



Municipal Campaign Finance Law

Election Reform Task Force
April 22, 2010 – 2:00 p.m.

Summary of U.S. Supreme Court Precedent on Campaign Finance and the First Amendment

On Campaign Contribution Limits, Generally –

From [Davis v. Federal Election Commission](#) (2008)

The Supreme Court has “sustained the facial constitutionality of limits on discrete and aggregate individual contributions and on coordinated party expenditures. At the same time, the Court has recognized that such limits implicate First Amendment interests and that they cannot stand unless they are ‘closely drawn’ to serve a ‘sufficiently important interest,’ such as preventing corruption and the appearance of corruption.”

“When contribution limits are challenged as too restrictive, we have extended a measure of deference to the judgment of the legislative body that enacted the law. But we have held that limits that are too low cannot stand.”

On Limits on Candidate Expenditures from Personal or Family Resources –

From [Buckley v. Valeo](#) (1976)

“The ceiling on personal expenditures by candidates on their own behalf . . . imposes a substantial restraint on the ability of persons to engage in protected First Amendment expression.”

“The primary governmental interest served by (limits on campaign contributions) – the prevention of actual and apparent corruption of the political process – does not support the limitation on the candidate's expenditure of his own personal funds. As the Court of Appeals concluded: ‘Manifestly, the core problem of avoiding undisclosed and undue influence on candidates from outside interests has lesser application when the monies involved come from the candidate himself or from his immediate family.’ Indeed, the use of personal funds reduces the candidate's dependence on outside contributions and thereby counteracts the coercive pressures and attendant risks of abuse to which the (proposed) contribution limitations are directed.”

“The ancillary interest in equalizing the relative financial resources of candidates competing for elective office, therefore, provides the sole relevant rationale for (the proposed law's) expenditure ceiling. That interest is clearly not sufficient to justify the provision's infringement of fundamental First Amendment rights.”

“We therefore hold that (the proposed law's) restriction on a candidate's personal expenditures is unconstitutional.”

From [Davis v. Federal Election Commission](#) (2008)

On a law that would liberalize campaign expenditures of candidates facing self-financed opponents: “The burden imposed by (the law at issue) on the expenditure of personal funds is not justified by any governmental interest in eliminating corruption or the perception of corruption. The *Buckley* Court reasoned that reliance on personal funds *reduces* the threat of corruption, and therefore (the proposed law), by discouraging use of personal funds, *disserves* the anticorruption interest. Similarly, given Congress' judgment that liberalized limits for non-self-financing candidates do not unduly imperil anticorruption interests, it is hard to imagine how the denial of liberalized limits to self-financing candidates can be regarded as serving anticorruption goals sufficiently to justify the resulting constitutional burden.”

ETHICS COMMISSION

2008-2009 Instruction Manual

CAMPAIGN REPORTING

and

FINANCIAL DISCLOSURE

under the

Political Subdivisions Ethics Act

[51 O.S. 2001, §§ 301-325]

for

committees supporting or opposing candidates for
county, municipal or school board office

and

committees supporting or opposing
county or municipal ballot measures

STATE OF OKLAHOMA

Revised OCTOBER, 2007

Legal Authority, Mission, Objectives

In 1995 the Oklahoma Legislature repealed the Ethics Commission Act [74 Oklahoma Statutes 1991, § 4200 et seq.] and adopted the Political Subdivisions Ethics Act [the "PSEA"] now at 51 O.S. 2001, §§ 301-325. The PSEA is still under the jurisdiction of the constitutional Ethics Commission [the "Commission"] with enforcement of school board and municipal elections by local district attorneys. The Commission is made up of five private citizens - one appointed by the Governor, one by the President Pro Tempore of the Senate, one by the Speaker of the House, one by the Chief Justice of the Supreme Court and one by the Attorney General. It employs seven full-time staff members who administer the Constitutional Ethics Rules [the "Rules"], found at 74 O.S. Supp. 2007, Ch. 62 App., § 257:1-1-1 et seq., for state officers, employees and campaigns and the PSEA for local campaigns, county officers and employees. The agency's annual budget for fiscal year 2008 is \$602,960.

The Commission is the repository for registrations, designations of agent, campaign contributions and expenditures reports, and personal financial disclosure statements filed by state and county candidates, as well as lobbyist registrations and reports filed by registered lobbyists. It assesses and collects late fees for reports, etc. not timely filed by state and county candidates as required by the Rules and the PSEA. It receives citizen complaints alleging a violation of the PSEA by county officers, employees or candidates and, upon investigation and hearing, may refer such complaints to the appropriate prosecuting authority for action. Violations of the Rules are prosecuted by Commission staff in district court.

The Commission is charged, under Article XXIX of the Oklahoma Constitution, with promulgating rules of ethical conduct for campaigns for elective state office and for campaigns for initiatives and referenda, including civil penalties for violations of these rules. Its mandated function also includes rulemaking with respect to the ethical conduct of state officers and employees. It is further charged with investigating and prosecuting violations and recommending civil penalties for such in district court.

MISSION

The Ethics Commission promotes public confidence in and the general betterment of government by providing assistance and monitoring of:

- the financial disclosure, official conduct and political activity of public officials and employees;
- the disclosure of campaign financing; and
- the registrations of lobbyists and disclosure of lobbying expenditures.

OBJECTIVES FOR DISCLOSURE OF CAMPAIGN FINANCING

- to assist candidates, committees and party committees to organize and operate their campaigns in an orderly manner according to law;
- to promote disclosure of the financing of election campaigns; and
- to encourage broad participation in campaigns.

Instructions in this manual are provided to assist in the preparation of reports required or regulated by the PSEA. Care has been taken to make these instructions accurate, yet concise. However, these instructions cannot be substituted for the applicable provisions of the PSEA. The PSEA or other laws are controlling in the event of any conflict with or omission in the instructions.

All registrations, reports and statements filed with the Commission, except for complaints or informations, are public records and are available for inspection by the end of the next business day following their receipt. Photocopies of documents may be made upon payment of twenty-five cents [25¢] per page. Office hours are between 8:00 a.m. and 5:00 p.m. Monday through Friday, excluding official state holidays.

Checklist Of Reports And Actions

COVERED ARE: Candidates and committees supporting or opposing candidates.

WHAT TO DO	WHEN
1. <u>Get PSEA, Instructional Manual and forms.</u>	When candidate decides to run for office; When organization, committee or party organizes.
2. <u>File registration [form R-1].</u> [committees]	Within 10 days of receiving or expending more than \$500
3. <u>File designation of agent</u> <u>[form D-1].</u> [candidates and committees]	Within 10 days of receiving or expending more than \$500
4. <u>File financial disclosure</u> <u>statements [form F-1].</u> [county candidates only]	The later of the tenth day following the last day for filing declarations of candidacy ["DOC"] or contributions or expenditures exceeding \$500
5. <u>File contributions and expenditures</u> <u>report [form C-1] or statement</u> <u>of inactivity [form C-3].</u> [candidates and committees]	Between the fourteenth and tenth day before primary; between the fourteenth and tenth day before runoff; between the fourteenth and tenth day before general; between the thirty-first and fortieth day after general; between six months and six months and ten days after general election; and by January 15 of each year thereafter until final report is filed.
NOTE: No reporting is required unless and until \$500 threshold is reached.	
6. <u>FINAL contributions and expenditures</u> <u>report [form C-1].</u> [candidates and candidate committees]	After any election which results in win or loss of office sought; or after general election if name appears on ballot; or after last day for filing DOC's if unopposed; or after name is stricken from the ballot; or after candidacy has been statutorily withdrawn.
7. <u>FINAL contributions and expenditures</u> <u>report [form C-1].</u> [other committees]	Organizations, PAC's, committees -- after it no longer accepts contributions or makes expenditures. Party committees -- after political party dissolves. Status of debts or money owed committee and methods of resolution must continue to be reported until resolved.
8. <u>Financial Disclosure Statement [form F-1]</u> [elected county officials only]	A financial disclosure statement is due between the 30th and 40th day following each general election from elected county officials; if the \$500 threshold is not reached as a candidate, this statement is due from a successful candidate; if one is filed as a candidate, no further statement is required for 2008; another form is due following the general election in 2010.

What's New?

Since the 1996 State and County Elections, there have been no changes in the law. Following are changes reported for the 1996 elections. The Ethics Commission Act [74 O.S. Supp. 2001, § 4200 et seq.] was repealed. In 1995, the Political Subdivisions Ethics Act [51 O.S. 2001, §§ 301-325] was adopted. New criminal provisions affecting local office were also adopted. We urge you to review this complete instructional manual with special attention to the new requirements. Some of the 1995 law is summarized below:

1. No registrations, campaign reports or personal financial disclosure statements are required of candidates until their campaign exceeds either \$500 in contributions or expenditures; expenditures from the candidate's own fund to further the campaign apply toward the \$500 threshold;
2. County candidates in counties which exceed 250,000 in population may now receive a maximum of \$5,000 [formerly \$1,000] from an individual/family for their campaign; all other county candidates have a maximum contribution limit of \$1,000;
3. Exceeding the contribution limit by \$5,000 or more is a felony with a potential fine up to four times the amount exceeding the contribution limitation or by imprisonment in the State Penitentiary up to one year or by both; exceeding the contribution limit by less than \$5,000 is a misdemeanor with a potential fine of not more than three times the amount exceeding the contribution limitation or \$1,000, whichever is greater, or by imprisonment in the county jail for up to one year or by both;
4. A corporation which contributes an amount to a candidate's campaign or a committee supporting or opposing candidates in excess of \$5,000 is guilty of a felony with a potential fine up to four times the amount of the prohibited contribution or by imprisonment in the State Penitentiary for up to one year or by both; a corporation which contributes \$5,000 or less is guilty of a misdemeanor punishable by a fine of not more than three times the amount of the prohibited contribution or \$1,000, whichever is greater, or by imprisonment in the county jail for up to one year or by both;
5. No public officer [which includes an elected or appointed municipal, school board, county or state official] shall directly or indirectly coerce, attempt to coerce, command, advise or direct any state employee to pay, lend or contribute any part of his or her salary or compensation, time, effort or anything else of value to any party, committee, organization, agency or person for political purposes. Any person convicted of willfully violating these provisions shall be guilty of a felony and shall be punished by the imposition of a fine of not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment for not longer than two (2) years, or by both said fine and imprisonment. [21:360]

Reports

EC FORM		WHAT IT CONTAINS	WHO FILES	WHEN DUE
D-1	Designation of Agent	Candidacy information and name of agent who can accept contributions, make expenditures and file reports	Candidates; Committees	Within 10 days of accepting contributions or making expenditures in excess of \$500 during the campaign (candidate committees) or calendar year (other committees)
R-1	Registration of Committees	Purpose of organization, committee or party, officers, name of agent, bank, etc.	Committees	Within 10 days of accepting contributions or making expenditures in excess of \$500 during the campaign (candidate committees) or calendar year (other committees)
C-1	Contributions and Expenditures Report	Receipts and expenses for campaign or calendar year	Candidates; Committees	Between 10th and 14th day before primary Between 10th and 14th day before runoff Between 10th and 14th day before general Between 31st and 40th day after general Between 6 mo and 1 day & 6 mo & 10 days after general election Between Jan 1 & 15 of each year thereafter
C-3	Statement of Inactivity	No receipts or expenses during reporting period	Candidates; Committees	Filed in lieu of C-1 if no activity; Same as C-1 above
F-1	Financial Disclosure Statement	Sources of income by category or industry, personal info, stock, honoraria and lobbyist doing business with	County Candidates; Other Elected County Officials	The later of the 10th day following the last day for filing declarations of candidacy or receiving or expending \$500; By the 40th day after each general election;

Reports may be filed by mail but must be received by the Commission not later than 5:00 p.m. or faxed by midnight on the final day specified for filing in order to be deemed timely. Reports and statements may be "faxed" on or before midnight of the final day to the number below. If faxed, please do not mail original. The fax alone suffices.

SEND REPORTS TO:

County Candidates and Ballot Questions: Ethics Commission, 2300 North Lincoln Blvd, Room B5
Oklahoma City, Oklahoma 73105-4812
(405) 521-3451 • FAX: (405) 521-4905

Municipal Candidates and Ballot Questions: Clerk of the Municipality

School Board Candidates: Clerk of the Board of Education

PLEASE USE FULL NAME – Last, First, Middle – ON ALL REPORTS
INCLUDE MAILING ADDRESS, CITY, STATE AND ZIP FOR IDENTIFICATION

**OKLAHOMA ETHICS COMMISSION [“OEC”]
2008 – 2009 County Election and Disclosure Due Dates**

County Election Cycle

File Declarations of Candidacy	June 2-3-4, 2008
Primary Election	July 29, 2008
Runoff Primary Election	August 26, 2008
General Election	November 4, 2008

COUNTY CAMPAIGN REPORTING DATES

All Committees Supporting or Opposing County Candidates [county commissioners, sheriffs, treasurers, assessors, clerks and court clerks]

- R-1 Due* within 10 days of accepting or expending in excess of \$500 during a calendar year
- D-1 Due* within 10 days of accepting or expending in excess of \$500 during the campaign for candidates or candidate committees and during a calendar year for other committees
- *Pre-Primary Election C-1 or C-3 Due [1st contribution or expenditure-7/14/2008] July 15–21, 2008
- *Pre-Runoff Primary Election C-1 or C-3 Due [7/15/2008 to 8/11/2008] August 12–18, 2008
- *Pre-General Election C-1 or C-3 Due [8/12/2008 to 10/20/2008] October 21–27, 2008
- *Post General Election C-1 or C-3 Due [10/21/2008 to 12/4/2008] December 5–15, 2008
- *Annual Supplemental C-1 or C-3--2004 & 2006 Candidates [1/1/2007 to 12/31/2007] January 2–15, 2008
- *Six Month Supplemental C-1 or C-3 Due--2008 Candidates[12/5/2008 to 5/4/2009] May 5–14, 2009
- *Annual Supplemental C-1 or C-3 Due--2006 Candidates [5/5/2009 to 12/31/2009] January 2–15, 2010
- *Annual Supplemental C-1 or C-3--2004 & 2006 Candidates [1/1/2009 to 12/31/2009] January 2–15, 2010

*County candidates are not required to file any designation, registration or report unless and until they accept or expend in excess of \$500 during their campaigns.

FINANCIAL DISCLOSURE BY COUNTY CANDIDATES AND COUNTY OFFICERS

Financial Disclosure Statements

- F-1 Due [county election board members for calendar years 2006 & 2007] April 30, 2008
- F-1 Due [no extension allowed for candidates/for calendar years 2007 & 2008]–
required only if candidate accepts or expends in excess of \$500 June 16, 2008
- F-1 Due [county officers for period since last F-1 was filed] December 15, 2008
- Request for Extension [if needed] Due December 5–26, 2008
- F-1 with Extension Due January 14, 2009

ALL PRE-ELECTION REPORTS MUST BE FILED BY ALL 2008 COUNTY CANDIDATES WHO HAVE EXCEEDED \$500 IN CONTRIBUTIONS OR EXPENDITURES, INCLUDING CANDIDATES WHO DO NOT APPEAR ON THE BALLOT(S), UNTIL A FINAL REPORT IS FILED

FOR MOST CURRENT INFORMATION SEE <www.ethics.ok.gov>

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Introduction

The purpose of campaign reporting under the Political Subdivisions Ethics Act is to inform citizens of the financing of political campaigns. The law requires reporting of all contributions and expenditures. Detailed reporting of contributions of \$200 or less is not required.

All candidates and committees subject to the Ethics Commission Act must designate an agent ["Form D-1"] once they collect or spend in excess of \$500. A county candidate must also file a financial disclosure statement ["Form F-1"] within ten days of filing a declaration of candidacy or exceeding \$500 in activity, whichever is later.

Campaign reporting is not difficult. The designated agent, who may be the candidate, must keep a detailed account of receipts and expenditures if accurate reports are to be made. Campaign reporting ["Form C-1"] does not begin until 10 to 14 days prior to any election.

THE KEYS TO CAMPAIGN REPORTING

1. Keep detailed records of each contribution and expenditure.
2. Send reports on time. Your report will be on time if it is received by mail, "faxed" or hand delivered on or before 5:00 p.m. of the final day for filing the report, or faxed by midnight of the final day.

Type or write clearly in black ink on all reports. Use 8 ½ x 11 inch plain white paper for attachments and enclosures. Place the candidate or committee name and election year at the top and number each page. Use the same headings to answer questions as used on the form(s).

Please do not use pencil, light colored ink or oversized or continuous computer paper. We cannot reproduce those reports in a timely manner to meet our many demands or requests for copies.

We welcome your suggestions for additions or changes to these instructions. Direct them to:

Ethics Commission
2300 North Lincoln Blvd, Rm B5
Oklahoma City, OK 73105-4812
(405) 521-3451 • FAX (405) 521-4905

E-mail: Marilyn.Hughes@ethics.ok.gov
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Most Frequently Asked Questions

Question: What reporting is required of a candidate who runs for an elective office?

Answer: Designation of agent [form D-1] – must be filed once a candidate receives contributions or makes expenditures exceeding \$500. Any person can be designated as an agent, including the candidate him or herself. Any person who receives campaign contributions must be designated as an agent or subagent.

Financial disclosure statement [form F-1] – is due from county candidates only on or before the tenth day after the last date for filing declarations of candidacy from candidates who have exceeded \$500 in contributions or expenditures; if not filed as a candidate, the form is due from the winner of the office only between the 30th and 40th day following the General Election.

Registration of committee [form R-1] – is required only if the candidate is going to have a committee handle his or her campaign. It is due within 10 days of receiving or expending more than \$500.

Campaign contributions and expenditure report [form C-1] -- until a "FINAL" report is filed, is due 10 to 14 days prior to the Primary, Runoff Primary and General Election; 31 to 40 days after the General Election; six months and 10 days after the General Election and by January 15 of each year thereafter. A "FINAL" report may be submitted at any stage in the reporting process subject to when and if the candidate's name appears on a ballot; it concludes all campaign reporting requirements.

Question: Must a candidate form a candidate committee, and what reporting is required of candidate committees?

Answer: A candidate committee is not necessary; however, if one is formed, the committee should, in lieu of the candidate, file all reports listed in the answer to question number 1 except for the financial disclosure statement.

Question: What reporting is required of other committees?

Answer: Registration [form R-1] is filed within 10 days of receiving or expending more than \$500. Designation of agent [form D-1] is filed at the same time as the R-1.

Campaign contributions and expenditures reports [form C-1] are due 10 to 14 days prior to the Primary, Runoff Primary and General Election, 31 to 40 days after the General Election, six months and 10 days after the General Election and by January 15 of each year thereafter.

Question: What are agents/subagents?

Answer: Agents/subagents are responsible for receiving and expending contributions. Agents are the official recipient of all notices, forms, letters of instruction, etc. from the Ethics Commission. Each agent/subagent is required to maintain written records of all contributions and expenditures handled by him/her.

Question: Can the candidate be his or her own agent/subagent?

Answer: Yes, and if so, should be listed on the D-1 form as the designated agent or a subagent.

Question: On the designation of agent form, what is "position number"?

Most Frequently Asked Questions Cont'd

Answer: This would only pertain to candidates running for positions such as county commissioner, school board member, city council, etc. which can not be fully defined by just district/city/county.

Question: On the financial disclosure statement form, what filing status do I check if I am a candidate but I am also on a board or commission or am a current officeholder, etc.?

Answer: The filing status checked should be for the reason that you are filing at that time (e.g. if you are required to file the F-1 because you are a candidate, but you are also presently an officeholder, you should check "candidate" because that is why you are filing at that time).

Question: On the financial disclosure statement form, what do I put under "position title"?

Answer: If you are an elected official, list your title; if you are a candidate, list the office sought.

Question: On the Financial Disclosure Statement form, do I have to list the "amount" of income I receive, and if I am a state employee, do I list my state salary?

Answer: No, do not list the amount of income you receive; only the category or industry from which it is received is required. All state officials, employees, etc. who receive \$1,000 or more annually from the state should list state government as a category.

Question: On the financial disclosure statement form, do I include my spouse's income?

Answer: The statute does not specifically ask for your spouse's or your dependents' income; therefore, it is not required.

Question: What does "doing business with" the state or county mean?

Answer: "Doing business with" means contracting with the state to sell them goods or services. It does not include employment.

Question: Do any of the reporting forms have to be notarized?

Answer: The campaign contributions and expenditures report or statement of inactivity must be notarized; Forms D-1, R-1 and F-1 do not require notarization.

Question: Where do I file reports?

Answer: **County candidates and or county ballot measure committees and committees supporting or opposing them.** All reports are filed with the Ethics Commission, 2300 North Lincoln Blvd, Room B5, Oklahoma City, OK 73105-4812, FAX (405) 521-4905. When a committee also contributes to a school board or municipal candidate, a copy of the report filed with the Ethics Commission should also be filed with the clerk of the board of education or the municipal clerk, whichever is applicable.

School board candidates and committees supporting or opposing them. All reports are filed with the clerk of the board of education for the district in which they are running.

Municipal candidates and committees supporting or opposing them. All reports are filed with the local municipal clerk of the municipality for which the office is sought.

Question: What happens if a required report is not timely filed?

Most Frequently Asked Questions Cont'd

Answer: Failure to file required campaign designations, registrations or reports is a misdemeanor punishable by the imposition of a fine of not more than \$1,000 or by confinement in the county jail for not more than 6 months. Also, during this election cycle, late filing fees will be assessed county candidates and committees supporting or opposing them for campaign reports of \$25 per day up to a maximum of \$250 for each report and \$10 per day for filing a late financial disclosure statement up to a maximum of \$100 for each statement; \$100 per day will be assessed for each campaign report of committees supporting or opposing an initiative or referendum petition up to a maximum of \$1,000.

Question: After an election, what can a candidate do with unused campaign funds?

Answer: Within 48 months of the date of the general election for which campaign funds were received, a candidate must dispose of unused funds by using them for nonreimbursed officeholder expenses or political or community activity, returning them to contributors pursuant to any formula approved by the candidate, donating them to the campaign of any other political subdivision candidate or party recognized by the State Election Board, donating them to a charitable organization qualified for a tax exemption pursuant to provisions of the Internal Revenue Code, or retaining them for a future election.

Question: What are the maximum contribution limits?

Answer: \$1,000 to a local candidate for an entire campaign, except that county and municipal candidates or candidate committees of such candidates in a county or municipality with more than 250,000 population may receive \$5,000 for an entire campaign.

Corporate contributions to candidates, candidate committees, political parties, or organizations or committees supporting or opposing candidates are prohibited. However, corporations are allowed to pay the administrative expenses of their own separate segregated fund.

Question: As a candidate, if I receive contributions from a corporation, what should I do?

Answer: Return the contribution to the corporation.

Question: How does a candidate end a previous campaign and start a new one?

Answer: When a candidate's name will no longer appear on any ballot and he/she determines that no more contributions will be received nor expenditures made for the campaign, a C-1 report marked "Final" can be filed, including a list of the material assets worth \$50 or more, and detail of their disposition. If a campaign or committee owes a debt, the committee may dissolve, but must report the status of the debts on the same dates as campaign contributions and expenditures reports would be due until all debts are resolved. Methods of resolution must also be detailed. [51:314(E)(5)]

Once a previous campaign has ended and more than \$500 is received or spent toward a new campaign, a candidate must file a new designation of agent (D-1). The first C-1 report is due 10 to 14 days before the Primary Election.

Question: How do I report the filing fee for running for office?

Answer: Filing fees are reported as expenditures under "miscellaneous" even when paid by the candidate. They do not constitute "activity" which would prevent a candidate or committee from filing a "statement of inactivity" [form C-3].

Most Frequently Asked Questions Cont'd

Question: How do I file a complaint?

Answer: Complaint forms are available at the Ethics Commission office or on its website. A respondent must be named in the complaint, along with the Section(s) of the Act about which the violation is asserted and the date of the alleged violation. All complaints must be signed and verified. No complaints may be filed by a candidate or by any person in connection with a campaign for state or county office between the filing period for declarations of candidacy and certification of the election results. Complaints concerning school board or municipal candidates can only be filed with the appropriate district attorney.

Question: If a candidate or committee has not received any contributions or made any expenditures, are they still required to file reports?

Answer: No.

Question: What constitutes a candidate committee?

Answer: A candidate committee is an entity of one or more persons [it may be the candidate only] which is designated by the candidate to promote his or her candidacy; the candidate committee's agent and any subagents receive and expend all funds for the campaign.

Question: Can a candidate loan money to the campaign, then be reimbursed after contributions are received?

Answer: Yes. However, although money the candidate contributes to the campaign is not considered a contribution, the expenditures for which the money is spent are reported on the C-1 report as "Expenditures". The statute does not specifically address how to report a loan by a candidate, however the Ethics Commission recommends that an attachment be made listing the amount of the loan and its terms. Interest rates should be no greater than lending institutions would offer for similar loan amounts.

Question: What financial records should be kept by candidates or committees?

Answer: Detailed records of the date contributions are accepted, the contributor's name, address and amount should be maintained along with receipts for expenditures and bank records. Campaign funds should be kept in a separate bank account and not be commingled with other funds. Records should be kept for a minimum of three years for IRS purposes and two years for Commission purposes.

Question: Do school board candidates and municipal candidates submit financial disclosure statements?

Answer: No. Only county candidates and elective officers are required to file financial disclosure statements with the Ethics Commission. Municipal candidates should also check their own ordinances for additional requirements by municipalities.

Violations--Complaints--Penalties

Violations of the Political Subdivisions Ethics Act and the criminal provisions carry criminal penalties. These are as follows:

ASSESSMENTS FOR LATE FILINGS [51 O.S. 2001, § 317]

The Commission can assess up to \$100 for each day a campaign designation of agent, registration or report remains unfiled up to a maximum of \$1,000. For the 2006 elections, the Commission has set the following late fees:

Candidates or candidate committees	\$25 per day up to \$250 per report
[for county office only]	\$1.00 per day up to \$100 for designations or registrations
Ballot Measure committees	\$100 per day up to \$1,000 per report
[county only]	\$100 per day up to \$1,000 for designations or registrations

Late Fees May Not Be Paid From Candidate or Candidate Committee Funds

COMPLAINT PROCEDURE AND REFERRAL FOR PROSECUTION [51 O.S. 2001, § 307]

Where and how to file a complaint. A complaint alleging a violation by persons, committees, candidates, public officials or public employees of county government are filed with the Ethics Commission. Complaints alleging a violation by a candidate for other local office [municipal or school board] are filed with the district attorney of the county in which the violation is alleged to have occurred. Complaints received by the Commission must be in writing and sworn to as true. The Executive Director of the Commission is charged with assisting a complainant [person alleging a violation] with his or her complaint.

Prohibited disclosure of complaints. The contents of a complaint, the intention to file a complaint, the fact that a complaint has been filed, or knowledge of another person's intention to file a complaint may not be disclosed except by the person alleged to have committed the violation [respondent]. Once the respondent so discloses, the entire record, materials and proceedings before the Commission concerning the complaint become open to the public. The penalty for prohibited disclosure is a misdemeanor carrying up to a \$10,000 fine.

Moratorium on complaints. No complaint concerning a violation of campaign reporting can be filed with, received by or initiated by the Commission during the period from the first day for filing declarations of candidacy and ending on the day after certification of the results of the election at which the office is filled.

Hearings. Hearings held pursuant to a complaint are held in executive session and are reflected on the Commission agendas by number only. A record of the hearing may be obtained at a reasonable cost.

Potential action by Commission. The Commission may enter into a conciliation agreement at any time during the proceedings. Upon conclusion of the hearing, the Commission may dismiss the complaint, attempt a conciliation with a civil fine up to \$2500, or, if the Commission finds the alleged violation was knowingly and willfully committed, refer it to the appropriate authority for prosecution. A conciliation agreement which has been violated may also be referred for prosecution. If the prosecuting authority declines to prosecute, the record remains confidential.

PENALTIES--DEPOSITED TO GENERAL REVENUE FUND [51 O.S. 2001, § 307(Q)]

Violations of most provisions of the PSEA carry a criminal penalty with a \$1,000 fine and up to six months in the county jail or both. Penalties are deposited with the State Treasurer to the credit of the General Revenue Fund.

Contributions

WHAT IS A COMMITTEE?

A "committee" is a candidate committee, political action committee, political party, or organization.

An "organization" is a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, union, education or action group or committee or entity with two or more persons *having a joint or common political interest* [EI-95-011 held italicized language to include issue or ballot measure committees].

A "political action committee" is a combination of at least two individuals, or a person other than an individual with the primary or incidental purpose of [incidental omitted in 51:304(22)]:

- supporting or opposing a candidate or political party, except those required to file with the Federal Election Commission, or
- supporting or opposing a ballot measure [omitted in 51:304(22); included in 21:187(13)], and

which accepts contributions or makes expenditures aggregating at least \$200 [\$500 in 21:187(13)] during a calendar year. [51:305(22)] **Please note that registration is not required until the threshold of \$500 is reached.**

A "political party" is any political party so recognized for the purpose of having candidates appear on the ballot.

WHAT IS A CONTRIBUTION?

Contribution includes any money, property, or in-kind services, including but not limited to, printing or engraving, radio or television time, billboards, advertising, subscription, forgiveness of indebtedness, personal or professional services or any other thing of value whatsoever which is given or loaned to be used in a campaign.

The term contribution does *NOT* include:

- a. money loaned to a candidate in connection with his own campaign by a bank, savings and loan association or credit union which is to be repaid with interest at a rate comparable to that of loans for equivalent amounts for other purposes;
- b. the value of services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, organization, political action committee, or political party;
- c. for purposes of the contribution limits set forth in Section 187.1 of Title 21 of the Oklahoma Statutes, the transfer of any funds by a political action committee to another political action committee, provided the committee has been established as provided by law if the transferring committee and the receiving committee have been established, directly or indirectly, and are administered or financially supported, directly or indirectly, by a common organization; or
- d. any payment or obligation incurred by a corporation, labor organization, membership organization, cooperative or corporation without capital stock for the establishment, administration, and solicitation of contributions to a separate segregated fund or political action committee to be utilized for political purposes.

Contributions other than money have a dollar value equivalent to the fair market value of the contribution. Sums paid for tickets for a political event such as a reception, rally, or a similar fundraising event are contributions; however, the amount of any such contribution may be reduced for the purpose of complying with the reporting and contribution limitation requirements [21:187] by the actual cost of consumables furnished by the committee in connection with the purchase of the tickets, and only the excess over the actual cost of the consumables will be deemed a contribution. If included as contributions, the cost of consumables should also be reported as an expenditure so as not to inflate the amount of available funds.

MAXIMUM CONTRIBUTIONS

Applicable Definitions

A **calendar year** begins January 1 and ends December 31. Maximum contributions of \$5,000 per person or family may be accepted by committees other than candidate committees during each calendar year.

A **campaign** is all activities for or against the election of a candidate to a specific local office for a specific term or the passage or defeat of a county or municipal ballot measure from the date of the first contribution, the making of the first expenditure, the filing of a declaration of candidacy or a public announcement of intent to seek such election, whichever is first.

Family means an individual, his or her spouse, if any, and all children under the age of eighteen (18) years residing in the same household.

Person means an individual, corporation, association, proprietorship, firm, partnership, limited partnership, joint venture, joint stock company, syndicate, business trust, estate, trust, company, organization, committee, or club, or a group of persons who are voluntarily acting in concert.

