

MARKUP OF H.R. 6116, "THE FAIR ELECTIONS
NOW ACT," TO REFORM THE FINANCING OF
HOUSE ELECTIONS

MEETING
BEFORE THE
COMMITTEE ON HOUSE
ADMINISTRATION
HOUSE OF REPRESENTATIVES
ONE HUNDRED ELEVENTH CONGRESS
SECOND SESSION

Held in Washington, DC, September 23, 2010

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THURSDAY, SEPTEMBER 23, 2010

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC.

The committee met, pursuant to call, at 11:06 a.m., in Room 1310, Longworth House Office Building, Hon. Robert A. Brady [chairman of the committee] presiding.

Present: Representatives Brady, Lofgren, Capuano, Gonzalez, Davis of California, Davis of Alabama, Lungren, and Harper.

Staff Present: Jamie Fleet, Staff Director; Khalil Abboud, Professional Staff; Tom Hicks, Senior Elections Counsel; Janelle Hu, Elections Counsel; Jennifer Daehn, Elections Counsel; Matt Pinkus, Professional Staff/Parliamentarian; Kyle Anderson, Press Director; Shervan Sebastian, Legislative Assistant, Elections; Greg Abbott, Professional Staff; Darrell O'Connor, Professional Staff; Victor Arnold-Bik, Minority Staff Director; Peter Schalestock, Minority Counsel; Karin Moore, Minority Legislative Counsel; Salley Collins, Minority Press Secretary; Katie Ryan, Minority Professional Staff; and Mary Sue Englund, Minority Professional Staff.

The CHAIRMAN. Good morning. I would like to call the Committee on House Administration to order. Today, we markup H.R. 6116, the Fair Elections Now Act, sponsored by Representative Larson of Connecticut. The Fair Elections Now Act is a voluntary program and would allow qualified House candidates to run for office utilizing a blend of contributions from small-dollar donors and limited public matching funds. It is designed to change the current system of campaign fundraising, which largely relies on large donors and special interests. It does not limit or discourage spending by outside groups but instead aims to ensure that these voices are not the only ones that can get heard in public debate. It is about encouraging more speech, not less.

I am sure that there are questions as to why this bill is needed now. The American people are frustrated and want Congress to focus on the economy and fixing our Nation's problems, yet they see in Washington a never-ending money chase fueled by lobbyists and big donors. The average American feels that he has been left out and his problems ignored. If our constituents are to know that we work for them, we have to change the way we operate and run our campaigns.

I support the Fair Elections Act Now because it will put our elections back in the hands of ordinary working Americans instead of us relying on corporate lobbies to form their political campaigns. By creating a competitive system that relies on small-dollar local contributors and matching funds, congressional candidates can focus on the people back home in their districts and the work that needs to be done.

If we are to have a government that is fair, effective, and accountable, we need to have a system in which individual voters are as important as corporate lobbyists. We need an electoral system in which a coal miner's voice can be heard as clearly as the owner of the mine he works in.

It is not easy to change the system. It will cost time and money to change the status quo. But this program is a responsible investment in good government and will likely save American taxpayers money over the long run. For example, we lose an estimated \$70 billion to \$100 billion every year in tax revenue due to offshore tax schemes and loopholes written into the law at the urging of lobbyists. By contrast, the cost of the Fair Elections Act Now is approximately \$4 per voting age citizens per year.

This is not about favoring one party or the other in a tough election year. Whether Republicans or Democrats, we have all been elected to represent Americans first, and we all share an interest with the people we represent in having a government that is accountable, effective, and transparent. We need a system that puts Americans first.

I would like now to recognize my ranking minority member, Mr. Lungren, for any opening statement.

Mr. LUNGREN. Thank you very much, Mr. Chairman.

Mr. Chairman, I do appreciate your personal commitment to the committee process and the committee hearings. And I want to thank you for that. As someone once wrote, Congress in session is Congress on display, but Congress in committee is Congress at work. As I have said before, we have all worked well together here in this committee and I appreciate your civility and your sincerity. I do, however, question the need for our presence here today.

Now one would wonder why I would say that since members on your side of the aisle on your official campaign committee are doing their best to put me out of this place and are sending all sorts of messages around this town that the reason I am vulnerable is because my opponent is raising so much money. That is the total and sole reason why they are gauging the race in my particular district that way—the amount of money that the Democrat is raising outside the district.

So I find it interesting to be here at a time when the majority is bemoaning the fact that that is the case when they are displaying and advertising the fact that that is how we ought to judge whether someone is a worthy candidate or not.

Having said that, however, I will stand on principle here today. With the innumerable, innumerable pressing needs affecting citizens in this country, in my State of California, in my district—the national unemployment rate may be near 10 percent. It is over 12 percent in the State of California. It is in excess of 13 percent in my district. I have some communities where it is approaching 20

percent. If you go further down in the Central Valley of California, you have communities that have 40 percent unemployment. My constituents and those throughout California have begged, have literally begged the Federal Government to pay attention to the economic problems affecting us. In other words, they have asked us, What about jobs? Where are the jobs; where is the promised jobs that came out of this administration and the majority leadership?

But instead of us doing something like that, we are going to name I think another post office today on the floor of the House. And I have nothing against naming post offices, it just not ought to be our sole responsibility around this place. We are going to again be engaged in suspension calendar activities. And so what are we going to do here? We are going to hold a markup on a piece of legislation that furthers an idea that has been rejected soundly by the American people time and time again. Time and time again the American people, when given the chance to look at something like this, have said, We don't want it.

According to a recent Congressional Research Service report, the number of tax returns containing a check in the box—and that is the way you vote on this subject—supporting voting financing for presidential elections has declined from its peak in 1980 of 28 percent to a new low last year—we set a new record—7.3 percent. The American people are going in one direction and in this committee we are told to go in another direction.

Recently, in my home State of California, that State which is suffering from unemployment, I think third in the country, of over 12 percent, Proposition 15 legalizing government financing on campaigns was soundly defeated by a margin of 15 percent. That is by a margin of over 750,000 votes. Now maybe that is not here, but I happen to think that is important.

We ought to listen to what the people are telling us. And while proponents like to point to the State systems of government financing of campaigns in Maine and Arizona, they are hardly models we should follow. A recent GAO report found that the systems in those States, in Maine and Arizona, have not met any of their stated goals. In addition, recent reports out of Arizona state that candidates have been using public funds as their own personal slush funds. The Phoenix New Times in 2009 reported that candidates using the public financing system have been using government funds on important expenses like sushi, segway ramps, and hiring startup consulting firms coincidentally owned by the candidate.

I have mentioned time and time again also that during this campaign season we have seen people at rallies who are purportedly members of the Tea Party who turn out not to be members of the Tea Party with their pictures of Hitler and making the President look like Hitler. They are members of the LaRouche Group, which happens to be, unfortunately, a segment of the Democratic Party. But the point I am making is Mr. LaRouche has been able to use public financing even when he sat in prison to run for President of the United States using public funds.

So, as I said in our last committee hearing on this issue, I believe the electoral process is a way for individuals to exercise their right of freedom of expression. It is unwarranted and undesirable to expand the government with a new Fair Elections Oversight Board

overseeing the Federal Elections Fund, deciding how much elections should cost and how much candidates should receive to pay for them.

I might add that the funding mechanisms I find in this bill are interesting. They are supposed to pay for the new program, but the funding exists on paper only. The money isn't there. Proceeds from the spectrum auction—I might just mention, the main funding source in this bill—were already allocated or returned to the Treasury, presumably to pay down part of the national debt, after the auction was completed in 2008. The other funding source, fines from the FEC, would return the magnificent sum of \$1.1 million in revenue a year under the bill. That isn't enough money to fund a single campaign.

So instead of producing a budget, instead of passing appropriation bills, instead of growing our economy and reducing the massive deficit and even larger national debt, we are now asking taxpayers to pay for elections. Because if in fact the money from the spectrum is gone and there is literally no money or \$1.1 million a year from the FEC, you go to the other sections of the funding part of the bill and it comes out of appropriated funds. Now that is not magic. That is money, taxpayer moneys or further debt appropriated by the Congress of the United States for the purpose of this bill.

Look, we have talked about this before. I don't know a single member on this committee who enjoys raising funds. If you did, I would think there was something wrong with you. I probably like it the least of anybody on this committee. But so long as the United States Supreme Court interprets the Constitution and the First Amendment to say that if you have your own money, you can spend it on your own campaign; that is, that money is speech—and I don't think they are ever going to change, I am not suggesting they change—I think we are in a conundrum. And I think there are other ways to address this.

I would certainly take limits off of what political committees could give to campaigns. Actually, I would move in the opposite direction. I would take the limits off of individual contributions but make them reportable immediately, electronic reporting within 24 hours of receipt so that everybody could know where you get the money. And if in fact you are going to get a large amount, we could decide whether the amount was \$20,000 or whatever it is from one individual, make sure that comes in 10 days before an election so that everybody would have an opportunity to see it.

Those are kinds of reforms that I think would help us go as I think we would all like it to go. So I am sorry to say that I think the bill is a bad idea. I hope the members will reject it soundly.

I thank you for the time. And I yield back.

The CHAIRMAN. I thank the gentleman.

Any other additional opening statements?

Ms. Lofgren.

Ms. LOFGREN. Thank you, Mr. Chairman. I want to commend you for calling this markup on the fair and clean elections bill. I wanted also to note my gratitude to Congressman John Larson for his extraordinary efforts in trying to move this bill forward and his leadership on the overall issue.

I do support this bill. As a matter of facts, I am a cosponsor of the bill. I believe that establishing a voluntary system so that members can raise small donations from individuals rather than corporate interests will make elected officials more responsive to the needs of the people they represent, and I think this bill provides that opportunity.

Members of Congress spend a large amount of time raising money, and I think all of us on both sides of the aisle would rather spend that time working on the issues that are before the country and before the Congress.

Now, having said that, I listened carefully to the ranking member's comments. But I think, and he would agree, that being responsive to constituents is not a partisan issue. That is something that both sides of the aisle, each Member of Congress, hopes to do. And I think that this measure would enhance that.

I didn't attend the rally that Glenn Beck held on the Capitol, but I saw some of the groups that were interviewed at the time. And everybody who was there who was kind of a Tea Party proponent, a conservative group, said that they also would like to see a decrease in corporate influence on elections.

So I think this really is a broad call across the political spectrum for special interests to have less of the say.

Now that is not to say that when people make contributions that they in fact get any special edge. I certainly would not allege that. But the perception is it is not healthy for our democracy. And so to the extent that we can limit that perception, we will strengthen our democracy. And I think this bill does that.

There is a long set of court decisions in the Supreme Court—the Buckley case; the Connecticut Green Party case; the McComish-Bennett case most recently, the Duke-Leake case in North Carolina, all upholding public financing. This bill is supported by a number of very fine advocacy groups, including Common Cause and the League of Conservation Voters. I think it would be a good step forward for our democracy, and I hope that we will pass it out today and that we will have an opportunity to make this bill into law.

I would note—and I am also from California—that yes, we have a very serious economic problem, not only in California but in our entire country. We are digging our way out of the huge ditch that we fell into in the fall of 2008. But I think that our constituents want to know that we are not—that the Congress is not beholden to the offshores. They want to know that we are beholden to the little guys that are sending in \$5 or \$10 checks, not the offshores who have caused some of this economic downturn.

And just a little point of clarification, in addition to post offices, today we are bringing up the Small Business Lending Fund Act of 2010, which is enormously important for job creation in the country. And I know that Mr. Lungren did not mean to slight that. But that is also on our agenda in the House today, a very important measure.

And I thank the chairman for recognizing me and yield back.

The CHAIRMAN. Any other opening statements?

Mr. Harper.

Mr. HARPER. Thank you, Mr. Chairman.

I have serious objections to this bill, not the least of which is the timing. The unemployment rate in my home State has remained between 10 percent and 11 percent this year and we have people hurting all over the country. And so when you have a time like this when so many people are out of work, don't have jobs, don't have income, and we are going to add to the taxpayer burden of those who are working really makes no sense at this time.

Putting the audacity of the concept aside, this bill adds insult to injury by creating a new Federal program that isn't even funded. Of course, the last thing we need around here is another new Federal program. So it isn't just current taxpayers that we are asking to pay for our campaigns. It is the future taxpayers who will have to pay off the money we borrowed to do it.

Even if you give all of the FEC fines collected annually instead of 50 percent, it doesn't touch the surface of that cost. And certainly I do agree that no one enjoys having to raise money for a campaign. But it is part of that process. And it certainly means that people give to the candidates of their choice and who they want to. And here we are going to force taxpayers to give contributions in effect to everyone, even those that they might completely disagree with.

The other funding mechanism is the revenue generated from previous analog spectrum auction sales, and let's just be honest, that money is not there. It has either already been spent or returned to the Treasury. So there is no money set aside. This is not paid for. There is no revenue to pay for this taxpayer funded campaign scheme other than running the currency printing presses like we have done at a record pace these past 20 months. And I am sure it is no surprise there is no CBO score on this.

Mr. Chairman, as the ranking member has noted, I and my colleagues here certainly appreciate your commitment to the committee process and your respect for civility and fairness. However, I cannot support this misguided bill. And I would urge my colleagues to join us in voting "no."

Thank you.

The CHAIRMAN. I thank the gentleman.

Any other speeches?

Mr. Capuano.

Mr. CAPUANO. Thank you, Mr. Chairman. First of all, I would like to thank you for having this markup, and I would like to thank Mr. Larson from Connecticut for his hard work on this. Without his continuous push, we wouldn't be here today.

I want to be real clear. I fully agree that there are other issues that are important in this country and that we should be dealing with. No problem with that at all. But that doesn't mean we should not be dealing with this as well. Maybe I am the only person that can do one thing at a time, but I don't think so.

So to think this is not an issue, everyone has said and will continue to say that they don't like raising funds, yet they are not willing to do anything about it. I don't like it. I don't like the perception it leaves. And this is the best proposal I have seen to end our need to be on the money treadmill, which I really do hate. I don't just say I hate it. I actually want to do something about it. And

if others have a proposal on how to get us off it, I am more than happy to listen.

I am not stuck on this particular proposal. It just happens to be the one that is best suited that I am aware of at this time. I am more than happy to work with anyone to get us off of that treadmill. And it is not just me wanting to get off it. It is also me trying to get the American public to understand and to accept and to believe, more importantly, that we are not beholden to those people who donate to us, especially those people who donate large sums or, under some proposals, who donate unlimited funds.

As far as Mr. Lungren goes, I look at this as simply my way to try to help you in your race. And I hope you take it that way, because that is my clear intention.

I don't like the idea of people being judged and I decide by the amounts of money they can raise. It is not a fair way to do it. It is not an accurate way to do it. And even if it is or it isn't, it is not a good way to do it. I am sitting here today, when I ran in 1998, my first race, I was seventh in money. I was outspent 12 to 1 by one of my opponents. I didn't like it but that is what I could raise, what I could do, and he could write a check. So be it.

I am simply trying to find a way to do it. If there are other proposals, I am more than happy to listen and work with people to get us off it. But it is either that or stay on the treadmill and stop complaining. And for me, it is not a joke. Not a joke just to me. It is not a joke sociologically, it is not a joke politically, governmentally. It is not good what we are required to do in order to get here and to stay here. It is not good for us, it is not good for the American public, it is not good for the system, and it is not good for the people that want to sit back and complain about the whole thing.

So that is how I look at it. This particular bill in front of us, I like it in general. I have some concerns with some specifics. I will have an amendment later on. As far as where the money comes from, I am more than happy to find other sources of revenue. Again, I am not stuck with these. These are as good as any. But if somebody has a better idea, I am more than happy to listen and work with them as we go forward.

So I think like many things that we are faced with in Congress, and it is not just in Congress, it is at the State legislator level, the school committee level, we don't get to do what we want to do. We get to choose amongst the choices that are before us. And in this particular case, as in so many cases, doing something is better than doing nothing. And this particular bill is a clear and unequivocal step forward and a clear and unequivocal step away from the money treadmill that we are forced to get on, and I think it will be a great step forward in gaining more trust amongst the American people.

With that, I yield back.

The CHAIRMAN. Any other statements?

Mrs. Davis.

Mrs. DAVIS of California. Thank you, Mr. Chairman. I want to thank you also for bringing this up. I know my colleagues have said that we need to be focusing on what is going on in the country right now, and I can't agree with you more, and that is why I certainly would encourage you to join us in looking at the small business bill today. But I also think that because the elections are only

41 days away, this is the time that people are really focusing on the elections. And the reality is, what are they asking? They are wondering how much money people have raised and they are wondering where that money has come from. That is what people are interested in. That is what the pundits are interested in, and that is generally what the media is concerned about. And we know that it takes about a million dollars to even have a chance to win a House seat. Even to have a chance.

So for those people who want to serve their country as an elected official here, and they find out about the million dollar job qualification, then they have to start thinking about where are they going to go for that kind of cash. Where are they going to find it. And where they are going to find it, unfortunately, sometimes is turning to bigger donors. It is going wherever they can, to PACs, to lobbyists, to CEOs, and to wealthy individuals.

We are at the point where wealthy interests are spending \$8 on campaigns for every \$1 that comes from small donors. And we know that a candidate's ability to get elected depends on how many big checks he or she can collect. Then it becomes obvious and I think a shame that the public perceives Congress as being bought and paid for by special interests. And I, obviously, hate to see that. And I honestly don't believe that my colleagues base their votes on their campaign contributions. But from time to time there are some bad apples. And the perception of a quid pro quo is toxic, absolutely toxic for our institution and for our democracy.

We also know that the amount of time required to fund-raise is problematic because it interferes with our focus on kitchen table issues. I don't think we can ever forget that it is all about we the people. No matter which side of the aisle is saying that, it is about we the people. And our job is to solve people's problems and not to make calls to special interests.

So I wish we could do away with fundraising altogether. I don't like it any more than anybody else does. But I know that there need to be some base parameters so that the public can determine whether candidates are viable. That is important to be able to get one's message out. So creating truly clean campaigns where the many and not the big few have the loudest voice is not easy. But this is one strong solution that has come forward. The Fair Elections Now Act is about as close to a solution as we have been able to get.

And I think we could argue all day about the details. I agree. Honestly, I could tweak, change, do different things with the bill. But we have it before us today. And I think that Representative Larson has worked very, very hard to get the best kind of input on this and to try and draw something that is important. And we do have considerations about funding. The economy certainly is hurting. We all feel that for our constituents deeply. But campaigns—clean campaigns aren't free. We are really looking at the cost of about a fancy cup of coffee today that we need to think about in terms of individual citizens.

I just urge my colleagues to support the clean elections and I hope that we can have a good discussion on it.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentlelady.

Mr. Davis.

Mr. DAVIS of Alabama. Mr. Chairman, thank you for calling on me. There are a lot of very admirable impulses behind this bill. The author of this bill, the chairman of the Democratic Caucus, John Larson, is one of the ablest Members of the House of Representatives. And every one of us on this committee in some way, shape or form bemoans the presence of big money politics and every one of us on this committee laments the amount of time that candidates have to spend raising money. But let me take just a few moments to say why one Democrat does not support this bill.

Reason number one. If we want to look at what happens when you resort to public financing, we don't have to look to another countries, we don't have to look to any particular State. We can look at the American presidential election system. After Buckley v. Valeo became the law of the land and matching funds were instituted in the mid-1990s, what happened? A spate of minor fringe candidacies showed up in the Democratic and Republican Parties and became the parents of an extremism in American politics that is still with us today.

The Lyndon LaRouche movement was born out of Federal financing of campaigns. Many strands of the extreme left and the extreme right were born out of the Federal financing of campaigns and the lure that if you show up in some way, shape, or form, you will find a way to get some money to stay in the contest. What happened? In 2008, an election where a large number of small donors participated in the political process, the Democratic candidate, the President that this side of the aisle is very proud of, opted out of the Federal financing of campaigns and the sanctions that were put in place around that process.

We don't have to guesstimate, we don't have to imagine what will happen if we institute Federal financing of congressional campaigns. There will be three specific consequences. The first one is this. More minor candidates, more fringe candidates, more candidates who have their pet cause, their pet issue, and will use it to pull the Democratic Party further to the left and the Republican Party further to the right.

The second thing that will happen, most Members of Congress will no more follow this system than they will sit down to read a treatise on the budget tonight. Most Members of Congress will decide that they don't need this system. They will break out of it. They will do what they wish to do. Tom DeLay would have never participated in this process. The most well-heeled Members of Congress, the very sectors in Congress that we fear might be too greatly influenced by money, will be the first ones to opt out of it. The influence will remain whether or not the system is in place.

And, finally, who will benefit from public financing of congressional campaigns? It is not the student who comes to D.C. during the summer who is inspired for a season to believe in politics. It is not the person sitting at home who is watching C-SPAN right now trying to learn more about democracy. It is the person who has access to a 20,000-long e-mail list or an organization that has access to a large list of e-mails or a large list of names. In other words, it will be special interests. They may not be corporate but they will still be narrow, they will still be discrete, they will still

insular, and they will focus on organizing and mobilizing people who participate in the political process and have the benefit of public financing to further the candidates of their choice.

So for all the good, admirable goals around this process, there is only one step, Mr. Chairman, that would really make a difference, and the Supreme Court has, unfortunately, taken it off the table. That would be if expenditures could be limited. If you don't limit expenditures but you simply change the rules of the game, you create a shell game where the money simply moves from one place to another and campaigns still have the big money but the big money masquerades under different names. And it is not the people who benefit. It is the interests in the extremes on both sides who thrive and prosper.

So I do think that we should go back to the drawing board—or the individuals returning in the next Congress should go back to the drawing board, because this is an important question. But the presidential process and the public financing of presidential campaigns tells us in a very clear way that not only will this not work, it will leave us in fundamental ways worse off than we are today.

The CHAIRMAN. I thank the gentleman. Any other statements? Mr. Gonzalez.

Mr. GONZALEZ. Thank you, Mr. Chairman. I am going to disagree, obviously, with my colleague, Mr. Davis, even though I think he has made an excellent argument for many things. But truly it is a matter of choice at this point, and that is, do we just throw up our hands in frustration and say that the system cannot be improved? The Supreme Court is going to rule, has ruled, will continue to rule, in a way that we believe doesn't really assist in the democratic process. But it is their interpretation of the Constitution of the United States, and we all take an oath to uphold it.

We are going to have our own differences of opinion with the other party, not for the same reasons as articulated by Mr. Davis. But it is an interesting argument. But at the end of the entire debate I think it is an improvement because it extends the opportunity to those that may not have the opportunity to seek public service.

Are we encouraging opposition? Sure. Are we going to have more crowded ballots? Maybe. Do we promote a system that excludes the more reasonable moderate voices in each party? Maybe. But not to move in this direction is a lot worse. It is not perfect. Nothing we do up here is perfect. We strive to improve the system, and I think this is what this bill does.

I will be honest with you, I didn't get on the bill initially, and I had my conversations with Mr. Larson and I had them with my constituents. Because they saw this as the silver bullet. And I actually cited some of the same reasons that Mr. Davis cited for the proposition that it is not the complete and entire answer.

We can't do anything about somebody that wants to spend \$120 million out of their back pocket. I wish we could. It is the answer. In Texas, we do have campaign limits on judicial races, which is being challenged right now in the courts. And it has been a good thing, by the way. But this is a step forward. It is an improvement on a system, a system that is coming apart. And we have to ac-

knowledge that technology and how we communicate and we have to make those adjustments.

Sure, somebody with a list of many, many e-mail addresses can do many things. Well, guess what? We can do the same thing. It is available to us.

I will say this. I am sorry that I disagree with Mr. Davis. And I am more sorry, Artur, that you are not going to be here next session because I think he is one of the brightest minds that we have ever had in Congress, at least since I have been here for 12 years. But it is a debate and it is a good faith one. And maybe that is what will endure: that we have a good faith debate, that we move forward and do what we can with what we have.

With that, sir, I yield back the balance of my time, Mr. Chairman.

The CHAIRMAN. I thank the gentleman. Any other statements? I guess not; everybody spoke. The only thing I would like to add is to thank Congressman Larson. We talk about how in Congress there is never a perfect bill. Well, I have never seen a perfect bill, but it is a start. And he had the courage to start it up, to get it on our committee, and whether it passes this committee or not, whether it goes to the floor or not, whether it passes the other body or not, no matter what happens to it, it is a start. And he had the courage to bring it up. And I think the American people are out there begging for a start.

As my friend Mr. Lungren says, he hates making these calls. Everybody hates making these calls because you are like begging for dollars out there for yourself; you have got to sing for your own supper. I got to tell you, I am fortunate I have never made one in my life. Don't know if I would start. If I had to, I probably wouldn't be sitting here. I would be joining Mr. Davis going out to the nice bright new world and not have to worry about these bells ringing. And I agree with Mr. Gonzalez, we are absolutely going to miss you because I don't listen to many people, but I listen to you when you speak, and what parts I can understand, I get. That is no disrespect for you. That is on me. That is on me.

Again, my problem with not demonstrating that we are doing something is in the City of Philadelphia we have this new reform system about pay-to-play. That is my problem. My problem is with big business coming in—not big business—big money people coming in and then people look at how you vote and they figure you voted because this person gave you this large amount of money and then you are in this pocket or in that pocket. And then what do you do when both sides of an issue happen to contribute to your campaign. You have to recuse yourself. We would never get 219 votes out there to pass anything.

So it is a start, and it is a start in the right direction. Where it ends up, I hope it ends up someplace, but I am happy and I was more than happy to have this hearing to, again, thank Mr. Larson for giving us a starting position to where we can start out and hopefully try to rectify some of the ills that this system does provides for us, what we need to do and how we need to do it to maintain our seats or to get elected into this Congress.

So, with that, I would now like to call up before the committee H.R. 6116. Without objection, the first reading of the bill is dis-

pensed with and the bill is considered as read and open for amendment at any time.

[The information follows:]



111TH CONGRESS
2D SESSION

H. R. 6116

To reform the financing of House elections, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2010

Mr. LARSON of Connecticut (for himself, Mr. JONES, Mr. CAPUANO, Ms. PINGREE of Maine, Mr. HOLT, Mr. PLATTS, Mr. NADLER of New York, Mr. COOPER, Mr. HEINRICH, Mr. POLIS of Colorado, Ms. EDWARDS of Maryland, and Mr. DOYLE) introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To reform the financing of House elections, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Fair Elections Now Act”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and declarations.

TITLE I—FAIR ELECTIONS FINANCING OF HOUSE ELECTION
CAMPAIGNS

Sec. 101. Benefits and eligibility requirements for House candidates.

“TITLE V—FAIR ELECTIONS FINANCING OF HOUSE ELECTION
CAMPAIGNS

“Subtitle A—Benefits

“Sec. 501. Benefits for participating candidates.

“Sec. 502. Allocations from the Fund.

“Sec. 503. Matching payments for certain small dollar contributions.

“Subtitle B—Eligibility and Certification

“Sec. 511. Eligibility.

“Sec. 512. Qualifying requirements.

“Sec. 513. Certification.

“Subtitle C—Requirements for Candidates Certified as Participating
Candidates

“Sec. 521. Contribution, expenditure, and fundraising requirements.

“Sec. 522. Debate requirement.

“Sec. 523. Remitting unspent funds after election.

“Subtitle D—Administrative Provisions

“Sec. 531. Fair Elections Fund.

“Sec. 532. Fair Elections Oversight Board.

“Sec. 533. Administration by Commission.

“Sec. 534. Violations and penalties.

“Sec. 535. Election cycle defined.

Sec. 102. Transfer of portion of civil money penalties into Fair Elections Fund.

Sec. 103. Prohibiting use of contributions by participating candidates for purposes other than campaign for election.

Sec. 104. Prohibition on joint fundraising committees.

Sec. 105. Limitation on coordinated expenditures by political party committees with participating candidates.

Sec. 106. Deposit of proceeds from recovered spectrum auctions.

TITLE II—RESPONSIBILITIES OF THE FEDERAL ELECTION
COMMISSION

Sec. 201. Petition for certiorari.

Sec. 202. Filing by all candidates with Commission.

Sec. 203. Electronic filing of FEC reports.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Severability.

Sec. 302. Effective date.

1 **SEC. 2. FINDINGS AND DECLARATIONS.**

2 (a) UNDERMINING OF DEMOCRACY BY CAMPAIGN
3 CONTRIBUTIONS FROM PRIVATE SOURCES.—The House
4 of Representatives finds and declares that the current sys-
5 tem of privately financed campaigns for election to the
6 House of Representatives has the capacity, and is often
7 perceived by the public, to undermine democracy in the
8 United States by—

9 (1) creating a culture that fosters actual or per-
10 ceived conflicts of interest, by encouraging Members
11 of the House to accept large campaign contributions
12 from private interests that are directly affected by
13 Federal legislation;

14 (2) diminishing or appearing to diminish Mem-
15 bers' accountability to constituents by compelling
16 legislators to be accountable to the major contribu-
17 tors who finance their election campaigns;

18 (3) undermining the meaning of the right to
19 vote by allowing monied interests to have a dis-
20 proportionate and unfair influence within the polit-
21 ical process;

22 (4) imposing large, unwarranted costs on tax-
23 payers through legislative and regulatory distortions
24 caused by unequal access to lawmakers for campaign
25 contributors;

1 (5) making it difficult for some qualified can-
2 didates to mount competitive House election cam-
3 paigns;

4 (6) disadvantaging challengers and discouraging
5 competitive elections, because large campaign con-
6 tributors tend to donate their money to incumbent
7 Members, thus causing House elections to be less
8 competitive; and

9 (7) burdening incumbents with a preoccupation
10 with fundraising and thus decreasing the time avail-
11 able to carry out their public responsibilities.

12 (b) ENHANCEMENT OF DEMOCRACY BY PROVIDING
13 ALLOCATIONS FROM THE FAIR ELECTIONS FUND.—The
14 House of Representatives finds and declares that pro-
15 viding the option of the replacement of large private cam-
16 paign contributions with allocations from the Fair Elec-
17 tions Fund for all primary, runoff, and general elections
18 to the House of Representatives would enhance American
19 democracy by—

20 (1) reducing the actual or perceived conflicts of
21 interest created by fully private financing of the elec-
22 tion campaigns of public officials and restoring pub-
23 lic confidence in the integrity and fairness of the
24 electoral and legislative processes through a program
25 which allows participating candidates to adhere to

1 substantially lower contribution limits for contribu-
2 tors with an assurance that there will be sufficient
3 funds for such candidates to run viable electoral
4 campaigns;

5 (2) increasing the public's confidence in the ac-
6 countability of Members to the constituents who
7 elect them, which derives from the program's quali-
8 fying criteria to participate in the voluntary program
9 and the conclusions that constituents may draw re-
10 garding candidates who qualify and participate in
11 the program;

12 (3) helping to reduce the ability to make large
13 campaign contributions as a determinant of a citi-
14 zen's influence within the political process by facili-
15 tating the expression of support by voters at every
16 level of wealth, encouraging political participation,
17 incentivizing participation on the part of Members
18 through the matching of small dollar contributions;

19 (4) potentially saving taxpayers billions of dol-
20 lars that may be (or that are perceived to be) cur-
21 rently allocated based upon legislative and regu-
22 latory agendas skewed by the influence of campaign
23 contributions;

1 (5) creating genuine opportunities for all Amer-
2 icans to run for the House of Representatives and
3 encouraging more competitive elections;

4 (6) encouraging participation in the electoral
5 process by citizens of every level of wealth; and

6 (7) freeing Members from the incessant pre-
7 occupation with raising money, and allowing them
8 more time to carry out their public responsibilities.

9 **TITLE I—FAIR ELECTIONS FI-**
10 **NANCING OF HOUSE ELEC-**
11 **TION CAMPAIGNS**

12 **SEC. 101. BENEFITS AND ELIGIBILITY REQUIREMENTS FOR**
13 **HOUSE CANDIDATES.**

14 The Federal Election Campaign Act of 1971 (2
15 U.S.C. 431 et seq.) is amended by adding at the end the
16 following:

17 **“TITLE V—FAIR ELECTIONS FI-**
18 **NANCING OF HOUSE ELEC-**
19 **TION CAMPAIGNS**

20 **“Subtitle A—Benefits**

21 **“SEC. 501. BENEFITS FOR PARTICIPATING CANDIDATES.**

22 “(a) IN GENERAL.—If a candidate for election to the
23 office of Representative in, or Delegate or Resident Com-
24 missioner to, the Congress is a participating candidate
25 under this title with respect to an election for such office,

1 the candidate shall be entitled to payments under this
2 title, to be used only for authorized expenditures in con-
3 nection with the election.

4 “(b) TYPES OF PAYMENTS.—The payments to which
5 a participating candidate is entitled under this section
6 consist of—

7 “(1) allocations from the Fair Elections Fund,
8 as provided in section 502; and

9 “(2) payments from the Fair Elections Fund to
10 match certain small dollar contributions, as provided
11 in section 503.

12 **“SEC. 502. ALLOCATIONS FROM THE FUND.**

13 “(a) AMOUNT OF ALLOCATIONS.—

14 “(1) PRIMARY ELECTION ALLOCATION; INITIAL
15 ALLOCATION.—Except as provided in paragraph (6),
16 the Commission shall make an allocation from the
17 Fair Elections Fund established under section 531
18 to a candidate who is certified as a participating
19 candidate with respect to a primary election in an
20 amount equal to 40 percent of the base amount.

21 “(2) PRIMARY RUNOFF ELECTION ALLOCA-
22 TION.—The Commission shall make an allocation
23 from the Fund to a candidate who is certified as a
24 participating candidate with respect to a primary
25 runoff election in an amount equal to 25 percent of

1 the amount the participating candidate was eligible
2 to receive under this section for the primary election.

3 “(3) GENERAL ELECTION ALLOCATION.—Ex-
4 cept as provided in paragraph (6), the Commission
5 shall make an allocation from the Fund to a can-
6 didate who is certified as a participating candidate
7 with respect to a general election in an amount
8 equal to 60 percent of the base amount.

9 “(4) GENERAL RUNOFF ELECTION ALLOCA-
10 TION.—The Commission shall make an allocation
11 from the Fund to a candidate who is certified as a
12 participating candidate with respect to a general
13 runoff election in an amount equal to 25 percent of
14 the base amount.

15 “(5) RECOUNT ALLOCATION.—If the appro-
16 priate State or local election official conducts a re-
17 count of an election, the Commission shall make an
18 allocation from the Fund to a participating can-
19 didate for expenses relating to the recount in an
20 amount equal to 25 percent of the amount the par-
21 ticipating candidate was eligible to receive under this
22 section for the election involved.

23 “(6) UNCONTESTED ELECTIONS.—

24 “(A) IN GENERAL.—In the case of a pri-
25 mary or general election that is an uncontested

1 election, the Commission shall make an alloca-
2 tion from the Fund to a participating candidate
3 for such election in an amount equal to 25 per-
4 cent of the allocation for that election with re-
5 spect to such candidate.

6 “(B) UNCONTESTED ELECTION DE-
7 FINED.—For purposes of this subparagraph, an
8 election is uncontested if not more than 1 can-
9 didate has campaign funds (including payments
10 from the Fund) in an amount equal to or great-
11 er than 10 percent of the allocation a candidate
12 would be entitled to receive under this section
13 for that election (determined without regard to
14 this paragraph).

15 “(b) BASE AMOUNT.—The base amount is an amount
16 equal to 80 percent of the national average disbursements
17 of the cycle by winning candidates for the office of Rep-
18 resentative in, or Delegate or Resident Commissioner to,
19 the Congress in the last 2 election cycles.

20 “(c) TIMING; METHOD OF PAYMENT.—

21 “(1) TIMING.—The Commission shall make the
22 allocations required under subsection (a) to a par-
23 ticipating candidate—

24 “(A) in the case of amounts provided
25 under subsection (a)(1), not later than 48 hours

1 after the date on which such candidate is cer-
2 tified as a participating candidate under section
3 513;

4 “(B) in the case of a general election, not
5 later than 48 hours after—

6 “(i) the date of the certification of the
7 results of the primary election or the pri-
8 mary runoff election; or

9 “(ii) in any case in which there is no
10 primary election, the date the candidate
11 qualifies to be placed on the ballot;

12 “(C) in the case of a primary runoff elec-
13 tion or a general runoff election, not later than
14 48 hours after the certification of the results of
15 the primary election or the general election, as
16 the case may be; and

17 “(D) in the case of a recount allocation,
18 not later than 48 hours after the appropriate
19 State or local election official orders the holding
20 of the recount.

21 “(2) METHOD OF PAYMENT.—The Commission
22 shall distribute funds available to participating can-
23 didates under this section through the use of an
24 electronic funds exchange or a debit card.

1 **“SEC. 503. MATCHING PAYMENTS FOR CERTAIN SMALL**
2 **DOLLAR CONTRIBUTIONS.**

3 “(a) IN GENERAL.—The Commission shall pay to
4 each participating candidate an amount equal to 400 per-
5 cent of the amount of qualified small dollar contributions
6 received by the candidate from individuals who are resi-
7 dents of the State in which such participating candidate
8 is seeking election.

9 “(b) LIMITATION.—The maximum payment under
10 this section shall be the greater of—

11 “(1) 200 percent of the allocation under para-
12 graphs (1) through (4) of section 502(a) for that
13 election with respect to such candidate; or

14 “(2) the percentage of the allocation determined
15 by the Commission under section 532(e)(2).

16 “(c) TIME OF PAYMENT.—The Commission shall
17 make payments under this section not later than 2 busi-
18 ness days after the receipt of a report made under sub-
19 section (d).

20 “(d) REPORTS.—

21 “(1) IN GENERAL.—Each participating can-
22 didate shall file reports of receipts of qualified small
23 dollar contributions at such times and in such man-
24 ner as the Commission may by regulations prescribe.

25 “(2) CONTENTS OF REPORTS.—Each report
26 under this subsection shall disclose—

1 “(A) the amount of each qualified small
2 dollar contribution received by the candidate;

3 “(B) the amount of each qualified small
4 dollar contribution received by the candidate
5 from a resident of the State in which the can-
6 didate is seeking election; and

7 “(C) the name, address, and occupation of
8 each individual who made a qualified small dol-
9 lar contribution to the candidate.

10 “(3) FREQUENCY OF REPORTS.—Reports under
11 this subsection shall be made no more frequently
12 than—

13 “(A) once every month until the date that
14 is 90 days before the date of the election;

15 “(B) once every week after the period de-
16 scribed in subparagraph (A) and until the date
17 that is 21 days before the election; and

18 “(C) once every day after the period de-
19 scribed in subparagraph (B).

20 “(4) LIMITATION ON REGULATIONS.—The
21 Commission may not prescribe any regulations with
22 respect to reporting under this subsection with re-
23 spect to any election after the date that is 180 days
24 before the date of such election.

1 “(e) APPEALS.—The Commission shall provide a
2 written explanation with respect to any denial of any pay-
3 ment under this section and shall provide for the oppor-
4 tunity for review and reconsideration within 5 business
5 days of such denial.

6 “(f) QUALIFIED SMALL DOLLAR CONTRIBUTION DE-
7 FINED.—The term ‘qualified small dollar contribution’
8 means, with respect to a participating candidate, any con-
9 tribution (or a series of contributions)—

10 “(1) which is not a qualifying contribution (or
11 does not include a qualifying contribution);

12 “(2) which is made by an individual who is not
13 prohibited from making a contribution under this
14 Act; and

15 “(3) the aggregate amount of which does not
16 exceed the greater of—

17 “(A) \$100 per election; or

18 “(B) the amount determined by the Fair
19 Elections Oversight Board under section
20 532(c)(2).

21 **“Subtitle B—Eligibility and**
22 **Certification**

23 **“SEC. 511. ELIGIBILITY.**

24 “(a) IN GENERAL.—A candidate for the office of
25 Representative in, or Delegate or Resident Commissioner

1 to, the Congress is eligible to be certified as a participating
2 candidate under this title with respect to an election if
3 the candidate meets the following requirements:

4 “(1) During the election cycle for the office in-
5 volved, the candidate files with the Commission a
6 statement of intent to seek certification as a partici-
7 pating candidate.

8 “(2) The candidate meets the qualifying re-
9 quirements of section 512.

10 “(3) Not later than the last day of the Fair
11 Elections qualifying period, the candidate files with
12 the Commission an affidavit signed by the candidate
13 and the treasurer of the candidate’s principal cam-
14 paign committee declaring that the candidate—

15 “(A) has complied and, if certified, will
16 comply with the contribution and expenditure
17 requirements of section 521;

18 “(B) if certified, will comply with the de-
19 bate requirements of section 522;

20 “(C) if certified, will run only as a partici-
21 pating candidate for all elections for the office
22 that such candidate is seeking during the elec-
23 tion cycle; and

24 “(D) has either qualified or will take steps
25 to qualify under State law to be on the ballot.

1 “(b) GENERAL ELECTION.—Notwithstanding sub-
2 section (a), a candidate shall not be eligible to receive an
3 allocation from the Fund for a general election or a gen-
4 eral runoff election unless the candidate’s party nominated
5 the candidate to be placed on the ballot for the general
6 election or the candidate is otherwise qualified to be on
7 the ballot under State law.

8 “(c) FAIR ELECTIONS QUALIFYING PERIOD DE-
9 FINED.—The term ‘Fair Elections qualifying period’
10 means, with respect to any candidate for the office of Rep-
11 resentative in, or Delegate or Resident Commissioner to,
12 the Congress, the 120-day period (during the election cycle
13 for such office) which begins on the date on which the
14 candidate files a statement of intent under section
15 511(a)(1), except that such period may not continue after
16 the date that is 60 days before—

17 “(1) the date of the primary election; or

18 “(2) in the case of a State that does not hold
19 a primary election, the date prescribed by State law
20 as the last day to qualify for a position on the gen-
21 eral election ballot.

22 **“SEC. 512. QUALIFYING REQUIREMENTS.**

23 “(a) RECEIPT OF QUALIFYING CONTRIBUTIONS.—A
24 candidate for the office of Representative in, or Delegate
25 or Resident Commissioner to, the Congress meets the re-

1 requirement of this section if, during the Fair Elections
2 qualifying period described in section 511(c), the can-
3 didate obtains—

4 “(1) a single qualifying contribution from a
5 number of individuals equal to or greater than the
6 lesser of—

7 “(A) .25% of the voting age population of
8 the State involved (as reported in the most re-
9 cent decennial census), or

10 “(B) 1,500; and

11 “(2) a total dollar amount of qualifying con-
12 tributions equal to or greater than \$50,000.

13 “(b) REQUIREMENTS RELATING TO RECEIPT OF
14 QUALIFYING CONTRIBUTION.—Each qualifying contribu-
15 tion—

16 “(1) may be made by means of a personal
17 check, money order, debit card, credit card, or elec-
18 tronic payment account;

19 “(2) shall be accompanied by a signed state-
20 ment containing—

21 “(A) the contributor’s name and the con-
22 tributor’s address in the State in which the pri-
23 mary residence of the contributor is located;

24 “(B) an oath declaring that the contrib-
25 utor—

1 “(i) understands that the purpose of
2 the qualifying contribution is to show sup-
3 port for the candidate so that the can-
4 didate may qualify for Fair Elections fi-
5 nancing;

6 “(ii) is making the contribution in his
7 or her own name and from his or her own
8 funds;

9 “(iii) has made the contribution will-
10 ingly; and

11 “(iv) has not received any thing of
12 value in return for the contribution; and

13 “(3) shall be acknowledged by a receipt that is
14 sent to the contributor with a copy kept by the can-
15 didate for the Commission and a copy kept by the
16 candidate for the election authorities in the State
17 with respect to which the candidate is seeking elec-
18 tion.

19 “(c) VERIFICATION OF QUALIFYING CONTRIBU-
20 TIONS.—The Commission shall establish procedures for
21 the auditing and verification of qualifying contributions to
22 ensure that such contributions meet the requirements of
23 this section.

24 “(d) PROHIBITING PAYMENT ON COMMISSION BASIS
25 OF INDIVIDUALS COLLECTING QUALIFYING CONTRIBU-

1 TIONS.—No person may be paid a commission on a per
2 qualifying contribution basis for collecting qualifying con-
3 tributions.

4 “(e) QUALIFYING CONTRIBUTION DEFINED.—In this
5 section, the term ‘qualifying contribution’ means, with re-
6 spect to a candidate, a contribution that—

7 “(1) is in an amount that is—

8 “(A) not less than the greater of \$5 or the
9 amount determined by the Commission under
10 section 532(e)(2), and

11 “(B) not more than the greater of \$100 or
12 the amount determined by the Commission
13 under section 532(e)(2);

14 “(2) is made by an individual—

15 “(A) who has a primary residence in the
16 State in which such Candidate is seeking elec-
17 tion, and

18 “(B) who is not otherwise prohibited from
19 making a contribution under this Act;

20 “(3) is made during the Fair Elections quali-
21 fying period described in section 511(e); and

22 “(4) meets the requirements of subsection (b).

23 **“SEC. 513. CERTIFICATION.**

24 “(a) DEADLINE AND NOTIFICATION.—

1 “(1) IN GENERAL.—Not later than 5 days after
2 a candidate files an affidavit under section
3 511(a)(3), the Commission shall—

4 “(A) determine whether or not the can-
5 didate meets the requirements for certification
6 as a participating candidate;

7 “(B) if the Commission determines that
8 the candidate meets such requirements, certify
9 the candidate as a participating candidate; and

10 “(C) notify the candidate of the Commis-
11 sion’s determination.

12 “(2) DEEMED CERTIFICATION FOR ALL ELEC-
13 TIONS IN ELECTION CYCLE.—If the Commission cer-
14 tifies a candidate as a participating candidate with
15 respect to the first election of the election cycle in-
16 volved, the Commissioner shall be deemed to have
17 certified the candidate as a participating candidate
18 with respect to all subsequent elections of the elec-
19 tion cycle.

20 “(b) REVOCATION OF CERTIFICATION.—

21 “(1) IN GENERAL.—The Commission may re-
22 voke a certification under subsection (a) if—

23 “(A) a candidate fails to qualify to appear
24 on the ballot at any time after the date of cer-
25 tification (other than a candidate certified as a

1 participating candidate with respect to a pri-
2 mary election who fails to qualify to appear on
3 the ballot for a subsequent election in that elec-
4 tion cycle); or

5 “(B) a candidate otherwise fails to comply
6 with the requirements of this title, including
7 any regulatory requirements prescribed by the
8 Commission.

9 “(2) REPAYMENT OF BENEFITS.—If certifi-
10 cation is revoked under paragraph (1), the candidate
11 shall repay to the Fair Elections Fund established
12 under section 531 an amount equal to the value of
13 benefits received under this title with respect to the
14 election cycle involved plus interest (at a rate deter-
15 mined by the Commission) on any such amount re-
16 ceived.

17 “(c) PARTICIPATING CANDIDATE DEFINED.—In this
18 title, a ‘participating candidate’ means a candidate for the
19 office of Representative in, or Delegate or Resident Com-
20 missioner to, the Congress who is certified under this sec-
21 tion as eligible to receive benefits under this title.

1 **“Subtitle C—Requirements for Can-**
2 **didates Certified as Partici-**
3 **parting Candidates**

4 **“SEC. 521. CONTRIBUTION, EXPENDITURE, AND FUND-**
5 **RAISING REQUIREMENTS.**

6 “(a) CONTRIBUTIONS.—

7 “(1) PERMITTED SOURCES OF CONTRIBU-
8 TIONS.—Except as provided in subsection (c), a can-
9 didate who is certified as a participating candidate
10 with respect to an election shall, with respect to all
11 elections occurring during the election cycle for the
12 office involved, accept no contributions from any
13 source (including an unexpended contribution re-
14 ceived by the candidate with respect to a previous
15 election or a contribution made by any political com-
16 mittee or multicandidate committee) other than—

17 “(A) qualifying contributions described in
18 section 512;

19 “(B) qualified small dollar contributions
20 described in section 503;

21 “(C) allocations under section 502; and

22 “(D) payments under section 503.

23 “(2) CONTRIBUTIONS FOR LEADERSHIP AND
24 RELATED PACS.—A political committee of a partici-
25 pating candidate which is not an authorized com-

1 mittee of such candidate may accept contributions
2 other than contributions described in paragraph (1)
3 from any person if—

4 “(A) the aggregate amount of the con-
5 tributions from such person for any election
6 during the election cycle does not exceed \$100;
7 and

8 “(B) no portion of such contributions is
9 disbursed in connection with the campaign of
10 the participating candidate.

11 “(b) EXPENDITURES.—

12 “(1) PERMITTED SOURCES FOR EXPENDI-
13 TURES.—Except as provided in subsection (c), a
14 candidate who is certified as a participating can-
15 didate with respect to an election shall, with respect
16 to all elections occurring during the election cycle for
17 the office involved—

18 “(A) make no expenditures from any
19 amounts other than—

20 “(i) qualifying contributions described
21 in section 512;

22 “(ii) qualified small dollar contribu-
23 tions described in section 503;

24 “(iii) allocations under section 502;
25 and

1 “(iv) payments under section 503; and

2 “(B) make no expenditures from personal
3 funds or the funds of any immediate family
4 member of the candidate (other than funds re-
5 ceived through qualified small dollar contribu-
6 tions and qualifying contributions).

7 “(2) IMMEDIATE FAMILY MEMBER DEFINED.—

8 In paragraph (1)(B), the term ‘immediate family’
9 means, with respect to a candidate—

10 “(A) the candidate’s spouse;

11 “(B) a child, stepchild, parent, grand-
12 parent, brother, half-brother, sister, or half-sis-
13 ter of the candidate or the candidate’s spouse;
14 and

15 “(C) the spouse of any person described in
16 subparagraph (B).

17 “(e) EXCEPTIONS.—

18 “(1) EXCEPTION FOR CONTRIBUTIONS RE-
19 CEIVED PRIOR TO FILING OF STATEMENT OF IN-
20 TENT.—A candidate who has accepted contributions
21 that are not qualified small dollar contributions,
22 qualifying contributions, or contributions described
23 in paragraph (a)(2) prior to the date the candidate
24 files a statement of intent under section 511(a)(1)

1 is not in violation of subsection (a), but only if all
2 such contributions are—

3 “(A) returned to the contributor;

4 “(B) submitted to the Commission for de-
5 posit in the Fair Elections Fund established
6 under section 531; or

7 “(C) spent in accordance with paragraph
8 (2).

9 “(2) EXCEPTION FOR EXPENDITURES MADE
10 PRIOR TO FILING OF STATEMENT OF INTENT.—If a
11 candidate has made expenditures prior to the date
12 the candidate files a statement of intent under sec-
13 tion 511(a)(1) that the candidate is prohibited from
14 making under subsection (b), the candidate is not in
15 violation of such subsection if the aggregate amount
16 of the prohibited expenditures is less than 20 per-
17 cent of the amount of an initial allocation to a can-
18 didate under section 502(a)(1).

19 “(3) EXCEPTION FOR CAMPAIGN SURPLUSES
20 FROM A PREVIOUS ELECTION.—Notwithstanding
21 paragraph (1), unexpended contributions received by
22 the candidate or the an authorized committee of the
23 candidate with respect to a previous election may be
24 retained, but only if the candidate places the funds
25 in escrow and refrains from raising additional funds

1 for or spending funds from that account during the
2 election cycle in which a candidate is a participating
3 candidate.

4 “(4) EXCEPTION FOR CONTRIBUTIONS RE-
5 CEIVED BEFORE THE EFFECTIVE DATE OF THIS
6 TITLE.—Contributions received and expenditures
7 made by the candidate or an authorized committee
8 of the candidate prior to the effective date of this
9 title shall not constitute a violation of subsection (a)
10 or (b). Unexpended contributions shall be treated
11 the same as campaign surpluses under paragraph
12 (3), and expenditures made shall count against the
13 limit in paragraph (2).

14 “(d) SPECIAL RULE FOR COORDINATED PARTY EX-
15 PENDITURES.—For purposes of this section, a payment
16 made by a political party in coordination with a partici-
17 pating candidate shall not be treated as a contribution to
18 or as an expenditure made by the participating candidate.

19 **“SEC. 522. DEBATE REQUIREMENT.**

20 “A candidate who is certified as a participating can-
21 didate with respect to an election shall, during the election
22 cycle for the office involved, participate in at least—

23 “(1) 1 public debate before the primary election
24 with other participating candidates and other willing

1 candidates from the same party and seeking the
2 same nomination as such candidate; and

3 “(2) 2 public debates before the general election
4 with other participating candidates and other willing
5 candidates seeking the same office as such can-
6 didate.

7 **“SEC. 523. REMITTING UNSPENT FUNDS AFTER ELECTION.**

8 “(a) IN GENERAL.—Not later than the date that is
9 60 days after the last election for which a candidate cer-
10 tified as a participating candidate qualifies to be on the
11 ballot during the election cycle involved, such participating
12 candidate shall remit to the Commission for deposit in the
13 Fair Elections Fund established under section 531 an
14 amount equal to the lesser of—

15 “(1) the amount of money in the candidate’s
16 campaign account; or

17 “(2) the sum of the allocations received by the
18 candidate under section 502 and the payments re-
19 ceived by the candidate under section 503.

20 **“(b) EXCEPTION FOR EXPENDITURES INCURRED
21 BUT NOT PAID AS OF DATE OF REMITTANCE.—**

22 “(1) IN GENERAL.—Subject to subsection (a), a
23 candidate may withhold from the amount required to
24 be remitted under paragraph (1) of such subsection
25 the amount of any authorized expenditures which

1 were incurred in connection with the candidate's
2 campaign but which remain unpaid as of the dead-
3 line applicable to the candidate under such sub-
4 section, except that any amount withheld pursuant
5 to this paragraph shall be remitted to the Commis-
6 sion not later than 120 days after the date of the
7 election to which such subsection applies.

8 “(2) DOCUMENTATION REQUIRED.—A can-
9 didate may withhold an amount of an expenditure
10 pursuant to paragraph (1) only if the candidate sub-
11 mits documentation of the expenditure and the
12 amount to the Commission not later than the dead-
13 line applicable to the candidate under subsection (a).

14 **“Subtitle D—Administrative**
15 **Provisions**

16 **“SEC. 531. FAIR ELECTIONS FUND.**

17 “(a) ESTABLISHMENT.—There is established in the
18 Treasury a fund to be known as the ‘Fair Elections Fund’.

19 “(b) AMOUNTS HELD BY FUND.—The Fund shall
20 consist of the following amounts:

21 “(1) APPROPRIATED AMOUNTS.—Amounts ap-
22 propriated to the Fund, including trust fund
23 amounts appropriated pursuant to applicable provi-
24 sions of the Internal Revenue Code of 1986.

1 “(2) VOLUNTARY CONTRIBUTIONS.—Voluntary
2 contributions to the Fund.

3 “(3) TRANSFERS RESULTING FROM PAYMENT
4 OF CIVIL PENALTIES.—Amounts transferred into the
5 Fund pursuant to section 309(a)(13).

6 “(4) PROCEEDS FROM RECOVERED SPECTRUM
7 AUCTIONS.—Amounts deposited pursuant to section
8 309(j)(8)(E)(ii)(II) of the Communications Act of
9 1934.

10 “(5) OTHER DEPOSITS.—Amounts deposited
11 into the Fund under—

12 “(A) section 521(a)(3) (relating to excep-
13 tions to contribution requirements);

14 “(B) section 523 (relating to remittance of
15 allocations from the Fund);

16 “(C) section 534 (relating to violations);
17 and

18 “(D) any other section of this Act.

19 “(6) INVESTMENT RETURNS.—Interest on, and
20 the proceeds from, the sale or redemption of, any
21 obligations held by the Fund under subsection (e).

22 “(e) INVESTMENT.—The Commission shall invest
23 portions of the Fund in obligations of the United States
24 in the same manner as provided under section 9602(b)
25 of the Internal Revenue Code of 1986.

1 “(d) USE OF FUND.—

2 “(1) IN GENERAL.—The sums in the Fund
3 shall be used to provide benefits to participating
4 candidates as provided in subtitle A.

5 “(2) INSUFFICIENT AMOUNTS.—Under regula-
6 tions established by the Commission, rules similar to
7 the rules of section 9006(c) of the Internal Revenue
8 Code of 1986 shall apply.

9 **“SEC. 532. FAIR ELECTIONS OVERSIGHT BOARD.**

10 “(a) ESTABLISHMENT.—There is established within
11 the Federal Election Commission an entity to be known
12 as the ‘Fair Elections Oversight Board’.

