 2010.

5. Portland and Albuquerque (2005)

In May 2005, Portland, Oregon became the first city in the United States to enact a full public financing program for local campaigns.⁵⁸ The proposal by City Commissioner Erik Sten and City Auditor Gary Blackmer gives \$200,000 for the primary election and \$250,000 for the general election to qualified mayoral candidates, and \$150,000 in the primary and \$200,000 in the general election to city commissioners and auditor. To get the vote of a City Commissioner who had opposed public financing, the legislation contains a sunset clause under which full public financing will operate in the 2006 and 2008 municipal elections and then be sent to the voters for approval in 2010.

In October 2005, the voters of Albuquerque, New Mexico passed a ballot measure to bring full public financing to all local elections in that city by a margin of 69 percent to 31 percent.⁵⁹ Under the Open and Ethical Elections Code, the city will establish a public financing fund to pay for mayoral and City Council campaigns. Candidates will participate

by gathering \$5 donations from one percent of the registered voters in their district. The donations will go into a \$450,000 fund created by the city. Candidates will then draw \$1 from the fund for every registered voter in their district to fund their campaigns. By participating, candidates will not be allowed to accept or spend private campaign contributions.

It is too early to assess the effectiveness of the public financing programs in Portland and Albuquerque since no elections have been held. However, enactment of full public financing programs in these jurisdictions could signal a movement toward full public financing in other local jurisdictions. In November 2005, the Los Angeles City Council passed legislation launching a 90-day exploratory period during which the city's Chief Legislative Analyst would examine the feasibility and potential costs of implementing a full public financing program for all local races.⁶⁰

B. Partial Public Financing

Although full public financing is a relative newcomer to the options for reform, many older laws offer partial public financing or matching funds programs to candidates.

1. New York City (1988)

In 1988, New York City became one of the first major U.S. cities to create a public financing program for local candidates.⁶¹ Public financing is available to qualified candidates for Mayor, Public Advocate, Comptroller, Borough President and City Council, but not candidates for District Attorney. Money for the matching funds comes from city's executive budget, plus any additional funds that can be drawn directly from the city's general fund if the Mayor and City Council fail to appropriate a sufficient amount to fulfill the matching funds claims. The New York City Campaign Finance Board ("CFB") is charged with administering the public financing and campaign finance laws of the city.⁶²

The City Council significantly modified the matching funds system in October 1998, when it replaced the \$1-to-\$1 matching funds formula with a \$4-to-\$1 formula for the first \$250 contributed by a New York City resident, up to a maximum of \$1,000 in public funds per contributor for a regular election. Following the Council's changes, city voters approved a referendum in November 1998 prohibiting candidates participating in the public financing program from accepting corporate contributions. The total amount each candidate could receive in matching funds was capped at 55 percent of the spending limit. When running against a high-spending non-participant, a participant receives public funds at an accelerated rate, up to two thirds of the amount of the spending limit.⁶³

The adoption of the new \$4-to-\$1 matching funds formula and the phenomenon of a high number of candidates leaving office due to term limits converged for the first time in the 2001 citywide elections, the biggest in the city's history. The result was a record number of candidates running for office, and a record number accepting public financing, noticeably increasing the racial and gender diversity of New York City's candidates. The 2003 City

Council elections were less newsworthy for the opposite reason—term limits were not in place, thereby decreasing new candidate turnout.

In 2005, New York City added a video component to their Voter Guide, providing all candidates for Mayor, Public Advocate, Comptroller, City Council and Borough President with an opportunity to communicate their views directly to voters. The statements were then aired on NYC TV Channel 74, reaching approximately 1.7 million viewers across the city's five boroughs, and made available online in multiple languages.

a) Impact on real or apparent corruption

Both the ban on corporate contributions and the \$4-to-\$1 matching funds program have gone a long way to reduce the threat of real or apparent corruption in New York City. By receiving a majority of their money from public funds rather than from private sources, and from individuals rather than corporations, candidates are less beholden to special interests and more accountable to voters of the City. *A Statute of Liberty*, an in-depth 2003 study by the Center for Governmental Studies into New York City's public financing program, reached the following conclusions about public financing's impact on reducing or eliminating the risk of real or apparent corruption in that city:

A corollary to the increased importance of small contributions in candidates' campaigns is the decreased need of candidates to rely on wealthy special interests to fund their campaigns. Donors who make large contributions to candidate campaigns want something in return for their investment. Candidate reliance on a large number of small contributions substantially reduces the threat of corruption posed by candidate reliance on a small number of large contributions.⁶⁴

For a long time, New York City's public financing program actually gave an advantage to non-participating candidates, because the campaign finance rules accompanying the program only applied to participating candidates, not to non-participating candidates. Participating candidates were obligated to abide by the City's lower contribution limits, while non-participating candidates

were permitted to raise contributions under the much higher state laws. New York City's contribution limits are significantly higher than those in most other local jurisdictions: an individual, for instance, is permitted to contribute up to \$4,950 to a candidate for Mayor, Public Advocate and Comptroller—more than the \$2,100 limit allowed for federal candidates. But candidates who chose not to participate in the public financing program could collect up to ten times that amount under state law—greatly increasing the risk of real or apparent corruption.

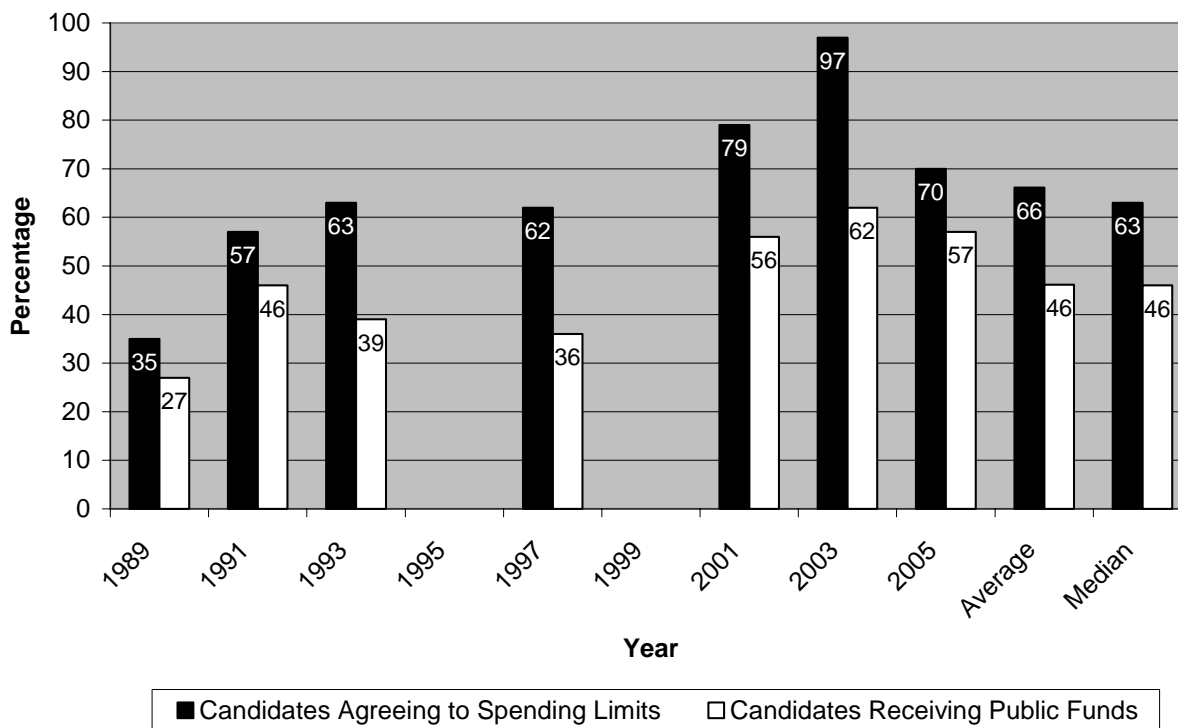
Both the ban on corporate contributions and the \$4-to-\$1 matching funds program have gone a long way to reduce the threat of real or apparent corruption in New York City.

Following the recommendations of CGS’s *Statute of Liberty* report, the New York City Council passed three groundbreaking laws in 2004 which imposed contribution limits and contribution disclosure requirements on both participating *and* non-participating candidates. By reducing the disparity between participating and non-participating candidates, and by shedding greater light on the fundraising and spending activities of candidates through improved disclosure, the new laws passed by the City Council further reduced the risk of real or apparent corruption of public officials in New York City.

b) Impact on candidates

New York City’s public financing program has increased the number and diversity of candidates in local elections. The level of participation has gradually risen since the program began in 1989 and is currently near 100 percent. (See Chart 10.) In 2001, participation in the public financing program rose dramatically due to term limits and an adjustment of matching funds from a 1:1 ratio to a 4:1 ratio. In the 2005 elections, 188 candidates, including candidates for City Council, Borough President, Comptroller, Public Advocate and Mayor, signed up to participate in the public financing program.⁶⁵ As one commentator observed, “Now is the time to celebrate the fact that New York has so many decent candidates in competitive races that some districts don’t have enough subway stations to accommodate them during the morning rush.”⁶⁶

Chart 10: Candidate Participation, New York City Elections, 1989-2005



Source: New York City Campaign Finance Board

However, the results are mixed as to whether New York City’s public financing program has had an impact on electoral competition. In 2001, the City saw a large number of competitive seats and significant turnover, which was attributed both to term limits and the availability of the \$4-to-\$1 matching funds. A report by the CFB on the 2003 elections, however, painted a different picture:

It is a far cry from two years ago, when term limits, coupled with a generous campaign finance law, attracted hundreds of candidates for City Council races With few exceptions, the 2003 City Council election was a quiet affair, garnering little press attention and a relatively small number of challengers to seats that had drawn up to 13 competitors just two years before. Even in the Council districts that appeared to have competition, the margins of victory were extraordinarily large In the end, every member of the City Council running for re-election won—often by a very large margin, and often with the help of large amounts of public funds.⁶⁷

The cost of the program—over \$5 million in 2003—and the lack of competition lead many to ask why the City was subsidizing sure winners, essentially creating an incumbent protection program. As one commentator noted, “If a two-year incumbency is enough to discourage so many potential candidates, then the existence of a generous matching program does not accomplish one of its major goals—opening up the electoral process to insurgent candidates.”⁶⁸

Of course, leveling the playing field for newcomers and ensuring their electoral victory are two different things—something public financing proponents must recognize and appreciate. According to the report, running for office as an incumbent is still the best predictor of electoral success.⁶⁹ Public financing might give outside candidates a better shot at unseating an incumbent, but it will never guarantee electoral victory. Public financing may also not generate stiff competition if voters are satisfied with incumbents’ performances.

c) Impact on public participation

It is undeniable that New York City’s increase in matching funds, along with the impact of term limits and other factors, increased public participation in New York City politics. Perhaps the best indicator of increased public participation in New York City elections is the rise in the number of small contributions to candidates (mostly in the \$100 to \$250 range), especially following the increase in matching funds from \$1-to-\$1 to \$4-to-\$1 ratios. According to CFB statistics, the number of contributions to candidates participating in the public financing program nearly doubled between 1997 and 2001, from 71,600 to 139,400, and the number of contributors increased from approximately 60,000 to about 102,000—the largest in the program’s history. “The increased matching formula did encourage a more democratic form of fund-raising, with smaller contributions by more individuals paying a much more important role than in previous elections.”⁷⁰

Two important aspects of the New York City public financing program are the Voter Guide and the debate program. The Voter Guide, which is published for local elections by

the CFB, provides information on the process of voting, the public financing of elections, and other issues relating to voting in New York City. The Guide also includes biographical information about candidates, as well as concise statements by each candidate of his or her principles, platform or views.⁷¹ Both provided voters in the 2001 elections with more opportunities to learn about the candidates before election day—especially as media attention focused away from the candidates and to the terrorist attacks in the weeks and months before the general election. A February 2004 report conducted by the Peter Harris Research Group for the CFB assessed the usability of the Voter Guide and looked at voter turnout in recent elections. Among other things, the report found that almost nine out of ten New Yorkers—especially those from historically underrepresented voter groups—thought the Voter Guide was a good idea and that the City should continue to publish it. Although it did not directly tie voter turnout to public financing, the report found that voter turnout in mayoral elections has remained steady since 1985, even as turnout for presidential (excluding 2004) and gubernatorial elections have decreased since that time.⁷²

Despite some flaws, New York City’s public financing program has achieved many reform goals, including increasing the number and diversity of candidates and allowing more voters to participate in the political process by making small contributions, which, when matched with public funds, become more meaningful to local candidates. Moreover, the City’s campaign finance laws and public financing program have reduced the risk of corruption by banning corporate contributions and generously matching private contributions.

2. Los Angeles (1990)

In 1990, voters in the City of Los Angeles approved a comprehensive campaign finance reform package, Proposition H, which included a partial public financing program for local candidates.⁷³ Under the Los Angeles program, qualified candidates for Mayor, District

Candidate participation in the [Los Angeles] program remains consistently high, allowing a greater number and a more diverse group of candidates to run for public office in one of the country’s largest cities.

Attorney and City Council who file a campaign contract accepting matching funds and limiting their spending are eligible to receive public funds on a \$1-to-\$1 basis up to a pre-determined maximum amount. Money for the public financing program comes from an annual appropriation of \$2 million (adjusted for the cost of living) from the City’s general fund into a public money

trust fund. The maximum balance for the trust fund is \$8 million; annual appropriations are reduced to comply with this maximum balance provision.⁷⁴ The Los Angeles City Ethics Commission administers the matching funds program.

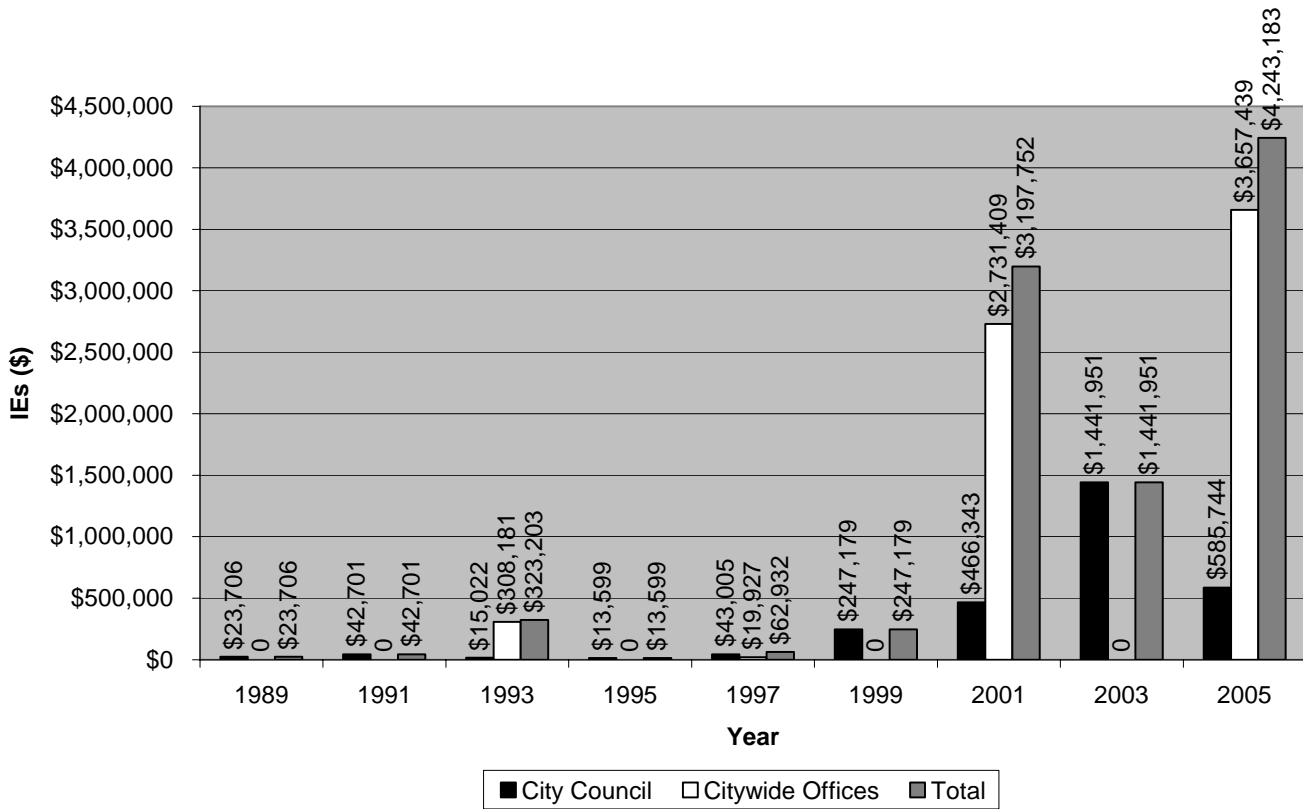
The Los Angeles public financing program overcame an initial legal challenge to become one of the most effective and widely used big-city programs in the country.⁷⁵ Candidate participation in the program remains consistently high, allowing a greater number and a more diverse group of candidates to run for public office in one of the country's largest cities. In addition, candidates prefer contributions by individuals over businesses and unions, in 2001 by a margin of 3-to-1, because those contributions are matched by the City.

Problems nevertheless remain with the Los Angeles' campaign finance system. The recent mayoral administration of James Hahn was plagued by "pay-to-play"⁷⁶ allegations that resulted in local and federal investigations, numerous resignations and, some say, Hahn's eventual defeat in the 2005 election to challenger Antonio Villaraigosa.⁷⁷ Hahn was not the only candidate implicated in campaign finance scandals. Villaraigosa was questioned about \$47,000 in campaign contributions that he accepted from a Florida firm that apparently wanted airport concessions in Los Angeles. Villaraigosa's conduct raised a question about the propriety of matching out-of-state contributions the same as in-state and in-city contributions.

Some cities, such as San Francisco and New York City, have restricted matching funds only to contributions made by city residents. However, if one supports the general public policy goal behind public financing (i.e., that it is better to use public money than private money to finance a candidate's campaign), then it should not matter whether the private funds being matched come from a resident who lives in or out of the district, city or state of the candidate. Unlike Hahn, Villaraigosa returned the questioned contributions and, once elected, proposed several ethics reforms, including banning paid lobbyists from serving on City Commissions.⁷⁸

Independent expenditures have skyrocketed in Los Angeles in recent years, perhaps more so than in any other city, posing the single greatest threat to the integrity of the City's public financing program. In the 2005 mayoral election, the single and cumulative records for independent expenditures were shattered when the state teachers union spent over \$500,000 on TV ads to help Villaraigosa against Hahn, causing the total amount of independent expenditures in the race to exceed \$4.2 million (compared to a previous high of \$1.5 million in the 2001 race).⁷⁹ (See Chart 11.) Independent expenditures are dangerous for a number of reasons: they can suggest or create *quid pro quo* arrangements, and they force jurisdictions to pour more funding into public financing programs. Finding a way to counter the effects of independent expenditures continues to challenge advocates of the City's public financing program.⁸⁰

**Chart 11: Independent Expenditures,
Los Angeles Elections 1989-2005**



Another disturbing Los Angeles trend is that some City Council candidates who accepted public financing as challengers or open seat candidates did not do so when running as incumbents. Although some have explained that they do not want to waste public money on their campaigns, it is also plausible that they find they can raise more money more easily as incumbents than as challengers. Incumbents who reject public financing actually do the program a disservice by undermining its legitimacy and strengthening the concept of private fundraising. If independent expenditures continue to rise and incumbents continue to reject public financing, the City’s program risks may become obsolete.

It is under these circumstances that the Los Angeles City Council has called for an exploration of full public financing for future Los Angeles elections.⁸¹

a) *Impact on real or apparent corruption*

Along with other campaign finance reforms, public financing has helped reduce “pay-to-play” allegations that have historically plagued Los Angeles. By providing candidates with a neutral source of funding rather than private contributions, public financing reduces the risk that a candidate will reward private contributors with favorable policies or contracts instead of doing what is best for voters.

The growth in independent spending, however, has offset some of this progress. “Expenditures by independent groups, business organizations, political parties and unions have become a huge and unsupervised force in City elections and a huge loophole in the current law.”⁸² Most expenditures are made by special interests, including unions and developers, who want something from government or believe that one candidate may look more favorably on their interests than another. Unions representing city employees “invested heavily” in the 2005 mayoral race, presumably because the Mayor plays a key role in contract negotiations over pay, benefit and working conditions.⁸³ Although by their very nature they are not coordinated with a candidate, a candidate might think twice before enacting policies disfavored by those who make them, for fear that they would oppose that candidate during his tenure or in the next election. Thus, outside interest groups hold the potential for significantly affecting the candidates they support, thereby compromising the integrity of the political process.

Independent Spending in Los Angeles, 1989-2005

| <i>Year</i> | <i>City Council Races</i> | <i>Citywide Races</i> | <i>Total</i> | <i>As percent of Overall Spending</i> |
|--------------|---------------------------|-----------------------|--------------------|---------------------------------------|
| 1989 | \$23,706 | | \$23,706 | 0.3% |
| 1991 | \$42,701 | | \$42,701 | 0.7% |
| 1993 | \$15,022 | \$308,181 | \$323,203 | 1.1% |
| 1995 | \$13,599 | | \$13,599 | 0.3% |
| 1997 | \$43,005 | \$19,927 | \$62,932 | 0.7% |
| 1999 | \$247,179 | | \$247,179 | 4.1% |
| 2001 | \$466,343 | \$2,731,409 | \$3,197,752 | 7.3% |
| 2003 | \$1,441,951 | | \$1,441,951 | 6.7% |
| 2005 | \$585,744 | \$3,657,439 | \$4,243,183 | 18.8% |
| Total | \$2,879,250 | \$6,716,956 | \$9,596,206 | 16.4% |

There is little the City can do to stop outside groups from raising and spending money in unlimited amounts unless the U.S. Supreme Court revisits its earlier opinions holding that independent expenditures are a form of free speech that cannot be limited by expenditure ceilings.

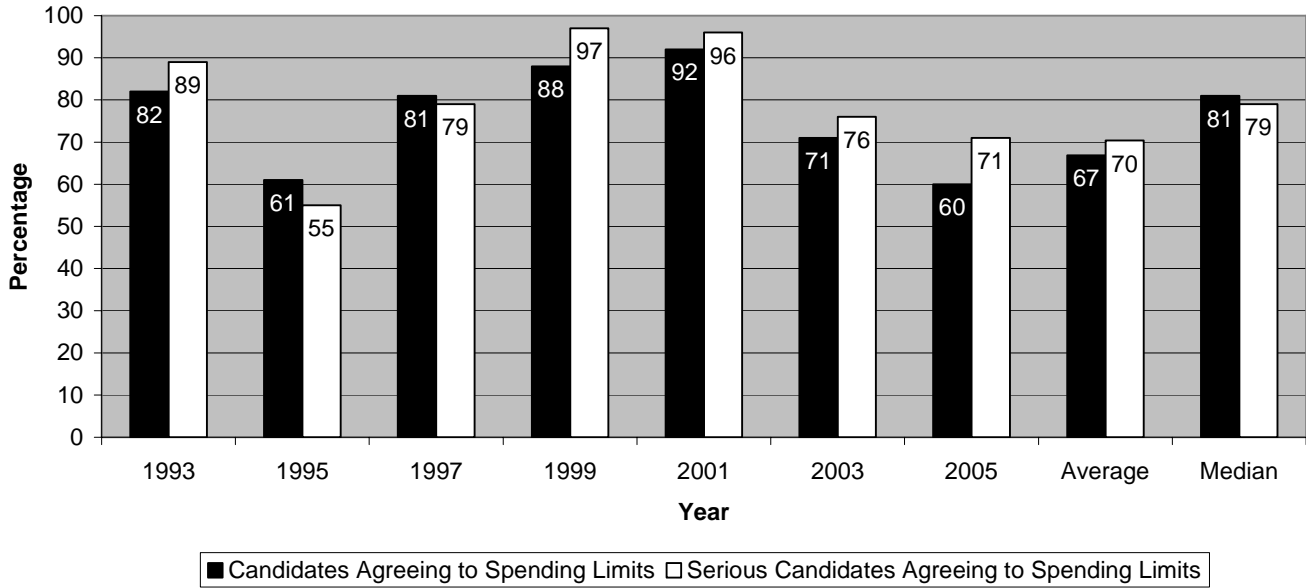
Still, there is at least one case where the use of independent expenditures might have backfired on the groups supporting a particular candidate. In the 2005 City Council District 11 race, a group of executives from a development project called Playa Vista spent \$45,000 in the days before the runoff election in support of candidate Flora Gil Krisiloff. Many perceived this spending as trying to “buy the election,” and voters ended up electing candidate Bill Rosendahl to the seat instead.⁸⁴

b) Impact on candidates

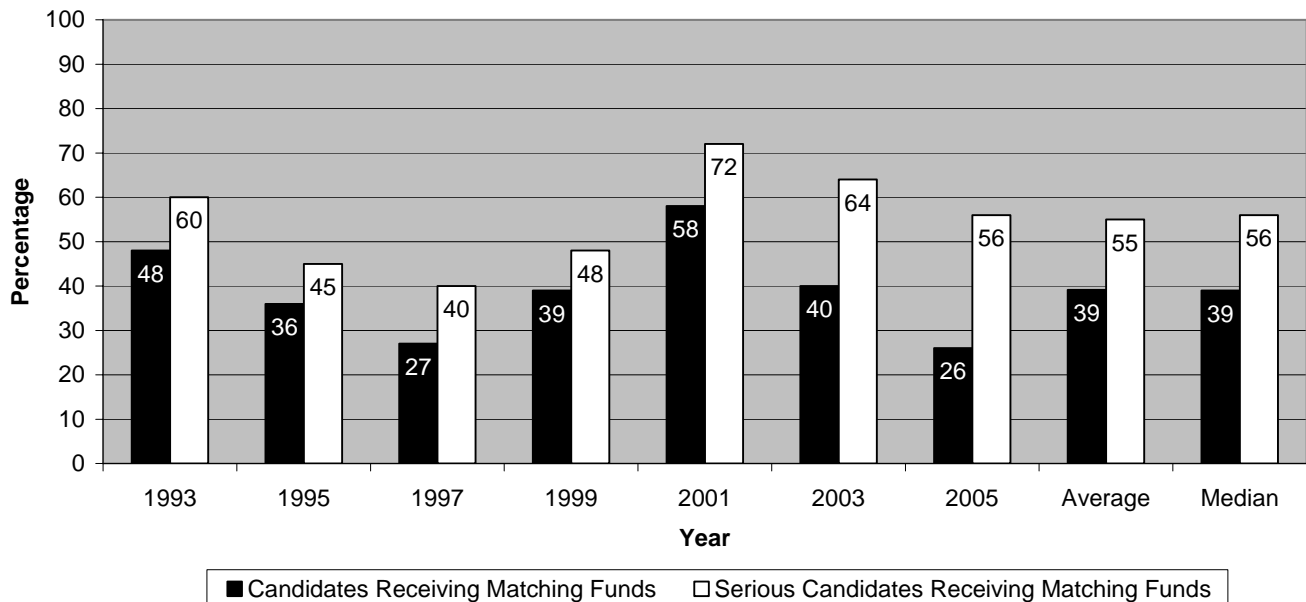
The number of candidates participating in the Los Angeles program (i.e., accepting public matching funds and agreeing to spending limits) has exceeded 70 percent in five of the

seven elections since the program was implemented. (See Chart 12.) Perhaps more telling, participation among “serious candidates,” or candidates who have raised at least \$5,000 in contributions, has exceeded 70 percent in six of the past seven elections.⁸⁵ (See Chart 13.)