Maximum contributions to county and municipal candidates

Counties with over 250,000 persons

A person or family may give a maximum contribution of \$5,000 to a county or municipal candidate, or to a candidate committee authorized by such a candidate to receive contributions or make expenditures on his behalf, of a municipality or county with a population of over 250,000 persons. This amount may be given only once for each campaign.

Other counties [250,000 persons or less]

A person or family may give a maximum contribution of \$1,000 to a county or municipal candidate, or to a candidate committee authorized by such a candidate to receive contributions or make expenditures on his behalf, of a municipality or county with 250,000 or less persons. This amount may be given only once for each campaign.

Maximum contributions to school board candidates

A person or family may give a maximum contribution of \$1,000 to any school board candidate of any district. This amount may be given only once for each campaign.

Maximum contributions to other committees

A person or family may give a maximum contribution of \$5,000 to any committee, other than a candidate committee, organized to support or oppose local [county, municipal or school board] candidates. This amount may be given once each calendar year.

A person or family may give an unlimited amount to any committee organized solely to support or oppose county or municipal ballot measures.

Candidates or committees prohibited from receiving more than maximum contributions

No candidate or committee may receive more than the maximum allowable contribution from any person or family. [21:187.1(A)]

New criminal penalties

Persons other than corporations exceeding the maximum contribution limits or corporations violating the corporate prohibition on contributions by up to \$5,000, upon conviction, is a misdemeanor punishable by a fine of not more than three (3) times the amount exceeding the contribution limit or \$1,000, whichever is greater, or imprisonment in the county jail for up to one (1) year or both.

Persons other than corporations exceeding the maximum contribution limits or corporations violating the corporate prohibition on contributions by \$5,000 or more, upon conviction, is a felony punishable by a fine of not more than four (4) times the amount the excessive amount or imprisonment in the state penitentiary for up to one (1) year or both.

CASH CONTRIBUTIONS

Committees are prohibited from giving cash contributions to candidates or other committees. All contributions to other campaigns [in the form of expenditures] given by committees must be by written instrument containing:

1. the name of the donor; and
2. the name of the payee.

LOANS

Funds loaned to the candidate or candidate committee by a bank, savings and loan association or credit union, and on the candidate's own behalf [candidate's assets are the sole collateral], are not considered as contributions by the financial institution. Funds guaranteed or loaned by any other person are reported as contributions and are subject to the maximum allowable contribution limits.

CORPORATE CONTRIBUTIONS TO CANDIDATE CAMPAIGNS PROHIBITED

Corporate contributions to candidates or to committees which support or oppose candidates or to campaign funds of political parties are prohibited. Campaign loans from corporations are prohibited except from a bank, savings and loan association or credit union. Such loans must bear the usual and customary market terms of the institution for loans of equivalent amounts.

CORPORATE CONTRIBUTIONS ALLOWED

Corporations are allowed to contribute:

1. to committees formed solely to support or oppose any issue or ballot measure;
2. administrative expenses to the corporation's own separate segregated fund [political action committee].

COMMITTEE SOLICITATIONS AND FUNDS

There are no statutory provisions in the PSEA relating to committee solicitations and funds; however, if a committee also gives contributions to state candidates, see Section 257:10-1-2(d) of the Rules of the Ethics Commission, 74 O.S. Supp. 2005, Ch. 62 App. and 51 O.S. 2001, § 325(B)(2).

USE OF CAMPAIGN CONTRIBUTIONS

Contributions received by any candidate shall be used for:

1. any campaign expenditures;
2. any ordinary and necessary unreimbursed expenses incurred by the person in connection with his duties as a holder of public office;
3. use in a future campaign;
4. political activity; or
5. community activity.

Contributions and any interest income earned on contribution accounts, which are not used in the above manner within 48 months of the General Election, shall be:

1. returned to the contributors pursuant to any formula approved by the candidate; provided, any amount returned to a contributor shall not exceed the amount of the original contribution;
2. donated to the campaign of any other political candidate or to any political party officially recognized by the State Election Board;
3. donated to a charitable organization qualified for a tax exemption pursuant to the provisions of the Internal Revenue Code; or
4. retained by the candidate or candidate committee for use in a future election.

There are no statutory provisions on use of contributions by other committees; however, if a committee also supports or opposes state candidates or ballot measures, see Section 257:10-1-20 of the Rules of the Ethics Commission, 74 O.S. 2005, Ch. 62 App. and 51 O.S. 2001, § 325(B)(2).

SOLICITATIONS FOR CANDIDATE

No committee shall solicit, accept or make a contribution on behalf of any individual candidate without the expressed permission of the candidate. Once a committee or campaign has accepted or expended \$500, no person shall act as any agent or as a subagent for a candidate until his or her designation is filed in the Commission office.

FICTITIOUS NAMES PROHIBITED

No fictitious names shall be used on the reports. The reports must show the correct name of the person actually making the contribution.

CONTRIBUTIONS BY FOREIGN NATIONALS PROHIBITED UNDER FEDERAL LAW

Foreign nationals may not make contributions or expenditures in connection with any United States election either directly or through another person. [11 CFR 110.4(a)(1)].

SPECIAL RULES ON STATE EMPLOYEE CONTRIBUTIONS

Applicable definitions. A *public employee* is any person who is employed by and receives compensation from any governmental entity, but does not include independent contractors or public officials. [51:304 (24)]

A *public official* is an elected or appointed official in the executive or legislative branch of a political subdivision of the state. [51:304(25)]

A *state employee* is an elective or appointed officer or an employee of any state governmental entity, except members of the House of Representatives or State Senate, and an employee, other than an adjunct professor, in the service of an institution of higher education comprising the Oklahoma State System of Higher Education. A state employee does not include a compensated or uncompensated part-time position on a board, commission, council, authority, bureau, committee, state beneficial trust, or other establishment of the executive, legislative or judicial branch of the State of Oklahoma. [257:1-1-2 (defn. of "state employee")]

Prohibition. No public employee or public officer shall directly or indirectly coerce, attempt to coerce, command, advise or direct any state employee to pay, lend or contribute any part of his or her salary or compensation, time, effort or anything else of value to any party, committee, organization, agency or person for political purposes. No public employee or official shall retaliate against any employee for exercising his or her rights or for not participating in permitted political activities as provided in Ethics Commission Rule 10-1-4. Any person convicted of willfully violating these provisions shall be guilty of a felony and shall be punished by the imposition of a fine of not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment for not longer than two (2) years, or by both said fine and imprisonment. [21:360]

Accounting

Keeping Books.

The designated agent [usually also the campaign treasurer] and any designated subagents are required to keep books showing all contributions and expenditures.

The Ethics Commission may require by subpoena the production of any books, papers, records or other items relevant to the performance of its duties or exercise of its powers.

Although the Statute of Limitations on enforcement proceedings is two years, we suggest these records be maintained for at least three years from the final report to satisfy both state and federal requirements.

Banks and Banking.

A committee must list all of its banks, safe deposit boxes or other depository.

Account name: There is no requirement of an account name specified by law. We suggest you use your committee or candidate's name and office sought.

Tax liability: The bank will report interest paid on the account to the IRS. Consult the IRS, your accountant or tax advisor regarding tax liability or requirement to file a tax return.

Designating an Agent

CANDIDATES FOR LOCAL OFFICE

A county candidate or candidate committee must designate an agent to receive contributions and make expenditures within 10 days of accepting or spending in excess of \$500. The designation of agent ["form D-1"] is filed with the Ethics Commission.

A municipal or school board candidate or candidate committee must also designate an agent within 10 days of accepting or spending in excess of \$500. The form D-1 is filed with the municipal clerk by municipal candidates and the clerk of the board of education by school board candidates. A person seeking municipal office who does not file a declaration of candidacy with a county election board is not considered a candidate and has no reporting obligations under the PSEA.

WITHDRAWAL

A person who withdraws a notification or declaration of candidacy before the statutory deadline and has not exceeded \$500 in contributions or expenditures is no longer a candidate and has no filing obligations; however, if that person has accepted or expended more than \$500, reports must be filed until any unused contributions have been disbursed according to the requirements. A FINAL C-1 report is required and may be filed at any time following your withdrawal.

COMMITTEES

A committee must designate an agent [file a form D-1] with the Ethics Commission within 10 days of accepting or expending in excess of \$500 in support or in opposition to a county candidate or county ballot measures.

Although an organization may be primarily organized for a civic or other purpose, it becomes a committee required to designate an agent and register if it accepts contributions or dues in excess of \$500 for supporting or opposing election campaigns.

A committee must designate an agent with the municipal clerk [and file a registration] once they accept contributions or make expenditures in excess of \$500 in support of or in opposition to a municipal or a municipal ballot measure and with the clerk of the board of education if in support of or opposition to a school board candidate.

A committee must also register at the same time as designating an agent by filing a form R-1 [registration: committees (see section titled Registration)].

EXEMPT FROM REPORTING

Out-of-state committees which receive contributions and which contribute to Oklahoma campaigns or committees only through an affiliated Oklahoma committee, other than a candidate committee, that already registers and files reports of contributions and expenditures with the appropriate repository is exempt from designating an agent, registering and filing campaign reports.

FORM D-1: Designation Of Agent

TYPE OR PRINT CLEARLY IN INK. REPORTS MAY BE COPIED BY THE PUBLIC. USE BLACK INK. OTHER COLORS DO NOT PHOTOCOPY WELL.

	<u>Explanation</u>
<u>Candidates.</u>	Include candidate's first, middle and last name, the business address he or she will be using during the campaign and his or her residential address.
<u>Committee or Party.</u>	List complete name of committee or party and any acronym commonly used. For example, "Politically Active School Teachers" [PAST].
<u>Filing Status.</u>	Check either candidate, candidate committee, political action committee, political party or agent. Fill in the blank to the right of the line you checked. <u>Candidate or Candidate Committees only.</u> Give the title of the office the candidate is seeking. Give the position number [e.g. Office 3 or Ward 4], if any. Give the district [e.g. Independent District 104 or House District #4], the county [if applicable] and the city [if applicable] of your candidacy. Fill in the date of your primary election [if applicable], your run-off primary election [if applicable] and your general election [applicable to all candidates].
<u>Designation of Agent.</u>	Fill in the name of the person [may be the candidate] who will receive contributions and make expenditures for your candidacy or the committee.
<u>Designation of Subagent.</u>	The chairperson or designated agent may designate as many subagents as he or she deems fit. Attach additional copies of this form for more than five subagents and continue under the same item. Fill in name and address of candidate or committee on each attached copy.
<u>Removal.</u>	Fill in name of any agent or subagent(s) being removed as such and give the beginning and ending date of their term of service.
<u>Signature.</u>	Sign your name and give the date to certify that the information given is correct. If the candidate is designating an agent or subagent, the candidate signs. If a committee is designating an agent, the chairperson signs. If an agent is designating subagents, the agent signs.

DESIGNATION OF AGENT

FORM
D-1
10/07

Please type or print clearly in ink.

NAME OF CANDIDATE OR COMMITTEE: (Do not abbreviate)

Mary Pauline Brown

Business Address (Street or Box, City, State, Zip)

100 Main Street, Anyplace, OK 73199

CHECK YOUR FILING STATUS: (mark only one box)

<input checked="" type="checkbox"/>	A CANDIDATE OR CANDIDATE COMMITTEE.	Name of candidate Mary Pauline Brown
<input type="checkbox"/>	A POLITICAL ACTION COMMITTEE.	Name of Corporation or Organization:
<input type="checkbox"/>	A POLITICAL PARTY.	Central Committee/District/County/Club:
<input type="checkbox"/>	AN AGENT.	Name of candidate or committee represented:

Candidate or Candidate Committees only: (fill in each applicable blank)

Office Title: County Commissioner	Position Number: 2	District/City/County Grassland County
Date of Primary Election: July 29, 2008	Date of Runoff Primary Election: August 26, 2008	Date of General Election: November 4, 2008

DESIGNATION OF AGENT:

NAME Tony Patrick Johnson	DAYTIME PHONE NO. (405) 555-2222
ADDRESS 400 "C" Street	CITY Anyplace
STATE OK	ZIP 73199

DESIGNATION OF SUBAGENTS:

NAME	ADDRESS	DAYTIME PHONE NUMBER

AGENT/SUBAGENTS REMOVED:

NAME	TERM OF SERVICE (from date of appointment to present)

CERTIFICATE: I certify that the above information is true, complete and correct.

Candidate, Chairman or Agent's Signature (person serving as appointing authority) x Mary Pauline Brown	Date 3/31/08
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INSTRUCTIONS

Please consult Sections 301 through 325 of Title 51 of the Oklahoma Statutes when completing this report.

WHO MUST FILE:

County, municipal and school board candidates who accept contributions or make expenditures exceeding \$500 during a campaign
 Committees (supporting or opposing county, municipal/school board or county/municipal issues) which accept contributions or make expenditures exceeding \$500 in the aggregate in a calendar year

WHERE TO FILE:

Municipal Candidates/Issues:
 Municipal Clerk
School Board Candidates:
 Clerk of the Board of Education
County Candidates/Issues: Ethics Comm.

WHEN TO FILE:

Within 10 days of receiving contributions or making expenditures in excess of \$500; and
 Immediately after any change in the information reported

WHERE TO CALL WITH QUESTIONS:

Ethics Commission
 (405) 521-3451

WHO TO DESIGNATE:

Candidates may designate any person [except county candidates cannot designate classified state employees] including the candidate. Committee may designate any person [other than a classified state employee] as its agent or subagent. A candidate or an agent may designate as many subagents as he/she deems fit.

RESPONSIBILITY OF AGENTS/SUBAGENTS:

Agents/subagents shall be responsible for receiving and expending contributions. Each agent/subagent shall maintain written records of all contributions and expenditures handled by him/her. The written records shall be the property of the candidate or committee and shall be delivered to such immediately upon demand or removal of the agent/subagent.

MAXIMUM CONTRIBUTIONS to local candidates or organizations, committees or parties supporting or opposing them:

<p>From a person or family: \$5,000 annually to an organization, committee or party \$1,000 for an entire campaign to a local candidate \$5,000 for an entire campaign to a municipal or county candidate or candidate's committee in a municipality or county with more than 250,000 population</p>	<p>From an Organization, Committee or Party: \$5,000 annually to another committee \$1,000 for an entire campaign to a local candidate \$5,000 for an entire campaign to a municipal or county candidate or candidate's committee in a municipality or county with more than 250,000 population</p>
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CONTRIBUTIONS to organizations/committees formed to support or oppose local issues or ballot measures: NO LIMIT

CORPORATE CONTRIBUTIONS:

Contributions to candidates, candidate committees or political parties	Prohibited
Contributions to organizations or committees supporting or opposing candidates	Prohibited
Contributions to organizations or committees supporting or opposing local issues/ballot measures	Allowed
Administrative expenses to its own separate segregated fund	Allowed

OTHER REPORTS REQUIRED:

R-1 (registration of organizations, committees and parties supporting or opposing local candidates or issues only)
 C-1 (campaign contributions and expenditures reports for all local candidates, organizations, committees and parties)

Registration Requirements

CANDIDATE COMMITTEE REGISTRATION

A candidate is not required to have a candidate committee. If a candidate has a candidate committee, the following applies:

1. only one candidate committee should be authorized by the candidate;
2. only the candidate committee – not the individual candidate – need file C-1 [contributions and expenditures] reports;
3. the candidate should not receive contributions for his or her candidacy unless he or she is a designated agent or subagent of the committee; and
4. a maximum contribution to a candidate's committee is considered a maximum contribution to the candidate who authorized the committee to raise and spend funds for his or her campaign.

If the candidate chooses to form a committee, a registration: committees ["form R-1"] must be filed within 10 days of accepting or expending in excess of \$500. Like the designation of agent, form R-1 is filed with the Ethics Commission by county candidates, with the municipal clerk by municipal candidates and with the clerk of the board of education by school board candidates.

REGISTRATION OF COMMITTEES OTHER THAN CANDIDATE COMMITTEES

Committees other than candidate committees, including out-of-state committees, must file a registration: committees ["form R-1"] no later than 10 days after accepting contributions or making expenditures in excess of \$500 in the aggregate in a calendar year to:

- support or oppose a candidate for local office;
- support or oppose a county ballot measure or a municipal ballot measure; or
- make contributions to other committees which are required to report.

FORM R-1: Registration

TYPE OR PRINT CLEARLY IN INK. REPORTS MAY BE COPIED BY THE PUBLIC.

USE BLACK INK. OTHER COLORS DO NOT PHOTOCOPY WELL.

ITEM	EXPLANATION
1	Name. List complete name of committee and any acronym commonly used. For example, "Politically Active School Teachers" [PAST].
2	<p>Purpose of committee. Check whether the committee was:</p> <ul style="list-style-type: none"> a. authorized by an individual to support his or her candidacy [include candidate's name, office sought, and area to be represented]; b. for a ballot committee [include description of state question, the number, and whether supporting or opposing]; c. for a special interest [include the name of the business, association, labor union, or similar organization associated with]; or d. other [include information to identify objectives or candidates supported or opposed].
3	FEC ID Number. (Federal Committees or Parties Only) - Give number assigned to you by the Federal Election Commission.
4	Officers. List the key officers for your committee and their addresses.
5	Designated Agent. List the person designated on Form D-1 to be responsible for receiving contributions and making expenditures on behalf of your committee.
6	Depositories. List bank, savings and loan or credit union where contributions will be kept.
7	Connected Organizations. List other committees working with you to accomplish your objectives. For political parties, it is not necessary to list county or state central committees or local clubs.
8	Certificate. Both the Chairperson of the committee and the Designated Agent sign the registration in order to certify that all the information given is true and correct.

FORM R-1 10/07	EC OFFICE USE	25
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REGISTRATION: Committees

Please type or print clearly in ink.

1. **NAME OF COMMITTEE:** (Full Exact Name, Do Not Abbreviate)
Citizens to Elect Larry Eugene Smith

Street Address
200 (O) Street

City
Anyplace

State
OK

Zip
73199

2. **PURPOSE OF COMMITTEE:** (Check only one, then provide additional information on line checked)

<input checked="" type="checkbox"/>	Candidate	Candidate's Name (Last, First, Middle) Smith, Larry Eugene	Office Sought County Commissioner	District/County/City Grassland	Party Affiliation Democrat	
<input type="checkbox"/>	Proposition or Measure Committee	Name or Description of proposition or measure			For []	Against []
<input type="checkbox"/>	Special Interest (Associated with a business, association, labor union, or similar organization)					
<input type="checkbox"/>	Other (Explain fully on an attached sheet)		Brief Description			

3. DURATION: Will Committee continue beyond next election? [] Yes [X] No	4. DATE: General/Special Election MM/DD/YY November 4, 2008	5. FEC ID NUMBER: (Federal Committees Only) Not Applicable
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6. OFFICERS: Name (Last, First, Middle)	Address (Street, City, State, Zip)
Chairman Winner, Grace Ann	500 "A" Avenue, Anyplace, OK 73199
Vice-Chairman Smith, James Jacob	1001 "B" Street, Anyplace, OK 73199
Treasurer Green, John Paul	400 "C" Street, Anyplace, OK 73199
Staff Director	

7. DESIGNATED AGENT: Name Green, John Paul	Daytime Phone No. (405) 555-3333		
Address 400 "C" Street	City Anyplace	State OK	Zip 73199

8. DEPOSITORIES: Please list all banks, safety boxes or other depositories used by the above-named organization, committee or party. List primary depository first; use attached sheet if necessary.		
Institution Name State Bank	City Anyplace, OK	Description (Account, Safety Deposit Box...) & Number Checking Account #123-456

9. CONNECTED ORGANIZATIONS: List all affiliated or connected organizations and indicate their relationship to this committee. List primary connected organization first; use attached sheet if necessary.		
Organization Name	Address (Street, City, State, Zip)	Relationship

10. CERTIFICATE: We certify that the above information is true, complete and correct.			
Chairman's Signature Grace Ann Winner	Date 5/7/08	Designated Agent's Signature John Paul Green	Date 5/7/08

INSTRUCTIONS

Please consult 51 O.S. 2001, §§ 301-325 when completing this registration.

WHO MUST FILE:

Committees which have accepted contributions or made expenditures in excess of \$500 in the aggregate in support of or in opposition to county, municipal or school board candidates or county or municipal issues or ballot measures.

WHEN TO FILE:

Within 10 days of accepting contributions or making expenditures in excess of \$500 in the aggregate
 Within 10 days of any change in information on R-1

WHERE TO CALL WITH QUESTIONS:

Ethics Commission
 (405) 521-3451

WHERE TO FILE:

Ethics Commission ----- county candidates and committees supporting or opposing county candidates/issues
 Municipal Clerk ----- municipal candidates and committees supporting or opposing municipal candidates/issues
 Board of Education Clerk--- school board candidates and committees supporting or opposing school board candidates

MAXIMUM CONTRIBUTIONS to local candidates or organizations or committees supporting or opposing them:

<p>From a person or family: \$5,000 annually to an organization or committee [non-candidate] or party \$1,000 for an entire campaign to a local candidate \$5,000 for an entire campaign to a county or municipal candidate or candidate's committee in a municipality or county with more than 250,000 population</p>	<p>From an Organization or Committee [non-candidate]: \$5,000 annually to another organization or committee [non-candidate] party \$1,000 for an entire campaign to a local candidate \$5,000 for an entire campaign to a county or municipal candidate or candidate's committee in a municipality or county with more than 250,000 population</p>
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Maximum limits to candidates or candidate committees are for the entire campaign (from the first contribution or expenditure to the last) while maximum limits to other committees are for calendar years. No candidate or candidate committee may receive more than the maximum allowable contribution from a contributor during an entire campaign. No non-candidate committee may receive more than the maximum allowable contribution during any calendar year.

CONTRIBUTIONS to organizations/committees formed to support or oppose local issues or ballot measures: NO LIMIT

CORPORATE CONTRIBUTIONS:

Contributions to candidates, candidate committees or political parties	Prohibited
Contributions to organizations or committees supporting or opposing candidates	Prohibited
Contributions to organizations or committees supporting or opposing local issues/ballot measures	Allowed
Administrative expenses to its own separate segregated fund	Allowed

OTHER REPORTS REQUIRED:

C-1 (campaign contributions and expenditures report for all local candidates, organizations, committees and parties)
 D-1 (designation of agent and subagents for all local candidates, organizations, committees and parties))

Reporting

Candidates. Once you file a declaration of candidacy [and a registration of committee (optional)], you are required to file campaign contributions and expenditures reports [form C-1] or statements of inactivity [form C-3] for each reporting period until a final report is filed.

Other committees. Once a committee files a declaration of candidacy and registration, a campaign contributions and expenditures report [form C-1] or a statement of inactivity [form C-3] is required for each reporting period until a final report is filed.

WHERE TO REPORT

County candidates and committees supporting or opposing them. All reports are filed with the Ethics Commission, 2300 North Lincoln Boulevard, Room B5, Oklahoma City, OK 73105-4812, (405) 521-3451 • FAX (405) 521-4905. When a committee also contributes to a school board or municipal candidate, a copy of the report filed with the Ethics Commission should also be filed with the clerk of the board of education or the municipal clerk, whichever is applicable.

School board or municipal candidates and committees supporting or opposing them. All reports are filed with the clerk of the board of education for the district in which they are running or the municipal clerk of the municipality, whichever is applicable.

"FINAL" REPORTS

Candidate or candidate committee. Upon filing a final report, your reporting obligation ends. A final report may not be filed until:

1. after a Primary Election or a Run-off Primary Election in which you are elected or defeated;
2. after the General Election in which your name appears on the ballot;
3. after the last day for filing a declaration of candidacy if you are unopposed in the Primary, Run-off Primary and General Election [an unopposed candidate does not have **any opponent** for the office sought; "unopposed" does not apply to a candidate who has no opposition in only one election];
4. after your name has been stricken from a ballot pursuant to Sections 5-127 of Title 26 of the Oklahoma Statutes; or
5. after withdrawal of your candidacy pursuant to Sections 5-115 or 5-116 of Title 26 of the Oklahoma Statutes.

A person who files a designation of agent [form D-1] who has received contributions or made expenditures in excess of \$500, but does not file a declaration of candidacy, may file a final report whenever the choice is made not to seek the office and disposition of funds according to law are made.

Other committees. A committee which supports or opposes local candidates or county or municipal ballot measures may dissolve only after it determines that it will no longer accept contributions or make expenditures and it has expended any surplus funds according to law or settled any debt.

A final report may be filed before a scheduled filing is due. To constitute a "final" report, the form C-1 must:

1. be marked "FINAL" at the top of the form C-1; and
2. include a list of the material assets worth \$50.00 or more, and detail their disposition.

Loans or debts. If a committee owes money, the committee may dissolve, but must report the status of the debts on the same dates as C-1 reports would be due until all loans or debts are resolved. Methods of resolution must also be detailed.

Restricted Political Activity

NO CAMPAIGN PARAPHERNALIA WHILE ON DUTY

State employees are prohibited from wearing campaign buttons, hats, badges or paraphernalia while officially in work status. State elective officers are excepted from this prohibition; however, their employees and staff are not.

RESTRICTIONS ON POLITICAL ACTIVITY BY CLASSIFIED STATE EMPLOYEES

Classified employees of the state may not use their official authority or influence for the purpose of interfering with an election or a nomination for office or to affect the result of either.

Classified employees may not run for public office or serve as an officer of a political party at the national, state or local level. They may not directly or indirectly solicit contributions or other funds for a candidate for public office or a political party.

Neither may classified employees directly or indirectly solicit, receive, collect, handle, disburse or account for assessments, contributions or other funds for a partisan political purpose or organize or sell tickets to promote or actively participate in a fund-raising activity for a candidate in a partisan election or for a political party.

A classified employee is not authorized to engage in political activity while on duty, or while in a uniform that identifies him as a state employee. Nor is he or she permitted to engage in political activities in the assigned work areas of a state agency in a manner that would conflict with the efficient performance of agency operations.

ADDITIONAL RESTRICTIONS ON POLITICAL ACTIVITIES BY PEACE OFFICERS

A classified employee of the Oklahoma State Bureau of Investigation [OSBI] or the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control who has the power of a peace officer, in addition to the above restrictions, MAY NOT:

1. serve as an officer of a political party at the national, state or local level;
2. organize or reorganize a political party organization;
3. solicit votes in support of, or in opposition to, a candidate for public office in a partisan election or a candidate for political party office;
4. act as a watcher at the polls on behalf of a political party or a candidate for public office in a partisan election or a candidate for political party office;
5. drive voters to the polls on behalf of a political party or a candidate in a partisan election;
6. endorse or oppose a candidate for public office in a partisan election or a candidate for political party office in a political advertisement, broadcast, campaign, literature or similar material;
7. serve as a delegate, alternate or proxy to a political party convention;
8. address a convention, caucus, rally or similar gathering of a political party in support of, or in opposition to, a partisan candidate for public office or political party office; or
9. initiate or circulate a partisan nominating petition.

POLITICAL RIGHTS OF CLASSIFIED STATE EMPLOYEES

A classified employee has the right to register and vote in any election, express his opinion as an individual privately and publicly on political subjects and candidates, display a political picture,

sticker, badge or button and participate in the activities of a civic, community, social, labor or professional organization or of a similar organization.

Classified employees may be members of political parties or other political organizations and may participate in the organizations' activities subject to the above restrictions.

A classified employee may attend a political convention, rally, fund-raising function or other political gathering or sign a political petition as an individual. He or she may make a voluntary contribution to a candidate, political party, organization or political action committee. He or she may be politically active in connection with a state or municipal question including, but not limited to, approval of an amendment to the State Constitution, referendum or approval of a municipal ordinance.

A classified employee may serve as an election judge or clerk, or in a similar position perform duties as prescribed by state or local law and may otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise the neutrality, efficiency or integrity of his administration of state functions.

USE OF PUBLIC FUNDS, PROPERTY, TIME AND PERSONNEL TO INFLUENCE ELECTIONS

Public funds, public property, public time, state officers or state employees generally may not be utilized for activities which influence elections for state office or ballot measures. Public meeting rooms in a public facility generally may be used for election activities if all potential users are granted the same privileges and charged the same fee, if any, on a first-come-first-serve basis. The following uses are not prohibited (*A 1996 rule amendment clarifies that fundraisers can also be held subject to the same provisions*):

- Incidental use of public building sidewalks, common grounds, parking lots and areas within public buildings;
- handing out leaflets or political brochures on sidewalks, common grounds or parking lots and within public buildings which are not used for the conduct of state government business; and
- any other activity the exercise of which is guaranteed by the Oklahoma Constitution or the United States Constitution. [257:10-1-3]

Form C-1 --General Requirements

HOW TO PREPARE FORM C-1.

Following are examples of how to report typical contributions and expenditures.

Steps in preparing report: When you receive a contribution, record in your campaign account books:

1. date contribution(s) accepted or bill paid;
2. name, address, city, state and zip code of contributor;
3. nature of contribution, such as whether it was cash or check. If in-kind, a description of the item(s) given;
4. amount (or value) of the contribution or expenditure; and
5. total amount the person has contributed during the campaign or calendar year.

Prior to each C-1 filing date:

1. List BY CATEGORY all expenditures made during the reporting period. The total of all categories should agree with transactions shown in your bank book or checking account register.
2. List name and address of each candidate or committee to whom you contribute funds from your campaign account.

BALANCING BANK RECORDS AGAINST C-1.

To check your reports for correctness, compare each C-1 report with your bank statement, deposit slips, and check register. Subtract line 19 from line 9 of C-1 report. Subtract any expenditures made by the candidate which were not reported as contributions on form C-1 [It is not necessary to report the candidate's contributions to the campaign; however, it will help the report to balance and better reflect the available cash in the campaign]. The resulting figure should equal the balance in your checkbook or a bank statement reconciled as of *last day of the reporting period*.

Your bank statement may not cover the same period as your C-1 report. It may be easier to use your checkbook for comparisons.

CONTRIBUTIONS OF \$200 OR LESS.

Report the total amount of contributions of \$200 or less as "Total of other contributions". You need not report the names and addresses of contributors of \$200 or less. Agents or subagents of candidates or committees must maintain written records of all contributions handled by each. We recommend these be kept for three years following the final report.

When the aggregate amount given by a person or family during the campaign reaches \$200.01, the contributor must be identified by name and address on the next C-1 report.

CONTRIBUTIONS OF MORE THAN \$200.

List *date the contribution was accepted* [not date the check was written], the contributor's name and address, the amount, and the total amount the person has given during the campaign [for a candidate] or current calendar year [for a committee].

See CONTRIBUTIONS to determine maximum allowable contributions.

REPAYMENT OF LOANS

Repayments of loans, together with interest paid on loans, are reported as expenditures.

FORGIVEN LOANS

A loan from an individual is reported as a contribution. A loan forgiven should be reported by attaching a sheet with an explanation and the amount of the forgiven loan. If the amount of the loan has not already been reported, report it as a contribution with no additional explanation.

CUMULATIVE REPORTS--CONTRIBUTIONS

Candidates and candidate committees. The first C-1 report for candidates and candidate committees must include all contributions received or expenditures made since the campaign began. Subsequent C-1 reports, until a "FINAL" report is filed, cover only the period since the end of the previous reporting period. After the first C-1 report, the "Amount" column should include only funds received for the current reporting period. Funds received in prior reporting periods should be included only in the column titled "Total contribution during campaign or calendar year." The "Grand total - all contributions for campaign or cumulative period" and "Grand total - all expenditures for campaign or cumulative period" are *cumulative* totals.