13 “(b) STRUCTURE AND MEMBERSHIP.—

14 “(1) IN GENERAL.—The Board shall be com-
15 posed of 5 members appointed by the President, of
16 whom—

17 “(A) 2 shall be appointed after consulta-
18 tion with the Majority Leader of the House of
19 Representatives;

20 “(B) 2 shall be appointed after consulta-
21 tion with the Minority Leader of the House of
22 Representatives; and

23 “(C) 1 shall be appointed upon the rec-
24 ommendation of the members appointed under
25 subparagraphs (A) and (B).

1 “(2) QUALIFICATIONS.—

2 “(A) IN GENERAL.—The members shall be
3 individuals who are nonpartisan and, by reason
4 of their education, experience, and attainments,
5 exceptionally qualified to perform the duties of
6 members of the Board.

7 “(B) PROHIBITION.—No member of the
8 Board may be—

9 “(i) an employee of the Federal gov-
10 ernment;

11 “(ii) a registered lobbyist or an indi-
12 vidual who was a registered lobbyist at any
13 time during the 2-year period preceding
14 appointment to the Board; or

15 “(iii) an officer or employee of a polit-
16 ical party or political campaign.

17 “(3) DATE.—Members of the Board shall be
18 appointed not later than 60 days after the date of
19 the enactment of this Act.

20 “(4) TERMS.—A member of the Board shall be
21 appointed for a term of 5 years.

22 “(5) VACANCIES.—A vacancy on the Board
23 shall be filled not later than 30 calendar days after
24 the date on which the Board is given notice of the
25 vacancy, in the same manner as the original ap-

1 pointment. The individual appointed to fill the va-
2 cancy shall serve only for the unexpired portion of
3 the term for which the individual's predecessor was
4 appointed.

5 “(6) CHAIRPERSON.—The Board shall des-
6 ignate a Chairperson from among the members of
7 the Board.

8 “(c) DUTIES AND POWERS.—

9 “(1) ADMINISTRATION.—The Board shall have
10 such duties and powers as the Commission may pre-
11 scribe, including the power to administer the provi-
12 sions of this title.

13 “(2) REVIEW OF FAIR ELECTIONS FINANC-
14 ING.—

15 “(A) IN GENERAL.—After each regularly
16 scheduled general election for Federal office,
17 the Board shall conduct a comprehensive review
18 of the Fair Elections financing program under
19 this title, including—

20 “(i) the maximum dollar amount of
21 qualified small dollar contributions under
22 section 503(f);

23 “(ii) the maximum and minimum dol-
24 lar amounts for qualifying contributions
25 under section 512(d);

1 “(iii) the number and value of quali-
2 fying contributions a candidate is required
3 to obtain under section 512(a) to be eligi-
4 ble for certification as a participating can-
5 didate;

6 “(iv) the amount of allocations that
7 candidates may receive under section 502;

8 “(v) the maximum amount of pay-
9 ments a candidate may receive under sec-
10 tion 503;

11 “(vi) the overall satisfaction of partici-
12 pating candidates and the American public
13 with the program; and

14 “(vii) such other matters relating to
15 financing of House of Representatives
16 campaigns as the Board determines are
17 appropriate.

18 “(B) CRITERIA FOR REVIEW.—In con-
19 ducting the review under subparagraph (A), the
20 Board shall consider the following:

21 “(i) QUALIFYING CONTRIBUTIONS
22 AND QUALIFIED SMALL DOLLAR CON-
23 TRIBUTIONS.—The Board shall consider
24 whether the number and dollar amount of
25 qualifying contributions required and max-

1 imum dollar amount for such qualifying
2 contributions and qualified small dollar
3 contributions strikes a balance regarding
4 the importance of voter involvement, the
5 need to assure adequate incentives for par-
6 ticipating, and fiscal responsibility, taking
7 into consideration the number of primary
8 and general election participating can-
9 didates, the electoral performance of those
10 candidates, program cost, and any other
11 information the Board determines is ap-
12 propriate.

13 “(ii) REVIEW OF PROGRAM BENE-
14 FITS.—The Board shall consider whether
15 the totality of the amount of funds allowed
16 to be raised by participating candidates
17 (including through qualifying contributions
18 and small dollar contributions), allocations
19 under section 502, and payments under
20 section 503 are sufficient for voters in each
21 State to learn about the candidates to cast
22 an informed vote, taking into account the
23 historic amount of spending by winning
24 candidates, media costs, primary election

1 dates, and any other information the
2 Board determines is appropriate.

3 “(C) ADJUSTMENT OF AMOUNTS.—

4 “(i) IN GENERAL.—Based on the re-
5 view conducted under subparagraph (A),
6 the Board shall provide for the adjust-
7 ments of the following amounts:

8 “(I) the maximum dollar amount
9 of qualified small dollar contributions
10 under section 503(f);

11 “(II) the maximum and min-
12 imum dollar amounts for qualifying
13 contributions under section 512(d);

14 “(III) the number and value of
15 qualifying contributions a candidate is
16 required to obtain under section
17 512(a) to be eligible for certification
18 as a participating candidate;

19 “(IV) the base amount for can-
20 didates under section 502(b); and

21 “(V) the maximum amount of
22 matching contributions a candidate
23 may receive under section 503(b).

24 “(ii) REGULATIONS.—The Commis-
25 sion shall promulgate regulations providing

1 for the adjustments made by the Board
2 under clause (i).

3 “(D) REPORT.—Not later than March 30
4 following any general election for Federal office,
5 the Board shall submit a report to Congress on
6 the review conducted under paragraph (1).
7 Such report shall contain a detailed statement
8 of the findings, conclusions, and recommenda-
9 tions of the Board based on such review.

10 “(d) MEETINGS AND HEARINGS.—

11 “(1) MEETINGS.—The Board may hold such
12 hearings, sit and act at such times and places, take
13 such testimony, and receive such evidence as the
14 Board considers advisable to carry out the purposes
15 of this Act.

16 “(2) QUORUM.—Three members of the Board
17 shall constitute a quorum for purposes of voting, but
18 a quorum is not required for members to meet and
19 hold hearings.

20 “(e) REPORTS.—Not later than March 30, 2011, and
21 every 2 years thereafter, the Board shall submit to the
22 Committee on House Administration of the House of Rep-
23 resentatives a report documenting, evaluating, and making
24 recommendations relating to the administrative implemen-
25 tation and enforcement of the provisions of this title.

1 “(f) ADMINISTRATION.—

2 “(1) COMPENSATION OF MEMBERS.—

3 “(A) IN GENERAL.—Each member, other
4 than the Chairperson, shall be paid at a rate
5 equal to the daily equivalent of the minimum
6 annual rate of basic pay prescribed for level IV
7 of the Executive Schedule under section 5315
8 of title 5, United States Code.

9 “(B) CHAIRPERSON.—The Chairperson
10 shall be paid at a rate equal to the daily equiva-
11 lent of the minimum annual rate of basic pay
12 prescribed for level III of the Executive Sched-
13 ule under section 5314 of title 5, United States
14 Code.

15 “(2) PERSONNEL.—

16 “(A) DIRECTOR.—The Board shall have a
17 staff headed by an Executive Director. The Ex-
18 ecutive Director shall be paid at a rate equiva-
19 lent to a rate established for the Senior Execu-
20 tive Service under section 5382 of title 5,
21 United States Code.

22 “(B) STAFF APPOINTMENT.—With the ap-
23 proval of the Chairperson, the Executive Direc-
24 tor may appoint such personnel as the Execu-

1 tive Director and the Board determines to be
2 appropriate.

3 “(C) EXPERTS AND CONSULTANTS.—With
4 the approval of the Chairperson, the Executive
5 Director may procure temporary and intermit-
6 tent services under section 3109(b) of title 5,
7 United States Code.

8 “(D) DETAIL OF GOVERNMENT EMPLOY-
9 EES.—Upon the request of the Chairperson, the
10 head of any Federal agency may detail, without
11 reimbursement, any of the personnel of such
12 agency to the Board to assist in carrying out
13 the duties of the Board. Any such detail shall
14 not interrupt or otherwise affect the civil service
15 status or privileges of the Federal employee.

16 “(E) OTHER RESOURCES.—The Board
17 shall have reasonable access to materials, re-
18 sources, statistical data, and other information
19 from the Library of Congress and other agen-
20 cies of the executive and legislative branches of
21 the Federal Government. The Chairperson of
22 the Board shall make requests for such access
23 in writing when necessary.

1 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as are nec-
3 essary to carry out the purposes of this subtitle.

4 **“SEC. 533. ADMINISTRATION BY COMMISSION.**

5 “The Commission shall prescribe regulations to carry
6 out the purposes of this title, including regulations—

7 “(1) to establish procedures for—

8 “(A) verifying the amount of valid quali-
9 fying contributions with respect to a candidate;

10 “(B) effectively and efficiently monitoring
11 and enforcing the limits on the raising of quali-
12 fied small dollar contributions;

13 “(C) effectively and efficiently monitoring
14 and enforcing the limits on the use of personal
15 funds by participating candidates; and

16 “(D) monitoring the use of allocations
17 from the Fair Elections Fund established under
18 section 531 and matching contributions under
19 this title through audits of not fewer than $\frac{1}{3}$ of
20 all participating candidates or other mecha-
21 nisms; and

22 “(2) regarding the conduct of debates in a man-
23 ner consistent with the best practices of States that
24 provide public financing for elections.

1 **“SEC. 534. VIOLATIONS AND PENALTIES.**

2 “(a) CIVIL PENALTY FOR VIOLATION OF CONTRIBU-
3 TION AND EXPENDITURE REQUIREMENTS.—If a can-
4 didate who has been certified as a participating candidate
5 accepts a contribution or makes an expenditure that is
6 prohibited under section 521, the Commission shall assess
7 a civil penalty against the candidate in an amount that
8 is not more than 3 times the amount of the contribution
9 or expenditure. Any amounts collected under this sub-
10 section shall be deposited into the Fair Elections Fund
11 established under section 531.

12 “(b) REPAYMENT FOR IMPROPER USE OF FAIR
13 ELECTIONS FUND.—

14 “(1) IN GENERAL.—If the Commission deter-
15 mines that any benefit made available to a partici-
16 pating candidate was not used as provided for in
17 this title or that a participating candidate has vio-
18 lated any of the dates for remission of funds con-
19 tained in this title, the Commission shall so notify
20 the candidate and the candidate shall pay to the
21 Fund an amount equal to—

22 “(A) the amount of benefits so used or not
23 remitted, as appropriate; and

24 “(B) interest on any such amounts (at a
25 rate determined by the Commission).

1 to the Fair Elections Fund established under section 531
2 an amount equal to 50 percent of the amount of such pay-
3 ment.”.

4 **SEC. 103. PROHIBITING USE OF CONTRIBUTIONS BY PAR-**
5 **TICIPATING CANDIDATES FOR PURPOSES**
6 **OTHER THAN CAMPAIGN FOR ELECTION.**

7 Section 313 of the Federal Election Campaign Act
8 of 1971 (2 U.S.C. 439a) is amended by adding at the end
9 the following new subsection:

10 “(d) RESTRICTIONS ON PERMITTED USES OF FUNDS
11 BY CANDIDATES RECEIVING FAIR ELECTIONS FINANC-
12 ING.—Notwithstanding paragraphs (2), (3), or (4) of sub-
13 section (a), if a candidate for election for the office of Rep-
14 resentative in, or Delegate or Resident Commissioner to,
15 the Congress is certified as a participating candidate
16 under title V with respect to the election, any contribution
17 which the candidate is permitted to accept under such title
18 may be used only for authorized expenditures in connec-
19 tion with the candidate’s campaign for such office.”.

20 **SEC. 104. PROHIBITION ON JOINT FUNDRAISING COMMIT-**
21 **TEES.**

22 Section 302(e) of the Federal Election Campaign Act
23 of 1971 (2 U.S.C. 432(e)) is amended by adding at the
24 end the following new paragraph:

1 “(6) No authorized committee of a candidate
2 may establish a joint fundraising committee with a
3 political committee other than an authorized com-
4 mittee of a candidate.”.

5 **SEC. 105. LIMITATION ON COORDINATED EXPENDITURES**
6 **BY POLITICAL PARTY COMMITTEES WITH**
7 **PARTICIPATING CANDIDATES.**

8 (a) IN GENERAL.—Section 315(d)(3) of the Federal
9 Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is
10 amended—

11 (1) by redesignating subparagraphs (A) and
12 (B) as subparagraphs (B) and (C), respectively; and
13 (2) by inserting before subparagraph (B), as re-
14 designated by paragraph (1), the following new sub-
15 paragraph:

16 “(A) in the case of a candidate for election
17 to the office of Representative in, or Delegate
18 or Resident Commissioner to, the Congress who
19 is certified as a participating candidate under
20 title V, the lesser of—

21 “(i) 10 percent of the allocation that
22 the participating candidate is eligible to re-
23 ceive for the general election under section
24 502(a); or

1 “(ii) the amount which would (but for
2 this subparagraph) apply with respect to
3 such candidate under subparagraph (B);”.

4 (b) CONFORMING AMENDMENT.—Section 315(d)(3)
5 of such Act (2 U.S.C. 441a(d)(3)) is amended—

6 (1) in subparagraph (B) (as redesignated by
7 subsection (a)), by inserting “who is not certified as
8 a participating candidate under title V” after “only
9 one Representative”; and

10 (2) in subparagraph (C) (as redesignated by
11 subsection (a)), by inserting “who is not certified as
12 a participating candidate under title V” after “any
13 other State”.

14 **SEC. 106. DEPOSIT OF PROCEEDS FROM RECOVERED SPEC-**
15 **TRUM AUCTIONS.**

16 Section 309(j)(8)(E)(ii) of the Communications Act
17 of 1934 (47 U.S.C. 309(j)(8)(E)(ii)) is amended—

18 (1) by striking “deposited in” and inserting the
19 following: “deposited as follows:

20 “(I) 90 percent of such proceeds
21 deposited in”; and

22 (2) by adding at the end the following:

23 “(II) 10 percent of such proceeds
24 deposited in the Fair Elections Fund
25 established under section 531 of the

1 Federal Election Campaign Act of
2 1971.”.

3 **TITLE II—RESPONSIBILITIES OF**
4 **THE FEDERAL ELECTION**
5 **COMMISSION**

6 **SEC. 201. PETITION FOR CERTIORARI.**

7 Section 307(a)(6) of the Federal Election Campaign
8 Act of 1971 (2 U.S.C. 437d(a)(6)) is amended by insert-
9 ing “(including a proceeding before the Supreme Court on
10 certiorari)” after “appeal”.

11 **SEC. 202. FILING BY ALL CANDIDATES WITH COMMISSION.**

12 Section 302(g) of the Federal Election Campaign Act
13 of 1971 (2 U.S.C. 432(g)) is amended to read as follows:

14 “(g) FILING WITH THE COMMISSION.—All des-
15 ignations, statements, and reports required to be
16 filed under this Act shall be filed with the Commis-
17 sion.”.

18 **SEC. 203. ELECTRONIC FILING OF FEC REPORTS.**

19 Section 304(a)(11) of the Federal Election Campaign
20 Act of 1971 (2 U.S.C. 434(a)(11)) is amended—

21 (1) in subparagraph (A), by striking “under
22 this Act—” and all that follows and inserting
23 “under this Act shall be required to maintain and
24 file such designation, statement, or report in elec-
25 tronic form accessible by computers.”;

1 (2) in subparagraph (B), by striking “48
2 hours” and all that follows through “filed electroni-
3 cally” and inserting “24 hours”; and
4 (3) by striking subparagraph (D).

5 **TITLE III—MISCELLANEOUS**
6 **PROVISIONS**

7 **SEC. 301. SEVERABILITY.**

8 If any provision of this Act or amendment made by
9 this Act, or the application of a provision or amendment
10 to any person or circumstance, is held to be unconstitu-
11 tional, the remainder of this Act and amendments made
12 by this Act, and the application of the provisions and
13 amendment to any person or circumstance, shall not be
14 affected by the holding.

15 **SEC. 302. EFFECTIVE DATE.**

16 Except as otherwise provided for in this Act, this Act
17 and the amendments made by this Act shall take effect
18 on January 1, 2011.

○

The CHAIRMAN. Is there any debate? Any amendments?

Mr. Lungren.

Mr. LUNGREN. Mr. Chairman, I do have an amendment.

The CHAIRMAN. Without objection, the amendment is considered read and the gentleman is recognized for 5 minutes.

[The information follows:]

AMENDMENT TO H.R. 6116
OFFERED BY MR. DANIEL E. LUNGREN OF
CALIFORNIA

Page 24, line 6, strike “section 531” and insert
“section 531 (subject to section 531(e))”.

Page 26, line 13, strike “section 531” and insert
“section 531 (subject to section 531(e))”.

Page 29, insert after line 8 the following:

1 “(e) EXCEPTION IN CASE OF FEDERAL BUDGET
2 DEFICIT.—Notwithstanding subsection (b), if there is an
3 estimated Federal budget deficit for the fiscal year during
4 which any amount described in such subsection is to be
5 paid over to the Fund (as published by the Secretary on
6 the first day of the fiscal year), or if the total amount
7 of all such amounts exceeds the amount of the estimated
8 Federal budget surplus for such fiscal year, if any (as pub-
9 lished by the Secretary on the first day of the fiscal year),
10 all such amounts shall be deposited in the general fund
11 of the Treasury in accordance with chapter 33 of title 31,
12 United States Code, and used for deficit reduction.”.

Page 39, line 11, strike “section 531” and insert
“section 531 (subject to section 531(e))”.

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Page 40, line 23, strike “Upon receipt” and insert
“Subject to section 531(e), upon receipt”.

Page 44, line 2, strike “1971” and insert “1971
(subject to section 531(e) of such Act)”.



Mr. LUNGREN. Before I start talking about the amendment I think we should make one thing clear to people listening to this debate. Under current law, and this does not change with this bill or any suggestion I have seen, there are no direct corporate or union contributions to campaigns. We do have a system where PACs—political action committees—supported by those who are identified with a particular interest, in some cases a corporation or in some cases a union, are allowed. And I just hope that anybody listening does not mistake that.

Mr. Chairman, this is a simple amendment that I hope will be acceptable to members on both sides. The amendment would provide that any funding for the bill, whatever its source—I think there are four different sections or four sources here—would not be authorized if there is a deficit in that particular year, and that in the case of a deficit any funds allocated to the bill's programs will be used for deficit reduction.

We have heard a lot about what the American people want in our debate here, and one of the things I have found loud and clear from groups of all types in my own district is they would like us to stop spending and to draw down on the debt. But in this case just make sure we don't increase the deficit.

There seems to be a reflexive position in this Congress that whenever we see a problem, the easiest solution is to just tax taxpayers to solve that problem. At least I have noticed in my district and in my State that the people are rejecting that notion.

So, given the fiscal state of our government at the present time, I think it is important that the House and the Congress prioritize. I respect the gentleman from Massachusetts who suggested that we can do more than one thing at once. And I agree with that. I don't think that is the problem in this Congress. I think the problem is, in doing that, we don't prioritize, we don't decide what is truly essential, what is important.

There are certain programs and certain projects that are necessary. In my view, this program is not even desirable. But even if it were, I believe that it is not necessary, particularly at this time. If members want to go down this path, can we at least agree not to dig ourselves further into debt in the process.

So I think I have made it clear that I don't agree with the principle of this bill, but I would hope that we could agree we should not make our deficit even worse.

The last comment I would make is this. Reference has been made to the Supreme Court, and so forth. The fact of the matter is the Supreme Court in this area is required to explicate the contours of the First Amendment. And, as I said, so long as they have said that you cannot stop someone from spending their own money for speech, we have to deal with that.

This Congress attempted a number of years ago to deal with that problem in saying that the individual limits that are on a campaign would be taken off and—I forget—either doubled or tripled, if in fact your opponent was so wealthy that he or she contributed a specific amount of money based on a formula to their own campaign. And I recall this happening in my own campaign in 2004, when in the primary one of my opponents contributed \$1.2 million to her own campaign. It was kind of interesting. The threshold was

not—the postponement of the meeting of the threshold was the way in which she put the money towards her campaign so that when that millionaire’s clause came into effect, it was rather late in the game and so it made it more difficult for those in my situation to be able to respond. But we did. As we know, subsequently the U.S. Supreme Court has told us that you cannot do that.

So where we tried to manufacture our response to the realities of the First Amendment in a way that we thought would make it more equal and would help candidates who are not wealthy, the Court told us that we could not. And that is one of the realities that we have to deal with. I just don’t think this bill brings us in the right direction. But even if it did, let’s at least make sure that we don’t add to the burden of the taxpayers in the process.

And so that is what my amendment would simply do. So long as we still have a deficit, the funding in this bill would go towards getting rid of that deficit for that year as opposed to funding this. And in those years when we actually have a balanced budget for a year, then we could look at other things, and this would be one of the things that we would seriously look at.

So I would yield back the balance of my time.

The CHAIRMAN. I thank the gentleman. Any additional debate on the amendment?

Mr. Capuano.

Mr. CAPUANO. Mr. Chairman, the concept of addressing the deficit, I totally agree with. As a matter of fact, I would like to point out that the last time we had no deficit was in 2002. It was a roll-call, November 14, rollcall No. 482, to keep the only rule that this Congress ever had that kept us in line relative to addressing the deficit was the old PAYGO rules. Not the new ones. The old ones. And only 19 Members voted to keep those PAYGO rules, because they were tough to do. They applied across the board to all programs.

That is the problem I have with this amendment. It targets one program to deal with the deficit.

I happen to have been one of those 19 people to vote to keep the PAYGO rules. I thought it was a huge mistake then. I think it is a huge mistake we haven’t re-implemented them. And I hope we do as we go forward. We have done some, but not tough enough for me. I agree that the deficit is a major, major problem, and we do need to deal with it, but not on the basis of one item at a time. If we are going to do it, which we should, we should do it across the board. All programs.

This is less important than anything else in the entire Federal budget. This is the only program we are going to target, I can’t accept that. I agree all programs should be on the table to address the deficit. I may have different priorities than this but I am sure we could find different compromises where there must be some common ground. We could find the programs we can get rid of. Other programs could take cuts. We did it before. The country had a surplus before. And we can do it again. But we can’t do it on the basis of one program at a time. And this program, if never funded, won’t even come close to addressing the deficit problems we have.

So the concept, in my opinion, is right. The execution is too narrow and inappropriate. So I have to oppose the amendment.

The CHAIRMAN. I thank the gentleman. Any additional debate on the amendment? Mr. Gonzalez.

Mr. GONZALEZ. Well, I need to oppose. And I guess maybe the best way to respond to that basic principle, which is a good one, but it would appear that the deficit and the national debt somehow are attributed to the Democratic Party, the President of the United States, and so on.

So I think I will just quote a Republican instead, David Stockman, "The debt explosion has resulted not from big spending by the Democrats but instead the Republican Party's embrace about three decades ago of the insidious doctrine that deficits don't matter if they result from tax cuts. By fiscal year 2009, the tax cutters had reduced Federal revenues to 15 percent of Gross Domestic Product, lower than they had been since the 1940s. Then, after rarely vetoing a budget bill and engaging in two unfinanced foreign military adventures, George W. Bush surrendered on domestic spending cuts, too, signing into law \$420 billion in nondefense appropriations, a 65 percent gain from the \$260 billion he had inherited eight years earlier."

So let us join forces and voices and be true to the objective. I really don't see that this particular amendment gets us anywhere close to that, especially when you think in terms of the funding sources, the potential impact on deficits, and such. And not only that, it would frustrate the whole purpose in initiating the intent and goal of the bill.

So I stand in opposition to Mr. Lungren's amendment.

The CHAIRMAN. I thank the gentleman. Any additional debate? Mr. Harper.

Mr. HARPER. Thank you, Mr. Chairman. I certainly think we can get into a long debate on the history and the issues of tax cuts. I think it is important to note that if you look at the study done on the current deficit, only 14 percent of that is attributable to the 2001 and 2003 tax cuts and 50 percent or more is attributable to new spending and interest on that new spending.

Mr. GONZALEZ. Would you yield on that?

The CHAIRMAN. I yield to Mr. Lungren first.

Mr. LUNGREN. I thank the gentleman. I happened to have been here serving with Dave Stockman so I may have a different interpretation of what the gentleman says. But that is looking backward. My amendment establishes a simple principle. Stop digging. We can look back and say, it is your fault, it is my fault, it is this administration, that administration. I didn't say anything about that here.

The principle I am extending here is that maybe we ought to establish a rule that says before we start a new program we make sure that it doesn't add to deficit. That is all I am saying here.

The difference between what the gentleman from Texas spoke about and what I am speaking about is that this is a new program. When you are in debt for your family, the least prudent thing that you can do is stop spending on new things before you even try and figure out how you take care of your old debts. And that is the only principle I have got here.

So I am not looking backwards. I haven't cast a stone at anybody here, Democrats, Republicans. All I know is the problem we have

got right now, and it just seemed to me to be a fairly common sense approach. Before you start paying for a new program, make sure you pay for everything else you already have. Maybe go back and look at the programs you already have and see where you can cut there. But don't add to the problem. And that is all I am saying. Quit digging.

I thank the gentleman for yielding.

Mr. HARPER. I certainly will yield to you, Mr. Gonzalez.

Mr. GONZALEZ. You may consider it spending. Sometimes you just have to invest in your democracy. And it is a good investment. And it pays dividends like any good investment. So I guess it really is your perspective on the faith that you have in the democratic process in extending as much opportunity to those that want to serve. That is why I am looking at it. And if I thought this was a deficit buster and got us deep or deeper—and we could go into a debate, and I would with Mr. Harper; this is not the time to do it. But I think we have got the facts and figures to demonstrate how we got to where we are today and the results of the recession. You may say, Well, things are bad. As compared to what and where we have been?

So I don't want to get into that with you guys, but by the same token I can't say that we have got the holy grail of saying we are not going to do anything new when we know that it is a sound investment in our country and its future. And that is why I would oppose the amendment, Mr. Chairman.

And I yield back. And thank you, Mr. Harper.

Mr. HARPER. Mr. Chairman, I yield back.

The CHAIRMAN. Thank you. Any additional debate on the amendment? If not, the question is on the amendment. All those in favor signify by saying aye. All those against, no. In the opinion of the Chair the noes have it.

Mr. LUNGREN. I would like a rollcall vote.

The CHAIRMAN. A rollcall, please.

The CLERK. Ms. Lofgren.

Ms. LOFGREN. No.

The CLERK. Mr. Capuano.

Mr. CAPUANO. No.

The CLERK. Mr. Gonzalez.

Mr. GONZALEZ. No.

The CLERK. Mrs. Davis.

Mrs. DAVIS of California. No.

The CLERK. Mr. Davis.

Mr. DAVIS of Alabama. No.

The CLERK. Mr. Lungren.

Mr. LUNGREN. Aye.

The CLERK. Mr. McCarthy.

[No response.]

The CLERK. Mr. Harper.

Mr. HARPER. Aye.

The CLERK. Mr. Chairman.

The CHAIRMAN. No.

According to the rollcall votes, the ayes are 2 and the nays are 6. The amendment fails.

Are there any other amendments?

Mr. Capuano.

Mr. CAPUANO. Mr. Chairman, I have an amendment at the desk.

The CHAIRMAN. The gentleman is recognized for 5 minutes, and the amendment is read.

[The information follows:]

111th Congress
 Committee on House Administration
 U.S. House of Representatives

THURSDAY, SEPTEMBER 23, 2010

DATE: _____

ROLL CALL No. III-12 _____

SUBJECT: On Agreeing to the
 Amendment offered by
 Mr. Lungren

NAME	RESPONSE TO CALL OF THE ROLL			OFFICE EXTENSION
	AYE	NO	ANSWERED PRESENT	
Ms. Lofgren		X		53072
Mr. Capuano		X		551111
Mr. Gonzalez		X		53236
Mrs. Davis, of California		X		52040
Mr. Davis, of Alabama		X		52665
Mr. Lungren	X			55716
Mr. McCarthy				52915
Mr. Harper	X			55031
Mr. Brady		X		54731

AMENDMENT TO H.R. 6116
OFFERED BY MR. CAPUANO

Page 16, line 10, strike "1,500" and insert "500"

Page 16, strike lines 11 through 12 and insert the
following:

1 “(2) not less than an aggregate amount of
2 \$50,000 of—
3 “(A) contributions which are qualifying
4 contributions, or
5 “(B) contributions which are equal to or
6 greater than \$5 but less than the amount of a
7 qualifying contribution.”.

Page 18, line 8, strike "\$5" and insert "\$50".



Mr. CAPUANO. Thank you, Mr. Chairman. Mr. Chairman, this amendment raises an issue that I believe I raised several times at previous hearings and other occasions. Though I support the concept of the proposal, my problem is I want to make sure to the best of my ability that we are not simply taking the power of ability to select candidates and shifting that to organized groups. I believe that with the current limits of \$5 and 1,500 names, that that simply means that everybody who wants to qualify for this has to go and beg for the support of preexisting organizations, either party organizations or unions or business groups or Internet groups, or whoever it might be, we have to beg them for their support. And I say that out of personal experience.

It is hard to do these numbers, it is impossible to do them, because Federal law doesn't require us to list who donates below \$200. So therefore I can't tell exactly how many people actually would have gotten 1,500 donations. I can only tell what I got. I have—well, I have once. I have never had 1,500 donations in a given year. And it is because I am not beholden to my own party. Different places are different. Different candidates are different. I have actually never had the support of my party when I needed it. Now they love me when I am in, but they have never helped me when I have needed them.

I have never had the support of organized labor in any real serious way—a handful of labor unions—when I have needed them. I have never had the support of business groups—well, almost never—when I needed them. They all love me when I am in, but when I need them, the only people I have gotten support from is average, disorganized, regular people who just want a change. And I think that they should not be shut out because people like me might have trouble getting out to 1,500 people at \$5 a pop.

Now I don't know what the number is. My proposal is 500 people at \$50. I also think \$5 donations—the best campaign donations I have every gotten in my life, and I have been doing this now nor over 30 years, were the small donations because they mean the most. But they are also not, except for a handful of people—in this case it encourages these large organizations to get less committed \$5 donations from their 1,500 members simply so that their hand-selected candidates can qualify.

I think, and, again, for me, it is a compromise at \$50; \$50 says we are truly committed to this individual. And there are only a few people who can get \$50 donations to 10 different candidates in a State so their hand-selected 10 candidates can get in. At the same time this amendment says those \$5 donations are recognized toward the \$50,000 limit. Try not to devalue them.

The intent is to say yes, there has to be limits; yes, there has to be broad-based support to qualify. I totally agree with that concept. The question is where the line should be. Without the ability to really look at every candidate—I tried and you can't do it because of that \$200 nonreporting requirement—but trying to get an idea, there would be a lot of people, especially in their first campaign, who run for this office who would not qualify. And that being the case, I would fear that having it at 1,500 people we are simply turning to the MoveOns and the unions and the Chamber

of Commerce and saying, You pick all the candidates. Not the people, you do it.

Now I think that running around crazy trying to raise money is limiting. I would love to find a way to get the self-funders limited. We can't do it. I agree. This is another way. I don't think it would be a good idea to simply hand the keys over to any organization. Though I work well with most of them and I am proud to have their support, I don't think we should be putting not just ourselves, more importantly our successors in the position of having to beg the organized parties or the organized labor unions, or the organized Internet groups, or whoever it might be, the preexisting ones, by the way, otherwise, people like me, I have never joined an organized group. And I consider the Democratic Party completely disorganized.

So everybody is different. There are some people who are a creation of any one of those groups, Chamber of Commerce, union. And that is fine. There is nothing wrong with that. But you shouldn't have to be. So that is what this amendment is an attempt to do. It is simply trying to say there are people—and I think it is a good idea, if we are going to do this, to allow the vast majority of people who are not part, or at least not beholden, to any organized group to also participate in deciding who qualifies and who doesn't. And that is what this amendment is intended to do.

The CHAIRMAN. I thank the gentleman. Any additional debate on the amendment? Ms. Lofgren.

Ms. LOFGREN. Mr. Chairman, I understand the point being made and I am not sure I am prepared to support this amendment today because I am also trying to think on the other side, which is that if you are a candidate you can't just be a self-promoter. It is a group sport.

I remember when I ran for Congress, I was certainly not expected to win. There were big headlines in the San Jose Mercury. The day after, everybody was so surprised. How did we do it? It was other parents at the school. You can't just put your name out there.

Part of this is getting voters and other people who agree to try and change their country. And so it is a balance. You don't want someone who really is just looking for a job and doesn't have support in his own community or her own community. I don't want to say fringe candidates because sometimes fringe is in the eye of the beholder. But I would just talk about the need if you are going to be a candidate, that you should have almost a requirement to go out and connect with the people who live in the district that you are offering to represent.

And whether 1,500 is the magic number, I don't know, 500. I would like to discuss this further between now and the floor, Mr. Capuano, whether it is \$5 or \$50. I understand what you are saying about Internet groups. But because of the Internet, it is so much easier now to reach out through Facebook or through e-mails, to touch people and dialogue with them.

I am not sure that the amendment gets it right. I am not certain that the underlying text gets it right. But I am not prepared to support the change at this point. But maybe we could have some

more discussion between now and the floor. And I appreciate the gentlemen's comments because they are thoughtful ones.

Mr. CAPUANO. Would the lady yield?

Ms. LOFGREN. Of course.

Mr. CAPUANO. Mr. Chairman, I appreciate that. Again, I am not stuck on a magic number. But I will tell you unequivocally, that there is no way I will vote for this bill when it comes to the floor if it is 1,500. And I will do it because I know how many people donated to me in 1998, 752. 752 inspired by me. And I did take the trouble to do the best I could to check all the people that came into my class and none of them, none of them listed 1,500 donors and very few of them listed a whole lot of money under the 200, because you have to put in the general category. You can guess, but very few of them. I am willing to bet, if we could get all the individual documents, you would find one or two people who got elected in my class of 1998 who actually had 1,500 donors or more. I am not saying 500 is a magic number. It is just a number, just like 1,500 is just a number.

As far as the Internet goes, I have just been through the Internet. And it is fine, it is great. But it is better for incumbents that it is for challengers. When you are an unknown person entering a race like I presume you were or others were, we are not the only ones who weren't supposed to win, you don't have—the great Internet world doesn't just stop because you put your name on a Website, send me money. It didn't happen. My name is not Barack Obama, I am not running for President, I am running for Congress in one small district in Massachusetts. The concept is fine and I wish it happened. I did use the Internet a lot in my most recent election and it was good. Everything said and done, I got a few dollars from people who I didn't know. It mostly made it easier for people who were going to donate anyway.

I am not going to push this today because I am not trying to be difficult on the issue. But I will be clear as I can that 1,500 is an unobtainable number for most unassociated, unaffiliated. Now, some people think I am a wacko and that is fine. Maybe I am a fringe candidate. So be it. And I don't want 30 people on the ballot either. But there is somewhere between being someone who is not beholden to the preexisting groups and having to be somebody who has to lay prostrate on the ground begging them to send me \$5 each because they are the ones with the e-mail list. They are the ones with people who will send \$5 checks to people they don't know. I wouldn't do it. I will not subject America to doing it.

I am happy to work on this between now and the time it gets to the floor. But if it gets to the floor, a person who supports this bill will not vote for it because I think with these numbers, it makes it worse.

Mr. DAVIS of Alabama. Will the gentleman yield?

Mr. CAPUANO. I certainly do. It is not my time. It is the lady's time.

Ms. LOFGREN. I would be happy to yield.

Mr. DAVIS of Alabama. I will be brief. The first thing I want to say, Mr. Capuano, is if you remember the 752 who gave to you, you probably remember the 752 who did not too. So I do not want to be on your bad side.

On the more serious point that Mr. Capuano makes, this is a very important exchange for the many people in the audience who care deeply about this issue. There is a myth sometimes, particularly on our side of the political world, the Democratic-progressive side, that grassroots techniques means grassroots results and the grassroots techniques means more accessibility, more openness to excluded people. Sometimes grassroots techniques means you simply got a big fat mailing list that you paid a lot of money for.

I am 100 percent confident that Mr. Capuano's point is correct, that if you enact a campaign finance regime which requires a certain number of donors on the theory that that creates a more diverse, more representative candidate, what you will get is interest group-based politics with large mailing lists who go out and who use that to tinker with politics, in this case to manipulate and to gather public financing. And it makes the obvious point. Every campaign financing reform in the history of this country has had unintended consequences, whether it is the proliferation of minor candidates who don't truly have public support, whether it is political action committees that didn't exist in the 1960s and 1950s and today pollute politics in many ways, whether it is McCain-Feingold, a good piece of legislation leading to all of the unregulated independent expenditures that still exist. Every campaign finance reform that has been enacted by the Congress in its wisdom creates unintended consequences that close circles that were thought to be opened up in the system.

The CHAIRMAN. I thank the gentleman. Any other debate on the amendment? It is my understanding that, Mr. Capuano, you are withdrawing the amendment now?

Mr. CAPUANO. Yes, Mr. Chairman. I am happy to withdraw—I am not happy, but I am willing. To be seen at a later time.

The CHAIRMAN. Just one note, Mr. Capuano. You may be a wacko, but you are our wacko.

The chair now moves to report H.R. 6116 favorably to the House. All those in favor signal by saying aye. Any opposed.

In the opinion of the chair, the ayes have it. The ayes have it and the bill is ordered reported favorably to the House. Without objection, the motion to reconsider is laid on the table.

I ask unanimous consent to place certain documents in the record. Without objection, it is so ordered.

[The information follows:]



September 23, 2010

The Honorable Robert Brady
Chairman, Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515

The Honorable Dan Lungren
Ranking Member, Committee on House Administration
1313 Longworth House Office Building
Washington, DC 20515

Dear Chairman Brady and Ranking Member Lungren,

We're convinced that one of the messages voters have been sending Congress this year is that Washington is out of touch with the American people. Here in the state of Hawaii, citizens are extremely concerned about the overwhelming influence of big money in political campaigns. We seek your support for a bill that would help you and other members reconnect with everyday citizens and break the hold that big money contributors have on our politics.

The Fair Elections Now Act (H.R. 6116, H.R. 1826), sponsored by Reps. John Larson (D-Conn.) and Walter Jones (R-N.C.), would allow candidates to run credible campaigns for Congress by relying on small donations from everyday Americans and small business people back home. It would let you and your colleagues focus on your constituents—instead of depending on lobbyists and corporate donations. And it wouldn't cost taxpayers anything; voter donations would be matched with grants from a fund financed by proceeds of the sale of broadcast spectrum.

This bill, now before your committee, has broad, bipartisan support. More than 160 of your House colleagues are co-sponsors. It deserves quick, favorable action.

This year's election probably will be the most expensive ever, so you and your colleagues will spend more time raising money and less time focused on our nation's many challenges. It's time to change that and put voters back in charge.

Thank you for your consideration.

Nikki Love
Executive Director
Common Cause Hawaii

Kory Payne
Executive Director
Voter Owned Hawaii



September 23, 2010

The Honorable Robert Brady
Chairman, Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515

The Honorable Dan Lungren
Ranking Member, Committee on House Administration
1313 Longworth House Office Building
Washington, DC 20515

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Thanks for your consideration.

Ken Arnold, Dem Nominee, (CD 46 - Huntington Beach)
Shawn Bagley, Region 9 Director, Calif Democratic Party
Bonita Democratic Council



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 CARA San Diego
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 Democratic Women of Long Beach
 Democrats of North Orange County
 Benny Diaz, President, Orange County LULAC Foundation
 District 3 Democratic Club, San Francisco
 Fontana Democratic Club
 Carmelita Garcia - Mayor, City of Pacific Grove
 Greenlining Institute
 Green Party of San Diego County
 Hubert Humphrey Democratic Club
 Inland Counties Stonewall Democrats
 Inland Valley Democratic Club - Rancho Cucamonga
 Ellen "Elle" Kurpiewski, Region 19 Director, Calif Democratic Party
 Laguna Woods Democratic Club
 Long Beach Democratic Club
 Original Rialto Democratic Club
 Pacific Palisades Democratic Club
 Patrick Meagher, Dem Nominee, (CD 41 - Redlands)
 Palm Desert Greens Democratic Club
 Pomona Valley Democratic Club
 Potrero Hill Democratic Club
 Progressive Democrats of Santa Barbara
 Progressive Democrats of the Santa Monica Mountains
 Progressive Women in North Orange County
 Redlands Democratic Club
 RFK Democratic Club - La Mirada
 Riverside County Central Committee
 San Bernardino County Democratic Central Committee
 San Bernardino Democratic Luncheon Club
 San Franciscans for Voter Owned Elections
 San Francisco for Democracy
 John Smith, Region 16 Director, Calif Democratic Party
 Topanga Peace Alliance
 Torrance Democratic Club



September 23, 2010

The Honorable Robert Brady
Chairman, Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515

The Honorable Dan Lungren
Ranking Member, Committee on House Administration
1313 Longworth House Office Building
Washington, DC 20515

Dear Chairman Brady and Ranking Member Lungren,

When Congress returned to work this month, the newspaper Roll Call reported that members had scheduled 415 fundraising events in September alone. The lobbyists who sponsor these soirees, and the special interests they represent, will want something in return for the millions they invest in Congressional campaigns.

The American people get it, and poll after poll shows they don't like it.

We're writing to urge your support and quick committee action on a different and better approach to financing campaigns, the Fair Elections Now Act (H.R. 6116, H.R. 1826). It would allow candidates to run competitive campaigns by relying on small donations from back home, matching those contributions with funds drawn from a pool filled by proceeds of the sale of publicly-owned broadcast spectrum – not taxpayer money.

Sponsored by Reps. John Larson (D-Conn.) and Walter Jones (R-N.C.), the Fair Elections Now Act has broad, bipartisan support. More than 160 of your colleagues are co-sponsors; many more have pledged their support when it reaches the floor.

The 2010 mid-term election will be the most expensive ever, forcing members of Congress to spend more time raising money and less time tackling our nation's problems. With quick action on Fair Elections, your committee and the House can begin to put voters back in charge of our political process.

Please support the Fair Elections Now Act and urge colleagues to join in passing it.

Sincerely,

Christina Kuo
Common Cause Michigan

THE FAIR ELECTIONS COALITION

Common Cause/ Ohio
The Sierra Club/ Greater Cincinnati Chapter
The Urban Appalachian Leadership Council
The Interfaith Alliance of Greater Cincinnati
Applied Information Resources
830 Main Street, Cincinnati, Ohio 45202
513- 381-4994

September 20, 2010

The Honorable Robert Brady, Chairman, Committee on House Administration, and
The Honorable Dan Lungren, Ranking Member, Committee on House Administration

Dear Chairman Brady and Ranking Member Lungren:

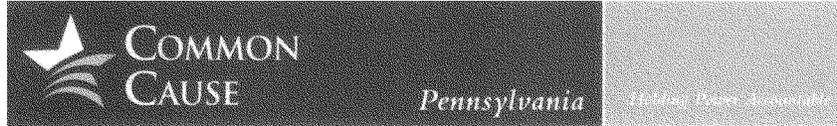
We write to seek your support for the Fair Elections Now Act (H.R. 6116, H.R. 1826). We are convinced that this bill would help reconnect average citizens to their Representatives in Congress and help to counter the growing influence of "big money" on our political process.

Presently waiting for a vote by your Committee, the Fair Elections Now Bill is building momentum in Congress with over 160 House co-sponsors (including four Representatives from Ohio). The bill merits speedy and favorable action by your Committee.

With this year's Congressional campaigns emerging as probably the most expensive election ever, the time is ripe for you and your colleagues to take steps to rescue yourselves from the time consuming and often degrading game of raising money from large contributors. The bill will help restore faith in our democracy, and we call on you to quickly vote to send the Fair Elections Now Bill to the floor of the House for a full and open debate.

Sincerely,

William K. Woods, Common Cause/Ohio
Dick Bozian, The Interfaith Alliance of Greater Cincinnati
Mike Maloney, The Urban Appalachian Leadership Council
David Scott, The Sierra Club
Edward Lee Burdell, Applied Information Resources



September 23, 2010

The Honorable Robert Brady
 Chairman, Committee on House Administration
 1309 Longworth House Office Building
 Washington, DC 20515

The Honorable Dan Lungren
 Ranking Member, Committee on House Administration
 1313 Longworth House Office Building
 Washington, DC 20515

Dear Chairman Brady and Ranking Member Lungren,

We're convinced that one of the messages voters have been sending Congress this year is that Washington is out of touch with the American people. We seek your support for a bill that would help you and other members reconnect with everyday citizens and break the hold that big money contributors have on our politics.

The Fair Elections Now Act (H.R. 6116, H.R. 1826), sponsored by Reps. John Larson (D-Conn.) and Walter Jones (R-N.C.), would allow candidates to run credible campaigns for Congress by relying on small donations from everyday Americans and small business people back home. It would let you and your colleagues focus on your constituents—instead of depending on lobbyists and corporate donations. And it wouldn't cost taxpayers anything; voter donations would be matched with grants from a fund financed by proceeds of the sale of broadcast spectrum.

This bill, now before your committee, has broad, bipartisan support. More than 160 of your House colleagues are co-sponsors. It deserves quick, favorable action.

This year's election probably will be the most expensive ever, so you and your colleagues will spend more time raising money and less time focused on our nation's many challenges. It's time to change that and put voters back in charge.

Thanks for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Barry L. Kauffman'.

Barry L. Kauffman
 Executive Director

101 S. 2nd St., Suite 3 ♦ Harrisburg, PA 17101 ♦ 717-232-9951 ♦ FAX: 717-232-9952
 Email: pa@commoncause.org ♦ Web Page: www.commoncause.org/pa



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 Community Action
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 Rutgers AAUP-AFT
 Rev. Reginald Jackson
 St. Matthew A.M.E. Church
 Milton Rozado
 UAW Region 9
 Lewis Hall
 Universal Improvement Association

September 23, 2010

The Honorable Robert Brady
 Chairman, Committee on House Administration
 1309 Longworth House Office Building
 Washington, DC 20515

The Honorable Dan Lungren
 Ranking Member, Committee on House Administration
 313 Longworth House Office Building
 Washington, DC 20515

Dear Chairman Brady and Ranking Member Lungren,

You and your committee have a rare and special opportunity to strike a blow for our democracy, with quick, favorable action on the Fair Elections Now Act (H.R. 6116, H.R. 1826). On behalf of New Jersey Citizen Action's 100 affiliated and allied organizations and our 60,000 family members I am writing to urge you to seize the moment.

This legislation, sponsored by Reps. John Larson (D-Conn.) and Walter Jones (R-N.C.), would allow candidates to run competitive campaigns by relying on small donations from back home. It would make Congress accountable to the voters, not the big money special interests and their lobbyists that finance today's campaigns.

We know Fair Elections work! New Jersey has piloted several public campaign financing programs at the state level. These programs allowed candidates to spend more time with voters on the issues that matter most and served to increase voter turnout.

With Fair Elections, the money you raise from individuals in your districts would be matched with funds drawn from a pool filled by proceeds of the sale of publicly-owned broadcast spectrum. There would be no cost to the taxpayers and no impact on the federal deficit.

The Fair Elections Now Act has broad, bipartisan, and cross-caucus support. More than 160 of your House colleagues are co-sponsors; many dozens more have pledged their support when it reaches the floor.

This year's campaigns will be the costliest ever, forcing candidates to focus on raising money rather than how best to confront our nation's many challenges. It's time we put voters back in charge.

Please support the Fair Elections Now Act and urge your colleagues to join in passing it quickly.

Sincerely,

Ev Liebman
 Director of Organizing and Advocacy

NJCA is an affiliate of USAction, a national progressive coalition

www.njcitizenaction.org

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 (973) 643-8800
 Fax (973) 643-8100

North Jersey
 128 Market Street
 Passaic, NJ 07055
 (973) 816-0042
 Fax (973) 643-8100

Central Jersey
 75 Parthen Ave., Suite 200
 Highland Park, NJ 08040
 (732) 246-4772
 Fax (732) 214-6366

South Jersey
 One First Center
 2 Riverside Drive, Suite 632
 Camden, NJ 08103
 (856) 966-3091
 Fax (856) 966-3088

PROGRESS FLORIDA

September 23, 2010

The Honorable Robert Brady
Chairman, Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515

The Honorable Dan Lungren
Ranking Member, Committee on House Administration
1313 Longworth House Office Building
Washington, DC 20515

Dear Chairman Brady and Ranking Member Lungren,

We're convinced that one of the messages voters have been sending Congress this year is that Washington is out of touch with the American people. We seek your support for a bill that would help you and other members reconnect with everyday citizens and break the hold that big money contributors have on our politics.

The Fair Elections Now Act (H.R. 6116, H.R. 1826), sponsored by Reps. John Larson (D-Conn.) and Walter Jones (R-N.C.), would allow candidates to run credible campaigns for Congress by relying on small donations from everyday Americans and small business people back home. It would let you and your colleagues focus on your constituents—instead of depending on lobbyists and corporate donations. And it wouldn't cost taxpayers anything; voter donations would be matched with grants from a fund financed by proceeds of the sale of broadcast spectrum.

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This year's election probably will be the most expensive ever, so you and your colleagues will spend more time raising money and less time focused on our nation's many challenges. It's time to change that and put voters back in charge.

Thanks for your consideration.

Mark Ferrulo
Executive Director
Progress Florida



PROGRESSNOW NEVADA

7473 W. Lake Mead Blvd. #100, Las Vegas, NV 89128 (702) 562-8120

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Chairman, Committee on House Administration
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Please support the Fair Elections Now Act and urge your colleagues to join in passing it quickly.



September 20, 2010

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1309 Longworth House Office Building
Washington, DC 20515

The Honorable Dan Lungren
Ranking Member, Committee on House Administration
1313 Longworth House Office Building
Washington, DC 20515

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The Fair Elections legislation, sponsored by Reps. John Larson (D-Conn.) and Walter Jones (R-N.C.) would allow candidates to run competitive campaigns by relying on small donations from their home districts. It would make Congress accountable to the people who vote for them, not the big money special interests and their lobbyists that finance today's campaigns.

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The Fair Elections Now Act has broad, bipartisan, and cross-caucus support, including from within the State of Louisiana. More than 160 of your House colleagues are co-sponsors; many dozens more have pledged their support when it reaches the floor. We urge you to join your colleagues in passing the Fair Elections Now Act quickly.

Sincerely,

9431 Common Street
Baton Rouge, LA 70809
Ph: 225-930-3461
Email:
louisiana@commoncause.org

President
Wendell Lindsay, Jr.
Vice President
Susan Caharan
Secretary
Dave Zimmerman
Treasurer
Tamera Hewitt
Past President
Dave Zimmerman

Members at large
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Tony Guarisco
Paula Henderson
Rose Howe
Roberta Madden
Charles R. Moore
Rogers Newman
Irvin Peckham
Kay Zimmerman
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Rick Adler
Felicia Kahn
Thibodaux --
Sharon Gauthie
Zachary --
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State Program Manager
Dot Wise Wirth

Visit our website
www.commoncause.org/LA

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Moveon.org Crescent City Council
League of Women Voters New Orleans Chapter
League of Women Voters, Louisiana
A Community Voice
Alliance for Affordable Energy
East Baton Rouge Parish Democratic
Executive Committee
Jefferson Parish Democratic Executive Committee
New Orleans Secular Humanists
SEIU, Local 2
Sierra Club, Delta Chapter
United Labor Unions, Local 100



ARIZONA ADVOCACY NETWORK

1616 E. Indian School Rd., Suite 340 Phoenix, AZ 85016 • 602-297-2500 • www.azadvocacy.org

September 20, 2010

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Please support the Fair Elections Now Act and urge colleagues to join in passing it.

Sincerely,
Linda Brown

Linda Brown
Executive Director

The Arizona Advocacy Network promotes social, economic, racial and environmental justice by connecting and building power among activists and leaders in those fields, and by leading efforts for electoral justice and increased civic participation.



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Pam Wilmot, Common Cause Massachusetts
Janet Domenitz, MASSPIRG
Avi Green, MASSVOTE
Tim Carpenter, Progressive Democrats of America



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Molly Beacham
Democracy North Carolina

Please see the next page for additional North Carolina organizations supporting Fair Elections Now Act

Community Reinvestment Association of North Carolina
North Carolina Center for Voter Education
Democracy North Carolina
Common Cause North Carolina
North Carolina Conservation Network
Shared Visions Foundation
Conservation Council of North Carolina
National Alliance on Mental Alliance, North Carolina
North Carolina Coastal Federation
North Carolina Council of Churches
North Carolina Housing Coalition
North Carolina Voters for Clean Elections
NC Warn
NC NAACP



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Des Moines, IA 50311
ph 515.282.0484
fx 515.283.0031
www.iowaccii.org

September 23, 2010

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Chairman, Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515

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1313 Longworth House Office Building
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Thanks for your consideration.

Hugh Espey
Executive Director

September 23, 2010

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Thanks for your consideration.

**Julia Vaughn, Policy Director
Common Cause/Indiana**

**Grant Smith, Executive Director
Citizens Action Coalition of Indiana**

**Al Bush, Council Coordinator
MoveOn.org, Indianapolis**

**Steve Fantauzzo, Vice-President
AFSCME Central Region**

**David Maidenberg, Executive Director
Indiana Sierra Club**

**Zachary Elliot, Coordinator
1Sky Indiana**



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Please support the Fair Elections Now Act and urge your colleagues to join in passing it quickly.

Janice Thompson
Executive Director
Common Cause Oregon

Henry Kraemer
Political Coordinator
Bus Project

Dave Rosenfeld
Executive Director
OSPiRG

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Steven Robert Allen
Executive Director
Common Cause New Mexico

Matthew Henderson
Executive Director
Olé

Robby Rodriguez
Executive Director Southwest Organizing
Project

Joe Garcia
Chairman
All Indian Pueblo Council

Kathy Cambell
President
League of Women Voters of New Mexico

Laurie Weahkee
Executive Director
Native American Voters Alliance



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Sincerely,

**Joan Mandle
Executive Director
Democracy Matters**

THE HILL

A letter to US legislators: Coffee, Tea's commonalities

By Dale Robertson and Paul Silver - 05/20/10 07:43 PM ET

The Conventional wisdom is that the Tea Party represents the far right and the Coffee Party Movement the left.

The Conventional wisdom is that the Tea Party represents the far right and the Coffee Party Movement the left. This makes it easy to categorize and pre-judge their respective opinions, but this over-generalization is not accurate. Two of us, from seemingly different sides of the track, sat down to discover that what brings us together far exceeded what divides us: Dale Robertson, the Founder of the Modern Day Tea Party.

And Paul Silver, a member of the Coffee Party Movement and other campaign reform groups. The core beliefs of the Tea Party are fiscal responsibility, limited government, and free markets. The Coffee Party wants to promote cooperation in government, recognizing that the federal government is not the enemy of the people, but the expression of our collective will. The principles are quite general.

We found each other when Dale was mentioned in an article on possible common ground with Democrats We started talking after that and this piece represents our personal conversation and doesn't necessarily represent our colleagues.

First, we agreed the inflammatory conflicts between conservatives and liberals are mostly a proxy war promoted by special interests (insurance companies, banks, trial lawyers, unions, etc) aiming to manipulate public opinion and public policy. A predatory special interest cannot admit that it wants to dilute air and water regulations, so it backs a candidate willing to carry their cause with the well-funded argument that over-regulation is hurting our national competitiveness and ability to create jobs. Unions might make similar arguments.

After laying a foundation of common ground we found that we were not that far apart on most other issues. To be sure, there were areas of disagreement, but we think there are areas where reasonable people can disagree and the appropriate grist for a representative government free of special interest manipulation can exist. As our conversation meandered, we saw some level of consensus on many things—nonpartisan redistricting, the need for comprehensive immigration reform, sensible gun control laws, deficit reduction.

We agree that the solution is a new campaign system that helps to neutralize the financial influence of predatory special interests – the Fair Elections Now Act. With Fair Elections, public office is more accessible to citizens without wealth or connections to it. We want to expand speech and replace a handful of bundlers with thousands of small contributors. Fair Elections would allow members of Congress to focus on the needs of their constituents, instead of worrying about their next campaign check.

We share distress at the Supreme Court ruling in Citizens United v. FEC that threw out decades of common sense restrictions on corporate and union electioneering. Members of Congress already spend too much time raising campaign cash, giving constituents and the policy-making process short

shrift. Now with the added fear of political reprisal from deep-pocketed special interests, the fundraising pressure will only increase. Congress' first response, the Disclose Act, doesn't go nearly far enough to fix this broken system.

No doubt we will find more areas of agreement as we continue to talk.

Our country faces many challenges and there are differing views on how they should be confronted. We might come from different backgrounds, but we both agree that members of Congress must start doing the work for which they were elected — to represent us. That won't happen as long as they have to spend so much of their time dialing for dollars.

This is what two average citizens, looking from what at first seemed like different points on the political spectrum, discovered about ourselves when we looked past first impressions and simplistic media analyses. We were both relatively centrist when we got into the meat of the issues - sometimes liberal sometimes conservative. But certainly more aligned than the media would lead you to believe.