**Chart 12: Candidates Agreeing to Spending Limits,
Los Angeles Elections 1993-2005**



**Chart 13: Candidates Receiving Matching Funds
as a Percentage of Participating Candidates,
Los Angeles Elections 1989-2005**



Public financing in Los Angeles has gone a long way toward increasing the number and diversity of candidates running in and winning City elections. In fact, public financing works particularly well in a city like Los Angeles, where there already exists great diversity, but where the cost barrier to run a competitive campaign can be quite high. However, public financing has not significantly increased electoral competition, at least in the sense that incumbent re-election rates remain very high.

A disturbing trend with the Los Angeles City public financing program is that many candidates accepted public funds when running as challengers or open-seat candidates but did not accept public financing in the next election when running as incumbents. Councilmembers Jan Perry, Ed Reyes, Jack Weiss, Eric Garcetti and Alex Padilla all accepted public funds in the 2001 elections (when eight of 15 Council seats opened up due to term limits), only to reject them in the 2005 elections when running as incumbents. Both Councilmembers Perry and Reyes extolled the virtues of public financing in the Center for Governmental Studies 2003 report *Investing in Democracy*. All incumbent candidates in the 2005 election—including those that did and did not accept public funding—won their contests.

City Attorney candidate Rocky Delgadillo accepted public financing when running as an open-seat candidate in 2001, only to reject public financing and raise over \$1.2 million dollars running *unopposed* as an incumbent in 2005.⁸⁶ Many think that the money that Delgadillo spent on this campaign was designed to generate support for a future campaign; he is currently running for state Attorney General. Of course, one does not want to see candidates running unopposed use public funds to subsidize “sure wins”—as was the case in New York City. Ideally, a candidate who runs unopposed will accept only the least amount of funding necessary to publicize his or her candidacy without wasting public or private money. As a cost-saving measure, several public financing programs (including the one in Los Angeles) require as a condition for eligibility that a candidate run against another candidate who has achieved a certain level of viability.

Incumbent candidates who reject public financing might say that they are helping the public financing program by saving it money, but they actually undermine its viability and effectiveness by making it appear that it is only for newcomers and political outsiders. Public financing should be used by all candidates—challengers and incumbents alike. In fact, one could argue that incumbents have an even greater obligation than challengers to accept public financing, because the former are already in positions of power where they are more susceptible to real or apparent corruption and influence-buying. It is encouraging to proponents of public financing that one of the candidates who did not use public money as an incumbent, Eric Garcetti, has proposed full public financing for Los Angeles, and that such a proposal might receive support from other Councilmembers who have used public financing in the past to support their candidacies.

c) Impact on public participation

Los Angeles’s public financing program has also increased public participation in the political process by increasing the influence of small contributors. The matching funds

system was designed to encourage smaller contributions, which carry less risk of political corruption. The program accomplishes this goal by matching only the first 50 percent of the applicable contribution limit. Thus, while an individual, corporation or PAC may contribute up to \$1,000 to a citywide candidate and \$500 to a City Council candidate per election, only the first \$500 and \$250, respectively, are matched by the City. Accordingly,

a \$250 contribution from an individual is worth \$500 to a Council candidate, while a \$250 contribution from a PAC is worth only \$250. Likewise, a \$500 contribution from an individual is worth \$750 to a Council candidate (because \$250 of the contribution is matched by the City), while the maximum PAC contribution of \$500 to a Council candidate is worth only \$500 because it is not matched.⁸⁷

This method of regulating matching funds seems to have worked: over 75 percent of all candidates' itemized contributions in the 2001 elections came from individuals rather than business and other organizations, compared to 64 percent coming from business sources prior to the reforms.⁸⁸

3. San Francisco (2000)

In November 2000, San Francisco voters approved extensive campaign finance reforms through Proposition O, which provided, among other things, partial public financing for Board of Supervisors candidates.⁸⁹ San Francisco's public financing program provides qualified candidates who agree to abide by applicable spending limits with an initial lump-sum payment as well as matching funds in a pre-determined formula up to a certain amount.⁹⁰ The program, administered by the San Francisco Ethics Commission, is funded by an annual appropriation not to exceed \$2 per resident, and it contains high-spending opponent and independent expenditure triggers when candidates or committees exceed the expenditure limits.

November 2004 marked the second election in which the City and County of San Francisco implemented the partial public financing program. Despite concerns that the funds in the public financing program would fall short if all the candidates who had expressed interest actually used the program, the City ended up meeting candidate needs and disbursing a total of \$757,678 to eligible candidates.⁹¹

November 2004 also marked the first time San Francisco conducted an election under the instant run-off voting system (also known as "ranked choice voting"), which voters approved by ballot measure in 2002. Instant run-off voting replaced the two-stage election process of a primary and run-off election. Public financing provisions relating to run-off elections were no longer applicable, thereby saving the City even more money.

In February 2006, the San Francisco Board of Supervisors passed legislation sponsored by Supervisor Ross Mirkarimi to extend the partial public financing program to candidates running for Mayor in that city. (CGS helped a citizen-led group by drafting that legislation.) Signed by Mayor Gavin Newsom, the ordinance provides matching funds for qualified candidates running for Mayor who agreed to limit their spending. The program

also provides for additional funding in the case that a non-participating candidate or independent expenditure committee spends above expenditure limit. Like the Board of Supervisors program, the cost of the mayoral program would be capped at \$2 per San Francisco resident per year from the city's general fund.

a) Impact on real or apparent corruption

San Francisco, long a local leader in campaign finance reform, has gone to great lengths to lessen real or apparent corruption of its public officials. Fifty out of 65 candidates (77 percent) of the candidates in the 2004 elections demonstrated interest in the public financing program by submitting a statement of participation, although only 25 candidates of those candidates (38 percent) actually applied for public funds, and of those, only 23 candidates (35 percent) actually received funds.⁹² These numbers suggest one of two things: either that the qualification threshold is set appropriately high to prevent fringe candidates from receiving public money, or that it is set too high because so few candidates who expressed interest in the program ended up receiving public funds.

One negative about public financing in San Francisco is that it has done little to bring down the incumbency re-election rate in San Francisco. All incumbents who ran in the supervisory elections in the 2002 and 2004 won their races; only one newcomer was elected in 2004—because the incumbent, Matt Gonzalez, decided not to seek office again.

Finally, San Francisco has witnessed a dramatic increase in the level of non-candidate spending in recent elections. In the 2002 and 2004 supervisory elections and in the 2003 mayoral elections, pro-business groups spent hundreds of thousands of dollars in independent expenditures that explicitly supported or opposed one or more candidates, or in the case of issue ads, detailed candidates' stances on various issues—usually in unflattering terms and timed to reach voters just before the election. According to a report issued by the San Francisco Ethics Commission, independent expenditures only represented a fraction (about 6 percent) of the overall spending in the 2004 elections.⁹³ This number is deceiving, however, for the actual amount spent on ads identifying candidates in the weeks and months prior to the election was much greater if one counts issue ads in that calculation. Some estimate that outside groups spent hundreds of thousands of dollars on communications supporting or opposing various supervisory candidates in the 2004 elections.⁹⁴

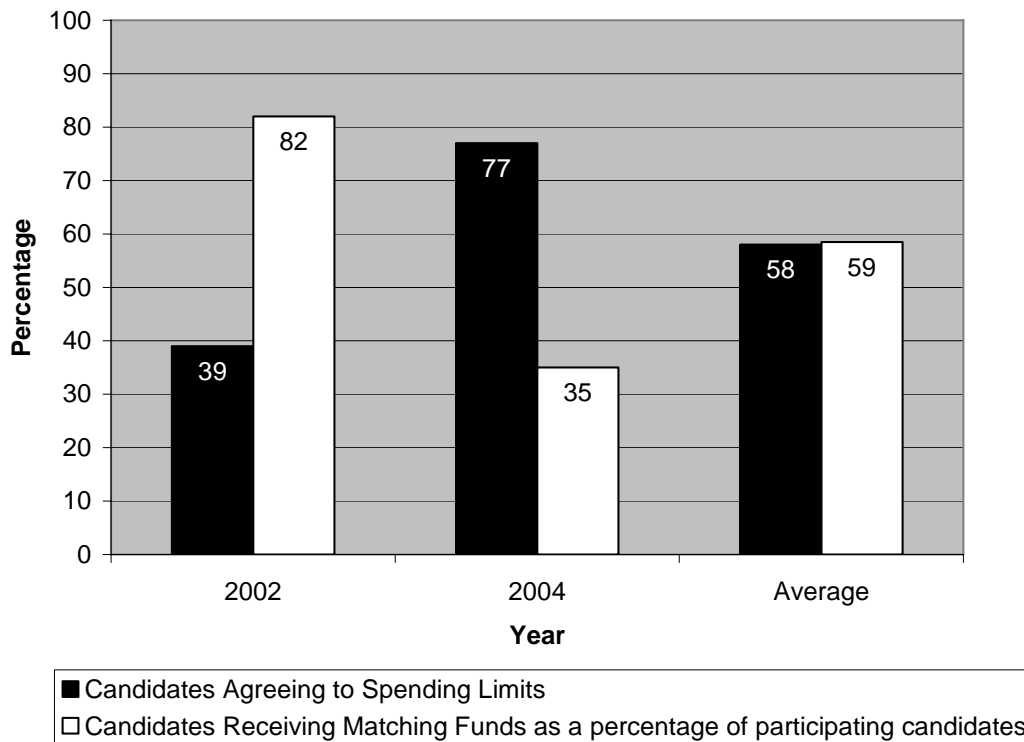
Prior to this year, issue ads were exempt from disclosure requirements and not counted as independent expenditures for purposes of lifting the expenditure ceilings. Following the 2004 election, however, the Board of Supervisors passed legislation requiring disclosure of payments for electioneering communications and counting such communications as independent expenditures for purposes of lifting the expenditure ceilings.

b) Impact on candidates

Perhaps because candidates were hesitant to involve themselves in an unproven public financing program, initial participation in San Francisco's public financing program was

low (around 39 percent) in the 2002 supervisorial elections. Of those who agreed to abide by the spending limits, a significant majority (82 percent) qualified to receive public funds. By the 2004 elections, candidate participation had increased to 77 percent, while the percentage of candidates receiving funds decreased to 35 percent. (See Chart 14.) This reversal makes sense, for as the number of candidates participating in the program increases, so too should the number of fringe candidates who might not meet the qualification thresholds.

Chart 14: Candidate Participation, San Francisco Elections 2002-2004



Source: San Francisco Ethics Commission

The results suggest that public financing increased electoral competition in San Francisco. A 2004 report by the San Francisco Ethics Commission found that the incumbent re-election rate remained steady at 100 percent between 2002 and 2004, but that there was a change in the number of contested races. While only one election was contested in 2000 and 2002, all seven races were contested in 2004.⁹⁵ Winner victory margins (or the difference between the percentage of votes received by the winning candidate and the candidate who received the second-most votes) varied according to several factors, including the amount spent by the winning candidate and the number of candidates in the race. The implementation of ranked-choice voting in the 2004 elections makes it difficult to assess winner victory margins in that election compared to other elections. Finally, the report included anecdotal testimony from candidates who participated in the program,

stating that the public financing program encouraged them to run for office and raise contributions in small amounts.⁹⁶

c) *Impact on public participation*

San Francisco's public financing program positively affected voter participation in the 2004 elections—at least as far as contributions to candidates were concerned—in two ways. First, participating candidates on average received less per contributor than their non-participating counterparts—about \$212 per contributor for the former compared to \$277 per contributor for the latter. Participating candidates also received a greater percentage of their contributions from individuals compared to non-participating candidates by a margin of 86 percent to 78 percent.⁹⁷ These figures indicate that more individuals were willing to contribute smaller amounts of money to participating candidates that would then be matched by public funds from the program.

d) *Impact on governance and legislation*

It is difficult to assess whether public financing in San Francisco has affected the jurisdiction's policy, legislation or governance. Public financing supporters might point to the legislation dealing with electioneering communications as proof that public financing puts into office public officials who are willing to pass good government laws. However, many of the Supervisors who voted for the bill, and Mayor Newsom, who signed the bill into law, did not participate in the public financing program. It is simply too soon to tell whether public financing has affected governance and legislation in San Francisco.

4. Tucson (1985)

Established in 1985 by a voter-approved charter amendment, the City of Tucson's partial public financing program is one of the country's oldest local programs.⁹⁸ Under the law, qualified candidates for Mayor and City Council—the city's only elective offices—may sign a contract with the city agreeing to abide by spending limits and other campaign finance restrictions in order to receive public matching funds.⁹⁹ A candidate who has met all eligibility requirements is entitled to receive matching funds on a \$1-to-\$1 basis. The program is administered by the Tucson City Clerk and is funded by a periodic appropriation from the city's general fund.

a) *Impact on real or apparent corruption*

A 2003 Center for Governmental Studies report on the Tucson program, *Political Reform That Works: Public Campaign Financing Blooms in Tucson*, noted testimonial evidence that public financing in the city freed candidates from the burdens of fundraising, giving them more time to communicate with voters and to carry out their official duties.¹⁰⁰

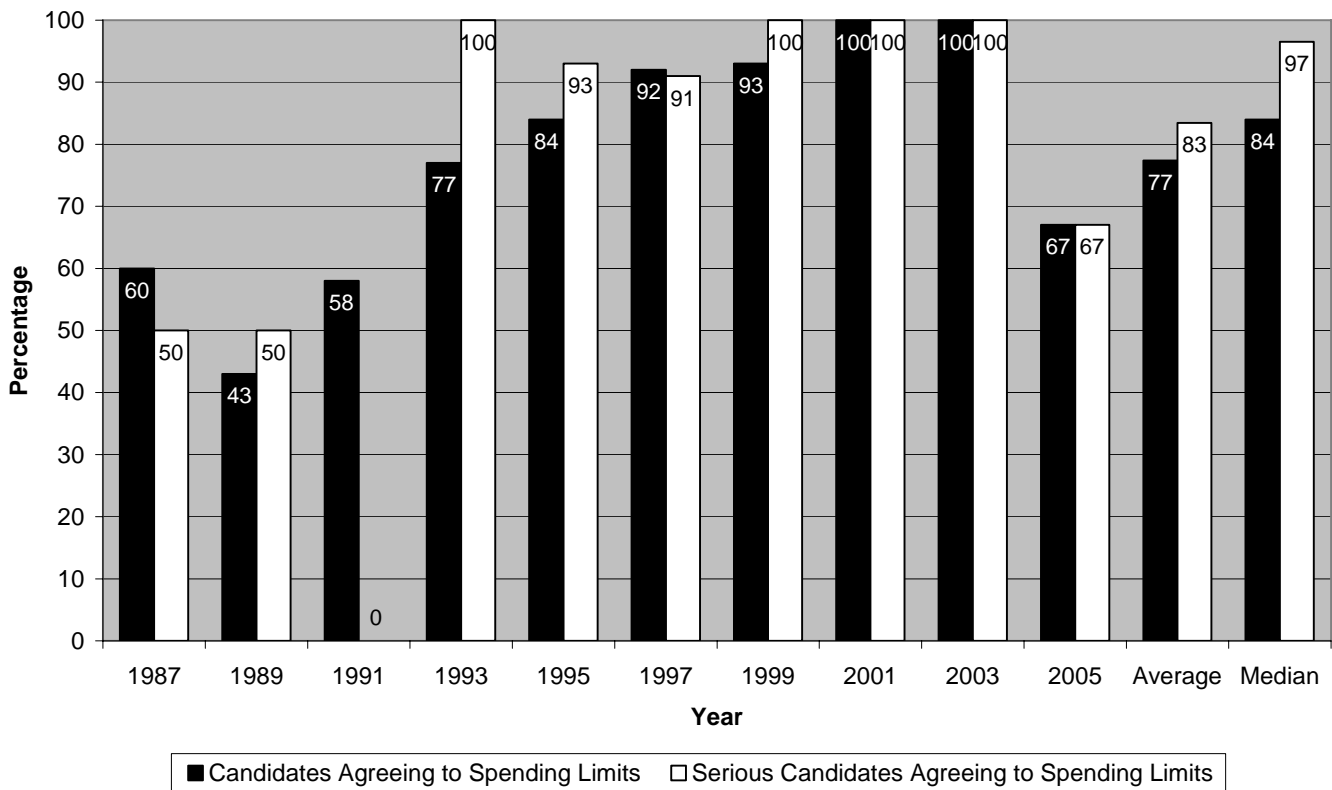
As in other jurisdictions, independent expenditures are on the rise in Tucson, threatening to unravel much of the progress made by the public financing program. The Tucson

report provided details about non-candidate spending in the 1999 mayoral election and speculated that outside spending in the 2003 election would be just as high, if not higher. In fact, outside groups spent hundreds of thousands of dollars in the 2003 election to re-elect Bob Walkup as Mayor, who defeated former Mayor and Councilmember Tom Volgy by only 1,374 votes.¹⁰¹

b) Impact on candidates

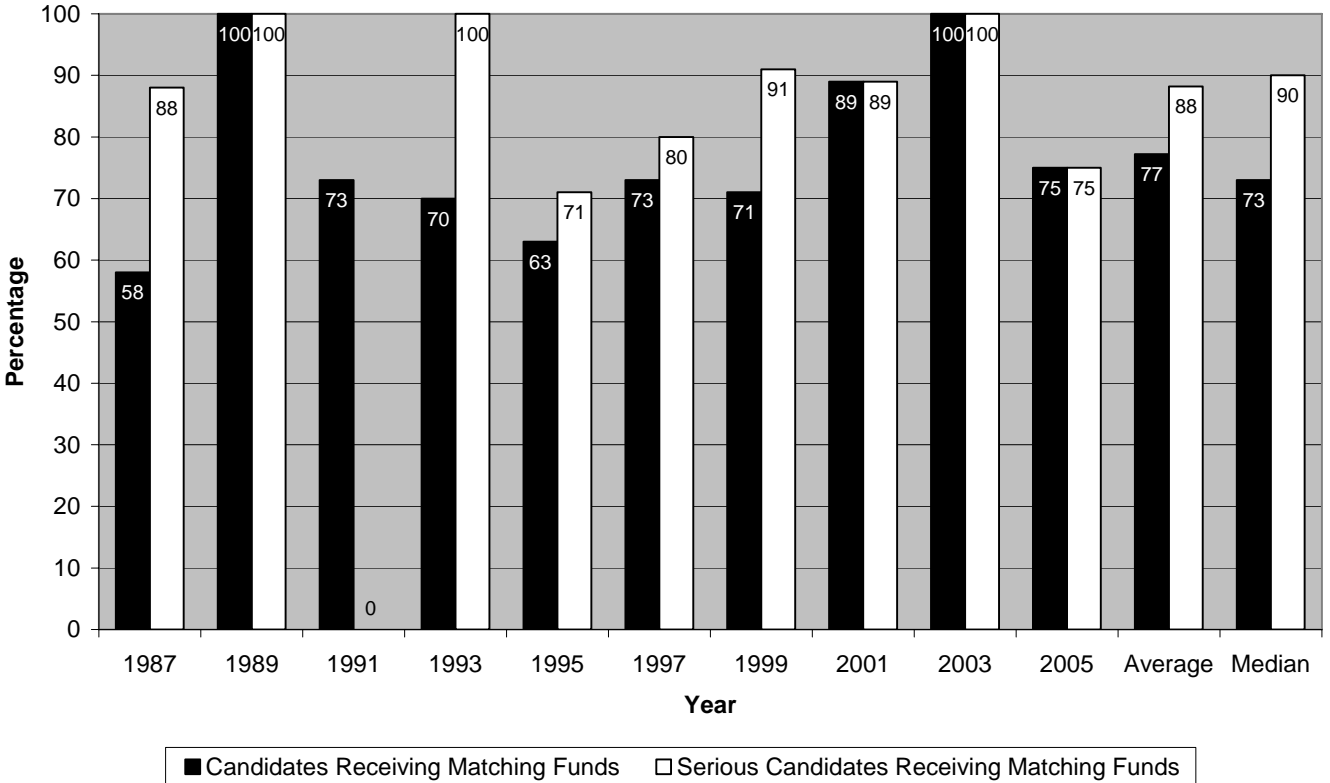
Candidate participation in Tucson’s public financing program is the highest in the nation, surpassing programs in both Los Angeles and New York. Candidate participation exceeded 90 percent in every election between 1997 and 2003, and reached 100 percent in 2001 and 2003. Among “serious” candidates who spent at least \$5,000, participation has exceeded 90 percent in six out of ten elections held under the program and has reached 100% in four of the last seven elections. (See Chart 15.)

Chart 15: Candidates Agreeing to Spending Limits, Tucson Elections 1987-2003



Source: Tucson City Clerk; Center for Governmental Studies

Chart 16: Candidates Receiving Public Funds as a Percentage of Participating Candidates, Tucson Elections 1987-2003



Source: Tucson City Clerk; Center for Governmental Studies

Statistics reveal that high percentages of candidates who agree to spending limits receive public funds, including a high percentage of serious candidates. (See Chart 16.) These figures also indicate that, despite the apprehensiveness of many participants and observers that qualification thresholds are too hard to meet, they might in fact be too easy to meet.

As in Los Angeles, Tucson is experiencing a similar “dropout” phenomenon among incumbent candidates for City Council. In 2005, two candidates who had previously accepted public financing under pressure from voters opted instead to reject public funds. Incumbent Republicans Kathleen Dunbar and Fred Ronstadt (who had previously expressed his opposition to public financing on ideological grounds) decided to forego public financing, claiming that it would save taxpayer money.¹⁰² In contrast to the results in Los Angeles, however, the two incumbents in Tucson who rejected public funding were both defeated.

Since 1989, not a single candidate who has opted out of the public financing program has won office.

c) Impact on public participation

Tucson's public financing program is popular with Tucson voters. So widely supported is the program that candidates who choose not to participate must be prepared to suffer the consequences. Since 1989, not a single candidate who has opted out of the public financing program in Tucson has won office. As *Political Reform That Works* notes:

*Tucson residents have come to appreciate and expect the grassroots campaigns fostered by the public financing program. The program's requirement that candidates collect hundreds of ten dollar contributions in order to qualify for public matching funds forces candidates to campaign door-to-door, because media advertising is expensive. City residents are encouraged to participate in the electoral process by making campaign contributions that are matched with public funds.*¹⁰³

C. Other Forms of Public Financing

Observers tend to concentrate on full and partial public financing programs because more data and information about them are available. However, there are several other forms of public financing, including tax incentives to individuals who contribute to public financing funds, funding to political parties and free media resources for candidates. The relative dearth of information that exists about these programs makes it difficult to evaluate their effectiveness in addressing campaign finance and electoral problems.

The fact that different forms of public financing are combined also makes it difficult to determine which parts are working and which parts are less effective. For instance, the state of Minnesota offers public financing to legislative and gubernatorial candidates who agree to spending limits equal to 50 percent of the limit. Public funds come from a tax check-off that allows taxpayers to direct those funds to a qualified political party and from an annual appropriation. In addition, a unique program offers a \$50 refund to individuals who contribute to political parties or to state office candidates.¹⁰⁴ Observers consider Minnesota's public financing program successful at correcting campaign finance and electoral problems, but cannot distinguish which of the many features make it a success.

It is also difficult to gauge the success of public financing programs that provide public money to state political parties. Arizona, Maine and Minnesota give public money to political parties *and* to specified candidates, while other states, including Alabama, Idaho, Indiana, Iowa, Kentucky, New Mexico and Virginia give public money only to political parties designated by the taxpayer. It is clear that more research in these jurisdictions is needed.