Committees other than candidate committees which support or oppose candidates. Since the maximum contributions can be received annually by other committees, aggregate totals for all reporting are based on calendar year-to-date. On the other hand, transfers to candidate committees [item 16 of form C-1] are subject to campaign limitations and should be aggregated on a campaign-to-date basis.

Ballot measure committees. There are no maximum contribution limits for ballot measure committees; however contributions and expenditures are also aggregated on a calendar year basis. Corporate contributions to these committees are not prohibited; however, transfers to other committees which support or oppose candidates may not be made if corporate contributions have been accepted and commingled with contributions from individuals.

IN-KIND CONTRIBUTIONS

Report in-kind contributions of labor, services and goods on item 6 of form C-1. Describe the contribution (e.g. sign material, personal services, office space, printing). ***The amount is the fair market value or what it would have cost if you had paid for the donated items or services. In-kind contributions should simultaneously be reported as expenditures.*** In this way, your account books will balance.

A CANDIDATE'S TIME

A candidate's time spent in his or her own campaign need not be reported. However, if an employer gives a candidate ***time off with pay*** to campaign (other than vacation or similar earned leave), the ***employer*** makes a reportable in-kind contribution to the campaign. Remember again that corporate contributions to a candidate or candidate committee are prohibited.

TOTAL CONTRIBUTION DURING CAMPAIGN OR CALENDAR YEAR

This column of the report shows both cash and in-kind contributions made by the person. If the cumulative contribution from the person is the same as that shown under "amount," either enter the amount again or write "same."

EXPENDITURES

CANDIDATE'S OUT-OF-POCKET EXPENSES

The candidate may pay campaign expenses with personal funds. These need not be reported as contributions – although reporting helps the form to balance – but must reported as expenditures.

Form C-1 Cont'd

DISCOUNTS AND SERVICES

Services or discounts provided on a discriminatory basis are reportable, i.e. those available to one candidate but not equally available to other candidates. The contribution is the amount of the discount or service provided. If you paid for a portion of the goods or services, that payment is reportable as a cash expenditure. For example: the candidate bought billboard space from ABC Sign Co., a sole proprietorship. The owner of the business, a campaign supporter, gave the candidate the billboards for half price. If the discount is available to all other candidates, it is not reportable. If the discount was not available to others, the amount of the discount becomes an in-kind contribution.

PERSONAL SERVICES / VOLUNTEER SERVICES

Payment for personal services is reported as an expenditure. The value of services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, organization, political action committee, or political party is not a contribution; therefore, it need not be reported as an expenditure.

DONATED GOODS AND SERVICES

Report sign materials, office space, free advertising, phone banks, articles donated for resale and similar donations at their estimated value. Remember again that corporate contributions to a candidate or candidate's committee are prohibited.

BILLS FORGIVEN

Bills for goods or services which are forgiven or settled at less than fair market value are reported as an in-kind contribution from the person or company to whom the bill was owed.

POSTAL PERMIT USE

XYZ Partnership permits the candidate to use the partnership's bulk mail permit. The candidate pays the actual cost of mailing. Report as an in-kind contribution from XYZ Partnership the cost of the bulk mail permit charge. Report as an expenditure the actual amount paid to the partnership for postage.

Example: Jack Jones for County Clerk uses the bulk mail permit of XYZ Partnership for a mailing. Report the in-kind contribution from XYZ Partnership as the cost of the bulk mail permit. Report as an expenditure the actual cost of postage.

Permit	\$	160	[Report as in-kind contribution from XYZ Partnership]
Postage 10,000 pieces x \$.16 per piece =	\$	1,600	[Report as expenditure]

Note: Agent should check with U.S. Postal Service regarding fees or restrictions on use of bulk rate permits.

The general purpose of the Political Subdivisions Ethics Act is to insure full disclosure of campaign financing and enforcement of the Act rather than to regulate how campaign contributions are made or how the campaign should be conducted. One area covered by constitutional rule [Section 257:10-1-3 through 257:10-1-5 of the Rules of the Ethics Commission, 74 O.S. 2005, Ch. 62 App.] restricts the use of state property, time and personnel to influence state elections; the political activity of classified state employees; and solicitations of and contributions by state employees. Three major prohibitions in the law concern cash contributions from a committee, corporate contributions and maximum contributions.

CONTRIBUTIONS FROM OTHER CANDIDATES.

Report contributions from another candidate as ordinary campaign contributions.

OUT-OF-STATE AND FEDERAL COMMITTEE CONTRIBUTION.

Report funds received from *individuals* and *committees* outside Oklahoma or from federal candidate committees or PAC's as ordinary campaign contributions.

EXPENDITURE--DEFINITION.

Expenditure includes a payment, distribution, contribution, subscription, loan, advance, compensation, reimbursement, fee deposit or gift of money securement, or any other thing of value, or services including but not limited to postage, telephone, telegraph, printing, advertising, travel, lodging, meals or entertainment for which payment is made with private or public funds. It includes a contract, promise or agreement, whether or not legally enforceable.

WHAT EXPENDITURES DO AND DO NOT HAVE TO BE REPORTED.

Report all expenditures by the candidate or committee (including any filing fee).

Transfers between bank accounts are not reported as expenditures. Purchases of certificates of deposit or transfers to savings accounts or similar interest bearing accounts are not expenditures.

Note: Expenditures may be made or incurred only by the candidate or the designated agent.

CATEGORY OF EXPENDITURE.

Show the total expenditures made in each category. If an expenditure does not fit into any other category, it may be reported in the "miscellaneous" category.

TRANSFERS TO ANOTHER CAMPAIGN.

If an expenditure is made to support or oppose another candidate or question, candidates and candidate committees need only report the total in the category [item 16]. Committees, other than candidate committees, who make such an expenditure of over \$200 must include the name of the candidate, committee or state question benefitted or opposed and the total for the campaign or calendar year [item 16a]. Proportionate amounts are stated if a single expenditure affects more than one candidate or question.

JOINT EXPENDITURES MADE WITH OTHER CANDIDATES AND COMMITTEES.

When expenditures are made jointly with other candidates or committees, each committee reports its share of the expenditure. For example, if two candidates equally share the cost of newspaper ads, each reports one-half the expenditure.

BANK SERVICE CHARGES OR INTEREST EARNED.

Bank service charges are reported as expenditures. Interest payments are not reportable contributions; therefore, they do not constitute "activity" that would prevent the filing of a statement of inactivity [form C-3].

PAYMENTS TO THE CANDIDATE, AGENT OR OTHER INDIVIDUAL.

Contributions may be transferred to a candidate's, treasurer's, or other individual's personal account or expended for personal use only to reimburse for a campaign expenditure or other allowable uses for campaign contributions, as enumerated on page 17.

A candidate need not report expenditures made by others in his behalf if he has *no knowledge that these expenditures are to be made*. If the candidate was a party to the expenditure, the amount is reported as an in-kind contribution and expenditure. It is a violation of law for an organization or political action committee to solicit, accept or make a contribution on behalf of any individual candidate without the expressed permission of the candidate.

CUMULATIVE REPORTS--EXPENDITURES

The first C-1 report (due 10 to 14 days prior to the Primary Election) must include all expenditures since the campaign began for candidates and candidate committees or all expenditures since the first day of the calendar year for other committees. Subsequent C-1 reports, until a "FINAL" report is filed, cover only the period since the end of the previous reporting period. The "Amount" column should include only expenditures during the reporting period; however item 10 brings forward the total of all expenditures for the campaign from the previous report.

IN-KIND EXPENDITURES.

In-kind contributions and their expenditures include donated materials, office space or machines, stamps, items donated for sale, discounts on purchases, etc. which are not usually available to other purchasers purchasing in like volume and terms. Report goods and services as both contributions and expenditures when you receive them.

Goods or services contributed to another candidate or committee are reported as in-kind expenditures. For example, a candidate has some extra yard sign lumber (estimated value \$50) which he donates to another candidate. The donor candidate reports the in-kind expenditure as a transfer to another campaign, line 16a. The recipient candidate reports it as an in-kind contribution.

IN-KIND LOANS.

If another candidate or committee loans you material or equipment, report this as an in-kind contribution. Determine or estimate the value as if you had been required to rent or purchase the item loaned.

If your campaign loans equipment, materials or services to another candidate or committee, report that as an in-kind contribution to another campaign. No report or adjustment is required when the equipment or material is returned.

Form C-1: Explanation

Item	Explanation
1.	<p>Name of candidate or committee. Give the same name on this report that was filed on the designation of agent and the registration (if any). Changes in a name [i.e. "William" to "Bill"] or the wording in a name [i.e. "Oklahoma Political Party" to "Political Party of Oklahoma"] can keep the report from being credited to the appropriate candidate or committee.</p> <p>Date of report. Date the report was prepared. The date is not significant unless the report is not timely received by the Commission; it may then be used as evidence to show when the report was filled out and/or mailed.</p>
2.	<p>Address of candidate or committee. Give the same address on this report that was filed on the designation of agent and registration (if any). Address changes should be reported on an amended form D-1 and R-1 (if any).</p>
3.	<p>Office sought. Do not omit this item. There are often duplicate names in county filings. This line assists in determining whose report it is. If there is not enough room, abbreviate [i.e. "Co. Comm.3]. Report period. Reporting periods are definite and specific. Only financial activity occurring within a designated reporting period should be shown on a given report. "from: beginning of period" refers to the date of the first contribution or expenditures if this is the first report or, if other reports have previously been submitted, it refers to the date following the ending of the last reporting period. "to: end of period" refers to the final date in the current reporting period. Year of Election. Circle either "General" or "Special General" election and give the year of the election when you are running for the office.</p>
4.	<p>Carryover from previous campaign or cumulative period (new campaign or period) and 5. Grand total of contributions from previous report (after filing first report). Items 4 and 5 will be blank unless one of the following conditions exist. For a candidate committee, if this is the first report in a</p>

new campaign but the committee has funds transferred from a previous campaign, item 4 will carry the balance transferred from the previous campaign. For a committee other than a candidate committee, if this is the first report in a calendar year and funds were on hand as of the first day of the current calendar year, item 4 will carry the balance from the previous calendar year. If reports have previously been submitted in a current campaign (candidate committees) or current calendar year (non-candidate committees), item 4 will be blank and item 5 will carry the balance from line 9 of the immediate preceding report. In either case, there should not be a balance in both item 4 and 5 - show one or the other.

6. **Contributions.** Show contributions received in this reporting period from individuals who have contributed more than \$200.00 in the aggregate for the entire campaign (candidate committees) or calendar year (other committees). Identify contributor by name and address and show date contribution accepted, nature of contribution. In the "amount" column, show the current contribution. If the identified contributor has made other contributions to the current campaign (candidate committees) or in the current calendar year (other committees), in the far right column show the aggregate total of their contributions (total contribution during campaign/calendar year).
7. **Total of other contributions \$200 or less this reporting period.** In this column, enter in a lump sum the total given by all contributors who have not given more than \$200 each in the aggregate. They need not be identified in any way until their contributions exceed \$200 in the aggregate.
8. **Total contributions this reporting period.** (add line 6 to 7). Add all contributions for the current reporting period shown in lines 6 and 7.
9. **Grand total - all contributions for campaign or cumulative period.** If there are amounts on lines 4 or 5 of the current report, add that amount to the amount shown on line 8 of the current report. The amount shown on line 9 of this report will be transferred to line 5 of the next report submitted.
10. **Grand total of expenditures from previous report.** If this is the first report being submitted for the current campaign (candidate committees) or calendar year (other than candidate committees), item 10 will be blank. If a report previously has been submitted, item 10 will contain the total from line 19 of the previous report.
- 11-15 & 17 **Totals of various expenditures this reporting period.** Enter in these areas the expenditures made as best described by the headings.
- 16 & 16a. **Contributions to other campaigns.** Candidate committees record transfers to other campaigns. Committees other than candidate committees, which make such an expenditure over \$200, must identify recipients by name, address, amount and total of such contributions during the calendar year.
18. **Total expenditures this reporting period.** Enter totals of expenditures shown only on lines 11 through 17. Do not include total from line 10.
19. **Grand total - all expenditures for campaign or cumulative period.** Enter totals of line 10 and 18. The total shown on line 19 of the current report will be transferred to line 10 of the next report submitted.
20. **Ballot information.** This line is for candidate committees only. It need only be filled in for pre-election reports and the post election report. It is used to determine when a candidate is eligible to file a "final" report.
21. **Signature.** The form must be signed by the candidate, chairperson or designated agent if it is being filed for candidate and by the chairperson or designated agent if it is being filed for a committee.
22. **Notarization.** The form is incomplete if the signature on line 21 has not been properly notarized. If the form is faxed, the notarization seal should be colored with a dull pencil lead so that it shows up on the copy.

CAMPAIGN CONTRIBUTIONS AND EXPENDITURES REPORT

check if FINAL

FORM
C-1
10/07

EC OFFICE USE

Please type or print clearly in black ink.

1. NAME OF CANDIDATE OR COMMITTEE Mary Pauline Brown		DATE OF REPORT 7/15/08	
2. ADDRESS OF CANDIDATE OR COMMITTEE 100 Main Street, Anyplace, OK 73199			
3. OFFICE SOUGHT Grassland County Commissioner	REPORT PERIOD	from: (beginning of period) 3/21/08	to: (end of period) 7/14/08
			Year of General or Special General Election (circle one)

LISTED BELOW ARE THE CONTRIBUTIONS RECEIVED AND THE EXPENDITURES MADE WHICH ARE REQUIRED BY LAW TO BE REPORTED. Attach additional sheets as necessary to provide complete information.

4. CARRYOVER FROM PREVIOUS CAMPAIGN OR CUMULATIVE PERIOD (new campaign or period)		\$	0	
CONTRIBUTIONS				
5. GRAND TOTAL OF CONTRIBUTIONS FROM PREVIOUS REPORT (after filing first report)		\$	0	
6. Date accepted	Name and address of contributors of more than \$200.00	Nature of contribution: cash, check or in-kind (describe)	Amount	Total contribution during campaign or calendar year
3/21/08	A.C. Andrews, 60 "S" St. Anyplace, OK 73199	Cash	\$ 210.00	\$ 210.00
6/25/08	C.J. Johnson, 902 Sims Anyplace, OK 73199	Check	\$ 325.00	\$ 325.00
			\$	\$
			\$	\$
7. TOTAL OF OTHER CONTRIBUTIONS \$200 OR LESS THIS REPORTING PERIOD (not itemized)		\$	2275.00	
8. TOTAL CONTRIBUTIONS THIS REPORTING PERIOD (add line 6 to line 7)		\$	2810.00	
9. GRAND TOTAL-ALL CONTRIBUTIONS FOR CAMPAIGN OR CUMULATIVE PERIOD (4 or 5 + 8)		\$	2810.00	

EXPENDITURES

10. GRAND TOTAL OF EXPENDITURES FROM PREVIOUS REPORT		\$	0
11. Personal services		\$	
12. Printing		\$	120.00
13. Radio and television		\$	
14. Billboards		\$	1300.00
15. Advertising - general		\$	100.00
16. CONTRIBUTIONS TO OTHER CAMPAIGNS - Candidates and Candidate Committees		\$	
16a. Contributions to other campaigns - All committees, except for candidate committees, must identify recipients of contributions to other campaigns following verification of acceptance of amounts aggregating in excess of \$200.00 by name, address, amount of contribution and total amount of contributions during the campaign or calendar year:			
(a) Name and address of recipients of contributions of more than \$200	(b) Amount	(c) Total contribution during campaign or calendar year	
	\$	\$	
	\$	\$	
Total contributions to other campaigns of \$200 or less this reporting period (not itemized)	\$		
TOTAL CONTRIBUTIONS TO OTHER CAMPAIGNS - Other Committees. Total amounts in column (b).		\$	
17. Miscellaneous		\$	130.00
18. TOTAL EXPENDITURES THIS REPORTING PERIOD (add lines 11 through 17)		\$	1650.00
19. GRAND TOTAL-ALL EXPENDITURES FOR CAMPAIGN OR CUMULATIVE PERIOD (add line 10 to line 18)		\$	1650.00

20. BALLOT INFORMATION: candidates or candidate committees, please indicate whether the candidate's name appeared on the ballots for the following elections.	PRIMARY <input checked="" type="checkbox"/> yes <input type="checkbox"/> no	RUNOFF PRIMARY <input type="checkbox"/> yes <input type="checkbox"/> no	GENERAL <input type="checkbox"/> yes <input type="checkbox"/> no
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21. To the best of my knowledge and belief, the above is a true and correct compilation.
Candidate's, Chairperson's or Designated Agent's Signature **Mary Pauline Brown**

22. NOTARIZATION: Subscribed and sworn to before me this 15th day of July, 2008.
My commission expires 3/15/09
Notary's Signature **Jane Doe** [SEAL]

Form C-3 -- General Requirements

Once a candidate or candidate committee has filed a designation of agent [form D-1] or a registration [form R-1], a report is due for each reporting period until a "final" report is filed. If the candidate or committee has received no contributions and made no expenditures during any reporting period, a "statement of inactivity" [form C-3] may be filed in lieu of a form C-1. The statement of inactivity must include:

1. the name and address of the candidate or candidate committee, political party or organization; and
2. a statement by the designated agent that a contribution was not received and an expenditure was not made during the reporting period.

In determining whether there has been activity,

1. interest earned on contributions received is not considered a contribution, therefore, is not reportable; and
2. a filing fee paid by the candidate is an expenditure; however, a form C-3 may be filed if that is the only expenditure, and the filing fee can be reported on the next form C-1 filed.

Item	Explanation
1.	<p>Name of candidate or committee. Give the same name on this report that was filed on the designation of agent and the registration (if any). Changes in a name [i.e. "William" to "Bill"] or the wording in a name [i.e. "Oklahoma Political Party" to "Political Party of Oklahoma"] can keep the report from being credited to the appropriate candidate or committee.</p> <p>Date of report. Date the report was prepared. The date is not significant unless the report is not timely received by the Commission; it may then be used as evidence to show when the report was filled out and/or mailed.</p>
2.	<p>Address of candidate or committee. Give the same address on this report that was filed on the designation of agent and registration (if any). Address changes should be reported on amended forms D-1 and R-1 (if any).</p>
3.	<p>Office sought. Do not omit this item. There are often duplicate names in county filings. This line assists in determining whose report it is. If there is not enough room, abbreviate [i.e. "Co. Comm.3]. Report period. Reporting periods are definite and specific. Only financial activity occurring within a designated reporting period should be shown on a given report. "from: beginning of period" refers to the date of the first contribution or expenditures if this is the first report or, if other reports have previously been submitted, it refers to the date following the ending of the last reporting period. "to: end of period" refers to the final date in the current reporting period. Year of Election. Circle either "General" or "Special General" election and give the year of the election when you are running for the office.</p>
4.	<p>No activity statement. Nothing is required in this space. By submitting this report, you are certifying to the contents of section 4 - that you have had no financial activity within this reporting period.</p>
5.	<p>Ballot information. This line is for candidate committees only. It need only be filled in for pre-election reports and the post election report. It is used to determine when a candidate is eligible to file a "final" report.</p>
6.	<p>Signature. The form must be signed by the candidate, chairperson or designated agent if it is being filed for candidate and by the chair or designated agent if it is being filed for a committee.</p>
7.	<p>Notarization. The form is incomplete if the signature has not been properly notarized. If faxed, the notarization seal should be colored with a dull pencil lead so that it shows up on the copy.</p>

STATEMENT OF INACTIVITYcheck if FINAL

FORM

C-3

9/06

EC OFFICE USE

Please type or print clearly in black ink.

1. NAME OF CANDIDATE OR COMMITTEE John Stone		DATE OF REPORT 7/15/08	
2. ADDRESS OF CANDIDATE OR COMMITTEE			
3. OFFICE SOUGHT Grassland County Sheriff	REPORT PERIOD	from: (beginning of period) 06/02/08	to: (end of period) 07/14/08
			Year of General or Special General Election (circle one) 2008

4. **The candidate or committee listed in item #1 has received no contributions and has made no expenditures during the reporting period listed in item #3.**

5. BALLOT INFORMATION: candidates or candidate committees, please indicate whether the candidate's name appeared on the ballots for the following elections.	PRIMARY <input checked="" type="checkbox"/> yes <input type="checkbox"/> no	RUNOFF PRIMARY <input type="checkbox"/> yes <input type="checkbox"/> no	GENERAL <input type="checkbox"/> yes <input type="checkbox"/> no
--	---	---	--

6. To the best of my knowledge and belief, the above is a true and correct compilation.
Candidate's, Chairperson's or Designated Agent's Signature

John Stone

7. NOTARIZATION: Subscribed and sworn to before me this

My commission expires **3/15/09**

Notary's Signature

15th day of **July**, **2008****Jane Doe**

(SEAL)

INSTRUCTIONS

Please consult 51 O.S.2001, §§ 301-325 when completing this report. If you have questions, write or telephone the Ethics Commission [see information below].

WHO MAY FILE C-3:

A statement of inactivity (form C-3) may be filed in lieu of a form C-1 for periods during which the candidate or committee has no activity (contributions or expenditures). Unopposed candidates (those with no opposition in any election), who accept no contributions and make no expenditures, other than payment of a filing fee, may terminate their filing obligations by filing a form C-3 marked "FINAL" at the top any time after the final day for filing Declarations of Candidacy.

WHERE TO REPORT:**County Candidates and Committees supporting or opposing county candidates or issues:**Ethics Comm. 2300 N Lincoln Blvd B5, Oklahoma City, OK 73105-4812
(405) 521-3451 * FAX (405) 521-4905**School Board Candidates and Committees:**

Office of the Clerk of the Board of Education

Municipal Candidates and Committees supporting or opposing municipal candidates or issues:

Office of the Municipal Clerk

PENALTIES:**All Candidates and Committees:**

Failure to file each C-1 or C-3 report is a misdemeanor and may result in a fine of up to \$1,000 or six months in jail.

County Candidates and Committees only:

Late fees will be assessed at \$25 per day up to \$250 per report for county candidates and committees supporting or opposing county candidates and \$100 per day for committees supporting or opposing county issues up to \$1,000 for each report.

Fund-Raisers

GENERAL GUIDELINES

- a) All contributions are reported.
- b) Contributions, either cash or in-kind, of more than \$200 must identify the contributor.
- c) Maximum contributions to county and municipal candidates or their candidate committees in counties and municipalities of more than 250,000 population [Oklahoma and Tulsa Counties only] is \$5,000 for the entire campaign. Maximum contributions to all other local candidates [county, municipal or school board] or their committees is \$1,000 for the entire campaign. Maximum contributions to other political action committees, organizations or political parties supporting or opposing candidates is \$5,000 for each calendar year. There is no limit for issue or ballot measure committees.
- d) The reported amount of a contribution may be reduced by the cost of consumables at fundraisers; however, it is recommended that the cost be included as a contribution. Consumables include food, beverages, preparation or catering, entertainment and fair market value of items sold or given as prizes. In addition, donated consumables are reported as in-kind contributions. If purchased by the campaign, the cost of consumables is reported as an expenditure.

FAIR MARKET VALUE. Fair market value is the amount a well-informed buyer or lessee, willing but not obligated to buy or lease, would pay; and which a well-informed seller, or lessor, willing but not obligated to sell or lease, would accept.

TYPES OF FUND-RAISERS

1. Direct mail campaign

Contributions from a mail solicitation are reported at face value. Itemize contributions and report costs of solicitation as expenditures.

2. Dinner or cocktail party

Where price is greater than fair market value, report in any one of the following ways:

- a. Report all contributions at face value or the full cost of the ticket. Report all expenses as regular campaign expenditures.
- b. Divide the price of the ticket into two parts--cost of consumables at the party and amount of contributions above that cost. Report only the amount designated as the contribution part from each purchaser of a ticket. This system can often be used when a party is catered at so much per person.

3. Rummage, Bake or Garage Sales and Concession Stands

Where prices do not exceed a fair market value, no profit is realized. A contributor record must be kept of those who donate goods to be sold worth more than \$200.

Keep the name and address of purchasers from whom more than \$200 profit is realized. In the case of donated goods, profit is the amount of the price which exceeds the fair market value. It is unnecessary to record the names and addresses of other contributors or customers unless they contribute to the campaign in other ways.

After the event, prepare a financial statement showing your receipts and expenses.

4. Campaign buttons, bumper stickers and novelties

Where items are sold at a greater than fair market value, record the name of each contributor and report the names of those contributing more than \$200. The sale price may be reduced by the cost of the merchandise sold (consumables) in determining the amount of the contribution.

5. Auctions and sales

Where prices exceed fair market value, report excess as a contribution. Persons who donate articles for sale at such events are making contributions to the campaign. The contribution is the "fair market value" of the donated article. The designated agent or subagent keeps a record of each donated article, the donor and the value of the article.

NOTE: If the item is sold for less than the fair market value, the value (and the contribution attributed to the donor) is reduced to the actual sale price.

A record is kept of each item's price. The buyer need not be identified unless the buyer pays more than the fair market value. [Then the buyer is making a contribution of the amount paid in excess of the fair market value. That excess is listed as an additional contribution.]

To keep a record of an auction, we suggest you use the following as an example.

AUCTIONS

CITIZENS FOR BROWN		Auction held 8/1/200X			
Sale Item #		Fair Market Value	Sale Price	Amount over Fair Market Value	Total given by this person during campaign
Description	Name and Address				
#1	* D John Doe 200 "A" Street, Tulsa 74111	\$100			\$1000.00
Cabin use	* B Mary Smith 400 B Street, OKC 73111		\$125	\$ 25	\$ 525.00
#2	* D Sam Jones 105 Front, Lawton 73555	\$145			\$ 355.00
2 Dinners	* B Tom Mix 702 River, Owasso 74199		\$100		\$ 262.75
#3	* D Susan Clark 402 South Avenue, Enid 73777	\$ 50			\$ 250.00
Boat cruise	* B Jack Jorgenson 123 E. Norway, El Reno 73062		\$ 50		
Total revenue realized			\$275**		

NOTE: If purchase price is the fair market value or less, it isn't necessary to report the buyer's name.

* D means donor and B means buyer.

** Report \$275 total revenue on C-1 crediting Doe \$100; Smith \$25; Jones \$100; and Clark \$50.

Computer Reports

Many candidates and committees have access to home or small business computers. Campaign records may be kept on these computers and Ethics Commission reports generated from them. If you plan to use computer generated reports in lieu of Ethics Commission forms, submit a sample copy to Ethics Commission for approval. Guidelines for computer reports:

1. approximately the same format used in Ethics Commission forms;
2. clearly label all data;
3. use 8 ½" by 11" paper (do not use onion skin paper or carbon copies);
4. use only one side of the sheet of paper;
5. allow a top and bottom margin of approximately one inch; and
6. use a good quality printer with a fresh, dark ribbon. Poor or light printing cannot be copied well.

Each page should identify the candidate or committee. Items should contain the same headings as the question on the form, and each page should be numbered.

Form F-1: Financial Disclosure

HOW TO PREPARE ETHICS COMMISSION FORM F-1

Following are examples of how to complete your personal financial disclosure statement.

REPORT PERIOD Initial report -- preceding two calendar years.
Succeeding reports -- period since most recent F-1 was filed.

WHEN DUE

County Candidates From the tenth day following the candidate exceeding \$500 in contributions or expenditures or by the tenth day following the last day for filing declarations of candidacy, whichever is earlier [if elected, no additional statement is required]. If candidate does not exceed \$500 in contributions or expenditures before the General Election and is elected to office, statement is due by the 40th day following the General Election.

Elected County Officials On or before the fortieth day after each General Election [includes all successful candidates who accepted contributions or made expenditures in their campaigns aggregating \$500 or less.

ATTACHMENTS

Report additional information on plain 8½ x 11 white paper using the format for each section. Attach additional pages to the statement. Put your name and the date on all attachments.

TIMELY REPORTS

Required F-1 statements must be received in the Commission office by the tenth day following the last day for filing your declaration of candidacy with the appropriate election board or receiving or expending \$500, whichever is later. An elected official required to file a Financial Disclosure Statement following the General Election, except those who have previously filed as candidates, will be automatically granted one 30-day extension if, within 10 days before or after the due date, the person files with the Commission a declaration of his or her intent to defer the filing. Extensions are not available to candidates.

PENALTIES

Failure to file a required F-1, knowingly giving false information in the F-1 or knowingly omitting required information from the F-1 is a misdemeanor, each being a separate offense. Also, failure to file a financial disclosure statement may result in late fees being assessed up to \$100 per day for each day a statement remains unfiled up to a maximum of \$1,000. In addition, the person shall not be permitted to perform the duties conferred upon him or her by law until the statement is so filed.

ONE PER CALENDAR YEAR RULE

No person is required to file more than one financial disclosure statement per calendar year; therefore, a successful candidate who files a financial disclosure statement in July does not have to file another as an elected official in December. If you have previously filed during this calendar year as a candidate, you are not required to file a new statement as an elected official.

HEADING

1. Please type or print in ink.
2. Use your full name, not a nickname.
3. Give your birth date, business and residential addresses. If your business address is the same as your residential address, write "same" in that blank.

Form F-1: Financial Disclosure Cont'd

4. Indicate your status or the reason you are required to file [i.e. check candidate and give month and year of General Election], the title of the office you are seeking [i.e. County Commissioner, Mayor, School Board Member], the name of the governmental entity you will serve or be employed by [i.e. Stephens County, Muskogee, Independent School District #9], and the date your term begins and ends or you were appointed or employed, whichever is applicable.

EXAMPLE.