From Dale Robertson, Founder of the Modern Day Tea Party Movement and Paul Silver, Member of the Coffee Party Movement

Source:

<http://thehill.com/opinion/letters/99085-a-letter-to-us-legislators-coffee-teas-commonalities>

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Texas Office * 1303 San Antonio St., Austin, TX 78701 * 512/477-1155 * www.citizen.org

PUBLICCITIZEN

September 23, 2010

The Honorable Robert Brady
Chairman, Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515

The Honorable Dan Lungren
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1313 Longworth House Office Building
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Please support the Fair Elections Now Act and urge colleagues to join in passing it.

Andy Wilson
Campaign Finance Research Director
Public Citizen Texas



September 20, 2010

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Please support the Fair Elections Now Act and urge your colleagues to join in passing it quickly.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Ostrom".

Aaron Ostrom
Executive Director
Fuse Washington

The CHAIRMAN. All members have 2 additional days provided under the rules to file views. Without objection, staff will be authorized to make any necessary technical and conforming changes in the bill considered today.

Mr. LUNGREN. Mr. Chairman, I have 5 items I would like to introduce for the record. I think we worked it out with your staff and I would ask your permission to enter them en bloc.

The CHAIRMAN. Without objection.

[The information follows:]

HENRY A. WAXMAN, CALIFORNIA
CHAIRMAN

JOHN D. DINGELL, MICHIGAN
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EDWARD J. MARKEY, MASSACHUSETTS
RICK BOUCHER, VIRGINIA
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PETER WELCH, VERMONT

ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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WASHINGTON, DC 20515-6115

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FACSIMILE (202) 225-2525
MINORITY (202) 225-3841

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September 22, 2010

JOE BARTON, TEXAS
RANKING MEMBER

ROY BLUNT, MISSOURI
DEPUTY RANKING MEMBER
RALPH M. HALL, TEXAS
FRED UPTON, MICHIGAN
CLIFF STEARNS, FLORIDA
ED WHITFIELD, KENTUCKY
JOHN SHIMKUS, ILLINOIS
JOHN B. SHADDEG, ARIZONA
STEVE BUYER, INDIANA
GEORGE RADANOVICH, CALIFORNIA
JOSEPH R. PITTS, PENNSYLVANIA
MARY BONO MACC, CALIFORNIA
LEE TERRY, NEBRASKA
MIKE ROGERS, MICHIGAN
SUE WELSHS MYNICK, NORTH CAROLINA
JOHN SULLIVAN, OKLAHOMA
TIM MURPHY, PENNSYLVANIA
MICHAEL C. BURDRESS, TEXAS
MARSHA BLACKBURN, TENNESSEE
PHIL GINDREY, GEORGIA
STEVE SCALISE, LOUISIANA
PARKER GRIFITH, ALABAMA
ROBERT E. LATTI, OHIO

The Honorable Henry A. Waxman
Chairman
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Waxman:

I write to ask that you hold a hearing—and a markup if necessary—on H.R. 6116, the Fair Elections Now Act, before any consideration of the bill on the House floor. There is no stronger bipartisan tradition in this Committee than the tenacious defense of the Committee's jurisdiction.

Regardless of who holds the majority, chairmen and ranking members of this legislative body have usually locked arms in discharging their duty to provide oversight of referred bills within this Committee's areas of expertise. That process ensures that any action on policies of import to the American people is well vetted. And it is because of that long-standing tradition that this Committee is widely recognized as one of the most important in Congress.

Last week our Committee received a referral of H.R. 6116. Section 101 of the bill would, among other things, add a section 531 to the Federal Election Campaign Act of 1971 to fund political campaigns with spectrum auction proceeds. Over the last two decades, spectrum auctions have raised billions of dollars for the American people. They have been a source of substantial deficit reduction and have helped fund important telecommunications initiatives for the good of all Americans. H.R. 6116 would now use those auction funds to bail out failing Congressional candidates. It redirects money belonging to the taxpayers to candidates for the House of Representatives. At a time of enormous and growing deficits, the billions gained from auctioning spectrum must be used for debt reduction, not for the benefit of campaigning

Letter to the Honorable Henry A. Waxman
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politicians who are apparently incapable of gaining support without the help of the American taxpayer.

For these reasons, I ask that we exercise our jurisdiction over the bill before it moves any further.

Sincerely,



Joe Barton
Ranking Member



INSTITUTE FOR JUSTICE
WASHINGTON CHAPTER

September 22, 2010

Via Facsimile to (202) 226-2774 and U.S. Mail

The Committee on House Administration
U.S. House of Representatives
1309 Longworth House Office Building
Washington, DC 20515
Attn: Hon. Robert A. Brady
Chairman

Re: H.R. 6116 – the “Fair Elections Now Act”

Dear Chairman Brady:

The Institute for Justice (IJ) is a nationwide public interest law firm. IJ concentrates on, among other issues, promoting open political debate free from unreasonable governmental regulation. As part of this mission, IJ has challenged efforts by various governmental entities to use “campaign finance” laws to restrict political debate. Since 2004, IJ has also represented candidates, elected officials, and independent advocacy groups in a challenge to Arizona’s system of taxpayer-funded campaigns. The United States Supreme Court recently stayed operation of certain aspects Arizona’s system while it considers whether to accept review of the challenge to the law brought by IJ’s clients.

As part of IJ’s litigation in this area, we have become very familiar with both the legal and policy problems presented by taxpayer-financed campaigns. Based on our experience, we write to urge the Committee to reject H.R. 6116, the “Fair Elections Now Act” (FENA). The Committee should reject FENA because there is little evidence that taxpayer-financed campaigns¹ achieve any of their goals while creating real fiscal and social costs.

The right to freely express views on political candidates and issues is a fundamental First Amendment freedom—and an essential ingredient for healthy political debate and an informed citizenry. Unfortunately, so-called “public financing” programs undermine that right by replacing

¹ Proponents of H.R. 6116 have argued that the money for campaigns would come from the auction of the broadcast spectrum and therefore the money paid to candidates is not taxpayer funds. However, the spectrum belongs to the taxpayer and if the money is spent by Congress, that means it cannot be spent elsewhere or returned to the taxpayer—money is fungible, after all. Moreover, Section 531(b)(1) of the bill creates the Fair Elections Fund with money that includes amounts appropriated by Congress. Thus, the spectrum auction would pay for the program *only* if Congress decides not to otherwise fund the system through appropriations from the general treasury. In short, there is nothing in H.R. 6116 preventing Congress from appropriating general treasury funds to the program.

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traditional political campaigns, funded by voluntary citizen donations, with a campaign system of taxpayer subsidies micromanaged by unelected governmental authorities enforcing complex and punitive regulations.

Moreover, at a time when this country is facing severe fiscal challenges and an unprecedented and destabilizing level of federal debt, to devote any of the people's money to candidates running for office seems extraordinarily unwise. However, even if the federal government were awash in discretionary funds, the costs and lack of benefits from such a system would counsel against its adoption.

Quite simply, the data from the states demonstrates that systems implementing taxpayer-financed campaigns achieve few, if any, of their goals. Such systems do not, for instance, improve citizens' perceptions of government (in fact, the data suggests the opposite), improve electoral competitiveness, improve political participation by citizens, or create increased diversity in the kinds of people that run for office. We have attached a recent summary of the studies of taxpayer-financed campaigns compiled for IJ by Dr. David Primo of the University of Rochester Political Science Department. The academic literature and other sources demonstrate that taxpayer financing of campaigns is expensive, achieves little, and, as the overwhelming, three-to-one defeat of an initiative designed to implement such a system in California demonstrates, often overwhelmingly unpopular with the public.² Taxpayer-financed campaigns are thus little more than an expensive folly pushed by dedicated proponents (and ignored and unwanted by the public at large) that achieve little, if any, that they are designed to do, while imposing real and substantial fiscal costs.

Dr. Primo's findings are similar to those of the Government Accountability Office (GAO) in their review of the taxpayer-financed systems in Maine and Arizona. It is important to note that the systems in Arizona and Maine are far more comprehensive than the system contemplated by FENA. Nonetheless, the GAO could not resolve whether public funding in these states served any of the articulated goals of the programs. See GAO, *Campaign Finance Reform: Experiences in Two States That Offer Full Public Funding for Political Candidates* (GAO-10-390), at 84 (May 2010).

In light of the fiscal challenges facing this country, then, it is imperative that the goals of such programs be measured against their specific achievements (or lack thereof). For instance, if Congress wishes to restore citizen confidence in the political process, using taxpayer funds to pay for political campaigns is a poor way to achieve this goal. As Dr. Primo and Dr. Jeffrey Milyo have concluded, "public financing tends to be associated with a decline in perceived [political]

² In 2006, Proposition 89 lost by 26% to 74%. http://www.sos.ca.gov/elections/sov/2006_general/measure.pdf. In June 2010, proponents of taxpayer-financed campaigns qualified an initiative that would have implemented a more-limited pilot program for elections for California Secretary of State. That measure lost 42.7% to 57.3%. <http://www.sos.ca.gov/elections/sov/2010-primary/>. Moreover, the public's lack of enthusiasm for funding campaigns using taxpayer money can be seen in the decreasing number of filers opting for the presidential campaign fund on their federal tax returns. Federal Election Commission, *Presidential Fund Income Tax Check-off Status, 1992-2008* (March 2009) (cataloging the decline of participating filers from 27.5% in 1976 to 8.3% in 2007).

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efficacy.”³ They went on to describe why there is a negative link between public financing and the public’s belief that it can influence the political process:

[P]ublic financing schemes are typically devised to limit overall expenditures, so they may have a greater negative impact on the beneficial aspects of political expenditures. In addition, public financing may be predicated on false promises for a better democratic process. When the smoke clears and “politics as usual” returns after reform, individuals may become even more disenchanted with their government.⁴

Nonetheless, proponents of taxpayer-financed campaigns continue to paint a picture of systemic change resulting in open, fairer, and competitive elections, and, ultimately, better policy decisions deriving from legislators who no longer have to take into account the impact their decisions will have on their campaign funding.⁵ However, looking at the facts, the rhetoric of the reformers is not in line with reality. Primo and Milyo state, “In short, systematic empirical analyses have resulted in virtually no evidence that public financing improves competitiveness, citizen participation in government, or citizen perceptions of government. In addition, given the weak evidence linking contributions to policy outcomes, we should not expect policy making to be significantly altered as a result of these laws.”⁶

This conclusion has been borne out by other studies. In a six-year study of Arizona’s system, Allison Hayward examined “whether Arizona’s Clean Elections Act met its listed goals, such as increasing competition, participation, and improving the tone of campaigns.” She concluded, “None of these goals seems to be affected by the Clean Elections Act. Instead, the law imposes costs on the political process by making it more complicated and litigious.”⁷ Hayward found that “voter participation has been unaffected by the enactment of Clean Elections and ... the number of candidates has actually fallen. Incumbent reelection rates are returning to previous levels, as are incumbent victory margins.”⁸

Similarly, the Center for Competitive Politics has found that “[t]here is no evidence that taxpayer-funded political campaigns in Arizona or Maine have had any impact in the number of legislators from ‘non-traditional’ backgrounds. Neither state has seen a decline in legislators with

³ David M. Primo & Jeffrey Milyo, *Campaign Finance Laws and Political Efficacy: Evidence From the States*, 5 *Election L. J.* 23, 26 (2006). Primo and Milyo define “political efficacy” as “the belief that one can have an influence on the political process.” *Id.*

⁴ *Id.* at 35 (footnote omitted).

⁵ Proponents also point to anecdotes by pro-public financing legislators about how taxpayer subsidization of their efforts to obtain or keep a certain elected position has allowed them to spend less time raising money. It is unclear what benefit the public derives from having elected officials with more free time, especially when taxpayer-funded campaigns decrease general treasury funds that could be devoted to more beneficial uses.

⁶ David M. Primo & Jeffrey Milyo, *Public Financing of Campaigns: A Statistical Analysis*, 8 *Engage* 96, 98 (2007) (hereinafter, “*Public Financing*”).

⁷ Allison R. Hayward, Goldwater Institute, *Campaign Promises: A Six-Year Review of Arizona’s Experiment with Taxpayer-financed Campaigns*, 20-21 (March 28, 2006).

⁸ *Id.* at 21.

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'traditional' backgrounds."⁹ The Center came to a similar conclusion with regard to New Jersey's pilot program, noting that the project "either failed to achieve or could not demonstrate success with most of its goals."¹⁰

In light of the track record of such programs, Primo and Milyo conclude, "Given that reforms impose real costs on taxpayers, proposed reforms represent a risky proposition: there will be guaranteed costs but benefits that are likely to have a low mean (with a potentially high variance)."¹¹

The lack of benefits of these programs must be balanced as well with an acknowledgment of the harm such programs bring to the political environment. In Arizona, which has the most extreme version of such laws, campaigns have become even dirtier, as candidates no longer have to moderate their language to attract financial support. The Legislature is more polarized than ever and extremes of right and left have become more predominant.¹² Moreover, incumbency re-election rates are what they were before the law was passed. Meanwhile, the voting public is largely ignorant of the system or how it operates.

In conclusion, when citizens band together, pool their resources, and attempt to persuade their fellow citizens of the merits of a particular political candidate, they are exercising their fundamental rights of free speech and free association. Congress would be wise to stop interfering with this process and it should especially be hesitant to implement a program with largely imaginary benefits but real fiscal and political costs. In short, there is little to recommend in such a system and much to urge Congress to proceed with caution.

⁹ Laura Renz, Center for Competitive Politics, *Legislator Occupations – Change or Status Quo After Clean Elections?*, 3 (April 2008).

¹⁰ Center for Competitive Politics, *Conclusions & Recommendations on New Jersey's "Clean Election" Experiment*, 11, Policy Briefing No. 1 (May 2008).

¹¹ Primo and Milyo, *Public Financing*, *supra* n. 6, at 99.

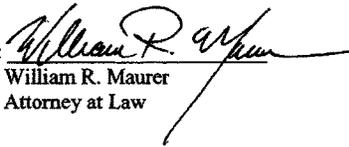
¹² As the progressive-leaning *Phoenix New Times* put it when discussing the impact of public financing on the make-up of the Arizona State Legislature, "[U]ltimately, we have a Legislature that's more stupid, and more reactionary, than ever." Sarah Fenske, *The Dirty Truth About "Clean" Elections*, *Phoenix New Times* (April 1, 2009).

The Honorable Robert A. Brady
September 22, 2010
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We appreciate the opportunity to provide input on this important issue. Please do not hesitate to contact us if you have any questions regarding this letter.

Sincerely,

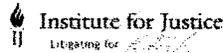
INSTITUTE FOR JUSTICE

By: 
William R. Maurer
Attorney at Law

Attachment

cc: Hon. Dan Lungren, Ranking Member (via facsimile to (202) 225-9957, electronic mail to cha.gopcommunications@mail.house.gov, and U.S. Mail)

ATTACHMENT



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Publications

Institute for Justice Research Brief

What Does Research Say About Public Funding for Political Campaigns?

By David M. Primo
 Associate Professor of Political Science
 University of Rochester

August 2010

The issue of public funding for political campaigns is heating up as the U.S. Supreme Court considers whether to take up the case of *Arizona Freedom Club PAC v. Bennett*, a First Amendment challenge by the Institute for Justice to Arizona's public funding law. Legal challenges to similar laws in Connecticut and Florida continue to work their way through the courts, and the U.S. Congress is considering the Fair Elections Now Act, which would provide congressional candidates with government money to run for office. Public funding advocates often make bold claims about the benefits of these systems, but scientific evidence supporting these claims is scarce. This research brief examines the evidence about the effects of public funding.

1. Do "matching funds"—the focus of *Arizona Freedom Club PAC v. Bennett*—have an effect on the speech of independent groups and candidates who refuse to accept government subsidies?

Yes, matching funds cause candidates to alter the timing of their speech in campaigns, infringing First Amendment rights.

Arizona's public funding system, known as "Clean Elections," provides additional public subsidies—so-called "matching funds"—to publicly funded candidates whenever their privately funded opponents or independent groups raise or spend more than a limit set by the government.^[1] For example, in a multi-member House race, once a privately funded candidate has raised or spent up to the government cap, every additional dollar he raises for or spends on his own speech results in an additional dollar of matching funds for all of his publicly funded opponents (minus 6 percent to account for fundraising costs). Moreover, if a group independent of the privately funded candidate spends money speaking out in his favor, his publicly funded opponents are again entitled to matching funds. In effect, then, when independent groups or privately funded candidates speak in amounts deemed excessive by the government, the government attempts to "level" that speech by directly subsidizing their political and ideological opponents. Those challenging the law in *Arizona Freedom Club PAC* argue that matching funds unconstitutionally burden the speech of independent groups and candidates who refuse public funds for their campaigns.

The only statistical research on the effects of matching funds on candidate speech shows that many privately supported candidates facing the prospect of triggering matching funds for their opponents alter the timing of their speech as a result.^[2] Specifically, Arizona candidates at risk of triggering matching funds delay their fundraising and spending until the last possible minute in a campaign, holding fire in order to postpone the distribution of matching funds and make them less useful to opponents. Late fundraising and spending of candidates facing the prospect of matching funds far outstrips that of other privately funded candidates not threatened by matching funds—by four to one in the two weeks before Arizona House primary campaigns and, in competitive races, by three to one in the two weeks before the general election. This demonstrates that candidates are acting to minimize the harm caused to their campaigns by their own speech as a result of matching funds distributed under Arizona's "Clean Elections" act.

For a May 2010 review of Clean Elections programs, the General Accounting Office interviewed candidates and independent groups who also said that to avoid triggering matching funds, independent groups and privately supported candidates delay raising and spending money on speech until late in the campaign.^[3] Indeed, earlier research by political scientist Michael Miller shows that this now is common practice in Arizona.^[4] Every single privately funded candidate he surveyed raised concerns about matching funds, and some informed Miller that they put off spending until the last minute to avoid helping the opposition with matching funds. As one privately funded candidate put it, "Every dollar I spend over the threshold starts feeding the alligator trying to eat me . . . I sent out a lot less mail and held a lot less events than I would have but for my hands feeling like they were tied under this system."^[5]

2. Does public funding improve citizen perceptions of government?

The only statistical study to examine the effect of state public funding laws on perceptions of government found that public funding has, in some cases, a small negative effect.

Reformers often claim that replacing private voluntary donations to campaigns with public funding will "clean up" politics. If so, we would expect that citizen perceptions of government would improve as a result. However, in the only study to statistically examine the effect of state public funding laws on perceptions of government, my co-author, Jeffrey Milyo, and I demonstrate that these laws had a small, but negative, effect.^[6] We examined survey questions asking citizens whether they believed that they had a say in what government does, whether public officials care about what people like them think and whether they find politics complicated. After controlling for individual- and state-level factors that could muddy the findings, we demonstrate that citizens in states with public funding programs were less likely to believe that officials care what people like them think and less likely to believe that they had a say in what government does.^[7]

The small negative effects may be due to the fact that public funding programs rarely live up to the expectations set by reformers. When few positive effects of "better" elections or policymaking materialize, this may lead to increased disillusionment or, at best, have a neutral effect on perceptions of government. Moreover, the effects may be negligible because many voters are not even aware of the laws. More than a decade ago, Maine and Arizona enacted one type of public funding system, Clean Elections programs that prohibit participating candidates from receiving private contributions in exchange for full public funding. Yet in a recent survey conducted by the GAO, barely half of the respondents in those two states were even "a little aware" of these laws.^[8] And, of those in Maine who were aware of the laws, only 20 percent said the laws increased their confidence in government, while 15 percent said the laws decreased their confidence in government. The comparable figures in Arizona were 26 percent and 22 percent. The rest were unsure or said Clean Elections laws had no effect.

3. Does public funding affect voter participation?

The strongest evidence shows that public funding has no effect on or reduces voter turnout.

The most rigorous examination of this question to date studied turnout in all 50 states, controlling for a variety of factors that could affect turnout rates.^[9] In a working paper, two co-authors and I find no effect of public funding (both full- and partial-funding systems) on turnout in gubernatorial elections and a modestly negative effect on turnout in legislative elections. Looking specifically at Clean Elections systems for legislative candidates, we estimate that they lead to a reduction in turnout of about two percent.

In another working paper, Miller studies Clean Elections in Maine and Connecticut and shows that voters who have already turned out to vote are more likely to cast a vote in a legislative race (rather than abstaining from that particular race) if at least one of the candidates has accepted public funds. Miller does not suggest that more voters are heading to the polls as a result of Clean Elections, only that fewer voters are failing to cast votes in certain races, and this effect is small—a 1.5 to 2 percentage point reduction in such ballot “roll-off.”^[10] In fact, Miller focuses on roll-off in part because he does not expect that public funding of state legislative races will affect turnout: “Even in the fully funded state legislative elections, it is unrealistic to assume that down-ticket races alone can affect the number of citizens who turn out to vote.”^[11]

The results of previous research on public funding and turnout, which had methodological limitations, are mixed.^[12] The strongest evidence, therefore, points to public funding at best having a tiny positive effect in reducing roll-off, and at worst having a negative effect on turnout overall.

There are at least two reasons why public funding may not increase turnout, as reformers promise. First, public funding programs may depress turnout indirectly: When the promised effects on policymaking are not borne out, trust in government and citizens’ beliefs that they can make a difference are depressed, in turn lowering turnout. Second, public funding may lead to spending reductions in competitive races, which may depress turnout compared to a privately funded campaign. Further research is necessary to examine these possibilities.

4. Does public funding increase the competitiveness of elections?

There is no consistent body of scholarly research establishing that public funding increases campaign competitiveness.

Some measures of electoral competitiveness increased after Arizona and Maine implemented Clean Elections programs—but it is not clear that Clean Elections was the cause. Furthermore, although some measures of electoral competitiveness increased, this was not the case for all or even the most important measurements.

For example, studies show that Maine saw more candidates running for office and Arizona saw more contested races (those where candidates have opponents) after reform. This is not surprising: One of the basic principles of economics is that if you subsidize something, you get more of it. Pay politicians to run for office and more will. Data also suggest that there are more races with narrow vote margins. But the same data show that incumbents are reelected just about as often after reform as before, so challengers are no more successful at gaining office, contrary to reformers’ hopes. Indeed, one study concludes that the 2004 House election in Arizona was “something of a disappointment to campaign finance reformers: The percentage of incumbents in competitive races in 2004 was the same as it was in 2000 (about 36 percent), declining from a post-1990 record of 47 percent in 2002.”^[13] Although such before-and-after snapshots are instructive, it is very difficult to determine whether Clean Elections caused these changes. Other factors may be at play, and these studies do not attempt to account for them. For example, during the same time period, Maine changed contribution limits in significant ways, and Arizona implemented term limits.

So what do statistical studies that do attempt to control for such complicating factors show? Overall, there is limited evidence that either Clean Elections or other public funding programs that offer only partial funding have appreciably affected competitiveness, if we focus on measures like narrow vote margin or reelection rates. For example, two co-authors and I find little effect of public funding programs on competitiveness in gubernatorial elections and note that the modest positive effects of the laws on legislative elections, as identified by other authors, are likely to dissipate over time due to candidates strategically adjusting to the law, among other factors.^[14] Political scientist Neil Malhotra finds that Clean Elections had some pro-competitive effects in the 2000 Arizona Senate election, but his approach has some methodological limitations.^[15] For instance, Malhotra uses only one year of data during which the Clean Elections law was in force—the first year, 2000—so we do not know if these results are part of a pattern or apply only to 2000. Economist Thomas Stratmann, in a study of 42 states, estimates that partial public funding in Minnesota and Clean Elections in Maine reduce vote margins dramatically (by 15 percentage points) but have no effect on incumbent reelection rates.^[16] However, Stratmann does not control for unobserved or immeasurable factors in the states that may drive vote margins, such as the pool of quality candidates, so these results may be tapping more than the effect of public funding. Finally, the GAO study finds no evidence that incumbent reelection rates in Maine and Arizona were affected by Clean Elections. Moreover, although the GAO determined that vote margins appeared to decrease in recent years, they were not able to attribute those declines to Clean Elections.^[17]

5. Does public funding reduce the perception or reality of “special interest” influence in politics? What about corruption?

Survey and interview evidence does not support the claim that special interest influence has been reduced in politics.

The aforementioned GAO survey asked Maine and Arizona residents whether they believed Clean Elections has reduced special interest influence. About the same percentage of respondents believed that interest group influence had increased—17 percent in Maine and 24 percent in Arizona—as believed it had decreased—19 percent in Maine and 25 percent in Arizona. The GAO also interviewed 11 candidates for office in both Maine and Arizona and asked them about their perceptions of the role of interests in the wake of Clean Elections. In Maine, only four candidates believed interest group influence had decreased, and all of these were publicly funded candidates. In Arizona, only two candidates believed this to be the case. Results for interviews with interest groups were not markedly different.^[18]

For political scientists and economists, these results are not surprising. First, there is very little systematic evidence that campaign contributions affect the decisions of elected officials.^[19] Groups may have many motivations for giving, but it is not realistic to think that an elected official will change his or her vote on a piece of legislation based on a small contribution. In fact, if it were the case that money could move votes, corporate political action committees (PACs) would presumably max out their contributions to elected officials each year. Yet, corporate PACs rarely hit donation ceilings at the federal level.^[20] Second, campaign contributions are only one way that interests can participate in the political process. Lobbying, for instance, is an important way that interest groups transmit information about the likely consequences of legislation. Even legislators elected through Clean Elections receive this information.

Conclusion

As Congress considers the Fair Elections Now Act and the U.S. Supreme Court decides whether to hear *Arizona Freedom Club PAC v. Bennett* on the merits of matching funds, public debate will focus on questions about the effects of public funding systems and claims that they improve perceptions of government, encourage competitiveness in electoral races, and encourage participation in the political process.^[21] In answering these questions, the importance of social scientific evidence is paramount. While statistical evidence is never perfect and should be rigorously scrutinized, it is important that the best evidence be brought to bear on questions that speak to fundamental First Amendment concerns.

Comparing the claims and promises made by public funding advocates with the actual evidence demonstrates that public funding programs have delivered few, if any, of the benefits promised by their promoters, and they have certainly not resulted in the fundamental transformation and rebirth of confidence in government the promoters sought. On the other hand, the cost of such programs—not only in terms of their negative effect on the timing and

nature of political speech in the states with such programs, but also in terms of wasted public resources—has been demonstrable and real. In other words, public funding is a program that promises much, delivers little, and raises real constitutional and policy problems.

- [1] In primary elections, matching funds are awarded on the basis of privately funded candidates' spending beyond a government cap, while in general elections, they are awarded on the basis of funds raised beyond the cap. For both types of elections, independent groups' spending in support of a privately funded candidate counts against that candidate's cap.
- [2] David M. Primo, Expert Report, *McComish v. Brewer*, 605 F.3d 720 (9th Cir. 2010) (No. 10-15165).
- [3] U.S. Gov't Accountability Office, GAO-10-390, *Campaign Finance Reform: Experiences of Two States That Offered Full Public Funding for Political Candidates* 79-80 (2010).
- [4] Michael Miller, *Gaming Arizona: Public Money and Shifting Campaign Strategies*, 41 PS: Pol. Sci. & Pol. 527, 527-32 (2008).
- [5] *Id.* at 528-29.
- [6] David M. Primo & Jeffrey Milyo, *Campaign Finance Laws and Political Efficacy: Evidence From the States*, 5 Election L. J. 23, 23-39 (2006).
- [7] Public funding had no effect on responses to the question regarding whether politics is too complicated.
- [8] U.S. Gov't Accountability Office, *supra* note 3, at 76, 101-02.
- [9] Jeffrey Milyo, David M. Primo & Matthew L. Jacobsmeier, *Does Public Financing of State Election Campaigns Increase Voter Turnout?* (2009) (working paper) (on file with authors).
- [10] Michael G. Miller, *Citizen Engagement and Voter Behavior in Publicly Funded Elections* (2010) (working paper), available at <http://sites.google.com/site/millerpolsci/docs/MillerCantime.pdf?atredirects=0>.
- [11] *Id.* at 8.
- [12] David M. Primo & Jeffrey Milyo, *The Effects of Campaign Finance Laws on Turnout: 1950-2000* (2006) (working paper) (on file with authors); Donald A. Gross & Robert K. Golde, *The States of Campaign Finance Reform* (2003).
- [13] Kenneth R. Mayer, Timothy Werner & Amanda Williams, *Do Public Funding Programs Enhance Electoral Competition?*, in *The Marketplace of Democracy: Electoral Competition and American Politics* 245, 259-60 (Michael P. McDonald & John Samples eds., 2006).
- [14] David M. Primo, Jeffrey Milyo & Tim Groseclose, *State Campaign Finance Reform, Competitiveness, and Party Advantage in Gubernatorial Elections*, in *The Marketplace of Democracy*, *supra* note 13, at 268, 268-85.
- [15] Neil Mathotra, *The Impact of Public Financing on Electoral Competition: Evidence from Maine and Arizona*, 8 State Pol. & Pol'y Q. 263, 263-81 (2008).
- [16] Thomas Stratmann, *The Effect of Public Financing on the Competitiveness of Elections* (May 2009) (working paper) (on file with author).
- [17] U.S. Gov't Accountability Office, *supra* note 3, at 34. For a critique of the GAO study, see Michael G. Miller, *After the GAO Report: What Do We Know About Public Election Funding?* (2010) (working paper) available at <http://sites.google.com/site/millerpolsci/docs/MillerAfterGAO.pdf?atredirects=0>.
- [18] U.S. Gov't Accountability Office, *supra* note 3, at 73-75.
- [19] Stephen Ansolabehere, John M. de Figueiredo & James M. Snyder, Jr., *Why is There So Little Money in U.S. Politics?*, 17 J. Econ. Persp. 105-30 (2003).
- [20] Jeffrey Milyo, David Primo & Timothy Groseclose, *Corporate PAC Campaign Contributions in Perspective*, 2 Bus. & Pol. 75-88 (2000).
- [21] See, e.g., Fair Elections Now Act, S. 752, 111th Cong. (2009); and Fair Elections Now Act, H.R. 1826, 111th Cong. (2009).

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Fair Elections Now Act
A Small Donor Approach to Congressional Campaign Finance

Fair Elections Provisions

1. Candidate Qualifying and Seed Money

Candidates seeking to participate in Fair Elections collect a set number of qualifying contributions of \$5-\$100 each from their constituents plus a baseline of \$50,000 or more in total contributions. Contributions provide seed money to jump-start the candidate's campaign and are limited to residents of the candidate's home state.

2. Primary Funding

Qualifying candidates receive a Fair Elections start-up grant to launch their campaign and additional matching funds of \$4 for every \$1 raised from their constituents in contributions up to \$100 each. Matching funds are capped at a competitive spending threshold, consistent with historic spending levels and media market costs. Qualifying candidates may raise additional unmatched contributions up to \$100 each on an unlimited basis.

3. General Election Funding

Participating candidates who win their party's nomination are eligible to receive competitive public matching funds in the general election, supplemented by \$4-to-\$1 public matching funds on in-state donations of up to \$100 each. A competitive spending limit on public funds is observed. Qualifying candidates may raise additional unmatched contributions up to \$100 each on an unlimited basis.

4. Discounted Airtime and Public Debates

Participating candidates are eligible to receive discounted media rates for campaign communications in the run-up to the primary and general election campaigns. Media vouchers are also provided to participating nominated candidates for use in the general election. Candidates agree to take part in public debates.

5. Administration and Review

An independent office of the FEC will be charged with administering and updating the program. A five-member board of Presidential appointees will lead the office, with four members recommended by House and Senate party leaders and the fifth member by consensus of the original four. Qualifying requirements and funding levels will be subject to review and amendment after each election to ensure viability over time.

Figure 1: Summary of Fair Elections Provisions

Provision	House	Senate
<i>Contribution Limit (indivs.)</i>	\$100 primary \$100 general	\$100 primary \$100 general
<i>Qualifying Contributions</i>	1,500 in-state \$50,000 raised	1,500 + 500 per CD in-state; \$50,000 +10% of primary grant raised
<i>Primary Funding (est.)</i>	\$360,000 grant + 4:1 matching funds	\$500,000 grant + \$100,000 per CD + 4:1 matching funds
<i>General Funding (est.)</i>	\$540,000 grant + 4:1 match funds	\$750,000 grant + \$250,000 per CD + 4:1 matching funds
<i>Public Spending Limits (est.)</i>	\$900,000 grants; match up to \$1.8 million	\$1.25 million + \$350,000 per CD grant; match up to 200% of grant

Figure 2: Sample Public Funding Levels, U.S. House

Average Contrib	In-state Contribs*	Primary Funding	General Funding	Total Funding
\$30	2,000	\$700,000	\$1.1 million	\$1.8 million
\$60	2,000	\$1 million	\$1.4 million	\$2.4 million
\$90	2,000	\$1.2 million	\$1.7 million	\$2.9 million

* Assumes each contributor gives average amount in both primary and general; excludes (unmatched) out-of-state contributions, contributions above public limits

Funding Fair Elections

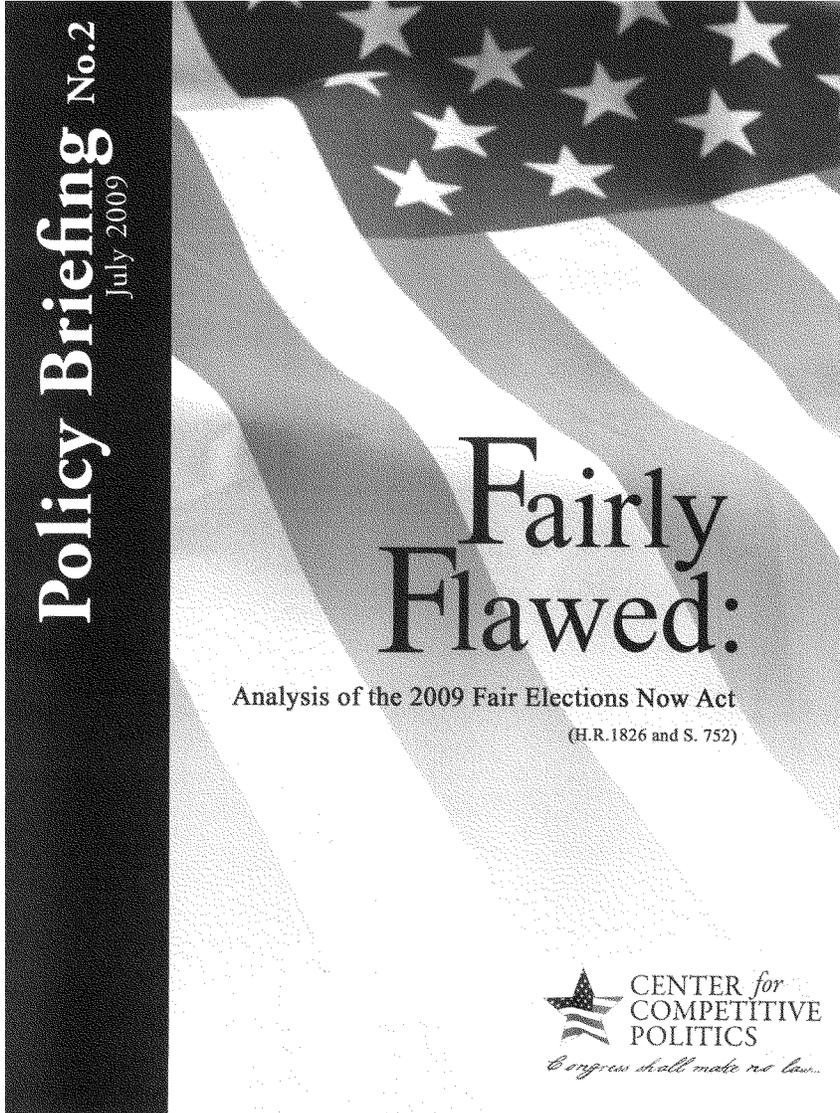
1. Cost Estimate

The estimated cost of the Fair Elections program for House and Senate elections is \$1-\$1.5 billion per year, depending on the level of candidate participation.

2. Funding Mechanism

The Senate bill calls for funding from a 0.5% surcharge on government contracts in excess of \$10 million. The House bill calls for funding from 10% of the proceeds of broadcast spectrum auctions.





Policy Briefing No.2
July 2009

Fairly Flawed:

Analysis of the 2009 Fair Elections Now Act
(H.R. 1826 and S. 752)

 CENTER for
COMPETITIVE
POLITICS
Congress shall make no law...



September 22, 2010

The Honorable Dan Lungren
2262 Rayburn House Office Building
Washington, DC 20515

Dear Representative Lungren:

I am writing on behalf of the Center for Competitive Politics (CCP) to express concern over the upcoming markup in the Committee on House Administration of H.R. 6116, the "Fair Elections Now Act," which would provide taxpayer funds for congressional races.

CCP is a nonpartisan, nonprofit organization focused on promoting and protecting the First Amendment political rights of speech, assembly and petition. It was founded in 2005 by Bradley A. Smith, former member and chairman of the Federal Election Commission.

Enclosed is a policy brief written by CCP that analyzes a previous version of the Fair Elections Now Act introduced in 2009 (H.R. 1826), which differs little from the current version of the bill. This brief includes original research, academic studies, testimony from participants in similar state programs, opinion polls, and official state reports by agencies that administer and oversee these programs. It concludes that the program outlined in the Fair Elections Now Act would be unlikely to meet its stated goals of reducing outside influence in elections, increasing the public's perception of Congress, or creating more opportunities for diverse candidates to run for office.

CCP believes that taxpayer funded elections are a threat to individual First Amendment rights and a waste of taxpayer dollars. This week's markup of H.R. 6116 also represents misplaced priorities on the part of proponents of taxpayer funded elections, as it attempts to divert political debate away from important and reasonable discussions and onto an expensive, new program with scant evidence of success.

We would encourage members of the Committee to take a critical look at the experiences of states with taxpayer funded elections before moving forward with H.R. 6116, and we would be happy to provide additional research as this debate continues. Should you have any further questions regarding this bill or any other campaign finance proposals, please do not hesitate to contact me at (703) 894-6822 or by email at lrenz@campaignfreedom.org.

Sincerely,

Laura Renz
Research and Government Relations Director

CC: Members of the Committee on House Administration

FAIRLY FLAWED

Analysis of the 2009 Fair Elections Now Act

(H.R. 1826 and S. 752)

Prepared by



**CENTER *for*
COMPETITIVE
POLITICS**

Congress shall make no law...

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INTRODUCTION

On March 31, 2009, Senators Arlen Specter (D-Pa.) and Dick Durbin (D-Ill.) and Representatives John Larson (D-Conn.) and Walter Jones (R-N.C.) introduced almost identical bills in the House and Senate to establish taxpayer financed campaigns for Congressional races. H.R.1826 and S. 752, known as the Fair Elections Now Act, seek to establish a system of public funding to combat the “undermining of democracy by campaign contributions from private sources.”¹

The sponsors of the legislation, and the “good government” groups advocating for its passage have focused on the perceived ills of the current fundraising system, and also stories from states with similar taxpayer financing schemes including Maine, Arizona, and Connecticut.

Careful analysis of these programs shows the claimed successes do not exist other than in the rhetorical excesses of the campaign finance regulation community. Far too often, euphemisms and wild exaggeration substitute for the close scrutiny that should be applied to the purported benefits of taxpayer financed political campaigns.

Fairly Flawed aims to provide to Congress with relevant research and analysis with the hope that it will inform and educate Members and their staff as they consider the Fair Elections Now

Act. It draws on original research done by the Center for Competitive Politics (CCP) as well as academic studies, public opinion polls, legislative reports, testimony by participants in similar state-level programs, and official reports by state and municipal agencies that administer and oversee similar programs.

Fairly Flawed examines, to the extent possible, the seven policy goals described in the “Findings and Declarations” of H.R.1826 and S. 752 and compares these goals with the actual experiences of states and cities with similar programs. Because the goals are often somewhat vague and imprecise and rely primarily on euphemisms, slogans, and rhetoric, we have done our best to discern what the specific anticipated outcomes are in each goal.

A similar approach was taken in New Jersey, where CCP compared the goals of that state’s 2007 pilot project with the actual results. This comparison provided legislators with the information they needed to fully assess a proposal to extend and expand the program, and contributed to the ultimate decision to reject further taxpayer financing for legislative candidates.

The remainder of this report provides a brief summary of the Fair Elections Now Act and the goals of the act as described in the “Findings and Declarations” section of the bill, followed by analysis of each of these goals and our conclusions.

¹ H.R. 1826, 111th Cong. §101(a) (2009). The language of S. 752 is identical.

SUMMARY OF FAIR ELECTIONS NOW ACT

The Fair Elections Now Act (S. 752 and H.R. 1826) was introduced in the Senate by Sens. Dick Durbin (D-Ill.) and Arlen Specter (D-Pa.) and in the House of Representatives by Reps. John Larson (D-Conn.) and Walter Jones, Jr. (R-N.C.). The bill would allow federal candidates to receive taxpayer funds for their campaigns. The key provisions include:

- Candidates would be limited to contributions of no more than \$100 for each of the primary, qualifying, and general election periods.
- Candidates for the U.S. House of Representatives would have to gather 1,500 contributions from people in their state and raise a total of \$50,000.
- U.S. Senate candidates would need to raise 2,000 contributions plus an additional 500 contributions per congressional district in the state. The dollar amount raised would need to total 10% of the Fair Elections funding available to primary candidates.
- House candidates who qualify receive a lump-sum payment of \$360,000 in taxpayer funds for the primary, and if they win their primary will receive an additional \$540,000 for the general election.
- Senate candidates who qualify receive a lump-sum payment of \$500,000 plus another \$100,000 per congressional district for the primary, and \$750,000 plus another \$150,000 per congressional district for the general election.
- Donations of \$100 or less from in-state contributors would be matched on a four-to-one basis – four dollars in taxpayer funds for every one dollar from in-state contributors. Total matching funds are capped at two times the total lump-sum payments.
- Senate candidates who win their primaries will receive a \$100,000 voucher for each congressional district in their state to pay for broadcast advertising, while House candidates receive a single \$100,000 media voucher. Vouchers can be exchanged for cash with their national political party committee.
- Candidates also receive a 20% discount on broadcast advertising rates.
- Cost estimates vary by expected participation, ranging from several hundred million dollars to potentially three or four billion dollars per cycle.

SUMMARY OF POLICY GOALS

H.R. 1826 lists seven ways in which publicly funded campaigns will lead to the “enhancement of democracy.”² They include the following:

(1) Reducing the actual or perceived conflicts of interest created by fully private financing of the election campaigns of public officials and restoring public confidence in the integrity and fairness of the electoral and legislative processes through the program which allows participating candidates to adhere to substantially lower contribution limits for contributors with an assurance that there will be sufficient funds for such candidates to run viable electoral campaigns;

(2) Increasing the public’s confidence in the accountability of Members to the constituents who elect them, which derives from the programs qualifying criteria to participate in the voluntary program and the conclusions that constituents may draw regarding candidates who qualify and participate in the program;

(3) Helping to reduce the ability to make large campaign contributions as a determinant of a citizen’s influence within the political process by facilitating the expression of voters at every level of wealth, encouraging political participation, incentivizing participation on the part of

Members through the matching of small dollar contributions;

(4) Potentially saving taxpayers billions of dollars that may be (or that are perceived to be) currently allocated based upon legislative and regulatory agendas skewed by the influence of campaign contributions;

(5) Creating genuine opportunities for all Americans to run for the House of Representatives and encouraging more competitive elections;

(6) Encouraging participation in the electoral process by citizens of every level of wealth; and

(7) Freeing Members from the incessant preoccupation with raising money, and allowing them more time to carry out their public responsibilities.

² H.R. 1826, 111th Cong. §101(b) (2009). The text of S. 752 is substantively identical.

ANALYSIS OF GOAL 1

Sec. 101(b)(1)

Reducing the actual or perceived conflicts of interest created by fully private financing of the election campaigns of public officials and restoring public confidence in the integrity and fairness of the electoral and legislative processes through the program which allows participating candidates to adhere to substantially lower contribution limits for contributors with an assurance that there will be sufficient funds for such candidates to run viable electoral campaigns

The language in this goal plainly indicates that the sponsors of the legislation feel that campaign contributions above a certain threshold, or from certain individuals, create a conflict of interest for legislators that leads to public policy decisions based not on the best interests of the public, but instead reflects the interests of contributors.³ If true, such conflicts of interest and improper influence would be removed if elected officials relied upon taxpayer dollars for their campaigns rather than private contributions.

However, the assumption that campaign contributions influence legislators' votes is not supported by research. A substantial majority of academic research on the subject has shown that there is little connection between contributions and legislative votes or actions. A 2004 study by Massachusetts Institute of Technology professors Stephen Ansolabehere, James M. Snyder Jr., and Michiko Ueda, reviewed 40 peer reviewed studies on the effects of contributions on legislative behavior, and found that "the large majority of studies find no significant effects of hard money contributions on public policy..."⁴

A substantial majority of academic research on the subject has shown that there is little connection between contributions and legislative votes or actions

³ Note that the sponsors must believe, therefore, that current federal contribution limits – which prohibit corporate and union contributions and limit individuals to an amount that, in inflation adjusted terms, is less than 60 percent that of 1974, are insufficient to offset this public perception.

⁴ Stephen Ansolabehere, James M. Snyder, Jr., and Michiko Ueda, *Did Firms Profit from Soft Money?*, 3

The study then went on to find that even six figure soft money contributions by corporations had no noticeable impact on corporate profitability, concluding, "we are not in a world of excessively large returns to campaign contributors."⁵

politicians' vote," and they conclude instead that "just like voters, contributors appear able to sort into office politicians who intrinsically value the same things that they do," and donate to those candidates accordingly.⁸

Another MIT study similarly found that "legislators' votes depend almost entirely on their own beliefs and the preferences of their voters and their party," and "contributions have no detectable effects on legislative behavior."⁶

One study specifically addresses the question of whether moving from privately-funded to taxpayer financed campaigns leads to a shift in the way elected officials vote. Examining Arizona

Political scientists Stephen Bronars and John Lott also found that campaign contributions are driven by ideology, and that legislators vote according to their own beliefs, their party loyalty, and the views of their constituents – not contributions.⁷

The Fair Elections program is likely to primarily benefit incumbents, with few non-incumbents able to qualify for funding and an increased role for organized interest groups supporting favored candidates

legislators elected with taxpayer dollars, researchers concluded that legislators funded with taxpayer dollars "voted no differently from legislators who accepted private contributions."⁹

Their tests "strongly reject the notion that campaign contributions buy

For reasons explained in detail in the discussion of Goals 5 and 7, the Fair Elections program is likely to primarily benefit incumbents, with few non-incumbents able to qualify for funding and an increased role for organized interest groups supporting favored candidates. If this is correct, it is extremely unlikely that Fair Elections will "restore public confidence in the integrity and fairness of the

Election L. J. 193 (2004).

⁵ Ibid

⁶ Stephen Ansolabehere, John de Figueiredo, and James M. Snyder Jr., *Why Is There So Little Money in U.S. Politics* 171. Econ. Perspectives 105 (2003).

⁷ Stephen G. Bronars and John R. Lott, *Do Campaign Donations Alter How a Politician Votes? Or, Do Donors Support Candidates Who Value the Same Things That They Do?*, 40 J. LAW & ECON. 317, 346-47 (1997).

⁸ Ibid at pp. 346-47

⁹ Robert J. Francosi, *Is Cleanliness Political Godliness?* p. 16, November 2001, Goldwater Institute.

electoral and legislative [process],” and may even erode such confidence.

In fact, FENA’s four-to-one matching formula for putting taxpayer money into elections could well become a source of corruption or the appearance of corruption in and of itself. As former Federal Election Commission Chairman David Mason notes, “the presence of matching funds provides a dramatically increased incentive for conduit contributions: the returns of the illegal scheme are increased by the government match... With government subsidies of 400 or 500% of small contributions, it is all too easy to imagine an ACORN-like scheme in which an army of street-level fundraisers are paid bounties to find small donors with no questions asked.”¹⁰

Additionally, the complexity of the law itself creates new, if often inadvertent violations, which are then reported as themselves a form of “corruption.”

Research on public attitudes suggests that campaign finance regulations have not correlated with greater public confidence in electoral and legislative institutions or greater voter turnout.¹¹ Indeed, some

researchers have argued that reform laws create and increase cynicism and mistrust.¹² This is discussed further in the following analysis of Goal 2.

Thus, the end result is that FENA could well contribute to, rather than reverse, the decline in public confidence in the electoral and legislative processes.

¹⁰ David M. Mason, *No Cure for Corruption: Public Financing Under Constitutional Constraints*, 10 *Engage* 89, 91 (2009).

¹¹ Beth Ann Rosenson, *The Effect of Political Reform Measures on Perceptions of Corruption*, 8 *Election L. J.* 31, 42 (2009) (“one of the key rationales for [campaign finance] reforms – decreasing perceptions of corruption – is not borne out by this research”); David M. Primo and Jeffrey Milyo, *Campaign Finance Laws and Political Efficacy*, 5 *Election L. J.* 23 (2006) (studying public opinion in states and concluding, “the effect of campaign finance laws [on perceptions of democratic rule] is sometimes perverse,

rarely positive, and never more than modest”); David M. Primo, *Public Opinion and Campaign Finance: Reformers Versus Reality*, 7 *Independent Review* 207 (2002).

¹² Donald A. Gross and Robert K. Goidel, *The States of Campaign Finance Reform* (The Ohio State University Press 2003).

ANALYSIS OF GOAL 2

Sec. 101(b)(2)

Increasing the public's confidence in the accountability of Members to the constituents who elect them, which derives from the programs qualifying criteria to participate in the voluntary program and the conclusions that constituents may draw regarding candidates who qualify and participate in the program

There is little evidence to support the idea that the Fair Elections Now Act will achieve the goal of improving public confidence in Congress.

In a system of representative democracy, elected officials are ultimately held accountable by voters who decide whether they deserve re-election or not. However, the high level of incumbency retention has been cited by some as a cause of concern regarding accountability and a main justification for expanding these programs.¹³

Building on the belief that high incumbency retention rates signify a lack of accountability, proponents of the Fair Elections Now Act suggest that adopting taxpayer financed political campaigns will lessen the advantages of incumbency and lead to lower incumbent re-election rates.¹⁴

¹³ Public Campaign, "The Challenge of Incumbency," available at <http://www.publiccampaign.org/blog/2006/07/31/the-challenge-of-incumbency>; see also Connecticut Office of Legislative Research, "Survey of Research on the Impact of Public Financing," August 2005, available at <http://www.cga.ct.gov/2005/rpt/2005-R-0620.htm>.

¹⁴ "Group works for publicly funded politics", Bill

But the actual experience of those few states and cities that operate such programs do not support this idea. Arizona and Maine each enacted so-called "clean elections" laws effective with the 2000 elections. Incumbent re-election appears to have fallen in the Arizona State House in the 2002 and 2004 elections, but by 2006 it was back to its normal high rate. The Arizona Senate has seen little change. In Maine, incumbent re-election rates appear to have held relatively steady, aside from a temporary decline in the 2004 Senate elections, which disappeared in 2006.¹⁵

McCallister, KTUU Television, Sept. 3 2007, <http://www.ktuu.com/Global/story.asp?s=7021009> and "Prop 89," Kathay Feng and Deborah Burger, *Orange County Register*, Oct. 15, 2006, http://www.ocregister.com/ocregister/opinion/readerrebuttals/article_1312156.php. One academic study supports this finding, Neil Malhotra, *The Impact of Public Financing on Electoral Competition: Evidence from Arizona and Maine*, 8 *State Politics and Policy Quarterly* 263 (2008).

¹⁵ Comparisons of Arizona's and Maine's incumbent re-election figures are complicated by the fact that both states imposed term limits at the same time as their "clean elections" programs began. Term limits are likely to decrease incumbent re-election rates over time because they incumbents have less time in office to build the primary natural advantage of incumbency, name recognition. See also United States General Accounting Office, *Campaign Finance Reform: Early Experience of Two States That Offer Full Public Funding for Political Candidates*, May

Incumbent Retention Rates for Arizona¹⁶

Year	House (%)	Senate (%)
1992	93	90
1994	95	100
1996	93	95
1998	98	96
2000	92	100
2002	70	87
2004	81	96
2006	95	87

Incumbent Retention Rates for Maine¹⁷

Year	House (%)	Senate (%)
1992	84	86
1994	83	90
1996	82	87
1998	86	100
2000	88	91
2002	84	92
2004	83	73
2006	83	90

2003 (noting that many factors, such as term limits, redistricting, and more affect competitiveness, and "it is difficult to separate or disassociate the effects of these factors from the effects of the public financing programs," but finding no notable increase in competitive measures).

16 Author's calculations using data from The Wisconsin Campaign Finance Project, available at <http://campfin.polisci.wisc.edu/ArizonaData.asp>.

17 Author's calculations using data from The Wisconsin Campaign Finance Project, available at <http://campfin.polisci.wisc.edu/MaineData.asp>.

Similarly, in Connecticut, where "clean elections" began in 2008, the Office of Legislative Research reports that "in 2006, 100% (32 of 32) of Senate incumbents won reelection, while in 2008, 96.9% (31 of 32) won reelection. Likewise, 95.7% (133 of 139) House incumbents won reelection in 2006 while in 2008, 95.4% (125 of 131) won."¹⁸

New York's record on incumbent re-election rates is little better. In the most recent 2005 city elections, 43 of 44 incumbent city council members won.¹⁹ The only incumbent to lose his re-election campaign was Allen Jennings, who was accused of discrimination and harassment by staff members and was fined tens of thousands of dollars by the Campaign Finance Board for his 2001 campaign. Jennings was defeated by a former city council member who had been term-limited out of office in 2001.²⁰

As for public trust in government, political scientist David Primo writes that "...data show in two ways that rising campaign spending was not the cause of public mistrust of government,"²¹ and

18 The Citizens' Election Program: A Comparison of the 2006 Legislative Races With The 2008 Races, Kristen Sullivan, Connecticut Office of Legislative Research, Feb. 9, 2009, <http://www.cga.ct.gov/2009/rpt/2009-R-0099.htm>.

19 Public Dollars for the Public Good: A Report on the 2005 Elections, p. 20, New York City Campaign Finance Board, 2006, http://www.nycclf.info/PDF/per/2005_PER/2005_Post_Election_Report.pdf.

20 Ibid at p. 23

21 Primo, David M. "Public Opinion and Campaign Finance: Reformers Versus Reality," *The Independent Review*, v.VII, n.2, Fall 2002, 2002, pp. 207-219, pg 211, available at <http://www.rochester.edu/college/psc/primo/primoindrev.pdf>.

that in terms of polling public trust in government in response to specific reforms, "the public seems to favor almost any reform simply in the name of reform."²² Professor Primo concluded that, "trust in government is not linked to campaign spending."²³

Public opinion polls conducted after New Jersey's public financing pilot programs showed that there was no increase in favorable public opinion about their legislature.²⁴ In 2005, 75% of respondents said they trust the state legislature to do what is right "only some or none of the time," and in 2007 that had increased to 80%. The poll concluded that "to the extent... Clean Elections [are] designed to foster confidence in elections and governance... much more work remains."²⁵

Research by the Center for Competitive Politics on New Jersey's 2007 "clean elections" pilot project provides one possible reason why replacing private

contributions to candidates with taxpayer funds is unlikely to improve citizens' confidence in government: partisan and ideological differences were the primary factors leading to citizens'

belief that their elected officials favored so-called special interests and party leadership over constituent interests.²⁶ If a voter's partisanship vis the officeholder's party affiliation is the primary determinate of the perception of corruption, then the manner in which the officeholder financed

his campaign will matter little.²⁷ Moreover, it will be difficult to improve public opinion if citizens are broadly unaware of the Fair Elections program and the supposed benefits it provides. According to the most recent available data, half of Arizona citizens were unaware of

Public opinion polls conducted after New Jersey's public financing pilot programs showed that there was no increase in favorable public opinion about their legislature

²² Ibid at p. 212

²³ Ibid at p. 203. See also citations at footnote 11 for studies indicating no beneficial effect, and sometimes harmful effects, of public financing on public confidence and trust.

²⁴ Rutgers Eagleton Institute of Politics, "Public Attitudes Toward the Clean Elections Initiative," Nov. 2007, p. 2, available at http://eagletonpoll.rutgers.edu/polls/CE_FinalReport_11_07.pdf.

²⁵ Ibid at p. 8

²⁶ *Special Interests, Partisan Ploys, and the Usual Suspects*, p. 9, Sean Parnell, Laura Renz, Sarah Falkenstein, Center for Competitive Politics, February 2009, http://www.campaignfreedom.org/docLib/20090223_SRINJ.pdf.