A type of public financing that holds promise is the provision of non-cash, media resources, such as free candidate statements in voter information guides, free media time for televised debates or free opportunities to videotape statements or interviews on government or public access cable TV channels or Internet websites. Washington and Utah, for instance, provide free space for candidate statements in their voter information

pamphlets. Wisconsin requires public television stations to provide free air time to candidates, and Rhode Island requires public television to provide free air time to candidates who accept public financing.¹⁰⁵ New York City, Los Angeles and other cities give candidates free statements on cable TV and the Internet.

In addition, states with C-SPAN-type channels, such as the California Channel, often broadcast election oriented programs. Washington State's channel broadcast candidate debates, editorial board interviews with candidates and video voter guide material in 2004. These materials are often also archived and available on the channel's website.

Clearly there is a need for public financing in the form of free media resources. Candidates are eager to communicate with voters in a cost effective manner, and voters want more objective information about the candidates. Cities that offer free television time and website resources to candidates and make them available to the public, such as Los Angeles and Santa Monica, California, see dramatic increases in web traffic around election time.

Of course, it is difficult to measure whether these programs are effective in correcting campaign finance and electoral problems. Furthermore, no one has performed a cost-benefit analysis of jurisdictions providing these free media resources. Given that technology is constantly driving down such costs, however, it is hard to imagine that they could outweigh the benefits of providing such resources.

Notes

¹ See *Landell v. Sorrell*, 118 F. Supp 2d 459 (D.Vt. 2000).

² See *Landell v. Sorrell*, 382 F.3d 91 (2nd Cir. 2004); see also Shay Totten, "Vermont campaign finance law head to U.S. Supreme Court," *Vermont Guardian*, March 31, 2005, at 1.

³The Illinois legislature considered public funding for Illinois Supreme Court races after a Justice and his opponent spent more than \$9 million in the 2004 election, but the legislation ultimately failed. See Jennifer Miller, "Campaign Finance reform passes Senate: Illinois Supreme Court race spending sparks legislation," *The Southern Illinoian*, April 14, 2005, at 1.

⁴ See New Mexico Statutes Chapter 19A (2005).

⁵ See North Carolina Statutes Chapter 163, Article 22B (2005).

⁶ Alex Keown, "Public financing of judicial races called a first step," *Wilson Daily (NC)*, July 7, 2005, available at www.wilsondaily.com; see also "Voters Believe Money Influences Courts, Support Bold Reforms, Says New Study by N.C. Center for Voter Education," June 28, 2005, available at www.ncvoterred.com.

⁷ See Oakland Municipal Code Chapter 3.13 (2005).

⁸ See Maine Statutes Title 21A.

⁹ See Maine Statutes Section 1125(8).

¹⁰ See Raymond J. La Raja and Matthew Saradjian, *Clean Elections: An Evaluation of Public Funding for Maine Legislative Contests*, Center for Public Policy and Administration, University of Massachusetts (2004), at 9.

¹¹ See Editorial, "Clean Elections spending has to fit within the rules," *Portland Press Herald*, December 24, 2004, at A12.

¹² See Paul Carrier, "\$825,000 Sifts Through Clean Elections 'Loophole,'" *Portland Press Herald*, November 14, 2004 at A1.

-
- ¹³ See Paul Carrier, “Run with public funds, still have a PAC? Fine,” *Portland Press Herald*, May 21, 2005, at A1.
- ¹⁴ See Glenn Adams, “Hearing begins into Clean Election fund expenditures,” AP Wire, October 12, 2005, available at www.boston.com.
- ¹⁵ See Glenn Adams, “Public campaign funding system has growing pains,” AP Wire, November 18, 2005, available at www.boston.com.
- ¹⁶ See La Raja and Saradjian, *supra* note 10, at 10-11.
- ¹⁷ *Id.*
- ¹⁸ See United States General Accounting Office, *Campaign Finance Reform: Early Experiences of Two States That Offer Full Public Funding for Political Candidates* (May 2003) (hereinafter “GAO Report”), at 49.
- ¹⁹ See La Raja and Saradjian, *supra* note 10, at 15.
- ²⁰ See *id.* at 16.
- ²¹ *Id.* at 21-22.
- ²² Based on estimated 2003 census figures from the U.S. Census Bureau, which can be found at the *American Factfinder* website: factfinder.census.gov.
- ²³ La Raja and Saradjian, *supra* note 10, at 22; Maine Citizens for Clean Elections, Fact Sheet “Clean Elections and Women in Maine—2004,” available at www.maineCLElections.org/resources.
- ²⁴ *Id.*
- ²⁵ La Raja and Saradjian, *supra* note 10, at 24.
- ²⁶ See Kenneth R. Mayer, Timothy Werner, Amanda Williams, *Do Public Funding Programs Enhance Electoral Competition?*, paper presented at the Fourth Annual Conference on State Politics and Policy: Laboratories of Democracy: Public Policy in the American States, Kent State University, April 30 – May 1, 2004 (updated March 2005), available at www.campfin.polisci.wisc.edu, at 18.
- ²⁷ See La Raja and Saradjian, *supra* note 10, at 20-21.
- ²⁸ See University of Wisconsin Report, *supra* note 26, at 20.
- ²⁹ *Id.* at 22.
- ³⁰ La Raja and Saradjian, *supra* note 10, at 29.
- ³¹ Interview with Jonathan Wayne, May 11, 2005.
- ³² Public Campaign, *Health Care Paybacks: Policy, Patrons and Personnel* (2004), at 5.
- ³³ See Arizona Revised Statutes Section 16-952.
- ³⁴ See Arizona Revised Statutes Section 16-954.
- ³⁵ See *May v. Bayless*, No. CV 2001-006078 ((Ariz. Super. Ct. of Maricopa Cnty, Apr. 2, 2002).
- ³⁶ See *May v. McNally*, 55 P.3d 768 (2002).
- ³⁷ See, e.g., *Ass’n of Am. Physicians and Surgeons v. Brewer*, 363 F. Supp. 2d 1197 (D. Ariz. 2005) (matching funds triggered by independent expenditures do not violating First Amendment rights of independent organizations as the organization’s ability to speak is not diminished); *May v. McNally*, 203 Ariz. 425 (2002), *cert. denied*, 538 U.S. 923 (2003) (the surcharge funding provision does not violate the First Amendment rights of the payers of the surcharge because the funds are allocated on a viewpoint neutral basis, and not in support of any one particular viewpoint); *Mainstream Arizona v. Citizens Clean Elections Commission*, no. CV2004-017610 (Ariz. Super. Ct. of Maricopa Cnty, Oct. 10, 2004) (Citizens Clean Elections Commission’s determination that Mainstream Arizona’s campaign mailers constituted independent expenditures was supported by the context and timing of the mailers).
- ³⁸ See Arizona Revised Statutes Section 16-942(C): “Any campaign finance report filed indicating a violation ... involving an amount in excess of ten percent of the sum of the adjusted primary election spending limit and the adjusted general election spending limit for a particular candidate shall result in disqualification of a candidate or forfeiture of office.”
- ³⁹ See Thomas Ropp, “Ariz. Supreme Court tells Smith to vacate office,” *The Arizona Republic*, January 27, 2006.
- ⁴⁰ Interview with Colleen Connor, April 25, 2005.
- ⁴¹ See Robert J. Franciosi, *Is Cleanliness Political Godliness? Arizona’s Clean Elections Law after Its First Year*, Goldwater Institute (November 2001), at 15.
- ⁴² *Id.* at 6.

-
- ⁴³ See Arizona Clean Elections Institute, *Road to Victory: Clean Elections Shapes 2002 Arizona Elections* (December 2002) (hereinafter “*Road to Victory*”), available at www.azclean.org, at 12.
- ⁴⁴ GAO Report, *supra* note 18, at 50.
- ⁴⁵ Citizens Clean Elections Commission Press Release, *supra* note 24.
- ⁴⁶ The results in the University of Wisconsin Report differ from the results in GAO Report for a number of reasons, described in the former report in pages 14 through 16.
- ⁴⁷ University of Wisconsin Report, *supra* note 26, at 17.
- ⁴⁸ See *id.* at 17.
- ⁴⁹ *Id.* at 22.
- ⁵⁰ See “Poll: Public for Campaign Funding,” *Arizona Republic*, July 22, 2004, at B6.
- ⁵¹ See Clean Elections Institute, *Clean Elections Works! The Positive Impact on the 2002 Election is Clear!*, available at www.azclean.org.
- ⁵² Interview with Colleen Connor, April 25, 2005.
- ⁵³ *Road to Victory*, *supra* note 43, at 14.
- ⁵⁴ See Marc Cooper, “Running clean in Arizona: reforms have proven so popular that after two years they may be here to stay,” *The Nation*, October 14, 2002, at 20.
- ⁵⁵ See P.L. 2004, c.121, The “New Jersey Fair and Clean Elections Pilot Project” (August 11, 2004).
- ⁵⁶ See Kaitlin Gurney, “N.J. ‘clean elections’ pilot comes up short,” *Philadelphia Inquirer*, September 23, 2005, at B07.
- ⁵⁷ See Public Act No. 05-5 (December 7, 2005).
- ⁵⁸ See Ordinance No. 179258, passed by City Council at its May 18, 2005 meeting. Interestingly, Portland refers to its public financing program as “voter owned elections.”
- ⁵⁹ See Susie Gran, “Voter ID, public financing get thumbs up,” *Albuquerque Tribune*, October 5, 2005, at A9.
- ⁶⁰ See Steve Hymon, “City Considers Public Financing of Elections,” *Los Angeles Times*, July 26, 2005, at B7.
- ⁶¹ Seattle, Washington adopted the nation’s first municipal public financing programs in 1978. Although the city concluded that the law had provided multiple benefits, including increased smaller contributions from individuals, the ordinance was subsequently repealed. See Center for Governmental Studies, *The New Gold Rush* (1985), at 186.
- ⁶² See New York City Charter Chapter 46, Section 1052(10).
- ⁶³ See New York City Administrative Code Sections 3-705 and 3-706.
- ⁶⁴ See Center for Governmental Studies, *A Statute of Liberty: How New York City’s Campaign Finance Law is Changing the Face of Local Elections* (2003), at 18.
- ⁶⁵ See New York City Campaign Finance Board Press Release, December 5, 2005, available at www.nycfb.info.
- ⁶⁶ Eleanor Randolph, Editorial: A Big City Election: 8 Million New Yorkers and 400 Candidates, *New York Times*, September 9, 2001, at 18.
- ⁶⁷ New York City Campaign Finance Board, *2003 City Council Elections: A Report by the Campaign Finance Board* (September 2004), at 1.
- ⁶⁸ *Id.* at 4.
- ⁶⁹ See *id.* at 34.
- ⁷⁰ See New York City Campaign Finance Board, *An Election Interrupted: The Campaign Finance Program and the 2001 New York City Elections* (2002), at xii.
- ⁷¹ In its 2005 elections, New York City also allowed candidates to videotape a free candidate statement, which was placed on the city’s cable TV system and its website.
- ⁷² For a greater analysis of voter participation in New York and of the Voter Guide in particular, see *Report on New York City Voter Guide Assessment Survey*, conducted by the Peter Harris Research Group, Inc., for the New York City Campaign Finance Board (February 2004).
- ⁷³ For an overview of Los Angeles’s partial public financing program in the context of the City’s campaign finance laws, see Center for Governmental Studies, *Eleven Years of Reform: Many Successes, More to be Done* (2001) (hereinafter “*Eleven Years of Reform*”). Also, at the time of this writing, the Los Angeles Ethics Commission had released a comprehensive report examining campaign finance reform in Los Angeles over the past 15 years. See Los Angeles Ethics Commission, *Investing in the Public Trust: Campaign Finance Reform in*

the City of Los Angeles 15 Years After Proposition H, February 2006. Much of the data included in the Ethics Commission study is incorporated in this report, although specific conclusions are not.

⁷⁴ See Los Angeles City Charter, Art. IV, Section 471(c)(1) and (2) (2005).

⁷⁵ See *Bradley v. Johnson*, 4 Cal. 4th 389 (1992), discussed in more detail in Part IV.

⁷⁶ “Pay-to-play” is a term that refers to parties making campaign contributions to public officials with the hope of receiving a favor, usually in the form of a government contract, from those officials.

⁷⁷ See Beth Barrett, “City ethics \$wamped,” *Los Angeles Daily News*, May 5, 2005.

⁷⁸ See Patrick McGreevy, “Ethics Reform Elusive,” *Los Angeles Times*, June 30, 2005, at B1.

⁷⁹ See Jeffrey L. Rabin and Daniel Hernandez, “Independent Spending on Race for Mayor Sets L.A. Record,” *Los Angeles Times*, May 5, 2005, at A1; and Jeffrey L. Rabin, “Laws Fail to Limit Political Spending,” *Los Angeles Times*, June 6, 2005, at B1.

⁸⁰ See Patrick McGreevy, “Ethics Panel Seeks Parity in Elections,” *Los Angeles Times*, June 15, 2005, at A1.

⁸¹ See Hymon, *supra* note 60, at B7; see also David Zahniser, “Los Angeles officials push for ‘clean money,’” *The Daily Breeze*, July 18, 2005, available at www.dailybreeze.com.

⁸² See *Eleven Years of Reform*, *supra* note 73, at 2.

⁸³ Rabin, *supra* note 79, at A1.

⁸⁴ See Steve Hymon, “Westside Council Candidates Fighting to the End,” *Los Angeles Times*, May 17, 2005, at B1.

⁸⁵ For Charts 10 and 11, “serious” is defined as a candidate who raised at least \$5,000 in contributions.

⁸⁶ See Los Angeles City Ethics Commission, 2005 Municipal Election Totals, available at www.ethics.lacity.org.

⁸⁷ *Eleven Years of Reform*, *supra* note 73, at 21-22.

⁸⁸ See Los Angeles City Ethics Commission, *Campaign Finance Reform in Los Angeles: Lessons from the 2001 City Elections* (October 2001), at 13.

⁸⁹ For an analysis of San Francisco’s partial public financing program in the context of its other campaign finance laws, see Center for Governmental Studies, *On the Brink of Clean: Launching San Francisco’s New Campaign Finance Reform* (2002).

⁹⁰ See San Francisco Campaign and Governmental Conduct Code Section 1.144.

⁹¹ See Suzanne Herel, “Candidates may swamp public fund for ‘04 races,” *San Francisco Chronicle*, August 14, 2004, at B-4; see also San Francisco Ethics Commission, *Report on San Francisco’s Limited Public Financing Program* (2005).

⁹² See *id.*

⁹³ See *id.*

⁹⁴ See Suzanne Herel, “Pro-business groups pony up in hope of ousting McGoldrick,” *San Francisco Chronicle*, October 30, 2004, at B4.

⁹⁵ See *Report on San Francisco’s Limited Public Financing Program*, *supra* note 91.

⁹⁶ See *id.*

⁹⁷ See *id.*

⁹⁸ For a detailed analysis of Tucson’s public financing program, see Center for Governmental Studies, *Political Reform That Works: Public Financing Blooms in Tucson* (2003) (hereinafter “*Political Reform That Works*”).

⁹⁹ Tucson City Charter Chapter XVI, Section 5, (2005).

¹⁰⁰ See *Political Reform That Works*, *supra* note 98, at 19.

¹⁰¹ See “Campaign funding threats,” *Arizona Daily Star*, January 25, 2005, at B1.

¹⁰² “2 say no to public campaign dollars,” *Arizona Daily Star*, January 10, 2005, at B1.

¹⁰³ *Political Reform that Works*, *supra* note 98, at 15.

¹⁰⁴ See generally, Minn. Statutes Section 10A (2005).

¹⁰⁵ Wis. Stat. Ann. Section 11.21(17) (2005); R.I. Gen. Laws Section 17-25-30(2) (2000). These laws have been challenged as violating the First Amendment and being preempted by the Federal Communications Act, but the challenges have been rejected. See *Vote Choice v. DiStefano*, 814 F. Supp. 195, 203 (D.R.I., 1993).

IV. LESSONS LEARNED AND RECOMMENDATIONS

Public financing programs have had the greatest success in reducing apparent influence peddling and in increasing opportunities for candidates to run for public office and compete against other candidates. Despite lack of voter awareness about public financing programs, those who are aware of the programs generally like them and feel better that their elected officials are more insulated from the influence of special interests.

Furthermore, most publicly financed candidates—even those who do not accept public funds when running as incumbents—express gratitude that such programs exist, often emphasizing that they would not have been able to run for public office without them.

Less dramatic is the effect of public financing on public participation in the political process. While voters appear to like the idea of publicly financed candidates, it is difficult to determine whether they are inclined to increase the number of their contributions, follow the election more closely (by watching debates, for instance) or show up at the polls to vote for a candidate just because that candidate is publicly financed. It is simply too early to determine whether public financing has had an effect on policy and legislation in the various jurisdictions that have adopted such programs.

The case studies above demonstrate that public financing programs are more successful when certain conditions are met. These conditions are discussed in greater detail below and are followed by specific recommendations on how to maximize the benefits of public financing programs.

A. Jurisdictions With Campaign Finance and Electoral Problems Should Consider Adopting a Public Financing Program

It is clear from the analyses of jurisdictions with public financing that the benefits of these programs outweigh the costs. That is not to say that every state and local jurisdiction needs to adopt a public financing program. In some jurisdictions, campaigns are small enough not to attract large sums of potentially corrupting private money, and elections are sufficiently competitive that public financing would not make a significant difference.

Yet a large number of state and local jurisdictions across the country continue to struggle with campaign finance and electoral problems. Political scandals have recently erupted in states like Tennessee and Ohio and in major cities like Philadelphia and Los Angeles. Introducing or improving public financing in these jurisdictions would go a long way toward restoring public trust in public officials and the political process.

Recommendation

Political scandals provide important opportunities to build political momentum. State and local jurisdictions that have been shaken by such scandals should seize the opportunity to promote public financing and other political reforms to try to ensure that future scandals

will not occur. Efforts to promote public financing can be citizen-led or driven by the legislature. A recent example of a successful citizen-led effort to adopt a clean money

The single most important factor determining a public financing program's success is whether the program is adequately funded.

program occurred in Albuquerque, where grassroots and community groups went door-to-door before the initiative went to voters. The City of Portland, on the other hand, provides an example of legislators and public officials bringing public financing to the people of their own accord.

Finally, the recent expansion of public financing to the Mayor's race in San Francisco was a shared effort: citizen-led groups introduced and promoted the idea to the Board of Supervisors, which then passed the proposal by ordinance.

Once a jurisdiction has made the decision to move toward public financing, it must decide between the various available forms. There are pros and cons to each model, but most observers would conclude that, excluding the costs of implementing a program, full public financing is the best model to accomplish reformers' goals. For a more in-depth analysis of which public financing model will work best in a given jurisdiction, see Section II-G above.

One of the key advantages to adopting a new public financing law (as opposed to reforming an old one) is that the jurisdiction can start from scratch and implement as many elements of a model public financing law as possible. Just about every public financing law that is currently on the books has one or more defects, which makes it difficult to determine whether it is working to correct the problems it is supposed to address. No jurisdiction has enacted the ideal public financing law and had it tested in court. As a part of its involvement with the Conference on Governmental Ethics Laws (COGEL), CGS has worked on model laws for both full and partial public financing programs, and has also advised jurisdictions on tailoring programs to meet their specific needs.

B. Adequate Funding Is Essential to Success

The single most important factor determining a public financing program's success is whether the program is adequately funded. Public officials' reluctance to provide adequate funding for public financing programs is understandable:

Finding the money for public financing systems is essentially a political problem, not a financial problem. States could easily identify any number of funding sources to pay for public financing systems. Their resistance to doing so is usually based on political calculations, often by incumbents who fear greater competition for their jobs or worry that they will be subject to ideological attacks.¹

Adequate funding is comprised of two components. First, it is important for the legislature or voters of a jurisdiction to fund the program adequately. This means that the legislators or voters must provide a reliable source of funding that is tamper-proof. Second, the program itself must adequately fund individual candidates against wealthy non-participating candidates and independent expenditures.

One can establish a link between the adequacy of a program's funding and the percent of overall funds that are public with the program's effectiveness. The University of Wisconsin Report, for instance, found that full public financing programs (Arizona and Maine), and even state programs that provided multiple sources of public grants (Minnesota), were far more effective at making campaigns competitive than programs which provide relatively small grants (Hawaii and Wisconsin). According to the study, the fact that public funding made up only 5.3 percent and 0.6 percent of the overall funding in Wisconsin and Hawaii's elections, respectively, confirm that public financing could not have had any appreciable affect on competitiveness in those states' races.²

The results of inadequately funded programs and candidates are disastrous. If a program does not offer sufficient funds to make a participating candidate competitive with a non-participating candidate, few candidates will opt into the program, thereby rendering the program meaningless. In such cases, jurisdictions either will suspend operations for a certain amount of time (as was the case in Oakland), or legislators will repeal the programs altogether.

Inadequately funded public funding programs are ineffective. If the public grants are not large enough to permit candidates (especially challengers) a reasonable chance to run a competitive campaign, the programs will have no appreciable effect on election outcomes, competitiveness, or candidate behavior.³

Suffolk County, NY is the classic example of an under-funded public financing program that was eventually repealed.⁴ In 1998, Suffolk County voters approved a public financing program for county candidates that was to be funded by voluntary contributions from property taxpayers. The County charter specifically prohibited the County from using tax revenue to fund the public financing program. In addition, the County's campaign finance law imposed both spending limits *and* contribution limits on participating candidates, while it imposed no such limits for non-participating candidates. Without generous and reliable incentives to participate in the program, candidates refused to participate and the program was repealed as ineffective.

If spending limits are not set high enough, or if candidates do not receive adequate funds when spending limits are broken, public financing programs can actually hurt participating candidates and help non-participants and incumbents. Because they do not enjoy the same name recognition as incumbents, participating challengers are "hampered by stingy subsidies and low limits."⁵ Therefore, spending limits must be set high enough to allow participating candidates to communicate their message sufficiently to compete with incumbents and non-participating candidates.

Recommendation

Adequately funding programs and candidates involves several components. First, the authorizing body (whether the legislature or voters) must provide programs with a reliable source of funding—whether through an appropriation from the general fund or through dedicated sources. Some jurisdictions that have limited resources may find that it is better to provide generous funding to candidates for certain offices as opposed to candidates for all offices. Currently New Mexico and North Carolina provide full public financing for Public Regulation Commission candidates and state judicial candidates, respectively. In a similar vein, the City Council in Oakland, California recently overhauled its public financing program to provide public financing only to City Council candidates (as opposed to all candidates) at an increased rate.⁶ While initially unsuccessful due to the overly-high qualifying thresholds for candidates, the New Jersey Pilot Project in two legislative districts holds promise and serves as a model for other jurisdictions that might be hesitant to pour a significant amount of funding into a program without first testing it in a portion of the jurisdiction. Generously funding campaigns for some offices (with the hope that public financing can be expanded to other offices once sufficient funding is located) is preferable to inadequately funding campaigns for all offices.

Second, programs must provide candidates with an initial amount of funding that will allow the candidate to communicate his or her message to voters in that jurisdiction. One way to ensure that a publicly financed candidate's funding is on par with non-participating candidates is to base the amount that the participating candidate receives on the median amount spent by all candidates for the same office in a certain number of prior elections, as Maine currently does. If the participating member is running unopposed, then the amount he or she receives should be substantially reduced or eliminated so as not to waste taxpayer money "subsidizing a sure winner." If the non-participating candidate or non-candidate committee spends more than this amount opposing the participating candidate, putting that candidate at a financial disadvantage, then the participating candidate should be eligible to receive additional funds—whether in the form of matching funds, or funds from that candidate's political party, etc.

Finally, programs must provide adequate resources to candidates who are outspent by independent expenditures or wealthy opponents. An example will illustrate how this would work. Assume a certified candidate receives an initial distribution of \$50,000 based on the average amount of campaign expenditures made by candidates for the same office in the previous two elections. If an opposing non-participating candidate or an independent expenditure committee spends 10 percent above that initial distribution (i.e., \$55,000) opposing the participating candidate or supporting the non-participating candidate, then the non-participating candidate or committee must report the excess expenditure to the enforcement agency within a certain period (usually between 24-48 hours after the committee makes or promises to make the expenditure). The enforcement agency will then release to the participating candidate an additional amount from the fund equivalent to the amount reported as excess by the non-participating candidate or independent expenditure committee. Thus, in this example, if a non-participating candidate receives or

spends \$55,000, the certified candidate would receive an additional \$5,000 in matching funds.

To ensure reliable funding, public financing programs should also include two precautionary measures. First, laws should always include a cost-of-living-adjustment for all funding and trigger amounts. Second, public financing programs must be tamper-proof; that is, legislators and governmental agencies should not be able to raid or reduce public financing coffers whenever they wish. The City of Portland’s law requires interest to accrue on any withdrawal made from the public financing fund.

C. The Benefits of Public Financing Programs May Not Be Immediately Apparent and Plans Must Be Given Time to Work

As with many new programs, the benefits of most public financing programs may not always be immediately visible. Many jurisdictions do not begin to reap the benefits of public financing for at least a few election cycles. Initial candidate participation may be low; while many support the idea of public financing, few are willing to risk being the first participants for fear of being branded by opponents or of using an untested and unproven commodity. In Arizona’s first election under the Clean Elections Act, only 26 percent of candidates participated. This number increased in the second and third elections under the Act. Participation in Tucson’s matching funds program was between 43 and 60 percent in its first three elections, but it has grown to 100 percent in recent elections. Similar examples of low participation in the initial stages of the program occurred in New York City and San Francisco.