<p>CHECK YOUR FILING STATUS: (mark only one box)</p> <p><input type="checkbox"/> An elected official.</p> <p><input checked="" type="checkbox"/> A candidate running in an election: month <u>November</u> year <u>200X</u></p> <p><input type="checkbox"/> An elected official retained in office.</p> <p><input type="checkbox"/> A state agency head or first deputy.</p> <p><input type="checkbox"/> A member of a board or commission.</p> <p><input type="checkbox"/> Other state employee (with nonministerial duties).</p>	<p>POSITION YOU ARE A CANDIDATE FOR, HAVE BEEN ELECTED TO, HOLD OR HAVE BEEN APPOINTED TO: (fill in applicable blanks)</p> <p>Position title: <u>County Commissioner</u></p> <p>County or agency of the office: (give name and number if state) <u>Oklahoma County</u></p> <p>Position number: <u>District 2</u></p> <p>Term begins: <u>Jan, 200X</u> ends: <u>Jan, 200X</u></p> <p>Appointment date:</p> <p>Employment date:</p>
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OCCUPATION AND INCOME

5. Show your occupation or business. [If unemployed or self-employed, list normal occupation.]
6. List prior positions held as a public official. Begin with the most recent position held and go backwards.
7. Give name, residential address, business address and occupation of spouse and adult children who are doing business with the county if applicable. "Doing business with" is not a defined term but its common meaning includes engaging in activities with the county in pursuit of gain.
8. List categories or industries from which you receive \$1,000 or more annually. It is not necessary to give the amount of the income. Some possible categories from which you may have received income include:

Your principal employment	Child support	Stock or bond dividends
Partnership income	Unemployment compensation	over \$1,000 from each
Retirement income	Rent or lease payments	source
Social Security income	received for real estate,	Trust income
Savings account interest	houses, buildings	Commissions on sales
Sale of personal property	Self-employment income	Disability compensation
Strike benefits	Welfare assistance	Honoraria
Insurance annuity	Payment for service on	Other employment
Salary or pay for government	boards or commissions	Sale of stock (list
office (do not include travel	Sale of real estate	category of each stock
reimbursed expenses even if		sold if sale price was
in excess of \$1,000 annually)		\$1,000 or more)

Some possible industries from which these categories of income may have been received are:

Trade association	Insurance
Religion	Local government

Citizen group	Petroleum, natural gas
Advertising, public relations	Manufacturing, aerospace
Construction	Self
Chamber of Commerce	Forest products
Education	Transportation
Environment	Labor Union
Agriculture	Utilities, energy
Banking and finance	Professional association
Fishing, wildlife	Public employees
Food, restaurant, liquor	Recreation, sports
Health care	Senior citizens, retirement
Housing, real estate	State government

STOCK, HONORARIA AND LOBBYISTS

9. List categories or industries in which you have owned stock which is valued at \$1,000 or more during the period for which the F-1 is due. (Some categories or industries may be listed both in this section and the income section, if applicable.)
10. List names of any entities from which you received an honorarium or honoraria valued at more than \$200 over and above actual expenses and list the value of each. An honorarium is defined as "a payment usually for services on which custom or propriety forbids a price to be set." "Honoraria" are often paid to invited speakers.
11. List any registered lobbyist with whom you have engaged in business from which income of over \$1,000 was derived. A list of registered lobbyists is available from this office if you are unsure about someone's registration. Campaign contributions from lobbyists do not constitute "engaging in business with".
12. Sign and date statement in order to certify that all the information given is true and correct.

4. **INCOME:** List categories or industries from which you receive \$1,000 or more annually:

Salary

Cattle

Oil and Gas

Rental Income – Real Estate

Banking

Check here [] if continued on attached sheet

5. **STOCK:** List categories or industries in which you have owned stock which is valued at \$1,000 or more during the period for which this Financial Disclosure Statement is required:

CATEGORY OR INDUSTRY

CATEGORY OR INDUSTRY

CATEGORY OR INDUSTRY

Utilities

Mutual Fund

Natural Gas

Fast Food Franchise

Check here [] if continued on attached sheet

6. **HONORARIA:** List names of any entities from which you received an honorarium or honoraria valued at more than \$200 over and above actual expenses and list the value of such honorarium or honoraria:

DATE

ENTITY

VALUE

None

Check here [] if continued on attached sheet

7. **LOBBYISTS:** List any registered lobbyists with whom you have engaged in business from which income of over \$1,000 was received:

LOBBYIST'S NAME

LOBBYIST'S NAME

None

Check here [] if continued on attached sheet

Report additional information on plain 8 1/2 x 11 paper using format of each question. Attach pages to this report. Put your name and the date on all attachments.

To the best of my knowledge and belief, the above is a true and correct compilation:

SIGNATURE: (Person Filing Statement)

Date

Curtis Monroe Watkins

6/2/08

OTHER GOVERNMENT AGENCIES

Contact the following agencies about questions that may arise in their areas:

QUESTIONS ABOUT	AGENCY	TELEPHONE
Federal Income Tax	Internal Revenue Service	1-800-424-1040
Employer ID number (form SS-4) (if committee has employees)	"	"
Employee withholding (W-4 form)	"	"
Social Security	Social Security Administration	1-300-772-1213
Federal Campaign Reporting	Federal Election Commission 999 E Street, N.W. Washington, D.C. 20005	1-800-424-9530
State Taxes	Oklahoma Tax Commission 2501 North Lincoln Boulevard Oklahoma City, OK 73194	405-521-4321
	OK Employment Security Comm. 2401 North Lincoln Boulevard Oklahoma City, OK 73105-4495	405-557-7200
Business Licenses	Local City Clerk or Treasurer	
Liquor and Banquet Permits	Alcoholic Beverage Law s Enf. Comm. 2501 North Stiles Oklahoma City, OK 73105	405-521-3484
Health Permits (Food Sales)	Department of Food Protection 1000 Northeast 10th Street Oklahoma City OK 73152	405-271-5243
Postal permits, Mailing Use of	Local U.S. Post Office	
Declaration of Candidacy Candidate packet	Local County Election Board OR State Election Board State Capitol Building, Room 3 P.O. Box 53156 Oklahoma City, OK	405-521-2391
Election Laws	Local District Attorney	
Political Broadcasting	Federal Communications Commission Broadcast Bureau Washington, D.C. 20554	202-632-7000
Sign Regulations	Local Police or Sheriff	

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Wichita Campaign Finance Law

CHAPTER 2.56. CAMPAIGN CONTRIBUTION AND EXPENDITURE REPORTS

[Sec. 2.56.010. Campaign finance reporting.](#)

[Sec. 2.56.020. Reports required when.](#)

[Sec. 2.56.030. Contribution limited per campaign.](#)

[Sec. 2.56.040. Duties of city clerk.](#)

[Sec. 2.56.050. Violations--Penalty.](#)

Sec. 2.56.010. Campaign finance reporting.

All candidates for nomination or election to the city council shall comply with all requirements of the campaign finance act of the State of Kansas, K.S.A. 25-4142 et seq., as amended, and the provisions of this chapter. Where the provisions of this chapter are more restrictive than the provisions of the state statute, the more restrictive provision shall apply for purposes of enforcement under the city code.
(Ord. No. 41-496 § 1)

Sec. 2.56.020. Reports required when.

Each candidate for nomination or election to the city council, required to file any report under the provisions of the Campaign Finance Act, K.S.A. 25-4142 et seq., as amended, shall file an additional copy of such report with the city clerk within twenty-four hours of the time specified for filing the report by the campaign finance act.
(Ord. No. 41-496 § 2)

Sec. 2.56.030. Contribution limited per campaign.

(a) The aggregate amount contributed to a candidate for nomination or election to the city council and to his or her candidate committee and to all political committees and dedicated to a particular candidate's campaign by any person shall not exceed five hundred dollars for each primary election and an equal amount for each general election.

(b) Contributions by political committees as defined by K.S.A. 25-4143, as amended, corporations, partnerships, trusts, labor unions, business groups or other such organizations are expressly prohibited.
(Ord. No. 44-852 § 1)

Sec. 2.56.040. Duties of city clerk.

The city clerk shall:

(1) Furnish to any person all appropriate city election ordinances affecting candidates, together with a narrative explanation thereof;

(2) Make such reports and statements available for public inspection during regular office hours.
(Ord. No. 41-496 § 4)

Sec. 2.56.050. Violations--Penalty.

Violations of any of the provisions of this chapter shall constitute a misdemeanor, and any violation thereof shall be punished by a fine of not more than five hundred dollars or one year imprisonment, or by both such fine and imprisonment.
(Ord. No. 41-496 § 5)

Summary of Albuquerque and Portland Public Finance Programs

Clean Money Comparisons: Summaries of Full Public Financing Programs

Summer 2006

Janice Thompson for Public Campaign



Public Campaign
1320 19th Street, NW Suite M-1
Washington, DC 20036
Ph. 202.293.0222 Fax. 202.293.0202
www.publiccampaign.org

Albuquerque

General Information

Population – 495,571

Name – Open and Ethical Elections Code (OEEC)

Offices – Mayor and city council

Enactment Date and Method – Referred by the City Council for a popular vote in October 2005 as an amendment to existing city charter provisions on elections.

Effective dates – The system will be in place for 2007 elections when council candidates from even numbered districts (2, 4, 6, 8) are up for election. In 2009 the system will be an option for mayoral candidates and council candidates from odd numbered districts (1, 3, 5, 7, 9) are up for election.

Elections Background – Albuquerque elections are non-partisan. The regular municipal election is held the first Tuesday of October of odd-numbered years. If needed, run-off elections must be held within 45 days. A run-off election is required if no candidate wins more than 40% of the vote. Mayor and council terms are four years. The mayor is elected citywide. There are 9 city council members elected by district.

Estimated Cost – Each year, the City Council will appropriate 1/10th of 1% of the value of the general fund.

Cost per Resident – About \$1.00 per resident annually.

Overall Cap on Cost – Not addressed.

Materials Reviewed – Council Bill No. F/S R-05-298. Administrative ruling making is in process and should be complete by the end of 2006.

Contact Information

- Common Cause New Mexico at <http://www.sos.state.nm.us/> and 505-323-6399

Seed Money

Maximum Contribution

- No more than \$100 per Person (defined below*)
- The applicant candidate can contribute up to \$500 in personal funds for seed money

Aggregate Limit

- Aggregate seed money contributions or spending shall not exceed 10% of the applicable public funding grant for a regular municipal election.
- Seed money that exceeds the 10% public allocation shall be deducted from public funds actually granted. (The assumption here is that any excess will be incidental and accidental, but rule making is anticipated to stress that the seed money cap should not be exceeded.)

Source

- Person* is defined as:
 - a city resident,
 - a labor organization, club, association or organization who have members who are City residents; or
 - a corporation, limited liability company, firm, partnership, joint stock company or other entity conducting business in the City.
- Applicant candidate may contribute up to \$500 in seed money.

Albuquerque

When Allowed to Raise and Spend

- The exploratory period is January 1 through February 15 for mayoral candidates
- The exploratory period is March 15 through April 30 for council candidates

Use of Seed Money

Primary purpose is to enable applicant candidates to collect qualifying contributions and petition signatures.

Unspent/Excess Seed Money

- Excess seed money is deducted from the applicable public funding allocation.
- Unspent seed money goes to the Open and Ethical Elections Fund (OEEF)

Qualifying Contributions

Size/Form

\$5 in cash, check, debit card, credit card or money order payable to Open and Ethical Elections Fund (OEEF)

Required Number of Qualifying Contributions

- A minimum of 1% of registered city voters for mayoral candidates and 1% of registered voters in the applicable council districts. The approximate number of registered voters is 280,000. An exact number will be determined to provide guidance for applicant candidates on the applicable qualifying thresholds for each district.
- During qualifying period candidates are called applicant candidates.

Source

- Registered voters in the applicable city council district or in the city for mayoral candidates.

Qualifying Period

- February 16 through March 31 for mayoral candidates
- May 1 through May 31 for council candidates

Receipt Requirement

- Applicant candidates must file a detailed contribution and expenditure report regarding seed money and in-kind contributions at time of filing a declaration of intent.
- Applicant candidate must also provide financial documentation of the collection of qualifying contributions.
- The declaration of intent must specify that public funds cannot be used to retire prior campaign debt.
- At the end of the qualifying period applicant candidates shall file seed money contribution and expenditure reports with their application for certification.
- Campaign finance reporting requirements will be developed by the city clerk using existing campaign reporting procedures and deadlines whenever practical.

Use/Disposition

Qualifying contributions are retained by the candidate. Their amount is deducted from the public funding allocation.

Independent Candidates – Not applicable since non-partisan elections.

Minor Party Candidates - Not applicable since non-partisan elections.

Albuquerque

Obligations of Participating Candidates

Fundraising

- In-kind contributions may be accepted from the beginning of the exploratory period up to the regular municipal election. The aggregate amount of in-kind contributions shall not exceed 10% of the applicable spending limit. In-kind contributions are not counted against the applicable limit on seed money contributions.
- Self-financing is limited to \$500 in seed money.

Participation in Debates – No

Campaign Advertising – Not addressed

Use of Funds

- Public funds may only be used for campaign-related purposes in the candidate's election in the election year in which the money is distributed.
- Any unspent or unencumbered funds must be returned to the Clerk within 2 weeks after the regular municipal election.
- Personal use of public funds is not allowed including:
 - Salary or payment to an individual unless that individual is providing bona fide services to the campaign and is compensated at fair market value;
 - Admission to a sporting event, concern, theater or other form of entertainment unless part of a specific campaign activity;
 - Dues, fees, parking or gratuities at a country club, health club or other recreational facility unless the costs are part of a specific fundraising event;
 - Mortgage, rent or household utility payments for any part of a personal residence;
 - Purchase of household food items or supplies; or
 - Purchase of clothing, other than items of de minimus value used in the campaign.
- Public funds may not be used for:
 - As a contribution to any other candidate, political committee or measure;
 - Support or oppose any candidate, political committee or measure not in their race;
 - To repay any loans, debts, or penalties;
 - To pay for consulting services to an individual unless the individual is providing bona fide services to the campaign and is compensated at fair market value; or
 - To pay for out-of-state travel

Withdrawing and Replacement Candidates

- Participating candidates can withdraw.
- If candidate withdrawing is continuing as a non-participating candidate then:
 - All public funds must be returned plus interest calculated at a 12% annual rate.
 - As a non-participating candidate compliance with OEEC spending limits is required.
- If candidate withdrawing is no longer continuing at all as a candidate, then unspent and unencumbered funds must be returned immediately.
- If a participating candidate is not certified as a candidate, then all public funds distributed must be returned plus interest calculated at a 12% annual rate.

Albuquerque

Financial Accounting – Not addressed

Public Funding Amounts

Regular municipal election

- \$1.00 per registered voter in the city for mayoral candidates
- \$1.00 per registered voter in applicable district for council candidate

Run-off elections

- \$0.33 per registered voter in the city for mayoral candidates
- \$0.33 per registered voter in applicable district for council candidate

Independent Candidates – Not applicable since non-partisan elections.

Minor Party Candidates – Not applicable since non-partisan elections.

How Amounts Determined - Not discussed

Adjustment & Revision Options

- The City Attorney and Clerk shall periodically review dollar amounts and recommend adjustments to reflect inflation or population. Recommendations are made to Council and Mayor to consider code amendments.

Funding Shortage Contingency

- The amounts distributed to participating candidates shall each be reduced by the same percentage as the reduction by which the total amount needed has been reduced relative to the total amount available.
- This procedure for addressing funding shortages also applies to matching funds.

Timing of Fund Distribution

- The City Clerk shall certify mayoral candidates on April 1st after the end of the qualifying period on March 31st.
- The City Clerk shall certify council candidates on June 1st after the end of the qualifying period on May 31st.
- Public funds allocation for the regular municipal allocation is to occur within 2 business days of certification.
- Public funds allocation for run-off elections are to be distributed on the Friday after the municipal election.

Matching Funds

- Matching funds are provided during both regular municipal and run-off elections.
- Matching funds are based on an assessment of “opposing funds” facing a participating candidate.
- Definition of “opposing funds” is: “Funds spent opposing a Participating Candidate. The amount of Opposing Funds is calculated by determining the opponent of the Participating Candidate who has the highest total of Expenditures and supportive Independent Expenditures; the amount of Opposing Funds is calculated by totaling the Expenditures made by that opponent, the amount spent on Independent Expenditures in support of that opponent and the amount spent on Independent Expenditures in opposition to the Participating Candidate. No Independent Expenditure may be counted as both opposing a Participating Candidate and in support of that candidate’s opponent.”

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Responding to Overspending by Non-Participating Candidates

Non-participating candidate spending is factored into calculations of “opposing funds”.

Responding to Independent Expenditures

Independent expenditures are factored into calculations of “opposing funds”.

Caps on Additional Public Funding

Total matching funds available in response to “opposing funds” are limited to two times the original grant.

Additional Funds and/or Restrictions on Mailings – Not addressed

Non-Participating Candidates

New Contribution Limits and Restrictions

No new limits were put into place along with public funding reform. However, Albuquerque has existing contribution limits in place for mayoral and council races, equal to 5% of the salary for the respective offices. As of the most recent election, those limits were set at about \$4,800 for mayoral races and \$480 for council races.

Reporting Requirements for Overspending Clean Money Amount

Current reporting timelines were deemed to be adequate. For example, for the October 4th 2005 election, reports were due on July 15, September 9, September 30, and October 3. Reports are due by noon and available on line later the afternoon the day reports are filed.

Political Parties

Not applicable since city elections are non-partisan.

Independent Expenditures and Issue Advocacy

The Albuquerque ordinance defines independent expenditures, electioneering communications, and express advocacy as follows:

Independent Expenditure: Any funds spent on Express Advocacy or Electioneering Communications that are not coordinated with any candidate’s campaign. The Clerk shall adopt regulations to determine whether funds spent on Express Advocacy or Electioneering Communications are coordinated Expenditures. Coordinated Expenditures on Express Advocacy or Electioneering Communications are treated as contributions.

Electioneering Communications: Any communication broadcasted by television or radio, printed in a newspaper or on a billboard, directly mailed or delivered by hand to personal residences or otherwise distributed that:

- Unambiguously refers to any candidate; and
- Is broadcasted, printed, mailed, delivered or distributed within thirty days before a regular municipal election; and
- Is broadcasted to, printed in a newspaper distributed to, mailed to, delivered by hand to or otherwise distributed to an audience that includes members of the electorate for a Covered Office
- Electioneering Communication does not include:

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- a) any news articles, editorial endorsements, opinion or commentary, writing or letters to the editor printed in a newspaper, magazine or other periodical not owned or controlled by candidate or political party;
- b) any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate or political party;
- c) any communication by Persons made in the regular course and scope of their business or any communication made by a membership organization solely to members of such organization and their families; or
- d) paid for by a candidate or candidate's campaign committee

Express advocacy: An Expenditure made by a Person or group, other than a candidate or a candidate's committee, that advocates the election or defeat of a candidate, including all costs of designing, producing or disseminating a communication that contains phrases such as "vote for", "re-elect", "[name of candidate] in [year]", "vote against", "defeat", "reject", or similar phrases.

Independent Expenditure Reporting

- A Person (see definition on page 1) making an independent expenditure(s) in aggregate amount of \$100 shall comply with Article XIII, Section 4 of the City Charter.
- The reporting timelines for candidates also apply to independent expenditures. For example, for the October 4th 2005 election, reports were due on July 15, September 9, September 30, and October 3. Reports are due by noon and available on line later the afternoon the day reports are filed.

Administration & Enforcement

Name of Agency – The City Attorney and City Clerk administer the OEEC

Number of Commissioners and Party Affiliations – not applicable

Appointment and Length of Terms – not applicable

Agency's Powers – The Clerk with assistance from the City Attorney shall adopt rules to ensure effective administration.

Appeals & Hearings

- A Person (defined on page 1) aggrieved by a certification or matching funds decisions may appeal to the Clerk within 3 days. The appeal must be in writing.
- Within 5 days the City Hearing Officer shall hold a hearing. Due notice must also be given to parties in dispute.
- In regard to appeals, the City is included as a "parties of dispute".
- At the hearing the appellant has burden of providing evidence demonstrating an improper decision by the Clerk.
- The City Hearing Officer shall rule within 3 days.
- The parties in dispute may appeal a City Hearing Officer appeal in district court pursuant to New Mexico Rule of Civil Procedures 1-074.
- If a candidate's certification of participation is revoked on appeal that candidate may be required to return all public funds.

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- If either the Hearing Officer or court finds that an appeal was made frivolously or to result in delay or hardship, they may sanction the appellant by requiring payment of attorney's fees and court costs

Reports

- Within 30 days after the end of each fiscal year, the City Treasurer shall report on investment activity pertaining to the OEEF to the Mayor and Council.
- The City Clerk will prepare for the Mayor and Council an annual report documenting, evaluating and making recommendations relating to the administration, implementation and enforcement of the OEEC. The report will also summarize OEEF revenues, expected costs for the next election cycle, and amount of any annual appropriation required to meet this need.

Administration of Fund

- The Open and Ethical Elections Fund (OEEF) is created in the City Treasury.
- All investment income generated by the OEEF will be retained by the fund.
- Remaining balances at the end of each fiscal year will also remain in the OEEF and not revert to the general fund.

Voter Education

- Upon certification the City Clerk will publish a statement on the Internet that the candidate is a participating candidate agreeing to terms and conditions of OEEC.
- One administrative duty delegated to the City Clerk is to provide the public with educational materials relating to the provisions of OEEC.

Administrative Costs

Administrative and enforcement costs may be paid for by the OEEF.

Penalties

- OEEC violations are a criminal violation subject to the provisions of Section 1-1-99 ROA 1994.
- The City Attorney enforces OEEC.

Funding Sources

Appropriated Moneys and Budget Shifts

- One-tenth of 1% of the approved General Fund appropriation shall be reserved to the OEEF.
- The council may also appropriate additional money based on recommendations from the City Clerk and City Attorney

Income Tax Check-Off – No

QCs – No. Qualifying contributions are retained by the candidate and the public funding allocation is reduced by the amount

Seed Money – No. The amount of seed money contributions are deducted from the public funding allocation.

Election Related Fines and Penalties - No

Voluntary Contributions - Yes

Lobbying Registration Fees/Taxes – No

Unspent Public Funds – Yes

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Miscellaneous

Self-financing

Applicant candidates may contribute up to \$500 from personal funds in seed money.

Loans - Not addressed

Spending Limits – A participating candidate shall limit total campaign expenditures and debts to the amount of public funds distributed plus any collected seed money.

Officeholder Accounts – Not addressed

Special Elections – Not addressed

Retiring Candidate Debt – Public funds cannot be used to retire a prior campaign debt from a previous election period.

Electronic Filing – Not addressed

Severability – Yes

Other

- Volunteer work-hours are non-reportable and shall not count as in-kind contributions or against the applicable limit on seed money.
- Personal services may be provided to an applicant candidate on a volunteer basis. If a volunteer does so during working hours, paid by a third-party employer or the applicant candidate, then that employer is making an in-kind contribution.
- After certification and throughout the election cycle participating candidates shall comply with applicable city and state election laws as well as OEEC provisions.

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General Information

City – Portland

Population – 526,609

Legislation name – Campaign Finance Fund (CFF)

Offices – City Auditor and 5 members of the City Council (4 city commissioners and mayor)

Enactment date and method – Enacted by City Council as ordinance to amend city election code in May 2005

Effective dates – September 2005 for candidates running for 2006 election.

Elections Background – Primary is third Tuesday in May of even numbered years. All city elected officials serve 4 year terms. The election of two city commission seats and mayor rotate with election of the auditor and the other two commission seats. All elections are citywide and non-partisan.

Cost – Actual cost in 2006 was \$392,373 in disbursements to participating candidates. Three candidates qualified for the May primary elections. Two candidates successfully used the reform option. One won and the other lost during the primary. The primary vote totals were over 50% plus one, so there will be no general election in 2006. One other candidate was disqualified and returned unspent funds on hand at that time and actions are being taken to recover the rest of the money. Administrative costs were minimal. Estimated cost over time is \$1.3 million annually.

Cost per Resident - \$2.45 based on estimated cost. Seventy-five cents per resident for 2006.

Overall Cap on Cost – The annual impact on the city budget is limited to two tenths of one percent of the city budget without raising any new taxes or fees.

Materials Reviewed –

- Chapter 2.10 Campaign Finance Fund (This is a new chapter to city code added by ordinance 179258) <http://www.portlandonline.com/auditor/index.cfm?c=38523>
- Administrative rules – ARB-ADM-2.10-2.23 <http://www.portlandonline.com/auditor/index.cfm?c=39573>
- Guides for participating and non-participating candidates and independent expenditures <http://www.portlandonline.com/auditor/index.cfm?c=39610>

Contact Information –

- Money in Politics Research Action Project at <http://www.oregonfollowthemoney.org/> and 503-283-1922
- Portland Elections Office at <http://www.portlandonline.com/auditor/index.cfm?&c=cggec> and 503-823-3546

Seed Money

Maximum Contribution

- \$100

Aggregate Limit

- The aggregate amount of seed money that can be raised is 10% of the applicable primary spending limit
 - Mayoral candidates - \$20,000
 - Auditor and Commission candidates - \$15,000

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Source

- May come from any entity or individual allowed to make campaign contributions under Oregon law. This means that corporations, labor unions, and political committees as well as individuals regardless of residency or voter registration status.
- Oregon law does require compliance to a federal ban on contributions from foreign nationals.
- Participating candidates can make one seed money contribution to his/her own campaign.

When Allowed to Raise and Spend

- Only during exploratory and qualifying periods.
- Exploratory period begins 21st day after the biennial general election and ends the day before the start of the qualifying period.
- Qualifying period begins the first day it is possible to file as a candidate in each odd-numbered year and ends the 47th day immediately preceding the primary election. (The length and timing of the exploratory and qualifying periods are being evaluated by Citizens Campaign Commission.)
- A declaration of intent must be filed with the auditor's office prior to collecting seed money or qualifying contributions.
- If a candidate seeking certification has a preexisting principle campaign committee must file a detailed campaign finance disclosure reports. If that report indicates a zero balance then the candidate can continue to seek certification. Rules establish what must be done if there is either existing campaign debt or surplus. See pages 11 and 12 of this summary. A candidate who has filed a declaration of intent cannot make expenditures from funds received prior to that filing.

Use of Seed Money

For start up costs for collection of qualifying contributions.

Unspent/Excess Seed Money

- Excess seed money fundraising is not allowed.
- The amount of seed money raised by a participating candidate is deducted from the primary election public funds allocation.

Qualifying Contributions

Size/Form

- \$5.
- Check, cash, money order.

Required Number of Qualifying Contributions

- 1,000 for City Commission and Auditor candidates
- 1,500 for Mayoral candidates

Source

- May only be received by individuals who are city residents. (This is being evaluated by the Citizens Campaign Commission and may change to a resident who is also a registered voter.)

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Qualifying Period

- Qualifying period begins the first day it is possible to file as a candidate in each odd-numbered year and ends the 47th day immediately preceding the primary election. (The length and timing of the exploratory and qualifying periods are being evaluated by Citizens Campaign Commission.)
- In 2005 the qualifying and exploratory periods started September 1st because of time needed to write administrative rules after May 2005 enactment.

Receipt Requirement

- A declaration of intent must be filed with the auditor's office prior to collecting seed money or qualifying contributions.
- Spending during the exploratory and qualifying periods can only have come from qualifying and seed money contributions. No debts over the amount of qualifying and seed money contributions collected by the participating candidates can be incurred.

Use/Disposition

- Qualifying contributions are given to the candidate and not the city's Campaign Finance Fund.
- Qualifying contributions are retained by the candidate and may be used to cover expenses during the qualifying period.
- The amount of qualifying contributions raised by a participating candidate is deducted from the primary election public funds allocation.

Independent Candidates – Not applicable since city elections are nonpartisan.

Minor Party Candidates - Not applicable since city elections are nonpartisan.

Obligations of Participating Candidates

Fundraising

- Can only accept qualifying and seed money contributions.
- No self-financing above giving him/herself a \$5 qualifying contribution or \$100 seed money contribution is allowed.
- In-kind contributions
 - Aggregate in-kind contributions are allowed up to 5% of the primary election allocation during the exploratory and qualifying periods and until the date of the primary election. This is \$7,500 for auditor and council candidates and \$10,000 for mayoral candidates.
 - During the general election aggregate in-kind contributions up to 10% of the general election allocation are allowed. This is \$20,000 for auditor and council candidates and \$25,000 for mayoral candidates.
 - In-kind contributions are not counted against the participating candidate's spending limit.
 - In-kind contributions up to the amounts outlined above for participating candidates may also be given to non-participating candidates without triggering matching funds.
 - Volunteer hours are not counted against limits on either seed money or in-kind contributions as long as volunteer receives no compensation. If an individual

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provides services during working hours paid by a third-party employer of the candidate that employer is making an in-kind contribution.

Participation in Debates - No

Campaign Advertising

- Printed advertisements shall include the phrase “Paid for by” followed by the candidate’s name or name of principal campaign committee and must also include the following statement: “As a Certified Campaign Finance Fund Candidate, I take personal responsibility for the content of this campaign ad.” Printed advertising means a brochure, pamphlet, flyer, newspaper or magazine advertisement or similar advertisement ad designated by rule. Printed advertisement does not include any button or sign or other similar advertisement designation by rule.
- Radio advertising shall include the “paid for by” designation and the “I take personal responsibility...” phrase as described above.
- Television or video advertising must include the above designation and phrase with the additional requirement that the “I take personal responsibility...” statement be made by the candidate while in front of the camera or while a candidate photograph is displayed.
- The “I take personal responsibility...” statement is not required in a participating candidate’s statement in the Voters’ Pamphlet. This is because statements have a 500 word limit and using 18 words for this statement was problematic. Certified candidates can mention their participation in the system, but can do so in their own words at their own discretion.

Use of Funds

- Public funds can only be used for campaign related purposes related to the office and election for which the participating candidate has qualified.
- Public funds can be used to make contributions to civic and non-profit organizations only if the payment is for the purpose of attending a specific campaign event open to the public.
- Public funds cannot be contributed to any other candidate, political committee, or measure campaigns.
- Public funds cannot be used:
 - to make independent expenditures of any kind
 - to repay any loans, debts, or penalties
 - to pay for consulting services unless bona fide services are provided to the campaign at a fair market rate
 - for out-of-state travel
- Public funds cannot be used for personal uses prohibited by state law and rules that include but are not limited to the following:
 - Salary or payments unless bona fide services are provided at fair market rate.
 - Admission to a sporting event, concert, theater, or other form of entertainment unless part of a specific campaign activity
 - Dues, fees, or gratuities at a country club, health club or other recreational facility unless part of a specific campaign activity
 - Mortgage, rent or household utility payments for any part of a personal residence
 - Purchases of household food items or supplies

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- Purchase of clothing, other than items of de minimus value used in the campaign (such as t-shirts)

Withdrawing and Replacement Candidates

- A candidate can withdraw by filing a written statement with the Auditor's office. All public funds distributed must also be returned plus interest at a rate of 12 percent per annum.
- Withdrawing candidates are personally liable for repaying public funds.
- A repayment exemption can be requested if a candidate withdraws due to a valid emergency such as serious personal illness or death in the immediate family.
- Because city elections are nonpartisan there is no need for replacement candidate provisions.

Financial Accounting – Not addressed in the Portland ordinance. There is language on this in state law.

Public Funding Amounts

Primary Contested Races

- \$150,000 for City Commissioner and Auditor candidates
- \$200,000 for Mayoral candidates
- Public funding allocated reduced by amount of qualifying and seed money contributions collected

Primary Uncontested Races

- No public funds allocated.
- If a candidate has been certified and received public funds before the candidate filing deadline and no else files as a candidate those public funds must be returned.

General Contested Races

- \$150,000 for City Commissioner and Auditor candidates
- \$200,000 for Mayoral candidates

General Uncontested Races

- No funds are allocated. Since Portland elections are nonpartisan, general elections don't even occur if a primary candidate wins by 50% plus 1.

Independent Candidates - Not applicable since all city elections are nonpartisan.

Minor Party Candidates - Not applicable since all city elections are nonpartisan.

How Amounts Determined – Through discussion with candidates, elected officials, campaign managers, political consultants, and community organizers.

Adjustment & Revision Options

- The public funding allocations and number of qualifying contributions shall be reviewed periodically by the Citizens Campaign Commission.
- The commission shall recommend adjustments to reflect inflation and population change to the City Auditor for approval by the City Council

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Funding Shortages Contingency

- No later than the 10th business day following the end of the qualifying period before the primary election, the Auditor shall determine if funds current deposited in the CFF will be sufficient given the number of certified candidates.
- If funds are not deemed to be sufficient the Auditor shall request the additional amount needed from the City Council subject to the overall cap on spending. That cap is two-tenths of one percent of the city budget.
- If funds are withdrawn, transferred, or otherwise used for purposes other than the CFF program, interest shall accrue on the amount withdrawn from the date of the withdrawal until it is returned.