²⁷ See also Nathaniel Persily and Kelli Lammie, *Perceptions of Corruption and Campaign Finance: When Public Opinion Determines Constitutional Law*, 53 U. Penn. L. Rev. 119 (2004) (finding partisan identification of voters vis officeholders to be a primary determinant of perceptions of government corruption).

that state's program,²⁸ and among the half who are aware of the program roughly 20 percent and possibly more did not know what the program does.²⁹ More than a third of those familiar with the program gave "unfavorable," "very unfavorable," or "not sure" as responses when asked for their opinion of the program.³⁰ This suggests widespread ignorance, indifference, or opposition to the Arizona program after five election cycles, making the program unlikely to improve public opinion.

Regarding "the conclusions that constituents may draw regarding candidates

Effort by the government to educate and inform citizens about the program and that create the impression that participating candidates are somehow preferable to non-participating candidates could raise concerns that the state is attempting to dictate electoral outcomes

who qualify and participate in the program," such a goal potentially raises issues of whether the state is attempting to endorse certain candidates. Effort by the government to educate and inform citizens about the program and that create the impression that participating candidates are somehow preferable to non-participating candidates could raise concerns that the state is attempting to dictate electoral outcomes.³¹

In just such an effort to raise public awareness of "clean elections" and guide "conclusions that constituents may draw," New Jersey's 2007 pilot project identified "clean elections" candidates on the ballot and also ran

radio, television, and newspaper ads promoting the program.³² These ads included language suggesting that the program would "take special interest money out of the election process" and similar language

²⁸ *Awareness and Attitude Study, January 2006*, p. 2, prepared for the Arizona Citizens Clean Elections Commission, conducted by Behavior Research Center. Note that after 2006, subsequent studies screened out survey respondents who were not aware of the program.

²⁹ *Statewide Voter Survey, December 2008*, p. 6, prepared for the Arizona Citizens Clean Elections Commission, conducted by Behavior Research Center. 58% of those who said they were "not very familiar" with the program responded "don't know" when asked what the program did, and 26% gave answers that were wrong. These questions were only asked of the 26% of all survey takers who said they were "not very familiar" with "clean elections. It is possible (likely?) that some number of those responding "somewhat familiar" or "very familiar" in fact do not understand what "clean elections" do, increasing the number of citizens who are unaware of the program and what it does.

³⁰ *Ibid* at p. 7

³¹ In *Cook v. Gralike*, 531 U.S. 510, 525 (2001), the Supreme Court struck down a provision in Missouri that identified on the ballot which candidates supported a specific term limits law and which did not, including language stating that those who did not had "disregarded voters instructions on term limits." ("Article VIII is plainly designed to favor candidates who are willing to support the particular form of a term limits amendment ... and to disfavor those who ... oppose term limits").

³² New Jersey Election Law Enforcement Commission, <http://www.njcleanelections.com/advertising.html>.

suggesting that citizens should prefer candidates who participate in the program.³³

Discussing the identification of "clean elections" candidates on the ballot in New Jersey, the Center for Government Studies notes that, "The 'clean elections candidate' designation raises constitutional issues... [it] may be found to support participating candidates, and therefore... the state would be regulating an electoral outcome."³⁴ Running ads touting the benefits of the program that suggest positive attributes of participating candidates may also raise similar concerns.

Such public education and promotion of the program also may undermine the supposed voluntary nature of the program. By encouraging constituents to draw positive conclusions about candidates who participate in the program, and, one can safely assume, negative conclusions about candidates who chose to fundraise traditionally, the Fair Elections program potentially imposes a burden on the decision by a candidate not to participate in the program.

The danger that candidates choosing not to

participate in the program would suffer is a very real one. For example, a 2005 report by the New York City Campaign Finance Board, which has administered a matching program since the late 1980's, stated that in their experience, "For many candidates, declining to join the program generated negative press and editorial attention."³⁵

There is little to suggest that taxpayer financing programs are capable of improving the public's perception of Congress. Arizonans after 10 years seem largely indifferent to, ignorant of, or opposed to that state's program, hardly indicative of a program that will increase public confidence. Public education efforts could be undertaken to promote awareness, understanding, and support for the program, but would potentially raise constitutional concerns about whether the government is attempting to "dictate electoral outcomes"³⁶ and push unwilling candidates into the program.

Arizonans after 10 years seem largely indifferent to, ignorant of, or opposed to that state's program

33 Ibid

34 Jessica Levinson, *Public Campaign Financing: The New Jersey Legislature, A Pilot Project Takes Flight*, p. 26, Center for Government Studies, 2008, available at: http://www.cgs.org/images/publications/cgs_nj_leg_final_081808.pdf.

35 Ibid at note 19, p. 6

36 Ibid at note 33

ANALYSIS OF GOAL 3

Sec. 101(b)(2)

Helping to reduce the ability to make large campaign contributions as a determinant of a citizen's influence within the political process by facilitating the expression of voters at every level of wealth, encouraging political participation, and incentivizing participation on the part of Members through the matching of small dollar contributions

The assumptions at the core of this goal ignore both recent political realities and established trends in voter participation through monetary contributions, and contributions of time and talent during the campaign period, and through Election Day. There are a number of ways citizens can, and do, participate and have an influence on the political process, and the conclusion that eliminating the ability to contribute larger sums of money will increase voter participation in the political process is simplistic and incorrect.

The most common form of political participation is voting, and increased turnout is often cited as a benefit of taxpayer financed political campaigns.³⁷

The assumption that implementation of the Fair Elections Now Act or similar measures will increase voter turnout is not supported by evidence, as shown in Maine and Arizona, the two states with the longest history of such programs. Maine's voter

turnout averaged 60.8% in the years before "clean elections" were adopted, and has averaged 63.4% since, for an increase of 4.3%. Arizona's turnout has increased a more significant 7.4% over that same time period, from 43% before "clean elections" to 46.2% since.

National turnout has increased over the same period, averaging 45.4% from 1990 through 1998 and 51.2% since 2000, for an increase of 8.4%. Maine began with a turnout rate considerably above the national average, so raising that rate should be more difficult. But by that same reasoning, Arizona's turnout rate at the time "clean elections" were implemented was below the national rate, suggesting Arizona should have been able to increase voter turnout faster than the national average. In fact, both "clean elections" states have lagged national voter turnout growth since they began providing taxpayer dollars to political candidates.

³⁷ Common Cause, "The Benefits of Clean Elections Reform," available at <http://www.commoncause.org/atf/cf/%7BFB3C17E2-CDD1-4DF6-92BE-BD4429893665%7D/CLEAN%20ELECTIONS%20BENEFITS.PDF>.

Turnout Figures for 1990-2008*

	Maine	Arizona	National
1990	57%	42%	38%
1992*	74%	56%	58%
1994	56%	39%	41%
1996*	65%	46%	52%
1998	52%	32%	38%
2000*	67%	46%	54%
2002	51%	36%	40%
2004*	74%	54%	60%
2006	54%	39%	40%
2008*	71%	56%	62%

Goal 3 also ignores the fact that there are other ways citizens can have influence in the political process besides contributing financially. Volunteers are a key component of almost every campaign, and can play a decisive role in who wins or loses on election day. Many credit the efforts of 85,000 volunteers in Ohio for delivering that state's electoral votes to George W. Bush in 2004,³⁹ and President Obama's 2008 victory in both the Democratic nomination contest and the general election were fueled in large part by an energetic volunteer base.⁴⁰

The language of Goal 3 also suggests a desire to limit giving "as a determinate of political influence" by those citizens capable of making larger donations than the \$100 limit that Fair Elections candidates are allowed to solicit. This effort is directly contrary to the Supreme Court's holding in *Buckley v. Valeo*⁴¹ and *Davis v. Federal Election Commission*⁴² that restrictions on political speech, in the form of campaign finance limits, cannot be based on a desire to silence some voices in order to enhance others.

The Fair Elections Now Act is likely to increase the funding available to independent groups, who would no longer have to compete with candidates for the contributions of politically-minded citizens beyond the \$100 limit

38 George Mason University, United States Elections Project: Voter Turnout, available at http://elections.gmu.edu/voter_turnout.htm. Asterisk denotes presidential election year.

39 Farhi, Paul and James V. Grimaldi, GOP Won With Accent On Rural and Traditional, Nov. 4, 2004, *Washington Post*, <http://www.washingtonpost.com/wp-dyn/articles/A23754-2004Nov3.html>.

40 *The Campaign Manual*, dubbed the "benchmark of the campaign industry," by consultant Mary Matalin, (See Amazon.com, http://www.amazon.com/gp/product/product-description/0942805100/ref=dp_proddesc_0?ie=UTF8&n=2

83155&s=books) describes several key roles that frequently volunteers fill in campaign organizations. Among those listed are phone bank volunteers, precinct captains, poll watchers, canvassers, get-out-the-vote drivers, event hosts, researcher, and volunteer coordinator. As any successful candidate for office knows, these just touch the surface of all the many important roles campaign volunteers fill. S.J. Guzzetta, *The Campaign Manual*, 7th Edition, pp. 238 - 246, Linus Publications, 2006.

41 424 U.S. 1 (1976).

42 554 U.S., 128 S. Ct. 2759 (2008).

Beyond this serious constitutional problem, however, this goal is unlikely to be realized because donors capable of making gifts larger than \$100 who wish to support certain candidates remain free to contribute to political parties and committees, political action committees, and groups that engage in independent expenditures. Ironically, the Fair Elections Now Act is likely to increase the funding available to such groups, who would no longer have to compete with candidates for the contributions of politically-minded citizens beyond the \$100 limit.

For example, since public financing began in Maine in 2000 the total amount spent on independent expenditures has risen 323%.⁴³ Contributions to these groups come from citizens from every level of wealth who frequently are prohibited, as they would be under this legislation, from giving more than a small contribution to candidates.

California's experience with contribution limits is also instructive. Previously unlimited contributions were capped for the first time at \$1,000 for the 2002 election. By 2006, independent expenditures on legislative races had increased by 6,144% over the 2000 election, the last without contribution limits.⁴⁴

Finally, the explosion in so-called 527-groups in the 2004 election cycle in the wake of McCain-Feingold should serve to warn against efforts

to restrain the politically-oriented spending of wealthier Americans.

There is also little reason to believe that the Fair Elections Now Act will noticeably alter the demographics of who gives to candidates. This is explored further in the discussion of Goal 6.

⁴³ Maine Commission on Governmental Ethics and Election Practices. "2007 Study Report: Has Public Funding Improved Maine Elections?" p. 40.

⁴⁴ California Fair Political Practices Commission. "Independent Expenditures: The Giant Gorilla in Campaign Finance", p. 9, May 2008.

ANALYSIS OF GOAL 4

Sec. 101(b)(4)

Potentially saving taxpayers billions of dollars that may be (or that are perceived to be) currently allocated based upon legislative and regulatory agendas skewed by the influence of campaign contributions

There are a number of studies cited earlier in this briefing indicating that there is no relationship between campaign contributions and “quid pro quo” favors done by politicians.⁴⁵ Assuming the bulk of research on this topic is correct, there is no reason to believe the Fair Elections Now Act would save any dollars. FENA would be a net loss to taxpayers because of the billions of public dollars given to politicians for their campaigns each election cycle.

In fact, the actual experience of Maine and Arizona since they implemented their taxpayer financing programs is directly contrary to the idea that FENA will save taxpayer money. If the assumptions of the Fair Elections Now Act and the similar state “clean elections” programs are correct, we would expect to see evidence supporting this claim in the spending patterns of these two states. Specifically, we should see declines in spending growth in both states relative to the national average.

Instead, since implementing “clean elections” expenditure growth in both states has exceeded that of the rest of the nation, while before adoption of “clean elections” both Arizona and Maine were

below the national average in expenditure growth.⁴⁶ The fact that Arizona is facing the second largest budget deficit in the U.S for fiscal year 2010 also does not bode well for claims of improved fiscal responsibility in “clean elections” states.⁴⁷

As recent coverage and commentary on so-called “pork barrel” spending and earmarks have demonstrated, elected officials have no shortage of reasons to approve spending for what may be questionable projects. A recent op-ed noted that Congressman John Murtha is “...a major dispenser of appropriations earmarks... [that earn] him accolades in his home district, where a banner reads ‘We Support John Murtha. He Delivers for Us.’”⁴⁸

⁴⁶ Center for Competitive Politics, “Do Taxpayer-Funded Campaigns Save Taxpayer Dollars?” September 2008, available at <http://www.campaignfreedom.org/research/detail/issue-analysis-4-do-taxpayer-funded-campaigns-save-taxpayer-dollars>.

⁴⁷ Center on Budget and Policy Priorities, “State Budget Trouble Worsens,” June 29, 2009, available at <http://www.cbpp.org/cms/index.cfm?fa=view&id=711>. Based on percentage of deficit compared to total budget.

⁴⁸ Monica Youen, “Fair Elections: Ending the Earmark Game,” Roll Call, May 7, 2009, http://www.rollcall.com/issues/54_127/guest/34668-1.html.

⁴⁵ See footnotes 4, 6, 7, and 9.

Another prominent elected official, former Senator Hillary Clinton, stated that she was "...very proud of my earmarks. It's one of the reasons I won 67 percent of the vote, because I took care of my people."⁴⁹

While such accolades may or may not produce tangible votes for incumbents,⁵⁰ there can be little doubt that the belief that such spending helps incumbents will provide a significant incentive for elected officials to engage in questionable spending regardless of the funding source for their campaigns.

Similarly, as discussed below under Goal 7, many officeholders are highly likely to "outsource" their fundraising to well-organized interest groups. There is little reason to believe an officeholder allegedly unable to resist showering federal largesse on campaign contributors will prove any more resistant to organized interest groups who provide significant support to their campaigns by helping to raise the Qualifying Contributions and Qualified Small Dollar Contributions necessary to qualify for millions in taxpayer dollars.

49 Wereschagin, Mike; Brown, David; and Salena Zito, "Clinton: Wright 'would not have been my pastor,'" March 28, Pittsburgh Tribune-Review, http://www.pittsburghlive.com/x/pittsburghtrib/news/breaking/s_558930.html.

50 Bickers, Kenneth; Evans, Diana; Stein, Robert; and Wrinkle, Robert, "The Electoral Effect of Credit Claiming for Pork Barrel Projects in Congress," presentation at the Workshop on Elections and Distribution, Yale University, Oct. 26-27, 2007, casting doubt on the effectiveness of government spending providing a benefit to officeholders, and; Levitt, Steven D. and Snyder, James M., "The Impact of Federal Spending on House Election Outcomes," Feb. 1997, *The Journal of Political Economy*, supporting the assertion that government spending provides benefits to officeholders.

ANALYSIS OF GOAL 5

Sec. 101(b)(5)

Creating genuine opportunities for all Americans to run for the House of Representatives (or Senate) and encouraging more competitive elections

Despite claims that “average citizens” are somehow empowered to run for office under taxpayer financed political campaigns, the Fair Elections Now Act is far more likely to simply provide significant taxpayer subsidies to incumbents, celebrity candidates, and candidates backed by their party establishment and well-organized interest groups – in other words, the same candidates that are able to run with little difficulty under today’s system of voluntary, private contributions from citizens to candidates they support.

This is primarily because of the extraordinarily high qualifying standards that candidates would be required to meet in order to receive taxpayer dollars under this program.

The Fair Elections Now Act requires candidates for the U.S. House of Representatives to raise a total of \$50,000 from 1,500 residents of the state they are running in, and to do this in only 4 months while accepting contributions of no more than \$100.⁵¹ The requirements for Senate candidates are higher and vary by state, between 2,500 contributions (AK,

DE, MT, ND, SD, VT, WY) and 28,500 (CA).⁵²

These requirements would be extremely daunting for all but incumbents, celebrity candidates with high name recognition and media coverage of their candidacies, and those with substantial backing from political parties and major organized interest groups.

In particular, the low limit of \$100 on individual contributions to candidates participating in the Fair Elections Now Act would make it nearly impossible for most challengers to raise the extremely important early money needed to launch a viable campaign.

Former Republican National Committee Finance Chair Rodney Smith refers to campaign fundraising as an “industry like any other which requires a capital investment in order to go into production.”⁵³ The capital investment is necessary for any candidate to begin the process of mounting a serious campaign or to challenge an incumbent, and this typically comes in the form of large contributions made early

⁵² S. 752, 111th Cong §512 (a) (2009).

⁵³ Smith, Rodney A. “Money, Power & Elections: How Campaign Finance Reform Subverts American Democracy.” Louisiana State UP: 2006, p. 145.

⁵¹ H.R. 1826, 111th Cong, §512 (a) (2009).

in the cycle, allowing candidates to develop visibility,"⁵⁷ and concludes that "[candidates] name recognition and the infrastructure to raise typically have to start by persuading a few people to large numbers of small contributions."⁵⁴ give much larger amounts before s/he can branch downward and outward."⁵⁸

This point is made clear in a recent study by Michael Malbin, executive director of the Campaign Finance Institute. Examining the pattern of large (\$1,000 or greater) and small (\$200 or less) contributions in the 2008 presidential campaign, Malbin found that "...all of the candidates emphasized large contributions in the early stage,"⁵⁵ and that "[for] all of the candidates with viable campaigns, small contributions increased over time as the candidates gained name recognition."⁵⁶

Without the vital seed money that large donations represent early in a campaign, candidates are unable to engage in the sort of fundraising practices that might allow them to build a donor base that would permit them to raise 1,500 contributions during the relatively short Qualifying Period

Malbin and Smith are not alone in acknowledging the importance of early money in a campaign. *The Campaign Manual* refers to the fact that "the necessary capital, or seed money... is between 10 and 20% of the campaign's budget... the less known a candidate is at the start of the campaign, the higher the percentage."⁵⁹

The Campaign Manual then notes that start-up candidates normally "...turn to friends and family who believe in you and

In further discussion of the policy implications, Malbin says "...raising large amounts of money through small contributions presupposes

the possibility of your campaign winning..." to raise needed seed money because political parties and strangers "...will not assist... at this stage because [the candidate is] an unknown quantity as

⁵⁴ Ibid at p. 160

⁵⁵ Malbin, Michael, "Small Donors, Large Donors and the Internet: The Case for Public Financing after Obama," Campaign Finance Institute, April 2009, p. 13.

⁵⁶ Ibid

⁵⁷ Ibid

⁵⁸ Ibid at p. 14

⁵⁹ S.J. Guzzetta, *The Campaign Manual*, 7th Edition, Linus Publications, 2006, p. 82.

a campaigner.”⁶⁰ Incumbents, on the other hand, “...should find it relatively easy to raise funds...”⁶¹

Without the vital seed money that large donations represent early in a campaign, candidates are unable to engage in the sort of fundraising practices that might allow them to build a donor base that would permit them to raise 1,500 contributions during the relatively short Qualifying Period.

Direct mail, a very popular fundraising technique, would be out of the question as the following example from a campaign fundraising strategy book demonstrates:

Assume that [a] prospecting list contains 40,000 names. Production costs and postage for this large group might run approximately \$0.70 per letter, for a total of \$28,000. The campaign might receive a 2 or 3 percent response rate from a prospecting list, meaning that a great letter will bring about 1,000 respondents. The average contribution from the group as a whole will generally be rather small, maybe \$19. The gross income from this mailing would therefore be \$19,000, in which case the campaign has incurred a \$9,000 loss.⁶²

This example, of course, assumes that the candidate

⁶⁰ Ibid

⁶¹ Ibid

⁶² Shea, Daniel M. and Michael John Burton. “Campaign Craft: The Strategies, Tactics, and Art of Political Campaign Management.” Praeger Publishers: 2006, p. 147.

has \$28,000 to pay for the mailing – something a challenger in the start-up phase would not have under the Fair Elections Now Act. Because prospect mailings are expected to lose money while the list is being built, mailing in smaller batches and using the resulting revenue to fund further mailings is not a viable option because each subsequent mailing will go to fewer people and bring in less revenue, quickly extinguishing any seed money while the candidate is still well short of the needed donor base.

For this reason, the *Campaign Manual* observes that direct mail programs of the type described above are “...best used by (1) an incumbent, (2) an officeholder running for higher office, or (3) a challenger running for the second time...”⁶³

Dr. JoAnn Gurenlian participated in New Jersey’s 2005 “clean elections” pilot project, which required her to obtain 1,500 contributions in order to qualify to taxpayer financing. She estimates that, with the limited amount of seed money, she and her running mate were together able to send out approximately 10,000 mail pieces to potential donors in their district.⁶⁴ But returns were minimal and, combined with other fundraising efforts, Gurenlian and her running mate only collected approximately 58% of

⁶³ Ibid at note 59 p. 296

⁶⁴ Testimony of 2005 New Jersey State Assembly candidate JoAnn Gurenlian before a meeting of the New Jersey Citizen’s Clean Elections Commission, November 22, 2005 p. 121 of the official transcript, available at: <http://www.njleg.state.nj.us/legislativepub/pubhear/cec112205.pdf> as well as follow-up conversations between Gurenlian, campaign manager Jeff Kasko, and CCP president Sean Parnell, May 2009.

the needed contributions and failed to qualify for funding.⁶⁵ In fact, only 2 of 10 candidates who tried to qualify under New Jersey's 2005 pilot project were able to do so, one an incumbent and the other his slate partner.⁶⁶

Even incumbents can have trouble raising the large number of contributions through mail without necessary seed money. Testifying at a meeting of the New Jersey Citizen's Clean Elections Commission, State Assemblyman Samuel D. Thompson spoke of the significant difficulty of using direct mail as a way of raising the contributions necessary to participate in New Jersey's 2005 pilot project.

Door-to-door solicitation by candidates is also not a realistic option for such a large number of contributions, as both incumbents and challengers discovered in New Jersey's failed 2005 experiment. Dr. Gurenlian noted in her testimony that, as a

method of fundraising, "The least effective was door-to-door. It was extremely time-consuming... It was very, very difficult to do."⁶⁷

Assemblyman Louis Greenwald, a sponsor of New Jersey's "clean elections" pilot project, was among the many other candidates who reported on the failure of door-to-door solicitations. "We started door-to-door knocking... we found that we were successful on about a 10 percent ratio. That was it. We would never have gotten the 3,000 contributions if we stayed with the door-knocking."⁶⁸

Door-to-door solicitation by candidates is not a realistic option for such a large number of contributions, as both incumbents and challengers discovered in New Jersey's failed 2005 experiment

The one method of fundraising that "clean elections" candidates in New Jersey did have some success with was small events, including "house parties, barbeques, picnics, and other gatherings."⁶⁹ However, challengers would still find this an extraordinarily difficult way of raising funds in the primary and Fair Elections Qualifying Period. New Jersey's 2005 "clean elections" participants

⁶⁵ Testimony of Jeff Kasko, campaign manager JoAnn Gurenlian in 2005, before a meeting of the New Jersey Citizen's Clean Elections Commission, November 22, 2005 p. 136 of the official transcript, available at: <http://www.njleg.state.nj.us/legislativepub/pubhear/cec112205.pdf>.

⁶⁶ New Jersey Citizens' Clean Elections Commission: Preliminary Report, p. 49, February 7, 2006. New Jersey legislators often run together on slates, and Assembly members are elected in multi-seat districts.

⁶⁷ Ibid at note 64, p. 120

⁶⁸ Testimony of New Jersey State Assemblyman Louis Greenwald, before a meeting of the New Jersey Citizen's Clean Elections Commission, October 6, 2005 p. 33 of the official transcript, available at: <http://www.njleg.state.nj.us/legislativepub/pubhear/cec100605.pdf>.

⁶⁹ Ibid, p. 34

had already won their party's primary nomination, meaning they could count on the support of their political parties in helping to hold small events. As Assemblyman Greenwald testified, "[The Democratic and Republican] parties... have a list of people who traditionally hold coffees for their candidates. We went to that list of people..."⁷⁰

For a non-incumbent, even with party backing, it was far more difficult to organize these small events. Dr. Gurenlian noted that they had "a network through the county [party]" along with mayors who joined friends and family members who helped put together small events.⁷¹ But even with that assistance, she and her running mate still failed to qualify: "We just didn't have, I think, the network... We were the unknown candidates. We're not an incumbent. We didn't have the reputation of having been a legislator for 10 years. We didn't have a machine behind us."⁷²

Candidates participating in the Fair Elections program, however, would have to raise their Qualifying Contributions prior to the primary,⁷³ meaning the support of political parties for candidates is unlikely for most non-incumbent

⁷⁰ Testimony of New Jersey State Assemblyman Louis Greenwald, before a meeting of the New Jersey Citizen's Clean Elections Commission, November 22, 2005 p. 56 of the official transcript, available at: <http://www.njleg.state.nj.us/legislativepub/pubhear/cec112205.pdf>.

⁷¹ Ibid at note 64, p. 120

⁷² Ibid at note 64, p. 122

⁷³ Text of H.R. 1826, the Fair Elections Now Act, Title V, Sec. 501, subsections 3 and 4.

candidates, especially those that challenge incumbents in a primary. For this reason, it is extremely unlikely that small events, the only effective way candidates in New Jersey's 2005 "clean elections" pilot project were able to raise qualifying contributions, would be a viable option for most non-incumbent candidates. It should also be noted again that 8 out of 10 candidates failed to qualify for taxpayer funding in New Jersey's 2005 pilot project.

The preliminary report to the legislature of New Jersey's Citizens' Clean Elections Commission also noted the special problems facing non-incumbents, determining that "...challengers... are usually lesser-known to the electorate and may have more difficulty raising contributions."⁷⁴

In short, the types of candidates who can raise contributions in small "qualifying" donations are the same candidates who can raise larger contributions.

As to the effect taxpayer funding has on the competitiveness of elections, using Maine and Arizona as the best examples, there is some indication of an increase in competition, but it is sporadic and does not follow a pattern, possibly a result of the many factors that indicate why a race is competitive beyond the source of funding.

Competitive Races in the General Election in

⁷⁴ Ibid at note 66, p. 7

Maine⁷⁵

	House	Senate
1992	49/151 – 32%	13/35 – 37%
1994	40/151 – 26%	11/35 – 31%
1996	53/151 – 35%	10/35 – 29%
1998	38/151 – 25%	11/35 – 31%
2000	45/151 – 30%	7/35 – 20%
2002	40/151 – 26%	15/35 – 43%
2004	63/151 – 42%	18/35 – 51%
2006	61/151 – 40%	18/35 – 51%

Competitive Races in the General Election in Arizona⁷⁶

	House	Senate
1992	12/60 – 20%	6/30 – 20%
1994	13/60 – 22%	0/30 – 0%
1996	17/60 – 28%	4/30 – 13%
1998	16/60 – 27%	2/30 – 7%
2000	24/60 – 40%	6/30 – 20%
2002	20/60 – 33%	2/30 – 7%
2004	18/60 – 30%	5/30 – 17%
2006	21/60 – 35%	10/30 – 33%

Finally, regardless of whether candidates choose

75 Kenneth R. Mayer, Timothy Werner, and 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 (updated March 2005), available at <http://campfin.polisci.wisc.edu/Wisc%20Camp%20Fin%20Proj%20-%20Public%20Funding%20and%20Competition.pdf>, p. 6.

76 Ibid

to fundraise privately or participate in public financing, the source of funding does not change the time intensive nature of campaigning aside from raising money. Traveling, meeting voters, and building a base of support require more time than most people with ordinary jobs and income could spare. In *The Campaign Manual*, it is recommended that candidates "...try to arrange their schedules so they are able to spend about 20 hours a week on the campaign through May, and full-time from then until the election."⁷⁷ Few Americans are able to devote this amount of time to a campaign.

As Rodney Smith puts it, "for challengers without wealth, the task of raising enough money from small donors to defeat an incumbent ranges between virtually to completely impossible."⁷⁸ Former Federal Election Commission Chairman Bradley A. Smith makes a similar observation, noting that low contribution limits prevent candidates from tapping family members or friends for the larger contributions that could get their campaigns off the ground. Smith describes how for a newcomer, funding a campaign is like raising capital for a business when no bank may loan more than a small amount – nearly impossible.⁷⁹

77 S.J. Guzzetta, *The Campaign Manual*, 7th Edition, Linus Publications, 2006, p. 151.

78 Smith, Rodney A. "Money, Power & Elections: How Campaign Finance Reform Subverts American Democracy." Louisiana State UP: 2006, p. 148.

79 Bradley A. Smith, *Unfree Speech: The Folly of Campaign Finance Reform*, 2001, p. 72.

ANALYSIS OF GOAL 6

Sec. 101 (b)(6)

Encouraging participation in the electoral process by citizens of every level of wealth

This goal assumes that donors to candidates participating in the Fair Elections program would be noticeably different in economic status from those who currently give to congressional candidates. Research on this subject does not support this contention.

**New Jersey's "clean elections"
experiment failed to noticeably
change the demographics of
who gives to campaigns**

A study by the Center for Competitive Politics found that donors to "clean elections" candidates in New Jersey's 2007 pilot project were very similar to "... donors to federal candidates, which [are] dominated by business executives, attorneys, medical professionals, and individuals from the education or media industries."⁸⁰ The study concludes that New Jersey's "clean elections" experiment had "...

⁸⁰ Parnell, Sean, Renz, Laura, and Sarah Falkenstein. *Special Interests, Partisan Pouts, and the Usual Suspects*. Center for Competitive Politics, February 2009. http://www.campaignfreedom.org/docLib/20090223_SR1NJ.pdf, p. 13.

failed to noticeably change the demographics of who gives to campaigns..."⁸¹

A recent study explored the diversity of small donors in more depth, including the demographics of individuals who donated small, medium, and large amounts to a campaign. Almost half of all non-donors reported an income of less than \$40,000, whereas only 11% of small donors (defined as \$100 or less) reported the same.⁸²

One recent study, *All Over the Map: Small Donors Bring Diversity to Arizona's Elections*, does purport to show that citizens contributing to "clean elections" candidates are more economically and socially diverse than those contributing to candidates relying on private, voluntary contributions.⁸³ However, the study has been discredited because of poor methodology – the authors of the report did not have access to information about small dollar donors to the privately funded candidates, and only

⁸¹ *Ibid.*, p. 17

⁸² Joe, Wesley Y., et. al. "Do Small Donors Improve Representation? Some Answers from Recent Governorial and State Legislative Elections," (Washington DC: Campaign Finance Institute, 2008) Table 1.

⁸³ Watzman, Nancy, "All Over the Map: Small Donors Bring Diversity to Arizona's Elections," Public Campaign, <http://www.publiccampaign.org/alloverthemap>, 2008.

compared “clean election” donors to donors of \$200 or more to recent Arizona U.S. Senate candidates.⁸⁴

In other words, *All Over the Map* compared apples to oranges — the diversity and number of small donors under “clean elections” versus the diversity and number of large donors (a minority of all donors) under systems of voluntary, private contributions. A proper study would have compared “clean elections” donors to the thousands of small donors to privately funded campaigns.

Based on this evidence, there is very little reason to believe that the economic status of donors to candidates would noticeably change as a result of the Fair Elections Now Act.

⁸⁴ Sean Parnell, “Pay no attention to those 30,000 people behind the curtain,” 9/23/2008, Center for Competitive Politics, <http://www.campaignfreedom.org/blog/detail/pay-no-attention-to-those-30000-people-behind-the-curtain>.

ANALYSIS OF GOAL 7

Sec. 101(b)(7)

Freeing Members from the incessant preoccupation with raising money, and allowing them more time to carry out their public responsibilities

At the press conference unveiling the Fair Elections Now Act, Senator Richard Durbin claimed that “Americans would be shocked if they knew how much time Members of Congress and candidates seeking office must spend dialing for dollars and attending fundraisers.”⁸⁵ Amplifying that theme, Common Cause stated “When members of the House and Senate spend, literally, 3-4 hours per day raising money, it removes them from dealing with real issues or regular people.”⁸⁶

Despite such statements, there is no evidence that such claims are anything more than dramatic exaggeration for the majority of Senators and Representatives.

Most members of Congress do not face significant re-election challenges, making it extremely unlikely that those in “safe” seats would devote to fundraising anything near the time suggested by Senator Durbin and Common Cause. The Campaign Finance Institute, for example, reported

only 65 incumbents in potentially competitive races midway through the 2008 cycle,⁸⁷ while by the end of the cycle respected campaign analyst Larry Sabato tracked only 67 races involving incumbents as potentially competitive in the U.S. House.⁸⁸ It is hard to believe that candidates in non-competitive races are consistently spending “3-4 hours per day raising money” in races that don’t require significant campaign funds.

Even among those incumbents facing stiff re-election challenges, it is extremely implausible that they spend anything near 3 to 4 hours making fundraising calls on more than a handful of days. With established fundraising networks, volunteer bundlers willing to assist with fundraising, and paid campaign fundraisers who organize events and produce mailings, there is little need for incumbents to spend the type of time on fundraising as suggested by proponents of the Fair Elections program.

It is likely, however, that many candidates

⁸⁵ U.S. Senator Dick Durbin, statement introducing the Fair Elections Now Act, March 31 2009, available at: <http://durbin.senate.gov/showRelease.cfm?releaseId=310864>.

⁸⁶ Common Cause. “At the bill introduction, talk of fundraising burden.” posted on April 1, 2009, available at <http://www.commonblog.com/story/2009/4/1/110330/31083>.

⁸⁷ Potentially Competitive House Seats and Best-Funded Candidates, Listed Individually, Campaign Finance Institute, available at: http://www.cfinst.org/congress/pdf/08_12M_Table7.pdf.

⁸⁸ Sabato, Larry, House Race Update, October 23 2008, available at <http://www.centerforpolitics.org/crystalball/article.php?id=LIS2008102305>.

participating in the Fair Elections program would spend less time than the currently do on fundraising, particularly incumbents.

With existing donor bases and a party establishment supporting them, incumbents would have little trouble raising early funding for their campaigns and quickly raising the needed contributions during the Fair Elections Qualifying Period and beyond. Aside from attendance at events organized by campaign staff, an incumbent would not need to devote much time to fundraising efforts.

For most non-incumbents hoping to participate in the program, however, mail and events are not viable options for reasons described in the analysis of Goal 5. The most and possibly only viable alternative for a non-incumbent candidate would be to “outsource” or at least closely coordinate their fundraising activities with well-organized interest groups that want to see them elected.

This is in fact what appears to have happened in Arizona and New Jersey. Research by the Center for Competitive Politics found that approximately half of the “clean elections” donors in New Jersey’s 2007 pilot project were connected to large interest groups, primarily the National Rifle Association, NJ Education Association, the Communications

Workers of America, NARAL Pro-Choice New Jersey, the Sierra Club, and New Jersey Right to Life.⁸⁹

This should not be surprising given that several candidates in New Jersey’s failed 2005 pilot project complained that the program barred overt assistance from organized interest groups. One candidate,

Michael Dasaro, said after the 2005 pilot project “We need...the assistance of the citizen action groups. These people are hard workers, good workers, and I support their causes. And I believe with their assistance, this can work, because it’s a monumental task for individuals to collect... these contributions.”⁹⁰

The most and possibly only viable alternative for a non-incumbent candidate hoping to qualify for taxpayer financing would be to “outsource” their fundraising activities with well-organized interest groups

Assemblyman Samuel Thompson also testified in 2005 to the need to get organized interest groups involved, saying “...I think it is essential that we be able to get assistance from supportive organizations out there that want to

⁸⁹ *Special Interests, Partisan Ploys, and the Usual Suspects*, Sean Parnell, Laura Renz, Sarah Falkenstein, Center for Competitive Politics, February 2009, http://www.campaignfreedom.org/docLib/20090223_SRINJ.pdf, p. 4.

⁹⁰ Testimony of candidate Michael Dasaro before a meeting of the New Jersey Citizen’s Clean Elections Commission, August 18, 2005 p. 48 of the official transcript, available at: <http://www.njleg.state.nj.us/legislativepub/pubhear/cec081805.pdf>.

be able to help us.”⁹¹ He also noted that he had been endorsed by “...many organizations – business, labor, tenants associations, Senior Truth Squad, etc. A number of these organizations wanted to write to their members and suggest they make a Clean Elections contribution to me.”⁹²

As a result of these complaints, the 2007 legislation specifically allowed for the assistance of organized interest groups in helping to raise qualifying contributions.⁹³

In Arizona, organized labor helped then-candidate Janet Napolitano raise nearly one quarter of the necessary signatures and small contributions needed to qualify for that state’s “clean elections” program during her 2002 gubernatorial campaign.⁹⁴ The practice of organized interest groups aiding favored candidates in qualifying for taxpayer financing is common enough in Arizona that the *Arizona Capitol Times* reports that “special interest groups routinely collect the necessary number

of individual \$5 contributions to help candidates qualify for public funding.”⁹⁵

The degree to which non-incumbent candidates participating the Fair Elections program would be required to “outsource” or closely collaborate their fundraising efforts in order to have any chance of qualifying for taxpayer dollars would seem to work against one of the main goals often offered by proponents of such schemes, the idea of reducing “special interest” influence on candidates.

Leading Fair Elections proponent Public Campaign, for example, says “Rather than being forced to rely on special interest donors to pay for their campaigns, candidates have the opportunity to qualify for full public funding which ends their reliance on special interest campaign cash,” while the bill authorizing New Jersey’s 2007 “clean elections” pilot project included as its first goal “To end the undue influence of special interest money.”⁹⁶

While non-incumbents would be forced to rely on well-organized interest groups in order to qualify for the Fair Elections program, there is no reason to believe incumbents wouldn’t also avail themselves of such assistance and outsource significant portions of their fundraising operations to organized interest groups.

The Fair Elections Now Act promises much, but

91 Testimony of New Jersey State Assemblyman Samuel D. Thompson before a meeting of the New Jersey Citizen’s Clean Elections Commission, August 18, 2005 p. 82 of the official transcript, available at: <http://www.njleg.state.nj.us/legislativepub/pubhear/ccc081805.pdf>.

92 Testimony of New Jersey State Assemblyman Samuel D. Thompson before a meeting of the New Jersey Citizen’s Clean Elections Commission, November 29, 2005 p. 9 of the official transcript, available at: <http://www.njleg.state.nj.us/legislativepub/pubhear/ccc112905.pdf>.

93 P.L. 2007 Chapter 60, No. A100, Sec. 6 sub. F, available at http://www.njleg.state.nj.us/2006/Bills/AL07/60_. PDF.

94 Chip Mellor, *Three Lessons from Arizona, Welfare for Politicians*, pp. 31, 37-8 (John Samples, ed. Cato Institute, 2005).

95 Christian Palmer, “Clean Elections Institute loses national money stream, seeks donations,” December 29, 2008, available at: <http://www.azcapitoltimes.com/story.cfm?id=10095#>.

96 New Jersey Election Law Enforcement Commission, *2007 Fair and Clean Elections Report*, March 2008, pp. i-ii.

CONCLUSION

a careful review of similar programs as well as existing research on related topics demonstrates that there is little likelihood of success. Specifically, our review finds:

1. The “conflict of interest” that Representatives and Senators are presumed to face in deciding between constituent and donor interests is largely mythical, and elected officials generally do vote their constituents interests as they perceive them.
2. There is little reason to believe that public confidence will increase as a result of this program, and may in fact decline.
3. Similar programs have not led to increased voter participation, and the assumptions of the Fair Elections Now Act ignore the many ways other than financially that citizens can participate in the political process. Additionally, it ignores the likely increase in independent expenditures that would result from extremely low contribution limits.
4. There will be no savings to taxpayers through a reduction in spending that is allegedly skewed by the influence of campaign contributions.
5. The Fair Elections Now Act will primarily benefit incumbents, celebrity candidates, or those fortunate enough to enjoy the backing

of their political party or well-organized interest groups, while it will be much more difficult for most other candidates to qualify.

6. The economic status of those who contribute to candidates or otherwise participate in the political process is unlikely to noticeably change.
7. The “outsourcing” of fundraising by incumbents to well-organized political parties and interest groups may in fact reduce the amount of time Members and Senators must spend on fundraising, particularly those in competitive races. Challengers who are not able to “outsource” their fundraising to political parties and interest groups, however, will find fundraising to be a nearly all-consuming task.

The failure of the Fair Elections Now Act will not be simply that it does not achieve the goals promoted by its supporters. More worrisome, the program will quite likely do damage to the citizen trust in government and the fairness of the campaign process. The above analysis provides two main causes for concern. Each are dealt with separately below.

Incumbents will be the primary beneficiary of the Fair Elections Now Act

As described in the discussion of Goal 5, the high qualifying standard will be impossible for almost any candidate who isn't an incumbent, or a celebrity candidate or one fortunate enough to be supported from the beginning by their political party or well-organized interest groups.

The obvious solution to this would seem to be to lower the qualifying standards, but this opens up a different problem, namely that the lower the standard, the easier it will be for marginal or fringe candidates to qualify for millions of taxpayer dollars. Programs that distribute public funds to political candidates for their campaigns face two competing priorities – on the one hand they must try to ensure that only “serious” candidates are able to qualify, while on the other hand they cannot be so restrictive that only incumbents and well-connected candidates are able to participate.

There is no solution to this quandary. The Fair Elections Now Act has clearly come down on the side of high qualifying standards that discourage all but the political elite from participating. This directly contradicts the goal of allowing “all Americans to run for the House

of Representatives [and Senate],” and is likely to spark voter anger.

Building a campaign organization for a non-incumbent candidate that can raise the required Qualifying Contributions and Qualified Small Dollar Contributions will be nearly impossible without the large contributions that candidates typically rely on in the early stages of their campaign. The only viable option for surmounting this hurdle creates its own problems, however – reliance on organized interest groups for fundraising.

The high qualifying standards of the Fair Elections Now Act discourage all but the political elite from participating.

Candidates will become even more reliant on the political establishment and organized interest groups for fundraising

Getting “special interests” out of politics, or at least reducing or eliminating candidates’ reliance on them for their fundraising, is often cited as a key goal of the Fair Elections Now Act and similar programs. But the fact is that candidates are not just encouraged to rely on organized interest groups for fundraising under this program, they are in many situations going to be forced to do so if they expect to have any chance at all of meeting the high qualifying standards, particularly in the case of challengers and outsiders.

Incumbents will typically have the backing of their political party, and can rely on their

assistance to raise the needed funds. Many, however, can be expected to also rely on interest groups to aid them in their fundraising.

Most challengers, however, will not have party backing, as most parties prohibit early endorsements of candidates in which a primary is expected. Instead, challengers or candidates vying for open seats will be forced to turn to interest groups sympathetic to their message and with whom they may already have a relationship. With paid staff, membership lists, access to media, and a ready supply of committed volunteers, such interest groups are tailor-made for candidates needing an already existing organized infrastructure to meet the high qualifying standards for participation in the Fair Elections Now Act.

Given the stated aim of this and similar programs to limit or eliminate the ability of "special interests" to support candidates, it is more than ironic that the actual impact is likely to be the exact opposite – greater, not lesser reliance on organized interest groups for candidate fundraising.

Both of these failures — that the program primarily benefits incumbents and other well-connected candidates, and increases candidate reliance on well-organized interest groups — are certain to decrease, not increase, the public's confidence in their Members of Congress and Senators once they are discovered by the public.

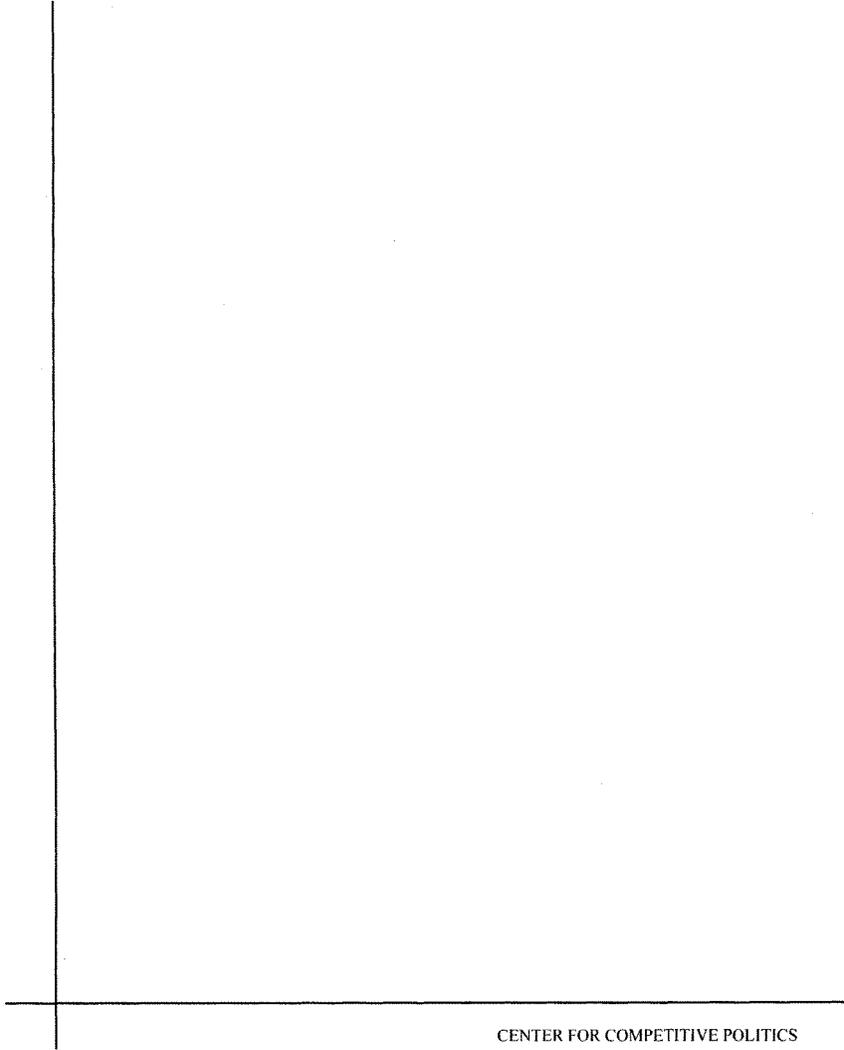
The history of taxpayer funded campaigns is filled

with bold promises of reform and ethical progress. The actual results, however, fall well short of what has been pledged and are likely to make matters worse. For this reason, Congress should be wary of enacting the Fair Elections Now Act of 2009.

**Both of these failures
are certain to decrease,
not increase, the public's
confidence in their Members
of Congress and Senators once
they are discovered by the
public.**

SUMMARY OF CONCLUSIONS

Goal		Conclusion
Change the way elected officials vote?	➔	NO
Increase public confidence?	➔	NO
Encourage political participation?	➔	NO
Reduce influence of large contributions?	➔	NO
Save taxpayer money?	➔	NO
Create opportunities for all Americans to run for Congress?	➔	NO
Increase competition?	➔	UNKNOWN
Encourage participation in political process?	➔	NO
Reduce time candidates spend fundraising?	➔	YES (for incumbents) NO (for outsiders/challengers)



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United States Government Accountability Office

GAO

Report to the Subcommittee on
Financial Services and General
Government, Committee on
Appropriations, U.S. Senate

May 2010

CAMPAIGN FINANCE REFORM

Experiences of Two States That Offered Full Public Funding for Political Candidates





Highlights of GAO-10-390, a report to the Subcommittee on Financial Services and General Government, Committee on Appropriations, U.S. Senate

Why GAO Did This Study

The 2000 elections in Maine and Arizona were the first in the nation's history where candidates seeking state legislative seats had the option to fully fund their campaigns with public moneys. In 2003, GAO reviewed the public financing programs in Maine and Arizona and found the programs' goals were to (1) increase electoral competition; (2) increase voter choice; (3) curb increases in campaign costs; (4) reduce interest group influence; and (5) increase voter participation. GAO reported that while the number of candidates who participated in the programs increased from 2000 to 2002, it was too soon to determine the extent to which these five goals of the programs were being met. Senate Report 110-129 directed GAO to update its 2003 report. This report: (1) provides data on candidate participation and (2) describes changes in five goals of Maine's and Arizona's programs in the 2000 through 2008 elections and the extent to which changes could be attributed to the programs. To address its objectives, GAO analyzed available data about candidate participation, election outcomes, and campaign spending for the 1996 through 2008 legislative elections in both states, reviewed studies, and interviewed 22 candidates and 10 interest group officials selected to reflect a range of views. The interview results are not generalizable to all candidates or all interest groups. GAO is issuing an electronic supplement with this report—GAO-10-391SP—which provides data and summaries of statistical analyses conducted.

View GAO-10-390 or key components. To view the e-supplement online, click on GAO-10-391SP. For more information, contact William O. Jenkins Jr. at (202) 512-8777 or jenkinswo@gao.gov.

May 2010

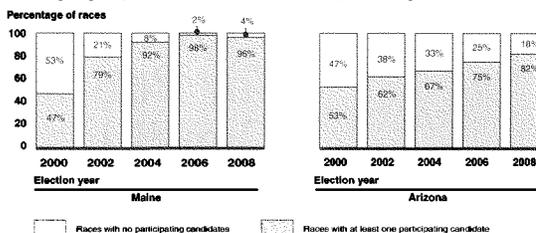
CAMPAIGN FINANCE REFORM

Experiences of Two States That Offered Full Public Funding for Political Candidates

What GAO Found

In Maine and Arizona, legislative candidates' participation in the public financing programs, as measured by the percentage of candidates participating and the proportion of races with a participating candidate, increased from 2000 to 2008. Specifically, the participation rate of candidates in Maine's general elections increased from 33 percent in 2000 to over 80 percent in 2006 and 2008. Meanwhile, the participation rate of candidates in Arizona's general elections increased from 26 percent in 2000 to 64 percent in 2008. Also, the proportion of races with at least one candidate participating in the program generally increased from 2000 through 2008.

Percentage of Legislative Races with at Least One Candidate Participating in the Public Financing Programs, Maine and Arizona General Elections, 2000 through 2008



Source: GAO analysis of Maine and Arizona election results data.

While there was some evidence of statistically significant changes in one of the five goals of Maine's and Arizona's public financing programs, we could not directly attribute these changes to the programs, nor did we find significant changes in the remaining four goals after program implementation. Specifically, there were statistically significant decreases in one measure of electoral competition—the winner's margin of victory—in legislative races in both states. However, GAO could not directly attribute these decreases to the programs due to other factors, such as the popularity of candidates, which affect electoral outcomes. We found no change in two other measures of competition, and there were no observed changes in voter choice—the average number of legislative candidates per district race. In Maine, decreases in average candidate spending in House races were statistically significant, but a state official said this was likely due to reductions in the amounts given to participating candidates in 2008, while average spending in Maine Senate races did not change. In Arizona, average spending has increased in the five elections under the program. There is no indication the programs decreased perceived interest group influence, although some candidates and interest group officials GAO interviewed said campaign tactics changed, such as the timing of campaign spending. Data limitations, including a lack of comparable measures over time, hinder analysis of changes in voter participation.

United States Government Accountability Office

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Abbreviations

ACS	American Community Survey
Arizona's Act	Citizens Clean Elections Act
Connecticut's Act	Campaign Finance Reform Law of 2005
CPS	Current Population Survey
EAC	United States Election Assistance Commission
ELEC	New Jersey Election Law Enforcement Commission
Elections Project	George Mason University's United States Election Project
FEC	Federal Election Commission
GDP	gross domestic product
HAVA	Help America Vote Act
Maine's Act	Maine Clean Election Act
Nonparticipating candidates	candidates who did not participate in the public financing program
Participating candidates	candidates who participated in the public financing program
SE	standard error
SEEC	Connecticut State Elections Enforcement Commission
VAP	voting-age population
VEP	voting-eligible population

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United States Government Accountability Office
Washington, DC 20548

May 28, 2010

The Honorable Richard J. Durbin
Chairman
The Honorable Susan M. Collins
Ranking Member
Subcommittee on Financial Services and General Government
Committee on Appropriations
United States Senate

Public financing of political campaigns is a controversial issue that is viewed by supporters as a means of reducing the influence of money in politics while increasing the involvement of citizens in the political process and seen by opponents as a violation of free speech as well as a misuse of public funds. While public financing of political campaigns at the federal level applies only to presidential elections, some states have taken actions to implement programs to offer public financing intended to fund most campaign costs of candidates for certain state-level political campaigns.¹ The 2000 elections in Maine and Arizona were the first instances in the nation's history where candidates seeking state legislative seats and certain statewide offices had the option to fully fund their campaigns with public moneys.² Under the public financing programs in Maine and Arizona, "participating candidates" qualified for public financing and received a set amount of money for their primary and general election campaigns if they agreed to forgo private fundraising and obtained a minimum number of \$5 donations from individual donors. In addition to their initial distribution of funds, participating candidates received matching funds from public moneys, based on spending by opposing privately financed ("nonparticipating") candidates, who engaged in traditional means, such as conducting fundraisers, to raise money from individuals, corporations, and political action committees. Participating candidates also received matching funds based on an individual's or group's reported independent expenditures, which are expenditures made that benefit an opposing candidate, but without coordination with the benefiting candidate.

¹These funds, in theory, were intended to be sufficient to cover most campaign costs, and these programs are often referred to as full public financing programs.

²Both programs became law through the respective state's ballot-initiative process—Maine's program in 1996 and Arizona's program in 1998.

In 2003, we reviewed the public financing programs in Maine and Arizona³ as mandated in the Bipartisan Campaign Reform Act of 2002.⁴ In our 2003 report, we identified five overarching goals of Maine's and Arizona's public financing programs based on our review of the history of the programs and discussions with officials in each state. Generally, these goals were to (1) increase electoral competition by, among other means, reducing the number of uncontested races (i.e., races with only one candidate per seat in contention); (2) increase voter choice by encouraging more candidates to run for office; (3) curb increases in the cost of campaigns; (4) reduce the influence of interest groups and, thereby, enhance citizens' confidence in government; and (5) increase voter participation (e.g., increase voter turnout for elections).

In 2003, we reported that while the number of legislative candidates who chose to use public financing for their campaigns increased from 2000 to 2002, it was too soon to determine the extent to which the five goals of Maine's and Arizona's public financing programs were being met. We concluded that with only two elections from which to observe legislative races, limited data were available to draw causal linkages to changes, if any, involving electoral competition, voter choice, campaign spending, interest group influence and citizens' confidence in government, and voter participation.

Senate Report 110-129 directed GAO to revisit and update our 2003 report to account for data and experiences of the past two election cycles.⁵ This report

- provides data related to candidate program participation, including the number of legislative candidates who chose to use public funds to run for seats in the 2000 through 2008 elections in Maine and Arizona and the number of races in which at least one legislative candidate ran an election campaign with public funds; and

³GAO, *Campaign Finance Reform: Early Experiences of Two States That Offer Full Public Funding for Political Candidates*, GAO-03-453 (Washington, D.C.: May 9, 2003).

⁴Pub. L. No. 107-155, 116 Stat. 81 (2002).

⁵S. Rep. No. 110-129, at 73 (2007). Since the Senate Report was issued in 2007, the report language referred to the past two election cycles, 2004 and 2006. However, due to the timing of our work, we included the past three election cycles in our report—the 2004, 2006, and 2008 election cycles.

-
- describes statistically measurable changes and perceptions of changes in the 2000 through 2008 state legislative elections in five goals of Maine's and Arizona's public financing programs—(1) increasing electoral competition; (2) increasing voter choice; (3) curbing increases in the cost of campaigns; (4) reducing the influence of interest groups and enhance citizens' confidence in government; and (5) increasing voter participation—and the extent to which these changes could be attributed to the programs.

To address our objectives, we reviewed relevant studies and reports and interviewed researchers regarding state elections and campaign finance reform in the United States generally, as well as in Maine and Arizona specifically.⁶ A listing of the research and reports we reviewed is included in the bibliography. We reviewed pertinent statutes and documents, such as candidate handbooks and annual reports describing the Maine and Arizona public financing programs and interviewed state election officials responsible for administering the two programs. Through our discussions with Maine and Arizona state officials and our review of changes to the public financing statutes in both states from 2002 through 2009, we determined that the five goals of the public financing programs, as set out in our 2003 report, have not changed.⁷ In addition, based on our review of the literature and discussions with researchers, we concluded that there is little agreement on a standardized methodology to measure these five goals. Thus, we used many of the same measures as those in our 2003 report.⁸

We obtained data from Maine's and Arizona's Offices of the Secretary of State, the agencies responsible for supervising and administering state elections and activities, such as certifying state candidates for the ballot and tabulating official election results. We also obtained data from Maine's Commission on Governmental Ethics and Election Practices and Arizona's Citizens Clean Elections Commission, the agencies responsible for

⁶Specifically, we interviewed nine researchers who have published relevant work on public financing or state legislatures, whom we selected based on our review of the literature and suggestions from state officials in Maine and Arizona and other researchers. We interviewed researchers to, among other things, obtain information about the methods and approaches they used to study public financing programs or electoral outcomes.