Recommendation

Jurisdictions should fund public financing programs at least through three elections, and at least through one major election in which citywide or statewide candidates are running. Portland enacted a sunset provision in its public financing program, but only after three election cycles, to allow voters to determine if the program is effective before being given an opportunity to repeal the law.

D. Local Public Financing Programs Must Be Carefully Drafted to Avoid Violating State Laws

Local public financing programs run the risk of violating state “home rule” laws. “Home rule” refers to the legal authority of local governments to enact and enforce laws outside of state laws.⁷ “The viability of a local government public financing program depends on the degree to which the local jurisdiction may adopt laws that supplement or, in some instances, conflict with state campaign finance laws.”⁸ Home rule authority varies from state to state: some states grant local jurisdictions full legislative authority with respect to municipal affairs, while others grant some legislative authority unless that authority is

expressly prohibited by state law. The following cases illustrate how home rule laws have played out with various local public financing programs.

1. Bradley v. Johnson

In 1990, a California state legislator who had drafted a ballot measure banning the use of public money in political campaigns brought a lawsuit to invalidate a public financing program adopted by the City of Los Angeles.⁹ Under California's home rule jurisprudence, when a local matter involving a "municipal affair" conflicts with state law, the state law controls if the subject of the state statute is one of "statewide concern" and if the statute is narrowly tailored to address this concern.¹⁰ The City of Los Angeles defended on the ground that the California Constitution's home rule provision gives charter cities the authority over all "municipal affairs."

The court agreed, ruling that the state law was not narrowly tailored to meet the concern of protecting the integrity of elections, because the use of public funds to finance local elections would not have a corrupting influence on the elections, and a ban on public funding would frustrate the goal of electoral integrity. The court thus held that the Los Angeles public financing program was valid.¹¹ This decision paved the way for other California charter cities, including Long Beach, Oakland and San Francisco, to adopt public financing laws.

2. Cary, NC

While the City of Los Angeles prevailed in its home rule lawsuit against California, the Town of Cary, North Carolina did not have the same success against the state of North Carolina. Following a high-spending campaign in the previous election, the Cary Town Council adopted a public financing program for qualified candidates in 2000. The program provided for matching funds of \$20,000 for at-large and mayoral candidates and \$8,000 for district candidates. Four out of 13 candidates in the next election signed up to receive public money.¹²

After the election, the North Carolina State Board of Elections ruled that Cary's distribution of public funds violated the state law's \$4,000 limit on corporate contributions. Because Cary was incorporated, the Board of Elections found it subject to state laws restricting corporate contributions. Candidates who received public funds exceeding \$4,000 were ordered to return the excess to the Town.

The Town appealed the ruling to the state Superior Court in March 2003, arguing that application of the state contribution limit was counterproductive since public financing and contribution limits were both designed to reduce the role of special interest influence on government decisions. The Town entered into a settlement with the Board before the court could issue a decision, agreeing to discontinue the public financing program pending passage or defeat of a bill in the state legislature which would authorize local government public financing programs. The bill failed in the state legislature that year.

3. New York City

Prior to 2003, candidates participating in New York City's public financing program were obligated to abide by the City's contribution limits, while non-participating candidates could raise larger sums under the state's higher contribution limits. The disparity in contribution limits between the state and local laws gave non-participating candidates a decided advantage over their participating counterparts.

In 2003, the Center for Governmental Studies issued a legal opinion on the New York program which concluded that subjecting both participating and non-participating candidates in New York City to the local contribution limits and disclosure laws did *not* violate state home rule provisions. It recommended that New York City impose its lower local contribution limits on all candidates. The City Council followed the report's recommendations and in November 2004 voted to change the City's laws.

Recommendation

Any local jurisdiction which plans to enact public financing legislation must be wary of state home rule provisions and must work within state parameters, or work with state legislators to expand those boundaries, so as to avoid potential conflicts between state and local campaign finance laws. As shown above in the Los Angeles, Cary and New York City cases, local public financing programs run the risk of being shut down or eviscerated by state laws. Therefore, any local jurisdiction which is considering creating a public financing program must first ensure that state law does not preempt further regulation in this area.

E. Non-Candidate Spending and Spending by Wealthy Opponents Can Offset the Gains of Public Financing

Because the U.S. Constitution places a high premium on free speech—especially political speech—independent expenditure committees and wealthy opponents are allowed to put as much money into a given campaign as they wish. While few would argue that political speech is a bad thing, excessive spending can distort the electoral process and drown out voices of legitimate candidates with fewer resources. Additionally, non-candidate spending in the form of independent expenditures and issue ads—which often are not regulated nor required to be disclosed—creates the appearance that certain special interests have the potential to exert undue influence over public officials.

Three non-candidate spending categories—independent expenditures, issue ads and member communications—undermine the impact of public financing by enabling wealthy individuals or special interests to exert a level of influence exceeding that which is possible through direct campaign contributions. “Prohibited from giving a \$50,000 contribution to a mayoral candidate by contribution limits, a special interest group may instead choose to spend \$50,000 on a campaign mailer independently of the candidate's campaign.”¹³ This

can spell trouble to a candidate participating in a public financing program who has agreed to limit his or her own spending in a particular race.

Recommendation

Although it is currently impossible under constitutional doctrine to limit expenditures by non-candidate committees, jurisdictions with public financing programs can and must require increased disclosure for these entities, and provide additional funding to publicly financed candidates to make those candidates more competitive. Some, but not all, state and local jurisdictions contain “high spending opponent” and “independent expenditure” triggers. (See State Chart 4 in Appendix A and Local Chart 4 in Appendix B). Publicly financing proponents also advocate triggers for issue ads and member communications which hurt a participating candidate or benefit his or her opponent.

High spending opponent and independent expenditure triggers work in a variety of ways. In general, once a non-participating candidate or independent expenditure committee spends or receives above the jurisdiction’s spending limit for a particular office, the spending limits for all candidates in that race are eliminated, and participating candidates

Jurisdictions with public financing programs can and must require increased disclosure for these entities, and provide additional funding to publicly financed candidates to make those candidates more competitive.

become eligible either to receive additional public funding (whether through matching funds or additional lump sum payments) or to raise private money (from individual contributors or from the candidate’s political party) to counter the excess expenditures.

Concerned about balancing sufficient additional funding to candidates who

have been outspent by high-spending opponents and independent expenditure committees, with the possibility of providing additional public funding with no ceiling in sight (if, for instance, a high spending opponent has “endless” funds), some support allowing political parties to support public-funded candidates when they are outspent by privately-funded candidates or by non-candidate committees.

The political parties are well-positioned to deploy resources quickly in the event that the opposition (including outside supporters) spends more money than the initial sum allotted to a public-funded candidate. [T]his arrangement may resolve a technical difficulty of providing resources to public-funded candidates at the last minute, and deter private-funded candidates from spending more than the amounts of money available to public-funded candidates.¹⁴

Another way to contain the costs of a full public financing program against opponents and committees with significant campaign war chests is to provide only matching funds (as opposed to lump sum payments) for amounts raised by the participating candidate over the spending limit. However, some say that allowing for increased private contributions after

providing for only a small or minimal amount of private money defeats the purpose and intent behind full public financing laws.

In creating an independent expenditure or high-spending opponent trigger, jurisdictions must carefully define when an expenditure is considered made, so as not to disadvantage the participating candidate. In Maine and Arizona, for instance, the high-spending opponent and independent expenditure provisions are triggered when the high-spending opponent or independent expenditure committee makes *or promises to make* an expenditure. Defining when an expenditure is made in this manner protects against the possibility that the non-participating candidate or independent expenditure committee will promise to make an expenditure in the days before the election but not report the expenditure until it pays for it—usually after the election, when it is too late for the participating candidate to respond.

Some reformers have also proposed creating electoral solutions to address this particular campaign finance problem. Dan Purnell, Executive Director of the Oakland Public Ethics Commission, proposes extending the balloting period to a month before the election, so as to reduce the impact of last-minute independent expenditures. According to Purnell, allowing voters to cast their ballots either by mail or at designated voting stations in the month before the election, would “force the hands” of all candidates and non-candidate committees to spread out their campaign message rather than concentrate all of their spending in the days before the election.¹⁵

F. Contributions to Committees and Entities Other Than a Candidate’s Campaign Committee Should Be Aggregated and Limited

An intriguing question arises as to whether clean money candidates should be allowed to raise money for committees or entities other than their own campaign committee, such as:

- A political action committee, including the candidate’s leadership or caucus committee;
- A candidate’s political party;
- A ballot measure committee which the candidate supports or opposes;
- A candidate’s other campaign committee (i.e., if a City Councilmember is running for state office, where public financing is not available);
- A charity, social welfare or issue ad organization controlled by the candidate;
- The candidate’s legal defense or officeholder account;
- Get-out-the-vote or voter registration efforts.

At first glance, allowing a candidate to raise money for such committees does not seem as problematic as allowing a candidate to raise money for his or her own campaign committee, because the candidate is not directly accepting money into his or her own account, and in the case of some charities, the contributions may go to a worthwhile cause. Upon closer examination, however, the same potential for undue influence exists whether a candidate is raising money for his or her own campaign committee, or whether he or she

is directing that money to a separate entity such as a charity, leadership committee or legal defense fund.

An example illustrates the point. Suppose a state legislator creates a public service announcement to raise money for a disaster relief organization such as the Red Cross or a disabled persons organization, and a company makes a \$1 million contribution to that organization in response to the legislator's plea. While some would argue that the contribution was not intended to curry favor with the legislator and would not result in the same kind of influence as a direct contribution to the legislator's campaign committee, there is a colorable argument that the legislator would look favorably upon and bestow preferential treatment to the contributor. Additionally, a public official's solicitation of funds from contributors to his or her extra-campaign committees puts those contributors in an awkward position. If they do not make a contribution to those committees, they risk losing the public official's support on pending policy questions.

Evidence shows that it is relatively easy for public officials to raise contributions for their extra-campaign committees. However, the ease of raising money is usually linked to whether the public official is still in office or whether he or she holds a leadership position. In California, for instance, Senate President Pro Tem Don Perata raised over \$322,000 (including two contributions of \$50,000) for his legal defense fund to defend against a federal inquiry into his legislative work. At the same time, a California official who had left office, former Secretary of State Kevin Shelley, had a harder time raising money for his legal defense fund.¹⁶ Efforts in Maine to close the loophole that allows persons and groups to make contributions to the leadership PACs of clean money candidates were defeated on the grounds that fewer candidates would participate in the public financing program with such restrictions in place.

Regulating candidate charities can be problematic because laws should not discourage candidates from raising money for worthwhile causes. However, the candidate charity issue is not so cut-and-dry. The potential for abuse and undue influence created by candidate charities is aggravated by several factors.¹⁷ First, charities can be, and often are, used to support the research needs of a public official, to prepare policy material for use in a campaign, or to give a candidate wide exposure by paying for travel or sponsoring forums at which the candidate appears. Second, corporations, labor unions and individuals may contribute unlimited amounts and, in some cases, receive tax deductions for their generosity. Finally, contributions to candidate charities are rarely disclosed, making it difficult for the public to establish a connection between a contributor and the public official.

Legal defense funds also present a unique dilemma. A legal defense account is a separate account established by a candidate or public official to defray attorney's fees and other legal costs incurred for the candidate or official's legal defense if the candidate or official becomes subject to civil, criminal or administrative proceedings arising directly out of the conduct of an election campaign.¹⁸ On the one hand, a legal defense fund creates the same potential for corruption as a candidate's campaign committee. In fact, some would argue that a candidate feels even *more* beholden to legal defense fund contributors because those

contributors are helping the candidate in a time of need and desperation. On the other hand, legal defense funds would not be necessary but for the candidate's participation in the political process, and one can make a public policy argument that they should be preserved so as not to discourage people from running for public office.

Recommendation

The mere possibility of corruption created when a candidate raises money for separate committees and entities is a sufficient rationale to create regulations to deal with such a problem. A jurisdiction might deal with extra-campaign committee fundraising in one of several ways. First, it could prohibit a clean money candidate from outside fundraising altogether. A candidate would only be able to raise money for his campaign committee to receive public funds, but could not raise money for other candidates or parties, legal or officeholder accounts, or political committees. This is a restrictive approach and is not likely to be politically popular.

A more balanced approach would allow candidates and public officials to solicit and raise money for committees other than their campaign committees, but it would aggregate and limit such contributions, regardless of the purpose for which they serve. This means that a public financing law should allow candidates to solicit contributions for the candidates' controlled charity, a leadership or caucus committee, a political party, another candidate, a ballot measure committee or the candidate's legal defense or officeholder account, but that such contributions should be aggregated and limited on a per-contributor basis. In the case of a statewide public official and a state legislator, the aggregate limit could be \$1,000 per contributor and \$500 per contributor, respectively, and in the case of a local official, the limit could be \$250. As with any contribution, these contributions should be disclosed shortly after they are made in response to the official's solicitation.

G. Disbursements to Candidates Must Be Timely

Campaign veterans will attest that campaigns move quickly, and that candidates must move quickly to deal with attacks or criticisms waged against them by opponents or outside groups. A publicly financed candidate who does not receive funds in a sufficiently timely manner before the election can be adversely affected by such attacks, thereby lowering the candidate's chance of success and potentially dooming the public financing program.

To overcome this problem, some public financing programs require increased disclosure requirements for non-participating candidates and independent expenditure committees. The agency disbursing funds to participating candidates can determine when these entities exceed the spending

Public financing programs must disburse public funds to participating candidates in a reasonable time after the disbursing agency has discovered spending exceeding the expenditure limits.

limit, and it can expeditiously disburse funds to participating candidates to counter the excessive spending.

Recommendation

So that participating candidates have the time and resources to counter attacks made against them by non-participating candidates and independent expenditure committees, public financing programs must disburse public funds to participating candidates in a reasonable time after the disbursing agency has discovered spending exceeding the expenditure limits. For example, “expenditures” should be defined as when an order is placed rather than when the payment is made. Otherwise non-participating candidates and independent expenditure committees will try to hide their expenditures until the last minute.

In fairness to non-participating candidates and independent expenditure committees, the disclosure merely needs to say how much is being spent, not to whom it is made or how it is being spent. Non-participating candidates and independent expenditure committees should not be expected to tip their hands just because they are not a part of the public financing program. To require otherwise would give the participating candidates an unfair advantage.

H. Former Participants Should Be Encouraged to Use Public Financing When Running as Incumbents

A recent concern to supporters of public financing is that challengers or first-time users of the public funds do not always use public financing once they become incumbents. Some users explain their rejection of public funding by arguing that they do not want to waste public resources when they already enjoy name recognition.

Publicly financed candidates’ refusal to use the program once they have been elected to office strikes a blow at the public financing movement, for it sends a signal that public funds should only go to newcomers or less established politicians. While it is true that candidates who lack personal resources or access to wealth should utilize public funds to reduce fundraising and spending disparities with more established candidates, it does not follow that the more established candidates should abandon public financing once they have been elected and have gained greater access to private monies. In fact, an altogether different rationale (namely, avoiding corruption or the appearance of corruption) should compel established public figures to accept public funding even after they have been elected to office—especially because incumbents might be more susceptible to special interest influences. When incumbents argue that they do not want to waste taxpayer money when they can easily raise the money privately, they ignore the anti-corruption rationale behind public financing laws.

Recommendation

Supporters of public financing will have more difficulty convincing the public of the merits and the success of public financing programs if candidates who once participated in the program as challengers do not participate in the program as incumbents. Of course, candidates cannot be forced to accept public financing. Programs must be voluntary for free speech purposes. But as more people experience public financing and learn about it through public education drives, they should come to expect candidates—especially incumbents—to use public funds rather than turn to traditional private funding sources. The system must become like the public financing program in Tucson, where voters put great pressure on candidates to accept public funding.

I. Participating Candidates Who Run Unopposed Should Receive Smaller Amounts of Public Funding

The part of this report dealing with New York City’s public financing program noted that a number of candidates, particularly incumbents, used public financing in the 2003 City Council elections to subsidize “sure wins” against weak competition or no competition at all. Candidates in those elections could receive up to \$4 in public funds for every \$1 they raised in private money to run in races where there was no real competition. Although one can argue that these candidates should receive some public funding to generate name recognition among the residents they will be serving, it is a great waste of public resources to provide public financing to those candidates in such large amounts.

The question that arises is how candidates—particularly incumbents—who run unopposed or against weak opposition can accept public money without wasting taxpayer resources. Again, the goal is to allow candidates to communicate their message just enough to inform the public, but not so much as to appear wasteful. In the case of candidates running unopposed or against weak opposition, the amount of public financing should be minimized to allow voters in that jurisdiction to familiarize themselves with the candidate who will be serving them.

Many jurisdictions require a candidate to be opposed by a viable challenger as a condition for receiving public funding. Los Angeles and San Francisco, for instance, require candidates in their respective public financing programs to be opposed by other viable candidates to establish eligibility for public funding.¹⁹ The City of Portland, a clean money jurisdiction, stops distribution of public funding to candidates who run unopposed in primary or special nominating elections.²⁰ None of these jurisdictions’ laws, however, contain a provision which provides for reduced funding where a candidate is running against a weak opponent.

Effective public financing laws should contain a provision that allows candidates who run unopposed or against weak competition to receive smaller amounts of public financing or no public financing at all.

Recommendation

Effective public financing laws should contain a provision that allows candidates who run unopposed or against weak competition to receive smaller amounts of public financing or no public financing at all. This provision can play out in a number of different ways, depending upon whether the jurisdiction offers a clean money or matching funds program, and whether the candidate is running completely unopposed or against weak opposition. In a matching funds jurisdiction, one can measure a given opponent's viability by the amount of money he or she has raised in private contributions. Candidates should be considered viable if they have qualified to receive public financing or their campaign finance reports indicate that they have received, expended or have cash on hand of at least 10 to 20 percent of the applicable spending limit. As an alternative, viability could be determined based on the ability to garner votes at a primary or the general election.

For clean money programs, candidates who run unopposed or against weak opposition should receive some public financing, but not as much as the expenditure limit. If a clean money candidate runs completely unopposed, he or she should receive around 10 percent of the expenditure limit in public funds—just enough to inform voters that he or she will be serving them in public office. If a clean money candidate runs against weak opposition, as measured by one of the standards mentioned above, he or she should receive between 25 and 50 percent of the expenditure limit to communicate their message effectively against the weak opposition.

Candidates running unopposed or against weak opposition in matching funds jurisdictions are a different matter, because those candidates can still raise private money to communicate their messages to voters. Therefore, candidates running unopposed in matching funds jurisdictions should receive limited public funds or no public funds at all, as is the case in Los Angeles and San Francisco. However, candidates running against weak opposition in matching funds jurisdictions should receive some public funding—between 10 and 25 percent of the expenditure limit—in addition to what they raise in private funds. This should be more than enough to enable candidates to communicate their message without wasting taxpayer resources.

J. The Public Should Be Adequately Informed About Public Financing Laws

Statistics show that the public does not yet know very much about public financing. The GAO Report found that an estimated 60 percent of Maine's voting-age citizens and an estimated 37 percent of Arizona's voting age citizens knew "nothing at all" about the public financing programs in those states.²¹ Similarly, a survey by Fairleigh Dickinson University and Rutgers University found that eight of ten likely voters in New Jersey had heard little or nothing about the clean elections Pilot Project, only slightly different than the seven of ten likely voters in the districts picked to test the program.²² A government program cannot survive indefinitely without the support of voters, and voters are not likely to support a program that they do not understand.

Those that know how public financing works are usually intrigued by the idea. However, legislators and voters will not enact public financing legislation if they do not understand how public financing works and how it will create benefits. Public financing proposals are almost always met with opposition by elected officials who are wary of changing the political system in ways that may appear to benefit challengers, and by special interest groups that are reluctant to relinquish any influence they hold over politicians and the political process.

Even among legislators and voters who initially like the idea of public financing, the first question inevitably to arise is how to pay for it. Finding adequate sources of money to fund public financing programs can be a significant obstacle to expanding such programs. The solution lies in understanding the true costs of public financing programs, which are often miniscule compared to other items in a jurisdiction's overall budget.

Certainly some aspects of public financing can be complicated and difficult to explain. Yet many programs make only minimal efforts to educate the public about their advantages and disadvantages. With greater voter education by the various agencies that administer public financing programs, the public may learn to support public financing.

Recommendation

An agency administering a public financing program must initially spend a small amount of money informing the public how the program works. However, there is only so much an agency can do with limited resources. Grassroots and community organizations should also take an active role in informing the public about the public financing. They should explain how public financing works and the costs and the benefits of programs, and they should provide logistical and drafting support for public financing proposals. Numerous resources ranging from books and reports to websites and video programs are available to individuals and organizations interested in adopting public financing programs in their communities. The Center for Governmental Studies continues to serve as one of many valuable resources.

Grassroots and community organizations should take an active role in informing the public about the public financing.

Reformers generally need broad public support to achieve their public financing goals. The support of newspaper editorial boards and other media is invaluable. With public and media support, reformers can create effective campaign finance reforms in their communities.

Notes

¹ *Where to Get the Money*, *supra* note 11, at 3.

² Kenneth R. Mayer, Timothy Werner, Amanda Williams, *Do Public Funding Programs Enhance Electoral Competition?*, paper presented at the Fourth Annual Conference on State Politics and Policy: Laboratories of Democracy: Public Policy in the American States, Kent State University, April 30 – May 1, 2004 (updated March 2005), available at www.campfin.polisci.wisc.edu, at 22.

³ See *id.* at 6.

⁴ For a detailed analysis of the problems of the Suffolk County program, See Center for Governmental Studies, *Dead On Arrival? Breathing Life into Suffolk County's New Campaign Finance Reforms* (2002).

⁵ Elizabeth Daniel, *Subsidizing Political Campaigns: The Varieties & Values of Public Financing*, Brennan Center for Justice (2000), at 7.

⁶ Interview with Dan Purnell, Executive Director of the Oakland Ethics Commission, May 18, 2005.

⁷ See, e.g., Richard Briffault, “Taking Home Rule Seriously: The Case of Campaign Finance Reform,” in *Restructuring the New York City Government: The Reemergence of Municipal Reform* 35, 39 (Frank J. Maura & Gerald Benjamin eds., 1989).

⁸ See Center for Governmental Studies, *Investing in Democracy: Creating Public Financing of Election in Your Community* (2003), at 31.

⁹ See *Bradley v. Johnson*, 4 Cal. 4th 389 (1992).

¹⁰ See *id.* at 399.

¹¹ See *id.* at 392.

¹² Jay Price, “Four Cary candidates accept first money from town’s coffers,” *The News & Observer*, August 16, 2001, at 1.

¹³ See Center for Governmental Studies, *Political Reform That Works: Public Financing Blooms in Tucson* (2003), at 27.

¹⁴ Raymond J. La Raja and Matthew Saradjian, *Clean Elections: An Evaluation of Public Funding for Maine Legislative Contests*, Center for Public Policy and Administration, University of Massachusetts (2004), at 34.

¹⁵ Interview with Dan Purnell, May 18, 2005.

¹⁶ Kevin Yamamura, “Legal defense—the giving is easy,” *Sacramento Bee*, August 21, 2005.

¹⁷ See generally, Lisa Rosenberg, “Politicians’ Non-Profit Organizations,” in *Bag of Tricks: Loopholes in the Campaign Finance System*, Center for Responsive Politics (1996), available at www.opensecrets.org.

¹⁸ See, e.g., Los Angeles Municipal Code Section 49.7.12(B).

¹⁹ See Los Angeles Municipal Code Section 49.7.19(2); San Francisco Campaign and Governmental Conduct Code Section 1.140(4); and New York City Administrative Code Section 3-703(5).

²⁰ See Portland City Code Section 2.10.110(C) (2005).

²¹ See United States General Accounting Office, *Campaign Finance Reform: Early Experiences of Two States That Offer Full Public Funding for Political Candidates* (May 2003), at 63.

²² See Angela Delli Santi, “Report examines state’s campaign finance experiment,” Associated Press, November 21, 2005, available at www.newsday.com.

V. CONCLUSION

As the evidence analyzed in this report indicates, public financing programs can make a significant contribution toward solving many of the problems inherent in local and state political systems. Perhaps most importantly, public financing provides a neutral source of funding for candidates to run for office, which in turn frees them from the pressures of fundraising and severs ties that they might have to individuals or special interest groups that contribute to their campaigns.

Public financing also opens the door for political newcomers, including women and people of color, to run for office where before they were not able to do so. Public financing reduces disparities between candidates and makes new candidates more competitive, even if it does not guarantee their win against incumbents.

Finally, public financing increases opportunities for voters to become engaged in the political process, encouraging smaller contributions that can be matched and increasing voter education. What remains to be seen is whether public financing has an appreciable impact on the quality of a jurisdiction's governance and legislation. Most observers would agree that it is simply too early to make such a determination.

No political reform is perfect or without flaws, but public financing is perhaps the best solution to solving campaign finance problems in a given jurisdiction. Whether a jurisdiction is considering enacting a public financing law, or whether it is debating between the different public financing options, this report is intended to open the debate on the subject and to make people think more creatively about campaign finance solutions in their jurisdictions.