Timing of Fund Distribution

- If a candidate qualifies before 90 days before the primary election, 30% of the applicable primary funds allocation is to be distributed within 10 business days after certification. The remaining 70% is distributed within 5 business days after the 90th day before the primary.
- If a candidate qualifies on or after the 90th day before the primary election, 100% of the applicable primary funds allocation is to be distributed within 10 business days of certification.
- Within 30 days after the primary election 30% of the applicable general election funds allocation is distributed. Within 5 business days after the 120th day before the general election the remaining 70% of the applicable general election funds allocation is distributed.
- The Auditor shall distribute public funds “by any mechanism that is expeditious, ensures accountability, and safeguards the integrity of the Campaign Finance Fund.
- The Auditor is given authority to establish by administrative rulemaking the timing of funds distribution for special elections.
- The Auditor is also given authority to extend deadlines for distributing public funds in the case of recount or other circumstances that makes distribution of revenues by a deadline specified in the ordinance impracticable. In the case of races involving an Auditor running for re-election the authority for extending these deadlines is given to the Citizens Campaign Commission.

Matching Funds

Matching funds are available in response to:

- spending by the nonparticipating candidate over the initial public funds allocation and
- for independent expenditures over the initial public funds allocation
- or if the public funds allocation is exceeded due to a combination of independent expenditures and spending by the nonparticipating candidates.

Caps on Additional Public Funding

- Primary election – up to 1 times the initial public funding allocation. If there is one participating candidate all the matching funds go to this person. However, if there is more

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than one participating candidate the matching funds are split between all participating candidates.

- General election - up to 2 times the initial public funding allocation based on “opposing funds” calculated based on highest spending non-participating candidate and/or independent expenditures

Additional Funds and/or Restrictions on Mailings – Not addressed.

Non-Participating Candidates

New Contribution Limits and Restrictions

Oregon has no limits on contributions. To impose limits requires an amendment to the state constitution, which is beyond the scope of Portland City Council action.

Reporting Requirements for Overspending Clean Money Amount

- A 100% report must be filed when the nonparticipating candidate receives contributions or makes expenditures exceeding the initial public funds allocations for the pertinent election.
- In-kind contributions equivalent to the amount allowed as in-kind contributions to participating candidates are not to be included in the 100% calculation by the nonparticipating candidates.
- The 100% report is due to the Auditor no later than 5:00 pm on the second business day after the 100% amount is exceeded early in the election. Reports are due before 5:00 pm on the first business day after 100% amount is exceeded five weeks before the primary and general elections. (The actual language refers to a state reporting period but the net effect is that the faster reporting begins 5 weeks before an election.)
- After a 100% report has been filed, nonparticipating candidates must file increment reports when either spending or contributions increase by the following increments:
 - Mayor candidates - \$7,500
 - Commissioner and auditor candidates - \$5,000
- On the same day received, the Auditor will notify all candidates in the pertinent race that 100% and increment reports have been filed. Notice will also be posted on the Internet.
- 100% and increment reports are only required to list total spending or contributions. Itemization of contributions and spending are only required on the next regularly scheduled campaign finance disclosure report.

Political Parties

Portland city races are non-partisan. Involvement of party committees must follow rules required of any other political committee.

Independent Expenditures and Issue Advocacy

Independent Expenditure Definition

- Independent expenditure are those not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a Candidate or any

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agent or authorized committee of the candidate. The term “agent” and the underlined phrase are defined in Oregon state election law.

- An independent expenditure is made “in support of”, “supporting”, “in opposition to” or “opposing” a candidate when:
 - The communication in whatever medium, including but not limited to radio, television, direct mail, handbills, bus benches, phone banks, magazines, or newspapers, expressly advocates the election or defeat of one or more clearly identified candidates for city office through use of explicit phrases, including but not limited to: “vote for,” “elect,” “support,” “Smith for Auditor,” “Jones,” “vote Pro-Environment” accompanied by listing of clearly identified candidates portrayed as Pro-Environment, “vote against,” “defeat” accompanied by a picture of one or more candidates, or “reject”: or
 - The communication, in whatever medium, including but not limited to radio, television, billboards, direct mail, handbills, bus benches, phone banks, magazines or newspaper:
 - Refers to one or more clearly identified candidates for city office;
 - Is made within (60) days before a general, primary, special, or runoff election for the office sought by the Candidate; and
 - Is targeted toward residents.
- Clearly identified is defined as:
 - The name of the candidate involved appears;
 - A photograph or drawing of the candidate appears; or
 - The identify of the candidate is apparent by unambiguous reference.

Independent Expenditure Reporting

- Reporting thresholds
 - Independent expenditures of \$1,000 or more supporting or opposing a candidate or candidates for city offices must be reported.
 - The total aggregate amount of independent expenditures in support or opposing a candidate or candidates for city offices must be reported when spending is \$1,000 or more.
 - An independent expenditure is considered obligated when the expenditure is made or an agreement to make the expenditure is made.
- Reporting timelines and notifications
 - Report shall be filed with the Auditor no later than 5:00 pm of the next business day during the following time periods.
 - Between the first day a candidate could file for the primary election and ending the date of the primary
 - Between the day after the primary and ending the date of the general election.
- On the same business day the notice is received, the Auditor will:
 - Publish a copy of the notice on the Elections Office section of the city’s website.
 - Notify each candidate in the pertinent election

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Administration & Enforcement

Name of Agency

- Administration is by City Auditor and elections staff in the auditor's office.
- The ordinance also mandates a voluntary Citizens Campaign Commission (CCC).

Number of Commissioners and Party Affiliations

- 7 Commissioners
- City elections are non-partisan and there are no party requirements regarding the CCC.

Appointment and Length of Terms

- 4 year terms, except that three of the initial appointments shall be for two-year terms.
- Upon term expiration, members shall serve until re-appointed or replaced.
- If a position is vacated, a new appointee will serve only the rest of the term
- Commission members are to have a demonstrated interest in campaign finance funding and, as insofar as possible, represent diverse community interests. Applications will be solicited from the Office of Neighborhood Involvement, Neighborhood Coalition offices, and the general public.
- Commission appointments are made by the City Council.
- The City Council may replace a Commission member for due cause, including but not limited to malfeasance, incapacity, conflict of interest or neglect of duties.

Agency's Powers

- The City Auditor has extensive rule making authority
- The Citizens Campaign Commission is advisory to the Auditor and City Council. The CCC is also given the responsibility of making certification and matching funds decisions involving an incumbent Auditor.

Appeals & Hearings

- Certification hearings
 - Certification hearings focus on challenges to a certification decision and may be filed by either a candidate refused certification or an opponent of a certified candidate.
 - Certification hearings must be requested in writing within 7 days of certification.
- Matching fund hearings
 - Matching fund hearings focus on challenges to a matching funds decision and may be filed by either a candidate refused matching funds or an opponent of a candidate who received matching funds.
 - Matching funds hearings must be requested in writing within 7 days of the matching funds decision.
 - If a matching funds decision is reversed, the candidate who inappropriately received matching funds must return those dollars plus 12 percent interest.
- Penalty hearings
 - Any penalized candidate, person, or political committee may request a hearing within 14 days after receiving a penalty notice.
- Conduct of hearings
 - The City's Code Hearings Officer shall appoint Hearings Officers based on recommendations by the Citizens Campaign Commission.

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- Matching funds and certification hearings shall occur no later than 7 days after hearing request.
- Penalty hearings shall be held no less than 14 days nor more than 30 days after hearing request.
- The Hearing Officer has 3 days to issue an order after a hearing.
- Hearings Officer orders are final decisions, but may be appealed to Multnomah County Court.
- If a request for hearing was made frivolously or to cause delay or hardship, the Hearings Officer or court may require whoever filed the hearings request to pay for costs of the Hearings Officer, court, and opposing parties, and attorney fees of the opposing party, if any.

Report

The Citizens Campaign Commission shall prepare a biennial report for the City Council that provides an overview and evaluation of the CFF program during the previous election period.

Administration of Fund

- The City Auditor administers the Campaign Finance Fund (CFF)
- The CFF is separate from the general fund. Any interest earned by CFF dollars are retained in that fund.
- Funds are to be used for public funds allocations and payment of administrative, enforcement and other expenses of the Auditor in managing the program.
- If funds are withdrawn, transferred, or otherwise used for purposes other than the CFF program, interest shall accrue on the amount withdrawn from the date of the withdrawal until it is returned.

Voter Education – Upon certification the Auditor’s office will publish on the Internet a statement that the candidate is a certified campaign finance fund candidate.

Administrative Costs

Administrative costs are to be limited to no more than 10% of the total funds deposited in the CFF fund for the applicable primary and general elections.

Penalties

- Civil penalties may be imposed for:
 - Violation of any ordinance provision by a certified candidate.
 - Failure to by nonparticipating candidates to file reports.
 - Failure to file independent expenditure reports.
 - Penalties may not exceed \$10,000 for any violation.
 - Limits on size of penalties do not include interest. Penalties are subject to interest at a 12 percent rate.
- Violations of political advertising disclosure requirements.
 - Civil penalties shall equal the cost of the advertisement that violates these requirements.
 - Revocation of certification will occur if a political advertising disclosure penalty has been imposed three or more times.
 - All public funds must be repaid plus 12% interest.
- Penalties pertaining to prohibited contributions and expenditures to or by certified candidate are:
 - 2 times the amount of the prohibited contribution or expenditure.

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- Minimum penalty is \$1,000.
- Certification is also revoked for such violations.
- All public funds must be repaid plus 12% interest.
- In administrative rules a penalty matrix outlines graduated penalties for different violations of reporting requirements for late reports. Late filing of 100% report, increment report, or independent expenditure reports penalties are based on a percentage of total contributions or total spending (whichever is greater) multiplied by the days late. Maximum penalties are also established. (The Citizens Campaign Commission is evaluating increasing the severity of the following penalties.)
 - 1st violation – 1% per business day late
 - 2nd violation – 3% per business day late
 - 3rd or subsequent violation – 4% per business day late
 - Maximum penalty is \$100 when total contributions or total expenditures that should have been reported is between \$0 and \$2,000.
 - Maximum penalty is \$1,000 when total contributions or total expenditures that should have been reported is between \$2,000 and \$10,000.
 - Maximum penalty is \$1,000 when total contributions or total expenditures that should have been reported is between \$2,000 and \$10,000.

Funding Sources

Appropriated Moneys and Budget Shifts – Appropriation by City Council based on system developed by Office of Management and Finance. That system is to use an already existing “general overhead model” that funds central city services including existing Elections Office by assessing all city bureaus commensurate to their proportion of the city budget.

Income Tax Check-Off - No

QCs – Yes, since they are retained by candidate and their value deducted from the public funding allocation.

Seed Money – Yes, since they are retained by candidate and their value deducted from the public funding allocation.

Election Related Fines and Penalties – Yes, Civil penalties related to fund administration

Voluntary Contributions - Yes

Lobbying Registration Fees/Taxes – No

Unspent Public Funds - Yes

Miscellaneous

Self-financing

Candidates and candidate family members may make one \$5 qualifying contribution and

Loans – Not allowed to participating candidates.

Spending Limits

- Before request certification, candidates agree to spend no more than the allowable qualifying contributions plus any seed money contributions raised.

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- During a primary, candidates agree to spend no more than the public funds allocation for the pertinent race plus any matching funds. Qualifying and seed money contributions are deducted from the initial public dollars distributed.
- During a general election, candidates agree to spend no more than the public grant plus any matching funds.

Officeholder Accounts –Not applicable in Portland because city council positions are full-time paid jobs with money allocated for staff.

Special Elections – Provisions for special elections are included.

Retiring Candidate Debt

- Use of CFF dollars cannot be used for this purpose.
- If a candidate seeking certification has a prior campaign debt from a previous election period when the candidate was not a public funding program participant, private funds may be raised only during the exploratory period. This fundraising must be kept in a separate account.

Electronic Filing

- The city ordinance requires posting increment and independent expenditure reports on the Internet, which means the election's office section of the auditor's section of the city's website.
- Beginning in January 2007 for 2008 elections, a web based campaign finance disclosure system under development by the state elections division will be required to be used for all election in Oregon including all local elections. The state legislation includes some "local option" provisions to give city's flexibility to require additional reports. In Portland this clarifies the city's authority to require reporting of independent expenditures and by candidates over and above state reporting requirements.

Severability – No explicit language needed because severability is a given in all city code.

Other

- The resolution adopted by the City Council along with the ordinance enacting the Campaign Finance Fund code included a requirement that the City Auditor prepare a referral to the voters on the continuation of the CFF reform system in time for City Council action to place the referral on the November 2010 ballot. This City Council couldn't require a future Council to take this action, but it could require a future Auditor to prepare a referral and present it to the Council in 2010. This is not a sunset mechanism. The reform system is only affected if the City Council makes the referral and if the voters decide to not continue the program.
- Portland's definition of expenditure includes features intended to ensure that independent expenditure reporting requirements and triggering of matching funds don't affect membership communications and nonpartisan get out the vote activity. The full definition is that expenditures do not include:
 - Any written news story, commentary or editorial distributed through the facilities of any broadcasting stations, newspaper, magazine or other regularly published publication, including internet based publications, unless a candidate for city office or political committee filed with the city elections officer owns the facility;
 - Any loan of money made by a financial institution, as defined as ORS 706.008, other than any overdraft made with respect to a checking or savings account, if the loan bears the usual and customary interest rate for the category of loan

Portland

involved, is made on a basis that assures repayment, is evidenced by a written instrument and is subject to a due date or amortization schedule. However, each indorser or guarantor of the loan shall be considered to have contributed that portion of the total amount of the loan for which that person agreed to be liable in a written agreement, except if the indorser or guarantor is the candidate's spouse.

- Any communication a membership organization or corporation makes only to its members, shareholders or employees if the membership organization or corporation is not organized primarily for the purpose of influencing an election to office; or
- Nonpartisan activity not referring to any clearly identified candidate designed to encourage individuals to vote or to register to vote. (Clearly identified candidate is defined in the ordinance as outlined above in the discussion of independent expenditure reporting.)



*The Pilot Program for
Public Financing of
Municipal Campaigns*

*A Report of the
Connecticut State Elections
Enforcement Commission—
Issued May 2009*

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Report on the
Pilot Program for Public Financing of Municipal Campaigns

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Executive Summary

Connecticut's municipal public financing pilot program, incorporated in General Statutes § 9-760 as a part of the Comprehensive Campaign Finance Reform Legislation, was successfully implemented and overseen by the State Elections Enforcement Commission for the 2007 municipal election cycle. New Haven was the sole municipal participant, and the program it created, the Democracy Fund, operated for the 2007 municipal election cycle. The Democracy Fund, while beset with some difficulties and less than optimal circumstances in regard to the level of primary competition, was a worthwhile experiment in public financing at the municipal level. New Haven has elected to continue the Democracy Fund Program, and the Commission supports continuation of the Program, albeit with recommendations for improvement.

This report contains a summary of: the municipal pilot program, New Haven's Democracy Fund and the 2007 New Haven mayoral election, as well as observations and suggestions on the operation of the Democracy Fund and municipal public financing programs generally, with our final recommendation to expand the Commission's authority to oversee the launch of additional municipal public financing programs.

II. Background

On October 25, 2005, the Connecticut General Assembly passed Public Act 05-5, An Act Concerning Comprehensive Campaign Finance Reform for Statewide, Constitutional and General Assembly Offices. On December 7, 2005, Governor Rell signed Public Act 05-5 into law. This act established the Citizens' Election Program as a voluntary system of public campaign financing for statewide and legislative offices, and broadly changed the landscape of campaign finance law in Connecticut. As a part of this model legislation, the legislature included a provision for the State Elections Enforcement Commission (the "Commission") to establish a pilot program for the public financing of municipal elections. This portion of the public act was codified in General Statutes § 9-760, which provided, in relevant part, that "the State Elections Enforcement Commission shall establish a pilot program for the public financing of campaigns of candidates for the municipal offices of chief executive officer, municipal clerk and legislative body member, who agree to limit campaign fund-raising and expenditures, at a municipal election in not more than three municipalities."

A. Establishment of the Pilot Program

In accordance with General Statutes § 9-760, the Commission established a pilot program for public financing of municipal elections, along with an application process and criteria for the selection of the municipalities. The law creating the program did not provide for any state funds for municipalities or any additional funds to implement their programs. Interested municipalities were required to demonstrate their ability and commitment to adequately fund and implement their programs. Participation in the pilot program was voluntary and applications from municipalities would be reviewed upon proof of consent by their legislative body.

At its January 2006 meeting, the Commission adopted procedures and application criteria for interested municipalities and began seeking applications for the pilot program. Upon receipt of the application materials, the Commission was to review and determine whether the municipality met the threshold standards, and notify the municipality of its decision. (See **Appendix A**, attached hereto, describing criteria used by the Commission for approval for participation.) Each municipality that met the threshold standards was to submit to the Commission a fully drafted plan. Commission staff would lend technical and legal assistance to the municipality responsible for drafting the plan. The plan would then be reviewed for approval by the legislative body and re-submitted to the Commission for final approval or modifications.

In the ensuing weeks and months, staff from the Commission met and communicated with municipal leaders, and conducted analysis of past campaign spending by interested municipalities. In February 2006, the Commission's staff, in cooperation with the Connecticut Conference on Municipalities, held a workshop on the public financing pilot for municipal campaigns.

In order for there to be sufficient time to implement the necessary procedures so that qualified candidates could receive public funds for their election campaigns, the Commission set forth a deadline to submit application materials (April 1, 2006), a deadline to submit fully drafted plan (July 1, 2006), and a date by which the Commission would make its final decision on the selection of municipalities (September 15, 2006).

Two municipalities, New Haven and Norwalk, participated in the application process, but only New Haven followed through until completion and approval.

B. New Haven's Application

New Haven was eager to participate in a municipal public financing program from the outset.¹ In March 2006, the City of New Haven submitted an application, proposing to create the New Haven Democracy Fund ("Democracy Fund"). Accordingly, the Commission was required to review the application, and to make a decision whether or not to grant preliminary approval to participate.

On June 6, 2006, New Haven Board of Aldermen passed the proposed New Haven Democracy Fund Ordinance, signed by the Mayor of New Haven. Shortly thereafter, the City of New Haven sent the Commission a copy of the Ordinance. A copy of the (revised final) Ordinance is attached to this report as **Appendix B**.

¹ On December 6, 2005, Mayor of New Haven John DeStefano and the Board of Aldermen's President and Majority Leader sent a letter to the Commission, expressing interest in participating in the pilot program. Included in this correspondence was a unanimous resolution adopted by New Haven's Board of Aldermen manifesting desire to participate.

New Haven's proposed program was to be limited to only mayoral candidates, the office that has traditionally been the most expensive to seek in that city.²

New Haven proposed a public financing system that combined the use of grants and matching funds. Qualified candidates would be required to raise at least \$5,000 in contributions from a minimum of 200 New Haven electors of not less than \$25 and not more than \$300. Such candidates would be eligible for matching public funds on a 2:1 basis for the first \$25 of any contribution. For example, a candidate who raises \$100 from an individual would get \$50 in matching public funds, i.e. $\$25 \times 2 = \50 in matching funds. Fifty dollars, therefore, would be the maximum matching grant triggered from any single contribution.

Candidates who reached the \$5,000/200 resident qualifying threshold would also be eligible for a \$15,000 grant from the city, but *only* if they were deemed to be in a competitive primary or election. More specifically, the candidate was required to meet all requirements to appear on a primary or general election ballot and the candidate must be participating in a contested primary or election in which more than one candidate has met all requirements to appear on the ballot, and has qualified for public financing or otherwise raised or spent at least \$5,000.

Political committees ("PACs") could not contribute to participating candidates. Town committee contributions were to be limited to \$300; however, qualifying contributions were restricted to *individual* donors only. Spending was to be limited to \$200,000 for a primary and \$200,000 for a general election. No candidate could receive more than \$125,000 in public funds per primary or general election. Finally, for a candidate to be eligible for public matching funds and grants, he or she was required to participate in public forums open to all candidates in the primary or general election (as the case may be).

The stated purpose of the Democracy Fund Ordinance was to ensure citizens a fair and meaningful electoral process and to "(a) counter the perception that New Haven's public policy was influenced by campaign contributions, (b) ensure that meritorious Mayoral candidates were able to raise and spend sufficient campaign funds through public financing of elections to convey their message to the voters, (c) reduce the need for ongoing fundraising and to encourage Mayoral candidates to spend more time communicating with citizens, [and] (d) give all citizens an opportunity for a reasonable supporting role in the selection of Mayor by making even small contributions meaningful." (New Haven Democracy Fund Ordinance, Section 2-241) Other goals and objectives of the program were reducing corruption, reducing the cost of the mayoral election, investment in a stronger democratic process, more fair competition in the mayoral race, and attracting more diverse candidates.

Finding the New Haven plan to be constitutional, legally sufficient and workable—with some revisions—in April 2006, the Commission resolved to grant the city preliminary approval to participate in the pilot program.

² Commission staff analysis of campaign spending for the previous two mayoral elections indicated that the winner (incumbent) spent \$192,000 and \$161,000, respectively.

In September 2006, Executive Director, Jeffrey Garfield sent a letter to the New Haven Board of Aldermen raising certain technical issues regarding the Democracy Fund Ordinance. In October 2006, Garfield and Beth Rotman, Director of the Citizens' Election Program, communicated with Carl Amento, Assistant Corporation Counsel to the City of New Haven, regarding necessary revisions to the Ordinance. During that time they shared public financing models from other jurisdictions, including Maine, New York City, and Los Angeles. Various policy and legal issues underlying public campaign financing were also discussed. These discussions continued throughout November and December 2006 between Commission senior management and Mr. Amento. The revised (final) Ordinance included most of the basic provisions of the original Ordinance, but raised the expenditure ceiling from \$200,000 to \$300,000 for each primary and election.

In December 2006, Mr. Amento met with Mayor John DeStefano and the Board of Aldermen and the final Ordinance was approved. On January 17, 2007, the Commission gave final approval for the participation of the City of New Haven in the pilot program. On March 5, 2007, the New Haven Board of Aldermen passed the revised Ordinance, and submitted it to Mayor DeStefano, who signed the final Ordinance on March 16, 2007.

III. New Haven's Democracy Fund

A. Summary of New Haven 2007 Mayoral Election

In the 2007 New Haven Mayoral election, there were initially five candidates for mayor who agreed to participate in the Democracy Fund program. Three Democratic candidates announced in the primary, including the incumbent mayor, John DeStefano, Jr., James Newton, and William Greene. However, Mr. Newton failed to qualify for the ballot and Mr. Greene withdrew early so a primary was unnecessary.³ No other party had a primary. In the general election, DeStefano faced a Republican candidate, Richter Elser, and a Green Party candidate, Ralph Ferrucci.

³ In Administrator Robert Wechsler's report (attached hereto as **Appendix C**), he states that this was unusual and changed the landscape of this particular election. "The principal feature of the election was that there was no Democratic primary. In New Haven, the Democratic primary is the most important election, because since 1953 the Democratic nominee has won the general election by a sizeable margin, if not a landslide. In 2007, three Democrats declared to run against the incumbent mayor. One of them became very ill, and dropped out of the race. Another abandoned his campaign days after filing his Affidavit of Participation in the Democracy Fund, and gave his support to the third contender, James Newton. Mr. Newton successfully raised funds, but failed to obtain sufficient names to appear on the primary ballot (apparently through errors in the petition process). Also, although his campaign applied for matching funds, and had enough contributors to qualify, it did not provide sufficient backup documentation before his campaign ended. Therefore, no Democratic contender received matching funds, only the incumbent mayor. And there was little need for the incumbent mayor to continue raising funds, because there was to be no primary election."

Only one candidate in either the primary or general election, DeStefano, qualified for public matching funds. No candidate qualified for the \$15,000 block grant, because there was only one candidate who raised or spent more than \$5,000 (DeStefano). (Mayor DeStefano did receive a \$15,000 block grant in error, but it was returned to the Fund.) The matching funds were given to Mayor DeStefano in the primary only. Mayor DeStefano qualified for \$11,850 in matching funds based on his collection of more than \$5,000 in contributions of not less than \$25 (nor more than \$300) from at least 200 New Haven electors. No other candidate collected enough qualifying contributions to receive public financing.

In addition to the incumbent Democratic Mayor, there was a Republican and a Green Party candidate in the general election. However, neither of them met the qualifying threshold that was required for public funds. No public funds were given to any candidate in the general election. Mayor DeStefano was re-elected as mayor of New Haven.

B. Operation of New Haven's Program

The seven member Democracy Fund Board (the Board), which oversaw the implementation of the Program, convened monthly during the pre-election period. The Board drafted bylaws, interviewed and hired the Administrator, Robert Wechsler, and managed certain operations as required by the Ordinance. These operations included: the creation and approval of forms and materials required for the administration of the program, approval of the matching funds disbursement calendar drafted by the Administrator and determination of whether each election was contested.

The Administrator dealt with all other operational matters, and prepared memos and resolution language for the Board. The position of Administrator averaged 40 hours per month between July and December 2007. Questions from the candidates and the media were answered by the Administrator. No training sessions were held.

Public funds eligibility was determined on the basis of matching funds requests and inquiries to the candidates concerning their fundraising and expenditures. Such inquiries are necessary to decide whether there is a *contested election*, i.e., whether there is an opposing candidate who has raised or spent at least \$5,000. It should be noted here (and is commented upon later) that the Ordinance had no additional reporting requirements for the participating candidate committees—candidates were required to follow the statutory reporting schedules.

As outlined earlier, in order for a participating candidate to be eligible to receive the \$15,000 public grant, the candidate must (a) appear on the primary or general election ballot as a nominated or petitioning candidate, and (b) be running in a *contested* election. In this election, the Administrator (admittedly) erred in assessing the grant eligibility for the primary because, although there were candidates who sought a primary, only one candidate made it onto the ballot—as a result, there was no primary. When the primary candidate Newton failed to get on the ballot, the Board was

obligated to ask the DeStefano campaign for the grant back.⁴ The campaign willingly complied.

Payment amounts were determined by the Administrator's review of public fund requests. This review included verifying that contributors were New Haven registered voters, that contributor cards were properly completed for all contributors who contributed cash, that copies of checks were filed, that all checks were signed and dated, that the check and contributor card dates fell within the appropriate election period, the amounts of the contributions, and that multiple contributions from the same contributor were aggregated. Payment followed the Democracy Fund schedule: 2-to-1 for the first \$25 given by each contributing New Haven registered voter. No auditing process was undertaken beyond reviewing the matching funds request.

C. Summary of New Haven's Analysis of the Program

Attached to this report as **Appendix C** is the full Report of the New Haven Democracy Fund to the Commission, which details the Fund Administrator's analysis of the program. Such detailed analysis will not be repeated here. Briefly, the analysis raises the following points.

The 2007 mayoral election was atypical, with the absence of a Democratic primary in this traditionally Democratic city. For reasons that had little or nothing to do with the Democracy Fund itself, most of the Democracy Fund's stated goals "were neither met, nor did they fail." See footnote 10, *supra*. Of the original five candidates who signed up to participate in the program, only one received public funding.

In the general election, there was a Republican and a Green Party candidate where there had been no Republican in the previous election. One of the reasons both of them stated that they decided to run was the opportunity to get the message out to more people with the help of a Democracy Fund grant and matching funds. All declared candidates, Democrat, Republican, and Green (with the exception of the candidate who became ill before the campaign began), joined the Program, which is indicative of candidate support for the Democracy Fund Program.⁵

The Program started with \$400,000 in the Fund. Total expenditures were less than \$20,000 for the 2007 election year (including matching funds and administrative costs). An appropriation of \$100,000 was requested for 2008 to supplement the Fund. There was ample money in the fund for the 2007 election. There is sufficient money in the fund for future elections even in the event that more candidates participate and

⁴ Although Mr. Newton had apparently raised in excess of \$5,000, the registrar found that Mr. Newton had too many improper names on his petition to qualify for placement on the primary ballot.

⁵ Candidates were required to file an affidavit with the Board that included a written certification that the candidate either intended to abide by the expenditure limits under the Ordinance or did not intend to do so. The candidates who certified their intent to abide by the expenditure limits were referred to as "participating candidates." New Haven Democracy Fund Ordinance, Section 2-247.

qualify for public funds. Subsequent to the election, the President of the Board of Aldermen met with the Democracy Fund Board and indicated that his intention was to continue to fund the Democracy Fund until it becomes a self-sustaining endowment. As such, he suggested that the Board request a \$100,000 appropriation for each of the next two fiscal years, and continue to increase the Fund until it reaches a self-sustaining level.

D. Proposed Changes

The Democracy Fund Board has started discussing possible changes to the Democracy Fund Ordinance, in light of its experience in the election and of anticipated future issues. Such discussions are ongoing. The Administrator has recommended to the Board numerous minor, technical changes to the Ordinance. The Board hopes to make a series of recommended changes in the Democracy Fund Ordinance to the Board of Aldermen. See **Appendix B**, pages 10 - 11 for a more detailed analysis of the proposed changes. Since the publication of that report the following additional changes have been proposed for consideration by the Board. Indeed, any such changes to the Ordinance would necessarily have to comply with state law to avoid issues of pre-emption with state election statutes. The staff of the Commission would be glad to assist the Board and its counsel with any changes to the Ordinance that may implicate such issues. See e.g. General Statutes § 7-192a. The following are among the Board's proposed changes:

- Reducing the dollar amount of qualifying contributions from \$25 to \$10;
- Adoption of the participating candidate contribution limit of \$300 for non-participating candidates;
- Reduction in the number of signatures needed to get on primary ballot, from 5% to 3% of party members (a proposal which requires a change in state law);
- Substantial reduction of the expenditure ceiling;
- Addition of seven reporting requirements to the Ordinance, including independent expenditure reporting;
- Application of additional reporting requirements to non-participating candidates;
- Disclosure of status as city contractors of anyone who gives an aggregate of \$100 or more to any candidate;
- Deeming any qualified candidate who wins a primary election to have qualified for the general election.

The Board has also proposed the following changes:

- Clarifying that participating candidate committees are limited to making qualified campaign expenditures;
- Clarifying that write-in candidates can get matching funds but not grants;
- Removing timing restrictions as to when a qualified candidate in the general election may receive a grant, and amendment to the contested election rule for the general election, so that it is met by having a candidate win a primary;

- Clarifying election cycle division rules by allowing for a rollover of primary contributions and matching funds into the general election campaign in the event there is no primary, and by making it clear that the \$300 contribution limit applies to each of the primary and general campaigns; and
- Deeming any qualified candidate who wins a primary election to have qualified for the general election.

IV. Commission's Analysis

The Program, while beset with first-run problems and less than optimal circumstances in regard to the level of primary competition, was worthwhile as an experiment in public financing at the municipal level. There is not one single correct manner in which to attempt to implement a public financing system of any size, and first and foremost, New Haven deserves praise for its effort to enact and administer the Democracy Fund.