⁷There may be other goals of public financing programs, such as increasing the amount of time candidates spend with constituents. However, we did not measure or assess these goals as we focused our review on revisiting the five goals identified in our 2003 report.

⁸For more information about our 2003 report, please see GAO-03-453. Additional discussion about the measures we used for this report is included in app. 1.

administering the respective state's public financing program. For both states we analyzed, to the extent possible, available statistical data about the 1996 through 2008 legislative elections, including data related to candidate program participation, election outcomes, voter choice, and reported campaign spending.⁹ To assess the reliability of both states' data, we (1) performed electronic testing for obvious errors in accuracy and completeness; (2) reviewed related documentation such as system flow charts; and (3) worked closely with state officials to identify any data problems. When we found discrepancies, such as nonpopulated fields, we brought this to the states' attention and worked with state officials to correct the discrepancies before conducting our analyses. We determined that the data were sufficiently reliable for the purposes of our report. Although the public financing programs in Maine and Arizona cover both legislative and certain statewide offices, we limited the scope of our review to legislative candidates, since most of the elections for certain statewide offices¹⁰ occurred every 4 years and sufficient data would not have been available to conduct our analyses and draw conclusions.

To assess changes in electoral competition in Maine and Arizona, we examined changes in three measures of electoral competition in state legislative races by comparing the two elections before public financing became available (1996 and 1998) to the five elections after public financing became available (2000, 2002, 2004, 2006, and 2008). The three measures we used were: (1) winner's margin of victory, which refers to the difference between the percentage of the vote going to the winning candidate and the first runner up; (2) percentages of contested races, which refers to the percentage of all races with at least one more candidate running than the number of positions available; and (3) incumbent reelection rates, which refers to the percentage of incumbents who were reelected in races that were contested.

In addition to analyzing changes in electoral competition over time in Maine and Arizona, we analyzed general election data from 1996 through 2008 from four comparison states that did not offer public financing

⁹We analyzed data from 1996 through 2008 to compare two elections before public financing became available (1996 and 1998) to the five elections after public financing became available (2000, 2002, 2004, 2006, and 2008).

¹⁰In Maine, public financing is available for candidates for state legislative offices and governor. In Arizona, public financing is available for candidates running for the following statewide offices: legislature, governor, secretary of state, attorney general, state treasurer, superintendent of public instruction, state mine inspector, and corporation commissioners.

programs for legislative candidates to determine if changes identified in Maine and Arizona were similar to or different from changes observed in the four comparison states during the same time period. We selected these four states (Colorado, Connecticut, Montana, and South Dakota) based on a number of factors, including geographic proximity to Maine or Arizona; structure of the state legislature, such as legislative districts with more than one representative; demographic characteristics; the presence of legislative term limits; and data availability.¹¹ Specifically, we used two types of multivariate statistical models, fixed effects regression and hierarchical loglinear models, to evaluate how the competitiveness of races in Maine and Arizona changed after the implementation of public financing programs.¹² Additional information about the two types of models we used to evaluate electoral competition, as well as other data and analyses related to the extent to which five goals of Maine's and Arizona's public financing programs were met can be viewed in an electronic supplement we are issuing concurrent with this report—GAO-10-391SP.

With regard to the campaign spending goal, we obtained available campaign spending and independent expenditure data from Maine and Arizona. We found that Maine's campaign spending data for the 1996 through 2008 election cycles and independent expenditure data for the 2000 through 2008 election cycles were sufficiently reliable. Due, in part, to several upgrades to Arizona's campaign finance data systems over the time period reviewed, we found that Arizona's campaign spending data for the 2000 through 2008 election cycles and independent expenditure data for the 2008 election cycle were sufficiently reliable with limitations as noted. For example, up to the 2008 election, Arizona's campaign spending database did not include precise data to identify and link each candidate

¹¹The comparison states for Maine were South Dakota, Montana, and Connecticut, and the comparison states for Arizona were South Dakota, Montana, and Colorado. Connecticut's 2008 election results were not included in our analyses since public financing for legislative candidates became available for the first time in the 2008 election cycle and were not comparable.

¹²Fixed effects models compare how an outcome changes over time within states or legislative districts, in our case. Fixed effects models allow us to conclude that differences between states or districts at one point in time, such as laws, could not have affected the outcomes. We can rule out these factors because we only compare how the outcomes change within one state or district versus another, not how the outcomes differ at one time. Hierarchical loglinear regression models involve comparing the relative fit of simpler models with more complex models for the purpose of determining which factors do and do not have significant direct or indirect (i.e., interactive) effects on the outcomes of interest.

to his or her campaign finance committee(s), the entities responsible for reporting candidates' contributions and spending.¹³ Further, the candidates' campaign finance committees can span several election cycles and include spending reports for races for the same or different offices, such as House or Senate. Thus, to the extent possible, we matched candidates and candidate campaign finance committees through electronic and manual means, identified and calculated relevant candidate spending transactions, and sorted the data by election cycle dates. Further, although the Arizona Secretary of State's office collected independent expenditure data from 2000 through 2008, it did not collect data on the intended beneficiaries of independent expenditures until the 2008 election cycle. Therefore, we limited our analysis of independent expenditures to the 2008 elections. We worked with state officials responsible for the public financing programs and campaign finance data systems in Maine and Arizona to develop our methodology.

To obtain perspectives on the effects of public financing on interest group influence and citizens' confidence in government, we interviewed a nonprobability sample of 22 candidates who ran in the 2008 state legislative races in Maine and Arizona. We selected these candidates to reflect a range of those with different political party affiliations, those who did and did not use public financing, and those who won or lost in primary and general elections in Maine and Arizona. Further, we interviewed a nonprobability sample of 10 interest group representatives in Maine and Arizona, which we selected to reflect a variety of industry sectors, such as communications or construction, and range of contributions made to political campaigns. While the results of these interviews cannot be generalized to reflect the views of all candidates or all interest groups in Maine and Arizona, the interviews provided us with an overview of the range of perspectives on the effects of the public financing programs. We also contracted with professional pollsters to survey representative

¹³For example, data from Arizona's campaign finance reports identify the candidate committee number and name of the committee, such as "Smith for State Senator," but not the individual candidate by name, such as "John Smith," or candidate number assigned by the Secretary of State.

samples of voting-age citizens in Maine and Arizona about their views of interest group influence and confidence in government.¹⁴

To examine changes in voter participation, we reviewed information about voter turnout data from the Census Bureau, Federal Election Commission, United States Election Assistance Commission (EAC), the American National Election Studies, and other resources, including two repositories of elections data and information—George Mason University's United States Election Project (the Elections Project) and the Center for the Study of the American Electorate.¹⁵ We identified these sources through our review of the literature and through discussions with researchers. To determine the extent to which changes in voter participation could be assessed over time, we reviewed documentation and research on these potential data sources, including information on collection and measurement of the voting-age or voting-eligible population and the type of turnout recorded. Finally, we examined data and methodologies for measuring changes in voter turnout and other forms of participation to determine whether changes in participation could be analyzed at the state level. We found that the different data sources required to calculate changes in turnout are not always comparable across sources and over time because of differences in the way that data are collected or changes in how turnout is defined. As such, there was no need to conduct electronic testing to further assess the reliability of the data for our purposes. This does not indicate that the data are unreliable for other purposes. We also discussed voter turnout calculations with state officials and researchers. Appendix I presents more details about our objectives, scope, and methodology.

We conducted this performance audit from November 2008 through May 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to

¹⁴We contracted with professional pollsters to obtain the views of representative samples of voting-age citizens in Maine and Arizona. This polling effort, which duplicated questions asked for our 2003 report, was designed to obtain citizenry views about the effect of the public financing program on the influence of interest groups and citizens' confidence in government. For our analysis, we included those respondents who said they knew a lot, some, or a little about the public financing law.

¹⁵Voter turnout is generally defined as the percentage of the voting-age population (VAP) or voting-eligible population (VEP) (voting-age citizens who are not statutorily disqualified from voting) who cast a ballot in an election. These sources collect or compile information on VAP, VEP, voter registration, ballots cast or counted, or self-reported voting behavior.

obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Public Financing Programs in Maine and Arizona

In November 1996, Maine voters approved a citizen's initiative—the Maine Clean Election Act (Maine's Act)—establishing a full public financing program to fund with public moneys the campaigns of participating candidates for the state legislature and governor.¹⁶ Similarly, in November 1998, Arizona voters passed the Citizens Clean Elections Act (Arizona's Act), establishing a full public financing program for participating candidates for the state legislature and various statewide offices, such as governor or secretary of state.¹⁷ Maine's Commission on Governmental Ethics and Election Practices and Arizona's Citizens Clean Elections Commission administer the respective state's public financing program, including certifying that candidates have met qualifications for receiving public funds.

Legislative candidates¹⁸ who wish to participate in the respective public financing programs must be certified as a participating candidate. Certified candidates, among other things must (1) forgo self-financing and all private contributions, except for a limited amount of "seed money" prior to certification,¹⁹ and (2) demonstrate citizen support by collecting a

¹⁶Maine Clean Election Act, 21-A.M.R.S. § 1121 *et seq.*

¹⁷Arizona Citizens Clean Elections Act, A.R.S. § 16-940 *et seq.*

¹⁸Unless indicated otherwise, references in this report to legislative candidates refer to state legislative (House of Representatives or Senate) candidates.

¹⁹Seed money refers to contributions received by candidates to help with the qualifying process prior to certification. In the Maine 2008 elections, House candidates were allowed to accept private donations of no more than \$100 per individual with a cap of total seed money contributions of \$500. For Senate candidates, individual contributions were limited to \$100 with a cap of total seed money of \$1,500. In Arizona, these contributions are known as "early contributions," and the base amounts are established by statutory formula and adjusted for inflation every 2 years. The adjusted amount of early contributions for Arizona's 2008 House and Senate candidates was limited to \$130 per individual and a cap of total early contributions per candidate of \$3,320.

minimum number of \$5 contributions from registered voters.²⁰ After being certified by the state as having met qualifying requirements, participating candidates receive initial distributions (predetermined amounts) of public funding and are also eligible for additional matching funds from public moneys based on spending by or for privately funded opponents. These matching funds, up to predetermined limits, are given to participating candidates when an opposing nonparticipating candidate exceeds the initial distribution of funds provided to the participating candidate during the primary or general election.²¹ Table 1 shows the public funding available to each participating candidate in the 2008 election cycle in Maine and Arizona. The calculation to assess whether matching funds for participating candidates are triggered is to include reported independent expenditures²² that, in general, are made on behalf of a nonparticipating or another participating candidate in the race by individuals, corporations, political action committees, or other groups.

²⁰In Maine, House candidates needed to collect a minimum of 50 \$5 contributions, and Senate candidates needed to collect a minimum of 150 \$5 contributions to qualify for public financing for the 2008 elections. In Arizona, both House and Senate candidates needed to collect a minimum of 220 \$5 contributions to qualify for public financing for the 2008 elections. In both states, the \$5 contributions are deposited in the respective states' clean elections fund.

²¹A January 20, 2010, federal district court ruling (*McComish v. Brewer*, 2010 U.S. Dist. LEXIS 4932 (D. Ariz. Jan. 20, 2010)) held Arizona's Citizens Clean Elections Act to be unconstitutional. More specifically, the U.S. District Court for the District of Arizona held that the matching funds provision of Arizona's Citizens Clean Election Act burdens the plaintiff's First Amendment rights, is not supported by a compelling state interest, is not narrowly tailored, is not the least restrictive alternative, and is not severable from the rest of the statute thereby rendering the whole statute unconstitutional. On May 21, 2010, the U.S. Court of Appeals for the Ninth Circuit reversed the district court ruling on the basis that the matching funds provision imposes only a minimal burden on First Amendment rights, and bears a substantial relationship to the state's interest in reducing political corruption. (2010 U.S. App. LEXIS 10442 (9th Cir. Ariz. May 21, 2010)).

²²Of note, in relation to independent expenditures, a January 21, 2010, Supreme Court decision (*Citizens United v. Federal Election Commission*, 558 U.S. (2010), 2010 U.S. LEXIS 766 (Jan. 21, 2010)), held that a prohibition in federal campaign finance law on corporate or union independent expenditures for speech that is an "electioneering communication" or that expressly advocates the election or defeat of a candidate, is an unconstitutional infringement upon the First Amendment's freedom of speech protections.

Table 1: Public Funding Available to Each Participating Candidate in the 2008 Election Cycle in Maine and Arizona

Dollars							
Type of race		Primary election			General election		
		Initial distribution	Maximum allowable matching funds	Total maximum allowable public funds	Initial distribution	Maximum allowable matching funds	Total maximum allowable public funds
Maine							
House of Representatives	Contested	\$1,504	\$3,008	\$4,512	\$4,144	\$8,288	\$12,432
	Uncontested	512	0	512	1,658	0	1,658
Senate	Contested	7,746	15,492	23,238	19,078	38,156	57,234
	Uncontested	1,927	0	1,927	7,631	0	7,631
Arizona							
House of Representatives	Contested	12,921	25,842	38,763	19,382	38,764	58,146
	Uncontested	*	*	*	*	*	*
Senate	Contested	12,921	25,842	38,763	19,382	38,764	58,146
	Uncontested	*	*	*	*	*	*

Source: GAO analysis of Maine and Arizona public financing laws and state data.

Note: A contested race is a race with more than one candidate per seat in contention.

*In Arizona, candidates in uncontested House and Senate races are only to receive an amount equal to the qualifying contributions for that candidate.

Various revenue sources are used to support the public financing programs. In Maine, state appropriations were the largest funding source, contributing 82 percent of total revenue in 2008. In Arizona, a surcharge on civil and criminal fines and penalties was the largest funding source, accounting for 59 percent of total revenue in 2008. In addition, funding for public financing programs comes from state income tax checkoff donations in both states. During the 2008 primary and general elections, participating legislative candidates in Maine received a total of almost \$3 million, and participating legislative candidates in Arizona received a total of about \$6 million.

Before the passage of Maine's Act in 1996 and Arizona's Act in 1998, political campaigns in the two states were financed completely with private funds. There were no limitations placed on expenditures by candidates from their personal wealth. Under Maine's and Arizona's public financing laws, nonparticipating candidates are not limited in the amount they may spend from their personal financial resources on their own campaigns. While not faced with limits on the total amount of money that they can raise or spend, nonparticipating candidates are subject to certain

limitations on the amount that an individual, corporation, or political committee can contribute to the campaigns of nonparticipating candidates, and nonparticipating candidates have additional reporting requirements. For example, in Maine, a nonparticipating candidate in the 2008 legislative elections could accept individual contributions of up to \$250 per election, and in Arizona, a nonparticipating candidate could accept individual contributions of up to \$488 per election. In both states, nonparticipating candidates must file certain reports with the state when their campaigns exceed certain statutory thresholds relating to, for example, expenditures or contributions.²³ Appendix II provides information about the design and implementation of Maine's and Arizona's public financing programs.

Perspectives on the Five Goals of Public Financing Programs in Maine and Arizona

While there is widespread agreement among researchers and state officials in Maine and Arizona with the goals of the public financing programs, there is little consensus about how to assess progress toward these goals and the effects of these programs. For example, research on the effects of state public financing programs in general has been limited because the programs vary widely and were implemented at different times, hindering comparability.²⁴ With regard to Maine's and Arizona's public financing programs, research tends to be limited to a single state or a limited number of years, or produced by groups that support or oppose public financing.²⁵ Thus, in revisiting our 2003 report, we describe the five goals of the public financing programs and include a discussion of proponents' and opponents' views on the effects of these programs.

²³In Maine, a nonparticipating candidate must notify the Maine Commission on Governmental Ethics and Election Practices when his or her receipts, spending, or obligations exceed the commission's initial allocation of public funds to a participating candidate. In Arizona, a nonparticipating candidate opposed by a participating candidate must, in general, file a report if the campaign's expenditures before the primary election have exceeded 70 percent of the original primary election spending limit imposed on a participating opponent or if the contributions to a nonparticipating candidate have exceeded 70 percent of the participating candidate's original general election spending limit.

²⁴R. Sam Garrett, *Public Financing of Congressional Campaigns: Overview and Analysis*, RL33814 (Congressional Research Service, July 24, 2009), 42.

²⁵Donald A. Gross, Robert K. Goidei, and Todd G. Shields. "State Campaign Finance Regulations and Electoral Competition," *American Politics Research*, vol. 30, no. 2 (March 2002).

Increase Electoral Competition	<p>One goal of the public financing programs in Maine and Arizona was to increase electoral competition, which refers to the level of competition for elected positions as demonstrated by whether races were contested (that is, involved more candidates than available positions) and by the percentage of the vote candidates received. For example, levels of electoral competition can vary from none at all in the case of an uncontested race, in which the sole candidate receives 100 percent of the vote (less any write-in votes), to an election in which several candidates vie competitively for a position, each winning a significant portion of the votes. Proponents of public financing for campaigns contended that public funding could increase electoral competition by allowing candidates, especially candidates challenging incumbents, to overcome the financial hurdles that would otherwise prevent them from entering a race. Further, proponents argued that public financing promotes competition by giving more candidates the opportunity to effectively communicate with the electorate once they have entered the race. Additionally, some proponents asserted that increasing the pool of challengers would also increase the diversity of the candidate pool and consequently make some races more competitive by offering candidates that appeal to a broader range of voters. On the other hand, opponents asserted that public financing does not necessarily attract candidates who have a broad base of constituency support and therefore, even though more new candidates may enter races and win, the quality of representation these candidates offer may be questionable.</p>
Increase Voter Choice	<p>Increasing voter choice, as measured by changes in the number of candidates per race and changes in the breadth of political party affiliations, such as third-party and independent candidates, represented in races, was a goal of public financing programs. Proponents of the public financing programs in Maine and Arizona contended that public funding of campaigns would encourage more individuals to run for office, thereby giving voters more choices on the ballot. Opponents asserted that an increase in the number of candidates on the ballot alone would not necessarily result in a more diverse selection of candidates, representation of a wider range of political views, or the guarantee that a broader array of issues would be debated in campaigns.</p>
Curb Increases in the Cost of Campaigns	<p>The public financing programs in Maine and Arizona each were designed to have a two-pronged approach for the third goal—curbing increases in the costs of campaign spending. Each program</p> <ul style="list-style-type: none"><li data-bbox="670 1409 1232 1444">• imposed spending limits and certain other requirements on candidates who chose to participate in the public financing program, and

-
- reduced the total amount of money that nonparticipating candidates were allowed to accept from each campaign contributor.

Proponents of the public financing programs in Maine and Arizona contended that escalating campaign costs helped deter candidates from running for office. The intended outcome of this approach was to lower the cost of running for office by reducing and capping the amount of money available for campaign spending. Opponents argued that worthy candidates will garner public support and therefore do not need public financing to run their campaigns. Opponents also cited concerns that rising campaign costs are overstated and that most campaign fundraising comes from individuals who give less than the legal limit.

Reduce the Influence of Interest Groups

A fourth goal of the public financing programs in Maine and Arizona was to enhance the confidence of citizens in government by reducing the influence of interest groups in the political process. The public financing programs in Maine and Arizona imposed campaign contribution limits on participating candidates and reduced the need for participating candidates to raise funds from private donors, such as interest groups, with the intent of eliminating any undue influence, or the perception of influence, large campaign contributors may have on participating candidates. For instance, the "findings and declarations" section of Arizona's 1998 Act stated, among other things, that the then current election-financing system "effectively suppresses the voices and influence of the vast majority of Arizona citizens in favor of a small number of wealthy special interests" and "undermines public confidence in the integrity of public officials." From an overall perspective, proponents asserted that public financing programs should enhance the confidence of citizens in government by increasing the integrity of the political process and the accountability of officials.

On the other hand, opponents asserted that, under the traditional campaign financing system, the voices of citizens are represented through competing interest groups. Opponents further asserted there is no evidence that government-financed campaigns attract more worthy candidates than do the traditional system or that, once elected, the publicly financed candidates vote any differently as legislators than do traditionally financed candidates. Moreover, some opponents argued that interest groups can still assert influence on the political process through means other than contributing directly to candidates' political campaigns, such as contributions to political parties, independent expenditures on behalf of or for opposing candidates, as well as providing nonfinancial resources such as mobilizing members to volunteer for grassroots activities.

Increase Voter Participation

Increasing voter participation, as indicated by increases in voter turnout, was the fifth goal of public financing programs in Maine and Arizona. Proponents asserted that public financing increases voter participation by encouraging citizens to become involved in the political process and by increasing electoral competition. Proponents contended that the public financing programs increase communication between candidates and voters and encourage participating candidates or volunteers to go door-to-door to meet with voters and to collect \$5 qualifying contributions. As a result, citizens would feel more involved in the political process and would be more likely to vote in legislative elections. Further, proponents argued that increased competition resulting from public financing would also increase voter turnout because more voters would be attracted by a more diverse set of candidates. Opponents stated that research on public financing programs and their effect on voter turnout is limited or anecdotal, and there is no evidence that citizens will become more engaged in the political process and be more likely to vote. Further, opponents cited the declining number of taxpayers who voluntarily provide contributions to the presidential and state public financing programs on their income tax forms as a reflection of the public's waning participation and support.

Other States with Public Financing Programs

Since the 1970s, states and localities have offered a variety of programs providing public funds directly to candidates' campaigns for statewide and legislative races. A July 2009 Congressional Research Service report identified 16 states offering direct public funding to candidates using two major types of public financing frameworks.²⁶ According to this report, 10 of these states offered public financing programs that were primarily designed to match candidates' private campaign contributions, thereby reducing the need for private fundraising.²⁷ These programs varied widely, but generally the amount of public funds candidates received in this type of program depended on the amount the candidates raised and provided partial funding for candidates' campaigns. Seven of these 16 states, including Maine and Arizona, offered full public financing programs for

²⁶Garrett, *Public Financing of Congressional Campaigns: Overview and Analysis*. This report noted that the number of states offering "public financing" depends on how the term is defined and whether assistance to candidates or candidates and political parties are included.

²⁷The 10 states offering partial public financing of candidates' campaigns are: Hawaii, Florida, Nebraska, Maryland, Massachusetts, Michigan, Minnesota, New Jersey (gubernatorial campaigns), Rhode Island, and Wisconsin.

certain offices that provided fixed subsidies to candidates once they met basic qualifications.²⁸ During the 2007 and 2008 election cycle, these 7 states offered full public financing programs for candidates running for those statewide and legislative offices shown in table 2.

Table 2: States Offering Full Public Financing Programs during the 2007 and 2008 Election Cycle

State	Offices for which candidates were eligible to receive full public funding
Maine	Governor and all legislative offices
Arizona	Governor, secretary of state, attorney general, treasurer, superintendent of public instruction, corporation commissioner, mine inspector, and all legislative offices
Connecticut	All legislative offices
New Jersey	Senate and General Assembly members in three legislative districts (14, 24, and 37), general election (pilot program)
New Mexico	Public regulation commission and statewide judicial offices
North Carolina	State appellate and Supreme Court judicial offices, auditor, superintendent of public instruction, and insurance commissioner
Vermont	Governor and lieutenant governor

Source: GAO analysis of state laws.

Appendix III describes full public financing programs available in the 2007 and 2008 legislative elections in the two states other than Maine and Arizona that offer them—Connecticut and New Jersey.

Public Financing Proposals at the Federal Level

In nearly every session since 1956, Congress has considered legislation for public financing of congressional elections, although no law has been enacted. There are several bills pending in the current 111th session of Congress addressing public financing of congressional elections. Two of these are companion bills (H.R. 1826 and S.752) respectively addressing elections to the House of Representatives and the Senate by proposing voluntary public funding systems with a mix of predetermined funding amounts, matching funds, and vouchers for the purchase of airtime on broadcast stations for political advertisements.²⁹ Two other bills propose

²⁸Full public financing programs are also known as “clean money, clean elections” programs, which is also a national initiative developed by the interest group Public Campaign.

²⁹H.R. 1826 and S. 752 (both entitled “Fair Elections Now Act”) would not impose spending limits on participants, provided that their private fundraising, in general, was limited to contributions of no more than either \$100 per election per individual or an amount determined by the legislation’s implementing entity.

variations for funding House elections—H.R. 2056 proposes a voluntary public funding system for House elections, and H.R. 158 proposes a grant system to exclusively fully fund House campaigns during general elections.³⁰ In July 2009 the House Administration Committee held hearings on H.R. 1826.³¹ These bills were referred to committees in 2009 and as of April 2010 were pending.

Factors Influencing Effects of Public Financing Programs and Elections

Many factors, such as the popularity and experience of the candidates, can influence the competitiveness and outcomes of elections and the interpretation of the effects of public financing programs. For example, term limits—limits on the number of terms elected officials such as legislators can serve—and redistricting—the redrawing of state electoral boundaries such as those for legislative districts in response to the decennial census—are factors that complicate the interpretation of available data. Other factors not directly related to public or private financing can also affect electoral campaigns and outcomes, such as economic conditions or particularly controversial ballot initiatives.

Legislative Candidates' Participation in Public Financing Programs in Maine and Arizona Increased from 2000 to 2008; Limited Data on Candidates Are Available

In Maine and Arizona, legislative candidates' participation in the public financing programs (measured by the percentage of candidates participating and the proportion of races with a participating candidate) increased from 2000 to 2008; although limited data on candidates' characteristics are available. Specifically, Maine candidates' participation rates more than doubled in the primary and general elections from 2000 to 2004 and remained high through 2008 (over 70 percent); among incumbents, the majority participated from 2002 through 2008; and more Democrats (rather than Republicans) participated. In Maine, participating candidates were more likely to win their races. In Arizona, candidates' participation rates more than doubled in the primary and general elections from 2000 to 2008, with higher percentages of challengers (rather than incumbents) and Democrats (rather than Republicans) participating. In Arizona, nonparticipating candidates were more likely to win their races

³⁰H.R. 158 (Let the Public Decide Clean Campaign Act) would mandate public financing during House general elections by, in general, prohibiting candidate spending other than from a proposed public financing fund, which would provide grants to candidates or under provisions authorizing certain contributions from state and national party committees.

³¹After the Committee on House Administration's July 2009 hearing on H.R. 1826, the bill was referred to the House Energy and Commerce Committee and the House Ways and Means Committee.

than were participating candidates. Other than incumbency status and political party affiliation, states did not maintain data that would allow us to assess candidates' characteristics, such as their experience or demographic characteristics.

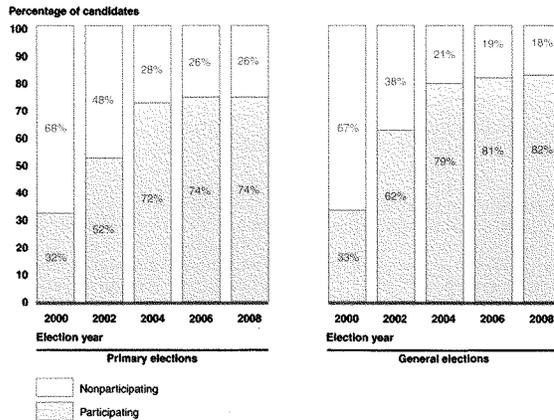
**Maine Legislative
Candidates' Participation
Increased from 2000 to
2008**

**Maine Legislative Candidates'
Participation Rates More Than
Doubled in the Primary and
General Elections from 2000 to
2004 and Remained High
through 2008**

The participation rate of legislative candidates (i.e., percentage of legislative candidates participating in the public financing program) in Maine's primary elections more than doubled in the first three election cycles after public financing became available.³³ As shown in figure 1, the participation rate increased from 32 percent in 2000 to 72 percent in 2004 and remained over 70 percent from 2004 to 2008. Similarly, the participation rate of legislative candidates in Maine's general elections more than doubled from 33 percent in 2000 to 79 percent in 2004 and then remained over 80 percent for the 2006 and 2008 elections.

³³Maine's state legislature consists of 151 seats in the House of Representatives and 35 seats in the Senate. Members in all 186 legislative seats serve 2-year terms. Thus, in primary and general elections, which are held biannually (i.e., in each even-numbered year), all legislative seats are on the ballot.

Figure 1: Legislative Candidates' Participation in Maine's Public Financing Program in the Primary and General Elections, 2000 through 2008



Source: GAO analysis of Maine election results data.

Note: We excluded candidates who received zero votes and write-in candidates whose names did not appear on the ballot. The number of Maine legislative candidates who ran in the primary election each year was: 369 candidates in 2000, 400 candidates in 2002, 429 candidates in 2004, 410 candidates in 2006, and 402 candidates in 2008. The number of Maine legislative candidates who ran in the general election each year was: 350 candidates in 2000, 370 candidates in 2002, 391 candidates in 2004, 367 candidates in 2006, and 369 candidates in 2008.

Maine Candidates Cited a Range of Reasons Why They Chose to Participate or Not Participate in the Public Financing Program

When asked the main reasons for choosing to run their campaign with or without public funds in the 2008 election, the 11 candidates we interviewed in Maine offered a range of reasons why they chose to participate or not participate in the public financing program. Five of the 6 participating candidates cited difficulties associated with raising enough private funds to run a competitive campaign. Among the difficulties mentioned were the amount of time and energy required to fundraise, as well as the amount of funds needed to compete with a well-financed opponent. In addition, 4 of the 6 participating candidates said that participating in the public financing program allowed them to spend more time focusing on communicating with voters. For example, one candidate said that participating in the public financing program freed him up so he could focus on meeting with constituents and learning what issues were

important to them, rather than having to spend his time asking for money. Further, 3 of the 6 participating candidates said that they wanted to be free of the influence of interest groups or other campaign contributors, and 2 of these candidates felt that it was strategically advantageous to participate in the public financing program. One of these candidates explained that he did not want to have to spend time raising funds while his opponent could use the time to campaign and still receive the same amount of money. We also asked candidates about specific factors they may have considered when choosing to run their campaign with public funds. Table 3 presents the number of participating candidates who said that they had considered each of the following factors when they decided to participate in the public financing program.

Table 3: Factors Maine Candidates Reported Considering When Deciding to Participate in the Public Financing Program in the 2008 Elections

GAO interview question: Were any of the following factors considerations when you chose to participate in the public financing program in the 2008 election?	Number of participating candidates
You did not want to feel obligated to special interest groups or lobbyists.	5
Receiving public funds allowed you to spend more time discussing issues.	4
You believe that the public financing program promotes the accountability of legislators to the public.	4
Other than collecting "seed money" and the \$5 contributions, you are opposed to traditional methods of funding election campaigns.	3
The matching funds provision of the program discouraged opponents, special interest groups, and lobbyists from campaigning against you.	3
You did not think you would be able to raise enough funds through traditional means to run a competitive campaign.	2
You ran with public funding due to particular circumstances in your district; however, you still have strong reservations about supporting the overall goals of the public financing program.	2

Source: GAO analysis of candidate interview responses.

Note: We interviewed 6 participating candidates in Maine. Candidates could select more than one response.

The 5 nonparticipating candidates we interviewed in Maine most frequently mentioned opposition to using public funds for election campaigns as one of the main reasons they chose not to participate in the public financing program in 2008. For example, 4 of the 5 nonparticipating candidates said they were opposed to public financing of elections for a range of reasons, including concern over the state's fiscal situation. One nonparticipating candidate said he chose not to participate because he did not want restrictions on how he ran his campaign. He explained that he had more flexibility with private funds and could donate excess campaign funds to nonprofit organizations after the election. In addition, one

candidate told us that he was not opposed to the public financing program, but did not participate because he did not intend to run a campaign and anticipated that another candidate would take his place before the general election.³³ We also asked the 5 nonparticipating candidates if they considered any of the factors listed in table 4 when they chose not to participate in the public financing program; their responses appear alongside each factor in the table.

Table 4: Factors Maine Candidates Reported Considering When Deciding Not to Participate in the Public Financing Program in the 2008 Elections

GAO interview question: Were any of the following factors considerations when you chose not to participate in the public financing program in the 2008 election?	Number of nonparticipating candidates
You believe that public funds are better used for purposes other than election campaigns.	5
You are opposed to public funding of election campaigns.	4
You believe that the public funding forces taxpayers to fund candidates they may not support.	4
You believe that the use of public funds adds burdensome reporting requirements to election campaigns.	2
You did not want restrictions on your campaign spending.	2
You had sufficient funds without using public funds.	2
You are opposed to specific provisions of the public financing program.	2
You did not want to learn a new campaign finance system.	0

Source: GAO analysis of candidate interview responses.

Note: We interviewed 5 nonparticipating candidates in Maine. Candidates could select more than one response.

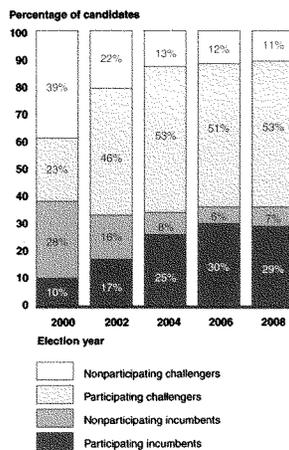
³³Under Maine law, candidates may withdraw from an election and under certain conditions another candidate may be nominated by a political committee to replace that candidate on the ballot.

**The Majority of Incumbents in
Maine Participated in the
Public Financing Program from
2002 through 2008**

Incumbent candidates' participation in the public financing program in general elections in Maine generally increased from 2000 to 2008, with the majority of incumbent candidates participating in the program from 2002 through 2008.³⁴ As shown in figure 2, participating incumbent candidates, as a percentage of all candidates, increased from 10 percent in 2000 to 29 percent in 2008.

³⁴In our analyses of Maine and Arizona election results data, we defined an incumbent as a candidate who held the seat from the previous legislative session in the same chamber. We defined a challenger as any candidate who was not an incumbent, regardless of whether he or she faced an opponent.

Figure 2: Public Financing Program Participation and Incumbency Status in Maine General Elections, 2000 through 2008



Source: GAO analysis of Maine election results data.

Note: We define incumbents as candidates who held a seat from the previous legislative session in the same chamber. Challengers are defined as any candidates who are not incumbents, regardless of whether they faced an opponent in their race. We excluded candidates who received zero votes and write-in candidates whose names did not appear on the ballot. The total number of legislative candidates per general election per year was: 350 candidates in 2000, 370 candidates in 2002, 391 candidates in 2004, 387 candidates in 2006, and 369 candidates in 2008. Percentages may not add to 100 due to rounding.

Further, the percentage of participating incumbents grew from 27 percent of incumbent candidates in 2000 to 80 percent of incumbent candidates in 2008.

Participating Candidates in Maine Were Generally More Likely to Win

Participating incumbents and challengers in Maine's legislative races were generally slightly more likely to win than nonparticipating incumbents and challengers who ran in general elections held from 2000 through 2008, as shown in table 5.

Table 5: Percentage of Winning Legislative Candidates by Participation and Incumbent Status in Maine General Elections, 2000 through 2008

Type of candidate	Election year	Participating candidates		Nonparticipating candidates	
		Number	Percent who won ^a	Number	Percent who won ^a
Challengers ^b	2000	80	34%	136	25%
	2002	169	33	81	32
	2004	209	28	51	26
	2006	198	25	48	19
	2008	195	30	39	8
Incumbents ^c	2000	36	97	98	92
	2002	62	89	58	85
	2004	99	88	32	88
	2006	116	91	25	84
	2008	108	93	27	93

Source: GAO analysis of Maine election results data.

Notes: Although there are differences in the percentages of participating and nonparticipating candidates, the information in this table does not provide evidence that program participation influences an individual candidate's likelihood of winning.

^aIndicates the percentage of candidates within the category who won their election. For example, in the 2000 general election, of the 80 participating candidates who were challengers, 34 percent, or 27 participating challenger candidates, won, and the remaining 66 percent, or 53 participating challenger candidates, lost.

^bChallengers are defined as any candidates who are not incumbents, regardless of whether they faced an opponent in their race.

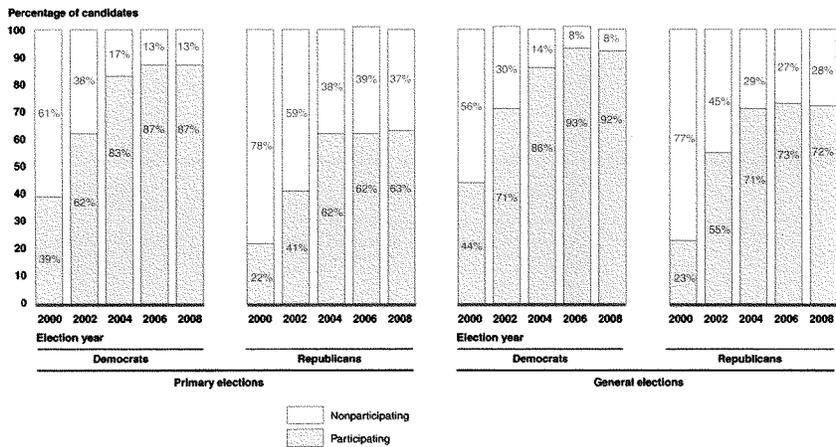
^cIncumbents are defined as candidates who held a seat from the previous legislative session in the same chamber.

Democrats Participating at a Higher Rate in the Public Financing Program in Maine than Republicans

Since 2000, more Democrats than Republicans participated in the public financing program in Maine primary and general elections, in terms of the proportion of candidates who participated. For example, while the rate at which Republican legislative candidates in the primary elections participated in the public financing program increased by about 41 percentage points from 2000 to 2008 (from 22 percent to 63 percent), the participation rate remains below that of Democrats, whose participation rate increased by about 48 percentage points in the primary election during the same period (from 39 percent to 87 percent), as shown in figure 3. For both Democrats and Republicans, most of the growth in participation rates occurred between the 2000 and 2004 legislative elections, whereas participation rates have been relatively stable over the past three election cycles (2004, 2006, and 2008) in both the primary and general elections. For example, participation rates increased in the primary elections by about 4 percentage points among Democrats (from 83

percent to 87 percent), and by 1 percentage point among Republicans (from 62 percent to 63 percent) between the 2004 and 2008 election cycles. In all election years, more Democrats participated in the public financing program than Republicans did, in terms of the proportion of candidates who participated.

Figure 3: Legislative Candidates by Political Party Affiliation and Participation Status in Maine Primary and General Elections, 2000 through 2008



Source: GAO analysis of Maine election results data.

Note: We excluded candidates who received zero votes and write-in candidates whose names did not appear on the ballot. The number of Democratic candidates per primary election was: 193 in 2000, 196 in 2002, 204 in 2004, 199 in 2006, and 204 in 2008; the number of Republican candidates per primary election was: 172 in 2000, 191 in 2002, 202 in 2004, 200 in 2006, 184 in 2008; the number of Democratic candidates per general election was: 173 in 2000, 173 in 2002, 180 in 2004, 186 in 2006, 184 in 2008; and the number of Republican candidates per general election was: 150 in 2000, 168 in 2002, 182 in 2004, 178 in 2006, 166 in 2008. Percentages may not add to 100 because of rounding.

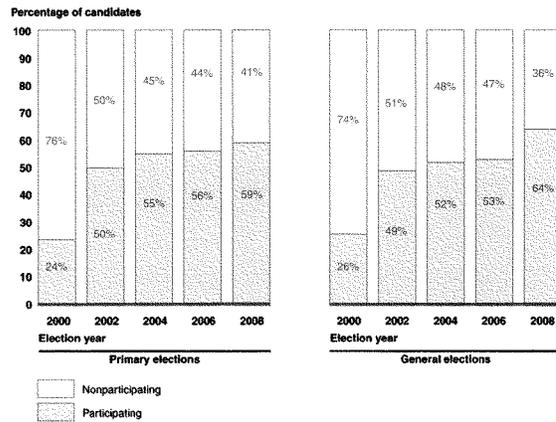
**Arizona Legislative
Candidates' Participation
Increased from 2000 to
2008**

**Arizona Legislative Candidate
Participation Rates More Than
Doubled in the Primary and
General Elections from 2000 to
2008**

In Arizona, the participation rate of legislative candidates in primary elections doubled after the first election cycle when public financing became available, from 24 percent in 2000 to 50 percent in 2002.³⁵ The participation rate then steadily increased over the next three elections to 59 percent in 2008, as shown in figure 4. Similarly, the participation rate of legislative candidates in Arizona's general elections almost doubled after 2000, when it was 26 percent, to 49 percent in 2002, and then steadily increased over the next three elections to 64 percent in 2008.

³⁵ Arizona's state legislature consists of 60 seats in the House of Representatives and 30 seats in the Senate. Members in all 90 legislative seats serve 2-year terms. Thus, in primary and general elections, which are held biannually (i.e., in each even-numbered year), all legislative seats are on the ballot.

Figure 4: Legislative Candidates' Participation in Arizona's Public Financing Program in Primary and General Elections, 2000 through 2008



Source: GAO analysis of Arizona election results data.

Note: We excluded candidates who received zero votes and write-in candidates whose names did not appear on the ballot. The number of Arizona legislative candidates who ran in the primary election each year was: 226 candidates in 2000, 222 candidates in 2002, 187 candidates in 2004, 199 candidates in 2006, and 198 candidates in 2008. The number of Arizona legislative candidates who ran in the general election each year was: 158 candidates in 2000, 150 candidates in 2002, 149 candidates in 2004, 158 candidates in 2006, and 159 candidates in 2008.

Arizona Candidates Cited a Range of Reasons Why They Chose to Participate or Not Participate in the Public Financing Program

The 11 candidates we interviewed in Arizona offered a range of reasons why they chose to participate or not participate in the public financing program when asked the main reasons for choosing to run their campaign with or without public funds in the 2008 election. Four of the 5 participating candidates we interviewed cited wanting more time to focus on interaction with voters when asked the main reasons for choosing to run their campaign with public funds in the 2008 elections. One of these candidates explained that collecting the \$5 contributions strengthens candidates' connections to voters at the grass roots level. Candidates cited other reasons for participation. The desire to be free of the influence of interest groups or other campaign contributors was among the reasons 3 of the 5 candidates gave for participating in the public financing program. One candidate explained that participating candidates are not reliant on

interest groups and are only beholden to their constituents. Three candidates said difficulties associated with raising adequate private funds to run a competitive election campaign was one of the reasons they chose to participate. For example, one candidate said that as a first-time candidate, he did not know how to raise money, so without the public financing program he would not have been able to compete against the incumbent candidate. Two candidates said it was strategically advantageous to participate in the public financing program. One of these candidates told us that he decided to participate in the public financing program because he would feel like he was funding his opponents if he raised private funds and the participating candidates in his race received matching funds based upon his spending. We also asked candidates about specific factors they may have considered when choosing to run their campaigns with public funds. Table 6 presents the number of participating candidates who said that they had considered each of the following factors when they decided to participate in the public financing program.

Table 6: Factors Arizona Candidates Reported Considering When Deciding to Participate in the Public Financing Program in the 2008 Elections

GAO interview question: Were any of the following factors considerations when you chose to participate in the public financing program in the 2008 election?	Number of participating candidates
You did not want to feel obligated to special interest groups or lobbyists.	3
You did not think you would be able to raise enough funds through traditional means to run a competitive campaign.	3
Receiving public funds allowed you to spend more time discussing issues.	3
You believe the public financing program promotes the accountability of legislators to the public.	3
Other than collecting "seed money" and the \$5 contributions, you are opposed to traditional methods of funding election campaigns.	2
The matching funds provision of the program discouraged opponents, special interest groups, and lobbyists from campaigning against you.	2
You ran with public funding due to particular circumstances in your district; however, you still have strong reservations about supporting the overall goals of the public financing program.	2

Source: GAO analysis of candidate interview responses.

Note: We interviewed 5 participating candidates in Arizona. Candidates could select more than one response.

The 6 nonparticipating candidates we interviewed most frequently cited opposition to using public funds for election campaigns as one of the main reasons they chose to use private rather than public funds for their campaigns. Five of the 6 nonparticipating candidates said that they were opposed to using public funds for election campaigns for various reasons, which included the belief that public financing program forces taxpayers

to fund candidates that they may not support,³⁶ and the belief that funds could be better spent on government services, such as healthcare for children, or to reduce the state's deficit.³⁷ In addition, 2 candidates said they did not participate because they did not want restrictions on how they ran their campaigns, such as the limit on the amount of money candidates may raise. Another candidate told us that he is opposed to the public financing program because he does not believe that the Citizens Clean Elections Commission should have the authority to remove legislators from office for violating the rules of the public financing program. Additionally, 1 nonparticipating candidate said that she did not participate because her primary race was uncontested, so the public financing program would provide meager resources and not enough for her to communicate with voters.³⁸ We also asked the 6 nonparticipating candidates if they considered any of the factors listed in table 7 when they chose not to participate in the public financing program; their responses appear alongside each factor in the table.

Table 7: Factors Arizona Candidates Reported Considering When Deciding Not to Participate in the Public Financing Program in the 2008 Elections

GAO interview question: Were any of the following factors considerations when you chose not to participate in the public financing program in the 2008 election?	Number of nonparticipating candidates
You believe that public funds are better used for purposes other than election campaigns.	5
You had sufficient funds without using public funds.	5
You are opposed to specific provisions of the public financing program.	5
You are opposed to public funding of election campaigns.	4
You believe that public funding forces taxpayers to fund candidates that they may not support.	4
You believe that the use of public funds adds burdensome reporting requirements to election campaigns.	3
You did not want restrictions on your campaign spending.	2
You did not want to learn a new campaign finance system.	1

³⁶This argument was reviewed and rejected by the Arizona Supreme Court in *May v. McNally*, 55 P. 3d 768 (Ariz. 2002).

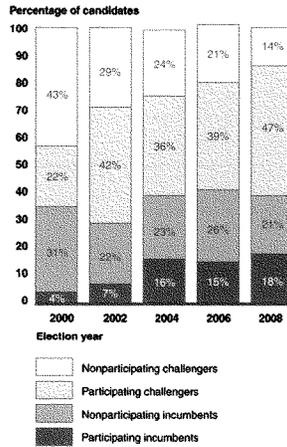
³⁷The largest source of revenue for Arizona's public financing program is a surcharge on civil and criminal fines and penalties for the 2008 elections. The program is not supported by legislative budget appropriations from the state's general fund.

³⁸Under Arizona's Citizens Clean Elections Act, a participating candidate in an unopposed primary election is eligible to receive an amount equal to five dollars times the number of qualifying contributions that were certified by the Arizona Citizens Clean Elections Commission on behalf of the participating candidate.

The Majority of Incumbents in Arizona Ran Privately-Financed Campaigns from 2000 through 2008

Source: GAO analysis of candidate interview responses.
 Note: We interviewed 6 nonparticipating candidates in Arizona. Candidates could select more than one response.
 Incumbent candidates' participation in the public financing program in general elections in Arizona increased from 2000 to 2008; however, the majority of incumbent candidates did not participate in the program over these five election cycles. Figure 5 shows that participating incumbent candidates, as a percentage of all candidates, generally increased from 4 percent in 2000 to 18 percent in the 2008 general elections.

Figure 5: Public Financing Program Participation and Incumbency Status in Arizona General Elections, 2000 through 2008



Source: GAO analysis of Arizona election results data.
 Note: Incumbents are defined as candidates who held a seat from the previous legislative session in the same chamber. Challengers are defined as any candidates who are not incumbents, regardless of whether they faced an opponent in their race. We excluded candidates who received zero votes and write-in candidates whose names did not appear on the ballot. The total number of legislative candidates per general election per year was: 158 candidates in 2000, 150 candidates in 2002, 149 candidates in 2004, 158 candidates in 2006, and 159 candidates in 2008. Percentages may not add to 100 due to rounding.

Nonparticipating Candidates in Arizona Were Generally More Likely to Win Nonparticipating legislative incumbents and challengers in Arizona were generally more likely to win than participating incumbents and challengers who ran in elections held from 2000 through 2008, as shown in table 8.

Table 8: Percentage of Winning Legislative Candidates by Participation and Incumbent Status in Arizona General Elections, 2000 through 2008

Type of candidate	Election year	Participating candidates		Nonparticipating candidates	
		Number	Percent who won ^a	Number	Percent who won ^a
Challengers^b	2000	35	23%	68	43
	2002	63	40	44	57
	2004	54	35	36	39
	2006	61	28	33	33
	2008	74	31	23	30
Incumbents^c	2000	6	100	49	96
	2002	10	70	33	100
	2004	24	96	35	97
	2006	23	91	41	100
	2008	28	93	34	100

Source: GAO analysis of Arizona election results data.

Notes: Although there are differences in the percentages of participating and nonparticipating candidates, the information in this table does not provide evidence that program participation influences an individual candidate's likelihood of winning.

^aIndicates the percentage of candidates within the category who won their election. For example, in the 2000 general election, of the 35 participating candidates who were challengers, 23 percent, or 8 participating challenger candidates, won, and the remaining 77 percent, or 27 participating challenger candidates, lost.

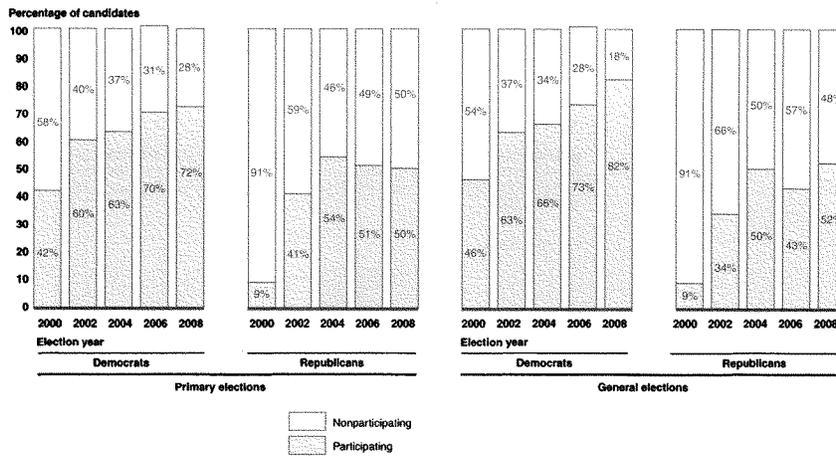
^bChallengers are defined as any candidates who are not incumbents, regardless of whether they faced an opponent in their race.

^cIncumbents are defined as candidates who held a seat from the previous legislative session in the same chamber.

Democrats Participating at a Higher Rate in the Public Financing Program in Arizona than Republicans

In Arizona primary and general legislative elections, more Democrats than Republicans participated in the public financing program, in terms of the proportion of candidates who participated, although, as shown in figure 6, the participation gap between Democrats and Republicans has narrowed since 2000. For example, the percentage of Democrats who participated in the public financing program during the primary election increased by about 30 percentage points (from 42 percent to 72 percent) from 2000 to 2008, while the rate of participation among Republican candidates increased by about 41 percentage points (from 9 percent to 50 percent) over the same period.

Figure 6: Legislative Candidates by Political Party Affiliation and Participation Status in Arizona Primary and General Elections, 2000 through 2008



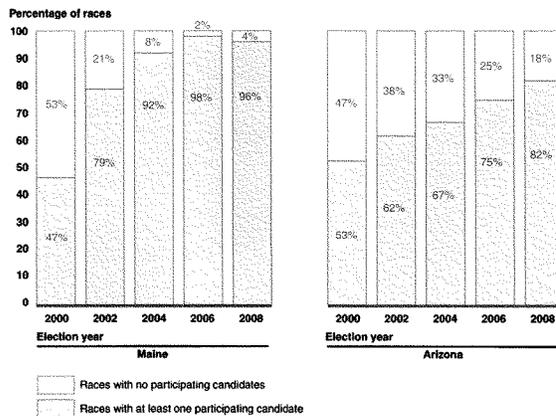
Source: GAO analysis of Arizona election results data.

Note: We excluded candidates who received zero votes and write-in candidates whose names did not appear on the ballot. The number of Democratic candidates per primary election was: 95 in 2000, 99 in 2002, 79 in 2004, 82 in 2006, and 93 in 2008; the number of Republican candidates per primary election was: 114 in 2000, 114 in 2002, 97 in 2004, 106 in 2006, 94 in 2008; the number of Democratic candidates per general election was: 68 in 2000, 68 in 2002, 64 in 2004, 69 in 2006, 74 in 2008; and the number of Republican candidates per general election was: 69 in 2000, 67 in 2002, 70 in 2004, 76 in 2006, 73 in 2008. Percentages may not add to 100 due to rounding.

In Maine and Arizona, a Greater Proportion of General Election Races from 2002 through 2008 Had at Least One Publicly Financed Legislative Candidate Compared to 2000

The majority of general election races in both Maine and Arizona had at least one participating candidate in 2008, and the proportion of races with a participating candidate has generally increased from 2000 through 2008 in both states. In Maine, the proportion of races with at least one participating candidate doubled over the five election cycles, from 47 percent in 2000 to 96 percent in 2008, as shown in figure 7. In Arizona, the proportion of races with at least one participating candidate increased steadily over the five election cycles from 53 percent in 2000 to 82 percent in 2008.

Figure 7: Percentage of Legislative Races with at Least One Candidate Participating in the Public Financing Programs, Maine and Arizona General Elections, 2000 through 2008



Source: GAO analysis of Maine and Arizona election results data.
 Note: The total number of Maine races in each year was 186 (151 races in the House of Representatives and 35 in the Senate). The total number of Arizona races each year was 60 (30 in the House of Representatives and 30 in the Senate).

**Limited Data Are Available
on Candidate or District
Characteristics and
Candidate Experience**

Data limitations preclude providing additional information about legislative candidates or the districts in which they ran for office. For example, Maine and Arizona state officials did not maintain data to analyze candidates' experience (e.g., whether they had previously held public office with the exception of whether a candidate was an incumbent in a given election and political party affiliation); qualifications (e.g., education or work experience); wealth; or demographics (e.g., sex, age, race, or ethnicity). Additionally, data were not available to address issues specific to individual legislative districts, such as partisan composition, local ballot initiatives and candidates, as well as economic or demographic factors that could affect a candidate's participation in the public financing programs.

Changes in One Measure of Electoral Competition Could Not Be Directly Attributed to Maine's and Arizona's Public Financing Programs; No Overall Changes in Voter Choice, Campaign Spending, and Interest Group Influence, While Data Limitations Hinder Analysis of Changes in Voter Participation

We used a variety of statistical techniques to measure changes in five goals of public financing before and after the implementation of public financing and found some evidence of statistically significant changes in one measure of electoral competition.³⁹ For the rest, we found either no overall changes or data limitations precluded any analysis of changes. Specifically, there were differences in one of the measures used for the goal of increased electoral competition—the winners' margin of victory decreased—but we could not attribute these differences directly to the public financing programs because needed data were limited or unavailable and there are certain factors that we could not measure, such as candidate popularity, which affect electoral outcomes. There were no statistically significant differences observed for the other measures of electoral competition: contestedness (number of candidates per race) and incumbent reelection rates. For three of the remaining four goals—increasing voter choice, curbing increases in campaign spending, and reducing the influence of interest groups and enhancing citizens' confidence in government—the measurable differences were not statistically significant overall. While there is no indication that the programs have decreased interest group influence, some candidates and interest group officials GAO interviewed said that campaign tactics have changed. We could not measure differences for the fifth goal—increasing voter participation—because of data limitations, including differences in how voter turnout has been measured over time for Maine and Arizona.

³⁹The primary modeling techniques we used to measure changes in competition—fixed effects regression models and hierarchical loglinear models—were largely consistent in their results, but not entirely consistent. Both techniques offered no evidence of differential changes between the public financing states and comparison states in the contestedness of elections or in the incumbent reelection rates, but offered some evidence of differential change related to the margin of victory. The results from the loglinear models are somewhat weaker than the results of the fixed effects models. Additional information about the two types of models used are presented in app. I and in an electronic supplement we are issuing concurrent with this report—GAO-10-391SP.

Changes in One Measure of Electoral Competition—Winner's Victory Margin—Could Not Be Directly Attributed to Public Financing Programs in Maine and Arizona, While No Significant Changes Were Observed in Two Other Measures of Electoral Competition

For Legislative Races, the Margin of Victory Decreased in Maine and Arizona, While Contestedness and Incumbent Reelection Rates Did Not Change in both States

Overall, the margin of victory in legislative races decreased significantly in both Maine and Arizona compared to their respective comparison states after the public financing programs were implemented; however, we could not attribute these decreases directly to the public financing programs due to factors such as candidate popularity and changing economic conditions, which affect electoral outcomes. On the other hand, contestedness and incumbent reelection rates did not significantly change over time in Maine and Arizona. The candidates and interest group representatives we interviewed from Maine and Arizona provided various perspectives on the effect of the public financing programs on the advantage of incumbent candidates and the number of close races.