**APPENDIX A:
STATE PUBLIC FINANCING CHARTS**

**State Chart 1: Population, Date Enacted,
Tax Provisions, Distribution of Funds**

| STATE | POPULATION ¹ | ENACTED | TAX PROVISIONS | | | SURCHARGE | FUNDING MECHANISM | PUBLIC FINANCING PUBLIC FUNDS ALLOCATION |
|-------------|-------------------------|-------------------|--|--|------------------------------|---|--|--|
| | | | CREDIT | DEDUCTION | CHECKOFF | | | |
| Alabama | 4,414,559 | 1983 | --- | --- | --- | \$1 individual, \$2 joint | Surcharge | To political party designated by taxpayer. |
| Arizona | 5,633,997 | 1998 | \$5 reduction in tax for \$5 Clean Elections checkoff; for voluntary donation to fund, a tax credit not to exceed 20% of the tax amount on the return or \$580 per taxpayer, whichever is higher | \$100 individual, \$200 joint. Money designated as surcharge is deductible | \$5 for Clean Elections fund | \$2, \$5 or \$10, additional amounts may be donated | Checkoff; Clean Elections fines; surcharge on civil and criminal penalties | To political party designated by taxpayer. Clean Elections funds to qualifying candidates for statewide and legislative office. |
| Arkansas | 2,675,872 | 1996 | \$50 individual, \$100 joint for contributions to candidates, small donor PACs, approved PACs, and organized political parties | --- | --- | --- | --- | --- |
| Connecticut | 3,405,565 | 2005 | | | | | Unclaimed property; voluntary contributions | To qualifying candidates for statewide and legislative offices. |
| Florida | 16,990,183 | 1986 ² | --- | --- | --- | --- | Direct appropriations; candidate filing fees; donated surplus funds; motor vehicle registration ⁴ ; driver's license application ⁵ ; boat registration ⁶ ; and annual reports for corporations ⁷ | To qualifying candidates for Governor/Lieutenant Governor, Attorney General, Chief Financial Officer, and Corporations Commissioner. Individual contributions are matched on a 2-to-1 basis for qualifying contributions and a 1-to-1 basis for subsequent contributions of \$250 or less. |

**State Chart 1: Population, Date Enacted,
Tax Provisions, Distribution of Funds (cont.)**

| STATE | POPULATION ¹ | ENACTED | TAX PROVISIONS | | | SURCHARGE | FUNDING MECHANISM | PUBLIC FINANCING PUBLIC FUNDS ALLOCATION |
|---------------|-------------------------|---------|----------------|--|--|--|---|--|
| | | | CREDIT | DEDUCTION | CHECKOFF | | | |
| Hawaii | 1,227,008 | 1979 | --- | \$250 for contributions to central or county party committees, or \$1,000 for aggregate contributions to candidates who abide by limits, up to \$250 per candidate | \$2 individual, \$4 joint ⁸ | --- | Checkoff; appropriated funds; other moneys | To qualifying candidates for statewide, legislative and local offices. |
| Idaho | 1,360,152 | 1975 | --- | --- | \$1 individual | --- | Checkoff | To political party designated by taxpayer. |
| Iowa | 2,851,165 | 1987 | --- | --- | \$1.50 individual, \$3 joint | --- | Checkoff | To political party designated by taxpayer or divided among qualified parties as specified by taxpayer. |
| Maine | 1,278,725 | 1996 | --- | --- | \$3 individual, \$6 joint | Any amount designated by the taxpayer ⁹ | Checkoff; general fund; surplus candidate seed money; unspent candidate funds; voluntary donations; fines | <u>Surcharge</u> : to a political party designated by the taxpayer. <u>Clean Money</u> : Distributed to candidates for Governor, state senate, and house of representatives in primary and general elections. |
| Maryland | 5,421,869 | | --- | --- | --- | Add-on not to exceed \$500 per tax filer | Direct appropriations; fines; tax add-ons | To qualifying candidates for Governor and Lieutenant Governor only. |
| Massachusetts | 6,201,416 | 2003 | --- | --- | \$1 individual, \$2 joint | --- | Direct appropriations; checkoff; monies from former public campaign finance fund | To qualifying candidates for certain offices abiding by expenditure limits and raising specified qualifying contributions in statewide primary and general elections. |
| Michigan | 9,858,908 | 1976 | --- | --- | \$3 individual, \$6 joint | --- | Checkoff | To qualifying candidates for Governor in the primary election and to candidates for Governor and Lieutenant Governor in general election. |

**State Chart 1: Population, Date Enacted,
Tax Provisions, Distribution of Funds (cont.)**

| STATE | POPULATION ¹ | ENACTED | TAX PROVISIONS | | | SURCHARGE | FUNDING MECHANISM | PUBLIC FINANCING PUBLIC FUNDS ALLOCATION |
|---|-------------------------|---------|--|-----------|----------------------------|-----------|--|--|
| | | | CREDIT | DEDUCTION | CHECKOFF | | | |
| Minnesota | 4,958,748 | 1974 | Refund up to \$50 for contributions to political parties and qualified candidates, \$100 joint | --- | \$5 individual, \$10 joint | --- | Direct appropriations; checkoff; anonymous contributions to candidates and committees ¹⁰ | To qualifying candidates for Governor, Lieutenant Governor, Attorney General, other statewide offices, and state senator and state representative, after primary and general elections; to the state committee of a political party for multi-candidate expenditures; and to state general fund for administrative purposes. |
| Nebraska | 1,696,513 | 1992 | --- | --- | \$1 or more | --- | Direct appropriations; taxpayer contribution of income tax refund; amounts repaid to campaign finance limitation cash fund by candidates; civil penalties; and late filing fees | Public funds awarded = highest estimate for seat – limit for the office. Public funds are available to qualifying candidates for Governor, Secretary of State, Attorney General, Auditor of Public Accounts, Legislature, Public Service Commission, State Treasurer, Board of Regents of The University Of Nebraska, and State Board Of Education who agree to abide by the statutory spending limitation. To qualifying candidates for Governor. |
| New Jersey | 8,503,294 | 1974 | --- | --- | \$1 individual, \$2 joint | --- | Direct appropriations and checkoff | To qualifying candidates in two selected General Assembly elections. |
| New Jersey Pilot Program (for legislative candidates) | | 2004 | --- | --- | --- | --- | Qualifying contributions; seed money contributions unspent at the time a candidate is certified; voluntary donations; earnings from the investment of fund money; fines and penalties; and direct appropriations | |

**State Chart 1: Population, Date Enacted,
Tax Provisions, Distribution of Funds (cont.)**

| STATE | POPULATION ¹ | ENACTED | TAX PROVISIONS | | | SURCHARGE | FUNDING MECHANISM | PUBLIC FINANCING PUBLIC FUNDS ALLOCATION |
|----------------|-------------------------|---------|----------------|-----------|------------------------------|--|--|---|
| | | | CREDIT | DEDUCTION | CHECKOFF | | | |
| New Mexico | 1,862,837 | 2003 | --- | --- | \$2 individual, \$4 joint | --- | Qualifying contributions; unspent monies; direct appropriations; utility inspection and supervision fees; utility and carrier inspection fees; insurance premium tax | (1) To political party designated by taxpayer. (2) To qualified candidates for the Public Regulation Commission. |
| North Carolina | 8,270,028 | 2002 | --- | | \$3 individual, \$6 joint | Up to an amount of income tax refund due | <i>Judicial elections:</i> Money from the North Carolina Candidates Financing Fund; taxpayer designations; unspent Public Campaign Financing Fund revenues; returned monies; voluntary donations. | Political parties fund divided among political parties according to registration. In non-general election years, not more than 50% in election campaign fund to state party and 50% to presidential election year candidates fund. In general election year, 100% in election campaign fund to state party (with 50% to special party committee). If presidential election year, 100% in presidential election year candidates fund to state party (with 50% to special party committee). Candidates fund divided among opposed candidates for Governor who agree to abide by the expenditure limit and raise matching funds equal to 5% of expenditure limit. Matching funds are provided on a one-to-one basis for general election campaign. <i>Judicial elections:</i> To qualified candidates for election to the Court of Appeals and the Supreme Court. |

**State Chart 1: Population, Date Enacted,
Tax Provisions, Distribution of Funds (cont.)**

| STATE | POPULATION ¹ | ENACTED | TAX PROVISIONS | | | SURCHARGE | FUNDING MECHANISM | PUBLIC FINANCING PUBLIC FUNDS ALLOCATION |
|----------|-------------------------|---------|--|-----------|---------------------------|-----------|-------------------|---|
| | | | CREDIT | DEDUCTION | CHECKOFF | | | |
| Ohio | 11,153,800 | 1987 | \$50 individual, \$100 joint, for contributions to statewide and legislative candidates | --- | \$1 individual, \$2 joint | --- | Checkoff | Divided equally among major political parties each calendar quarter. Party allocation divided: 50% to state executive committee of party, and 50% to county executive committees of party according to proportion of income from tax return checkoffs in each county. |
| Oklahoma | 3,412,202 | 1995 | --- | \$100 | --- | --- | --- | --- |
| Oregon | 3,513,759 | 1995 | Lesser of (1) total contributions with a maximum of \$50 individual, \$100 joint, or (2) the taxpayer's liability for contribution to a major or minor party, a candidate for any office, or registered political committee. | --- | --- | --- | --- | --- |

**State Chart 1: Population, Date Enacted,
Tax Provisions, Distribution of Funds (cont.)**

| STATE | POPULATION ¹ | ENACTED | TAX PROVISIONS | | | SURCHARGE | FUNDING MECHANISM | PUBLIC FINANCING PUBLIC FUNDS ALLOCATION |
|--------------|-------------------------|---------|----------------|-----------|-------------------------------|-----------|-------------------|---|
| | | | CREDIT | DEDUCTION | CHECKOFF | | | |
| Rhode Island | 1,037,002 | 1988 | --- | --- | \$5 individual, \$10 joint | --- | Checkoff | First \$2 (\$4 for a joint return) of checkoff allocated to major political parties. Distributed to eligible political party designated by taxpayer. If a party is not designated, 5% of the amount is allocated to each party for each state officer elected, and the remainder to each party in proportion to the votes its candidate for Governor received in previous election. Maximum of \$200,000 allocated to all political parties. Remainder to qualifying candidates in general election for Governor, Lieutenant Governor, secretary of state, Attorney General, and general treasurer as state matching funds. ¹¹ |
| Utah | 2,349,472 | 1998 | --- | --- | \$2 | --- | Checkoff | Eligible statewide candidates are entitled to matching funds. To political party designated by taxpayer: 50% to state central committee, and 50% to county central committee in proportion to the number of taxpayers designating the party in each county to the total number of taxpayers in the state who designate the party |

**State Chart 1: Population, Date Enacted,
Tax Provisions, Distribution of Funds (cont.)**

| STATE | POPULATION ¹ | ENACTED | TAX PROVISIONS | | | SURCHARGE | FUNDING MECHANISM | PUBLIC FINANCING PUBLIC FUNDS ALLOCATION |
|-----------|-------------------------|---------|--|-----------|---------------------------|---|--|--|
| | | | CREDIT | DEDUCTION | CHECKOFF | | | |
| Vermont | 600,632 | 1997 | --- | --- | --- | Up to amount of income tax refund or overpayment | Surcharge; public funding penalties; unexpended campaign finance grants; portion of corporation annual reporting fees; gifts; and state appropriations | To qualifying candidates for Governor and Lieutenant Governor. Governor candidates: Non-incumbent—\$75,000 minus qualifying contributions for primary; \$225,000 for general election. Incumbent—\$63,750 minus qualifying contributions for primary and \$191,250 for general election. Lieutenant Governor candidates: Non-incumbent—\$25,000 minus qualifying contributions for primary; \$75,000 for general election. Incumbent—\$21,250 minus qualifying contributions for primary; \$63,750 for general election. |
| Virginia | 7,223,519 | 1999 | \$25 individual, \$50 joint, for contributions to candidates | --- | --- | \$25 individual, \$50 joint, of income tax refund | Surcharge | To designated political party. |
| Wisconsin | 5,350,681 | 1977 | --- | --- | \$1 individual, \$2 joint | --- | Checkoff | To qualifying candidates for state executive office, state legislative office and state supreme court candidates in a spring, general, or special election. |

¹ Based on estimated 2004 census figures from the U.S. Census Bureau, which can be found at the *American Factfinder* website: <http://factfinder.census.gov>.
² The Election Campaign Financing Trust Fund expired effective November 4, 1996, by operation of s. 19(f), Article III of the State Constitution. The courts determined that Florida's public campaign finance laws remained in force despite the elimination of the trust fund, funded through the general fund instead of the trust fund. *Secretary of State v. Milligan*, 704 So.2d 152 (Fla.App. 1 Dist. 1997)

³ F.S.A. § 199.052(13) "The annual intangible tax return shall include language permitting a voluntary contribution of \$5 per taxpayer, which contribution shall be transferred into the Election Campaign Financing Trust Fund. A statement providing an explanation of the purpose of the trust fund shall also be included." was deleted as of 2003. Florida's intangible personal property tax is an annual tax based on the current market value, as of January 1, of intangible personal property owned, managed, or controlled by Florida residents or persons doing business in Florida. <http://www.myflorida.com/dor/taxes/ijppt.html>

**State Chart 1: Population, Date Enacted,
Tax Provisions, Distribution of Funds (cont.)**

⁴ F.S.A. § 320.02(13) “The application form for motor vehicle registration shall include language permitting a voluntary contribution of \$5 per applicant, which contribution shall be transferred into the Election Campaign Financing Trust Fund. A statement providing an explanation of the purpose of the trust fund shall also be included.”

⁵ F.S.A. § 322.08(6)(a) “A voluntary contribution of \$5 per applicant, which contribution shall be transferred into the Election Campaign Financing Trust Fund.”

⁶ F.S.A. § 328.72 (11) “The form shall also include language permitting a voluntary contribution of \$5 per applicant, which contribution shall be transferred into the Election Campaign Financing Trust Fund. A statement providing an explanation of the purpose of the trust fund shall also be included.”

⁷ F.S.A. § 607.1622(1)(g) “Language permitting a voluntary contribution of \$5 per taxpayer, which contribution shall be transferred into the Election Campaign Financing Trust Fund. A statement providing an explanation of the purpose of the trust fund shall also be included;”

⁸ Hawaii Revised Statutes §235-102.5(a) (“the check-off does not constitute an additional tax liability”).

⁹ 36 Me. Rev. Stat. Ann. § 5283

¹⁰ Minn. Stat. § 10A.15: “A political committee, political fund, principal campaign committee, or party unit may not retain an anonymous contribution in excess of \$20, but must forward it to the board for deposit in the general account of the state elections campaign fund.”

¹¹ Actual distributions are far below these maximums. In 2002 Rhode Island’s tax check-off raised only \$6,386 for Democrats and \$4,432 for Republicans.

State Chart 2: Qualifying Threshold, Residency Restrictions, Spending Limits

| STATE | QUALIFYING THRESHOLD | RESIDENCY RESTRICTION ON QUALIFYING / MATCHABLE CONTRIBUTIONS | SPENDING LIMITS |
|-------------------------|---|---|---|
| Alabama Arizona | N/A To become eligible for public financing, candidates must raise \$5 qualifying contributions as follows: Governor: \$4,200 Secretary of State and Attorney General: \$2,625 Treasurer, Superintendent of Public Instruction, and Corporation Commissioner: \$1,575 Mine Inspector: \$525 Member of Legislature: \$210 | N/A Yes, for qualifying contributions | N/A If a Clean Elections candidate, may only spend Clean Elections funds, otherwise unlimited. Governor: \$53,849 (primary); \$680,774 (general) Secretary of State, Attorney General: \$95,550 (primary); \$143,325 (general) Treasurer, Superintendent of Public Instruction, and Corporation Commissioner: \$47,770 (primary); \$71,655 (general) Mine Inspector: \$23,890 (primary); \$35,835 general Member of Legislature: \$11,945 (primary); \$17,918 (general) |
| Arkansas Connecticut | N/A To become eligible for public financing, candidates must raise qualifying contributions in amounts of no more than \$100 from individuals (no PACS, political parties) as follows: Governor: \$250,000 Lieutenant Governor, Attorney General, State Comptroller, State Treasurer, Secretary of State: \$75,000 House: \$5,000 Senate: \$15,000 Qualifying amounts for minor party candidates are the same, but they must get at least 10% of the votes cast in the previous election to qualify for 1/3 of grant. | N/A A portion of qualifying contributions must come from state residents or from residents of legislative districts as follows: Governor: \$225,000 Lieutenant Governor, Attorney General, State Comptroller, State Treasurer, Secretary of State: \$67,500 House: Contributions must be from at least 150 residents residing in the district Senate: Contributions must be from at least 300 residents residing in the district | N/A In addition to the amount of money the candidate raises in qualifying contributions, the candidate receives public funding as follows: Governor: \$1.25 million (primary); \$3 million (general) Lieutenant Governor, Attorney General, State Comptroller, State Treasurer, Secretary of State: \$375,000 (primary); \$750,000 (general) House: \$10,000 (primary); \$25,000 (general) Senate: \$35,000 (primary); \$85,000 (general) |
| Florida | Governor: \$150,000 Attorney General, Chief Financial Officer and Commissioner of Agriculture: \$100,000 | Yes, for qualifying and matchable contributions | Spending limited for candidates participating in public financing program: Governor: \$2.00 per registered voter (approximately \$20 million) Attorney General, Chief Financial Officer, and Commissioner of Agriculture: \$1.00 per registered voter (approximately \$10 million) |

**State Chart 2: Qualifying Threshold,
Residency Restrictions, Spending Limits (cont.)**

| STATE | QUALIFYING THRESHOLD | RESIDENCY RESTRICTION ON QUALIFYING / MATCHABLE CONTRIBUTIONS | SPENDING LIMITS |
|----------------------------|---|---|--|
| Hawaii | <p>Governor: \$100,000 Lieutenant Governor: \$50,000 Senator: \$2,500 Representative: \$1,500 Mayors: \$5,000 to \$50,000 Prosecuting Attorneys: \$5,000 to \$30,000 County Council: \$3,000 to \$5,000 All others: \$500</p> | Yes, for qualifying contributions | <p><i>Approximate figures given are for 2006 primary and general elections:</i> Governor: \$2.50 per registered voter per election (approximately \$1.45 million) Lieutenant Governor: \$1.40 per registered voter per election (approximately \$812,000) Mayor: \$2.00 per registered voter per election (ranges from \$66,000 – \$800,000 for counties of Kauai, Maui, Hawaii and Honolulu) State senator, state representative: \$1.40 per registered voter per election (ranges from \$11,000 – \$46,000) County Council member: \$1.40 per registered voter per election (ranges from \$12,000 – \$94,000) Prosecuting Attorney: \$1.40 per registered voter per election (ranges from \$46,000 – \$560,000) Board of education and all other offices: \$0.20 per registered voter per election (ranges from \$33,000 – \$116,000)</p> |
| Idaho | N/A | N/A | N/A |
| Iowa | N/A | N/A | N/A |
| Maine | <p><i>To become eligible for public financing, candidates must raise \$5 qualifying contributions as follows:</i> Governor: 2,500 Senator: 150 Representatives: 50</p> | Yes, for qualifying contributions. | <p>If a Clean Elections candidate, may only spend Clean Election funds, otherwise unlimited¹ Governor: \$200,000 (primary); \$400,000 (general) State Senator: \$6,487 (primary); \$16,791 (general) State Representative: \$1,374 (primary); \$4,032 (general)</p> |
| Maryland | \$165,267 for 2003, which is \$0.03 times the population of Maryland, as determined by the State Board, counting only contributions of \$250 or less ² | No, for qualifying and matchable contributions | \$1,652,672 for 2003, which is \$0.30 times the population of Maryland, as determined annually by the State Board |
| Massachusetts ³ | <p><i>Counting only contributions of \$250 or less:</i> Governor: \$75,000 (primary); \$125,000 (general) Attorney General: \$37,500 (primary); \$62,500 (general) Lieutenant Governor, State Secretary, Treasurer, Receiver General, and Auditor: \$15,000 (primary); \$25,000 (general) \$75,000 in qualifying contributions of \$100 or less</p> | No, for qualifying and matchable contributions | <p>Governor and Lieutenant Governor: \$1,500,000 Attorney General: \$625,000 Treasurer, Receiver General, State Secretary and Auditor: \$375,000⁴</p> |
| Michigan | \$75,000 in qualifying contributions of \$100 or less | Yes, for qualifying and matchable contributions | Governor and Lieutenant Governor (running together): \$2,000,000 ⁵ |

**State Chart 2: Qualifying Threshold,
Residency Restrictions, Spending Limits (cont.)**

| STATE | QUALIFYING THRESHOLD | RESIDENCY RESTRICTION ON QUALIFYING / MATCHABLE CONTRIBUTIONS | SPENDING LIMITS |
|---|---|---|--|
| Minnesota | Major party political candidates who agree to expenditure limitations receive equal shares, state senators and representatives divide up money based on their party's share of votes at the county level ⁶ | N/A | Governor and Lieutenant Governor (running together): \$2,188,090 Attorney General: \$364,690 Secretary of State and State Auditor: \$182,350 State Senator: \$54,740 State Representative: \$28,400 |
| Nebraska | Must face candidate who estimates and spends more than the expenditure limit. Must raise and spend 25% of the election limit from Nebraska sources and 16.25% of limit must be from Nebraska individuals | N/A | Governor: \$1,650,000 State Treasurer, Secretary Of State, Attorney General, or Auditor Of Public Accounts: \$150,000 Member of Legislature: \$73,000 Public Service Commission, Board Of Regents of University Of Nebraska, or State Board of Education: \$50,000 ⁷ |
| New Jersey | \$300,000 in contributions of \$3,000 or less, the first \$96,000 of which is not matched ⁸ | No, for qualifying and matchable contributions | Governor: \$4,400,000 (primary); \$9,600,000 (general) ⁹ |
| New Jersey Pilot Program (for legislative candidates) | 1,000 contributions of \$5 and 500 contributions of \$30 | Yes, for qualifying contributions | 75% of the average expenditures made by candidates in the 2 preceding elections for that district, or \$100,000, whichever is lower. ¹⁰ |
| New Mexico | \$5 contributions "from that number of registered voters that is equal to at least one quarter percent of the total vote" | Yes, for qualifying contributions ¹¹ | Clean Money candidates for Public Regulation Commission are limited to public funds, and up to 10% additional funds from political party contributions. The public funds distributed are based on the average expenditures made in the previous four elections. ¹² |
| North Carolina | At least 350 contributions of \$10 to \$500 from registered voters, that total at least 30 times the filing fee for candidacy for the office ¹³ | Yes, for qualifying contributions | Court of Appeals: 125 times the filing fee (\$138,125) Supreme Court: 175 times the filing fee (\$201,775) |
| Ohio | N/A | N/A | N/A |
| Oklahoma | N/A | N/A | N/A |
| Oregon | N/A | N/A | N/A |

**State Chart 2: Qualifying Threshold,
Residency Restrictions, Spending Limits (cont.)**

| STATE | QUALIFYING THRESHOLD | RESIDENCY RESTRICTION ON QUALIFYING / MATCHABLE CONTRIBUTIONS | SPENDING LIMITS |
|--------------|---|---|---|
| Rhode Island | Must be a candidate for general office and the nominee of a political party. Independent candidates are eligible provided they raise an amount in private contributions equal to 20% of the total amount eligible to be matched for the office sought, and receive private contributions from a minimum of 250 individuals contributing at least \$25 each. <i>At least 250 contributions of at least \$25 each, as follows:</i> <u>Governor</u> : totaling at least \$150,000 <u>Lieutenant Governor, Secretary of State, Attorney General, and General Treasurer</u> : \$37,500 N/A | No, for qualifying and matchable contributions | <i>Spending limited for candidates participating in public financing program; otherwise unlimited:</i> <u>Governor</u> : \$1,962,000 <u>Lieutenant Governor, Secretary of State, Attorney General, and General Treasurer</u> : \$490,000 |
| Utah | N/A | N/A | N/A |
| Vermont | <u>Governor</u> : \$35,000 collected from no fewer than 1,500 qualified individual contributors making a contribution of no more than \$50 each <u>Lieutenant Governor</u> : \$17,500 collected from no fewer than 750 qualified individual contributors making a contribution of no more than \$50 each. N/A | Yes, contributors must be registered to vote in Vermont, and no more than 25 percent of the total number of qualified individual contributors may be residents of the same county | <u>Governor</u> : \$300,000 <u>Lieutenant Governor</u> : \$100,000 <u>Secretary of State, State Treasurer, Auditor of Accounts or Attorney General</u> : \$45,000 <u>State Senator or County Office</u> : \$4,000 <u>State Representative</u> : \$2,000 ¹⁴ |
| Virginia | N/A | N/A | N/A |
| Wisconsin | A candidate must receive 6% of total primary votes cast, be opposed for the general election, and receive a percentage of the spending limit in contributions of \$100 or less ¹⁵ | Non-residents who contribute more than \$25 must designate a resident agent within the state | <u>Governor</u> : \$1,078,200 <u>Lieutenant Governor</u> : \$323,475 <u>Attorney General</u> : \$539,000 <u>Secretary of State, State Treasurer, State Superintendent, or Supreme Court Justice</u> : \$215,625 <u>State Senator</u> : \$34,500 <u>State Representative</u> : \$17,250 |

¹ The legislative Clean Elections distribution for a given year is the average amount of campaign expenditures made by each similarly situated candidate during the previous two elections. For 2004, the Clean Elections distributions for legislative candidates were as follows. Primary Election: Contested candidates for State Representative - \$1,374 Uncontested candidates for State Representative - \$456 Contested candidates for State Senate - \$6,487 Uncontested candidates for State Senate - \$1,514 General Election: Contested candidates for State Representative - \$4,032 Uncontested candidates for State Representative - \$1,613 Contested candidates for State Senate - \$16,791 Uncontested candidates for State Senate - \$6,717

State Chart 2: Qualifying Threshold, Residency Restrictions, Spending Limits (cont.)