Municipal public financing programs vary greatly from one jurisdiction to another.⁶ For example, public funds can be provided to candidates in two common ways, via matching grants or as block grants (lump sums). Matching grants are more-or-less as they sound: for any sum of money raised by a candidate, a separate (but not always equal) sum is provided by the body administering the program. In most instances, there is a total cap on the amount available through this method. For example, in Los Angeles, for city council candidates, matching occurs at a dollar-for-dollar rate for contributions up to \$250 to total 4/5 of the full grant monies available to that candidate (in the general election).⁷ Smaller jurisdictions such as Petaluma and Long Beach, provide \$.50 for each dollar raised.⁸ In New Haven, the match is 2:1, but applies only to the first \$25 raised per contribution.

Block grants (a/k/a lump sum grants) can be used in combination with matching funds—as New Haven has done. In New Haven, candidates must raise \$5,000 from at least 200 City electors in amounts of between \$25 and \$300 dollars to receive the block grant.

There are many feasible methods of dispensing grants, but as one commenter has observed, “[t]he element most critical to the success of a public financing program is its funding mechanism. Candidates will not participate in a program that is underfunded, making the program useless.”⁹ In this respect, New Haven has laid the ground work for success. The Democracy Fund is well-funded and encouraged participation by the candidates involved in the 2007 municipal elections.

⁶ Ryan, Paul, *Beyond BCRA: Cutting-Edge Campaign Finance Reform at the Local Government Level*, 92 National Civic Review 3, at 3 (2003).

⁷ http://ethics.lacity.org/PDF/laws/law_cfo_mf.pdf

⁸ Ryan, p. 8. “Every jurisdiction but Austin limits the total amount of public financing available to a candidate.” *Id.*

⁹ *Id.*, p. 9.

A. Administrative Resources

The singular goal that the administration of all public financing programs must have is an abiding vigilance for the protection of the public fisc. The proven methods for such protection are robust audit and enforcement mechanisms and maximum exposure to sunlight through the public disclosure of campaign spending and contributions. Under the best of circumstances, developing an administrative infrastructure is not easily done. Here, New Haven established an administrative structure to monitor the Program and distribute the public funds to mayoral candidates, but apparently not to adequately (and visibly) ensure the proper use of those funds. In short, it appears that the administrative structure may not be sizable enough to fully realize the goals of the program in the future.

In particular, no auditing of campaign contributions or expenditures was done and no additional reporting of campaign contributions or expenditures was required. If such audit and reporting were required, there is no realistic way, given the administrative resources currently allocated, for these tasks to be meaningfully accomplished.¹⁰ The actual effect of this in this particular campaign (where only one grant was distributed) is perhaps of less importance as the potential effect on ensuring public confidence that the public funds have been and will be adequately safeguarded and utilized, now and in the future. Auditing and enforcement capabilities need to be realistically addressed.¹¹

For example, the Democracy Fund program relied on the standard filing procedure for municipal candidates, i.e. SEEC-generated reporting forms were deposited with the New Haven town clerk at statutorily mandated—quarterly—deadlines.¹² Without more, this presents several problems. First, this procedure relies on the town clerk's office or the general public (which has access to these filed reports) for timely scrutiny of the contents of those reports. Ideally, the Democracy Fund administration should have the capacity to do this internally for both compliance and

¹⁰ Additional reporting requirements, in particular, would need to be adopted by way of an amendment to the ordinance or program's candidate contracts, but could only be accomplished if resources were allocated to effectuate them. Increased reporting requirements are among the recommended changes to the Ordinance by the Board.

¹¹ The Ordinance does provide the authority to audit participating candidates (Ordinance § 2-245 (d)), but that authority is vested in the Board, the unpaid, appointed volunteer group that oversees the program. There is no indication that the Board exercised (or was equipped to exercise) its audit powers vis-à-vis the participating candidates.

¹² Pursuant to Ordinance § 2-247 (d), copies of these standard disclosure reports were also filed with the Board, but there appears to be no apparatus for the Board to methodically scrutinize these reports, i.e. no audit personnel.

enforcement purposes.¹³ Secondly, the campaigns' access to block grant funds (i.e. \$15,000) is contingent upon a competitor's campaign raising or spending more than \$5,000. In a campaign, this effectively could allow a competitor to cross that threshold three months before the campaign was required to report it. This presents obvious problems for the campaign seeking (or planning to seek) public funds that are dependent on the electoral race being "contested."¹⁴

In the 2007 campaign, only Mayor DeStefano's campaign applied for *and received* matching funds. This application contained documentation of over two-hundred contributions. The lone Administrator was able to review this back-up documentation. It is difficult to imagine that this could be adequately accomplished if five (or more) candidates applied, and continued applying for matching funds on an on-going basis. Clearly, more staff would be required.¹⁵

Another example of the effects of the undersized administrative apparatus is that no training sessions were held for public education or for the benefit of the candidates or media. All questions were handled by the lone Administrator. Although this process may or may not have been sufficient in this particular election, it would likely not be in an election where more candidates aggressively pursue grant monies and more grants were distributed.¹⁶ The lack of public outreach also fails to positively influence public perception that the campaign financing system is having its intended remedial effect.

Here, a candidate (who was unopposed in the primary) was awarded a block grant when the opponent had failed to qualify for the ballot. This error ultimately proved harmless (the money was returned by the DeStefano campaign). It is difficult to see this error as an irreparable flaw in the Program. Nevertheless, it speaks to the need for a backstop mechanism that can only feasibly be provided by additional oversight. Clearly, a more robust administrative apparatus is required.

¹³ The Ordinance assigns the administrator the following responsibilities (among many others): review the statements of acceptance or rejection of expenditure ceilings, nomination papers, requests for public matching funds and the candidate's and other campaign financial disclosure reports in a timely fashion to certify a candidate's eligibility to receive public matching funds. Ordinance § 2-245 (h).

Based on the experience of the Commission with the Citizens' Election Program such review for even a small field of candidates would require greater resources than those utilized in the New Haven program.

¹⁴ This dilemma was faced by the DeStefano campaign in the 2007 election. No other campaign in the general election crossed the \$5,000 threshold—but this fact proved difficult to ascertain and affected campaign fundraising and strategy.

¹⁵ As Mr. Wechsler notes in his report, "[f]ortunately, there was also no need to make an investigation." Assuredly, it may be fortunate, however such good fortune cannot be reasonably expected in every election. It is also not clear what cause to investigate might have been revealed had routine audits taken place.

¹⁶ The campaign that did most actively participate in the Democracy Fund considered the lack of training one of the biggest shortcomings of the program's trial run. In particular, the separate application process for the primary and general election cycle was a source of confusion.

In addressing the above observations, it is helpful to look to other jurisdictions. One contrast with other municipal public finance programs is that most programs apply to all or nearly all of the affected jurisdiction's elected officials:¹⁷ New Haven's program involved only the office of mayor. New York City, Los Angeles, Tucson and San Francisco, for example, all offer public financing to (the corresponding local equivalent of) both the mayor's office and the city council. While the individual jurisdiction's impetus for doing so may vary, there are obvious reasons why this makes sense. First and foremost, the same purposes would be served and the same ills cured by opening up public financing to the different governing bodies attending these municipalities.

There is a secondary effect that expanded application of a local public financing program would have that should not be overlooked. That is that the apparatus for administering such a program must be rigorous and robust enough to be responsive in compliance and thorough in enforcement. Such an apparatus requires dedicated personnel and not insignificant resources. The practical upshot is that the overall cost of running such a program would benefit from an economy of scale. Furthermore, the justification for the associated expenditure may more easily be made with the resultant savings, as well as the broader application. Undoubtedly there are other benefits, such as greater publicity and public education that a broader-based program would bring. These benefits were not realized by New Haven's program.

In sum, here the small scope of the Program ostensibly ameliorated the need for larger administrative structure (i.e. if more candidates for more offices could participate, then more staff would be justifiably required)—but a critical mass would be useful to fulfill the Program's goals. Although the small scope of the Democracy Fund may not justify the increased resources recommended for a larger administrative structure, the addition of more offices eligible for public financing, for example the Board of Alderman, may enhance such justification and reinforce and upgrade the existing structure.

B. Additional Observations

The administrative structure of the Program might be improved in another, unrelated respect. The Democracy Fund's Board is currently comprised of seven members who are nominated by the Mayor and subject to approval by the Board of Aldermen. Although the enabling Ordinance prescribes that only three members of the Board can be of one political party, the fact that all members are nominated by the Mayor—who may be seeking re-election in any given election year—creates, at the least, a perception problem. Public trust in the Program undoubtedly would be enhanced by distributing the nomination power to various authorities, instead of one (generally interested) authority. To its credit, the Democracy Fund Board has adopted bylaws that limit members' political activities to ensure the appearance of impartiality.

It should be noted that the New Haven Democracy Fund Ordinance did not provide additional public monies to counter *independent expenditures*, as do the state

¹⁷ Id., p. 7.

statutes. Although this feature is not a pre-requisite for a successful public finance program, it does impact a program's efforts to incentivize participation. This was not seen as a problem in the 2007 mayoral race.

The Democracy Fund Board has advanced proposals for improvements in the next election cycle. The Democracy Fund Report, attached hereto as **Appendix C**, lists these proposals, which are synopsised *supra*, in Section III (D), along with more recent proposals. Generally, this Commission neither endorses nor opposes these proposals, with the following exceptions. The Commission's initial recommendation to the City was to increase the expenditure ceiling from \$200,000 to \$300,000, and although the intervening 2007 election did not demonstrate spending that would justify such a ceiling, the election was unusual. Past elections have shown that the higher ceiling was reasonable, and the risk of a "substantial reduction of the expenditure ceiling" is that participation in the Program could be discouraged: an undesirable result that should be avoided if at all feasible. We especially encourage, for the reasons stated above, the addition of "seven reporting requirements to the Ordinance, including independent expenditures [and] . . . additional reporting requirements to non-participating candidates. . . ." The caveat being, as discussed, that meaningful reporting would require greater administrative scrutiny. Increased reporting, in the absence of such scrutiny, does not achieve its intended purpose.

As discussed, there is not one single correct manner in which to attempt to implement a municipal public financing system of any size, and there are many ways that the Democracy Fund can grow, experiment and potentially improve, and it appears headed in a positive direction.

V. Legislative Recommendations

Now that the pilot program has run its course, the Commission recommends that the General Assembly consider amending the General Statutes to expand the Commission's authority to oversee the launch of additional municipal programs. This would give other municipalities the opportunity to develop their own public financing schemes (if they so choose), and further this state-wide experiment in publically funded elections at the municipal level. It is important to encourage municipalities to execute their own public policy initiatives and to encourage local governments as laboratories of democracy.

The Commission should be delegated the power and authority to review such proposals for constitutionality, legal sufficiency and state law preemption issues, such as with General Statutes § 7-192a, and approve such proposals as it deems fit. Further, the Commission should set forth an application procedure and a schedule for submission of such applications and a timeframe for action on those proposals. The Commission would advise on the basic elements of public financing program implementation and administration of all approved municipal programs. Additionally, the Commission would advise such municipalities on the implementation and administration of other campaign financing restrictions including but not limited to the sale of advertising space in fundraising programs, restrictions on contributions from communicator lobbyists

and their immediate family members, and restrictions on contributions from municipal contractors, prospective contractors and their principals.

Finally, the Commission recommends the continuation of the New Haven Democracy Fund Program, albeit with recommendations for improvement.

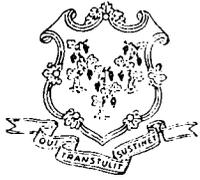
VI. Conclusion

Public financing is a powerful tool in the effort to eliminate corruption and to restore public confidence in the electoral process where it has been diminished. It is important to encourage local governments to experiment with public financing, a proven method for achieving many identifiable and desirable goals in our democratic system of government. The Commission considers the first run of the pilot program to have been worthwhile and recommends expansion of the Commission's authority to oversee the launch of additional municipal programs.

VII. Appendices

Appendix A.	Memorandum from the Commission
Appendix B.	New Haven Democracy Fund Ordinance
Appendix C.	New Haven Democracy Fund Report

Appendix A



STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION
20 Trinity Street – Suite 101 • Hartford, Connecticut 06106 - 1628

Pilot Program for Public Financing of Municipal Elections

Introduction

In accordance with Section 48 of newly enacted Public Act 05-5 of the October 25, 2005 Special Session of the General Assembly, the State Elections Enforcement Commission is required to establish a pilot program for public financing of municipal elections in as many as three municipalities. The Commission is required to establish an application process and criteria for the selection of the municipalities. Participation in the pilot program is purely voluntary, and a municipality must consent to such participation by its legislative body, provided if the legislative body is a town meeting, consent must be manifested by the board of selectmen.

Although the legislation does not explicitly specify, the Commission will seek applications from interested municipalities for the 2007 municipal elections. In order for there to be sufficient time to implement the necessary procedures so that qualified candidates can receive public funds for their election campaigns, the following schedule is established:

1. Deadline to submit application materials—April 1, 2006
2. Deadline to submit fully drafted plan---July 1, 2006
3. Commission makes final decision on selection of municipalities—September 15, 2006

The remainder of this document will explain the application process and the criterion that the Commission will utilize to select the participants. It should be noted however, that the legislation provides no state funding for the administration of the municipal public financing program, including payments to qualifying candidates. Nor is the State Elections Enforcement Commission charged with the administration or enforcement of the new program. The Commission's role is defined carefully in the legislation creating this pilot program, and is confined to providing technical and legal assistance to ensure that the drafted plan submitted by the municipality is voluntary, workable, fair, comports with constitutional principles, contains the necessary administrative and legal structures to implement and monitor compliance with program requirements, and provides sufficient funds to qualifying candidates to encourage them to participate in the program.

Application Process

In order to apply for participation in the pilot program, the legislative body must adopt a resolution by at least a majority thereof signifying its consent to participate. The likelihood of success of a public financing program in a municipality is dependent upon

the support it receives from its chief executive and legislative body. Accordingly, the Commission may consider the degree of support and interest these critical officials have in participation. The resolution must be submitted to the State Elections Enforcement Commission by April 1, 2006, along with the other application materials described herein. The resolution must be accompanied by a cover letter which includes a local contact person who will be responsible for answering questions concerning the application and proposed plan of the municipality.

In addition to the resolution and cover letter, a designee of the legislative body of the municipality, on behalf of such body, shall provide answers to the following questions concerning the proposed plan of public financing of municipal elections.

1. How will the public campaign financing system be funded by the municipality?
2. How much funding will be set aside for payments to candidates participating in the program?
3. What local governmental agency will be responsible for verifying candidates' qualifications for the program?
4. What local governmental agency will be responsible for payments to qualifying candidates?
5. How will the program provisions be enforced? By which local government agency?
6. Will candidates' participation in the public financing program be voluntary?
7. Which offices will be covered under the program?
8. Will there be public funds available to candidates who qualify for primaries as well as elections?
9. Will the public financing program be a grant system, such as the state system created by the legislation, or a matching funds system?
10. How will candidates qualify for public funds?
11. How much will each candidate qualify for?
12. How will the influence of special interests be curtailed in the qualifications for the program?
13. How will minor party and petitioning party candidates qualify for public funds for their campaigns?
14. Will all candidates who participate in the public financing program be required to limit their campaign spending to certain levels?
15. What will be the spending limits for each office covered under the program?
16. Will there be additional funds available to a participating candidate whose non-participating opponent exceeds the voluntary spending limits?
17. How much?
18. Will there be additional campaign finance reporting requirements, beyond what is currently required by state law, to monitor compliance with spending limits?
19. Will there be special prohibitions or limitations on the use of public campaign funds?

20. How will the program address the possibility that independent expenditures may be made by other groups to oppose a candidate in the public financing program?
21. Will the program requirements and provisions be enacted as an ordinance?
22. What other measures will be taken to instill public confidence in the public financing program?

Upon receipt of the application materials, the Commission will review them to determine whether the municipality meets the threshold standards, and will notify the municipality of its determination. The Commission shall advise each municipality which meets the threshold standards to submit a fully drafted plan, and the staff of the Commission shall lend technical and legal assistance provided that an attorney designated by the municipality shall be responsible for the drafting of the plan, which shall be approved by the legislative body before it is submitted to the Commission for final approval.

Criteria Used by the State Elections Enforcement Commission in its Determination of whether to Approve a Municipality for Participation in the Pilot Program

The Commission shall consider the following criteria in determining whether to grant preliminary approval to a municipality to participate in the pilot program:

1. The level of support demonstrated by the legislative body of the municipality
2. The support of the chief elected official of the municipality
3. The level of support of the citizens of the municipality
4. Whether the proposed plan for public financing is voluntary
5. Is there an adequate and reliable funding mechanism to support the program
6. Are there local governmental structures in place, or proposed to be established, that will fairly and effectively administer and enforce the provisions of the program?
7. The extent to which the proposed plan is attractive to candidates by offering them sufficient incentives to participate, and yet not coercive
8. Are the qualifying levels fair and reasonable, and do such levels treat all candidates fairly
9. Do the qualifying levels require a showing of support within the municipality or district
10. Does the proposed plan effectively address the financial influences of special interests in a political campaign
11. Are the public funds available to participating candidates adequate to wage an effective campaign
12. Will the program requirements encourage greater competition in the electoral process
13. Are the spending limits imposed on participating candidates as a condition for receiving public financing fair and reasonable, and will such limits operate to attract candidates to participate
14. Does the proposed plan adequately address overspending by non participating candidates who are opposed by a participating candidate
15. Does the proposed plan address the possibility of independent expenditures

16. Does the plan satisfy constitutional requirements
17. Are the verification and qualification procedures adequate to deter fraud and abuse
18. Are there other mechanisms and procedures proposed, including special reporting and disclosure requirements, that will ensure compliance with spending limits or other program requirements
19. Are there enforceable penalties or other sanctions that will encourage compliance by candidates
20. Are there adequate resources in place or proposed to support the governmental structures designated to administer and enforce the program
21. The overall likelihood that the program will be successful and enhance the confidence of the public in the electoral process

In determining whether to grant final approval to a municipality which has been given preliminary approval, the Commission shall consider whether the fully drafted plan for implementation satisfies the criteria described above and if more than one municipality having substantially the same population was given preliminary approval, which plan has the best chance to be successful. The Commission shall notify all municipalities which had been given preliminary approval of its final selections by September 15, 2006.

Approved by the State Elections Enforcement Commission
January 11, 2006

Appendix B

New Haven Democracy Fund Ordinance

Title II. Special Laws Article XVIII. Democracy Fund

Note: The comments below (in italics) are those of the Democracy Fund Administrator, not of the Board of Aldermen. The Appendix, including certain referenced sections of the Connecticut General Statutes, has also been added by the Administrator.

Sec. 2-241 Purpose

The purpose of this ordinance is to ensure that all the citizens of New Haven have a fair and meaningful opportunity to participate in the election of their Mayor. Specifically, the ordinance aims to:

- (a) Counter the perception that New Haven’s public policy is influenced by campaign contributions;
- (b) Ensure that meritorious Mayoral candidates are able to raise and spend sufficient campaign funds through public financing of elections to convey their messages to the voters;
- (c) Reduce the need for ongoing fundraising and to encourage Mayoral candidates to spend more time communicating with citizens;
- (d) Give all citizens an opportunity for a reasonable supporting role in the selection of Mayor by making even small contributions meaningful.

Sec. 2-243 Definitions

Unless otherwise defined in this section or the contrary is stated or clearly appears from the context, the definitions in this section shall govern the interpretation of this ordinance.

- (a) “Mayoral Committee” shall mean a committee designated by a single candidate, or established with the consent, authorization of a single candidate for the purpose of a single primary or election and to aid or promote such candidate’s candidacy alone for the office of Mayor. “Mayoral Committee” as used in this article shall not include any “Exploratory committee”, “Political committee” or any “Party committee” as those terms are defined in Connecticut General Statutes, Section 9-333a.

Comment: The above-referenced state statute section is now §9-601.

- (b) “Candidate” means an individual who seeks nomination for election or election to the office of Mayor whether or not such individual is elected, and for purposes of this ordinance, an individual shall be deemed to seek nomination

for election or election if such individual has (1) been endorsed by a party or become eligible for a position on the ballot at an election or primary, or (2) solicited or received contributions, made expenditures or given such individual's consent to any other person to solicit or receive contributions or make expenditures with the intent to bring about such individual's nomination for election or election to the office of Mayor.

- (c) "Campaign treasurer" means the individual appointed by a candidate to receive and disburse funds on behalf of the candidate or Mayoral committee.
- (d) "Election" shall mean any primary or general election for Mayor of the City of New Haven.
- (e) "Contested Election" shall mean any election in which more than one candidate seeking a party nomination or election to the office of Mayor has raised or spent \$5,000 or surpassed the qualifying contributor threshold to receive public matching funds. The Democracy Fund Board shall, by majority vote, declare an election as a contested election.
- (f) "Qualified Committee" shall mean either a Mayoral Committee established to aid or promote the success of any candidate for nomination for election or election to the office of Mayor, which Mayoral Committee has been approved by the Democracy Fund Board to receive public matching funds under this ordinance. A candidate for nomination for election or election to the office of Mayor shall only have a single "Qualified Committee" at any given time.

Comment: Ignore the "either" in (f). Also note that it is the Administrator, not the Board, that certifies a candidate's eligibility to receive public matching funds (§2-245(h)).

- (g) "Contribution" shall mean any gift, payment, subscription, advance or deposit of money or anything of value made for the purpose of influencing the nomination for election or election of a candidate, and shall also include but not be limited to:
 - (1) the payment by any person other than a candidate or a candidate's committee of compensation for the personal services of any other person which are rendered without charge to a candidate or his or her committee for any purpose;
 - (2) A loan made to a candidate's committee, whether or not made in the regular course of the lender's business, to the extent the loan is not repaid by the date of the first election following the date of the loan;

The term "contribution" shall not include:

- (1) the value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate; or
- (2) the use of real or personal property and the cost of invitations, food or beverages voluntarily provided by an individual to a candidate at the individual's residential premises for candidate-related activities to the extent the cumulative value of such property, invitations, food or beverages do not exceed two hundred dollars (\$200) in value; or

(3) the travel expenses of any individual who on his or her own behalf volunteers his or her personal services to any candidate to the extent such expenses are not reimbursed and do not exceed two hundred dollars (\$200) in value.

Comment: "Value" here means fair market value. The figures in the second part are aggregate, not per event or trip.

- (h) "Qualified campaign contribution" shall mean any contribution made to a qualified committee that shall be counted toward the contribution limits of a candidate who signs a candidate contract to accept public matching funds under this article. Only contributions from individuals and from a town committee shall constitute "qualified campaign contributions".
- (i) "Matchable contribution" shall mean a contribution, not greater than the contribution limits set forth in this ordinance, made by an individual elector of the City of New Haven to a participating candidate, which contribution may be matched by public matching funds as provided in this ordinance.

The following contributions are not matchable:

- (1) in-kind contributions of property, goods or services;
 - (2) contributions in the form of a purchase price paid for an item with significant intrinsic or enduring value;
 - (3) contributions in the form of the purchase price for or otherwise induced by a chance to participate in a raffle, lottery, or similar drawing for valuable prizes; and
 - (4) contributions from individual vendors to whom the participating candidate or his or her Mayoral Committee makes an expenditure.
- (j) "Expenditure" shall mean any purchase, payment, distribution or gift of money or anything else of value when made by a Mayoral Committee established to aid or promote the success of any candidate for Mayor for his or her nomination for election or for his or her election.
 - (k) "Qualified campaign expenditure" shall mean an expenditure of a qualified committee that shall be counted toward the expenditure ceiling of a candidate who signs a candidate contract to accept matching funds under this ordinance. "Qualified campaign expenditures" for a candidate shall include all expenditures for campaign-related purposes taking into account the public nature of matching public funds and the public finance grant, the purposes of the Democracy Fund as stated above, the reasonableness of the expenditures under the circumstances, and the fair market value of the goods or services purchased with the expenditure.

Examples of typical "qualified campaign expenditures" shall include but not be limited to: reasonable and appropriate expenditures for printing and mailing costs; political advertising expenses; campaign communications such as signs, bumper stickers, T-shirts or caps with campaign slogans, etc.; office supplies; campaign events (e.g. food, rent of hall or tent, etc.); food for volunteers while they are working (limited to no more than \$10 per person for breakfast or \$20 per person for lunch or dinner); campaign staff salaries and

expenses; campaign travel expenses, such as fuel and tolls; and post-election parties, thank you notes or advertising to thank supporters or voters (such post-election expenditures are limited to a cumulative maximum of \$250 per election).

“Qualified campaign expenditures” shall also include but not be limited to:

1. The pro rata share of the actual expense paid or incurred by the candidate’s committee of operating a campaign headquarters and of preparing, printing and disseminating any political communication on behalf of the candidate and any other candidate or candidates for other municipal offices; or
2. A non-monetary contribution provided to the candidate or qualified committee, other than volunteer personal services, and other than any not reimbursed payments for travel expenses made by an individual, on his or her own behalf, who volunteers his or her personal services to a single candidate, if the payments are made voluntarily without any understanding or agreement that they will be reimbursed.

“Qualified campaign expenditures” shall not include:

1. Personal expenses for goods and services of the candidate which would otherwise be purchased independently of the campaign, including but not limited to day-to-day household food items and supplies; vehicle and transportation expenses unrelated to the campaign; mortgage, rent or utility expenses for the candidate’s personal residence, even if part of the residence is being used by the campaign; and clothing, including attire for political functions such as business suits, dresses or shoes; or
2. Expenditures supporting or opposing any ballot measure, political committee, or the campaign of any candidate other than the candidate for whom the funds were originally designated; or
3. Compensation to the candidate for services provided by the candidate; or
4. Payment of civil penalties, fines or forfeitures to the Board or any other governmental or regulatory authority, or the cost of defending the candidate in enforcement proceedings brought by the Board or any other governmental or regulatory authority; or
5. The expenses involved in contesting an enforcement decision, civil penalty, fine, forfeiture imposed by the Board or any other governmental or regulatory authority, or the expenses involved in seeking a recount of an election.

(l) “Individual” means a single human being.

(m) “Person” means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.

- (n) “Independent Expenditure” shall mean an expenditure that is made without the consent, knowing participation, or consultation of, a candidate or a candidate’s committee. Such an expenditure shall not be considered a “qualified campaign expenditure”.
- (o) “Coordinated Expenditure” shall have the same meaning as that term is defined in Conn. Gen. Statutes, Section 9-333a (19). Such an expenditure shall be considered a “qualified campaign expenditure”.

Comment: The above-referenced state statute section is now §9-601(19) and is included in the appendix to this ordinance.

- (p) “Board” shall mean the Democracy Fund Board established in Section 2-245.
- (q) “Fund” shall mean the Democracy Fund established in Section 2-245.
- (r) “Administrator” shall mean the Democracy Fund Administrator.
- (s) “Investigator” shall mean the Democracy Fund Investigator.
- (t) “Agent” shall mean any person acting at the express or implied direction of an individual.

Sec 2-245 Democracy Fund Administration

- (a) There is hereby established within the City’s general fund a separate non-lapsing reserve account to be known as the Democracy Fund. The City has made an appropriation of \$200,000 to the Democracy Fund for the 2006-2007 Fiscal Year. For Fiscal Year 2007-2008, the Democracy Fund Board will report to the Board of Aldermen in March of 2007 what amount of funds it recommends should be appropriated to properly fund the operations of the Fund. However, the appropriation to the Fund for the 2007-2008 Fiscal year shall be at least \$200,000. For Fiscal year 2008-2009 and subsequent Fiscal Years, the Board shall issue in January a report to the Mayor and the Board of Aldermen of its expenditures and the current balance of its account, and shall include a specific recommendation for funding for the following Fiscal Year. In 2007 and in subsequent years, the Board of Aldermen will consider the recommendation of the Democracy Fund Board and the on-going funding needs of the Fund in its budget deliberations and again in its post-budget approval amendment process. The Board of Aldermen will exercise its best efforts to make sufficient appropriations to the Fund to allow it to carry out its operations effectively. The Board of Aldermen will also consider in a prompt manner any interim requests made by the Board for supplemental appropriations needed

during the Fiscal Year. The Fund can also accept any voluntary individual contributions made to it.

Once City general funds are appropriated, or individual contributions deposited into the Fund, they cannot be transferred for other purposes, canceled, or rescinded. The City's Finance Department shall be responsible for the prudent investment of the Fund's assets, balancing the need for investment growth with the need for liquidity at certain time periods. Investment earnings credited to the assets of the Fund shall become part of the assets of the Fund. All monies deposited in the Fund shall be used only for the purposes of this ordinance, including for the administration of the Fund. Any unused funds shall carry over from year-to-year in the Fund.

- (b) The Fund shall be overseen by the Democracy Fund Board. The Board's membership will consist of seven members. Only three members can belong to the same political party. Members will be nominated by the Mayor and confirmed by the New Haven Board of Aldermen. Of the first seven members appointed, four will be nominated to four-year terms, and three members to two-year terms. The Mayor will indicate the length of the initial term of the first seven members when nominating them. After the first seven members' terms have expired, all appointments will be for terms of four-years. In the event that a member is no longer able to serve due to illness, death, or resignation, the Mayor may nominate a replacement to serve out the remainder of the term. Replacement nominees must also be confirmed by the New Haven Board of Aldermen. If a member's term has expired and his or her successor has not been appointed and approved, the member shall continue to serve until his or her successor has been appointed and approved. A member may be removed only for just cause, which may include excessive absenteeism from Board meetings or failure to carry out the duties of a Board member, as determined by the Mayor and approved by the Board of Aldermen.
- (c) Said Board's duties shall include the: (1) selection of the Democracy Fund Administrator and Democracy Fund Investigator, (2) review of the performance of the Administrator and the Investigator, (3) selection and engaging an independent attorney to advise the Board on legal matters, when necessary; (4) establishment of rules of procedure for Board meetings, hearings and general operation not inconsistent with this ordinance; (5) approval of forms and materials required for the administration of the program set forth within this ordinance, (6) approval of the matching funds disbursement calendar drafted by the Administrator, (7) approval of candidate contracts, (8) direction of the Investigator to confidentially investigate and report to the Board concerning any alleged violations or complaints made about participating candidates, and (9) any other general administrative duties required to ensure compliance with this ordinance.
- (d) The Board shall be empowered to audit and examine all matters relating to the performance of its functions and any other matter relating to the proper

administration of this ordinance. These audit and examination powers extend to all participating candidates and their Mayoral committees.

- (e) The Board shall be empowered to adopt and publish regulations to carry out the provisions of this ordinance.
- (f) No later than nine (9) months before the next general election, the City's Office of the Controller shall issue a request for proposals for a Democracy Fund Administrator and a separate request for proposals for a Democracy Fund Investigator. The Administrator's responsibilities shall include the administration of the public matching funds system, the public financing grant, contribution limitations, voluntary expenditure ceilings, the auditing of candidate financial reports and statements to ensure compliance with this ordinance, and the proposing of recommendations for the determination and resolution of complaints and disputes brought before the Board. The Investigator's responsibilities shall include the confidential investigation of, and the preparation of reports concerning, alleged violations and complaints made against participating candidates at the direction of the Administrator or the Board.
- (g) The Administrator shall draft any and all forms necessary to carry out the provisions of this ordinance, including the forms for the standardized candidate contract and for candidate requests for public matching funds. Said forms must be approved by the Board. The Administrator shall also draft a schedule for the issuing of matching contributions to participating candidates. Said schedule must be approved by the Board.
- (h) The Administrator shall review the statements of acceptance or rejection of expenditure ceilings, nomination papers, requests for public matching funds and the candidate's and other campaign financial disclosure reports in a timely fashion to certify a candidate's eligibility to receive public matching funds. After review, and in accordance with the approved schedule for matching the contributions of participating candidates, and if the Administrator determines that the candidate is eligible, the Administrator shall issue a request to the Treasurer of the City for checks or electric fund transfers to be issued to the candidate's qualified committee.
- (i) During the final 60 days before an election, a participating candidate committee may only submit a request for public matching funds to the Administrator provided the matching funds requested amount to \$3,000 or more. The Administrator shall have 5 calendar days to process the request and disburse the public funds to the qualified committee.
- (j) The Administrator shall issue a press release in a timely fashion identifying those candidates who have signed a candidate contract. In addition, the Administrator should, in collaboration with the Board, undertake public education and outreach efforts to explain the rationale and operation of the Fund.