Margin of Victory

Overall, winner's margin of victory in races decreased significantly in both Maine and Arizona as compared to their respective comparison states after public financing was available; however, we could not attribute these decreases to the public financing programs due to factors such as the qualifications or experience of the candidates and Presidential and other top-ballot races, which could motivate certain citizens to vote, thereby influencing electoral outcomes. We used three different measures of margin of victory in our analyses: (1) the average margin of victory for contested races, (2) the percentage of close races (i.e., races decided by less than 10 percentage points), and (3) the percentage of races that were landslides (i.e., races decided by more than 20 percentage points).⁴⁶

As shown in tables 9 and 10, the average margin of victory for contested elections declined from 22 percent before public financing (1996 and 1998) to 19 percent after public financing (from 2000 through 2008) in Maine, and from 31 percent before public financing to 27 percent after public financing in Arizona. These changes, decreases of about 3 percent in Maine and 4 percent in Arizona, were statistically significantly different from the changes in the comparison states for both Maine and Arizona, where the average margin of victory increased about 1 percent in both the

⁴⁶We calculated margin of victory in multimember districts to reflect the difference between the second winner and the runner up. We tested our statistical models including and excluding multimember districts and found that our results were robust across different models.

Maine and Arizona comparison states.⁴¹ The adjusted differences in the changes between Maine and Arizona and their respective comparison states are derived from statistical models that account for other factors that may have explained the changes, and in the case of average margin of victory the adjusted difference is statistically significant. Our fixed effects statistical models take into account whether elections were for the House of Representatives or Senate, and whether the races included incumbents. However, our results may be sensitive to our choice of comparison states. More information on these models and our choice of states is presented in appendix I and the e-supplement accompanying this report, GAO-10-391SP.

We obtained similar results when we measured the margin of victory by contrasting the percentages of close races (defined as competitive races with a margin of victory of less than 10 percentage points) and races that were landslides (defined as competitive races with a margin of victory exceeding 20 percentage points).⁴² Close races increased in Maine and Arizona after public financing was available, by about 9 and 6 percentage points respectively. The change observed in Arizona was significantly different from changes in the respective comparison states, where the percentage of close races increased only slightly or actually decreased. Landslide races also decreased in Maine (by 7 percentage points) and Arizona (by 12 percentage points). These changes were significantly different from the changes in the comparison states after controlling for the other factors in our model.

⁴¹We calculated the average for each measure of electoral competition across all elections before public financing was available and after public financing was available. We then calculated the average change that took place across the two different periods in the states. We then estimated the difference in the change that took place between Maine and its comparison states and between Arizona and its comparison states.

⁴²In reviewing the literature and consulting with researchers, there is no standard or accepted measure or definition of a close race or landslide. We based our selection of these definitions on literature and discussions with researchers. This research suggested that a 10 percentage point difference would indicate a reasonable measure of competitiveness in a district. The largest range used by a researcher to indicate competitiveness was 20 percentage points; thus our definition of a landslide is those races that exceeded this threshold.

Table 9: Margin of Victory Measures in Maine and Comparison States, Changes in the Measures over Time, and Differences in the Changes between Maine and Comparison States

Percentage points					
Outcome measure	Period	Maine	Comparison states ^a	Observed difference in change	Adjusted difference in change (SE) ^b
Average margin of victory ^c	Before public financing	22.0	28.5		
	After public financing	19.2	29.5		
	Change	-2.8	1.0	-3.8	-6.0 ^d (1.16)
Percent of close races (less than 10 percentage points margin of victory)	Before public financing	23.1	20.3		
	After public financing	32.5	23.9		
	Change	9.4	3.6	5.8	7.6 ^d (3.43)
Percent of landslide races (more than 20 percentage points margin of victory)	Before public financing	48.8	56.7		
	After public financing	42.1	55.8		
	Change	-6.7	-0.9	-5.8	-9.4 ^d (2.17)

Source: GAO analysis of election results data.

Notes: Contested races are races with at least one or more candidate running than the number of seats in contention. We excluded candidates who received zero votes and write-in candidates whose names did not appear on the ballot.

^aThe comparison states for Maine were South Dakota, Montana, and Connecticut (excluding 2008).

^bThe adjusted differences are derived from statistical models that account for other factors that may have explained the changes. Standard errors (SE) appear in parentheses and are used in estimating the amount by which the outcomes would have varied due to chance alone.

^cMargin of victory measures were estimated for single-member districts only.

^dDenotes adjusted differences which are significant at the .05 level. Differences may not add due to rounding.

^eDenotes an adjusted difference which is significantly different than zero at the .10 level.

Table 10: Margin of Victory Measures in Arizona and Comparison States, Changes in the Measures over Time, and Differences in the Changes between Arizona and Comparison States

Percentage points					
Outcome measure	Period	Arizona	Comparison states ^a	Observed difference in change	Adjusted difference in change (SE) ^b
Average margin of victory ^c	Before public financing	31.1	22.8		
	After public financing	26.9	24.1		
	Change	-4.3	1.3	-5.6	-6.2 ^d (.85)
Percent of close races (less than 10 percentage points margin of victory)	Before public financing	29.2	30.8		
	After public financing	35.6	28.1		
	Change	6.4	-2.7	9.1	11.9 ^d (2.43)
Percent of landslide races (more than 20 percentage points margin of victory)	Before public financing	47.2	45.9		
	After public financing	35.6	47.8		
	Change	-11.7	1.9	-13.6	-19.6 ^d (3.20)

Source: GAO analysis of election results data.

Notes: Contested races are races with at least one or more candidate running than the number of seats in contention. We excluded candidates who received zero votes and write-in candidates whose names did not appear on the ballot.

^aThe comparison states for Arizona were South Dakota, Montana, and Colorado.

^bThe adjusted differences are derived from statistical models that account for other factors that may have explained the changes. Standard errors (SE) appear in parentheses and are used in estimating the amount by which the outcomes would have varied due to chance alone.

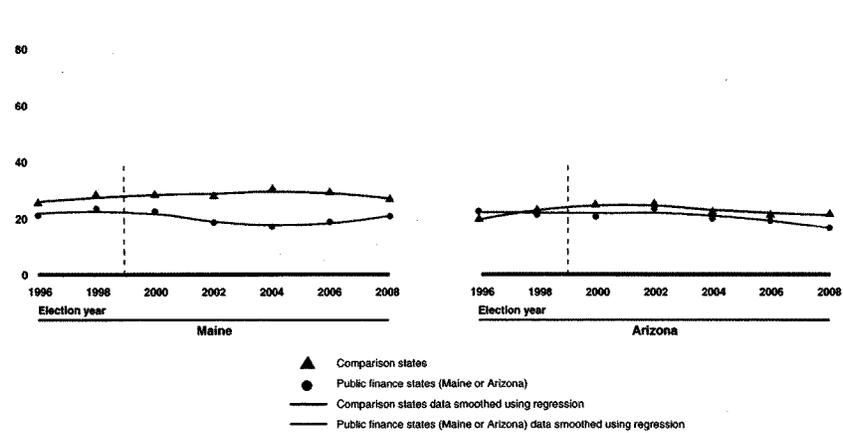
^cMargin of victory measures were estimated for single-member districts only.

^dDenotes adjusted differences which are significant at the .05 level. Differences may not add due to rounding.

Figures 8 and 9 present the year-to-year outcomes (instead of the averages for before and after public financing) for the three margin of victory measures for Maine and its comparison states, and Arizona and its comparison states.

Figure 8: Comparison of Winner's Average Margin of Victory in Contested Legislative Races in Maine and Arizona with Respective Comparison States, General Election, 1996 through 2008

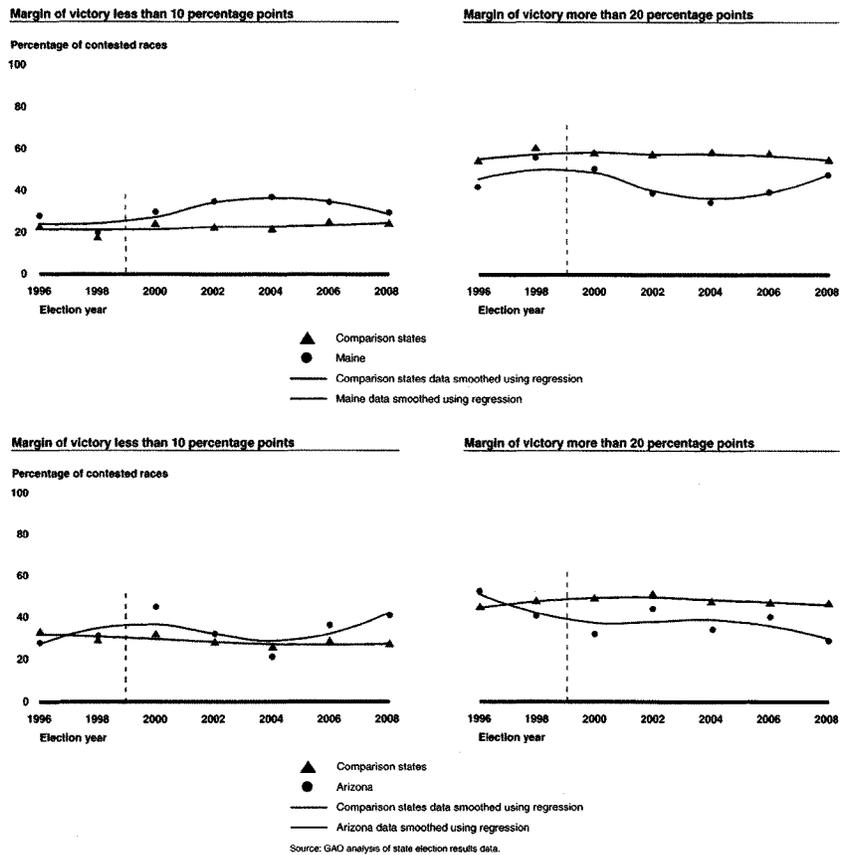
Average percentage point difference between the winner and first runner up



Source: GAO analysis of state election results data.

Note: Contested races are races with at least one or more candidate running than the number of seats in contention. We excluded candidates who received zero votes and write-in candidates whose names did not appear on the ballot.

Figure 9: Comparison of Winner's Victory Margin in Contested Legislative Races in Maine and Arizona with Respective Comparison States, General Election, 1996 through 2008



Note: Contested races are races with at least one or more candidate running than the number of seats in contention. We excluded candidates who received zero votes and write-in candidates whose names did not appear on the ballot.

Contestedness

Changes in contestedness—the percentage of all races that had at least one more candidate running than the number of seats available—in Maine and Arizona before and after public financing was available were no different from changes observed in comparison states. As shown in tables 11 and 12, before public financing was available (1996 and 1998), 86 percent of the elections in Maine and 60 percent of the elections in Arizona were contested. The percentage of contested elections after public financing was available (from 2000 through 2008) increased in both states, to 91 percent in Maine and 75 percent in Arizona.⁴⁵ However, even after controlling for other factors, these increases, of 5 percentage points and 15 percentage points respectively, were not statistically different from the changes in comparison states where percentages of contested elections increased by about 5 and 12 percentage points.

Table 11: Percentage of Races Contested in Maine and Comparison States, Changes in the Percentages over Time, and Differences in the Changes between Maine and Comparison States

Outcome measure	Period	Maine	Comparison states ^a	Observed difference in change	Adjusted difference in change (SE) ^b
Percent of races contested	Before public financing	86.0	73.2		
	After public financing	91.0	78.4		
	Change	5.0	5.2	-0.2	0 (5.19)

Source: GAO analysis of election results data.

Note: Contested races are races with at least one or more candidates running than the number of seats in contention. We excluded candidates who received zero votes and write-in candidates whose names did not appear on the ballot. To indirectly control for open seats resulting from term limits, we excluded races with no participating incumbents. Differences may not add due to rounding.

^aThe comparison states for Maine were South Dakota, Montana, and Connecticut (excluding the 2008 elections).

^bThe adjusted differences are derived from statistical models that account for other factors that may have explained the changes. Standard errors (SE) appear in parentheses and are used in estimating the amount by which the outcomes would have varied due to chance alone.

⁴⁵Because Arizona has multimember House districts (where two representatives are elected from each district), a contested race was one in which three candidates ran, since two candidates would be elected.

Table 12: Percentage of Races Contested in Arizona and Comparison States, Changes in the Percentages over Time, and Differences in the Changes between Arizona and Comparison States

Outcome measure	Period	Arizona	Comparison states*	Observed difference in change	Adjusted difference in change (SE) [†]
Percent of races contested	Before public financing	60.0	71.5		
	After public financing	75.0	83.4		
	Change	15.0	11.8	3.2	3.3 (3.93)

Source: GAO analysis of election results data.

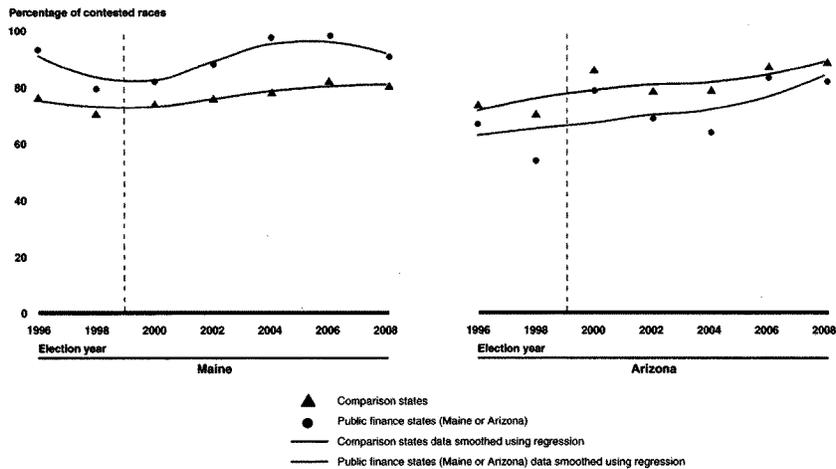
Note: Contested races are races with at least one or more candidates running than the number of seats in contention. We excluded candidates who received zero votes and write-in candidates whose names did not appear on the ballot. To indirectly control for open seats resulting from term limits, we excluded races with no participating incumbents. Differences may not add due to rounding.

*The comparison states for Arizona were South Dakota, Montana, and Colorado.

†The adjusted differences are derived from statistical models that account for other factors that may have explained the changes. Standard errors (SE) appear in parentheses and are used in estimating the amount by which the outcomes would have varied due to chance alone.

Further, year-to-year changes in the percentages of contested elections in Maine and Arizona over time are not much different from in their comparison states before or after controlling for other factors, as shown in figure 10.

Figure 10: Comparison of the Rates of Contested Legislative Races in Maine and Arizona with Respective Comparison States, General Election, 1996 through 2008



Note: Contested races are races with at least one or more candidates running than the number of seats in contention. We excluded candidates who received zero votes and write-in candidates whose names did not appear on the ballot. Differences may not add due to rounding.

Incumbent Reelection Rates

Incumbent reelection rates (i.e., the percentage of incumbents who were reelected among those incumbents who ran in contested races) did not change significantly in Maine and Arizona before and after public financing was available.⁴⁴ We first examined the proportion of contested

⁴⁴We counted races with multiple incumbents running against each other, and multimember district races where one incumbent won but the other did not, as incumbent wins for the purposes of our statistical analysis. These events, which are enumerated in the electronic supplement accompanying this report—GAO-10-391SP—were relatively infrequent and we do not have reason to believe they would change the interpretation of our results.

rates with incumbents who won relative to all contested races with an incumbent candidate. As shown in tables 13 and 14, in Maine the percentage of races in which incumbents who were challenged were reelected was 88 percent before public financing was available and about 90 percent after it was available. In Arizona, the percentage was 98 percent before public financing and 97 percent after. Incumbent reelection rates in comparison states did not change over time—staying around 93 percent and 91 percent, respectively, in the two groups of comparison states. Further, our statistical model that tested the difference in change across time periods between the states with and without campaign financing provided no evidence of any statistically significant difference.

Table 13: Incumbent Reelection Rates in Maine and Comparison States, Changes in the Rates over Time, and Differences in the Changes between Maine and Comparison States

Outcome measure	Period	Maine	Comparison states*	Observed difference in change	Adjusted difference in change (SE) [†]
Percent of incumbents reelected (for races where incumbents faced challengers)	Before public financing	88.0	93.2		
	After public financing	89.5	93.6		
	Change	1.5	0.4	1.1	0.7 (2.04)

Source: GAO analysis of election results data.

Note: Incumbents are defined as candidates who held a seat from the previous legislative session in the same chamber. Contested races are races with at least one or more candidates running than the number of seats in contention. We excluded candidates who received zero votes and write-in candidates whose names did not appear on the ballot. Differences may not add due to rounding.

*The comparison states for Maine were South Dakota, Montana, and Connecticut (excluding 2008).

†The adjusted differences are derived from statistical models that account for other factors that may have explained the changes. Standard errors (SE) appear in parentheses and are used in estimating the amount by which the outcomes would have varied due to chance alone.

Table 14: Incumbent Reelection Rates in Arizona and Comparison States, Changes in the Rates over Time, and Differences in the Changes between Arizona and Comparison States

Outcome measure	Period	Arizona	Comparison states*	Observed difference in change	Adjusted difference in change (SE) [†]
Percent of incumbents reelected (for races where incumbents faced challengers)	Before public financing	98.0	91.0		
	After public financing	97.4	92.0		
	Change	-0.5	0.9	-1.4	-0.1 (2.70)

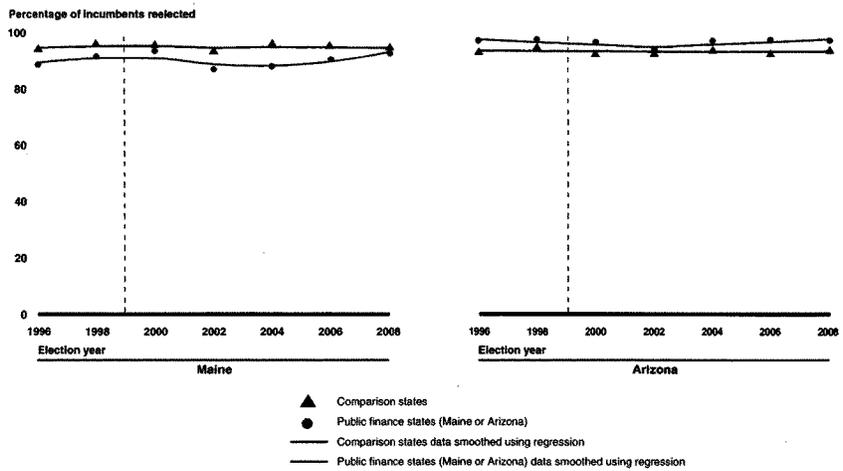
Source: GAO analysis of election results data.

Note: Incumbents are defined as candidates who held a seat from the previous legislative session in the same chamber. Contested races are races with at least one or more candidates running than the number of seats in contention. We excluded candidates who received zero votes and write-in candidates whose names did not appear on the ballot. Differences may not add due to rounding.

*The comparison states for Arizona were South Dakota, Montana, and Colorado.
 *The adjusted differences are derived from statistical models that account for other factors that may have explained the changes. Standard errors (SE) appear in parentheses and are used in estimating the amount by which the outcomes would have varied due to chance alone.

Year-to-year changes in incumbent reelection rates for races in Maine and Arizona over time are basically unchanged and not much different from in their comparison states, as shown in figure 11.

Figure 11: Comparison of Incumbent Reelection Rates in Maine and Arizona with Respective Comparison States, General Election, 1996 through 2008



Source: GAO analysis of state election results data.
 Note: Incumbents are defined as candidates who held a seat from the previous legislative session in the same chamber. Contested races are races with at least one or more candidates running for the number of seats in contention. We excluded candidates who received zero votes and write-in candidates whose names did not appear on the ballot. Differences may not add due to rounding.

We found similarly and consistently high reelection rates when we considered individual incumbent reelection rates, the proportion of individual incumbents who won out of all incumbents who ran.⁴⁵ In Maine, 90 percent of all incumbents running in general elections races were reelected in the years before public financing was available, and 90.2 percent after. In Arizona, the individual incumbent reelection rate for general elections before public financing was available was 96.9 percent, compared to 96.1 percent after public financing was available. Research has shown that incumbent candidates may have an advantage over other candidates because of several factors, such as visibility in the media, name recognition, and the ability to perform services for constituents. Thus, the high incumbent reelection rates observed in these states despite the implementation of the public financing programs is not surprising.

Many other factors we could not control in our analyses may affect electoral competition, including the popularity of candidates, extreme one-issue candidates, polarizing candidates, local ballot initiatives and issues, economic conditions, and other aspects of political context. Further, the size and statistical significance of our comparative results also may be affected by our choice of comparison states.⁴⁶ Thus, we cannot say definitively whether any of the changes we observe can be attributed to the campaign financing programs.

Candidates and Interest Groups Reported Various Perceptions on the Effect of Public Financing Programs on Electoral Competition

The candidates and interest group representatives we interviewed from Maine and Arizona provided various perspectives on the effect of the public financing programs on the advantage of incumbent candidates and the number of close races.

Most candidates we interviewed in Maine (8 of 11) believed that the advantage of incumbent candidates neither increased nor decreased as a result of the public financing program. Further, 2 of 11 candidates said that incumbents' advantage had increased under the public financing program. Among the reasons candidates gave for incumbents' advantage was their access to resources, such as campaign databases; political party

⁴⁵Individual incumbent reelection rates remained high when we factored in the number of incumbents running in primary elections. However, because incumbents may choose to run (or not to run) in a general election regardless of whether they win a primary election, and because some uncontested incumbents do not participate in primaries, we did not calculate a conditional incumbent reelection rate for those general election incumbents who also ran in primaries.

⁴⁶For further discussion on how we selected the specific comparison states, see app. I.

support; and officeholder privileges, such as a budget to distribute communications (e.g., mailers and newsletters) to constituents. On the other hand, 1 of the 11 Maine candidates said that the advantage of incumbents had decreased as a result of the public financing program since some incumbents have been defeated by participating candidates who may not have run for legislative office without public financing.

Arizona candidates had mixed perceptions on the effect of the public financing program on incumbents' advantage. Four of 11 candidates said that the advantage of incumbents neither increased nor decreased as a result of the public financing program, citing incumbents' benefits such as name recognition, experience in running a successful election campaign, and access to funding. Three candidates said that incumbents' advantage increased. One of these candidates explained that participating incumbent candidates did not have to do as much outreach to voters as they would have if they needed to raise private funds. However, 3 candidates we interviewed stated that the advantage of incumbent candidates has decreased. Among the reasons given for the decrease in incumbents' advantage was that incumbents face more challengers under public financing. Another candidate agreed that incumbents had to work harder to defend their seats in the primary election; however, according to the candidate, incumbents' advantage had not changed in general elections since many legislative districts are either heavily Democratic or Republican.

The majority of candidates we interviewed in Maine (9 of 11) thought that the number of close legislative races increased as a result of the public financing program and provided a range of explanations for why. For example, one candidate said that before the public financing program, some candidates would run unopposed because potential challengers lacked funds, but after public financing became available, more challengers have entered races and have run competitively. However, other candidates had different perspectives that were not consistent with the statistical data we observed—one candidate said that the number of close races decreased, and one candidate said that the number of close races neither increased nor decreased as a result of the public financing program. According to this candidate, the broader political climate influenced elections more than the public financing program.

In Arizona, over half of the candidates (6 of 11) believed that the public financing program had increased the number of close races. Candidates attributed the increase to greater equality in financial resources among candidates, more candidates running for office, and more extensive

discussion of the issues, among other reasons. On the other hand, in contrast with the data we observed, 3 candidates we interviewed said that the number of close races neither increased nor decreased as a result of the public financing program. Additionally, 2 candidates said that the number of close races increased in the primary election, where, according to one candidate, there have been more challengers, but neither increased nor decreased in the general election, since many districts are heavily Republican or Democratic.

Half of the interest group representatives we interviewed in Maine and Arizona (5 of 10) thought the closeness of races had not changed, although our data analysis did reveal changes. For example, an Arizona representative commented that the public financing program by itself had not changed the closeness of races and that redistricting and the ability of independents to vote in the primary has made the races closer. On the other hand, 2 of the 10 representatives believed that the closeness of races had changed. One representative from Maine stated that he believed there may be a few more close races because of the public financing program while an Arizona representative believed the closeness of races had changed in the primaries because more candidates have an opportunity to run with public financing and therefore may be more competitive. Finally, 2 of the 10 interest group representatives were unsure whether public financing had changed the closeness of races and 1 of the 10 interest group representatives did not respond.

No Observed Changes in Increased Voter Choice in Terms of the Average Number of Legislative Candidates and the Percentage of Third-Party and Independent Candidates Represented in Races in Maine and Arizona

While increasing voter choice, as measured by changes in the number of candidates per race and changes in the breadth of political party affiliations represented in races, was a goal of public financing programs, there were no observed changes in these measures in Maine and Arizona after the public financing programs were available. However, as discussed later, candidates we interviewed provided a range of perspectives about the role of third-party and independent candidates.

No Observed Changes in the Average Number of State Legislative Candidates per District Race

The average number of legislative candidates per primary and general election race in Maine and Arizona did not vary greatly over the seven election cycles examined—before (1996 and 1998 elections) and after (2000 through 2008 elections) the public financing programs became available, as shown in table 15.⁴⁷

Table 15: Average Number of Legislative Candidates per District Race in Maine and Arizona Primary and General Elections, 1996 through 2008

State	Office	Election (primary or general)	Average number of candidates per district race						
			Before public financing		After public financing				
			1996	1998	2000	2002	2004	2006	2008
Maine	House of Representatives	Primary	1.1	1.1	1.1	1.1	1.1	1.1	1.1
		General	2.0	1.8	1.8	2.0	2.1	2.1	2.0
	Senate	Primary	1.1	1.0	1.1	1.1	1.2	1.1	1.1
		General	2.0	1.9	2.1	2.0	2.1	2.2	2.1
Arizona	House of Representatives	Primary ^a	2.5	2.2	2.5	2.7	2.4	2.3	2.1
		General ^b	3.4	3.2	3.4	3.3	3.3	3.4	3.5
	Senate	Primary	1.3	1.2	1.3	1.4	1.2	1.1	1.1
		General	1.7	1.5	1.9	1.7	1.6	1.9	1.8

Source: GAO analysis of Maine and Arizona election results data.

Notes: The redistricting of Arizona's legislative districts, which included review and approval by the Department of Justice as well various court actions, in general, resulted in legislative districts being redistricted for the 2002 elections and additional revisions for the 2004 elections. Maine legislative districts boundaries were redrawn for the 2004 elections due to changes in the state's population.

^aArizona has multimember House districts, in which two representatives are elected from each district. The two candidates receiving the most votes in the Arizona primary are the party nominees in the general election. For example, if three Republicans run in the primary, then the top two vote-getters advance to the general election.

^bThe two candidates in each House district receiving the most votes in the general election are elected, regardless of their political party affiliation.

⁴⁷Data on candidates' demographic characteristics (e.g., race and sex) were not routinely collected by the Maine and Arizona Secretary of State offices during the seven election years examined (1996 through 2008). Therefore, we did not compare these demographics of candidates in the elections before and after the implementation of the public financing programs.

Percentage of Races with Viable Third-Party or Independent Candidates in Maine and Arizona Varied in Election Years before and after Public Financing Was Available, but Did Not Increase over Time

During the 1996 through 2008 legislative elections in Maine and Arizona, candidates from a variety of third parties and independents ran for office. In Maine, these candidates included Green Party members and independents.⁴⁸ In Arizona, these candidates included members of the Green, Natural Law, Reform, and Libertarian Parties, as well as independents. As shown in tables 16 and 17, while there were some changes in the percent of races with third-party or independent candidates receiving 5 percent or more of votes cast—a proxy indicator for “viable” candidates—there were no discernable trends from 1996 through 2008 in Maine and Arizona.⁴⁹

Table 16: Percent of Races with Third-Party or Independent Candidates Receiving 5 Percent or More of Votes Cast in Maine General Elections, 1996 through 2008

Availability of public financing	Year	House of Representatives			Senate		
		Total number of races	Number of races with at least one viable third-party or independent candidate receiving 5 percent or more of votes cast	Percent of races	Total number of races	Number of races with at least one viable third-party or independent candidate receiving 5 percent or more of votes cast	Percent of races
Before public financing	1996	151	16	10.6%	35	4	11.4%
	1998	151	11	7.3	35	4	11.4
After public financing	2000	151	20	13.2	35	3	8.6
	2002	151	20	13.2	35	5	14.3
	2004	151	22	14.6	35	4	11.4
	2006	151	15	9.9	35	5	14.3
	2008	151	13	8.6	35	4	11.4

Source: GAO analysis of Maine election results data.

Note: We consider an independent or third-party candidate to be “viable” if the candidate received 5 percent or more of votes cast. This threshold is based on a typical standard for party ballot access and retention, and is distinct from whether a candidate is electable or highly competitive with other candidates.

⁴⁸In Maine, independent candidates who are not enrolled in a party are also known as unenrolled candidates.

⁴⁹We consider an independent or third-party candidate to be “viable” if the candidate received 5 percent or more of votes cast. This threshold is distinct from whether a candidate is electable or highly competitive with other candidates. We chose this in light of interviews with state officials and research suggesting that garnering 5 percent of votes cast is a common standard for a party to attain and retain ballot access at the state level, which is key in establishing voter awareness and institutional credibility for a party.

Table 17: Percent of Races with Third-Party or Independent Candidates Receiving 5 Percent or More of Votes Cast in Arizona General Elections, 1996 through 2008

Availability of public financing	Year	House of Representatives			Senate		
		Total number of races	Number of races with at least one viable third-party or independent candidate receiving 5 percent or more of votes cast	Percent of races	Total number of races	Number of races with at least one viable third-party or independent candidate receiving 5 percent or more of votes cast	Percent of races
Before public financing	1996	30	4	13.3%	30	4	13.3%
	1998	30	3	10.0	30	3	10.0
After public financing	2000	30	8	26.7	30	4	13.3
	2002	30	3	10.0	30	5	16.7
	2004	30	6	20.0	30	3	10.0
	2006	30	4	13.3	30	2	6.7
	2008	30	3	10.0	30	2	6.7

Source: GAO analysis of Arizona election results data.

Note: We consider an independent or third-party candidate to be "viable" if the candidate received 5 percent or more of votes cast. This threshold is based on a typical standard for party ballot access and retention, and is distinct from whether a candidate is electable or highly competitive with other candidates. Because Arizona has multimember House districts, these 30 elections represent 60 House seats.

Candidates Offered a Range of Perspectives about the Effect of Public Financing Programs on the Role of Third-Party and Independent Candidates and the Quality and Types of Candidates

The 22 candidates from Maine and Arizona we interviewed had mixed views on the role of third parties and independents in the 2008 election and the quality and types of candidates running for election. The majority of candidates in Maine (7 of 11) and Arizona (7 of 11) said that the role of third parties and independents neither increased nor decreased as a result of the public financing programs. However, the other candidates had differing perspectives. For example, one candidate in Maine told us that public financing had increased the role of third-party and independent candidates as it has been particularly helpful for third-party candidates running against incumbent candidates.

Additionally, several candidates provided comments about the effect of the public financing programs on the quality and type of candidates running for legislative office.⁵⁰ For example, in Maine, 3 of the 11 candidates told us that the public financing program had a positive effect on voter choice, by allowing a greater diversity of candidates to run for

⁵⁰Not all candidates commented on changes in candidate quality.

office and by improving the quality of political debate. On the other hand, 3 other Maine candidates thought the public financing program allowed candidates to run for office who were not credible or who were unqualified. In Arizona, 2 of the 11 candidates said that the public financing program allowed candidates that were on the extremes of the political spectrum to run and win, which has resulted in a more partisan and divided legislature. However, another candidate said that many of the participating candidates are experienced incumbent candidates.

Average Legislative Candidate Spending Varied in Election Cycles under Public Funding Programs in Maine and Arizona; Independent Expenditures Increased in Maine, and Officials Reported Independent Expenditures Also Increased in Arizona

Average legislative candidate spending varied from year to year in Maine and Arizona in the five election cycles that occurred after public financing became available (2000 through 2008).⁵¹ In Maine, average candidate spending in House races decreased statistically significantly after public financing became available as compared to the two elections before public financing was available (1996 and 1998). However, we could not attribute this decrease to the public financing program because of other factors, such as reductions made to the amounts of funding publicly financed candidates received during the 2008 elections. Average candidate spending in Maine Senate races did not change significantly. In Arizona, data were not available to compare legislative candidate spending before 2000; however, in the five elections under the public financing program, average candidate spending has increased. Independent expenditures have

⁵¹These data reflect what the candidate spent—either from the public financing program for participating candidates or from traditional fundraising for nonparticipating candidates. Spending amounts presented for both Maine and Arizona candidates include both primary and general election spending for candidates that participated in the general election and reported spending more than zero dollars. Spending amounts have been adjusted for inflation using the gross domestic product (GDP) price index, with 2008 as the base year.

Average Maine Legislative Candidate Spending Decreased in House Races, but Did Not Change Significantly in Senate Races after Public Financing Became Available

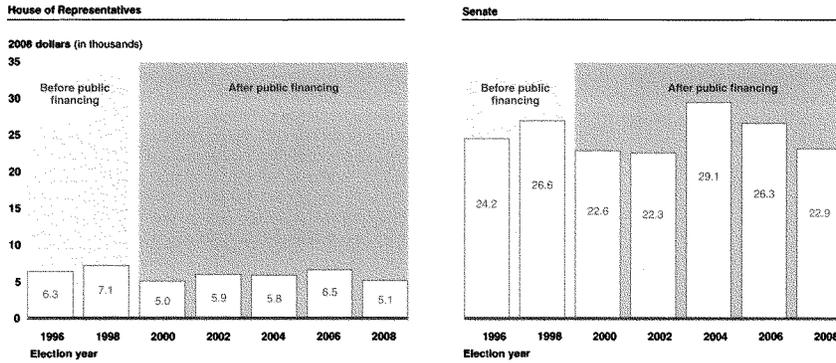
increased fourfold in Maine, and state officials reported that independent expenditures have increased in Arizona since 2000.⁵²

While average legislative candidate spending varied from year to year in Maine, as shown in figure 12, in the five elections after public financing became available average candidate spending in House races decreased, while average Senate candidate spending did not change significantly compared to the two elections before public financing was available.⁵³ Specifically, average candidate spending in Maine House races decreased from an average of \$6,700 before public financing was available to an average of \$5,700 after public financing became available. A state official told us that a 5 percent reduction in the set amount of public funding distributed to participating candidates for the general election likely contributed to the decrease in spending in the 2008 election.

⁵²For the Maine 2008 election cycle, independent expenditures were defined as any expenditure "made by a person, party committee, political committee or political action committee, other than by contribution to a candidate or a candidate's authorized political committee, for any communication that expressly advocates the election or defeat of a clearly identified candidate; and is presumed in races involving a candidate who is certified as a Maine Clean Election Act candidate ... to be any expenditure made to design, produce, or disseminate a communication that names or depicts a clearly identified candidate and is disseminated during the 21 days, including election day, before a primary election; the 35 days including election day, before a general election; or during a special election until and on election day." For the Arizona 2008 election cycle, independent expenditures were defined, in pertinent part, as expenditures "by a person or political committee, other than a candidate's campaign committee, that expressly advocates the election or defeat of a clearly identified candidate, that is made without cooperation or consultation with any candidate or committee or agent of the candidate and that is not made in concert with or at the request or suggestion of a candidate, or any committee or agent of the candidate."

⁵³Expenditures by publicly financed candidates were made from funding provided by initial distributions of public funds for the primary and general election, as well as matching funds provided as a result of any independent expenditures made on behalf of their opponents.

Figure 12: Average Legislative Candidate Spending in Maine, 1996 through 2008



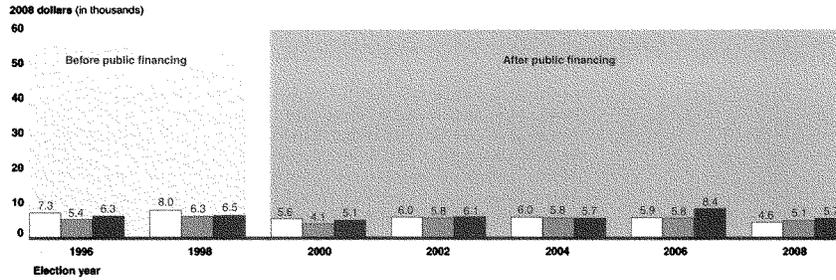
Source: GAO analysis of Maine campaign finance data.

Note: We did not include any candidate who reported spending zero dollars or did not run in the general election in Maine. Spending includes both primary and general election expenditures. We adjusted all spending amounts for inflation using the gross domestic product (GDP) price index with 2008 as the base year. The 2004 Maine Senate spending average includes a nonparticipating candidate who spent \$225,566.

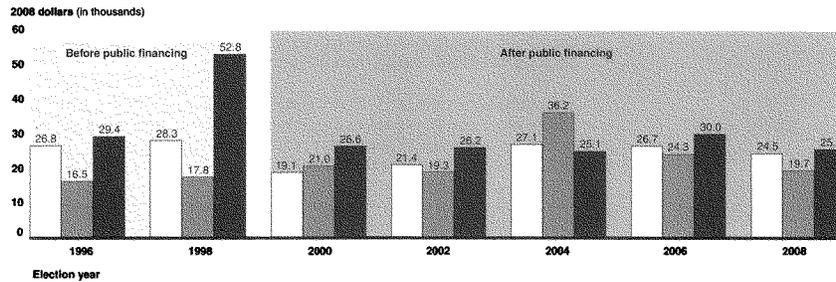
As shown in figure 13, spending by Maine legislative incumbent candidates, challengers, and open race challengers (i.e., candidates running in open races with no incumbent candidates) varied from year to year.

Figure 13: Average Legislative Candidate Spending in Maine by Candidate Status, 1996 through 2008

House of Representatives



Senate



- Incumbent spending
- Challenger running against incumbents
- Challenger in open races (no incumbents running)

Source: GAO analysis of Maine campaign finance data.

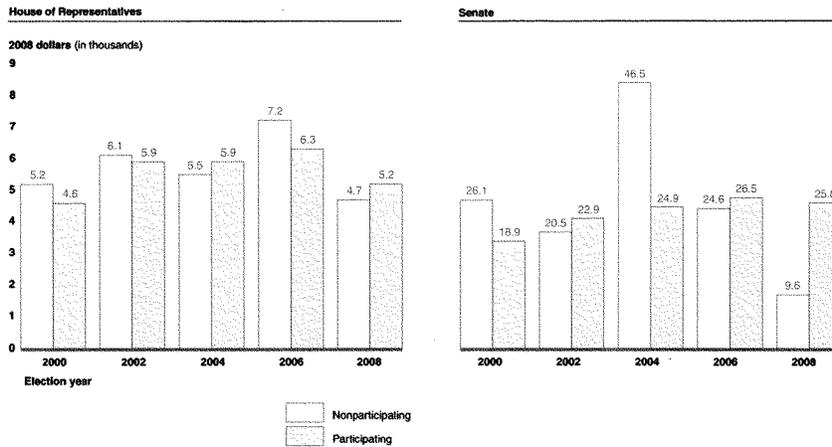
Note: Incumbents are candidates who held a seat from the previous legislative session in the same chamber. Challengers are candidates who ran against an incumbent candidate in the primary or general election. Open race challengers are candidates who did not run against an incumbent in either the primary or general election. Spending amounts do not include any candidate who reported spending zero dollars or did not run in the general election. Spending includes both primary and general election amounts and has been adjusted for inflation using the GDP price index, with 2008 as the base year. The 2004 Maine nonparticipating Senate candidate spending average includes one candidate who spent \$225,566.

However, overall, the difference in average spending by incumbents and challengers narrowed in both House and Senate races after public financing became available. In addition, average spending by open race challengers was relatively higher than either incumbent or challenger spending averages in House races, but was not significantly different in Senate races in the elections after public financing became available. In Maine House races, incumbents spent \$1,800 more on average than their challengers in the two elections before public financing became available. In comparison, the difference in average spending by incumbents and challengers was not statistically significant in the five elections under the public financing program. Open race challengers spent more on average (\$6,100) than either incumbents, who spent an average of \$5,600, or challengers running against incumbents, who spent an average of \$5,400, in the five elections under the public financing program. Before public financing became available, incumbents spent an average of \$7,700, more than the average amount spent by challengers (\$5,900) or open race challengers (\$6,300) during the same period.

The difference in average incumbent and challenger spending in Maine Senate races also decreased in the period after public financing became available. On average, incumbents spent nearly \$10,500 more than their challengers in the two elections before public financing became available; however, after public financing became available, the difference between average incumbent and average challenger spending was not statistically significant. Similarly, spending by open race challengers in Senate races was not significantly different from spending by either incumbents or challengers in the elections after public financing became available.

As figure 14 shows, average spending by participating and nonparticipating candidates varied in the five elections under the public financing program. However, overall, spending by participating candidates was not significantly different than spending by nonparticipating candidates in both Maine House and Senate races in the five elections under the public financing program.

Figure 14: Average Legislative Candidate Spending in Maine by Participation Status, 2000 through 2008



Source: GAO analysis of Maine campaign finance data.

Note: Spending amounts do not include any candidate who reported spending zero dollars or did not run in the general election. Spending includes both primary and general election amounts and has been adjusted for inflation using the GDP price index, with 2008 as the base year. The 2004 Maine nonparticipating Senate candidate spending average includes one candidate who spent \$225,566.

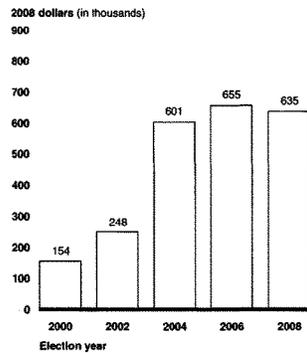
Independent Expenditures in Maine Legislative Races Increased from 2000 through 2008

Independent expenditures in Maine legislative races have increased by about \$500,000 in the five elections under the public financing program.⁵⁴ As figure 15 shows, independent expenditures increased from about \$150,000 in 2000 to a high of about \$655,000 in 2006, with a large increase occurring in the 2004 election. The Director of Maine's commission told us that he believes that the increase in 2004 was due principally to a change

⁵⁴In 2003 we reported that according to the Director of Maine's commission for 1998 and earlier years, the amounts of reported independent expenditures in the state were negligible. See GAO-03-463.

in the definition of independent expenditures.⁵⁵ While independent expenditures decreased somewhat (by about \$20,000) in the 2008 election compared to the 2006 election, the total amount remained high.

Figure 15: Independent Expenditures in Maine Legislative Elections, 2000 through 2008



Source: GAO analysis of Maine campaign finance data.

Note: Amounts include independent expenditures reported in Maine House or Senate races and have been adjusted for inflation with the GDP price index, with 2008 as the base year.

⁵⁵ A 2003 change in Maine election law, in place for the 2004 Maine elections, expanded the definition of an independent expenditure to include any expenditure made to design, produce, or disseminate a communication that names or depicts a clearly identified candidate made within specified time periods close to an election, even if the communication does not expressly advocate a candidate's election or defeat. The period in which these kinds of communications are presumed to be independent expenditures is different for the primary and general elections. For additional details, please refer to app. II.

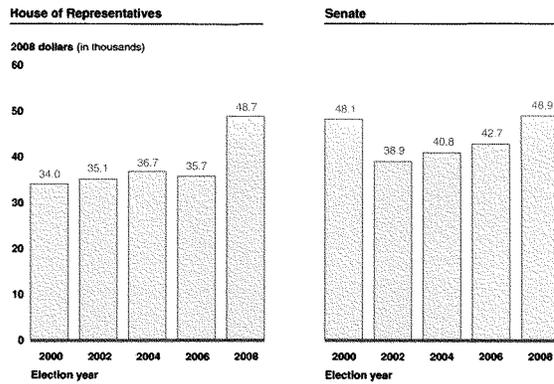
Average Arizona Legislative
Candidate Spending Increased
since 2000

Average candidate spending in Arizona legislative races has generally increased in the five elections under the public financing program,⁶⁶ however, we were not able to compare these spending levels to those in the period before public financing became available.⁶⁷ As shown in figure 16, average candidate spending in Arizona House races has increased in each subsequent election since 2000, with the exception of 2006, when average spending declined about \$1,000 from the previous election. In 2008, average spending increased to \$48,700, a \$13,000 increase from 2006. In Arizona Senate races, average candidate spending has been increasing following the 2002 election, after a decrease of about \$10,000 in the 2002 election.

⁶⁶In Arizona, neither the Secretary of State nor the commission responsible for administering the public financing program calculates candidate spending in each election. We calculated candidate spending by adding candidate committee expenditures that were deemed to be campaign-related and were made within specific time frames that corresponded to the election years in which the candidate ran. However, there may be some inconsistencies in how certain types of expenditures were reported, since each candidate committee was responsible for self-reporting financial transactions. We excluded candidates who agreed to spend \$500 or less because, according to Arizona Secretary of State officials, these candidates were not required to submit campaign finance reports.

⁶⁷In 2003, we reported candidate spending data for 1996 and 1998. See GAO-03-453. However, we could not replicate these data because state officials told us that their computer systems had undergone several upgrades and the data were no longer available.

Figure 16: Average Legislative Candidate Spending in Arizona, 2000 through 2008



Source: GAO analysis of Arizona campaign finance data.

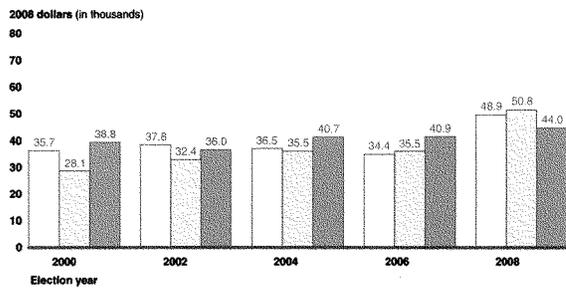
Note: Average spending includes both primary and general spending for candidates who ran in the general election and reported campaign transactions that totaled more than zero dollars to the Arizona Secretary of State. Candidates who agreed to spend \$500 or less were not required to file campaign finance reports with the Secretary of State, according to Arizona Secretary of State officials. Spending has been adjusted for inflation using the GDP price index, with 2008 as the base year.

State officials told us that the way candidates have spent campaign funds has changed since the implementation of the public financing program. For example, they said that candidates have coordinated their campaigns with other candidates in their district to maximize their campaign resources. For example, two Republican candidates for the Arizona House of Representatives may pool their campaign funds to send out one mailing in support of both candidates, rather than each candidate sending out separate mailings.

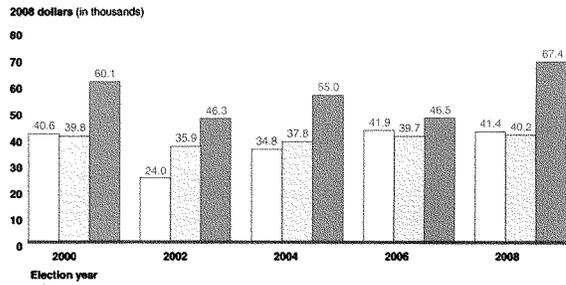
Average spending by challengers and incumbents fluctuated from year to year, with challengers spending more in some elections, and incumbents spending more in other elections in both Arizona House and Senate races, as shown in figure 17.

Figure 17: Average Legislative Candidate Spending in Arizona by Candidate Status, 2000 through 2008

House of Representatives



Senate



Incumbents
 Challengers running against incumbents
 Challengers in open races (no incumbents running)

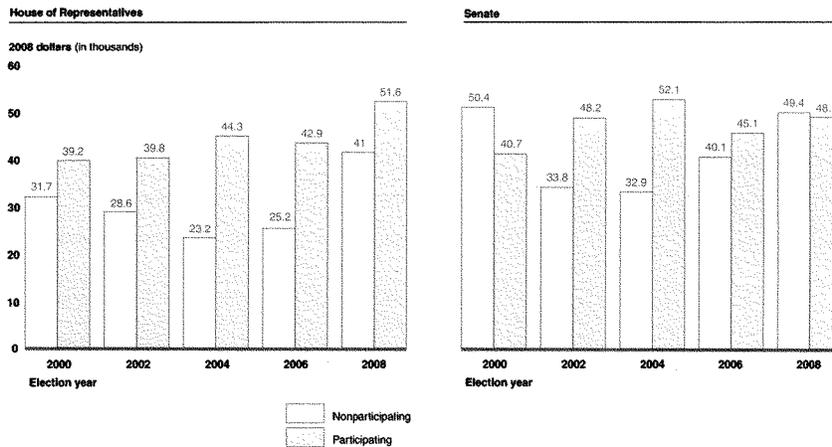
Source: GAO analysis of Arizona campaign finance data.

Note: Average spending includes both primary and general spending for candidates who ran in the general election and reported campaign transactions that totaled more than zero dollars to the Arizona Secretary of State. Candidates who agreed to spend \$500 or less were not required to file campaign finance reports with the Secretary of State, according to Arizona Secretary of State officials. Incumbents are candidates who held a seat from the previous legislative session in the same chamber. Challengers are candidates who ran against an incumbent candidate in the primary or general election. Open race challengers are candidates who did not run against an incumbent in either the general or primary election. Spending has been adjusted for inflation using the GDP price index, with 2008 as the base year.

Overall, there was no statistically significant difference between average incumbent and average challenger spending in either Arizona House or Senate races in the five elections under public financing. Further, spending by open race challengers in House races was not significantly different from spending by incumbents or challengers after public financing became available. However, in each of the five elections examined, average spending by open race challengers in Arizona Senate races was higher than average spending by incumbents or challengers, and overall, open race challengers spent between \$14,600 and \$16,200 more on average than either incumbents or challengers.

Participating candidates spent more on average than nonparticipating candidates in Arizona House, while in Senate races nonparticipating candidates spent more on average than participating candidates in some years and less in others, as shown in figure 18. Participating candidates in Arizona House races spent \$44,500 on average, compared to nonparticipating candidates, who spent an average of \$29,700 in the five elections under the public financing program. In Arizona Senate races, there was not a statistically significant difference between average spending by participating and nonparticipating candidates in the five elections examined. State officials said that the amount spent on independent expenditures has increased since 2000. Therefore, they stated that matching funds distributed to participating candidates for independent expenditures may account for some of the difference in average spending by participating and nonparticipating candidates.

Figure 18: Average Legislative Candidate Spending in Arizona by Participation Status, 2000 through 2008



Source: GAO analysis of Arizona campaign finance data.

Note: Average spending includes both primary and general spending for candidates who ran in the general election and reported campaign transactions that totaled more than zero dollars to the Arizona Secretary of State. Candidates who agreed to spend \$500 or less were not required to file campaign finance reports with the Secretary of State, according to Arizona Secretary of State officials. Spending has been adjusted for inflation using the GDP price index, with 2008 as the base year.

Independent Expenditures Increased in Arizona According to State Officials

According to state officials, independent expenditures have increased in Arizona legislative elections under the public financing program. In 2008, independent expenditures in Arizona House and Senate races totaled \$2,170,000.⁵⁸ While complete data on independent expenditures specifically in legislative elections were not available for elections prior to 2008, state officials told us that independent expenditures have increased.

⁵⁸While the Arizona Secretary of State's campaign finance data system has captured independent expenditures made by individuals and others since 2000, the candidates benefiting from the expenditures were not systematically identified until the 2008 election cycle.

Candidates and Interest Group Representatives Had Mixed Perceptions about the Effect of Public Financing Programs on Campaign Spending

Furthermore, in our 2003 report, the Arizona Citizens Clean Elections Commission identified independent expenditures in the 1998, 2000, and 2002 legislative and statewide elections.⁶⁹ Independent expenditures in both legislative and statewide races totaled \$102,400 in 1998, \$46,700 in 2000, and \$3,074,300 in 2002.⁶⁹ We reported in 2003 that the increase in independent expenditures in the 2002 election was largely associated with the gubernatorial race, with more than 92 percent of the independent expenditures associated with two gubernatorial candidates.

The candidates and interest groups we interviewed in Maine and Arizona had a range of experiences with and views on campaign spending, independent expenditures, and issue advocacy advertisements.

Candidates' and Interest Groups' Views on Campaign Spending

While candidates and interest groups had varying views about whether campaign spending had increased in the 2008 elections, in general they indicated that equality in financial resources among candidates had increased in the 2008 election as a result of the public financing programs. In Maine, about half of the candidates (5 of 11) we interviewed said that campaign spending increased in the 2008 election as a result of the public financing program. Candidates provided a number of reasons for the perceived increase in campaign spending. For example, one candidate said that campaign spending increased because some participating candidates spent more than they would have if they had raised private funds for their campaigns. Another candidate noted that the amount of money spent by participating candidates has increased in some races because they received additional matching funds for independent expenditures made by interest groups. Spending by nonparticipating candidates may have increased in some cases as well, according to one candidate, since the presence of a participating candidate in the race forces nonparticipating candidates to take the election more seriously and spend more on their campaigns than they would have otherwise. However, 3 other candidates

⁶⁹In 2003, we reported independent expenditures for legislative and statewide elections in Arizona in 1998, 2000, and 2002, which were determined by hard-copy campaign finance reports submitted to the Arizona Secretary of State. See GAO-03-453. State officials verified these reports, but could not determine whether these reports represented all independent expenditures made for these years. State officials told us that their computer systems had undergone several upgrades, and these data could not be retrieved.

⁶⁹The independent expenditures in Arizona statewide and legislative elections were adjusted for inflation using the GDP price index with 2008 as the base year.

we interviewed in Maine contended that campaign spending had decreased. For example, one candidate noted that spending had decreased because of the spending cap placed on participating candidates. Three candidates felt that spending in Maine legislative races had neither increased nor decreased as a result of the public financing program. In one candidate's view, contribution limits have had a greater influence on spending than the public financing program.

In Arizona, the majority of candidates (7 of 11) we interviewed believed that candidate spending increased in the 2008 election as a result of the public financing program. One nonparticipating candidate told us that, because of the matching funds provision of the public financing program, in 2008 he spent almost double the amount than he spent in any previous campaign in order to get out his message and outspend his participating opponent. Another candidate commented that the increase in independent expenditures has driven up campaign spending by triggering additional matching funds for participating candidates. On the other hand, 3 candidates felt that the public financing program led to a decrease in campaign spending in the 2008 election. One participating candidate explained that she could have raised more money traditionally than she received from the public financing program. One candidate indicated that spending neither increased nor decreased.

Regarding interest groups in Maine, two of the five representatives stated that candidate spending increased. One of these representatives commented that there has been an increase in money spent by candidates because there is more access to money and the races are more competitive. Further, this representative stated that the public financing program gives challengers an opportunity to level the playing field when running against incumbents. Participating candidates who would otherwise not be able to raise enough private money can run a well-financed campaign using public funds and have an opportunity to present their issues for debate in the race. On the other hand, three of the five interest group representatives stated that candidate spending neither increased nor decreased in the 2008 election as a result of the public financing program. One of these representatives commented that the amount of money spent by candidates has not changed because limits are set by the legislature. However, this representative opined that the amount of money spent on behalf of the candidates in the form of independent expenditures had increased dramatically and consistently. He went on to say that the public financing program is reducing the disparity between the candidates who can raise the money and those candidates who cannot

raise the money and that a candidate who is not serious can receive as much money as a serious candidate.

In Arizona, four of the five interest group representatives believed that candidate spending increased as a result of the public financing program. For example, one of these representatives said that the public financing program has moved money from the candidates to independent expenditures, and that political parties are playing a significant role in this shift. Another interest group representative believed that candidate spending increased but was unsure if this increase was due to the public financing program, noting that increased campaign spending could be attributed to more competitive races or the rise in the cost of campaign materials due to inflation. Further, he noted that a pattern has emerged in which candidates run as participating candidates during their first election, and after being elected run subsequently as nonparticipating candidates. These legislators have name recognition and can raise the money required to run their campaigns and can also help other candidates get elected. On the other hand, one of the five representatives believed that campaign spending had neither increased nor decreased and that money has been redirected from the candidate campaigns to independent expenditures. He did not believe that his organization was spending any less money on campaigns.

In general, candidates and interest group representatives in Maine and Arizona reported that equality in financial resources among candidates had increased in the 2008 election as a result of the public financing programs. In Maine, the majority of the candidates interviewed (7 of 11) said that equality in financial resources among candidates increased as a result of the public financing program. Two candidates commented that candidates from different political parties compete on a roughly equal playing field under the public financing program. Another Maine candidate said that both nonparticipating and participating candidates spend about the same amount on their campaigns. However, 2 candidates we interviewed said that equality in financial resources had decreased as a result of the public financing program. According to one candidate, more money may be spent by political action committees than by candidates in a race, which can reduce equality. One nonparticipating candidate responded that the public financing program increased equality in financial resources among participating candidates, but decreased equality in financial resources among nonparticipating candidates, and 1 candidate was not sure how the public financing program had influenced equality in financial resources among candidates.