² The Maryland State Board of Elections relies on data from the Division of Health Statistics of the Maryland Department of Health and Mental Hygiene, published in *Maryland Vital Statistics*, which is published annually. The most recent report (July, 2003) estimated the Maryland population at 5,508,909.

³ Massachusetts Clean Elections Law, repealed as of July 1, 2003, (M.G.L.A. 55A, MA ST 55A) has been replaced by Massachusetts Limited Public Financing of Campaigns for Statewide Elective Office (M.G.L.A. 55C, MA ST 55C).

⁴ Amounts given are applied separately to the general election and the primary, so the combined limit is double the amounts given. (M.G.L.A. 55C § 1A, MA ST 55C § 1A)

⁵ M.C.L.A. 169.203 “For purposes of sections 61 to 71, “candidate” only means, in a primary election, a candidate for the office of Governor and, in a general election, a candidate for the office of Governor or Lieutenant Governor. However, the candidates for the office of Governor and Lieutenant Governor of the same political party in a general election shall be considered as 1 candidate.”

⁶ Only opposed candidates receive shares.

⁷ Amounts given are for the general election. Expenditure limits for the primary are 50% of the limit for the general election. NE ST § 32-1604.

⁸ The New Jersey Election Law Enforcement Commission adjusts these amounts based on a price index, the given amounts are for 2005 (NJ ST 19:44A-7.1, NJ ST 19:44A-7.1) http://www.elec.state.nj.us/pdf/files/Cost%20Index/CostIndex_2005.pdf

⁹ The New Jersey Election Law Enforcement Commission adjusts these amounts based on a price index, the given amounts are for 2005 (NJ ST 19:44A-7.1, NJ ST 19:44A-7.1) http://www.elec.state.nj.us/pdf/files/Cost%20Index/CostIndex_2005.pdf

¹⁰ Up to \$100,000 in additional funds is available to each certified candidate, up to \$50,000 if a nonparticipating candidate exceeds the Clean Money distribution, and up to \$50,000 if the opponent of a certified candidate benefits from independent expenditures.

¹¹ Contributions are limited to registered voters who are eligible to vote for the office the candidate is seeking.

¹² Candidates in former elections are only counted for this calculation if they received a high enough percentage of the vote: 10% for a contested primary, 30% for a contested general election, all candidates for uncontested primaries, and 30% for an uncontested general election. Candidates in uncontested races only receive half the average expenditure amount.

¹³ The minimum qualifying contribution sum is \$33,150 for the Court of Appeals, and \$34,590 for the North Carolina Supreme Court. Candidates may not raise more than 60 times the filing fee for candidacy for the office, \$66,300 for the Court of Appeals, and \$69,180 for the North Carolina Supreme Court. Finally, to remain eligible, candidates may not raise or expend more than \$10,000 since January 1st of the year before the election.

¹⁴ Incumbents may only spend 85% of the listed amount. For state senator, the limit is raised an additional \$2,500.00 for each additional seat in the senate district. For state representative, the limit is increased to \$3,000 for two-member districts. Expenditure limits apply to all candidates, though this provision is the subject of litigation. As of June, 2005, the parties involved have filed for a Writ of Certiorari. The case is *Landell v. Sorrell*.

¹⁵ The candidates for the following offices must raise 5% of the spending limit for that office: Governor, Lieutenant Governor, secretary of state, state treasurer, Attorney General, state superintendent, and supreme court justice. The candidates for the following offices must receive 10% of the spending limit for that office: state senator, and state representative. The amounts are as follows: Governor \$53,910, Lieutenant Governor \$16,174, secretary of state \$10,781,

**State Chart 2: Qualifying Threshold,
Residency Restrictions, Spending Limits (cont.)**

state treasurer \$10,781, Attorney General \$26,950, state superintendent \$10,781, supreme court justice \$10,781, state senator \$3,450, and state representative \$1,725.

**State Chart 3: Spending Limits Per Resident,
Contribution Limits, Candidate Personal Contributions**

| STATE | SPENDING LIMITS PER RESIDENT ¹ | CONTRIBUTION LIMITS | CANDIDATE PERSONAL CONTRIBUTIONS | MAXIMUM PUBLIC FUNDS AVAILABLE |
|-------------|---|---|---|---|
| Alabama | N/A | Unlimited | Unlimited | N/A |
| Arizona | Governor: \$0.08(primary); \$0.11(general) Secretary of State: \$0.02 (primary); \$0.02 (general) Attorney General: \$0.02 (primary); \$0.02 (general) Treasurer, Superintendent of Public Instruction, and Corporation Commissioner: \$0.01 (primary); \$0.01 (general) Minc Inspector: \$0.01 (primary); \$0.01 (general) Member of Legislature ² : \$0.12 (primary); \$0.18 (general) | Statewide office: \$700 Legislative candidates: \$270 All other offices: \$340 Aggregate limit of \$3,230. | \$1,100 statewide or \$550 legislative for clean elections candidates, otherwise unlimited | Annual program costs cannot exceed more than five dollars times the number of Arizona resident personal income tax returns filed during the previous calendar year |
| Arkansas | N/A | All candidates: \$1,000 per election | Unlimited | N/A |
| Connecticut | Governor: \$0.37 (primary); \$0.88 (general) Lieutenant Governor, Attorney General, State Comptroller, State Treasurer, Secretary of State: \$0.11 (primary); \$0.22 (general) House ³ : \$0.44 (primary); \$1.11 (general) Senate: \$0.37 (primary); \$0.90 (general) | Ban on contributions from lobbyists and contractors | Unlimited Governor: \$20,000 Lieutenant Governor, Attorney General, State Comptroller, State Treasurer, Secretary of State: \$10,000 House: \$1,000 Senate: \$2,000 | Triple the initial grant to participating candidates if non-participating candidates spend over the expenditure limit and if the participating candidate is the target of independent expenditures. |
| Florida | Governor: \$2.00 Attorney General, Chief Financial Officer, and Commissioner of Agriculture: \$1.00 | Candidates and committees: \$500 per election (individuals); \$100 per election (minors) | \$25,000 limit to qualify for public financing, otherwise unlimited | Matching funds eligibility is not expressly capped by statute, but is finite because of spending limits ⁴ |

**State Chart 3: Spending Limits Per Resident,
Contribution Limits, Candidate Personal Contributions (cont.)**

| STATE | SPENDING LIMITS PER RESIDENT ¹ | CONTRIBUTION LIMITS | CANDIDATE PERSONAL CONTRIBUTIONS | MAXIMUM PUBLIC FUNDS AVAILABLE |
|----------------------------|---|---|--|--|
| Hawaii | Governor: \$2.50 per registered voter Lieutenant Governor: \$1.40 per registered voter Mayor: \$2.00 per registered voter State senator, state representative, county council member, and prosecuting attorney: \$1.40 per registered voter Board of education and all other offices: \$0.20 per registered voter | 4 year statewide office: \$6,000 per election 4 year non-statewide office: \$4,000 per election 2 year office: \$2,000 per election Non-candidate committees: \$1,000 | Contributions from a candidate's immediate family limited to \$50,000. | Based on expenditure limit: Governor, Lieutenant Governor, or mayor: 10% of spending limit Senator, Representative, County Council Member, and Prosecuting Attorney: 15% of spending limit All others: \$100 |
| Idaho | N/A | Unlimited | Unlimited | N/A |
| Iowa | N/A | Unlimited | Unlimited | N/A |
| Maine | Governor: \$0.16 (primary); \$0.31 (general) State Senator ² : \$0.18 (primary); \$0.46 (general) State Representative ³ : \$0.16 (primary); \$0.48 (general) | Governor and Lieutenant Governor (running together): \$500 per election All other offices: \$250 per election; Aggregate limit of \$25,000 per calendar year. | None allowed for certified clean election candidates, otherwise unlimited | Governor: \$200,000 (primary); \$400,000 (general) Legislative candidates receive the average expenditures made by legislative candidates in contested races in the previous two elections |
| Maryland | \$0.30 for a gubernatorial ticket | Candidates and committees: \$4,000 per election cycle | Unlimited | Limited to the money in the Fair Campaign Financing Fund |
| Massachusetts ⁷ | \$0.24 for Governor, and Lieutenant Governor | Aggregate limit of \$10,000 per election cycle Candidates: \$500 per calendar year Committees: \$5,000 per calendar year Aggregate limit of \$12,500 per calendar year | Unlimited | Governor and Lieutenant Governor: \$750,000 Attorney General: \$312,500 State Secretary, Treasurer, Receiver General and Auditor: \$187,500, ⁸ Governor and Lieutenant Governor: \$1,125,000 |
| Michigan | \$0.20 for a gubernatorial ticket | Statewide office: \$3,400 State senate: \$1,000 State representative: \$500 Judicial candidates: \$100 for lawyers | \$50,000 per gubernatorial campaign from the candidate and the candidate's family, regardless of public funding ⁹ | Governor and Lieutenant Governor: \$1,125,000 |

**State Chart 3: Spending Limits Per Resident,
Contribution Limits, Candidate Personal Contributions (cont.)**

| STATE | SPENDING LIMITS PER RESIDENT ¹ | CONTRIBUTION LIMITS | CANDIDATE PERSONAL CONTRIBUTIONS | MAXIMUM PUBLIC FUNDS AVAILABLE |
|---|--|--|---|---|
| Minnesota | \$0.44 for a gubernatorial ticket | <u>Governor and Lieutenant Governor (running together): \$2,000</u> <u>Attorney General: \$1,000</u> <u>Secretary of State, State Auditor, State Senator, and State Representative: \$500¹⁰</u> | \$20,000 if the candidate accepts the public financing, otherwise unlimited | No more than 50% the expenditure limit for a given candidate |
| Nebraska | <u>Governor: \$0.98</u> <u>Attorney General, Auditor, Secretary of State, Treasurer: \$0.09</u> | Aggregate on contributions from entities other than individuals (e.g., businesses, corporations, unions, trade associations and political parties), as follows: <u>Governor: \$825,000;</u> <u>Attorney General, Auditor, Secretary of State, Treasurer: \$75,000</u> <u>Legislature: \$36,500</u> <u>Public Service Commission, Regents, State Board of Education: \$25,000</u> | Unlimited | Public funds awarded = maximum estimate (by non-participating candidate) - limit |
| New Jersey | <u>Governor: \$1.66</u> | <u>Governor: \$3,000 per election</u> <u>All other offices: \$2,800 per election¹¹</u> | \$25,000 if the candidate accepts public financing, otherwise unlimited | <u>Governor: \$2,700,000 (primary); \$6,400,000 (general)¹²</u> |
| New Jersey Pilot Program (for legislative candidates) | Varies based on district and expenditures made in the previous two elections | \$200 limit for 'seed money' is permitted until a candidate is certified, at which time unspent seed money is forfeited | \$200 in seed money before certification, none for certified candidates, otherwise unlimited | 75% of the average expenditures made by candidates in the 2 preceding elections for that district, or \$100,000, whichever is lower ¹³ |
| New Mexico | Varies based on expenditures made in the previous four elections | Unlimited. Clean Money candidates are limited to \$100 seed money contributions, subject to a total limit of \$5,000. Clean Money candidates may accept contributions from political parties up to 10% of their public funds distribution. | Clean money candidates may make personal contributions as long as such contributions do not exceed the total seed money limit of \$5,000, otherwise unlimited | Total matching funds to a certified candidate in an election are limited to twice the amount originally distributed |

**State Chart 3: Spending Limits Per Resident,
Contribution Limits, Candidate Personal Contributions (cont.)**

| STATE | SPENDING LIMITS PER RESIDENT ¹ | CONTRIBUTION LIMITS | CANDIDATE PERSONAL CONTRIBUTIONS | MAXIMUM PUBLIC FUNDS AVAILABLE |
|----------------|---|--|--|---|
| North Carolina | Varies based on the amount of qualifying contributions raised | <u>Candidate or committee</u> : \$4,000 per election <u>Court of Appeals or Supreme Court</u> : \$1,000 per election (individuals); \$2,000 per election (family member) | \$1,000 from the candidate and each family member during the qualifying period if the candidate accepts public financing, and none after the qualifying period ends, otherwise unlimited | Maximum funds equal spending limit amount plus "rescue funds" (additional funds triggered by opponent spending), as follows: <u>Court of Appeals</u> : \$132,600 (primary); \$276,250 (general) <u>Supreme Court</u> : \$138,360 (primary); \$403,550 (general) |
| Ohio | N/A | <u>Statewide office or General Assembly</u> : \$10,000 per election; <u>County Political Party</u> : \$10,000 per election <u>State Political Party</u> : \$30,000 per calendar year <u>Political Action Committee</u> : \$10,000 per calendar year | Unlimited ¹⁴ | N/A |
| Oklahoma | N/A | All state candidates: \$2,500 per campaign ¹⁵ All other local offices: \$1,000 per campaign <u>County Political Party or Political Action Committee</u> : \$5,000 per calendar year | Unlimited | N/A |
| Oregon | N/A | Unlimited | Unlimited | N/A |
| Rhode Island | <u>Governor</u> : \$1.45 | <u>Non-participating candidates</u> : \$1,000 per calendar year <u>Participating candidates</u> : \$2,000 per calendar year Aggregate limit of \$10,000 total per calendar year | No more than 5% of the expenditure limit if a candidate accepts public financing, otherwise unlimited | <u>Governor</u> : \$750,000 <u>Lieutenant Governor, Secretary of State, Attorney General, and General Treasurer</u> : \$187,500 |
| Utah | N/A | Unlimited | Unlimited | N/A |
| Vermont | <u>Governor</u> : \$0.50 | <u>Governor, Lieutenant Governor, Secretary of State, State Treasurer, Auditor of Accounts, or Attorney General</u> : \$400 per 2 year election cycle <u>State senator or county office</u> : \$300 <u>State representative or local office</u> : \$200 <u>Non-candidate political committee or political party</u> : \$2,000 ¹⁶ | Unlimited | <u>Governor</u> : \$75,000 (primary); \$225,000 (general) <u>Lieutenant Governor</u> : \$25,000 (primary) \$75,000 (general) ¹⁷ |
| Virginia | N/A | Unlimited | Unlimited | N/A |

**State Chart 3: Spending Limits Per Resident,
Contribution Limits, Candidate Personal Contributions (cont.)**

| STATE | SPENDING LIMITS PER RESIDENT ¹ | CONTRIBUTION LIMITS | CANDIDATE PERSONAL CONTRIBUTIONS | MAXIMUM PUBLIC FUNDS AVAILABLE |
|-----------|---|---|--|---|
| Wisconsin | Governor: \$0.20 | Statewide office: \$10,000 State Senator: \$1,000 State Assembly: \$500 Court of Appeals/Judge: \$2,500 or \$3,000 (depending on population of district), Circuit Judge: \$1,000 or \$3,000 (depending on population of circuit), Local office: The greater of \$250 or 1¢ times the number of inhabitants (\$3,000 maximum) Aggregate limit of \$10,000 per calendar year. | Twice the individual contribution limit if a candidate accepts public financing, otherwise unlimited | 45% of the expenditure limit for the office |

¹ Based on spending limit per office per election, divided by total population.

² Based on total population, divided by 30 legislative districts, with two representatives per district.

³ Based on total population, divided by 151 house districts.

⁴ The Florida Supreme Court responded to a legal challenge with: "The Republican Party argues that the failure to identify a specific dollar amount to be transferred renders the funding provision null. We do not agree. Section 106.34 sets limits on the amounts candidates can spend. Section 106.35 establishes formulas and thus controls the distribution of funds to qualified candidates. These sections adequately specify, control, and limit the funds transferred." *Republican Party of Florida v. Smith*, 638 So.2d 26 (Fla. 1994)

⁵ Based on total population, divided by 35 senatorial districts.

⁶ Based on total population, divided by 151 representative districts.

⁷ Massachusetts Clean Elections Law, repealed as of July 1, 2003, (M.G.L.A. 55A, MA ST 55A) has been replaced by Massachusetts Limited Public Financing of Campaigns for Statewide Elective Office (M.G.L.A. 55C, MA ST 55C).

⁸ Amounts given are applied separately to the general election and the primary, so the combined limit is double the amounts given. (M.G.L.A. 55C § 5, MA ST 55C § 5) (M.G.L.A. 55C § 7, MA ST 55C § 7)

⁹ MI ST 169.269 (6) "As used in this subsection, "immediate family" means a spouse, parent, brother, sister, son, or daughter. A candidate and members of that candidate's immediate family may not contribute in total to that person's candidate committee an amount that is more than \$50,000.00 in value for an election cycle."

State Chart 3: Spending Limits Per Resident, Contribution Limits, Candidate Personal Contributions (cont.)

¹⁰ Limits are for election years. In other years the limits are \$500 Governor and Lieutenant Governor, running together; \$200 attorney general; \$100 Secretary of State, state auditor, state senator, and state representative

¹¹ The New Jersey Election Law Enforcement Commission adjusts these amounts based on a price index, the given amounts are for 2005 (NJ ST 19:44A-7.1, NJ ST 19:44A-7.1) www.elec.state.nj.us/pdf/files/Cost%20Index/CostIndex_2005.pdf

¹² The New Jersey Election Law Enforcement Commission adjusts these amounts based on a price index, the given amounts are for 2005 (NJ ST 19:44A-7.1, NJ ST 19:44A-7.1) www.elec.state.nj.us/pdf/files/Cost%20Index/CostIndex_2005.pdf.

¹³ Participating candidates are eligible to receive additional funding up to \$50,000 if a non-participating candidate exceeds the clean money distribution, up to another \$50,000 if a non-participating candidate benefits from independent expenditures.

¹⁴ Candidates for statewide or general assembly office who receive or expend personal funds of more than \$100,000 in primary or \$150,000 in general election for statewide office, or more than \$25,000 per election for general assembly candidate must file a personal funds notice.

¹⁵ Includes candidates for state office, county office in a county of 250,000 or more, or municipal office in a municipality of 250,000 or more.

¹⁶ The contribution limits are the subject of litigation. As of June, 2005, the parties involved have filed for a Writ of Certiorari. The case is *Landell v. Sorrell*.

¹⁷ The grant for a primary election period is reduced by an amount equal to the candidate's qualifying contributions. Incumbents are entitled to only 85% of the total funds they would otherwise receive. Candidates in uncontested elections and candidates who lose in the primary are not eligible for public funds.

State Chart 4: High Spending Opponents, Independent Expenditures, Debate Requirements

| STATE | HIGH SPENDING OPPONENT TRIGGER PROVISION | INDEPENDENT EXPENDITURE ("IE") TRIGGER PROVISION | DEBATE REQUIREMENT |
|---|--|---|--|
| Alabama | N/A | N/A | N/A |
| Arizona | If a nonparticipating candidate exceeds the expenditure limit, equivalent funds are distributed to participating candidates, up to a maximum of three times the expenditure limit | Independent expenditures made against a participating candidate entitle that candidate to matching funds, and independent expenditures in favor of a candidate entitle all other participating candidates to matching funds | Participating candidates must participate in debates prior to the primary and general elections. |
| Arkansas | N/A | N/A | N/A |
| Connecticut | When a non-participating candidate exceeds the expenditure limit by 90% (and in increments of 25% of the expenditure limit thereafter), additional funds are distributed to participating candidates in amounts equal to 25% of the expenditure limit. | When an independent expenditure has been made with the intent to promote the defeat of a participating candidate, additional funds equal to the amount of the independent expenditure are distributed to the participating candidate who is affected. | No |
| Florida | If a nonparticipating candidate exceeds the expenditure limit, equivalent funds are distributed to participating candidates, up to a maximum of twice the expenditure limit | No | No |
| Hawaii | No | No | No |
| Idaho | N/A | N/A | N/A |
| Iowa | N/A | N/A | N/A |
| Maine | If any candidate exceeds the clean money distribution, the excess is matched, up to a limit of three times the original distribution | No | No |
| Maryland | No | No | No |
| Massachusetts ¹ | No | No | No |
| Michigan | No | No | No |
| Minnesota | Expenditure limits eliminated | No | No |
| Nebraska | If any candidate exceeds the expenditure limit, equivalent funds are distributed to the qualified candidates | No | No |
| New Jersey | No | No | Yes ² |
| New Jersey Pilot Program (for legislative candidates) | If a nonparticipating candidate exceeds the expenditure limit, equivalent funds are distributed based on formula to the certified candidates, up to a maximum of \$50,000 | If a candidate benefits from independent expenditures, equivalent funds are distributed to non-benefiting certified candidates, up to a maximum of \$50,000 | Participating candidates must participate in two debates. |
| New Mexico | If a nonparticipating candidate exceeds the public funds distribution, including independent expenditures made to influence the election on behalf of the nonparticipating candidate, additional funds are distributed to match the excess, up to twice the original public funds distribution | Independent expenditures are treated like expenditures made directly by a nonparticipating candidate in order to determine whether participating candidates are entitled to matching funds | No |

**State Chart 4: High Spending Opponents,
Independent Expenditures, Debate Requirements (cont.)**

| STATE | HIGH SPENDING OPPONENT TRIGGER PROVISION | INDEPENDENT EXPENDITURE ("IE") TRIGGER PROVISION | DEBATE REQUIREMENT |
|----------------|---|---|--------------------|
| North Carolina | If expenditures are made in opposition to a certified candidate or in support of an opponent to that candidate, that candidate is entitled to matching funds up to twice the original public funds distribution | Independent expenditures made in opposition to a certified candidate or in support of an opponent to that candidate entitle that candidate to matching funds up to twice the original public funds distribution | No |
| Ohio | N/A | N/A | N/A |
| Oklahoma | N/A | N/A | N/A |
| Oregon | N/A | N/A | N/A |
| Rhode Island | If a nonparticipating candidate exceeds the expenditure limit, the limit is lifted to the extent the nonparticipating candidate exceeds them | Independent expenditures are counted against the expenditure limit of the candidate | No |
| Utah | N/A | N/A | N/A |
| Vermont | No | Independent expenditures are counted against the expenditure limit of the candidate on whose behalf the expenditure was made | No |
| Virginia | N/A | N/A | N/A |
| Wisconsin | If opponent qualifies for public financing but does not accept it, qualified candidates for the same office who accept public financing are no longer subject to expenditure limits | No | No |

¹ Massachusetts Clean Elections Law, repealed as of July 1, 2003, (M.G.L.A. 55A, MA ST 55A) has been replaced by Massachusetts Limited Public Financing of Campaigns for Statewide Elective Office (M.G.L.A. 55C, MA ST 55C).

²A participating candidate must forfeit and repay all public funds if he or she does not participate in the debate unless the Election Law Enforcement Commission determines that the candidate's failure to participate occurred under reasonable or justifiable circumstances. (N.J.S.A. 19:44A-47, NJ ST 19:44A-47).