- (k) Alleged violations of this Ordinance and other complaints brought against the participating candidates, their agents and/or their qualified committees shall be investigated promptly and confidentially by the Investigator who shall report his findings to the Board. The Board shall have the power to issue subpoenas to compel the attendance of witnesses and to compel the production of documents in connection with an investigation or a hearing. The Board shall grant an administrative hearing regarding all alleged violations and disputes at which all interested parties may present testimony and evidence. The Board shall render its decision as soon as practicable after the hearing is concluded. The Board shall notify the parties of its decision by certified or registered mail. The Board shall establish a procedure, consistent with basic due process principles, including notice and an opportunity to be heard and to have the alleged violation or dispute fairly and impartially adjudicated, for the investigation and hearing of alleged violations and disputes. The Board shall establish procedures designed to attempt to secure voluntary mediation of disputes and voluntary compliance by informal methods of conference, conciliation and persuasion with the provisions of this ordinance.

Sec. 2-247 Candidate Contract

- (a) Each candidate for nomination for election or election to the office of Mayor shall file an affidavit with the Board. The affidavit shall include a written certification that the candidate either intends to abide by the expenditure limits under this ordinance or does not intend to abide by these limits. The certification shall be made by both the candidate and the campaign treasurer of the candidate committee for such candidate. A candidate for nomination for election or for election to the office of Mayor shall file such affidavit not later than four o'clock p.m. on the sixtieth day before the day of the election for Mayor.

Comment: The word "election" toward the end of the last sentence of the above paragraph includes both a primary election and a general election.

- (b) A candidate who so certifies the candidate's intent to abide by the expenditure limits of this ordinance shall be referred to as a "participating candidate". A candidate who so certifies the candidate's intent to not abide by said limits shall be referred to as a "nonparticipating candidate". A candidate who fails to file such affidavit in a timely manner or at all shall be deemed to be a "nonparticipating candidate". The Board shall prepare a list of the participating candidates and a list of the nonparticipating candidates and shall make such lists available for public inspection.

Comment: The candidate lists will be filed with the clerk's office and will be placed on the Democracy Fund website:

<http://www.cityofnewhaven.com/Government/DemocracyFund.asp>.

- (c) At the same time a participating candidate files an affidavit of intent to participate, the participating candidate shall also file a candidate contract in a form approved by the Board. In order for the candidate to qualify for the public matching funds program, the Board must approve the candidate contract.
- (d) The candidate contract shall include, without limitation, written certifications by the candidate and his or her campaign treasurer that (1) the campaign treasurer of a candidate committee for such candidate shall expend any funds received from the Fund in accordance with the provisions of this ordinance and any regulations adopted by the Board pursuant to Section 2-245(e); (2) the candidate and the campaign treasurer shall be personally and jointly and severally liable and shall repay to the Fund any such monies that are not expended in accordance with this ordinance and the Board's duly adopted regulations; and (3) the candidate and the campaign treasurer shall abide by all the provisions of, and accept the penalties, including personal liability, associated with noncompliance with this ordinance, (4) the candidate and the campaign treasurer shall file with the Board, on the same dates required by the state, copies of the reporting statements required under Conn. Gen. Statutes Sect. 9-333j, and shall agree to be subject to the record-keeping and reporting requirements of this ordinance and shall be subject to audit and examination as provided in this ordinance. The candidate contract may include any other items or requirements applicable to all candidates as determined by the Board.

Comment: The above-referenced state statute section is now §9-608.

- (e) A participating candidate may withdraw from participation in the Democracy Fund program before making an initial application for public matching funds by filing an affidavit with the Board, which shall include a written certification of such withdrawal. A candidate who files such an affidavit shall be deemed to be a nonparticipating candidate for the purposes of this ordinance, and shall not be penalized for such withdrawal. No participating candidate shall withdraw from participation in the Democracy Fund program after making an initial application for public matching funds.
- (f) The Board shall vote to accept or reject a signed candidate contract within thirty days of its receipt. In determining whether to accept or reject a candidate contract, the Board shall be governed by the requirements for such a contract specified in this ordinance and any other requirements applicable to all candidates established by the Board.

Sec. 2-249 Voluntary Expenditure and Contribution Size Ceilings and Restrictions

- (a) No candidate for the office of Mayor who voluntarily signs a candidate contract of acceptance of public matching funds, nor any committee of such candidate, shall receive contributions in excess of \$300 from any individual or town committee, except as provided in this ordinance. Subject to the contribution ceilings, limits and restrictions of this ordinance and those limitations on

contributions imposed by Chapter 150 of the Connecticut General Statutes, a participating candidate and his or her qualified committee may only accept contributions from individuals and from a town committee. Such a participating candidate and qualified committee shall not accept any contributions from “political committees” or “business entities” as those terms are defined in Connecticut General Statutes, Section 9-333a. Only contributions, not greater than the contribution limits provided in this ordinance, from individuals who are electors of the City of New Haven shall be considered matchable contributions under this ordinance.

Comment: The \$300 contribution limit applies to each of the two elections, primary and general. The above-referenced Chapter 150 is now Chapter 155. The above-referenced Section 9-333a is now Section 9-601(a). (See appendix below for definitions of “political committee” and “business entity.”)

- (b) No candidate for Mayor who voluntarily signs a candidate contract to accept matching funds, nor any committee of such candidate, shall make qualified campaign expenditures in excess of \$300,000 in a primary election, or \$300,000 in a general election, except as otherwise provided in this ordinance.
- (c) If a candidate for the office of Mayor not participating in the matching funds program, or his or her committee, exceeds spending of \$300,000 for a primary or general election, the candidates participating in the matching funds program who have reached the expenditure ceiling can either choose to (1) apply for, receive and may expend an additional \$25,000 bonus grant from the Fund or (2) have the expenditure ceiling lifted. A participating candidate who has not reached the expenditure ceiling of \$300,000 shall not be eligible to receive the \$25,000 bonus grant.
- (d) Any candidate participating in the matching funds program that chooses to have the voluntary expenditure ceiling lifted will not have contributions matched after the candidate raises enough funds to reach the original voluntary expenditure ceiling.
- (e) Any candidate participating in the matching funds program whose Mayoral committee receives a contribution in excess of the amounts allowed under this ordinance or a kind of contribution not allowed under this ordinance must return promptly the excess portion of the contribution or the entire contribution as the case may be, and if returning such contribution is not possible or feasible, it shall be paid to the Fund. Returned contributions cannot be matchable contributions.
- (f) For purposes of the voluntary expenditure ceilings, qualified campaign expenditures made at any time up to and including the date of the primary election shall be considered expenditures for that primary election, and qualified campaign expenditures made after the date of the primary election shall be considered expenditures for the general election. However, in the event that payments are made but the goods or services are not used during the period

purchased, the payments shall be considered qualified campaign expenditures for the time period in which the goods and services are used. Payments for goods or services used during both periods shall be prorated.

Sec 2-251 Eligibility for Matching Funds

(a) In order for a candidate for the office of Mayor to be eligible for public matching funds, the candidate must satisfy all of the following requirements:

(1) Sign and file with the Board, through the Administrator, a candidate contract, as provided in Section 2-247 above, agreeing to abide by the voluntary spending limits as a condition for participating in the public matching fund program and accepting the penalties associated with noncompliance. This contract must be approved by the Board before the participating candidate's qualified committee can receive matching funds.

(2) Agree to participate and actually participate in at least one public forum to be designated by the Administrator at which all candidates qualified for the relevant ballot are invited to participate. Candidates accepting matching funds in primaries must agree to participate and actually participate in a primary forum open only to all candidates from that party qualifying for the ballot. Candidates accepting matching funds in the general election must agree to participate and actually participate in a forum open to all candidates qualifying for the ballot.

(3) Agree to limit and actually limit the use of personal funds for campaign purposes to no more than \$15,000 per primary or general election.

(4) Agree to furnish to the Board, on the same dates required by the state, copies of the reporting statements made to the state under Conn. Gen. Statutes, Sect. 9-333j, to maintain such records of contributions and expenditures as are required by the Board, to furnish to the Board any information it may request relating to campaign contributions and expenditures, and to furnish such documentation and such other proof of compliance with this ordinance as may be requested by the Board.

Comment: The above-referenced state statute section is now §9-608.

(5) Raise the threshold of qualifying contributions specified in Sections (*sic*) 2-253.

(6) Not have lost a primary election for Mayor in the same year as the general election for which the Mayoral candidate is requesting public matching funds.

- (7) Not be in default to the City, or not have agreed to a payment arrangement with the City, regarding outstanding tax payments or contractual obligations.
- (b) In order for a participating candidate for the office of Mayor to be eligible to receive the \$15,000 public financing grant, the candidate must satisfy the following requirements in addition to the requirements specified above:
 - (1) Meet all requirements to appear on the primary or general election ballot, whether as a nominated or petitioning candidate;
 - (2) Be running in a contested election as defined in Section 2-243 of this ordinance.

Sec. 2-253 Qualifying Threshold

Public matching funds shall be allocated to participating Mayoral candidates beginning on April 1st of the election year upon satisfying the requirements of Section 2-251(a) of this ordinance and the qualifying contribution threshold as determined by the Administrator. A candidate shall satisfy the qualifying threshold for a primary election and for a general election separately. The qualifying threshold for disbursement of matching funds shall be according to the following formula:

- (a) A candidate for the office of Mayor who has signed and received approval of their candidate contract must raise 200 contributions from separate individuals who are electors of the City of New Haven of no less than \$25 and no more than \$300 to receive matching funds.
- (b) Once the Administrator determines that a participating candidate has met the contributor threshold, the candidate shall receive a match of \$50 per distinct individual contributor who is an elector of the City of New Haven of \$25 or more dollars until the candidate raises enough funds to meet the voluntary expenditure ceiling. The participating candidate shall receive a 2 to 1 match for any such contributions under \$25.
- (c) All contributions received by a participating candidate must include the name and address of the contributor on the check or on a separate card with the name and address of the contributor and signed by the contributor and stating the amount of the contribution. Only individual contributions of \$25 or less shall be accepted in cash. All contributions made by cash or money order or in-kind contributions must be accompanied by the signed card referred to above. The form of the card used with contributions shall be approved by the Board.
- (d) The Administrator must regularly make disbursements to participating candidates as specified by the disbursement schedule approved by the Board.

- (e) The request for public matching funds shall be made on a form determined by the Administrator, and shall include copies of each check, money order or other written legal tender, as well as copies of all signed contribution cards, eligible to be matched by public funds.
- (f) For purposes of this section, a loan, pledge or non-monetary contribution shall not be considered a matchable contribution.
- (g) No more than \$125,000 in public matching funds shall be disbursed to each participating candidate per primary or general election.
- (h) Once a participating candidate meets the contributor threshold and satisfies the requirements of Section 2-251(b) of this ordinance, the candidate shall be eligible to receive a \$15,000 public financing grant from the Fund. A candidate may receive the \$15,000 public financing grant once before a primary election and once before a general election with disbursement of the grant by the Board to be timed as follows:
 - (1) For a primary election, a participating candidate, who is otherwise eligible as provided above, shall receive the \$15,000 public financing grant after the participating candidate has received a party nomination and the participating candidate's opponent has successfully petitioned to appear on the primary ballot. If the participating candidate does not receive a party nomination but successfully petitions to appear on the primary ballot, the participating candidate shall receive the \$15,000 public financing grant after he or she has qualified to appear on the primary ballot.
 - (2) For a general election, if the participating candidate, who is otherwise eligible as provided above, receives a party nomination, he or she shall receive the \$15,000 public financing grant either: (1) after the time for petitioning to appear on a primary ballot for all parties has expired and no one has successfully petitioned to appear on a primary ballot; or (2) after the completion of the primary election or elections for all parties having such elections.
- (i) A payment of public matching funds does not constitute the Board's final determination of the amount for which a participating candidate may qualify and such payment is subject to post-payment audit and readjustment by the Board.

Sec. 2-255 Insufficient Public Funds

If there are insufficient public matching funds available for all participating candidates, whatever funds are available in the Fund shall be distributed on a pro rata basis to participating candidate in such allocations as determined by the Administrator but approved by a majority vote of the Board.

Sec. 2-257 Use of Public Matching Funds

- (a) Public matching funds shall be used exclusively for qualified campaign expenditures to promote the candidacies of the participating candidates.
- (b) All surplus public matching funds, or matching funds used in violation of the requirements of this ordinance, shall be returned or reimbursed to the Fund.
- (c) If the candidate withdraws from the campaign, becomes ineligible or dies during the campaign, the candidate's committee will return to the Fund, for deposit in the Fund, all monies received from the Fund which the candidate's qualified committee has not spent, or has not become legally obligated to expend, on qualified campaign expenditures as of the date of such occurrence.

Sec. 2-259 Cost of Living Adjustment

Beginning in 2008, and every four years thereafter, the minimum qualifying contribution, the voluntary contribution size limit, the public financing grant, the personal funding limitation, and the contribution and expenditure ceiling per election cycle shall be adjusted according to four-year aggregate cost of living changes in the New Haven MSA, as shown in the Consumer Price Index for all items in the New Haven MSA. The adjustment shall be rounded to the nearest five dollar size variation (i.e. \$25, 30, 35, 310, 315, 320) for the minimum qualifying contribution and the voluntary contribution size limit. The adjustment shall be rounded to the nearest thousand for the public financing grant, the personal funding limitation and the contribution and expenditure ceilings (i.e. \$16,000, \$17,000, \$18,000, \$301,000, 302,000, 303,000).

Sec. 2-261 Enforcement

- (a) Any person who violates any provision of this ordinance shall be personally and jointly and severally liable for the re-payment of any funds inappropriately obtained or expended under the provisions of this ordinance.
- (b) The Board shall be authorized to levy a civil penalty not to exceed two thousand dollars (\$2000.) per violation or twice the amount of any improper expenditure or contribution, whichever is greater, against any person the Board finds to be in violation of any provision of this ordinance. In the case of failure to pay any such penalty levied within thirty days of written notice sent by certified or registered mail to such person, the Board may apply to the Connecticut Superior Court for an order requiring such a person to pay the penalty imposed and such court costs, state marshal's fees and reasonable attorney's fees incurred by the Board as the court may determine.

- (c) The Administrator may further seek the application of any and all criminal and civil actions, penalties, sanctions, orders (including cease and desist orders) and remedies available under the laws of the State of Connecticut, including but not limited to prosecution for misappropriation of funds of the City. The Administrator shall be authorized to refer any violations to the state Election Enforcement Commission, the District Attorney's Office, the Attorney General's Office or any other appropriate authority.
- (d) The remedies provided in subdivision (a) above shall also apply to any person who causes any other person to violate any provision of this ordinance or who aids and abets any other person in a violation.

Sec. 2-263. Applicability of Other Laws

Nothing in this ordinance shall exempt any person from applicable provisions of any other laws of the city, state, federal or other appropriate jurisdiction.

Sec. 2-265. Severability

If any provision of this ordinance, or the application of such provision to any person or circumstance, shall be held invalid for any reason, the remainder of this ordinance to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this ordinance are severable.

Sec. 2-267. Effective Date

This ordinance shall become effective upon passage.

Sec. 2-268 – 2-275. Reserved

Appendix of Connecticut General Statutes Definitions Referenced in Democracy Fund Ordinance

CGS §9-601(19) (referenced above in §2-244(o)): "Coordinated expenditure" means an expenditure made by a person:

(A) In cooperation, consultation, in concert with, at the request, suggestion or direction of, or pursuant to a general or particular understanding with (i) a candidate, candidate committee, political committee or party committee, or (ii) a consultant or other agent acting on behalf of a candidate, candidate committee, political committee or party committee;

(B) For the production, dissemination, distribution or publication, in whole or in substantial part, of any broadcast or any written, graphic or other form of political advertising or campaign communication prepared by (i) a candidate, candidate committee, political committee or party committee, or (ii) a consultant or other agent acting on behalf of a candidate, candidate committee, political committee or party committee;

(C) Based on information about a candidate's plans, projects or needs, provided by (i) a candidate, candidate committee, political committee or party committee, or (ii) a consultant or other agent acting on behalf of a candidate, candidate committee, political committee or party committee, with the intent that such expenditure be made;

(D) Who, in the same election cycle, is serving or has served as the campaign chairperson, campaign treasurer or deputy treasurer of a candidate committee, political committee or party committee benefiting from such expenditure, or in any other executive or policymaking position as a member, employee, fundraiser, consultant or other agent of a candidate, candidate committee, political committee or party committee;

(E) For fundraising activities (i) with or for a candidate, candidate committee, political committee or party committee, or a consultant or other agent acting on behalf of a candidate, candidate committee, political committee or party committee, or (ii) for the solicitation or receipt of contributions on behalf of a candidate, candidate committee, political committee or party committee, or a consultant or other agent acting on behalf of a candidate, candidate committee, political committee or party committee;

(F) Based on information about a candidate's campaign plans, projects or needs, that is directly or indirectly provided by said candidate, the candidate's candidate committee, a political committee or a party committee, or a consultant or other agent acting on behalf of said candidate, candidate committee, political committee or party committee, to the person making the expenditure or said person's agent, with an express or tacit understanding that said person is considering making the expenditure; or

(G) For a communication that clearly identifies a candidate during an election campaign, if the person making the expenditure, or said person's agent, has informed said candidate, the candidate's candidate committee, a political committee or a party committee, or a consultant or other agent acting on behalf of said candidate, candidate committee, political committee or party committee, concerning the communication's contents, intended audience, timing, location or mode or frequency of dissemination.

CGS §9-601(3) (referenced above in §2-249(a)): "Political committee" means (A) a committee organized by a business entity or organization, (B) persons other than individuals, or two or more individuals organized or acting jointly conducting their activities in or outside the state, (C) an exploratory committee, (D) a committee established by or on behalf of a slate of candidates in a primary for the office of justice of the peace, but does not mean a candidate committee or a party committee, (E) a legislative caucus committee, or (F) a legislative leadership committee.

CGS §9-601(8) (referenced above in §2-149(a)): "Business entity" means the following, whether organized in or outside of this state: Stock corporations, banks, insurance companies, business associations, bankers associations, insurance associations, trade or professional associations which receive funds from membership dues and other sources, partnerships, joint ventures, private foundations, as defined in Section 509 of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended; trusts or estates; corporations organized under sections 38a-175 to 38a-192, inclusive, 38a-199 to 38a-209, inclusive, and 38a-214 to 38a-225, inclusive, and chapters 594 to 597, inclusive; cooperatives, and any other association, organization or entity which is engaged in the operation of a business or profit-making activity; but does not include professional service corporations organized under chapter 594a and owned by a single individual, nonstock corporations which are not engaged in business or profit-making activity, organizations, as defined in subdivision (6) of this section, candidate committees, party committees and political committees as defined in this section. For purposes of this chapter, corporations which are component members of a controlled group of corporations, as those terms are defined in Section 1563 of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, shall be deemed to be one corporation.

Appendix C

Report of the New Haven Democracy Fund To the State Elections Enforcement Commission

Introduction

The New Haven Democracy Fund is the first pilot municipal public campaign financing program in Connecticut (pursuant to CGS §9-760). The Democracy Fund's program applies solely to the city's mayoral election, which takes place every odd year. The first election occurred in 2007.

Although there was no Democratic primary election in 2007, and the general election was not very competitive, the election cycle provided an excellent opportunity for the newly-appointed Democracy Fund Board and Administrator to understand the program, deal with unexpected problems, and discuss recommendations for beneficial changes to the Democracy Fund Ordinance.

All five candidates agreed to participate in the Democracy Fund program. However, only one candidate, the incumbent mayor, qualified for public matching funds and no candidate was given a public financing grant. Some of the program's goals were met; others were not met due to the unusual nature of the election.

The incumbent mayor spent less than half the expenditure ceiling. The Democracy Fund program spent less than \$20,000 on the election, including matching funds and administrative costs.

I. History of the New Haven Democracy Fund

A. Chronology

Shortly after the 2001 mayoral election, in which over \$1.2 million dollars was spent by three candidates (two in the primary, the victor and a third in the general election), or about \$36 for each vote cast, talk began about campaign finance reform in conjunction with plans to revise the city charter. In February 2002, Mayor John DeStefano, Jr. came out in favor of public financing of the mayoral election, arguing that fundraising took far too much of his time, thereby shortchanging the city. In June he asked that language be added to the charter to make public financing possible. His original proposal called for reducing the contribution limit from \$1,000 to \$300; setting expenditure ceilings of \$200,000 per candidate for the primary and \$100,000 per candidate for the general election; and disallowing contributions from PACs.

Early in 2003, New Haven sought a state bill allowing the city to create a public financing program as an experiment that might be replicated in other Connecticut cities. All seven of the city's legislators supported the bill, but it was opposed by Governor John

Rowland, who had vetoed a state public financing bill. The bill was not passed in 2003 (it passed the Senate, but not the House), but it was passed late in 2005, becoming effective December 31, 2006, as an adjunct to the statewide Citizens' Election Program (Chapter 158). The state law provided for up to three municipal pilot programs.

The New Haven Board of Aldermen began considering a public campaign financing ordinance later in 2003. It was proposed by Alderman Carl Goldfield, with the support of community organizations in a coalition called Citizens for the New Haven Democracy Fund. Yale Students for Clean Elections founder Daniel Weeks was the coalition's spokesperson. The original ordinance included most of the basic provisions of the final ordinance. The principal difference was that the expenditure ceiling was \$200,000 for each election, rather than the final figure of \$300,000. The stated goals included: to increase taxpayer influence in the election, decrease contractors' influence, give a voice to interesting smaller voices, change the perception of a pay-to-play political atmosphere, and prevent the recurrence of the expensive race of 2001.

The ordinance was supported by both the candidates in the 2003 Democratic primary, as well as the losing candidate in the 2001 Democratic primary, State Senator Martin Looney, who sponsored the state bill. The principal opposition to the ordinance on the Board of Aldermen involved the expenditure of taxpayers' money. The city's daily newspaper, the *Register*, opposed the idea as expensive (suggesting a property tax checkoff) and unlikely to be approved at the state level or to be embraced by candidates at the local level. It argued that such a program would probably not "alter the character or outcome of the election."

In February 2004, the Board of Aldermen began to consider the Democracy Fund Ordinance, but did not approve it. Additional stated goals included attracting candidates without the means to run for office, eliminating the appearance of impropriety that comes from contractors giving large campaign contributions, controlling the cost of campaigns, increasing political accountability, and having a stronger democratic process

In December 2005, the Board of Aldermen unanimously agreed to file an application with the state public campaign financing pilot program. The daily *Register* supported the application and the program in an editorial.

Early in 2006, the Board of Aldermen began discussing the Democracy Fund Ordinance again. Newly stated goals included: making campaign competition more fair and having real competition (after little competition in the 2003 and 2005 races). The principal concern remained selling the program to taxpayers, who would be footing the bill (projected to be about \$100,000 a year), by showing them that clean elections are a public good.

In March 2006, New Haven filed an application to be the state's first city to participate in the state's pilot campaign financing program.

In April 2006, supporters of the Democracy Fund sought to have the Board of Aldermen budget \$200,000 for it, although the Ordinance had not yet been passed. The

principal argument was that corruption, and the inefficiencies it causes, are an enormous cost to government, and the Democracy Fund could help to lessen corruption. Supporters pointed to the pay-to-play situation in the Rowland Administration, which showed how campaign contributions could be “legalized bribery.” Other arguments included: that the program would be an investment in democracy, with real long-term benefits; more diverse candidates; and candidates engaging more with small donors.

Those opposing the Democracy Fund focused on the cost, especially at a time when the mill rate was going up, and on forcing taxpayers to give money to candidates whose views they don’t agree with.

New Haven’s application was approved by the SEEC later in April 2006. In May, the Board of Aldermen’s Finance Committee approved the Democracy Fund’s \$200,000 budget line item, and in June the Board of Aldermen approved the Democracy Fund Ordinance. The principal change was the raising of the expenditure ceiling for each election to \$225,000 per candidate.

In September, the Board of Aldermen asked the SEEC to delay its approval of the Democracy Fund Ordinance, because the SEEC had recommended some changes to the Ordinance, and the Board of Aldermen needed time to consider these recommendations. Mayor DeStefano began to recommend individuals to the Board of Aldermen to serve on the Democracy Fund Board.

In February 2007, at the Mayor’s request, the Board of Aldermen’s Legislative Committee unanimously approved amendments to the Ordinance, including another increase in the expenditure ceiling, this time from \$225,000 to \$300,000 per election per candidate (the original proposal had been \$200,000 for the primary and \$100,000 for the general election). The concern was that candidates would opt out of the program if the expenditure ceiling was too low. The mayor said that the ceiling could be changed for 2009 based on how things went in 2007, because there were concerns that \$300,000 was too low a figure. The revised Ordinance was approved by the Board of Aldermen in March.

B. Goals and Objectives of the Democracy Fund

The Ordinance states the following goals and objectives:

- countering the perception that policy is influenced by campaign contributions
- ensuring that meritorious candidates can convey their messages to voters
- reducing fundraising and encouraging more communication by candidates with citizens
- making small contributions meaningful and thereby giving all citizens a chance to participate

Other stated goals and objectives include:

- lessening corruption
- bringing down the cost of the mayoral election
- investment in a stronger democratic process
- more fair competition in the mayoral race
- attracting more diverse candidates

C. Principal Provisions of the Democracy Fund Ordinance

Matching Funds: 2-to-1 for the first \$25 given by each contributing New Haven registered voter per election

Public Financing Grant: \$15,000 per election

Contribution Limit: \$300 per contributor (including party town committees) per election; \$15,000 in personal funds per election; and no contributions from political committees or business entities

Qualifying Threshold for Matching Funds: 200 contributions of \$25-300 from registered New Haven voters per election; in a general election, the candidate cannot have lost a primary election for mayor that year

Qualifying Threshold for Grant: same as for matching funds plus: the candidate must first meet all the requirements to be on the primary or general election ballot (as an endorsed, nominated, or petitioning candidate; write-in candidates cannot qualify for a grant); there must be another candidate who has raised or spent at least \$5,000; and for a primary election, there has to be not only a party-endorsed candidate, but also a second candidate who has successfully petitioned to be on the primary ballot

Expenditure Ceiling: \$300,000 per candidate per election; matching funds are limited to \$125,000 per candidate per election

Non-participating Candidate Trigger: if a non-participating candidate spends more than the expenditure ceiling, participating candidates who have (or once they have) reached the expenditure ceiling have a choice between applying for a second public financing grant of \$25,000 or having the expenditure ceiling lifted

Independent Expenditures: not included in determining expenditure ceiling; no trigger or reporting requirement

Reporting Requirements: None other than sending SEEC campaign reports to Administrator.

Funding: from budget appropriations. \$400,000 in first two fiscal years (2006-7, 2007-8) required, but no guaranteed funding thereafter

Administration: contracted, part-time Administrator and Investigator

II. Procedural Aspects of Implementation and Administration of the Democracy Fund

A. Implementation

Due to the lateness of the changes made to the Democracy Fund Ordinance in 2007, the slowness of the nomination and approval process for Democracy Fund Board members, and the inability to hire an Administrator the first two times the position was bid out, for the first few months of the program it was facilitated by the Assistant Corporation Counsel assigned to the Board, Carl Amento.

Robert Wechsler began to serve as Administrator at the beginning of July 2007. The Investigator position was bid out once again, but there was no response. Fortunately, there was also no need to make an investigation.

The Democracy Fund Board met on a monthly basis. It put together a set of bylaws, interviewed and hired an administrator, and made the decisions required of it by the Ordinance, including the creation and approval of forms and materials required for the administration of the program, approval of the matching funds disbursement calendar drafted by the Administrator, approval of candidate contracts, and determination of whether each election was contested. As for other duties set forth in the Ordinance, it had no need to hire an independent attorney, it did not establish rules of procedure besides those in the bylaws, it did not audit any candidate, and it did not adopt regulations. Some Board members were involved with the planning and running of a general election candidates forum.

The Administrator dealt with all other matters, and prepared memos and resolution language for the Board. He billed 87 hours in July, 42.5 in August, 17.75 in September, 43.25 in October, 32 in November, and 21.75 in December (an average of 40 hours per month). It is clear, therefore, that a part-time Administrator was sufficient, at least for an election cycle of this nature.

B. Administration

Questions from the candidates and the media were answered by the Administrator, over the phone, via e-mail, and after Board meetings. No training sessions were held.

Grant eligibility was determined on the basis of matching funds requests and queries to other candidates concerning their fundraising and expenditures, which are necessary to decide whether there is a “contested election,” that is, whether there is a second candidate who has raised or spent at least \$5,000. The Administrator erred in missing the second step for determining grant eligibility for the primary (a second candidate has to get onto the primary ballot) and advised the Board to give John DeStefano, Jr. a grant before he was eligible. Because the second candidate, James Newton, although raising substantially more than \$5,000, had so many improper names on his petition for placement on the primary ballot, he failed to get onto the ballot, and the Board was forced to ask the DeStefano candidate committee for the grant back.

Payment amounts were determined by going through matching funds requests, checking to see that contributors were New Haven registered voters, that contributor cards were filed (and signed and dated) for all contributors said to have given cash, that checks were filed for all contributors said to have given by check, that all checks were signed and dated, that the check and contributor card dates fell within the appropriate election period, that the amounts were \$25 or above (for qualifying contributions, the only kind that were matched during this election cycle), and that multiple contributions from the same contributor were aggregated. Payment followed the Democracy Fund rules: 2-to-1 for the first \$25 given by each contributing New Haven registered voter per election.

Beyond checking over matching funds requests, no auditing was done.

Since public dollars were given only to the incumbent mayor, and only on one occasion (public matching funds), and due to the qualifying threshold and requirements, there was no need to ensure that public dollars were distributed only to qualified candidates, beyond carefully going through matching funds requests.

Backup information required of mayoral campaigns included the names, addresses, and contribution amounts of contributors, and their checks and/or contributor cards. In the case of repayment checks (one candidate had gone beyond the rules before deciding to participate in the Democracy Fund), the campaign committee was asked to provide processed repayment checks (it did not fully do so, but it also received no public funds).

III. Analysis of 2007 Mayoral Primary and Election

A. Summary of Election

Three Democratic candidates announced in the primary: the incumbent, John DeStefano, Jr., James Newton, and William Greene. However, Newton failed to qualify for the ballot and Greene withdrew early. The general election had a Republican candidate, Richter Elser, and a Green Party candidate, Ralph Ferrucci.

All candidates participated in the program: Ferrucci elected to participate on May 14, DeStefano on June 12, Newton on July 12, Greene on July 13, and Elser on August 23. However, public funds were only disbursed to one candidate in the Democratic primary, and no public funds were disbursed in the general election.