In Arizona, about half of the candidates (6 of 11) thought equality in financial resources among candidates had increased. Two of these candidates commented that in their experience, candidates spent roughly the same, regardless of their political party affiliation or if they participated in the public financing program or used traditional means to finance their campaigns. On the other hand, 1 candidate said that equality in financial resources had decreased, and commented that he was outspent by his participating opponents by a ratio of 13 to 1. Three of the 11 candidates we interviewed said that the equality in financial resources neither increased nor decreased as a result of the public financing program. For example, one candidate told us that incumbents continue to outspend their opponents and that nonparticipating candidates have developed strategies to maximize their financial advantage, such as raising funds at the end of the campaign so participating candidates have little time to spend matching funds. The remaining candidate was not sure about the change in resource equality.

Seven of the 10 interest group representatives we interviewed in Maine (3 of 5) and Arizona (4 of 5) said that equality in financial resources among candidates as a result of the public financing programs had increased. For example, an Arizona interest group representative commented that the public financing law holds the candidates' financial resources even. On the other hand, 1 of the 5 representatives from Maine stated that equality in financial resources among candidates decreased and commented that since monetary limits are set statutorily, it is the independent expenditures that skew the financial resources among candidates. Finally, 2 of the 10 representatives, 1 from Maine and 1 from Arizona, believed that equality in financial resources neither increased nor decreased, while 1 of these representatives further commented that even though financial resources stayed the same, some nonparticipating candidates had a financial advantage because they asked for larger donations from interest groups.

Candidates' and Interest Group Representatives' Views on Independent Expenditures

Independent expenditures were of varying importance in the races of the candidates we spoke with. The majority of the Maine legislative candidates we interviewed (7 of the 11) reported that independent expenditures were of little or no importance to the outcome of their races in the 2008 election. One candidate explained that no independent expenditures were made on his behalf because he was perceived to be the likely winner. However, 2 candidates we interviewed said that independent expenditures were moderately important, and 2 candidates said that independent

expenditures were extremely or very important to the outcome of their races in the 2008 election. The candidates who had independent expenditures made in their races shared their experiences with us. One candidate said an independent expenditure made on his behalf could have possibly hurt his campaign since the expenditure was for a mailer that was poorly conceived and included a photograph of him that was of low quality. Another candidate who participated in the public financing program in Maine said that she and her participating opponent received large amounts of matching funds in response to independent expenditures made by business, trucking, state police, and equal rights groups that went towards mailings, television ads, and newspapers ads. However, the candidate thought that other factors played a greater role in the outcome of her election.

In Arizona, independent expenditures reportedly played an important role in the outcome of 6 of the 11 candidates' races, with 5 candidates saying that independent expenditures were moderately important and 1 candidate reporting that independent expenditures were extremely important. One of these candidates said that groups made independent expenditures on behalf of his opponent to produce a number of mailers as well as billboards and television commercials that hurt his election campaign by shifting the focus away from the issues that he had concentrated on. Another candidate said that groups made independent expenditures opposing her near the end of her 2008 campaign; however, since she participated in the public financing program, she received matching funds and was able to respond. On the other hand, 5 candidates reported that independent expenditures were of little or of no importance in the outcome of their races. One candidate said that while there was a lot of money spent on independent expenditures in his race, the independent expenditures did not play a big role in the outcome of the election since roughly the same amount was spent on behalf of both him and his opponent. Another candidate explained that since she was an incumbent and her reelection was secure, not much was spent on independent expenditures in her race.

Eight of the 10 interest group representatives in Maine (5 of 5) and Arizona (3 of 5) we interviewed said their groups made independent expenditures in support of candidates in the 2008 elections; although, the representatives had varying views about the influence the expenditures had on the outcome of the races. All 5 Maine interest group representatives made independent expenditures in the 2008 elections, and all expenditures included mailers in support of candidates. Three of these 5 Maine representatives were not sure how much influence the

expenditures had on the outcome of the elections. On the other hand, the remaining 2 representatives had different views. One Maine representative believed that her group's expenditures were effective in getting the candidate's message out to the voters. Finally, another Maine representative, who made several independent expenditures, said his experience was mixed, and the candidates he made independent expenditures on behalf of lost in more cases than they won. In Arizona, 3 of the 5 interest groups made independent expenditures. Two of these representatives said the expenditures were for mailers in support of candidates and believed that they were beneficial because the candidates won. The third representative said that his group made expenditures for both positive and negative mailers, and he believed that the expenditures were ineffective and was not sure what role they played in the outcome of the 2008 elections.

Candidates' Views on Issue Advocacy Spending

While Maine and Arizona legislative candidates we interviewed offered varying views on issue advocacy spending, 14 of the 22 candidates stated that issue advocacy advertisements were of little or no importance to the outcome of their races in the 2008 elections. Issue advocacy spending is often viewed as those forms of media advertisements that do not expressly advocate for or against a clearly identified political candidate. For example, such issue advocacy ads do not use terms like "vote for," "vote against," or "reelect." In general, courts have not upheld campaign finance law regulation of issue advocacy spending upon the reasoning that the rationales offered to support such regulations did not justify the infringement upon constitutional free speech protections.⁶¹ According to state officials in Maine and Arizona, neither Maine nor Arizona track issue advocacy spending.

In Maine, 7 of the 11 candidates we interviewed reported that issue advocacy advertisements were of little or of no importance to the outcome of their races. One of these candidates explained that his race was not targeted by issue advocacy ads because he was expected to win and his opponent was not perceived to be very competitive. Another candidate we interviewed had a negative issue advocacy ad made in his race, but he did

⁶¹See, e.g., *Buckley v. Valeo*, 424 U.S. 1 (1976); *Human Life of Wash. v. Brunsickle*, 2009 U.S. Dist. LEXIS 4239 (W.D. Wash. Jan. 8, 2009); *FEC v. Wis. Right to Life, Inc.*, 551 U.S. 449 (2007).

not think it affected the outcome of the election. The candidate told us the issue advocacy ad listed the tax increases he voted for alongside a smiling picture of him; however, according to the candidate, the ad only told half of the story, since the bill that contained the tax increases was revenue neutral and raised some taxes while lowering others. In contrast, 4 of the 11 candidates we interviewed said that issue advocacy was moderately important in their 2008 races. For example, 1 of these candidates said that issue advocacy advertisements highlighting the candidates' positions on education issues was a factor in the outcome of his race.

Similarly, in Arizona, the majority of candidates interviewed (7 of 11) said that issue advocacy ads were of little or no importance to the outcome of their races in the 2008 election. For example, 1 candidate told us that he did not think that issue advocacy ads made a difference in his race because the ads did not mention the candidates' names. Another candidate said that there were some issue advocacy ads that played an information role in his race by presenting a comparison of the candidates' beliefs; however, the candidate thought the ads were of little importance in the outcome of the election. On the other hand, 3 candidates said that issue advocacy ads were moderately important to the outcome of their races. According to one candidate, issue advocacy advertisements on crime, abortion, and education funding influenced the outcome of his race.⁶²

⁶²One candidate did not answer the question.

Voting-Age Citizens, Candidates, and Interest Group Representatives We Interviewed Perceived That the Public Financing Programs Did Not Decrease Interest Group Influence or Increase Public Confidence, Although Some Reported That Campaign Tactics Have Changed

Our surveys of voting-age citizens and interviews with candidates and interest group representatives in Maine and Arizona indicated that the public campaign financing programs did not decrease the perception of interest group influence and did not increase public confidence in government.⁶³ However, candidate and interest group representatives reported that campaign tactics, such as the role of political parties and the timing of expenditures, had changed.

Perceived Interest Group Influence Did Not Decrease as a Result of the Public Financing Program

In 2009, the percentage of voting-age citizens in Maine and Arizona who said that the public financing law had greatly or somewhat increased the influence of special interest groups on legislators was not significantly different from those who said that the law had greatly or somewhat decreased special interest group influence.⁶⁴ For example, among those polled in Maine in 2009, the percentage of voting-age citizens who said that the influence of interest groups greatly or somewhat increased was 17 percent, while 19 percent said that the interest group influence had greatly or somewhat decreased, as shown in table 18. An additional 19 percent felt that the law had no effect on the influence of interest groups on legislators. In Arizona in 2009, 24 percent believed the public financing law greatly or somewhat increased the influence of interest groups, while 25 percent felt it greatly or somewhat decreased interest group influence. Additionally, 32 percent of those polled indicated that the public financing law had no effect on the influence of interest groups.

⁶³For the purpose of our analysis, we included respondents from our surveys of voting-age citizens who indicated that they were a lot, some, or a little aware of the respective state's applicable public financing law.

⁶⁴We contracted with professional pollsters to obtain the views of projectable samples of voting-age citizens in Maine and Arizona. This polling effort, which duplicated questions asked for our 2003 report, was designed to obtain citizenry views about the effect of the public financing program on the influence of interest groups and citizens' confidence in government. For our analysis, we included those respondents who said they knew a lot, some, or a little about the public financing law. See app. 1 for more information about this polling effort.

Table 18: Maine and Arizona Voting-Age Citizens' Views on Influence of Interest Groups, among Those Aware of the Law

State	GAO survey questions and response options	Percent of voting age citizens*	
		2002	2009
Maine	To what extent do you think Maine's Clean Election Law has decreased or increased the influence of special interest groups on legislators? Would you say the Law has greatly decreased, somewhat decreased, has had no effect, has somewhat increased, or greatly increased the influence of special interest groups, or is it too soon to tell?		
	Greatly increased	2%	2%
	Somewhat increased	5	15
	Had no effect	21	19
	Somewhat decreased	21	13
	Greatly decreased	4	6
	Too soon to tell, unsure, or declined to answer	46	46
Arizona	To what extent do you think Arizona's Clean Election Law has decreased or increased the influence of special interest groups on legislators? Would you say the Law has greatly decreased, somewhat decreased, has had no effect, has somewhat increased, or greatly increased the influence of special interest groups?		
	Greatly increased	4	6
	Somewhat increased	12	18
	Had no effect	25	32
	Somewhat decreased	9	22
	Greatly decreased	2	3
	Too soon to tell, unsure, or declined to answer	48	19 [†]

Source: GAO.

Notes: We included respondents who indicated that they were a lot, some, or a little aware of the respective states' public financing law. For Maine in 2009, the number of respondents for this question was 214, and the maximum 95 percent confidence interval for these survey results is plus or minus 6.7 percent. In 2002, the number of respondents for this question was 157, and the maximum 95 percent confidence interval for these survey results is plus or minus 8 percent. For Arizona in 2009, the number of respondents for this question was 424, and the maximum 95 percent confidence interval for these survey results is plus or minus 5 percent. In 2002, the number of respondents for this question was 433, and the maximum 95 percent confidence interval for these survey results is plus or minus 5 percent.

*Totals may not equal 100 percent due to rounding.

[†]The "too soon to tell" response option was offered in the 2002 survey but was inadvertently omitted from the 2009 survey in Arizona.

Both Maine and Arizona candidates and interest group representatives had mixed views about changes in interest group influence as a result of the public financing programs in their states. In Maine, a little over half of the candidates (6 of 11) said that the likelihood that elected officials serve the interests of their constituents free of influence by specific individuals or interest groups neither increased nor decreased as a result of the public

financing program. One of these candidates said the public financing program has not met the goal of decreasing the influence of interest groups, since interest groups will always find ways to influence legislators and the election process. However, 4 candidates we interviewed in Maine—all of whom participated in the public financing program—said that the likelihood that elected officials serve free of influence by individuals or groups greatly increased or increased. One of these candidates explained that participating candidates are more empowered to serve as they see fit and are less willing to listen to political party leadership. On the other hand, a different candidate said that the elected officials are less likely to serve free of influence by specific individuals or groups as a result of the public financing program. The candidate explained that under the public financing program, lobbyists and special interest groups have focused less on individual candidates, and more on winning favor with the Democratic and Republican party leadership. According to this candidate, interest groups are spending more, since the contribution limits do not apply to contributions to political parties. In turn, the candidate said that political parties are buying the loyalty of candidates by providing know-how, campaign staff, and polling data during the election.

For Arizona, about half of the candidates interviewed (5 of 11) said that the public financing program did not affect the likelihood that elected officials serve the interests of their constituents free of influence by specific individuals or groups. One of these candidates said that the influence of special interest groups still exists, even if it does not come in the form of direct contributions. She explained that interest groups approach candidates with questionnaires and ask them to take pledges on different policy issues and also send their members voter guides and scorecards that rate candidates. Two other Arizona candidates we interviewed commented that under the public financing program, interest groups have been contributing to campaigns in different ways, such as providing campaign volunteers, and collecting \$5 qualifying contributions for participating candidates. In contrast, 4 of the 11 candidates said that the likelihood that elected officials serve the interests of their constituents had decreased as a result of the public financing program. One of these candidates explained that the role of interest groups has increased, as they have become very skilled at producing advertisements with independent expenditures. On the other hand, 2 candidates we interviewed said that the public financing program increased the likelihood that elected officials serve the interests of their constituents free of influence by specific individuals or groups. One of these candidates said that in her experience as a participating candidate and state senator, interest groups are not “in

her ear all of the time," and legislators are free to make decisions based on the interests of their constituents.

With regard to Maine interest groups we interviewed, the five representatives we interviewed had varying views about the likelihood that elected officials serve the interests of their constituents free of influence by specific individuals or interest groups and about changes in interest group influence as a result of the public financing program. Two representatives believed that the likelihood that elected officials serve the interests of their constituents free of influence had increased, and one representative stated that it had decreased. The two remaining representatives stated that it had neither increased nor decreased. One of these representatives commented that candidates are predisposed to certain issues based on their core beliefs and there is not any correlation between public financing and the likelihood that the elected officials will serve the interests of their constituents free of influence. With regard to changes in interest group influence, three Maine representatives stated that they have less of a relationship with candidates. One of these three representatives stated that interest groups are one step removed from the candidate because to make independent expenditures they cannot directly coordinate with the candidate. As a result, this representative further stated that interest groups have established stronger relationships with political parties. Another of these representative believed that the public financing program has slightly decreased the role of interest groups because money tends to be funneled through the political parties. Also, there has been more emphasis on interest groups giving their endorsements of candidates rather than giving them money.

With regard to Arizona interest groups we interviewed, four of the five representatives said that the likelihood that elected officials serve the interests of their constituents free of influence by specific individuals or interest groups neither increased nor decreased as a result of the public financing program. One of the five representatives stated that the likelihood that elected officials serve the interests of their constituents had decreased but did not elaborate. Regarding interest group influence, two of the five representatives expressed opinions about whether changes in interest group influence as a result of the public financing programs have occurred. For example, one of these representatives stated that prior to the public financing program, interest groups made direct contributions to the candidates, but now they have to make independent expenditures or give money to the political parties. This representative stated that public financing has led to fringe candidates entering races and has caused a polarization in the legislature that has decreased the role of interest

groups. Another representative stated that the interest groups do not directly support the candidate's campaigns and, instead, make independent expenditures. He also stated that there has also been an increased emphasis on volunteer campaign activities in which interest groups use their members to help certain candidates.

Public Confidence in Government Did Not Increase as a Result of the Public Financing Programs in Maine and Arizona

In 2002 and 2009, the percentage of voting-age citizens in Maine and Arizona who said that their confidence in state government had somewhat or greatly decreased was not significantly different from those who said that their confidence had somewhat or greatly increased as a result of the public financing law. Additionally, the predominant response in both states was that respondents did not believe that the public financing program had any effect on their confidence in state government, as shown in table 19. For example, in Maine in 2009, the percentage of voting-age citizens who stated that the public financing law had no effect was 42 percent while the percent who felt that their confidence had somewhat or greatly increased was 20 percent, and the percent who felt their confidence had somewhat or greatly decreased was 15 percent. In Arizona, the percentage of voting-age citizens who stated that the public financing law had no effect was 39 percent in 2009, while the percent who felt that their confidence had somewhat or greatly increased was 26 percent, and the percent who felt their confidence had somewhat or greatly decreased was 22 percent.

Table 19: Maine and Arizona Voting-Age Citizens' Views on Confidence in State Government, among Those Aware of the Law

State	GAO survey questions and response options	Percent of voting age citizens*	
		2002	2009
Maine	To what extent has Maine's Clean Election Law increased or decreased your confidence in state government? Would you say the Law has greatly increased, somewhat increased, has had no effect, has somewhat decreased, or greatly decreased your confidence in state government or is it too soon to tell?		
	Greatly increased	2%	3%
	Somewhat increased	15	17
	Had no effect	39	42
	Somewhat decreased	5	6
	Greatly decreased	3	9
	Too soon to tell, unsure, or declined to answer	35	23
Arizona	To what extent has Arizona's Clean Election Law increased or decreased your confidence in state government? Would you say the Law has greatly increased, somewhat increased, has had no effect, has somewhat decreased, or greatly decreased your confidence in state government?		
	Greatly increased	2	3
	Somewhat increased	19	23
	Had no effect	33	39
	Somewhat decreased	9	11
	Greatly decreased	5	11
	Too soon to tell, unsure, or declined to answer	30	13 ^b

Source: GAO.

Notes: We included respondents who indicated that they were a lot, some, or a little aware of the respective states' public financing law. For Maine in 2009, the number of respondents for this question was 214, and the maximum 95 percent confidence interval for these survey results is plus or minus 6.7 percent. In 2002, the number of respondents for this question was 157, and the maximum 95 percent confidence interval for these survey results is plus or minus 8 percent. For Arizona in 2009, the number of respondents for this question was 424, and the maximum 95 percent confidence interval for these survey results is plus or minus 5 percent. In 2002, the number of respondents for this question was 433, and the maximum 95 percent confidence interval for these survey results is plus or minus 5 percent.

*Totals may not equal 100 due to rounding.

^bThe "too soon to tell" response option was offered in the 2002 survey, but was inadvertently omitted from the 2009 survey in Arizona.

In Maine and Arizona, over half of the candidates we interviewed reported that the public's confidence in government had not changed as a result of the public financing programs. Over half of the candidates in Maine (6 of 11) said the public's confidence in government neither increased nor decreased as a result of the public financing program. One of these candidates explained that he did not think many people were aware of the

public financing program. Three of the 11 candidates said that the public's confidence in government decreased in 2008 because of the public financing program. According to one candidate, people have been disappointed with the quality of the candidates, and their confidence in government has decreased as a result. On the other hand, 2 of the 11 candidates said that the public financing program increased the public's confidence in government.

In Arizona, 7 of the 11 candidates interviewed said that the public's confidence in government neither increased nor decreased as a result of the public financing program. The remaining 4 candidates were divided. Two candidates said that the public's confidence in government greatly increased or increased as a result of the public financing program. One of these candidates commented that the public financing program goes beyond providing public financing by providing a public forum and publications that play an important role in informing voters about the races and candidates. However, 2 candidates said that the public's confidence in government has decreased as a result of the public financing program. One of these candidates said that the public financing program resulted in a more divisive government, which has slightly decreased the public's confidence in government.

**Candidates and Interest Groups
Representatives Reported
Campaign Tactics Changed as a
Result of the Public Financing
Programs**

Candidates and interest group representatives in Maine and Arizona provided a range of perspectives on how campaign tactics have changed under the public financing programs. Their observations included changes in how money is spent and the role of political parties and the timing of campaign activities.⁶⁵

Candidates in both Maine and Arizona identified changes regarding how money is spent and the role of political parties since the implementation of the public financing programs. For example, in Maine, one candidate told us that private funding that would have gone directly to fund candidate campaigns has been redirected to political parties, who strategically focus their resources in certain races to help elect their candidates. Candidates reported that political parties have helped support candidates by providing advice, polling services, campaign volunteers, distributing campaign literature, and making automated telephone calls to constituents on behalf

⁶⁵Not all of the candidates or interest group representatives interviewed commented on changes in how money is spent, the role of political parties, and the timing of campaign activities under the public financing program.

of candidates. According to another Maine candidate, political parties are advising candidates to participate in the public financing program so that the political parties and political action committees can raise more money for their organizations.⁶⁶ However, other candidates had different perspectives on the role of political parties under the public financing program. For example, one candidate told us that since participating candidates receive public financing, they are less dependent on political parties for money, less willing to listen to the party leadership, and are more empowered to make their own decisions.

Candidates in Arizona reported similar changes in how money is spent and the role of political parties. For example, one candidate commented that now more money is being funneled through the political parties rather than being directly provided to the candidates. Another candidate said that political parties have used the public financing program as a vehicle, explaining that when candidates use public funds for their campaigns, the money that would have normally gone to the candidate is now diverted to other candidates or causes. According to one candidate, after public financing, political parties are more active and have more extensive field operations to support candidates in a greater number of districts. Further, four candidates said that political parties are gaming the public financing system to maximize support for their candidates. For example, one candidate explained that if two Republican candidates or two Democratic candidates were running in the same multimember district, then partisan groups could make independent expenditures on behalf of one candidate that would trigger matching funds for the other participating candidate. However, two candidates said their party did not get involved in their races in the 2008 election, and one candidate said she did not observe any change in the role of political parties since the implementation of the public financing program. Furthermore, one candidate said that under the public financing program, candidates have more independence from political parties, noting that she relies on support from a broad constituency in her district, not just from her political party.

Interest group representatives in both Maine and Arizona identified changes regarding how money is spent and the role of political parties

⁶⁶In Maine, legislators may form leadership political action committees. Legislators, including those who participate in the public financing program, may raise money for their leadership political action committees, but they may not spend the money in their own campaigns. State officials told us that these leadership committees often spend money to help elect other candidates from the same party.

since the implementation of the public financing programs. For example, in Maine, one interest group representative stated that the group coordinates its expenditures through the party caucus committees and other interest groups. He said that substantial contributions from the caucuses are now made to candidate campaigns without the candidates' knowledge. These committees are also engaged in public polling on an ongoing basis to identify voting patterns and constituent concerns in order to identify candidates to support. Another representative stated that because she made contributions to the political party, she does not have a way to know how her political action committee money is being spent because the committee makes independent expenditures on behalf of the candidate. Further, she stated that for participating candidates, the only thing an interest group can do is give an endorsement. In turn, participating candidates use these endorsements in their campaign advertisements. On the other hand, one representative said that there has not been much difference in campaign tactics since public financing has been available, and another representative said that the same tactics, such as direct mailers and going door-to-door for monetary solicitations, have been used.

Interest group representatives in Arizona similarly reported that public financing has changed campaign strategies. For example, one representative said that there is an increased reliance on volunteer activities, especially for statewide races. This representative stated that the amount of public funds for statewide candidates is not adequate, so candidates must rely on volunteers to get their message out. Volunteer activities, such as handing out flyers door-to-door or working phone banks to call voters, have become increasingly important. Another representative stated that since more candidates are participating in the public financing program and cannot accept direct contributions, there is more money available to nonparticipating candidates. He has noticed that nonparticipating candidates are asking for more money from interest groups than before public financing. According to another representative, campaign strategies are evolving. For example, a recent strategy has been the teaming of public and private candidates to maximize their resources such as on mailers.

Candidates and interest group representatives in Maine and Arizona also commented on how the public financing program has changed the timing of some campaign activities. In Maine, three candidates said that candidates or interest groups are changing the timing of spending in order to minimize either the amount or the effectiveness of matching funds distributed to opponent participating candidates. For example, one

participating candidate told us that supporters of his opponent distributed mailers right before the date when communications that support or oppose clearly identified candidates are presumed to be independent expenditures and trigger matching funds for participating opponents. Another strategy, according to one candidate, is for nonparticipating candidates or interest groups to spend money in the days immediately before the election, when participating candidates' ability to use the money is effectively restricted due to time constraints. In response, one candidate told us that participating candidates have television, radio, or other advertisements ready in case they receive additional matching funds that need to be spent quickly.

In Arizona, five candidates said that the tactics surrounding the timing of campaign spending have changed since the implementation of the public financing program. For example, one candidate said that the start of the campaign season is determined by the date on which spending by or on behalf of candidates triggers matching funds. In addition, one candidate explained that nonparticipating candidates have changed the timing of fundraising efforts, so that more funds are raised at the end of campaign, when it is more difficult for participating candidates to spend matching funds effectively. As in Maine, one candidate in Arizona said that participating candidates have responded to this tactic by preparing advertisements ahead of time, just in case they receive additional matching funds.

Interest group representatives in Maine and Arizona also commented on how the public financing program has changed the timing of some campaign activities. In Maine, one interest group representative stated that candidates were strategically timing their advertisements to gain a competitive advantage. For example, candidates are thinking about from whom to get their seed money, and when to qualify for the money. In addition, usually, incumbents have an advantage because they can send out newsletters to constituents close to the election without triggering matching funds. This representative stated the biggest consideration regarding campaign strategies is how and when matching funds will be triggered by the independent expenditures. She said that independent expenditures are made in the last 5 days before an election on the assumption that the opposing participating candidate cannot make effective use of the matching funds. In Arizona, one interest group representative said that generally nonparticipating candidates control the timing of their fundraising and spending, and participating candidates make plans to spend matching funds to counter last-minute attack advertisements.

Data Limitations and Differences in Measurement Hinder Analysis of Changes in Voter Participation in Maine and Arizona

While increasing voter participation, as indicated by increases in voter turnout, was a goal of public financing programs in Maine and Arizona, limitations in voter turnout data, differences in how voter turnout is measured across states and data sources, and challenges isolating the effect of public financing programs on voter turnout hindered the analysis of changes over time.

Voter turnout is typically calculated as a percentage of the voting-age population (VAP) or voting-eligible population (VEP) who cast a ballot in an election.⁶⁷ The calculation of changes in voter turnout over time depends less on the specific data used for the numerator and denominator than it does on the consistency of how these data were collected over time and the use of comparable time frames and types of elections (e.g., presidential and congressional races).⁶⁸ However, data reporting issues, changes in measurement, and other factors affect the calculation of voter turnout estimates.

With respect to data limitations, data on voter turnout are not consistent across states or data sources. Depending on the source, the numerator of the turnout calculation (i.e., who cast a ballot in an election) may include the total number of approved ballots cast, the number of ballots counted whether or not they were approved, self-reports of voting information, or the number of ballots cast for the highest office on a ticket, such as for president. For example, official voter turnout data compiled by the Election Assistance Commission (EAC) are based on surveys of states; however, states vary in their policies, for example, related to voter registration, as well as in which turnout statistics they report.⁶⁹ Some states report voter turnout as the highest number of ballots counted, whereas other states report voter turnout as the number of votes for the highest office. Further, which specific statistic is reported is not necessarily constant over time. For example, EAC data prior to 2004

⁶⁷VAP includes U.S. residents age 18 and older. VEP accounts for the statutory ability of individuals to vote. Depending on the specific measure, estimates of VEP may exclude noncitizens, criminals disqualified under state felon disenfranchisement laws, or other U.S. residents of voting age who are disqualified from voting.

⁶⁸Historically, voter turnout is higher in presidential years than in years without a presidential election.

⁶⁹EAC was established by the Help America Vote Act (HAVA) of 2002, Pub. L. No. 107-252, 116 Stat. 1666 (2002). EAC is an independent, bipartisan commission responsible for, among other things, developing guidance to meet HAVA requirements, serving as a national clearinghouse of information about election administration, and certifying voting systems.

provide voter turnout based on the number of votes for the highest office on the ticket. Beginning in 2004, EAC reported total ballots cast, counted, or total voters participating for Maine and Arizona, but has not consistently reported the vote for highest office in these states. The Federal Election Commission (FEC) also provides information on turnout for federal elections, but the specific highest office in a given state and year could be for a state office such as governor that would not be reported along with federal election results.

Other voter turnout statistics, including those based on surveys of U.S. residents as part of the Census Bureau's Current Population Survey (CPS) or the American National Election Studies, rely on respondents' self-reports of voting behavior.⁷⁰ However, self-reports of voting behavior are subject to overreporting because many respondents perceive that voting is a socially desirable behavior. Additionally, estimates of voting based on self-reports can fluctuate depending on the wording of the question used in a survey. Further, survey results are generalizable only to the population covered by the survey, or sampling, frame.⁷¹ The CPS sampling frame excludes individuals living in group quarters such as nursing homes, meaning that estimates of turnout based on CPS data would not include turnout among these individuals. Data on other forms of voter participation, such as volunteering for a campaign, contacting media, donating money, fundraising, and contacting representatives on issues of concern, are limited because they are rarely collected with the express purpose of making state-level estimates, and surveys with this information are not usually designed in a manner to allow comparison across individual states over many years.

In addition, measurements of the denominator of voter turnout differ with respect to whether citizenship or other factors that affect eligibility are taken into account. Turnout estimates produced by the Census Bureau

⁷⁰CPS is a monthly survey of about 50,000 households conducted by the Census for the Bureau of Labor Statistics on the labor force characteristics of the U.S. population. Estimates obtained from the CPS include those on employment, unemployment, earnings, as well as other subjects including voting and registration. American National Election Studies conducts national surveys of the American electorate in election years, among other things.

⁷¹The sampling frame is the source of information used in selecting those households or individuals for a survey sample. While an ideal sampling frame would include all individuals or units from the target population of interest, most sampling frames are limited to some available subset of the population.

have historically used the VAP as a denominator, which includes those U.S. residents age 18 and older. In theory, a more accurate estimate of voter turnout can be made by adjusting VAP to account for the statutory ability of individuals to vote, in particular by removing noncitizens from the estimate. This is particularly important at the state level because the proportion of noncitizens varies across states and over time.⁷² However, the practical application of such adjustments may be complicated by the timing of available data relative to the date of the election or by other data limitations. For example, although the Census Bureau began to produce estimates of a citizen VAP for EAC in 2004, the estimate is calculated as of July 1 of the election year and does not adjust for population changes that may occur between July and the time of the election. Other alternatives for adjusting VAP for citizenship include calculating estimates between decennial Census surveys. The Census data currently provided to EAC include adjustments for citizenship based on another alternative, the American Community Survey (ACS).⁷³ The ACS uses a different sampling frame than other surveys used to adjust for citizenship, such as the CPS, and has slightly different estimates of citizenship.⁷⁴ In addition to adjustments for citizenship, researchers have also adjusted VAP to account for other factors that affect eligibility to vote, including state felony disenfranchisement laws, and overseas voting, among others. To make these adjustments, researchers use alternative data sources such as information on the population in prison from the Department of Justice's Bureau of Justice Statistics; however, these adjustments cannot always be applied similarly because of differences across states over time (such as in the proportion of probationers that are felons).

Lastly, changes in voter turnout cannot be attributed directly to public funding as there are a number of factors that affect voter turnout. Voter turnout can be affected by demographic factors such as age, income, how recently a person registered to vote, and previous voting history. For example, studies have shown that much higher percentages of older

⁷²Citizenship rates vary across states and adjusting VAP to create a "citizen VAP" can lead to changes in state-level estimates of voter turnout.

⁷³ACS is a nationwide survey conducted by the U.S. Census Bureau that collects population, economic, social, demographic, and housing information every year instead of every 10 years. ACS began testing in 1996 and was fully implemented to allow for small area estimates in 2005. Census has combined original ACS data with supplementary data to create an ACS data file suitable for state level estimates starting in 2000.

⁷⁴The ACS sampling frame includes some individuals excluded from the CPS, including residents of group quarters such as nursing homes, prisons, and college dormitories.

Americans vote than do younger citizens. Voter turnout can also be influenced by a broad range of contextual factors, including the candidates and their messages, mobilization efforts, media interest, campaign spending, and negative advertising. These potential confounding factors, along with aforementioned difficulties in calculating precise and consistent turnout information at the state level, prevented us from quantifying the extent to which, if any, Maine's and Arizona's public financing programs affected these states' voter turnout. Additional information about factors influencing the determination of changes in voter participation in Maine and Arizona can be found in the e-supplement accompanying this report—GAO-10-391SP.

Concluding Observations

Seven years ago our 2003 report concluded that with only two elections from which to observe legislative races—2000 and 2002—it was too early to precisely draw causal linkages to resulting changes. Today, following three additional election cycles—2004, 2006, and 2008—the extent to which there were changes in program goals is still inconclusive. There were no overall observable changes in three of the four goals, and we cannot attribute observed changes with regard to the winner's victory margin in Maine and Arizona to the public financing programs because other factors, such as changing economic conditions and candidate popularity, can vary widely and affect election outcomes. Further, essential data needed, such as uniform voter registration and turnout data across states, do not currently exist to enhance analyses conducted and, in the case of the fifth goal, increasing voter participation, to allow for analysis of changes. While undertaking considerable efforts to obtain and assemble the underlying data used for this report and ruling out some factors by devising and conducting multiple analytic methods, direct causal linkages to resulting changes cannot be made, and many questions regarding the effect of public financing programs remain.

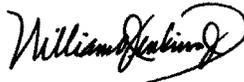
Public financing programs have become an established part of the political landscape in Maine and Arizona and candidates have chosen to participate or not participate based on their particular opponents and personal circumstances and values. The public financing program is prevalent across these states, and in each election cycle new strategies have emerged to leverage aspects of the public financing program by candidates and their supporters to gain advantage over their opponents. The trend of rising independent expenditures as an alternative to contributing directly to candidates is clear and its effect is as yet undetermined.

**Third-Party Views and
Our Evaluation**

We requested comments on this draft from the Maine and Arizona Offices of the Secretary of State and the commissions overseeing the public financing programs in each state. We received technical comments from the Arizona Citizens Clean Elections Commission, which we incorporated as appropriate. We did not receive any comments from the other agencies.

We are sending copies of this report to interested congressional committees and subcommittees. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staffs have any questions concerning this report, please contact me at (202) 512-8777 or jenkinswo@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix IV.



William O. Jenkins, Jr.
Director, Homeland Security
and Justice Issues

Appendix I: Objectives, Scope, and Methodology

Objectives

In accordance with the congressional direction specified in Senate Report 110-129 to revisit and update our 2003 report on the public financing programs in Maine and Arizona¹ to account for data and experiences of the past two election cycles,² this report

- provides data related to candidate program participation, including the number of legislative candidates who chose to use public funds to run for seats in the 2000 through 2008 elections in Maine and Arizona and the number of races in which at least one legislative candidate ran an election with public funds; and
- describes statistically measurable changes and perceptions of changes in the 2000 through 2008 state legislative elections in five goals of Maine's and Arizona's public financing programs—(1) increasing electoral competition by, among other means, reducing the number of uncontested races (i.e., races with only one candidate per seat in contention); (2) increasing voter choice by encouraging more candidates to run for office; (3) curbing increases in the cost of campaigns; (4) reducing the influence of interest groups and, thereby, enhance citizens' confidence in government; and (5) increasing voter participation (e.g., voter turnout)—and the extent to which these changes could be attributed to the programs.

Overview of Our Scope and Methodology

To obtain background information and identify changes since our 2003 report, we conducted a literature search to identify relevant reports, studies, and articles regarding the public financing programs in Maine and Arizona, as well as campaign finance reform issues generally, which had been published since May 2003 when our report was issued. Based on our literature review, discussions with researchers who have published relevant work on public financing programs or state legislatures, and suggestions by state officials in Maine and Arizona, we interviewed 9 researchers³ and 17 representatives of advocacy groups and other

¹GAO, *Campaign Finance Reform: Early Experiences of Two States That Offer Full Public Funding for Political Candidates*, GAO-03-453 (Washington, D.C.: May 9, 2003).

²S. Rep. No. 110-129 at 73 (2007). Since the Senate Report was issued in 2007, the report language referred to the past two election cycles, 2004 and 2006. However, due to the timing of our work, we included the past three election cycles in our report—2004, 2006, and 2008.

³We interviewed Thomas M. Carsey, Robert E. Hogan, Ruth S. Jones, Ray J. La Raja, Neil Malhotra, Kenneth R. Mayer, Michael P. McDonald, Richard G. Niemi, and Peverill Squire. These researchers have conducted studies or research on public financing programs, electoral outcomes, or state legislatures.

organizations concerned with campaign finance reform or issues related to state legislative elections.⁴ See the bibliography for a listing of the reports and studies we reviewed.

We reviewed the state statutes governing the public financing program—Maine’s Clean Election Act and Arizona’s Citizens Clean Elections Act—from 2002 through 2009 and other documentation related to the public financing program, such as candidate handbooks and annual reports, to determine any changes in the programs since our 2003 report. In addition, we interviewed state election officials in the commissions responsible for administering the two programs—Maine’s Commission on Governmental Ethics and Election Practices and Arizona’s Citizens Clean Elections Commission. We also interviewed officials in Maine’s and Arizona’s Offices of the Secretary of State, the agencies responsible for supervising and administering state elections activities, such as tabulating official election results. Through our discussions with Maine and Arizona state officials and our review of changes to the public financing statutes in both states from 2002 through 2009, we determined that the five goals of the public financing programs, as set out in our 2003 report, have not changed.⁵

We reviewed the Web sites of Maine’s Commission on Governmental Ethics and Election Practices (www.state.me.us/ethics) and Arizona’s Citizens Clean Elections Commission (www.azcleanelections.gov) to obtain information on the public financing programs, such as candidate handbooks and forms necessary in order to run for office. Additionally, we reviewed information on state elections on the Web sites of Maine’s Secretary of State (<http://www.maine.gov/sos>) and Arizona’s Secretary of State (<http://www.azsos.gov>). Officials from these state agencies told us that their respective Web sites were current and reliable for our review.

In addressing the objectives, we obtained and analyzed, to the extent possible, available statistical data from Maine’s and Arizona’s commissions

⁴We interviewed representatives from the Campaign Finance Institute, Center for Governmental Studies, Clean Elections Institute, Congressional Research Service, Goldwater Institute, Institute for Justice (Arizona Chapter), League of Women Voters of Arizona, Maine Citizens for Clean Elections, National Conference of State Legislatures, National Institute on Money in State Politics, and Public Campaign.

⁵There are other goals of public financing programs, such as increasing the amount of time candidates spend with voters. However, we did not measure these goals or assess the extent to which they may have been met because we focused our review on updating those goals we identified in our 2003 report.

and Secretaries of State offices on candidate program participation, election outcomes, and reported campaign spending from the 1996 through 2008 state legislative elections. We assessed the quality and reliability of electronic data provided to us by officials in Maine and Arizona by performing electronic testing for obvious errors in accuracy and completeness; validating the data using other sources; and reviewing the associated documentation, such as system flow charts. We also interviewed state officials about their data systems and any issues or inconsistencies we encountered with the processing of the data. When we found discrepancies, such as nonpopulated fields, we worked with state officials to correct the discrepancies before conducting our analyses. Based on these tests and discussions, we determined that the data included in the report were sufficiently reliable for our purposes. Although the public financing programs in Maine and Arizona cover both legislative and certain statewide offices, we limited the scope of our review to legislative candidates, since most of the elections for statewide offices occurred every 4 years and sufficient data would not have been available to conduct our analyses and draw conclusions.⁵

To obtain candidates' and interest groups' perspectives about the public financing programs, we conducted telephone interviews with a nonprobability sample of 22 out of 653 candidates who ran in 2008 state legislative primary and general elections in Maine (11 out of 452 candidates) and Arizona (11 out of 201 candidates). We conducted interviews with candidates from each state from June through September 2009. We selected these candidates to reflect a range of those who did and did not use public financing, won or lost in primary and general elections, had different political party affiliations, ran for election in different legislative chambers, and were incumbents and challengers. In our interviews, we asked similar, but not identical, questions to those from our 2003 report.⁷ Specifically, we included questions about the candidates' views on factors influencing their decision to participate or not participate in the public financing program, the effects of the public financing

⁵In Maine, public financing is available for candidates for state legislative offices and governor. In Arizona, public financing is available for candidates running for the following statewide offices: legislature, governor, secretary of state, attorney general, state treasurer, superintendent of public instruction, state mine inspector, and corporation commissioners.

⁷For our 2003 report, we conducted a mail survey of all candidates for office in Maine's and Arizona's 2000 elections. Due to different methods used, the results from the candidate survey presented in our 2003 report and the results from the telephone interviews are not comparable.

program on electoral competition and campaign spending, and changes in the influence of interest groups on elections. We coded the candidates' responses to the interview questions and conducted a content analysis to categorize responses and identify common themes.

Further, we interviewed a nonprobability sample of 10 interest group representatives—5 in Maine and 5 in Arizona. In Maine, we selected these interest groups from a listing of approximately 80 registered interest groups provided by a Maine state official. In Arizona, we selected interest groups from a total of approximately 220 interest groups, which we identified through the Arizona Secretary of State campaign finance Web site as contributors to campaigns during the 2008 election cycle.⁸ We selected these interest groups based on several factors, including industry sectors, such as communications or construction, range of contributions made to political campaigns, and availability and willingness of the representatives to participate in our interviews. Results from these nonprobability samples cannot be used to make inferences about all candidates or interest groups in Maine and Arizona. However, these interviews provided us with an overview of the range of perspectives on the effects of the public financing programs. Results from the candidate interviews are included in report sections regarding candidate participation, voter choice, electoral competition, campaign spending, and interest group influence. Results from the interest group interviews are included in report sections regarding electoral competition, campaign spending, and interest group influence.

Further details about the scope and methodology of our work regarding each of the objectives are presented in separate sections below.

Candidate Participation

To provide data related to candidate program participation, including the number of legislative candidates who chose to use public funds to run for legislative seats ("participating candidates") in the 2000 through 2008 elections in Maine and Arizona and the number of races in which at least one candidate ran an election with public funds, we obtained data from Maine's and Arizona's commissions and Offices of the Secretary of State. Specifically, for each state, we obtained or calculated data showing

⁸ We identified interest groups that made contributions during the 2008 election cycle, November 2006 through November 2008.

- the number of legislative candidates who chose to use public funds to run for seats in the 2000 through 2008 elections,⁹
- the seats (i.e., House or Senate) for which they were candidates,
- the political party affiliation of the candidates,
- whether the candidates were incumbents¹⁰ or challengers,
- whether the candidates were successful in their races, and
- the number of races in which at least one legislative candidate ran an election with public funds.

As used in our report, “challengers” consist of all nonincumbent candidates. Thus, a candidate who was not an incumbent is called a challenger, even if that candidate did not face an opponent. Also, in counting races to calculate the proportion of races with at least one participating candidate, we included all races in which there was a candidate on the ballot regardless of whether or not the candidate faced a challenger. Additionally, we eliminated from our analyses all candidates with zero votes and write-in candidates whose names did not appear on the ballot.

Electoral Competition

In designing our approach to assess electoral competition, we first reviewed literature published since our 2003 report and interviewed researchers and representatives of organizations and advocacy groups who are concerned with public financing and campaign finance reform issues in general. Specifically, we reviewed articles and interviewed researchers and representatives of organizations concerned with public financing issues who had conducted studies and research on electoral competition in states. Based on our review of the literature and these discussions, we concluded that there is no agreement on a standardized methodology to measure electoral competitiveness in state legislative elections. Thus, we used many of the same measures of electoral competition as those in our 2003 report, including the

- winners’ victory margins, which refers to the difference between the percentage of the vote going to the winning candidate and the first runner up;

⁹We used state-level data on individual elections and candidates to generate a rate of participation in public financing programs.

¹⁰For purposes of this report, we defined an incumbent as a candidate who held a seat from the previous legislative session in the same chamber.

- percentages of contested races; which refers to the percentage of all races with at least one more candidate running than the number of seats in contention; and,
- incumbent reelection rates, which refers to the percentage of incumbents who were reelected.¹¹

To assess changes in electoral competition in Maine and Arizona, we examined changes in these three measures of electoral competition in state legislative races by comparing the two elections before public financing became available to the five elections with public financing. However, unlike our 2003 report, we obtained and analyzed general election data from 1996 through 2008 from four comparison states that did not offer public financing programs for legislative candidates to determine if changes identified in Maine's and Arizona's general election outcomes for that same time period were similar to or different from changes observed in the four comparison states.¹²

Four Comparison States

We selected the four comparison states—Colorado, Connecticut, Montana, and South Dakota—based on a number of factors, including geographic proximity to Maine or Arizona; the capacity of the state legislature;¹³ the presence of legislative term limits; structure of the state legislature, such as legislative districts with more than one representative; and district size. In selecting our comparison states, we also reviewed other factors such as demographic and economic characteristics, including age, race, and poverty levels, and urban/rural population distribution, and recommendations from researchers and experts with knowledge of state legislatures we interviewed. Although all states were potentially candidates for comparison to Maine and Arizona, we eliminated some

¹¹In our 2003 report, we measured winners' victory margins by determining the difference between the percentage of votes received by the winning incumbents and the second-place finishers and defined a competitive race as one in which the difference in the percentage of the vote garnered between the winning incumbent and the runner-up was 15 points or less. See GAO-03-453.

¹²We did not compare primary election outcomes since the states' systems for nominating candidates for the general election differ considerably and therefore are not comparable.

¹³The National Conference of State Legislatures defines legislative capacity as the ability of the legislature to function as an independent branch of government, capable of balancing the power of the executive branch and having sufficient information to make independent, informed policy decisions. Factors such as the amount of time legislators spend on legislative work, annual compensation, and the ratio of legislative staff to number of legislators, can affect the level of legislative capacity.

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states (such as those with odd-year election cycles or a unicameral legislature) from our review because of their dissimilarity to Maine and Arizona, and focused primarily on those states that were recommended to us by researchers and experts we interviewed with knowledge of state legislatures. We also considered whether a state had reliable electronic data that covered the 1996 through 2008 general elections and whether the state was able to provide the data to us within the time frame of our review. No state we considered perfectly matched Maine or Arizona across the full range of characteristics we reviewed. Table 20 summarizes some of the characteristics we used to select the four comparison states for comparison to Maine and Arizona.

Table 20: Characteristics of the State Legislatures in Maine, Arizona, and Their Respective Comparison States

State	Public financing available for legislative candidates	Legislative capacity ^a	Term limits	Contribution limits	Single or multimember districts (chamber)	Number of constituents per House district ^b	Number of constituents per Senate district ^c
Maine	Yes	III	Yes	Yes	Single (both chambers)	8,400	36,400
Connecticut	No ^d	II	No	Yes	Single (both chambers)	22,600	94,600
Montana	No	III	Yes	Yes	Single (both chambers)	9,000	18,000
South Dakota	No	III	Yes	Yes	Single (Senate) Multimember ^e (House)	10,800	21,600
Arizona	Yes	II	Yes	Yes	Single (Senate) Multimember (House)	85,500	171,000
Colorado	No	II	Yes	Yes	Single (both chambers)	66,200	122,900
Montana	No	III	Yes	Yes	Single (both chambers)	9,000	18,000
South Dakota	No	III	Yes	Yes	Single (Senate) Multimember (House)	10,800	21,600

Source: National Conference of State Legislatures.

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¹³Reflects the National Conference of State Legislatures' categorization of legislative capacity, which uses a color-coding system to signify differences among the 50 states. Category I (red) legislatures generally require legislators to spend 80 percent or more of a full-time job working as legislators, have the largest ratio of legislative office staffs to number of legislators, and generally have the highest compensation. Category II (white) legislatures generally require legislators to spend more than two-thirds of a full-time job working as legislators, have intermediate-sized staff, and compensate legislators at a rate which usually not enough to allow them to make a living without having other sources of income. Category III (blue) legislatures generally require legislators to spend the equivalent of half of a full-time job doing legislative work, have relatively small staffs, and offer low levels of compensation. See National Conference of State Legislatures, Full and Part-Time Legislatures, <http://www.ncsl.org/?tabid=16701>. (accessed on Jan. 22, 2010).

¹⁴Constituents per district are as of 2000.

¹⁵Public financing was available to candidates running in Connecticut's 2008 legislative elections for the first time.

The exception are two House districts, which are subdivided into single-member districts.

We conducted analyses, to the extent possible, of the four comparison states' election data for 1996 through 2008 for comparison with Maine and Arizona to determine whether any trends or patterns observed in states with public financing were also seen in the four comparison states that do not have public financing programs.¹⁴ For our analyses, we compared Maine with the election outcomes of Connecticut, Montana, and South Dakota. We compared Arizona with the election outcomes of Colorado, Montana, and South Dakota.¹⁵ Generally, when conducting these analyses, we separated House and Senate elections and grouped Maine's and Arizona's election outcomes before the public financing program became available (1996 and 1998 elections) and election outcomes after public financing (2000 through 2008) with election outcomes in the comparison states during the same time periods.

Victory Margins

We measured victory margins in three ways. First, we calculated the average margin of victory for contested elections, defined in single-member districts as the difference in the number of votes between the winner and first runner up, divided by the total vote count. This measure is generally equivalent to the calculation of margin of victory in our 2003

¹⁴We assessed the reliability of the data from each of the four comparison states by performing electronic testing for obvious errors in accuracy and completeness; validating the data using other sources; reviewing the associated documentation, such as system flowcharts; and interviewing state officials about their data systems. We found the data to be sufficiently reliable for our analyses.

¹⁵Connecticut's 2008 election is omitted from our comparative multivariate analyses, since full public financing was available for the first time to state legislative candidates in the 2008 election cycle. The results from the analyses excluding Connecticut in 2008 are consistent with those that include it.

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report.¹⁶ For multimember districts, we defined the margin of victory as the number of votes going to the second winner minus the number of votes going to the runner up, excluding the number of votes going to the first winner from the denominator. Second, we compared whether changes in the margin of victory had an effect on the competitive nature of elections as defined by the distribution of the vote outcome between the winner and first runner-up. We compared close elections—defined as a difference of less than 10 percentage points in votes between the winning and losing candidates—with elections that were not as close—10 percentage points or more difference in votes between the winning and losing candidates. Third, we compared “landslide elections” or races with decisive winners—defined as a difference of more than 20 percentage points in votes between the winning and losing candidates—with elections that were not landslides—defined as 20 percentage points or less difference in votes between the winning and losing candidates.

Number of Contested Races

We measured the number of contested races by contrasting elections in which the number of candidates exceeded the number of seats available in the race with elections in which the number of candidates was equal to the number of seats available.

Incumbent Reelection Rates

We measured incumbent reelection rates in two ways. First, for those general election races with incumbents that were contested, we calculated the percentage of races with incumbents who won compared to all races with incumbents.¹⁷ Second, we calculated the percentage of individual incumbents who won, relative to all incumbents who ran.¹⁸ To assess

¹⁶See GAO-03-453 for more information.

¹⁷Races with more incumbents than seats available, and races in multimember districts where only one of two incumbents running won, were classified as “wins.” Given the infrequency of these events, we do not have reason to believe that classifying these events as losses would have an effect on our statistical analyses.

¹⁸To account for incumbents who lost in primary elections, we also calculated the individual incumbent reelection rate for all incumbents running including all incumbents who participated in primary elections and found similarly high reelection rates. Primary processes vary across states and parties. While most general election incumbents in Maine, Arizona, Colorado, and Montana had competed in a primary, a large proportion of incumbents in general elections in Connecticut and South Dakota were not participants in primaries. Additionally, several incumbents who won primaries did not run in general election races, while several who lost primaries nevertheless ran in the general election.

whether our calculations of incumbent reelection rates were sensitive to redistricting that forced incumbents from formerly separate districts to run against each other, we calculated the individual incumbency reelection rate excluding incumbents who participated in races with more incumbents than seats.¹⁹ Although we were not able to assess other potential effects of redistricting on incumbent reelection rates, such as those caused by demographic changes in a candidates' constituency, we conducted a limited analysis of geographic changes in state legislative district boundaries.²⁰

Multivariate Analyses

We used two types of multivariate statistical methods, fixed effects regression and hierarchical loglinear models, to evaluate how the competitiveness of races in Maine and Arizona changed after the implementation of public financing programs.²¹ Although multivariate methods do not allow us to directly attribute changes in outcomes to states' public financing programs, they do allow us to assess whether changes in Maine and Arizona were unique relative to a set of comparison states, controlling for other factors, and whether the observed changes were different from what would have occurred by chance. Our statistical models and estimates are sensitive to our choice of comparison states for

¹⁹In 2004, three of Maine's general election races (two House and one Senate), as well as two of Montana's House primary races and one of Montana's House general election races involved paired incumbents. In 2002, one primary and one general election in Connecticut involved paired incumbents. Also in 2002, three Arizona House primary elections and one each in a South Dakota House primary and general race involved more incumbents than seats available. South Dakota also had a primary in 2000 with more than one incumbent that was not likely a result of redistricting. Colorado experienced no multiincumbent races following the 2000 Census.

²⁰We examined district boundary changes following the 2000 Census in Arizona, South Dakota, Colorado, and Connecticut. Our analysis revealed that the average district in Arizona experienced a much higher degree of geographic change than districts in other states. Electronic boundary files were not available for legislative boundaries in Maine and Montana prior to the boundaries based on the 2000 Census.

²¹Fixed effects models compare how an outcome changes over time within states or legislative districts, in our case. Fixed effects models allow us to conclude that differences between states or districts at one point in time, such as laws, could not have affected the outcomes. We can rule out these factors because we only compare how the outcomes change within one state or district versus another, not how the outcomes differ at one time. Hierarchical loglinear regression models involve comparing the relative fit of simpler models with more complex models for the purpose of determining which factors do and do not have significant direct or indirect (i.e., interactive) effects on the outcomes of interest.

Maine and Arizona, thus researchers testing different comparison states may find different results.

We estimated fixed effects regression models to rule out broad groups of variables that may explain the patterns in our data without directly measuring them. Fixed effects models account for unmeasured factors that do not change over time (such as the structure of the state legislature), or that change in the same way (such as which party controls the U.S. Congress), for all states or legislative districts. This feature is particularly useful for our analysis because comprehensive and reliable data are not available on many of the factors that affect the competitiveness of state elections, such as long-term district partisanship, local economic conditions, and candidate quality.

We estimated a variety of fixed effects models to gauge the sensitivity of the results to different assumptions and alternative explanations. These included the following:

- Models that included fixed effects for districts and each combination of state and chamber of the legislature. These models estimate the district effects separately than the state effects.²²
- Models that excluded multimember districts. These models confirm that our results are not sensitive to our choice of measure of margin of victory for multimember districts.
- Models that logged the margin of victory to normalize the data to account for outlying data. These models reduce the potential influence of highly uncompetitive races.
- Models that excluded races with no incumbent running for reelection. These models account for the possibility that term limits influenced whether a race was contested because they exclude those seats that were open because of term limits.
- Models that excluded races from Connecticut in 2008 when public funding became available. Full public financing was available for the first time to state legislative candidates in the 2008 elections in Connecticut.
- Models that excluded races in which the number of incumbents exceeded the number of available seats. These models confirm that

²²Redistricting following the release of data from the 2000 decennial Census complicates the use of district fixed effects because district boundaries are not guaranteed to have stayed the same. We used both types of fixed effects as a sensitivity analysis, in part to maximize control, but we acknowledge that, for the district fixed effects models, the assumption that district boundaries did not change substantially may not hold.

our results are not sensitive to our definition of an incumbent “win” when more incumbents than available seats participated in a race.

We included fixed effects for each year and, where appropriate, controlled for whether an incumbent was running for reelection. We estimated the models of both continuous and binary outcomes using linear probability models and robust variance estimators, due to the fact that all of our covariates are binary (i.e., all of the variables stand for the presence or absence of something, such as incumbency).²³

We also estimated loglinear models to evaluate the changes in these outcomes in House and Senate elections in Maine, Arizona, and the four comparison states. In our analyses, we fit hierarchical models to the observed frequencies in the different four-way tables or five-way tables formed by cross-classifying each of the four outcomes by state (Arizona vs. other states and Maine vs. other states), chamber (Senate vs. House), time period (before public financing programs were available in elections prior to 2000 and after public financing programs were available in 2000 and later elections), and whether an incumbent was or was not involved in the race.

We followed procedures described by Goodman (1978) and fit hierarchical models that placed varying constraints on the odds and odds ratios that are used to describe the associations of state, chamber, and time period with each outcome.²⁴ Ultimately, we chose from among these different models a “preferred” model that included factors that were significantly related to the variation in each outcome and excluded those factors that were not.²⁵

²³Linear probability models and robust variance estimators are statistical methods to determine the best fit line or curve that corresponds to the data and to test assumptions about the models used, respectively.

²⁴See Leo A. Goodman, *Analyzing Qualitative/Categorical Data* (Lanham, Maryland: Abt Books, 1978). These procedures compare models hierarchically to determine which, if any, set of variables can adequately predict variation in the outcome. In general, more parsimonious models (those with fewer variables) are preferable to those with more variables, so long as excluding variables does not erode how well the model fits the observed data.

²⁵We used likelihood ratio chi-squared tests to identify which models significantly explained variation.