**APPENDIX B:
LOCAL PUBLIC FINANCING CHARTS**

Local Chart 1: Population, Date Enacted, Public Funds Allocation, Maximum Amount

This chart summarizes the laws of 12 local jurisdictions in the United States that have public financing programs.¹

| JURISDICTION | POPULATION ² | ENACTED | PUBLIC FUNDS ALLOCATION ³ | MAXIMUM AMOUNT OF PUBLIC FUNDS A CANDIDATE MAY RECEIVE |
|-----------------------|-------------------------|---------|---|---|
| Albuquerque, NM | 495,571 | 2005 | Mayor: \$1 per registered City voter per participating candidate City Council: \$1 per registered district voter per participating candidate | \$450,000 per candidate (overall amount in program equals 1% of the City's General Fund) |
| Austin, TX | 659,098 | 1992 | Equal distribution of available funds among qualifying candidates <i>in a runoff election</i> . The public funds are distributed as a lump-sum grant. If no eligible candidate is in a runoff election, the funds are reserved for future elections. ⁴ | No maximum is established by law. |
| Boulder, CO | 94,673 ⁵ | 2000 | \$1 in public funds for every \$1 in contributions. ⁶ | A candidate may receive no more than 50% of the spending limit in public funds. ⁷ In 2005, a candidate could receive a maximum of \$6,305 in public funds. |
| Long Beach, CA | 475,880 | 1994 | Primary: \$1 in public funds for every \$2 in contributions. General: \$1 in public funds for every \$1 in contributions. ⁸ | A candidate may receive no more than 33% of the primary spending limit and 50% of the runoff election spending limit in public funds, which equals: Council: \$15,180 (Primary) & \$11,500 (Runoff) Mayor: \$75,900 (Primary) & \$57,500 (Runoff) Other Citywide Office: \$37,950 (Primary) & \$28,750 (Runoff) ⁹ |
| Los Angeles, CA | 3,719,310 | 1990 | Primary: \$1 in public funds for every \$1 in contributions from individuals, up to \$250 per contributor for Council candidates and up to \$500 per contributor for citywide candidates. General: candidate receives a lump-sum grant of one-fifth of the maximum matching funds available, plus a \$1 : \$1 match for individual contributions up to \$250 per contributor for Council candidates and up to \$500 per contributor for citywide candidates. ¹⁰ | Council: \$100,000 (Primary) & \$125,000 (General) Controller: \$267,000 (Primary) & \$300,000 (General) City Attorney: \$300,000 (Primary) & \$350,000 (General) Mayor: \$667,000 (Primary) & \$800,000 (General) ¹¹ |
| Miami-Dade County, FL | 2,294,651 | 2001 | County Commission: A qualified candidate receives a lump-sum grant of either \$50,000 or 75,000 for the general election, depending on which qualification threshold is met. A qualified candidate receives an additional \$50,000 if a runoff election is held. Mayor: A qualified candidate receives a lump-sum grant of \$300,000 for the general election, and an additional \$200,000 if a runoff election is held. ¹² | County Commission: \$75,000 (General) & \$50,000 (Runoff) Mayor: \$300,000 (General) & \$200,000 (Runoff) ¹³ |

**Local Chart 1: Population, Date Enacted,
Public Funds Allocation, Maximum Amount (cont.)**

| JURISDICTION | POPULATION ² | ENACTED | PUBLIC FUNDS ALLOCATION ³ | MAXIMUM AMOUNT OF PUBLIC FUNDS A CANDIDATE MAY RECEIVE |
|---------------------------|-------------------------|---------|---|--|
| New York, NY | 7,902,897 | 1988 | \$4 in public funds for each \$1 in contributions of \$250 or less from natural persons, up to \$1,000 in public funds per contributor. ¹⁴ | <p><i>Under normal circumstances, a candidate may not receive public funds that exceed 55% of spending limit,¹⁵ which in 2005 will equal:</i></p> <p><u>Council</u>: \$82,500 per election <u>Borough President</u>: \$708,950 per election <u>Mayor</u>: \$3,150,400 per election <u>Public Advocate and Comptroller</u>: \$1,969,550 per election</p> <p><i>However, if a high spending opponent spends 50% over the spending limit ("Tier One"), the participating candidate is eligible to receive matching funds in a 5:1 ratio in the following maximum amounts (2005):</i></p> <p><u>Council</u>: \$100,000 per election <u>Borough President</u>: \$859,333 per election <u>Mayor</u>: \$3,818,667 per election <u>Public Advocate and Comptroller</u>: \$2,387,333 per election</p> <p><i>Additionally, if a high spending opponent spends 300% over the spending limit ("Tier Two"), the participating candidate is eligible to receive matching funds in a 6:1 ratio in the following maximum amounts (2005):</i></p> <p><u>Council</u>: \$187,500 <u>Borough President</u>: \$859,333 <u>Comptroller</u>: \$4,476,250 <u>Public Advocate</u>: \$4,476,250 <u>Mayor</u>: \$7,160,000</p> |
| Oakland, CA ¹⁶ | 382,369 | 1999 | \$1 in public funds for each \$1 in contributions, up to \$100 in public funds per contributor. ¹⁷ | <p>Candidates may not receive public funds exceeding 15% of the applicable spending limit,¹⁸ which equals:</p> <p><u>City Council</u>: \$13,800-\$15,900 per election (depending on the population of the district) <u>School Board</u>: \$9,150-\$10,650 per election (depending on the population of the district) <u>Mayor</u>: \$48,150 per election <u>Other Citywide Office</u>: \$34,350 per election</p> |

**Local Chart 1: Population, Date Enacted,
Public Funds Allocation, Maximum Amount (cont.)**

| JURISDICTION | POPULATION ² | ENACTED | PUBLIC FUNDS ALLOCATION ³ | MAXIMUM AMOUNT OF PUBLIC FUNDS A CANDIDATE MAY RECEIVE |
|----------------------------------|-------------------------|---------|--|--|
| Portland, OR ¹⁹ | 526,609 | 2005 | Candidates receive the maximum amount of funds for contested primaries and general elections, minus the total amount of qualifying contributions ²⁰ and seed money ²¹ received by the candidate in a pre-determined schedule before each election. ²² | <u>Contested primaries:</u> Mayor: \$200,000 Commissioner: \$150,000 Auditor: \$150,000 <u>General elections:</u> Mayor: \$250,000 Commissioner: \$150,000 Auditor: \$150,000 ²³ |
| Sacramento, CA | 405,444 | 2003 | \$1 in public funds for each \$1 in contributions received within 90 days of the election, up to \$250 in public funds per contributor. ²⁴ | <u>City Council:</u> \$30,000 per election <u>Mayor:</u> \$100,000 per election ²⁵ |
| San Francisco, CA | 731,978 | 2000 | <u>General Election:</u> A Board of Supervisors candidate receives \$5,000 on certification of eligibility, then \$4 in public funds for each of the first \$5,000 raised in individual contributions, then \$1 in public funds for each \$1 in individual contributions raised, up to a maximum of \$43,750. <u>Runoff Election</u> ²⁶ : Candidate receives \$5,000 on qualification for runoff, then \$4 in public funds for each \$1 in individual contributions raised, up to a maximum of \$17,000. ²⁷ | \$43,750 (General) & \$17,000 (Runoff) ²⁸ |
| Suffolk County, NY ²⁹ | 1,437,766 | 1998 | Upon reaching the threshold for eligibility, a candidate receives the following amount of public funds per election, in a lump-sum grant: <u>County Legislature:</u> \$10,000 <u>Executive:</u> \$200,000 <u>Comptroller, Treasurer, District Attorney:</u> \$70,000 ³⁰ | <u>County Legislature:</u> \$10,000 <u>Executive:</u> \$200,000 <u>Comptroller, Treasurer, District Attorney:</u> \$70,000 ³¹ |
| Tucson, AZ | 479,613 | 1985 | \$1 in public funds for every \$1 in contributions. ³² | There is no maximum amount established explicitly by law, but under the matching funds formula, it would be impossible for a candidate to receive more than 50% of the spending limit in public funds. Consequently, the maximum public funds available to a candidate would be: <u>Council (for 2005 elections):</u> \$39,611 per election cycle <u>Mayor (for 2003 elections):</u> \$71,135 per election cycle ³³ |

Local Chart 1: Population, Date Enacted, Public Funds Allocation, Maximum Amount (cont.)

¹This chart contains information only for jurisdictions with public financing laws on the books. Public financing programs in six local jurisdictions – Cincinnati (OH), King County (WA), Petaluma (CA), Sacramento County (CA), Seattle (WA), Cary (NC) – have been terminated or suspended, three by statewide ballot measure, one by local ballot measure, one by city council repeal, and one by suspension under legal settlement.

²Based on estimated 2003 census figures from the U.S. Census Bureau, which can be found at the *American Factfinder* website: <http://factfinder.census.gov>, unless otherwise indicated.

³In jurisdictions that use a matching funds system, as opposed to a lump-sum grant system, the amount of public funding a candidate may receive per contributor is typically limited by the size of the jurisdiction's contribution limit. For example, in Boulder, a candidate may receive \$1 in public funds for every \$1 in private contributions up to the jurisdiction's \$100 contribution limit. Therefore, a candidate in Boulder could not receive more than \$100 in public funds per contributor. In an effort to encourage candidates to solicit smaller contributions from a larger number of donors, some jurisdictions place a limit on the size of a contribution that will be matched which is lower than the general contribution limit (e.g., Los Angeles and New York City). For the purposes of interpreting this column, assume that contributions up to the contribution limit are matchable unless otherwise noted.

⁴ Austin, Tex., City Code § 2-2-34(A) (2005).

⁵ 2003 Census estimates not available; therefore, figure used is from 2000 Census.

⁶ Boulder, Colo., Revised Code § 13-2-20(a) (2005).

⁷ *Id.*

⁸ Long Beach, Cal., Municipal Code § 2.01.410(D) (2005).

⁹ *Id.* at §§ 2.01.410(A)(3), (B)(2) and (C)(2).

¹⁰ Los Angeles, Cal., Municipal Code §§ 49.7.20 and 49.7.19(B) (2005).

¹¹ *Id.* at § 49.7.22.

¹² Miami-Dade, Fla., County Code § 12-22(f)(3) (2005).

¹³ *Id.*

¹⁴ New York City, N.Y., Administrative Code § 3-705(2) (2005). See *also id.* at § 3-702 (definition of “matchable contribution”).

¹⁵ *Id.* at § 3-705(2).

¹⁶ After successful administration of the public financing program in 2001 and 2002, the Oakland City Council suspended funding of the program for 2004 citywide elections. The council resumed funding of the program in a 2004 special election for a council seat. As of May 2005, the Council is debating whether to overhaul the system for the 2006 elections by eliminating funding for citywide offices and providing funding in greater amounts just for council elections.

¹⁷ Oakland, Cal., Municipal Code § 3.13.110 (2005).

¹⁸ *Id.*

Local Chart 1: Population, Date Enacted, Public Funds Allocation, Maximum Amount (cont.)

¹⁹ In May 2005, Portland, Oregon became the first U.S. city to enact a full public financing program for local candidates. After raising a certain number of qualifying contributions of \$5, candidates become eligible to receive all of the money necessary to run a campaign, up to a pre-determined spending limit.

²⁰ A “qualifying contribution” is defined as a contribution of no more than \$5 in cash, or in the form of a check or money order made payable by any resident to the candidate or principal campaign committee of the candidate. See Portland, Ore., City Code § 2.10.010(T) (2005).

²¹ A “seed money contribution” is defined as a contribution of no more than \$100 made by a person to a political committee or candidate. *Id.* at § 2.10.010(W).

²² *Id.* at § 2.10.100 (2005)

²³ *Id.* at § 2.10.110.

²⁴ Sacramento, Cal., City Code § 2.14.140 (2003).

²⁵ *Id.*

²⁶ Because San Francisco implemented Ranked Choice Voting (also known as “instant runoff voting”) in the 2004 elections, there was no runoff election; therefore, the public financing provisions relating to runoff elections were not applicable.

²⁷ San Francisco, Cal., Campaign and Governmental Conduct Code §§ 1.144(c) and (d) (2005). See also *id.* at § 1.104(k) (definition of “matching contribution”).

²⁸ *Id.* at §§ 1.144(c) and (d).

²⁹ Although the law is still officially on the books, the Suffolk County public financing program has been consistently under-funded and virtually inoperable since its inception. For a more in-depth analysis of the problems with the Suffolk County program, see Center for Governmental Studies, *Dead On Arrival? Breathing Life into Suffolk County's New Campaign Finance Reforms* (2002).

³⁰ Suffolk County, N.Y., Charter § C41-4(C) (2005).

³¹ *Id.*

³² Tucson, Ariz., Charter, Chapter XVI, Subchapter B, § 5(a) (2005).

³³ *Id.*

Local Chart 2: Qualifying Threshold, Residency Restrictions, Spending Limits

| JURISDICTION | QUALIFYING FUNDRAISING THRESHOLD ¹ | RESIDENCY RESTRICTION ON MATCHABLE CONTRIBUTIONS | FUNDING MECHANISM | SPENDING LIMITS ² |
|-----------------|---|--|---|--|
| Albuquerque, NM | <i>To become eligible for public financing, candidates must raise \$5 qualifying contributions from City residents as follows:</i> Mayor: 1% of registered City voters City Council: 1% of registered City voters in district | Yes, for qualifying contributions | Qualifying contributions; unspent moneys; seed money; appropriations equal to one tenth of 1% of the approved General Fund; voluntary contributions from members of the public | Mayor: \$1.00 per registered City voter (approximately \$495,000) City Council: \$1.00 per registered voter in the district (approximately \$55,000) |
| Austin, TX | None ³ (Public financing program candidates receive funds if in a runoff.) | N/A | Lobbyist registration fees; donations from individuals and business entities; liquidated damages and criminal fines for campaign violations; voluntary check-off on utility bills; candidate filing fees. ⁴ | General: \$75,000 Runoff: \$50,000 ⁵ |
| Boulder, CO | 10% of spending limit in contributions of \$25 or less: \$1,261 (2005). ⁶ | No | City Council allocation. ⁷ | \$0.173 per registered voter: \$12,610 (2005). ⁸ |
| Long Beach, CA | Council: \$5,000 in contributions of \$100 or less. Mayor: \$20,000 in contributions of \$200 or less. Other Citywide Office: \$10,000 in contributions of \$150 or less. ⁹ | No | City Council allocations "from time to time." ¹⁰ | Council: \$46,000 (Primary) & \$23,000 (Runoff) Mayor: \$230,000 (Primary) & \$115,000 (Runoff) Other Citywide Office: \$115,000 (Primary) & \$57,500 (Runoff) ¹¹ |
| Los Angeles, CA | Council: \$25,000 in contributions of \$250 or less. City Attorney and Controller: \$75,000 in contributions of \$500 or less. Mayor: \$150,000 in contributions of \$500 or less. ¹² | No | The City Charter mandates \$2 million in annual appropriations to fund the public financing program. The annual appropriations are held in a trust fund, the balance of which may never exceed \$8 million. Both the annual appropriation and the total balance amounts are adjusted for changes in the cost of living. ¹³ | City Council: \$330,000 (Primary), \$275,000 (General) Controller: \$900,000 (Primary), \$676,000 (General) City Attorney: \$1,013,000 (Primary), \$788,000 (General) Mayor: \$2,251,000 (Primary), \$1,800,000 (General) ¹⁴ |

**Local Chart 2: Qualifying Threshold,
Residency Restrictions, Spending Limits (cont.)**

| JURISDICTION | QUALIFYING FUNDRAISING THRESHOLD ¹ | RESIDENCY RESTRICTION ON MATCHABLE CONTRIBUTIONS | FUNDING MECHANISM | SPENDING LIMITS ² |
|-----------------------|--|--|---|---|
| Miami-Dade County, FL | <p>County Commission: 200 contributions between \$15 and \$250 from 200 registered voter residents of Miami-Dade County for a total of at least \$15,000, in order to receive \$50,000 in public funds for the primary election. If total qualifying contributions exceed \$25,000, the candidate is eligible for \$75,000 in public funds for the primary election.</p> <p>Mayor: 1,000 contributions between \$15 and \$250 from 1,000 registered voter residents of Miami-Dade County.¹⁵</p> <p>Runoff: A candidate who was not a participant in the primary election may receive public funds in a runoff without meeting the threshold requirement, provided that the candidate did not exceed the spending limit in the primary and agrees to abide by the runoff spending and personal contribution limits.¹⁶</p> | <p>Miami-Dade County uses a lump-sum grant program, rather than a matching funds program. However, the contributions that a candidate must receive in order to qualify for a public funding grant must be made by registered voter residents of the County.¹⁷</p> | <p>Appropriations from general revenues "in an amount sufficient to fund qualifying candidates."¹⁸</p> | <p>Mayor: \$600,000 (General), \$400,000 (Runoff) Commissioner: \$150,000 (General), \$100,000 (Runoff)¹⁹</p> |
| New York, NY | <p>In order to reach the following threshold requirements, the contributions must be between \$10 and \$250 and made by natural persons who are residents of New York City.</p> <p>Council: at least 75 contributions from Council residents totaling \$5,000.</p> <p>Borough President: at least 100 contributions totaling an amount equal to \$0.02 multiplied by the resident population of the borough.</p> <p>Mayor: at least 1,000 contributions totaling \$250,000.</p> <p>Public Advocate and Comptroller: at least 500 contributions totaling \$125,000.²⁰</p> <p>Contributions of \$100 or less totaling at least 5% of the applicable spending limit.²⁴</p> | <p>Yes, for matching funds²¹</p> | <p>Annual budget appropriation.²²</p> | <p>2005 Election year limits: Mayor: \$5,728,000 per election Public Advocate and Comptroller: \$3,581,000 per election Borough President: \$1,289,000 per election Council: \$150,000 per election²³ Additional spending limits apply to the two years preceding the election year.</p> |
| Oakland, CA | <p>Contributions of \$100 or less totaling at least 5% of the applicable spending limit.²⁴</p> | <p>No</p> | <p>City Council appropriation "sufficient to fund all candidates for the city office eligible to</p> | <p>2005 Election year limits: Mayor: \$336,000 Other Citywide Office: \$240,000 District City Councilmember: \$96,000 to \$109,000</p> |

**Local Chart 2: Qualifying Threshold,
Residency Restrictions, Spending Limits (cont.)**

| JURISDICTION | QUALIFYING FUNDRAISING THRESHOLD ¹ | RESIDENCY RESTRICTION ON MATCHABLE CONTRIBUTIONS | FUNDING MECHANISM | SPENDING LIMITS ² |
|--------------------|---|--|---|---|
| Portland, OR | <i>To become eligible for public financing, candidates must raise \$5 qualifying contributions from City residents as follows:</i> Mayor: 1,500 residents Commissioner: 1,000 residents Auditor: 1,000 residents ²⁷ | Yes, for qualifying contributions. ²⁸ | receive limited matching funds. ²⁵ City Council appropriation; civil penalty fund revenues; voluntary private contributions. ²⁹ | (depending on the population of the district) School Board Director: \$64,000 to \$74,000 (depending on the population of the district) ²⁶ Mayor: \$200,000 (Primary), \$250,000 (General) Commissioner: \$150,000 (Primary), \$200,000 (General) Auditor: \$150,000 (Primary), \$200,000 (General) ³⁰ |
| Sacramento, CA | City Council candidates must raise at least \$7,500 in contributions of \$250 or less. Mayoral candidates must raise at least \$10,000 in contributions of \$250 or less. ³¹ | No | City Council appropriation. ³² | Mayor: \$500,000 City Council: \$75,000 ³³ |
| San Francisco, CA | Candidate must raise \$5,000 in contributions between \$10 and \$100 from residents of the city. ³⁴ | Yes, for matching funds. ³⁵ | Election Campaign Fund established by ordinance. Ordinance directs the Mayor and Board of Supervisors to appropriate an amount sufficient to provide funding to all eligible candidates. ³⁶ | Supervisor: \$83,000 (General), \$22,000 (Runoff) ³⁷ |
| Suffolk County, NY | The following thresholds must be met by contributions from natural person residents of the County of between \$10 and \$500. County Legislature: 50 contributions totaling at least \$5,000. Executive: 500 contributions totaling at least \$75,000. Comptroller, Treasurer, District Attorney: 300 contributions totaling at least \$30,000. ³⁸ | Yes, for matching funds ³⁹ | Voluntary taxpayer donations to the campaign finance fund. ⁴⁰ | Executive: \$338,000 (Primary), \$563,000 (General) Other Countywide Offices: \$113,000 (Primary), \$225,000 (General) County Legislator: \$17,000 (Primary), \$34,000 (General) ⁴¹ <i>Additional spending limits apply to the year preceding the election year.</i> |
| Tucson, AZ | The following thresholds must be met with contributions from city residents. Council: 200 contributions of \$10 or more. Mayor: 300 contributions of \$10 or more. ⁴² | Contributions received toward meeting the matching funds qualification threshold must be from Tucson residents. Once a candidate exceeds the qualification | Mayor/Council annual budget appropriations. ⁴⁴ | Mayor: \$0.64 per registered voter in the city per election cycle: \$142,271 (2003) Council: \$0.33 per registered voter in the city per election cycle: \$79,222 (2005) <i>No candidate may spend more than 75% of these limits prior to the primary election.</i> ⁴⁵ |

**Local Chart 2: Qualifying Threshold,
Residency Restrictions, Spending Limits (cont.)**

| JURISDICTION | QUALIFYING FUNDRAISING THRESHOLD ¹ | RESIDENCY RESTRICTION ON MATCHABLE CONTRIBUTIONS | FUNDING MECHANISM | SPENDING LIMITS ² |
|--------------|---|--|-------------------|------------------------------|
| | | threshold, non-resident contributions are matchable. ⁴³ | | |

¹ In order to be eligible to receive public financing, candidates must first demonstrate a modicum of public support. Various qualification thresholds are used to ensure that public funds are not allocated to candidates with no support base. Most jurisdictions require candidates to raise a minimum amount of campaign funds in small contributions. Some jurisdictions (e.g., Austin and Cary) require that candidates receive enough votes in a general election to proceed into a runoff election before becoming eligible to receive public funds.

² The spending limits in these jurisdictions are binding only on candidates who voluntarily agree to abide by such limits in exchange for public financing. The U.S. Supreme Court has interpreted the First Amendment of the federal Constitution to prohibit mandatory spending limits. See *Buckley v. Valeo*, 424 U.S. 1, 49 (1976) (*per curiam*). The *Buckley* Court did rule, however, that Congress may “condition acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations.” *Id.* at 57 n. 65. The local governments included in this chart have relied on this rationale to implement voluntary public financing programs with spending limits. The following jurisdictions apply a cost of living adjustment (“COLA”) to the spending limits: **Boulder**, see Boulder, Colo., Revised Code § 13-2-21(b)(1) (2005); **Long Beach**, see Long Beach, Cal., Municipal Code § 2.01.1210 (2005); **Miami-Dade County**, see Miami-Dade, Fla., County Code § 12-22(e)(3) (2005); **New York City**, see New York City, N.Y., Administrative Code § 3-706(1)(c) (2005); **Oakland**, see Oakland, Cal., Municipal Code § 3.12.200 (2005); **San Francisco**, see San Francisco, Cal., Campaign and Governmental Conduct Code § 1.130(f) (2005); **Suffolk County**, see Suffolk County, N.Y., Charter § C41-5(A)(4) (2005); and **Tucson**, see City of Tucson, Ariz., Charter, Chapter XVI, Subchapter B, § 3(c) (2005). The spending limits listed in this chart are the most current adjusted limits. The original limits can be found in the cited ordinances and charters.

³ Austin, Tex., Code § 2-2-34 (2005).

⁴ *Id.* at § 2-2-32.

⁵ Austin, Tex., Charter Art. III § 8(H) (2005).

⁶ Boulder, Colo., Revised Code § 13-2-21(a) (2005).

⁷ *Id.* at 13-2-20(a).

⁸ *Id.* at § 13-2-21(b)(1) (2005). The actual spending limit in 2005, when adjusted for the cost of living, was \$0.179 per registered voter. When multiplied by 67,613 registered voters, the total spending limit per candidate was \$12,082.

**Local Chart 2: Qualifying Threshold,
Residency Restrictions, Spending Limits (cont.)**

⁹ Long Beach, Cal., Municipal Code § 2.01.410 (2005).

¹⁰ *Id.* at § 2.01.910.

¹¹ These limits are current as of January 2002 and will be adjusted again in January 2004 to reflect changes in the cost of living. Long Beach, Cal., Municipal Code § 2.02.410 (2005).

¹² Los Angeles, Cal., Municipal Code § 49.7.19(A)(1) (2005).

¹³ Los Angeles, Cal., City Charter, Art. IV §§ 471(c)(1) and (2) (2005).

¹⁴ Los Angeles, Cal., Municipal Code § 49.7.13 (2005).

¹⁵ Code of Miami-Dade County, Fla. § 12-22(c)(5) (2005).

¹⁶ *Id.* at § 12-22(d).

¹⁷ *Id.* at § 12-22(c)(5).

¹⁸ *Id.* at § 12-22(b).

¹⁹ *Id.* at § 12-22(c).

²⁰ New York City, N.Y., Administrative Code § 3-703(2)(a) (2005).

²¹ *Id.* at § 3-702(3).

²² *Id.* at § 3-709.

²³ The spending limits given here are the limits that apply to the 2003 city council elections and the 2005 citywide office elections. *Id.* at § 3-706(1)(a).

²⁴ Oakland, Cal., Municipal Code § 3.13.080(C) (2005).

²⁵ *Id.* at § 3.13.060.

²⁶ *Id.* at § 3.12.200. The statute specifies the spending limit amount per resident, adjusted for changes in the cost of living. The city's limits are based on the City Clerk's resident population count of 399,477.

²⁷ Portland, Ore., City Code § 2.10.070 (2005).

²⁸ *Id.*; see also § 2.10.010(V).

²⁹ *Id.* at § 2.10.040.

³⁰ *Id.* at § 2.10.110.

³¹ Sacramento, Cal., Sacramento City Code § 2.14.130 (2005).

³² *Id.* at § 2.14.215.

³³ *Id.* at § 2.14.050.

³⁴ San Francisco, Cal., Campaign and Governmental Conduct Code §§ 1.140(a)(2) and 1.104(o) (2005).

³⁵ *Id.* at § 1.104(k).

³⁶ *Id.* at § 1.138.

Local Chart 2: Qualifying Threshold, Residency Restrictions, Spending Limits (cont.)

³⁷ Because San Francisco implemented Ranked Choice Voting (also known as “instant runoff voting”) in the 2004 elections, there was no runoff election. Therefore, the public financing provisions relating to runoff elections were not applicable. San Francisco also offers voluntary spending limits to candidates for the offices of Mayor, Board of Education, and other citywide offices, but does not offer public financing to candidates for these offices. *See id.* at § 1.130.

³⁸ Suffolk County, N.Y., Charter §§ C41-1 (definition of “Threshold Contribution”) and C41-2(A)(8)(a) (2005).

³⁹ *Id.* at § C41-1 (definition of “Matchable Contribution”).

⁴⁰ *Id.* at § C41-8(I).

⁴¹ *Id.* at §§ C41-5(A) and (B) (2005).

⁴² City of Tucson, Ariz., Charter, Chapter XVI, Subchapter B, § 4(a) (2005).

⁴³ *Id.* at §§ 4(b) and 5(a).

⁴⁴ *Id.* at § 6.

⁴⁵ *Id.* at § 3.

Local Chart 3: Spending Limits Per Resident, Contribution Limits, Candidate Personal Contributions

| JURISDICTION | SPENDING LIMITS PER RESIDENT ¹ | CONTRIBUTION LIMITS ² | CANDIDATE PERSONAL CONTRIBUTIONS ³ |
|-----------------------|--|--|--|
| Albuquerque, NM | Mayor: \$450,000 (general) Council: \$55,000 (general) | No candidate shall allow total contributions from any one person with the exception of the contributions from the candidate himself or herself of more than 5% of the total annual salary for such office. ⁴ Contributions to candidates may not exceed the following amounts: From Small-Donor PACs: \$1,000 per election ⁵ From All other contributors: \$100 per election ⁶ Total from Contributors Not Eligible to Vote in Austin: \$15,000 (General) & \$10,000 (Runoff) ⁷ Non-candidate political committees are prohibited from accepting contributions in excess of \$100 per year per contributor. Non-candidate political committees are also prohibited from accepting contributions from sources other than natural persons. ⁸ | \$500 in seed money allowed |
| Austin, TX | General: \$0.11 Runoff: \$0.08 | \$100 per election ¹⁰ Contributions from persons to: Council Candidates: \$300 per election Mayor Candidates: \$600 per election Other Citywide Office Candidates: \$440 ¹³ | May not exceed 5% of spending limit. ⁹ |
| Boulder, CO | \$0.173 | \$100 per election ¹⁰ Contributions from persons to: Council Candidates: \$300 per election Mayor Candidates: \$600 per election Other Citywide Office Candidates: \$440 ¹³ | May not exceed 20% of spending limit. ¹¹ Limited only by the total spending limit. |
| Long Beach, CA | Council: \$0.90 (Primary) & \$0.45 (Runoff) ¹² Mayor: \$0.50 (Primary) & \$0.25 (Runoff) Other Citywide Office: \$0.25 (Primary) & \$0.13 (Runoff) | Contributions from persons to: City Council Candidates: \$500 per election Mayor, City Attorney, Controller Candidates: \$1,000 per election PACs which support or oppose any candidate (includes PACs that make IEs): \$500 per calendar year Total contributions made "in connection with all candidates" in any single election: the greater of \$1,000 or (\$500 multiplied by the number of City Council offices on the ballot + \$1,000 multiplied by the number of City-wide offices on the ballot). A candidate may not accept contributions from PACs which combined exceed: City Council: \$150,000 City Attorney or Controller: \$400,000 Mayor: \$900,000 ¹⁵ | Council: \$25,000 Citywide office: \$100,000 ¹⁶ |
| Los Angeles, CA | City Council: \$1.33 (Primary), \$1.11 (General) ¹⁴ Controller: \$0.24 (Primary), \$0.18 (General) City Attorney: \$0.27 (Primary), \$0.21 (General) Mayor: \$0.61 (Primary), \$0.49 (General) | Contributions from persons to: City Council Candidates: \$500 per election Mayor, City Attorney, Controller Candidates: \$1,000 per election PACs which support or oppose any candidate (includes PACs that make IEs): \$500 per calendar year Total contributions made "in connection with all candidates" in any single election: the greater of \$1,000 or (\$500 multiplied by the number of City Council offices on the ballot + \$1,000 multiplied by the number of City-wide offices on the ballot). A candidate may not accept contributions from PACs which combined exceed: City Council: \$150,000 City Attorney or Controller: \$400,000 Mayor: \$900,000 ¹⁵ | Council: \$25,000 Citywide office: \$100,000 ¹⁶ |
| Miami-Dade County, FL | Mayor: \$0.27 (General), \$0.17 (Runoff); Commissioner: \$0.85 (General), \$0.58 (Runoff) ¹⁷ | \$250 per election ¹⁸ | May not exceed \$25,000. ¹⁹ |
| New York, NY | 2005 Election year limits: | Citywide office: \$4,950 per election cycle | May not exceed three times the applicable contribution |

**Local Chart 3: Spending Limits Per Resident,
Contribution Limits, Candidate Personal Contributions (cont.)**

| JURISDICTION | SPENDING LIMITS PER RESIDENT ¹ | CONTRIBUTION LIMITS ² | CANDIDATE PERSONAL CONTRIBUTIONS ³ |
|--------------------|--|--|--|
| | <p>Mayor: \$0.72 per election</p> <p>Public Advocate and Comptroller: \$0.45 per election</p> <p>Borough President: \$0.82 per election²⁰</p> <p>Council: \$0.96 per election²¹</p> <p><i>Additional spending limits apply to the two years preceding the election year.</i></p> <p>Mayor: \$0.84</p> <p>Other Citywide Office: \$0.60</p> <p>District City Councilmember: \$1.80</p> <p><i>School Board Director: \$1.21²⁵</i></p> | <p>Borough President: \$3,850 per election year</p> <p>Council: \$2,750 per election cycle²²</p> <p><i>Participating candidates may not accept contributions from PACs unless the PAC voluntarily registers with the Campaign Finance Board and the contribution does not exceed the contribution limit applicable to the office.</i>²³</p> <p>Contributions from persons to: Non-participating candidates and PACs that make IEs: \$100 per election Participating candidates: \$600 per election²⁶ Contributions from "broad-based political committees"²⁷ to: Non-participating candidates: \$300 per election Participating candidates: \$1,200 per election²⁸</p> <p><i>Participating candidates may not accept campaign contributions, except for qualifying contributions and seed money. Non-participating candidates are bound by state law, which does not impose any contribution limits on local candidates.</i></p> | <p>limit.²⁴</p> <p>May not exceed 5% of the spending limit.²⁹</p> |
| Portland, OR | <p>Mayor: \$0.38 (Primary); \$0.47 (General)</p> <p>Commissioner: \$1.14 (Primary); \$1.52 (General)³⁰</p> <p>Auditor: \$0.28 (Primary); \$0.38 (General)</p> <p>Mayor: \$1.23</p> <p>City Council: \$1.48³¹</p> | <p>Individuals to Mayoral Candidates: \$1,000</p> <p>Individuals to City Council Candidates: \$750</p> <p>PACs to Mayoral Candidates: \$5,000</p> <p>PACs to City Council Candidates: \$3,000³²</p> <p>General election: \$500</p> <p>Aggregate limit for general election: \$500 multiplied by the total number of offices being elected, per contributor</p> <p>Contributions to PACs (includes PACs that make IEs): \$500 per year per committee and \$3,000 total to all committees per year³⁵</p> <p>The following contribution limits apply only to public financing program candidates: County Legislator: \$1,100 per election Executive: \$2,750 per election Comptroller, Treasurer, District Attorney: \$1,650 per election³⁷</p> <p><i>Participating candidates are prohibited from accepting contributions from PACs, lobbyists or firms doing business, or proposing to do business with the</i></p> | <p>Limited only by the total spending limit.</p> <p>Mayor: \$30,000 City Council: \$7,500³³</p> <p>Limited only by the total spending limit.</p> <p>May not exceed the contribution limit applicable to the office.³⁹</p> |
| Sacramento, CA | <p>Board of Supervisors: \$1.25 (General), \$0.33 (Runoff, if applicable)³⁴</p> | | |
| San Francisco, CA | <p>Executive: \$0.23 (Primary), \$0.36 (General)</p> <p>Other Countywide Offices: \$0.08 (Primary), \$0.16 (General)</p> <p>County Legislator: \$0.21 (Primary), \$0.43 (General)³⁶</p> | | |
| Suffolk County, NY | | | |

**Local Chart 3: Spending Limits Per Resident,
Contribution Limits, Candidate Personal Contributions (cont.)**

| JURISDICTION | SPENDING LIMITS PER RESIDENT ¹ | CONTRIBUTION LIMITS ² | CANDIDATE PERSONAL CONTRIBUTIONS ³ |
|--------------|--|--|---|
| Tucson, AZ | Mayor: \$0.29 per election cycle Council: \$0.99 per election cycle ⁴⁰ | County: ³⁸ From individuals: \$370 per election From PACs: \$370 per election From Small Donor PACs: ⁴¹ \$1,890 per election Total from Political Party Committees: \$9,460 per election Total contributions from non-party PACs: \$9,460 per election Total contributions to candidates or PACs who contribute to other candidates: \$3,530 ⁴² | May not exceed 3% of the applicable spending limit in any election cycle. ⁴³ |

¹ Most jurisdictions have enacted spending limits in the form of total dollar amounts, but a few have enacted spending limits on the basis of the number of voters or residents in the jurisdiction. This column was included to provide a standard unit for comparison between the programs of different jurisdictions. The figures given are based on estimated 2003 census figures from the U.S. Census Bureau, which can be found at the *American Factfinder* website: <http://factfinder.census.gov>, except for Boulder, CO, and Cary, NC, which are 2000 figures.

² The limits listed in this column are limits on contributions from persons to candidates, unless otherwise noted. The term “person” is defined broadly in most jurisdictions to include humans, corporations, partnerships, political committees and other organizations. The term “PAC” is used as an abbreviated reference to a political committee. The following jurisdictions apply a COLA to the contribution limits: **Cincinnati**, *see* Cincinnati, Ohio, City Charter, Art. XIII § 4(f)(2) (adopted by voters Nov. 2001); **Long Beach**, *see* Long Beach, Cal., Municipal Code § 2.01.1210 (2005); **New York City**, *see* New York City, N.Y., Administrative Code § 703(7) (2005); **Oakland**, *see* Oakland, Cal., Municipal Code §§ 3.12.050(G) and 3.12.060(G) (2005); **Suffolk County**, *see* Suffolk County, N.Y., Charter § C41-2(F) (2005); and **Tucson**, *see* Arizona Revised Statutes § 16-905(J) (2005). The contribution limits listed in this chart are the most current adjusted limits. The original limits can be found in the cited ordinances and charters.

³ Applies only to candidates voluntarily participating in the public financing program.

⁴ Albuquerque, NM, Code of Ordinances, Article XIII, Section 4(c) (2005).

⁵ Austin, Tex., Charter Art. III § 8(B) (2005). A “small-donor political committee” is a political committee which has accepted no more than \$25 dollars from any contributor during any calendar year, has had at least 100 contributors during either the current or previous calendar year, has been in existence for at least six months, and has never been controlled by a candidate.

⁶ *Id.* at § 8(A).

⁷ *Id.*

⁸ *Id.* at § 8(I).

⁹ Austin, Tex., Code § 2-2-7 (C) (2005).

¹⁰ Boulder, Colo., Revised Code § 13-2-17 (2005).

Local Chart 3: Spending Limits Per Resident, Contribution Limits, Candidate Personal Contributions (cont.)

¹¹ *Id.* at § 13-2-21(b)(2).

¹² Based on total population, divided by nine City Council districts.

¹³ The contribution limits listed here are the COLA adjusted limits that take effect on Jan. 1, 2002. Long Beach, Cal., Municipal Code § 2.01.310 (2005).

¹⁴ Based on total population, divided by fifteen City Council districts.

¹⁵ Los Angeles, Cal., City Charter, Art. IV §470(c) (2005).

¹⁶ Los Angeles, Cal., Municipal Code § 49.7.19(A)(3) (2005).

¹⁷ Based on total population, divided by thirteen Commissioner districts.

¹⁸ Miami-Dade, Fla., County Code § 2-11.1.3(b) (2005).

¹⁹ *Id.* at §§ 12-22(c)(3) and (d)(3).

²⁰ Based on total population, divided by five Borough President districts.

²¹ Based on total population, divided by fifty-one Council districts.

²² The contribution limits given here are the limits that apply to the 2003 City Council elections and the 2005 citywide office elections. New York City, N.Y., Administrative Code § 3-703(1)(f) (2005).

²³ *Id.* at §§ 3-703(1)(k) and 3-707.

²⁴ *Id.* at § 3-703(1)(h).

²⁵ Oakland, Cal. Municipal Code § 3.12.200 (2005). The statute specifies the spending limit amount per resident, adjusted annually for changes in the cost of living. The City's limits are based on the City Clerk's resident population count of 399,477.

²⁶ *Id.* at § 3.12.050 (A) and (B).

²⁷ A "broad-based political committee" is a committee of persons which has been in existence for more than six months, receives contributions from 100 or more persons, and acting in concert makes contributions to five or more candidates. *Id.* at §3.12.040. See also *id.* at § 3.12.060(C).

²⁸ *Id.* at §§ 3.12.060 (A) and (B).

²⁹ *Id.* at § 3.13.090.

³⁰ Based on total population, divided by four Commission offices.

³¹ Based on total population, divided by eight council districts.

³² Sacramento, Cal., City Code § 2.13.050 .

³³ *Id.* at § 2.14.165.

³⁴ Based on total population, divided by eleven Supervisorial districts.

³⁵ San Francisco, Cal., Campaign and Governmental Conduct Code § 1.114 (2005).

³⁶ Based on total population, divided by eighteen County Legislator districts.

³⁷ Suffolk County, N.Y., Charter § C41-2(A)(6) (2005).

**Local Chart 3: Spending Limits Per Resident,
Contribution Limits, Candidate Personal Contributions (cont.)**

³⁸ *Id.* at § C41-2(G).

³⁹ *Id.* at § C41-2(A)(8).

⁴⁰ Based on total population, divided by six Council districts.

⁴¹ A “small donor PAC” is a committee that receives contributions of \$10 or more from at least 500 individuals. Arizona Revised Statutes § 16-905(I) (2005).

⁴² *Id.* at §§ 16-905(A)-(E).

⁴³ Tucson, Ariz., City Charter, Chapter XVI, Subchapter B, § 2 (2005).

Local Chart 4: High Spending Opponents, Independent Expenditures, Debate Requirements

| JURISDICTION | HIGH SPENDING OPPONENT TRIGGER PROVISION | INDEPENDENT EXPENDITURE ("IE") TRIGGER PROVISION | DEBATE REQUIREMENT ¹ |
|-----------------------|---|--|---------------------------------|
| Albuquerque, NM | When a participating candidate's opposing funds ² in aggregate are greater than the funds distributed plus seed money, the participating candidate is entitled to receive matching funds in the amount that the opposing funds exceed the funds distributed plus seed money. | When a participating candidate's opposing funds in aggregate are greater than the funds distributed plus seed money, the participating candidate is entitled to receive matching funds in the amount that the opposing funds exceed the funds distributed plus seed money. | No |
| Austin, TX | Opponent expenditures or receipt of contributions in excess of the voluntary contribution and expenditure limits excuses participating candidates from further compliance with applicable limits. ³ | If a person spends more than \$10,000 in one race, the spending limits are no longer binding on any candidates in the race. ⁴ | Yes ⁵ |
| Boulder, CO | None | None | No |
| Long Beach, CA | None | None | No |
| Los Angeles, CA | Opponent expenditures or receipt of contributions in excess of the applicable spending limit eliminates the spending limit for all other candidates in the race, and makes participating candidates eligible to receive matching funds at a rate of 3:1 up to the maximum if the opponent exceeds the spending limit by 50%. ⁶ | If an IE committee spends more than \$50,000 in a City Council race, \$100,000 in a City Attorney or Controller race, or \$200,000 in a Mayoral race, the spending limits are no longer binding on any candidate running for the office, and for the general election, participating candidates become eligible to receive matching funds at a rate of 3:1 up to the maximum. ⁷ | Yes ⁸ |
| Miami-Dade County, FL | Opponent expenditures or receipt of contributions in excess of the applicable spending limit eliminates the spending limits for all other candidates in the race. ⁹ | None | No |
| New York, NY | Opponent expenditures or receipt of contributions in excess of 50% of the applicable spending limit eliminates the spending limit for all other candidates in the race and triggers an increase of \$1 in the applicable matching fund rate. ¹⁰ | None | Yes ¹¹ |
| Oakland, CA | Opponent expenditures or receipt of contributions in excess of 50% of the applicable spending limit eliminates the spending limit for all other candidates in the race. ¹² | If an IE committee spends more than \$15,000 on a District City Council or School Board race, or spends more than \$70,000 on any other race, the spending limits are no longer binding on any candidate running for the office. ¹³ | No ¹⁴ |

**Local Chart 4: High Spending Opponents,
Independent Expenditures, Debate Requirements (cont.)**

| JURISDICTION | HIGH SPENDING OPPONENT TRIGGER PROVISION | INDEPENDENT EXPENDITURE ("IE") TRIGGER PROVISION | DEBATE REQUIREMENT ¹ |
|--------------------|---|--|---------------------------------|
| Portland, OR | Opponent expenditures or receipt of contributions in excess of the applicable spending limits eliminates the spending limit for all other candidates in the race and makes participating candidates eligible to receive matching funds in an amount equal to the amount of the contributions or expenditures by or on behalf of the non-participating candidate that exceeds the spending limits. ¹⁵ | If an IE committee supporting or opposing a candidate exceeds the applicable spending limit, the spending limits are no longer binding on any other candidates in the race and participating candidates become entitled to receive matching funds in an amount equal to the amount of independent expenditures that exceeds the spending limits. ¹⁶ | No |
| Sacramento, CA | Opponent expenditures in excess of 75% of the applicable spending limit eliminates the spending limit for all other candidates in the race. ¹⁷ | If an IE committee spends more than 50% of the applicable spending limit, the spending limits are no longer binding on any candidate running in the race. ¹⁸ | No |
| San Francisco, CA | Opponent expenditures or receipt of contributions in excess of the applicable spending limits eliminates the spending limits for all other candidates in the race. ¹⁹ | If an IE committee spends more than the applicable spending limits, the spending limits are no longer binding on any candidate in the race. ²⁰ | Yes ²¹ |
| Suffolk County, NY | Opponent expenditures or receipt of contributions in excess of 50% of the applicable spending limits eliminates the spending limits for all other candidates in the race. ²² | None | No |
| Tucson, AZ | If an opponent makes expenditures or receives contributions in excess of \$11,840, a participating candidate is no longer bound by state law contribution limits until the candidate raises an amount equal to the opponent personal wealth expenditures. Instead, such candidate will be bound by the less stringent Tucson Charter contribution limits (\$500 from individuals and \$1,000 from PACs) during this period. ²³ | None | No |

¹ Some jurisdictions require candidates who participate in the public financing program to also participate in a set number of public debates with their opponents.

² Opposing funds used against a participating candidate is calculated by totaling (1) the expenditures made by the opponent who has the highest total of expenditures and supportive independent expenditures; (2) the amount spent on independent expenditures in support of that candidate; and (3) the amount spent on independent expenditures in opposition to the participating candidate.

³ Austin, Tex., Code at § 2-2-12 (2005).

**Local Chart 4: High Spending Opponents,
Independent Expenditures, Debate Requirements (cont.)**

⁴ *Id.* at § 2-2-12(C).

⁵ *Id.* at § 2-9-35.

⁶ Los Angeles, Cal., Municipal Code §§ 49.7.14 and 49.7.22 (2005).

⁷ *Id.* at §§ 49.7.14 and 49.7.22.

⁸ *Id.* at § 49.7.19(C).

⁹ Miami-Dade, Fla., County Code § 12-22(j) (2005).

¹⁰ New York City, N.Y., Administrative Code § 3-706(3) (2005).

¹¹ *Id.* at § 3-709.5.

¹² Oakland, Cal., Municipal Code § 3.12.220 (2005).

¹³ *Id.*

¹⁴ While receipt of public funds is not conditioned on participation in a debate, candidates are strongly encouraged to take part in at least one nonpartisan debate. *Id.* at § 3.13.170.

¹⁵ Portland, Ore., City Code §§ 2.10.150 (A) and (D) (2005).

¹⁶ *Id.* at §§ 2.10.150(B) and (D).

¹⁷ Sacramento, Cal., City Code § 2.14.060.

¹⁸ *Id.*

¹⁹ San Francisco, Cal., Campaign and Governmental Conduct Code § 1.146(a) (2005).

²⁰ *Id.*

²¹ *Id.* at § 1.140(a)(5)(D).

²² Suffolk County, N.Y., Charter § C41-5(D) (2005).

²³ Arizona Revised Statutes § 16-905(F) (2005). *See also* Tucson, Ariz., City Charter, Chapter XVI, Subchapter A, § 2 (2005).

CGS PUBLICATIONS AND PROJECTS

Reports

Public Financing Laws in Local Jurisdictions (2005)

California Fair Redistricting Act: A Model Law (2005)

PolicyArchive.Net: Assessing the Quality and Availability of Policy Research in the Internet World (2005)

Drawing Lines: A Public Interest Guide to Real Redistricting Reform (2005)

Video Voter: How to Produce Election Coverage in Your Community (2004)

Campaign Finance Disclosure Model Law
CGS/Campaign Disclosure Project
(2004)

Losing Ground: How Taxpayer Subsidies & Balkanized Governance Prop Up Home Building in Wildfire and Flood Zones
(2004)

A New Sacramento Policy Center: A CGS Feasibility Study (2004)

Political Reform That Works: Public Campaign Financing Blooms in Tucson
(2003)

Public Financing of Elections: Where To Get The Money? (2003)

Electronic Filing and Disclosure Update
(2002)

A Statute of Liberty: How New York City's Campaign Finance Law Is Changing the Face of Local Elections
(2002)

Alluvial Amnesia: How Government Plays Down Flood Risks in the Push for Development (2002)

Dead on Arrival? Breathing Life Into Suffolk County's New Campaign Finance Reforms (2002)

On the Brink of Clean: Launching San Francisco's New Campaign Finance Reform (2002)

Eleven Years of Reform: Many Successes, More to Be Done: Campaign Finance Reform in the City of Los Angeles (2001)

Access Delayed Is Access Denied: Electronic Reporting of Campaign Finance Activities (2000)

Campaign Money on the Information Superhighway: Electronic Filing and Disclosure of Campaign Finance Reports,
CGS/National Resource Center for State and Local Campaign Finance Reform
(1996-1999)

Promises to Keep and Miles to Go: A Summary of the Joint Meeting of the California Citizens Commission on Higher Education and the California Education Roundtable (1997)

Books

Investing in Democracy: Creating Public Financing of Elections In Your Community (2003)

Affordable Health Care for Low Income Californians: Report and Recommendations of the California Citizens Budget Commission (2000)

Toward a State of Learning: California Higher Education for the Twenty-First Century, Recommendations of the California Citizens Commission on Higher Education (1999)

A 21st Century Budget Process for California: Recommendations of the California Citizens Budget Commission (1998)

A State of Learning: California and the Dream of Higher Education in the Twenty-First Century, California Citizens Commission on Higher Education (1998)

Opportunity Through Technology: Conference Report on New Communication Technology and Low-Income Communities (CGS/ConnectLA 1997)

A Shared Vision: A Practical Guide to the Design and Implementation of a Performance-Based Budget Model for California State Health Services, California Citizens Budget Commission (1997)

The Price of Justice: A Los Angeles Area Case Study in Judicial Campaign Financing, California Commission on Campaign Financing (1995)

Reforming California's Budget Process: Preliminary Report and Recommendations, California Citizens Budget Commission (1995)

California at the Crossroads: Choices for Health Care Reform, Lucien Wulsin, Jr. (1994)

Democracy by Initiative: Shaping California's Fourth Branch of Government, California Commission on Campaign Financing (1992)

To Govern Ourselves: Ballot Initiatives in the Los Angeles Area, California Commission on Campaign Financing (1992)

Money and Politics in the Golden State: Financing California's Local Elections, California Commission on Campaign Financing (1989)

Money and Politics in Local Elections: The Los Angeles Area, California Commission on Campaign Financing (1989)

The California Channel: A New Public Affairs Television Network for the State, Tracy Westen and Beth Givens (1989)

Update to the New Gold Rush, California Commission on Campaign Financing (1987)

The New Gold Rush: Financing California's Legislative Campaigns, California Commission on Campaign Financing (1985)

Media Projects

ConnectLA: A bi-lingual, web-based system of information and services for low-income users and communities of color (1998-present) (www.ConnectLA.org).

Video Voter: A new system of interactive video information on candidates in federal, state and local elections (2001-present) (www.videovoter.org).

HealthVote.org: A joint project of the California HealthCare Foundation and the Center for Governmental Studies. Provides non-partisan, detailed information about health-related measures on California's ballots (www.healthvote.org).

PolicyArchive.Net: A new web-based archive of public policy research (2002-present).

Digital Democracy: An email-based system of communication between citizens and elected officials on public policy issues (2002-present) (see www.cgs.org).

The Democracy Network: An interactive web-based system of political information for elections in California and other states (1996-2000) (www.dnet.org).

The Democracy Network: An interactive video-on-demand system of candidate information on Time-Warner's Full Service Network in Orlando, Florida (1996).

City Access: Report on the Design of a New Interactive System of Local Government (1995).

The California Channel: A satellite-fed, cable television network providing over six million California homes with gavel-to-gavel coverage of the state legislature (1989-1993) (www.CalChannel.com).

CGS has published more than 20 major books and reports on campaign finance, political and media reform. Most of the reports can be downloaded from the CGS website, www.cgs.org or ordered by calling the Center for Governmental Studies, (310) 470-6590.



Keeping It Clean: Public Financing in American Elections

Keeping It Clean is the first comprehensive effort to analyze and evaluate all forms of public campaign financing laws for state and local elections. *Keeping It Clean* examines full public financing programs, partial matching funds programs, tax credits and deductions, political party financing and free media resources to candidates. It makes specific recommendations to improve existing or develop new public campaign financing systems.

Keeping it Clean finds that public financing:

- Frees candidates from fundraising pressures.
- Reduces perceptions of wealthy contributor influence.
- Helps women, minority and new candidates run in elections.
- Diminishes funding disparities between candidates.
- Encourages more voters to participate in elections by lowering contribution thresholds and increasing voter education.

Keeping It Clean concludes that while no political reform is without shortcomings, public financing, in combination with other reforms, is perhaps the best mechanism to address campaign finance and electoral problems in many jurisdictions.

This report was made possible by a generous grant from Carnegie Corporation of New York.



Center for Governmental Studies

10951 W. Pico Blvd., Suite 120

Los Angeles, CA 90064-2184

ph 310.470.6590 • fax 310.475.3752

www.cgs.org • center@cgs.org