We are issuing an electronic supplement concurrently with this report—GAO-10-391SP. In addition to summary data on election outcomes in Maine and Arizona, the e-supplement contains additional discussion on the following issues:

- summary tables of the election data obtained from the four comparison states;
- fixed effects model assumptions, sensitivity analysis, and results;
- loglinear model methods and results;
- margin of victory measures in multimember districts;
- incumbency reelection rates and the potential effect of district boundary changes following the 2000 Census; and
- voter turnout calculations and data.

Voter Choice

To determine whether public financing encouraged more state legislative candidates to run for office, we calculated the average annual number of candidates per legislative primary and general election races for seven election cycles, including two elections preceding the public financing program—1996 and 1998—and five elections after public financing became available—2000 through 2008. Also, to determine whether there were different types of candidates running for office, we compared the percentage of races with third-party or independent legislative candidates who received at least 5 percent of votes cast for each of these seven election cycles. We chose our threshold based on research and interviews with state officials that suggested 5 percent of votes is commonly required for parties to gain access to and retain ballot placement. Ballot placement is critical in that it enables voters to use party information to make voting decisions, and allows them to see alternative party candidates at the same level as major party candidates without having to recall a specific candidate name. This definition of viability focuses on voter choice, and is distinct from whether a candidate is “electable” or competitive with other candidates.

Campaign Spending

To determine changes in candidate spending, we obtained available campaign spending and independent expenditure data from Maine and

Arizona.²⁶ Specifically, we obtained summarized campaign spending and independent expenditure data from Maine's Commission on Governmental Ethics and Election Practices, the state agency responsible for campaign spending reports. We found that Maine's campaign spending data for the 1996 through 2008 election cycles and independent expenditure data for the 2000 through 2008 election cycles were sufficiently reliable. In Arizona, we obtained campaign spending and independent expenditure data from the Secretary of State's office. Due, in part, to several upgrades to Arizona's campaign finance data systems over the time period reviewed, we found that Arizona's campaign spending data for the 2000 through 2008 election cycles and independent expenditure data for the 2008 election cycle were sufficiently reliable, with limitations as noted. For example, up to the 2008 election, Arizona's campaign spending database did not include precise data to identify and link each candidate to his or her campaign finance committee(s), the entities responsible for reporting candidates' contributions and spending.²⁷ Further, the candidates' campaign finance committees can span several election cycles and include spending reports for candidates who ran in several races for the same or different offices, such as House or Senate. Thus, to the extent possible, we matched candidates and candidate campaign finance committees through electronic and manual means, identified and calculated relevant candidate spending transactions, and sorted the data by election cycle dates. Further, although Arizona's Secretary of State office collected independent expenditure data from 2000 through 2008, it did not collect data on the intended beneficiaries of independent expenditures until the 2008 election cycle. Therefore, we limited our analysis of independent expenditures to the 2008 elections since we could not identify which candidates benefited from the expenditure. We worked with state officials responsible for the public financing programs and campaign finance data systems in Maine and Arizona to develop our methodology for analyzing these data. These officials reviewed summaries we wrote about their respective databases and agreed that they were generally accurate and reliable.

²⁶In general, independent expenditures are expenditures made by an individual or group other than by contribution to the candidate, that benefits a candidate, but without coordination with the benefiting candidate. Participating candidates in Maine's and Arizona's public financing programs receive matching funds based in part on independent expenditures made that benefit an opposing candidate.

²⁷For example, data from Arizona's campaign finance reports identify the candidate committee number and name of the committee, such as "Smith for State Senator," but not the individual candidate by name, such as "John Smith," or candidate number assigned by the Secretary of State.

We calculated the average House and Senate legislative candidates' spending in Maine for seven election cycles, from 1996 through 2008 and in Arizona for five election cycles, from 2000 through 2008. For comparisons across years and to observe any trends, we adjusted all candidate spending for inflation with 2008 as the base year using the Department of Commerce's Bureau of Economic Analysis gross domestic product implicit price deflator.

Interest Group Influence and Citizens' Confidence in Government

To assess changes in interest group influence and citizens' confidence in government, we included questions in our interviews with candidates in Maine's and Arizona's 2008 elections and interviews with interest groups in both states. Also, we contracted with professional pollsters who conducted omnibus telephone surveys with representative samples of voting-age citizens in Maine and Arizona.²⁸ Generally, this polling effort was designed to determine the extent to which voting-age citizens in each state were aware of their state's public financing program and to obtain their views about whether the program has decreased the influence of interest groups, made legislators more accountable to voters, and increased confidence in government.

In order to compare responses, the survey consisted of largely similar questions to those asked for our 2003 report.²⁹ The questions for Maine and Arizona were identical, except for some minor wording differences customized for the respective states, as shown in table 21.³⁰ Follow-up questions (e.g., questions 2, 3, and 4 in each set) were not asked of any individual who, in response to question 1, acknowledged knowing "nothing at all" about the applicable state's clean election law or was unsure or declined to answer. Since we pretested largely similar questions with

²⁸An omnibus survey is a survey that includes questions on a number of topics.

²⁹For our 2003 report, we also contracted with pollsters to conduct omnibus telephone surveys in Maine and Arizona in 2002. See GAO-03-453 for more information about our 2002 surveys and results. For this report, Arizona respondents were inadvertently not given the option of "too soon to tell" when asked about the extent to which the clean election law has decreased or increased the influence of interest groups and increased or decreased their confidence in state government.

³⁰In designing the questions, we used the term "clean election" because this wording has been widely used in the media, was used in the ballot initiatives, and also is part of the title of the respective state's laws. Thus, in reference to voter awareness, the term "clean election" likely is more commonly recognized than an alternative term such as "public financing program."

Appendix I: Objectives, Scope, and Methodology

members of the general public for our 2003 report, we did not pretest questions for this effort.

Table 21: Questions Used for the Maine and Arizona Surveys

State	Questions asked of voting-age citizens
Maine	<ol style="list-style-type: none"> 1. I would like to ask you about Maine's clean election law. This law provides campaign money to candidates running for governor and for candidates to the state legislature. Would you say you know a lot, some, a little, or nothing at all about Maine's clean election law? 2. Now, I would like to ask you about Maine legislators in general who ran their campaigns with public funds in the 2008 elections. Would you say that these state legislators who received public funds have been much more, somewhat more, somewhat less, or much less accountable to voters than legislators who did not get public funds, or has it not made any difference? 3. To what extent do you think Maine's clean election law has decreased or increased the influence of special interest groups on legislators? Would you say the law has greatly decreased, somewhat decreased, has had no effect, has somewhat increased, or greatly increased the influence of special interest groups, or is it too soon to tell? 4. To what extent has Maine's clean election law increased or decreased your confidence in state government? Would you say the law has greatly increased, somewhat increased, has had no effect, has somewhat decreased, or greatly decreased your confidence in state government, or is it too soon to tell?
Arizona	<ol style="list-style-type: none"> 1. I would like to ask you about Arizona's clean election law. This law provides campaign money to candidates running for statewide office, such as the Corporation Commission or governor and for candidates to the state legislature. Would you say you know a lot, some, a little, or nothing at all about Arizona's clean election law? 2. Now, I would like to ask you about Arizona legislators in general who ran their campaigns with public funds in the 2008 elections. Would you say that these state legislators who received public funds have been much more, somewhat more, somewhat less, or much less accountable to voters than legislators who did not get public funds, or has it not made any difference? 3. To what extent do you think Arizona's clean election law has decreased or increased the influence of special interest groups on legislators? Would you say the law has greatly decreased, somewhat decreased, has had no effect, has somewhat increased, or greatly increased the influence of special interest groups? 4. To what extent has Arizona's clean election law increased or decreased your confidence in state government? Would you say the law has greatly increased, somewhat increased, has had no effect, has somewhat decreased, or greatly increased your confidence in state government.

Source: GAO.

Contracted Polling Organizations

To conduct the Maine poll, we contracted with Market Decisions (Portland, Maine), the same polling organization that conducted the Maine poll for our 2003 report. During October 19, 2009, to November 2, 2009, the firm completed 404 telephone interviews with randomly selected adults throughout Maine. The sample of the telephone numbers called was based on a complete updated list of telephone prefixes used throughout the state. The sample was generated using software designed to ensure that every residential number has an equal probability of selection. When a working residential number was called, an adult age 18 or older in the

household was randomly selected to complete the interview. The 404 completed interviews represent a survey response rate of 42.5 percent.

To conduct the Arizona poll, we contracted with Behavior Research Center, Inc. (Phoenix, Arizona), the same polling organization that conducted the Arizona poll for our 2003 report. During September 9 through 18, 2009, the firm completed telephone interviews with 800 heads of households in Arizona. To ensure a random selection of households proportionately allocated throughout the sample universe, the firm used a computer-generated, random digit dial telephone sample, which selected households based on residential telephone prefixes and included all unlisted and newly listed households. Telephone interviewing was conducted during approximately equal cross sections of daytime, evening, and weekend hours—a procedure designed to ensure that all households were equally represented regardless of work schedules. Up to five separate attempts were made with households to obtain completed interviews. The 800 completed interviews represent a survey response rate of 42.98 percent.

Survey Error

All surveys are subject to errors. Because random samples of each state's population were interviewed in these omnibus surveys, the results are subject to sampling error, which is the difference between the results obtained from the samples and the results that would have been obtained by surveying the entire population under consideration. Measurements of sampling errors are stated at a certain level of statistical confidence. The maximum sampling error for the Maine survey at the 95 percent level of statistical confidence is plus or minus 6.7 percent. The maximum sampling error for the Arizona survey at the 95 percent level of statistical confidence is plus or minus 5 percent.

Voter Participation (Turnout)

To examine changes in voter participation, we reviewed information about voter turnout data from the Census Bureau, Federal Election Commission, United States Election Assistance Commission, the American National Election Studies, and other resources, including two repositories of elections data and information—George Mason University's United States Election Project (the Elections Project) and the Center for the Study of the

American Electorate.²¹ We identified these sources through our review of the literature and through discussions with researchers. To determine the extent to which changes in voter participation could be assessed over time, we reviewed documentation and research on these potential data sources, including information on collection and measurement of the voting-age population (VAP) or voting-eligible population (VEP) and the type of turnout recorded. Finally, we examined data and methodologies for measuring changes in voter turnout and other forms of participation to determine whether changes in participation could be precisely measured at the state level. We found that the different data sources required to calculate changes in turnout are not always comparable across sources and over time, because of differences in the way that data are collected or changes in how turnout is defined. As such, there was no need to conduct electronic testing to further assess the reliability of the data for our purposes. This does not indicate that the data are unreliable for other purposes. We also discussed voter turnout calculations with state officials and researchers. Additional detail about our work related to voter participation is included in the e-supplement to this report—GAO-10-391SP.

We conducted this performance audit from November 2008 through May 2010, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

²¹Voter turnout is generally defined as the percentage of the voting-age population (VAP) or voting-eligible population (VEP) (voting age citizens who are not statutorily disqualified from voting) who cast a ballot in an election. These sources collect or compile information on VAP, VEP, voter registration, ballots cast or counted, or self-reported voting behavior.

Appendix II: Overview of the Public Financing Programs for Legislative Election Campaigns in Maine and Arizona

Maine voters, by a margin of 56 percent to 44 percent, passed the Maine Clean Election Act¹ (Maine's Act) in November 1996. Arizona voters, by a margin of 51 percent to 49 percent, passed the Citizens Clean Elections Act² (Arizona's Act) in November 1998. These ballot initiatives established optional financing programs for candidates desiring to use public funds to finance their campaigns as an alternative to traditional fundraising means, such as collecting contributions from individuals or political action committees. The Maine and Arizona programs were the first instances of state programs that offered public funding intended to fully fund most campaign costs of participating candidates seeking state legislature seats and certain statewide offices.³ Both states' public financing programs became available for candidates beginning with the elections in 2000.

Generally, participating candidates—those candidates who forgo private fund raising and who otherwise qualify to take part in the respective state's public financing program—are to receive specified amounts of money for their primary and general election campaigns. Under Maine's and Arizona's laws, nonparticipating candidates—those candidates who choose to continue using traditional means for financing campaigns—are subject to certain limits on contributions and reporting requirements.

This appendix provides an overview of the public financing programs for legislative election campaigns in Maine and Arizona. Detailed information is available on the Web sites of the state agencies responsible for administering the respective program—Maine's Commission on Governmental Ethics and Election Practices (www.state.me.us/ethics) and Arizona's Citizens Clean Elections Commission (www.azcleelections.gov).

¹Maine Clean Election Act, 21-A M.R.S. § 1121 *et seq.*

²Arizona Citizens Clean Elections Act, A.R.S. § 16-940 *et seq.*

³In contrast, some states offer partial public funding programs that provide candidates with a portion, but not most, of the money expected to be necessary to run a campaign, generally by matching private contributions with public money at various ratios.

Maine's Public Financing Program

Purposes of Maine's Public Financing Program

Other than noting that the public financing program is an alternative financing option available to certain candidates, Maine's Act has no section that specifically details the purposes, goals, or objective of the law. To get the initiative on the ballot, a coalition of interest groups, the Maine Voters for Clean Elections, collected about 65,000 signatures.⁴ At that time, the coalition and other proponents advertised that the public financing program would "take big money out of politics" by limiting what politicians spend on campaigns, reducing contributions from special interests, and increasing enforcement of election laws. They said that the initiative, if passed, would decrease the influence of wealthy individuals, corporations, and political action committees in politics, and would level the playing field so that challengers would have a chance against incumbents. They asserted that politicians would then spend more time focusing on the issues that affect all of their constituents rather than spend time on pursuing money for their campaigns. Further, proponents also advertised that the public financing program would allow candidates who do not have access to wealth the opportunity to compete on a more equal financial footing with traditionally financed candidates, restore citizen's faith and confidence in government, and give new candidates the opportunity to run competitively against incumbents. In 2003 we reported that according to Maine state officials and interest group representatives we interviewed there was not any organized opposition to the initiative when it was on the ballot.⁵

A 2007 report by the Maine Commission on Governmental Ethics and Election Practices reaffirmed that the goals of the program are generally to increase the competitiveness of elections; allow participating candidates to spend more time communicating with voters; decrease the importance of fundraising in legislative and gubernatorial campaigns;

⁴The coalition of interest groups included the American Association of Retired Persons (Maine Chapter), Maine A.F.L.-C.I.O., League of Women Voters of Maine, Common Cause/Maine, Natural Resources Council of Maine, Maine People's Alliance, Money and Politics Project, and Peace Action Maine.

⁵GAO, *Campaign Finance Reform: Early Experiences of Two States That Offer Full Public Funding for Political Candidates*, GAO-03-453 (Washington, D.C.: May 9, 2003).

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reduce the actual and perceived influence of private money in elections; control the increase of campaign spending by candidates; and allow average citizens a greater opportunity to be involved in candidates' campaigns.⁶

Requirements to Receive Public Funding in Maine

In Maine, candidates who wish to participate in the state's public financing option and receive funds for campaigning must first be certified as a Maine Clean Election Act candidate. Certified candidates, among other things, must (1) forgo self-financing and all private contributions, except for a limited amount of "seed money," which are funds that may be raised and spent to help candidates with the qualifying process prior to certification, and (2) demonstrate citizen support by collecting a minimum number of \$5 contributions from registered voters. For example, as table 22 shows, to qualify for public financing during the 2008 election cycle, a candidate in a Maine House race had to gather \$5 qualifying contributions from at least 50 registered voters, and could raise no more than \$500 of seed money.

Table 22: Seed Money Limits and Number of Qualifying \$5 Contributions for Maine Legislative Candidates in the 2008 Election Cycle

Office	Seed money limits (dollars)		Number of Qualifying contributions
	Total cap	Individual contribution limit	
House of Representatives	\$500	\$100	50
Senate	1,500	100	150

Source: GAO analysis of Maine public financing laws.

Note: To help with the qualifying process, candidates seeking to be certified to receive public funding may raise and spend limited amounts of seed money.

Amounts of Allowable Public Funding for Participating Candidates in Maine

After being certified by the state as having met qualifying requirements, participating candidates receive initial distributions (predetermined amounts) of public funding and are also eligible for additional matching funds based on spending by privately funded opponents in conjunction with independent expenditures against the candidate or on behalf of an opponent.

⁶State of Maine, Report of the Commission on Governmental Ethics and Election Practices, *2007 Study Report: Has Public Funding Improved Maine Elections?* Augusta, Maine, 2007.

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For example, in Maine's 2008 election each participating candidate in a contested race for the House of Representatives (i.e., a race with more than one candidate per seat in contention) received an initial distribution of public funds in the amount of \$1,504 for the primary election and an amount of \$4,144 for the general election.⁷ Also, under Maine's Act, the maximum allowable matching funds available to a participating candidate in a legislative race were capped at double the initial distribution that the candidate received for his or her contested race, as shown in table 23.

Table 23: Public Funding Available to Each Participating Candidate in the Maine 2008 Election Cycle

Office	Type of race	Primary election			General election		
		Initial distribution	Maximum allowable matching funds	Total maximum allowable public funds	Initial distribution	Maximum allowable matching funds	Total maximum allowable public funds
House of Representatives	Contested	\$1,504	\$3,008	\$4,512	\$4,144	\$8,288	\$12,432
	Uncontested	512	0	512	1,658	0	1,658
Senate	Contested	7,746	15,492	23,238	19,078	38,156	57,234
	Uncontested	1,927	0	1,927	7,631	0	7,631

Source: GAO analysis of Maine public financing laws.

Note: A contested race is a race with more than one candidate per seat in contention.

Under Maine's Act, prior to being amended in 2009, the commission was required to recalculate the initial distribution amounts at least every 4 years, based upon average expenditures in similar races in the two previous election cycles. Under this statute, the commission was not required to recalculate the initial distribution amounts in 2008 and intended to use the same payment amounts as in 2006. However, according to a state official, due to a shortfall in the state's General Fund budget, the Maine State Legislature approved a 5 percent reduction in the general election distribution amounts, which took effect in the 2008 legislative elections. Beginning in the 2012 elections, in response to a 2009 amendment, the state will be required to recalculate the initial distribution amounts every 2 years taking into account several factors such as average candidate spending and increases in costs of campaigning.

⁷Most (281 of the 300) of the legislative primary elections for Maine's House of Representatives in 2008 were uncontested.

Appendix II: Overview of the Public Financing Programs for Legislative Election Campaigns in Maine and Arizona

Matching funds are triggered when required reports show that the sum of a privately funded opponent's expenditures or obligations, contributions and loans, or fund revenues received exceeds a participating candidate's sum of fund revenues. Further, the calculation used to assess whether matching funds are triggered is to include reported independent expenditures that benefit an opponent's campaign. Generally, independent expenditures are any expenditures made by individuals or groups, other than by contribution to a candidate or a candidate's authorized political committee, for any communication (such as political ads or mailings) that expressly advocates the election or defeat of a clearly identified candidate.⁸ During the final weeks before an election, the definition of independent expenditure expands beyond express advocacy to include a broader range of communications directed to the public.

In 2008, a total of about \$3 million in public funds was authorized for the 332 participating candidates who ran in the Maine primary or general elections for state legislature.

Revenue Sources for Maine's Public Financing Program

Various revenue sources are used to support Maine's public financing program. As table 24 shows, appropriations were the largest funding source in Maine in 2008. Table 24 also indicates that in 2008, about 6 percent of Maine's funding came from state income tax checkoff donations and other voluntary donations. This included \$194,970 in funding from state income tax checkoff donations, which represented about 7 percent of the 665,503 total returns filed in tax year 2007 in the state.

⁸For example, express advocacy includes the use of phrases such as "vote for the governor," "reelect your representative," "support the democratic nominee," "cast your ballot for the Republican challenger," "defeat the incumbent," or "vote pro-life" or "vote pro-choice," if accompanied by a list of pro-life or pro-choice candidates. Clearly identified means the candidate's name or image appears in the communication; or that the candidate's identity is apparent by unambiguous reference.

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Table 24: Revenue Sources and Amounts for Maine's Public Financing Program in 2008

Dollars in thousands		
Revenue sources	Annual revenue	Percentage
Appropriations: On or before January 1st of each year, the State Controller is to transfer \$2 million from the General Fund to a special dedicated fund (the Maine Clean Election Fund)	\$2,700	82%
Tax checkoffs: Under a tax checkoff program, a Maine resident can designate that \$3 be paid to the Maine Clean Election Fund. A husband and wife filing jointly may each designate \$3.	200	6
Qualifying contributions: The \$5 qualifying contributions collected by candidates are deposited in the Maine Clean Election Fund.	128	4
Miscellaneous: Other income includes interest earned, specified fines and penalties, and seed money collected by candidates and deposited in the Maine Clean Election Fund.	256	8
Total	\$3,284	100%

Source: GAO analysis of Maine public financing laws.

Notes: The cash balance in the Maine Clean Election Fund on December 31, 2007, was \$4,092,547. In addition to the annual transfer of \$2 million on January 1, 2008, the commission requested an advance on the annual transfer due on January 1, 2009, in order to have enough funds to cover the payments of matching funds to candidates in the 2008 general elections. The legislature authorized the transfer of \$700,000 to occur in August 2008. The 2008 election cycle involved only legislative races. It was not a gubernatorial election year. Annual revenue dollars are rounded.

**Administration of Maine's
Public Financing Program**

Maine's Act utilizes a commission, the Maine Commission on Governmental Ethics and Election Practices, to implement the public financing program and enforce provisions of the act. The commission consists of five members appointed by the Governor. Nominees for appointment to the commission are subject to review by the joint standing committee of the state legislature having jurisdiction over legal affairs and to confirmation by the state legislature. The commission is to employ a director and a staff to carry out the day-to-day operations of the program. In addition to financing election campaigns of candidates participating in the public financing program, the Maine Clean Election Fund is also to pay for administrative and enforcement costs of the commission related to Maine's Act. In 2008, the commission's total expenditures from the fund were \$3,357,472, including \$552,426 in personnel, technology, and other administrative costs.

Appendix II: Overview of the Public Financing Programs for Legislative Election Campaigns in Maine and Arizona

Reduced Contribution Limits and Additional Reporting Requirements for Nonparticipating Candidates in Maine

Before the passage of Maine's Act, political campaigns were financed completely with private funds. There were no limitations placed on expenditures by candidates from their personal wealth. Under Maine's Act, nonparticipating candidates are not limited in the amount they may spend from their personal financial resources on their own campaigns. While not faced with limits on the total amount of money that they can raise or spend, nonparticipating candidates are subject to certain limitations on the amount that an individual, corporation, or political committee can contribute to the campaigns of nonparticipating candidates. In the 2008 elections, for example, a nonparticipating candidate for the state legislature could accept up to \$250 from a donor per election. Prior to the 2000 election, the candidates could have collected up to \$1,000 from individuals and up to \$5,000 from political committees and corporations.⁹

Additional reporting requirements are placed on nonparticipating candidates who have one or more participating opponents. For example, a nonparticipating candidate with a participating opponent must notify the commission when receipts, spending, or obligations exceed the initial allocation of public funds paid to the participating opponent. Further, the nonparticipating candidate must file up to three additional summary reports so that the commission can calculate whether the participating opponent is entitled to receive any matching funds.

Maine Reporting Requirements for Independent Expenditures

Under Maine law, individuals or organizations making independent expenditures in excess of \$100 during any one candidate's election must file reports with the state. Reporting requirements for independent expenditures are important for helping to determine if matching funds are triggered. Independent expenditures are generally defined as any expenditure for a communication, such as campaign literature or an advertisement that expressly advocates the election or defeat of a clearly identified candidate that is made independently of the candidate, the candidate's committee, and any agents of the candidate. However, under Maine's campaign finance laws, expenditures by a group or individual to design, produce, or disseminate a communication to support or oppose a clearly identified candidate during the final weeks before an election with a participating candidate will be presumed to be independent expenditures, even if the communication does not expressly advocate a

⁹The contribution limit will increase to \$350 per donor for the 2010 legislative elections in Maine.

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candidate's election or defeat. This "presumption period" was first implemented in the 2004 Maine election. In 2008, the presumption period was 21 days before a primary election and 35 days before a general election. The law relating to the presumption period for a general election increased the period from 21 to 35 days in 2007. As table 25 shows, Maine has reporting requirements based upon the amount and timing of the independent expenditures to help ensure that participating candidates receive any additional matching funds they may be eligible for in a timely manner, particularly in the days before the election.

Table 25: Maine Reporting Requirements for Independent Expenditures in the 2008 Election Cycle

Independent expenditure description	Reporting requirement
Independent expenditure of more than \$250 in aggregate per candidate per election made within the presumption period	Report within 24 hours
Any independent expenditure, regardless of the amount, for a candidate who has over \$250 in aggregate independent expenditures in an election	Report within 24 hours
Independent expenditures aggregating in excess of \$100 per candidate in an election but not in excess of \$250	Reported in campaign finance report that covers the date the independent expenditure was made
Independent expenditures made during the 13-day period before an election	Report within 24 hours

Source: GAO analysis of Maine campaign finance laws.

Arizona's Public Financing Program

Purpose of Arizona's Public Financing Program

Arizona's Act contains a "findings and declarations" section that addresses the intent of the program. Specifically, the "findings" subsection of the Citizens Clean Elections Act, passed by voters in 1998, noted that the state's then-current election financing-system

- allows elected officials to accept large campaign contributions from private interests over which they have governmental jurisdiction;
- gives incumbents an unhealthy advantage over challengers;
- hinders communication to voters by many qualified candidates;

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- effectively suppresses the voices and influence of the vast majority of Arizona citizens in favor of a small number of wealthy special interests;
- undermines public confidence in the integrity of public officials;
- costs average taxpayers millions of dollars in the form of subsidies and special privileges for campaign contributors;
- drives up the cost of running for state office, discouraging otherwise qualified candidates who lack personal wealth or access to special interest funding; and
- requires that elected officials spend too much of their time raising funds rather than representing the public.

Further, the “declarations” subsection of Arizona’s 1998 Act stated that: “the people of Arizona declare our intent to create a clean elections system that will improve the integrity of Arizona state government by diminishing the influence of special interest money, will encourage citizen participation in the political process, and will promote freedom of speech under the U.S. and Arizona Constitutions. Campaigns will become more issue-oriented and less negative because there will be no need to challenge the sources of campaign money.”

Requirements to Receive Public Funding in Arizona

As in Maine, Arizona candidates who wish to participate in the state’s public financing option and receive funds for campaigning must first be certified as a Clean Election candidate. Certified candidates, among other things, must (1) forgo self-financing and all private contributions, except for a limited amount of “early contributions,” which are funds that may be raised and spent to help candidates with the qualifying process prior to certification, and (2) demonstrate citizen support by collecting a set number of \$5 contributions from registered voters. To qualify for public financing during the 2008 election cycle, a candidate for Arizona’s House of Representatives had to gather at least 220 qualifying \$5 contributions, and could collect no more than \$3,230 in early contributions, as shown in table 26.

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Table 26: Early Contribution Limits and Number of Qualifying \$5 Contributions for Arizona Legislative Candidates in the 2008 Election Cycle

Dollars in thousands

Office	Early contribution limits		Number of Qualifying contributions
	Total cap	Individual contribution limit	
House of Representatives	\$3,230	\$130	220
Senate	3,230	130	220

Source: GAO analysis of Arizona public financing laws and Citizens Clean Election Commission data.

Note: To help with the qualifying process, candidates seeking to be certified to receive public funding may raise and spend limited amounts of early contributions. The amount of allowable early contributions are established in statute and adjusted for inflation every 2 years.

Amounts of Allowable Public Funding for Participating Candidates in Arizona

After being certified by the state as having met qualifying requirements, participating candidates receive initial distributions (predetermined amounts) of public funding and are also eligible for additional matching funds when an opposing nonparticipating candidate exceeds the participating candidate primary or general election spending limits.¹⁰

In Arizona's 2008 elections, each participating candidate for the House of Representatives or Senate who was in contested party primary elections (i.e., races with more than one candidate per seat in contention) received an initial distribution of public funds in the amount of \$12,921. After the primary, successful major party candidates who were in a contested general election race then received an additional \$19,382, as shown in table 27.¹¹ Independent candidates received 70 percent of the sum of the original primary and general election spending limits. Unopposed candidates (i.e., those in an uncontested race) received only the total of their \$5 qualifying contributions as the spending limit for that election.

¹⁰Participating candidates for the state legislature could also use \$610 of their personal moneys for their campaigns in 2008.

¹¹The Secretary of State is to adjust the base amount, established in Arizona's Act, for inflation every 2 years.

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Table 27: Public Funding Available to Each Participating Candidate in the Arizona 2008 Election Cycle

Office	Type of race	Primary election			General election		
		Initial distribution	Maximum allowable matching funds	Total maximum allowable public funds	Initial distribution	Maximum allowable matching funds	Total maximum allowable public funds
House of Representatives	Contested	\$12,921	\$25,842	\$38,763	\$19,382	\$38,764	\$58,146
	Uncontested	*	*	*	*	*	*
Senate	Contested	12,921	25,842	38,763	19,382	38,764	58,146
	Uncontested	*	*	*	*	*	*

Source: GAO analysis of Arizona public financing laws and Citizens Clean Election Commission data.

Notes: A contested race is a race with more than one candidate per seat in contention.

*In Arizona, candidates in uncontested House and Senate races are only to receive an amount equal to the qualifying contributions for that candidate.

Participating candidates also received additional matching funds up to predetermined limits when an opposing nonparticipating candidate exceeded the primary or general election spending limits.¹² Matching funds were also provided to participating candidates when independent expenditures were made against them or in favor of opposing candidates in the race. The calculation to assess whether matching funds for participating candidates are triggered is to include reported independent expenditures that, in general, are made on behalf of nonparticipating or another participating candidate in the race by individuals, corporations, political action committees, or other groups. A January 2010 federal district court ruling held Arizona's Citizens Clean Election Act to be unconstitutional.¹³ More specifically, the U.S. District Court for the District of Arizona held that Arizona's matching funds provision burdens First Amendment speech protections, is not supported by a compelling state interest, is not narrowly tailored, is not the least restrictive alternative, and is not severable from the rest of the statute thereby rendering the whole

¹²During the 2008 primary election period, participating candidates were to receive matching funds in the amount equal to any excess of the opposing nonparticipating candidate's reported spending over the primary election spending limit, as previously adjusted, less 6 percent for the nonparticipating candidate's fundraising expenses and less the amount of early contributions raised for the participating candidate for that office. During the 2008 general election period, participating candidates were to receive matching funds in the amount equal to any excess of the reported difference over the general election spending limit, as previously adjusted, and less 6 percent for the opposing nonparticipating candidate's fundraising expenses.

¹³*McComish v. Brewer*, 2010 U.S. Dist. LEXIS 4932 (D. Ariz. Jan. 20, 2010).

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statute unconstitutional. On May 21, 2010, the U.S. Court of Appeals for the Ninth Circuit reversed the district court ruling on the basis that the matching funds provision imposes only a minimal burden on First Amendment rights, and bears a substantial relationship to the state's interest in reducing political corruption.¹⁴

In total, about \$6 million in public funds was distributed in 2008 to the 120 participating candidates for the Arizona legislature.

Revenue Sources for Arizona's Public Financing Program

Arizona's public financing program is supported through various revenue sources. As table 28 shows, a surcharge on civil and criminal fines and penalties was the largest funding source. Table 28 also indicates that in 2008, \$6.6 million, or about 39 percent of the fund's revenue, came from state income tax checkoff donations and other voluntary donations.

Table 28: Revenue Sources and Amounts for Arizona's Public Financing Program in 2008

Revenue sources	Annual revenue (dollars in thousands)	Percentage
Fines and penalties: This source is comprised of a 10-percent surcharge imposed on certain civil and criminal fines and penalties. Collections go in the Citizens Clean Elections Fund.	\$10,096	59%
Tax checkoffs and donations: By marking an optional checkoff box on their state income tax returns, Arizona taxpayers can make a \$5 contribution to the Citizens Clean Elections Fund. A taxpayer that checks this box receives a \$5 reduction (\$10 if filing jointly) in the amount of tax. Also, taxpayers may redirect a specified amount of owed taxes—up to 20 percent or \$550 (ceiling adjusted periodically), whichever is greater—to the Citizens Clean Election Fund and receive a dollar-for-dollar tax credit.	6,638	39
Qualifying Contributions: The \$5 qualifying contributions collected by participating candidates are deposited in the Citizens Clean Elections Fund.	229	1
Miscellaneous: Other income includes civil penalties assessed against violators of the Citizens Clean Elections Act.	37	0
Total	\$17,001	100%

Source: GAO analysis of Arizona public financing laws.

Note: Annual revenue dollars are rounded. Percentages may not add to 100 due to rounding.

¹⁴*McComish v. Bennett*, 2010 U.S. App. LEXIS 10442 (9th Cir. Ariz. May 21, 2010).

**Administration of
Arizona's Public Financing
Program**

Arizona's Act established the Citizens Clean Elections Commission to implement the public financing program and enforce provisions of the act. The commission consists of five members selected by the state's highest-ranking officials of alternating political party affiliation.¹⁵ No more than two commissioners may be from the same political party or county, and commissioners may not have run for or held office, nor been appointed to or elected for any office for the 5 years prior to being chosen as a commissioner. One new commissioner is to be appointed each year. As established by Arizona's Act, the commission is to employ an Executive Director to facilitate administration of the program. The Executive Director is responsible for, among other things, educating and assisting candidates in compliance with the act's requirements, limits, and prohibitions, assisting candidates in participating and obtaining public funding, as well as determining additional staffing needs and hiring accordingly. Arizona's Act caps commission spending for a calendar year at \$5 times the number of Arizona resident personal income tax returns filed the previous calendar year.¹⁶ Of that amount, the commission may use up to 10 percent for administration and enforcement activities and must use 10 percent or more for voter education activities. The remainder of commission spending goes to participating candidates' campaign funds. In calendar year 2008, the commission's expenditures totaled \$14,741,043—\$850,447 for administration and enforcement, \$6,179,857 for voter education, and \$7,710,739 for campaign funds. With regard to the \$7,710,739 spent for campaign funds in 2008, \$1,715,395 was for statewide candidates and \$5,995,344 was for legislative candidates.

The commission's responsibility for administering and enforcing Arizona's Act covers related contribution limits, spending limits, and reporting requirements that affect both participating and nonparticipating candidates. Cases of possible violations may be initiated with the commission in one of two ways: (1) either by an external complaint or (2)

¹⁵In Arizona, the highest ranking office is governor, which is succeeded by the secretary of state, attorney general, state treasurer, superintendent of public instruction, corporation commissioners in the order of seniority, mine inspector, Senate majority and minority leaders and House majority and minority leaders. The commissioners that served in 2009 were variously appointed by the governor, secretary of state, or attorney general, who were the highest-ranked Republican and Democrat at the time of the appointments.

¹⁶The Arizona Citizens Clean Elections Commission may exceed the expenditure limit during a calendar year, provided that it is offset by an equal reduction of the limit during another calendar year within the same 4-year period beginning January 1 immediately after a gubernatorial election.

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through information that comes to the commission's attention internally. The commission may assess civil penalties after investigating compliance matters and finding probable cause of a violation unless the candidate comes into compliance within a set time frame or settlement agreement is reached. Under certain circumstances, the commission can remove a legislator from office for violating specified Arizona Clean Elections Act spending or contribution limits. For example, the commission, for the first time, acted to remove a state legislator from office for exceeding spending limits by over 10 percent—about \$6,000—in his publicly funded election campaign during the 2004 primary election. The commission's action was upheld by an Arizona administrative law judge and an appeal by the legislator was unsuccessful in the Arizona court system.¹⁷

Reduced Contribution Limits and Additional Reporting Requirements for Arizona Nonparticipating Candidates

Before the passage of Arizona's Act, political campaigns in Arizona were financed completely with private funds. There were no limitations placed on expenditures by candidates from their personal wealth. Under Arizona's public financing laws, nonparticipating candidates are not limited in the amount they may spend from their personal financial resources on their own campaigns. While not faced with limits on the total amount they can spend on their own campaigns, nonparticipating candidates are subject to certain limitations on the amounts of contributions they can accept. For example, in Arizona, contributions from individuals were limited to \$488 per donor for nonparticipating candidates for the state legislature for the 2008 election cycle. The Arizona act reduced the limits on individual contributions to nonparticipating candidates by 20 percent.

Nonparticipating candidates have additional reporting requirements. For example, a nonparticipating candidate opposed by a participating candidate, must, in general, file a report with the Secretary of State if the campaign's expenditures before the primary election exceed 70 percent of the original primary election spending limit imposed on a participating opponent or if the contributions to a nonparticipating candidate has exceeded 70 percent of the original general election spending limit.

¹⁷See, e.g., *In the Matter of: David Burnell Smith*, Administrative Law Judge Decision, No. 05F-040023-CCE (August 2005); *Smith v. Arizona Citizens Clean Elections Commission*, 132 P.3d 1187 (Ariz. 2006).

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Arizona Reporting Requirements for Independent Expenditures

Under Arizona law, individuals or organizations making independent expenditures must file reports with the Secretary of State. According to commission officials, the commission coordinates with the Secretary of State to determine if participating candidates are eligible for matching funds based upon independent expenditures opposing participating candidates or supporting other candidates in their race. Under Arizona law, independent expenditures are generally defined as expenditures such as campaign literature or advertisements that expressly advocate the election or defeat of a clearly identified candidate that is made independently of the candidate, the candidate's committee, and any agents of the candidate. As table 29 shows, the amount and timing of the independent expenditure in relation to the election dictates when and how the independent expenditure must be reported.

Table 29: Arizona Reporting Requirements for Individuals or Organizations Making Independent Expenditures in the 2008 Election Cycle

Independent expenditure description	Reporting requirement
Independent expenditures relating to a particular office exceeding \$610 in aggregate in an election cycle, which includes both the primary and general elections	Reported in campaign finance reports that cover the date the independent expenditure was made. Supplemental reports required each time previously unreported independent expenditures exceed \$1,000.
Independent expenditures relating to any one candidate or office made within 10 days before the primary or general election	Report within 24 hours
Independent expenditures less than \$610 in aggregate relating to a particular office in an election cycle	Not required to be reported

Source: GAO analysis of Arizona campaign finance laws and implementing rules.

In addition, according to commission and state officials, Arizona has made changes intended to improve and clarify the process of reporting independent expenditures, given their importance in determining matching fund disbursements under the public financing program. For example, these officials told us that they made a number of updates to the office's campaign finance system for the 2008 election to help improve the reporting and tracking of independent expenditures and the timely disbursement of matching funds to participating candidates. One update required individuals or committees making independent expenditures to report the unique identification number of the candidate that is the beneficiary of an independent expenditure. A Secretary of State official told us that prior to the 2008 election the beneficiary of the independent expenditure was inconsistently identified in a text field, and there was no systematic way to distinguish independent expenditures made on behalf of specific candidates or ballot initiatives.

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After Maine voters passed the Maine Clean Election Act¹ in November 1996 and Arizona voters passed the Citizens Clean Elections Act² in November 1998, a similar public financing law³ (Connecticut's Act) was introduced in the Connecticut state legislature in October 2005 and enacted in December 2005, establishing the Citizens' Election Program. Connecticut's Act established an optional financing program for candidates for the state legislature beginning in 2008 and certain additional statewide offices beginning in 2010 to use public funds to finance their campaigns as an alternative to traditional fundraising means, such as collecting contributions from individuals or political action committees. In addition, the New Jersey Fair and Clean Elections Pilot Project was enacted into law in August 2004⁴ and the 2007 New Jersey Fair and Clean Elections Pilot Project Act⁵ was enacted into law in March 2007. These acts respectively established pilot projects offering optional public financing of campaigns for candidates seeking election to the General Assembly from certain legislative districts for the 2005 election and for candidates seeking election to the General Assembly and the Senate from certain legislative districts in the 2007 election.

Detailed information is available on the Web sites of the state agencies responsible for administering the respective programs—Connecticut's State Elections Enforcement Commission (SEEC) (www.ct.gov/seec/site/default.asp) and New Jersey's Election Law Enforcement Commission (www.elec.state.nj.us).

¹Maine Clean Election Act, 21-A M.R.S. § 1121 *et seq.*

²Arizona Citizens Clean Elections Act, A.R.S. § 16-940 *et seq.*

³C.G.S. § 9-700 *et seq.*

⁴P.L. 2004, c.121, August 11, 2004.

⁵P.L. 2007, c.60, March 28, 2007.

Connecticut's Public Financing Program

Purpose of Connecticut's Public Financing Program

Connecticut's Act established the Citizens' Election Program, which offered full public financing⁶ for participating candidates for the House of Representatives and Senate of the state legislature, also known as the General Assembly, beginning in 2008, and will expand to certain statewide offices, such as governor and attorney general, beginning in 2010.⁷ Connecticut's State Elections Enforcement Commission (SEEC) outlined the following goals of the public financing program:

- to allow candidates to compete without reliance on special interest money,
- to curtail excessive spending and create a more level playing field among candidates,
- to give candidates without access to sources of wealth a meaningful opportunity to seek elective office in Connecticut, and
- to provide the public with meaningful and timely disclosure of campaign finances.⁸

Requirements of the Public Funding Program in Connecticut

In Connecticut, candidates for the state legislature who wish to receive public funds for campaigning must qualify by, among other things, (1) raising a certain total amount of money, in amounts between \$5 and \$100, in qualifying contributions from individuals, and (2) collecting a certain number of these qualifying contributions from individuals who reside in

⁶This type of program has been referred to as a "full" public campaign financing program. Full public campaign financing programs, in theory, are generally intended to be sufficient to cover most campaign costs. In contrast, some states offer partial public funding programs that provide candidates with a portion, but not most, of the money expected to be necessary to run a campaign, generally by matching private contributions with public money at various ratios.

⁷These statewide offices are Governor, Lieutenant Governor, Attorney General, State Comptroller, State Treasurer, and Secretary of the State. The next election for these offices will be held in 2010.

⁸In addition to administering the public financing program, SEEC has a number of other responsibilities, including the investigation of possible violations of the election laws and the inspection of campaign finance records and reports. The governor and the four highest ranking leaders of the General Assembly each make appointments to the five-member Commission.

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the district for which the candidate seeks legislative office, as shown in table 30. In addition, candidates can contribute a limited amount of personal funds to their candidate committees before applying for the initial distribution of public funds. The maximum amount of personal funds allowed per candidate varies depending on the office sought. Any allowable amount of personal funds a candidate contributes is not considered as part of the qualifying contributions, and reduces the initial distribution by a corresponding amount.

Table 30: Qualifying Contribution Requirements for Candidates in Connecticut's Legislative Elections in 2008

Office	Total minimum amount of qualifying contributions (dollars) ^a	Minimum number of individual qualifying contributions from individuals residing in the candidate's legislative district	Maximum amount allowable from candidate's personal funds (dollars)
House of Representatives	\$5,000	150	\$1,000
Senate	15,000	300	2,000

Source: GAO analysis of Connecticut public financing law.

^aContributions are to be in amounts between \$5 and \$100 from individuals. Qualifying contributions must be monetary and do not include in-kind contributions.

After meeting the requisite qualifications and meeting the ballot requirements administered by the Secretary of State, participating candidates from major political parties may receive initial distributions of public funding as shown in table 31. Minor party candidates can receive varying amounts of public funding^b depending on whether they meet

^bIf a candidate for the same office representing the same minor party in the prior election received at least 20 percent of the votes cast for that office, the eligible minor party candidate in the current election may receive the same amount of public funds for the general election campaign as the major party candidates. If a candidate for the same office representing the same minor party in the prior election received at least 10 or 15 percent of the votes cast for that office, the current minor party candidate may receive one-third or two-thirds respectively of the amount of public funds for the general election campaign as the major party candidates and may continue to collect contributions meeting the criteria for qualifying contributions to make up the difference between the amount received and the amount of the full grant. Eligible petitioning party candidates, those not nominated by a major or minor political party, who secure a place on the ballot by filing a requisite nominating petition, are eligible to receive funding similar to that of eligible minor party candidates. Additionally, if a minor party for the same office represents the same minor party in the prior election received less than 10 percent of the votes cast for that office, the current minor party candidate may collect signatures on a nominating petition in order to qualify for a grant.

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certain requirements.¹⁹ For elections held in 2010 and thereafter, SEEC is to adjust the amount of public funding for legislative candidates every 2 years to account for inflation.

Table 31: Public Funding Available to Major Party Candidates in Connecticut Primary and General Elections in 2008

Office	Primary election ^a	General election ^b
State Representative	\$10,000	\$25,000
State Senator	35,000	85,000

Source: GAO analysis of Connecticut public financing law.

^aIf the participating candidate is in a party-dominant district (defined as districts in which the percentage of active registered district voters who are enrolled in a major party exceeds the percentage of active registered district voters enrolled in another major party by at least 20 percentage points), then the amount of public funding for a primary election increases to \$25,000 for a state representative candidate and to \$75,000 for a state senator candidate.

^bIf the participating candidate is unopposed in the general election, the amount of public funding is reduced by 30 percent. If the participating candidate's opponent is from a minor party or has not raised funds in an amount equal to the qualifying contribution thresholds, then the amount of public funding is reduced by 60 percent.

Participating candidates are also eligible for supplemental public funding up to certain specified amounts, based on spending by nonparticipating or participating opposing candidates whose aggregate contributions, loans, or other funds received or spent exceed the applicable spending limit—the amount of qualifying contributions plus applicable full initial distribution for a participating candidate in that race. In addition, on the basis of required independent expenditure reports or a SEEC determination, a participating candidate can also receive additional matching funds, in general, if such independent expenditures are made with the intent to promote the defeat of the participating candidate. Such additional funds are to be equal to the amount of the independent expenditure but may not exceed the amount of the applicable primary or general election grant for the participating candidate. If such independent expenditures are made by an opposing nonparticipating candidate's campaign, additional matching funds are only to be provided if the nonparticipating candidate's campaign

¹⁹An August 27, 2009, federal district court ruling (*Green Party of Connecticut, v. Garfield* 648, F. Supp. 2d 298 (2009)) held that the Connecticut public financing program placed an unconstitutional discriminatory burden on minor party candidates' First Amendment protected right to political opportunity by enhancing major party candidates' relative strength beyond their past ability to raise contributions and campaign, without imposing any countervailing disadvantage to participating in the public funding scheme. This case was appealed to the U.S. Court of Appeals for the Second Circuit in September 2009.

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expenditures plus the amount of independent expenditures, exceed the applicable initial public funding amount for the participating candidate.¹¹

Revenue Sources and Expenditures Made from Connecticut's Public Financing Program Fund

The primary revenue source for Connecticut's public financing program is derived from the sale of abandoned or unclaimed property in the state's custody, such as funds left in saving or checking accounts; stocks, bonds, or mutual fund shares; and life insurance policies. As of March 3, 2010, the Citizens' Clean Election Fund has about \$43 million, a fund established by Connecticut's Act for the public financing program. In addition, the Citizens' Election fund receives funds from voluntary contributions and interest earned on the fund's assets, and if the amount from the sale of abandoned or unclaimed property is less than the amounts specified under state law to be transferred to the Citizens' Election Fund, then the difference is to be made up from corporation business tax revenues. During the 2008 election cycle, about \$8.3 million was distributed to 250 participating candidates in the general election and about \$3 million was expended for SEEC administrative costs.¹²

Candidate Participation in Connecticut's Public Financing Program in 2008

About three-fourths (250 of 343) of legislative candidates in Connecticut's general election participated in the public financing program, and there was at least one participating candidate in over 80 percent of the races, as shown in table 32.

¹¹An independent expenditure, in general, is an expenditure that is made, without the consent, knowing participation, or consultation of a candidate or agent of a candidate committee. Independent expenditures, to promote the success or defeat of a candidate's campaign, in excess of \$1,000 in the aggregate must be reported to SEEC by the person or entity that makes the expenditure.

¹² According to the Director of the Connecticut Citizens' Election Program, approximately \$1 million was returned as surplus funds to the Citizens' Election Fund from public grant funds distributed for the 2008 election cycle. The surplus funds were returned in calendar years 2008 and 2009.

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Table 32: Number of Candidates Who Used Public Financing and Number of Races with at Least One Participating Candidate in Connecticut's Legislative General Election in 2008

Candidates and races		
Candidates ^a	Number	Percentage
Nonparticipating	93	27%
Participating	250	73
Total	343	100%
Races ^b		
With no participating candidates	34	18
With at least one participating candidate	153	82
Total	187	100%

Source: Data provided by the State Elections Enforcement Commission.

Note: Connecticut has 151 House districts and 36 Senate districts.

^aIn counting participating candidates, we include candidates who joined the program but did not apply for grants. A few chose not to apply because they were unopposed and did not need the funds, and a few did not apply because they did not reach the qualifying thresholds.

^bIn counting election races, we included all 187 districts in which there was a candidate on the ballot regardless of whether or not the candidate faced a challenger.

Of the participating legislative candidates in Connecticut's general election, more than half, or 130 of 250 candidates, were incumbents. Of those participating candidates who were elected to office, about 95 percent of the incumbents were elected, or 123 of 130 participating incumbent candidates, and about 23 percent of the challengers were elected, or 28 of 120 participating challenger candidates, as shown in table 33.

Table 33: Participating Candidates in Connecticut's Public Financing Program in the Legislative General Elections in 2008

	House of Representatives	Senate	Total
Campaign status of participating candidates			
Number of incumbents	101	29	130
Number of challengers	94	26	120
Total	195	55	250
Participating candidates elected			
Number of participating incumbents elected	95	28	123
Number of participating challengers elected	24	4	28
Total	119	32	151

Source: GAO analysis of Connecticut state reports.

New Jersey's Public Financing Program

Purpose of New Jersey's Public Financing Program

In 2004, the New Jersey Fair and Clean Elections Pilot Project was enacted into law and established an optional public financing program for General Assembly candidates in two legislative districts in the 2005 general election.¹³ Under New Jersey's 2005 public financing program for legislative candidates, the state Democratic party chairperson and the state Republican chairperson each chose one district to participate in the program. In one of the selected districts, two out of the four candidates for the state Assembly qualified for public funds, and in the other district, no candidates qualified.¹⁴ In 2007, the state legislature expanded the number of districts covered by the program to Senate and General Assembly candidates in three legislative districts and made several changes in the program, such as decreasing the number of contributions each candidate was required to collect from registered voters in his or her district.¹⁵

The goals of the 2007 New Jersey Clean Elections Pilot Project are

- to end the undue influence of special interest money,
- to improve the unfavorable opinion of the political process, and
- to "level the playing field" by allowing ordinary citizens to run for office.

Requirements of the Public Financing Program in the 2007 New Jersey Clean Elections Pilot Project

To participate in the 2007 Clean Elections Pilot Project, candidates needed to, among other things, (1) file a declaration of intent to seek certification with the New Jersey Election Law Enforcement Commission (ELEC), the agency responsible for the public financing program; (2) agree to participate in at least two debates; and (3) after certification, limit their expenditures to the amounts raised as "seed money" and qualifying contributions, and public funds received from the fund. During the qualifying period, candidates may accept seed money contributions of \$500 or less from individuals registered to vote in New Jersey, but in

¹³New Jersey has 40 legislative districts with one senator and two Assembly members in each district, and elections are held in odd-numbered years. Each Assembly member has a 2-year term and each senator has a 4-year term.

¹⁴The 6th and 13th legislative districts were selected for the 2005 pilot project.

¹⁵The three legislative districts selected for the 2007 pilot project were the 14th, 24th, and 37th districts.

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aggregate seed money contributions may not exceed \$10,000.¹⁶ A candidate seeking certification must obtain at least 400 contributions of \$10 (i.e., \$4,000) to receive the minimum amount of public funds available and at least 800 contributions of \$10 (i.e., \$8,000) to receive the maximum amount of public funds. The contributions must be from registered voters from the legislative district in which the candidate is seeking office. In addition, if two state Assembly candidates from the same party are running in the same legislative district, they both must agree to participate in the public financing program to become certified and eligible to receive public funds.

The amount of public funds received by a certified candidate depended upon several criteria: (1) whether or not the candidate is opposed, (2) whether or not the candidate is a major party candidate, and (3) whether the candidate ran in a "split" district, one that, in general, was selected jointly by members of the majority and minority parties in the legislature. After being certified, a candidate nominated by a political party who has also received at least 400 qualifying contributions would receive a grant amount of \$50,000 if opposed and \$25,000 if unopposed. If the candidate were running in a "competitive" district, then such a candidate could collect funding in equal proportion to the number of remaining qualifying contributions (after the initial 400) up to a maximum of 800 qualifying contributions for a total amount of public funds not to exceed the average amount of money spent by all candidates in the two preceding general elections for those offices. If a candidate is running in one of the two "nonsplit" districts, that is, one district selected by the members of the majority political party, and one district selected by the members of the minority political party, then the candidate could collect funding in equal proportion to the number of remaining qualifying contributions (after the initial 400) up to 800 qualifying contributions for a total not to exceed \$100,000.¹⁷ Qualifying contribution amounts received would be deducted from grant amounts. For example, if a candidate raised 400 \$10 qualifying contributions, the amount dispersed to the candidate would be \$46,000 (\$50,000 minus \$4,000 collected in qualifying contributions).

¹⁶Candidates were permitted to use previously raised and reported contributions of \$500 or less from New Jersey registered voters for this purpose. All seed money contributions must be reported at the same time as qualifying contributions.

¹⁷Certified independent candidates receiving at least 400 qualifying contributions would receive \$25,000 or, if unopposed, \$12,500. Thereafter, the independent candidate would receive an amount in equal proportion to the number of remaining qualifying contributions up to a maximum of 800 contributions, for a maximum amount of \$50,000.

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Participating candidates may also receive additional funds under certain circumstances. When a campaign report of a nonparticipating candidate shows that the aggregate amount of contributions exceeds the amount of money provided to an opposing participating candidate, ELEC may authorize an additional amount of money equivalent to the excess amount, up to a maximum of \$100,000 to each opposing participating candidate in the same district as the nonparticipating candidate.¹⁸ In addition, when a participating candidate files a written and certified complaint to ELEC, and ELEC determines that (1) a nonparticipating candidate is benefiting from money spent independently on behalf of the nonparticipating candidate or that (2) a participating candidate is the subject of unfavorable campaign publicity or advertisements by an entity not acting in concert with the opposing nonparticipating candidate, ELEC may authorize an additional amount of money up to a maximum of \$100,000 to the opposing participating candidate in the same legislative district who is not benefiting from the expenditure.

Revenue Sources and
Expenditures for the 2007
New Jersey Clean
Elections Pilot Project

For the 2007 pilot project, the New Jersey state legislature funded the program with approximately \$7.7 million from the state's general funds. In addition, voluntary donations, earnings received from the investment of money in the fund, and fines and penalties collected for violations of the public financing program are also sources of revenue. All unspent money is to be returned to the fund. About \$4 million was distributed to participating candidates for the 2007 pilot project. According to a state official, New Jersey's public financing program, which contains matching funds provisions, was not reauthorized for the 2009 elections due to both concerns about a federal district court ruling¹⁹ holding that the matching funds provisions of Arizona's Citizens Clean Elections Act to be unconstitutional, as well as state budget constraints.

¹⁸These additional funds are also known as rescue money.

¹⁹*McComish v. Brewer*, No. 2010 U.S. Dist. LEXIS 4932 (D. Ariz. Jan. 20, 2010). On May 21, 2010, the U.S. Court of Appeals for the Ninth Circuit reversed the district court ruling on the basis that the matching funds provision imposes only a minimal burden on First Amendment rights, and bears a substantial relationship to the state's interest in reducing political corruption. (2010 U.S. App. LEXIS 10442 (9th Cir. Ariz. May 21, 2010)).

**Appendix III: Information on Public Financing
Programs for State Legislative Election
Campaigns in Connecticut and New Jersey**

**Participation in the 2007
New Jersey Clean
Elections Pilot Project**

In the 2007 Pilot Program, 16 of the 20 legislative candidates running for office in the three legislative districts participated in the program, and every winning candidate participated. Two of the 16 participating candidates received funds in addition to their initial distribution of public funds due to independent expenditures made on behalf of opposing nonparticipating candidates.

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

William O. Jenkins, Jr., (202) 512-8777 or jenkinswo@gao.gov

Staff Acknowledgments

In addition to the contact named above, Mary Catherine Hult, Assistant Director; Nancy Kawahara; Geoff Hamilton; Tom Jessor; Grant Mallie; Heather May; Amanda Miller; Jean Orland; Anna Maria Ortiz; Doug Sloane; Michelle Su; Jeff Tessin; Adam Vogt; and Monique Williams made significant contributions to this report.

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The CHAIRMAN. With that, the committee now stands adjourned.
[Whereupon, at 12:10 p.m., the committee was adjourned.]