In the Democratic primary, Mayor DeStefano qualified for \$11,850 in matching funds, but Newton's application for funds was incomplete. No primary election actually occurred. In the general election, Mayor DeStefano's application for public funds did not contain enough qualifying contributions, and neither the Republican nor the Green candidate received enough contributions to apply for funds.

Campaigns were funded by individual contributions no greater than \$300. Town committees could give a maximum of \$300, and PAC contributions were not allowed.

Major components of campaign expenditures

DeStefano (total spending: \$154K)

\$54K political mailers

\$24K campaign manager

\$16K polling

\$11K copier

\$105K (68%) in big ticket items

Newton (total spending \$24K)

\$3K campaign manager

\$2K Midtown Motors

\$2K campaign treasurer

\$1K OPMR, Newington

Elser (total spending \$4K)

\$1K to Republican Town Committee

Ferrucci (total spending \$2K)

B. Analysis of the Election and the Program

Overall the program worked well, although there were some hiccups in this first-time implementation, and four out of five attempts to qualify for public funding failed.

The biggest hiccup concerned a situation not contemplated in the ordinance: a candidate who had apparently qualified for public funds in the primary failed to qualify for the ballot. This put the Democracy Fund Board in a difficult spot. (For more on this, see the bottom of page 5.)

Number of candidates for Mayor of New Haven, 2001-2007

Year	Number of candidates		
	Democratic primary	Republican primary	General election
2007	[no primary]	[no primary]	3
2005	[no primary]	[no primary]	3
2003	2	[no primary]	2
2001	2	[no primary]	3

Campaign fundraising by candidates for mayor of New Haven, 2001-2007

Year	DeStefano	Dem Challenger	Fundraising	
			Republican	Petition/Green/Other
2007	\$175K	\$25K	\$4K	\$2K
2005	\$160K	[none]	[none]	[no reports]
2003	\$407K	\$25K	[none]	[no reports]
2001	\$707K	\$288K	\$222K	[no reports]

There was enough money in the fund for the 2007 election. We started with \$400,000 in the fund and have requested an appropriation of \$100,000 for 2008. Total expenditures were less than \$20,000 this election year. The ordinance specifies pro rata distribution in the event of insufficient funds, as determined by the Administrator and approved by the Board.

There is sufficient money in the fund for future elections even in the event that more candidates participate and receive public funds. No candidate may receive more than \$125,000 in public funds per primary or general election, and because of the number of contributions from New Haven registered voters required to reach this sum, it is unlikely that many candidates will be able to approach the maximum.

The President of the Board of Aldermen met with the Democracy Fund recently and indicated that his intention was to continue to fund the Democracy Fund until it becomes a self-sustaining endowment. As such, he suggested that we request a \$100,000 appropriation for each of the next two fiscal years, and continue to build up the fund until it reaches a self-sustaining level.

IV. Critique of the 2007 Election and the Democracy Fund

A. Meeting Stated Goals

The 2007 mayoral election was so unusual, for reasons that had little or nothing to do with the Democracy Fund, that the Democracy Fund's stated goals were neither met, nor did they fail.

The principal feature of the election was that there was no Democratic primary. In New Haven, the Democratic primary is the most important election, because since 1953 the Democratic nominee has won the general election by a sizeable margin, if not a landslide. In 2007, three Democrats declared to run against the incumbent mayor. One of them became very ill, and dropped out of the race. Another abandoned his campaign days after filing his Affidavit of Participation in the Democracy Fund, and gave his support to the third contender, James Newton.

Mr. Newton successfully raised funds, but failed to obtain sufficient names to appear on the primary ballot (apparently through errors in the petition process, not due to lack of

support). Also, although his campaign applied for matching funds, and had enough contributors to qualify, it did not provide sufficient backup documentation before his campaign ended. Therefore, no Democratic contender received matching funds, only the incumbent mayor. And there was little need for the incumbent mayor to continue raising funds, because there was to be no primary election.

In the general election, there was a Republican and a Green candidate (there had been no Republican in the previous election, but there had been a Green candidate and a petitioning candidate), and one of the reasons both of them decided to run was the chance to get the message out to more people with the help of a Democracy Fund grant and matching funds. However, neither of them met the qualifying threshold.

For this reason, the Democracy Fund was not an important factor in the election, even though all declared candidates, Democrat, Republican, and Green (with the exception of the candidate who became ill before the campaign began), participated in the program, something very unusual for the first year of a public campaign financing program. This was an important show of support for the Democracy Fund.

Following are the objectives stated in the Ordinance, and how well they were met in the program's first election.

1. Countering the perception that policy is influenced by campaign contributions.

The reduction of the contribution limit to \$300 certainly countered this perception. But since there was very little fundraising, it did not become an issue.

2. Ensuring that meritorious candidates can convey their messages to voters.

Since no candidate but the incumbent mayor qualified for matching funds or a grant, the Democracy Fund did not help candidates convey their messages, except through the candidates forum it sponsored shortly before the general election. Without a competitive election, however, there was little media coverage, and with little fundraising, there was no advertising. On the other hand, the Republican and Green candidates ran partly because of the opportunity given them by the Democracy Fund to get their messages out to a wider audience.

3. Reducing fundraising and encouraging more communication by candidates with citizens.

Fundraising was limited because there was no primary, and the general election contenders did not succeed in raising much money. Since there was no competitive campaign, candidate communication with citizens was also limited.

4. Making small contributions meaningful and thereby giving all citizens a chance to participate.

The only small contributions that were made more meaningful by the Democracy Fund were those to the incumbent mayor. Without a competitive election, citizens did not participate much. There was only a 20% turnout at the polls.

Other stated objectives:

5. Lessening corruption.

Even though there was little need for campaign funds, large contributions might have been made had they been allowed, in order to seek contracts or support for projects.

6. Bringing down the cost of the mayoral election, and more fair competition

Without a competitive election, these were not issues.

7. Investing in a stronger democratic process

For the Democracy Fund, for candidates and potential candidates, for the news media, and for New Haven residents, this election provided a chance to better understand the Democracy Fund, so that it can be improved and, in the future, make a greater impact on the mayoral election and New Haven's democratic process.

8. Attracting more diverse candidates

Of the five participating candidates, two were African-American men. But there were no women or members of other minorities. The two candidates most affected by the opportunity provided by the Democracy Fund were both white men.

B. Possible Changes to Democracy Fund Ordinance

Although it was a very unusual mayoral election, it still provided an excellent learning experience for the Democracy Fund Board, the candidates, the parties, and the news media. Soon after the election was over, the Board began discussing possible changes to the Democracy Fund Ordinance, both in light of its experience in the election and in light of potential future problems it foresaw. These discussions are still ongoing, and no decisions have been made. In addition, the Administrator has recommended to the Board numerous minor, non-policy changes to the Ordinance.

This spring, the Board hopes to make a series of recommended changes in the Democracy Fund Ordinance to the Board of Aldermen. These changes will involve some or all of the following areas:

1. Reporting requirements. Even in a non-competitive election, the Administrator and Board found it difficult to make certain decisions due to the lack of timely information.

2. **Expenditure ceiling.** The Board is concerned that, with the current expenditure ceiling, a competitive election could cost as much as the 2001 election, whose enormous cost was one of the principal factors leading to support for public campaign financing.
3. **Qualifying threshold.** The failure of major and minor party candidates to qualify for matching funds or a grant has caused the Board to consider whether the qualifying threshold, in addition to the qualifying requirements, is the right level of community support to require.
4. **Non-participating candidate and independent expenditures triggers.** The Board will consider whether the current non-participating candidate expenditures trigger is optimal, and whether there needs to be an independent expenditures trigger (along with independent expenditures reporting requirements), in order to prevent candidates from taking advantage of the Democracy Fund rules in such a way as to make an election unfair and thereby undermine the program.
5. **Nature of the Democracy Fund.** Currently, it is part of the city's general fund. The Board will consider recommending that it be a separate fund, which can be invested (to pay for expenses and to grow between elections) and from which the Board can make direct payments to candidate committees.
6. **Lower contribution limit for non-participating candidates.** The Board will consider the possibility of applying the \$300 contribution limit for participating candidates to non-participating candidates, as was done recently in New York City.

The Board will also discuss the creation of a training program for the 2009 election, as well as a handbook, voter guide, and free media resources (public TV, website); the need for regulations; penalties; and the audit process.

The Board hopes that, with changes in some of these areas, the Democracy Fund will be able to better fulfill its objectives in future elections.

C. Criticism of the Democracy Fund.

There has not been a lot of criticism of the Democracy Fund since the Ordinance was passed. The principal criticism during consideration of the program concerned money, and the Democracy Fund spent only \$17,638 on the election, including \$11,850 in matching funds to the incumbent mayor, and the rest to the Administrator and for food after the candidates forum (see attached Report to the Mayor and Board of Aldermen).

The other principal concern was that there would not be many candidates to take advantage of the Democracy Fund. But this had to do with the strength of the incumbent

mayor's support rather than the Democracy Fund itself. And more candidates did participate than in recent elections.

The weekly New Haven *Advocate* criticized the incumbent mayor for making it look as if he were getting primarily small contributions. The paper pointed out that many contributions (68% of the dollar total), both from New Haven residents and from outside New Haven, were at the \$300 contribution limit, but that the ones presented to qualify for matching funds and a grant were smaller contributions (only 7% of these, the article said, were \$300 contributions).

The daily New Haven *Register* portrayed the Board as confused as to what to do when the primary election collapsed, and its editorial page called for the return of the grant given to the incumbent mayor, but these articles ran only five days after the event, and the Board dealt with the issue five days later, making a ruling on an issue not dealt with in the Ordinance and asking for the return of the grant, which had been given too early. Although it was a very difficult issue, and the Board was split on how to solve it, the Board met twice within ten days (in the middle of summer, still without all its seven members appointed) to discuss the issue and make the decision. This was an important test, and success, for the Democracy Fund Board.

The *Register* editorial also stated, "The vision may work in future years. But, the reality this year is that DeStefano is the dominant candidate and the public financing system has significantly eased his campaign fundraising burden." The fact that the one candidate who needed no help, and who originated the Democracy Fund, was the only candidate who received funds from the Democracy Fund (even if only \$11,850), was a common criticism. However, had the other primary candidate been more organized, he too would have received matching funds.

The Administrator responded with a letter to the editor, stating in part, "The DeStefano campaign is not the principal beneficiary of the Democracy Fund this year. It only seems that way, because the general election has just begun. The Republican candidate, Richter Elser, has said that the Democracy Fund was an important element of his decision to run, and the Green candidate, Ralph Ferrucci, will soon be applying for a grant and matching funds, as well. Meanwhile, the Democracy Fund limits the fundraising and expenditures of the incumbent's campaign, the only one that could conceivably have exceeded these limits in 2007."

Candidate James Newton originally announced he would not participate in the Democracy Fund, because he was worried it would not allow him to raise enough money to challenge the incumbent. His reasoning had less to do with the Democracy Fund itself than with his failure in 1999 to raise enough money to successfully challenge the incumbent (he still received 38% of the primary vote). Newton also argued that the Democracy Fund was the incumbent mayor's creation, and that he would feel more comfortable participating in a statewide program. A few weeks later, the Administrator was appointed and immediately

contacted the Newton campaign, discussed its concerns, and within days the Newton committee decided to participate. This change of heart, upon better understanding the program, was a major success of the Democracy Fund.

The two minor party candidates, the Republican Richter Elser and the Green Ralph Ferrucci, had a philosophical attitude about problems with the Democracy Fund. According to an article in the weekly *Advocate*, “Elser says local public financing is in a trial run and he’s happy to be part of the experiment. Elser sees the bigger picture too: that public financing is meant to promote vibrant elections and part of that means giving qualified candidates public funds that help pay for the work that would get them on the primary ballot. ... Ferrucci, who along with Elser is seen as an underdog (based on DeStefano’s name recognition, his support and New Haven’s heavily Democratic demographics), doesn’t mind being a lab rat either. ‘They’re going to be fixing things [in the public financing ordinance] for the next 10 years,’ Ferrucci says. ‘It’s going to be one thing after another. We’re learning as we go.’”

The campaign of incumbent mayor John DeStefano, Jr. reacted strongly to a request by the Administrator to look at the committee’s fundraising and expenditure information in order to determine if there might be any excess public funds remaining from the primary period of the election (since there was no primary election, the Board decided to divide the election into two periods, the general election period beginning the day after the Newton primary petition was refused). The campaign threatened to withdraw from the Democracy Fund. At the last second, the campaign did provide the Administrator with total figures, and the Board determined that there were no excess funds. Again, this was an issue that the Ordinance did not deal with clearly, and the Board dealt with it quickly and authoritatively.

DeStefano’s campaign manager took a philosophical view of the Democracy Fund after this matter was resolved by the Board: “It’s a learning process,” Arreola said of the Democracy Fund’s inaugural year (according to the *Register*). “We’re glad to be participating in the Democracy Fund.”

A Yale *Daily News* article in September examined the idea of extending the Democracy Fund to Aldermen candidates, and two Democracy Fund Board members were quoted as supporting the idea, as were a few Aldermen. However, this is not something the Board will be recommending this year. The Board is agreed that it’s too early to consider this.

The Administrator interviewed willing candidates, party chairs, reporters, and the President of the Board of Aldermen. All interviewees were positive about and supportive of the Democracy Fund program. Here are some of the useful ideas for changes to the Ordinance and program that they made.

1. More clearly define the election cycle divisions throughout the Ordinance.
2. Make clear that the candidate contract applies only to a primary or general election, not both.

3. Be more clear about write-in candidates.
4. Since city contractors must only say they're city contractors if they give over \$400, and the contribution limit is only \$300, they never have to identify themselves. This information should be required.
5. Deal in the Ordinance with such post-election fundraising and expenditures as when a candidate committee is in debt at the end of the campaign and needs to retire it.
6. Better promote the Democracy Fund program.
7. Put candidates in charge of the candidates forum, need for more guidelines, and questions all solicited in advance.
8. Add candidate committee training, a handbook, and a clearer timeline.
9. Adapt the new SEEC contributor card, which includes checks on the form itself.
10. Make more frequent disbursements of funds (was done every other week).
11. Lower qualifying threshold for primary (fewer contributions to qualify).
12. Allow those with New Haven ID cards to make qualifying contributions, even if not registered, if this is legal.
13. Advertise participating candidates in newspapers and on internet.
14. Board members should be more circumspect in their tone and in their discussions of candidates' motives.
15. Democracy Fund should be a separate fund and should be built to a point where it does not need regular funding out of the budget.
16. Ask for contributions from major political donors, city businesses, institutions, and foundations. Donors who can give only \$300 to a candidate can support the public financing program and the mayoral race by giving additional funds to match candidates' fundraising.
17. \$5 qualifying contributions.
18. Lower the expenditure ceiling, because raising it was bad for perception, especially since it was the incumbent mayor's proposal.
19. Put candidate contribution and expenditure information online.

D. Funding of the Democracy Fund

The Democracy Fund currently has \$380,000, which is enough to fund even a competitive election in 2009. However, the Board has requested a further \$100,000 appropriation for the 2008-2009 fiscal year, as part of its goal to build the Fund and prevent the need for possible requests for further appropriations in the middle of a heated campaign, or for extremely large requests immediately after an election. It is the Board's feeling that regular appropriations that are not overly large will better serve the future of the Fund.

E. Future Participation in the Democracy Fund

All participating candidates were supportive of the Fund, despite the problems that followed the sudden collapse of the primary. It is impossible to know, however, whether all candidates would participate under different, especially more competitive circumstances, for example, if the incumbent mayor were not running for re-election. The Board is considering the importance of future participation in its discussion of possible changes to the Ordinance.

F. Major Lessons Learned

As with any new program, the Board learned that many matters were not foreseen by the writers of the Ordinance. Major lessons learned include recognizing the need for more reporting requirements (to be done via electronic filing, possibly as part of the new SEEC system); for more clarity in rules governing election periods, repayment of excess public funds, and other matters; for training of both candidate committees and the news media; for better promotion of, and education regarding, the concept of public campaign financing; for better preparation with respect to candidate forums; and for more frequent disbursement of funds, which requires direct payment by the Fund rather than through the city administration.

New Haven Democracy Fund
Robert Wechsler, Administrator
Caleb Kleppner, Chair
March 25, 2008

Albany Government Law Review Blog

New York City's Campaign Finance Law is Unconstitutional

March 16, 2009 by [Robert Magee](#)

Daniel Katz, Staff Writer

The New York City campaign finance system was created in 1988 amid widespread scandal in New York City, and has been amended numerous times.¹ That same year, the New York State Commission on Government Integrity issued a report outlining reforms that would improve the integrity of the New York City system.² The report called for many changes, such as banning corporate contributions, treating loans as contributions, and enacting special rules for those doing business with the city,³ that have since been incorporated into the New York City campaign finance system. Because the New York City campaign finance system has been the subject of numerous reports, debates, and hearings over the 20 years that it has been in existence, it is viewed by many as a model for campaign finance reform.⁴

The New York City campaign finance system contains provisions that would be unconstitutional if mandatory, but which are acceptable because the candidates volunteer to participate, in essence subjecting themselves to the limits. In the declaration of legislative intent and findings, the City Council stated that the goals and purposes of the Act are “to improve popular understanding of local issues, to increase participation in local elections by voters and candidates, to reduce improper influence on local officers by large campaign contributors and to enhance public confidence in local government.”⁵

Prior to the 2007 amendments, the City's public campaign financing system was an entirely voluntary system. In order to be eligible for public matching funds, candidates voluntarily accepted expenditure limits, contribution limits lower than state limits, more extensive disclosure requirements than state requirements, as well as a ban on corporate contributions, which are allowed under state law.

In 1998, the New York City Council passed Local Law 48 increasing the matching rate of public campaign funding from 4 to 1 for the first \$250 contributed by private contributors, and bonus matching rates were provided for program participants who face high spending non-participants.⁶ A bonus is triggered when a non-participating candidate spends more than 50 percent of the expenditure limit. The participating candidate then receives a \$5-to-\$1 match and higher spending limits.⁷ Due to a charter amendment passed in a referendum in 1998, there was some confusion about the continuing validity of the matching rate, and so the City Council enacted Local Law 21 in 2001 to clarify the validity of the matching rate.⁸

In reaction to Michael Bloomberg's expenditure of \$73 million of his personal funds in his successful bid for the mayor in 2001, the City Council voted in 2004 to not only lift the spending limit for a participating candidate facing a self-funded opponent, but also to provide the participating candidate with a six-to-one public funds match for qualifying private contributions starting with the 2005 election.⁹

Prior to the 2005 election, candidates wishing to run for office in New York City had to choose whether or not to participate in the New York City campaign finance system. Those candidates who wished to participate were eligible to receive public matching funds of 4 to 1 on the first \$250 of a contribution, but in exchange they could not accept corporate money, had to agree to low contribution limits, had to agree to limit their overall campaign expenditures, and had to make frequent campaign finance disclosures.

Candidates who did not wish to participate were not given public money to help finance their campaign, but were subject only to state law, which has much higher contribution limits, no expenditure limits, and less stringent disclosure requirements.

The 2004 amendments also created a new class of participant and further incentives for participation. The new class of participant is the “limited participant.”¹⁰ By becoming a limited participant instead of a non-participant, the candidate agrees not to accept outside donations, and to finance his or her campaign with his or her own money. In exchange for foregoing any outside funding, the bonus provisions that provided a higher matching rate and expenditure limits to candidates facing non-participating candidates, would not apply.¹¹

While state law makes it in some ways easier to raise money than City law, because of the state’s higher contribution limits and different rules about who may contribute, most candidates still participated in the City system because any gain was not offset by the loss of public matching funds and the possibility of bad publicity. The lure of public funding proved to be an almost irresistible incentive to participate and resulted in a 90% participation rate.¹² Although the voluntary system in New York City had a very high participation rate and was widely praised as a model for reform, the New York City Council enacted further reforms. While few candidates were inclined to run for office in New York City without participating in the campaign finance system after the enactment of increased matching rates, there was one type of candidate that was much better off running for office outside of the New York City system: the self-funded candidate.

A candidate that chose to fund his or her own campaign but wished to participate in some way in the New York City campaign finance system would be limited in the manner in which they could raise money for their campaign. If the candidate were a participant, he or she would be limited in what they could contribute, would have to raise money from other contributors within the rules of the city system, and would be required to make extensive disclosure, which would limit the benefit of being able to self-fund a campaign.¹³ If the candidate were a limited participant, then he or she could only use their own money for the campaign and could not raise money from others.¹⁴ In contrast, a candidate that was a non-participant could spend an unlimited amount of his or her money on his or her own campaign, could raise money from a wider variety of sources, and until the 2004 amendments would not have to make as frequent or detailed disclosures.¹⁵

In 2004, in an effort to rein in what was perceived by some as an advantage, the New York City Council amended the law that applied to non-participating candidates to require participation.¹⁶ Beginning in the 2005 election, the New York City campaign finance system was expanded to require that all candidates, including non-participating candidates, make disclosure under the more stringent New York City system.¹⁷ The 2007 amendments require that both limited and non-participating candidates shall comply with the same requirements as a participating candidate regarding donations from people doing business with the City, exclude donations from those people doing business with the city, including lobbyists and government contractors, from being matchable donations, and limit the amount that people doing business with the City may contribute to less than 10% of what may be contributed by a member of the general public.¹⁸

Most significantly, the 2007 reforms also require that “a non-participating candidate, and the authorized committees of such a non-participating candidate, shall only accept contributions as limited by the provisions of paragraphs (f) and (l) of subdivision one of section 3-703, [and] subdivision 1-a of section 3-703.”¹⁹ Paragraph (f) prohibits a candidate from accepting amounts that:

in the aggregate: (i) for the office of mayor, public advocate or comptroller shall exceed four thousand nine hundred and fifty dollars, or (ii) for borough president, shall exceed three thousand eight hundred and fifty dollars, or (iii) for member of the city council, shall exceed two thousand seven hundred and fifty dollars.²⁰

Paragraph (l) prohibits a candidate from accepting corporate donations.²¹ Subdivision 1-a of section 3-703 limits what a candidate can accept from a person who has business dealings with the city to an amount that “does not exceed: (i) for the office of mayor, public advocate or comptroller four hundred dollars; (ii) for borough president three hundred twenty dollars; (iii) for member of the city council two hundred fifty dollars.”²² The result of this is that a non-participating candidate is bound not to accept more than a participating candidate from any source other than the candidate’s own funds.²³

So as not to strip the non-participating candidate distinction of all meaning, the statute goes on to state that:

notwithstanding any contribution limitations . . . , a non-participating candidate may contribute to his or her own nomination for election or election with his or her personal funds or property, in-kind contributions made by the candidate to his or her authorized committees with the candidate’s personal funds or property, and advances or loans made by the non-participating candidate with the candidate’s personal funds or property. A candidate’s personal funds or property shall include his or her funds or property jointly held with his or her spouse, domestic partner, or unemancipated children.²⁴

This functionally reduces non-participating candidates from any person who does not wish to participate in the city campaign finance system, to only those people who are using their own resources to finance a campaign.

The application of New York City’s campaign finance system to non-participants results in a system in which all candidates for office in New York City are subject to the requirements of City law to the maximum extent permissible under the federal Constitution. *Buckley* established that contribution limits, and disclosure requirements may be required of all candidates without impinging on the First Amendment, but that limitations on expenditures and contributions to a candidate’s own campaign may only be limited as part of a voluntary system. If non-participating candidates are not voluntarily agreeing to participate in the New York City campaign finance program, then the City cannot require non-participants from abiding by expenditure and self-financing restrictions. Because the disclosure and contribution limits apply to all candidates and cannot be avoided, the law is a mandatory law.

The recent United States Supreme Court decision in *Davis v. Federal Election Commission* made clear that campaign finance laws that create an asymmetrical campaign contribution scheme applicable to candidates based on how much of their personal wealth is used to finance their candidacy infringe on a self-financed candidate’s First Amendment rights. Campaign finance law usually applies uniformly to all candidates for office, but Section 319(a) of the Bipartisan Campaign Reform Act of 2002 (BCRA),²⁵ the so-called “Millionaire’s Amendment,” as interpreted by the Supreme Court in *Davis v. Federal Election Commission*, states that:

[w]hen a candidate’s expenditure of personal funds causes the [“opposition personal funds amount” (OPFA)] to pass the \$ 350,000 mark (for convenience, such candidates will be referred to as “self-financing”), a new, asymmetrical regulatory scheme comes into play. The self-financing candidate remains subject to the limitations [of the normal system], but the candidate’s opponent (the “non-self-financing” candidate) may receive individual contributions at treble the

normal limit (*e.g.*, \$ 6,900 rather than the current \$ 2,300), even from individuals who have reached the normal aggregate contributions cap, and may accept coordinated party expenditures without limit.²⁶

The Court quoted its discussion in *Buckley* of an expenditure cap for self financed candidates, noting that:

a candidate . . . has a *First Amendment* right to engage in the discussion of public issues and vigorously and tirelessly to advocate his own election” and that a cap on personal expenditures imposes “a substantial,” “clea[r]” and “direc[t]” restraint on that right. We found that the cap at issue was not justified by “[t]he primary governmental interest” proffered in its defense, *i.e.*, “the prevention of actual and apparent corruption of the political process.”²⁷

The court also reaffirmed its rejection of the

argument that the expenditure cap could be justified on the ground that it served “[t]he ancillary interest in equalizing the relative financial resources of candidates competing for elective office.” This putative interest, we noted, was “clearly not sufficient to justify the . . . infringement of fundamental *First Amendment* rights.”²⁸

The Court clarified that in *Buckley*, they

held that Congress “may engage in public financing of election campaigns and may condition acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations” even though [the court] found an independent limit on overall campaign expenditures to be unconstitutional . . . [but in that case] a candidate, by forgoing public financing, could retain the unfettered right to make unlimited personal expenditures, [while] § 319(a) does not provide any way in which a candidate can exercise that right without abridgment.²⁹

The government made an equal protection argument that the asymmetrical limits are justified because they “level electoral opportunities for candidates of different personal wealth . . . [and] Congress enacted *Section 319*. . . to reduce *the natural advantage* that wealthy individuals possess in campaigns for federal office.”³⁰ The court rejected this argument, stating that there is “no support for the proposition that this is a legitimate government objective. . . [and] the concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the *First Amendment*.”³¹

The government argued in its brief that contribution limits

make it harder for candidates who are not wealthy to raise funds and therefore provide a substantial advantage for wealthy candidates. Accordingly, § 319(a) can be seen, not as a legislative effort to interfere with the natural operation of the electoral process, but as a legislative effort to mitigate the untoward consequences of Congress’ own handiwork and restore “the normal relationship between a candidate’s financial resources and the level of popular support for his candidacy.”³²

The Court noted that such any advantage that wealthy people enjoy is a result of the disparate treatment of contributions and expenditures adopted in *Buckley*, and

[i]f the normally applicable limits on individual contributions and coordinated party contributions are seriously distorting the electoral process, if they are feeding a “public perception that wealthy

people can buy seats in Congress,” and if those limits are not needed in order to combat corruption, then the obvious remedy is to raise or eliminate those limits. But the unprecedented step of imposing different contribution and coordinated party expenditure limits on candidates vying for the same seat is antithetical to the *First Amendment*.³³

The Court next considered § 319(b)'s disclosure requirements and found them to be unconstitutional. The court held that “there must be ‘a ‘relevant correlation’ or ‘substantial relation’ between the governmental interest and the information required to be disclosed,” and the governmental interest “must survive exacting scrutiny.”³⁴ Because “the § 319(b) disclosure requirements were designed to implement the asymmetrical contribution limits provided for in § 319(a), and . . . § 319(a) violates the *First Amendment*. . . it follows that [the disclosure requirements] too are unconstitutional.”³⁵

Because *Davis* held that the asymmetrical contribution limits provided to non-self financed candidates facing self financed opponents and self-financed candidates under FECA violate the First Amendment, the New York City System is also likely to be unconstitutional. The Court emphasized,

The fundamental nature of the right to spend personal funds for campaign speech [and] [w]hile BCRA does not impose a cap on a candidate’s expenditure of personal funds, it imposes an unprecedented penalty on any candidate who robustly exercises that *First Amendment* right. *Section 319(a)* requires a candidate to choose between the *First Amendment* right to engage in unfettered political speech and subjection to discriminatory fundraising limitations. Many candidates who can afford to make large personal expenditures to support their campaigns may choose to do so despite § 319(a), but they must shoulder a special and potentially significant burden if they make that choice.

New York City forces self- financed candidates to make an almost identical choice to the choice that FECA required. Candidates are similarly required to either participate in the campaign finance system with all of its attendant contribution and expenditure limits, or to remain a “non-participating candidate” where the candidate must still abide by contribution limits applicable to participating candidates, but if the non-participating candidate spends too much money from his personal funds, the participating candidate may accept much larger contributions. New York City allows for the additional category of “limited participant,” where a self financed candidate would not trigger higher contribution limits for his opponent, but at a cost of not accepting any contributions from outside sources at all.

The Supreme Court has only approved of a campaign finance system in which “a candidate, by forgoing public financing, could retain the unfettered right to make unlimited personal expenditures.”³⁶ As in the statute in question in *Davis*, the New York City system

does not provide any way in which a candidate can exercise that right without abridgment. Instead, a candidate who wishes to exercise that right has two choices: abide by a limit on personal expenditures or endure the burden that is placed on that right by the activation of a scheme of discriminatory contribution limits.³⁷

Because the New York City system provides asymmetrical contribution limits to candidates facing self financed candidates similar to those held to be unconstitutional in *Davis*, the New York City system is likely to be unconstitutional.

New York City could amend its campaign finance law to remove the asymmetrical contribution limits that apply to self-financed and non self-financed candidates. The City is free to increase contribution limits to a level that it thinks appropriate to run a campaign while still combating corruption or the

appearance of corruption, but it cannot provide different limits for different candidates as a consequence of one candidate's expenditure of personal funds. If a candidate's acceptance of a larger campaign contribution when he or she is facing a candidate who can rely on his or her own wealth and the contribution is most needed does not implicate the threat of corruption, it is hard to see why larger contribution limits at all other times would not similarly not lead to corruption.

¹ New York City Campaign Finance Board: A Brief History of the CFB, <http://www.nycffb.info/press/info/history.aspx> (last visited Mar. 16, 2009).

² New York State Commission on Government Integrity, *Unfinished Business: Campaign Finance Reform In New York City* (1988).

³ *Id.* at 9, 14, 26.

⁴ Ciara Torres-Spelliscy & Ari Weisbard, *What Albany Could Learn From New York City: A Model Of Meaningful Campaign Finance Reform In Action*, 1 Alb Gov. L. Rev. 194, 197 (2007); see also NYPIRG, Good Government, <http://www.nypirg.org/goodgov/reformny/finance.html> (last visited Mar. 15, 2009).

⁵ Local Law of the City of New York No. 8 § 1 (1988).

⁶ Local Law of the City of New York No. 48 § 1 (1998), available at http://www.nycouncil.info/pdf_files/bills/int0344a.htm.

⁷ New York City Campaign Finance Board, *The Impact of High-Spending Non-Participants on the Campaign Finance Program* (2006), 6, available at <http://www.ci.nyc.ny.us/html/records/html/govpub/gover3.shtml>.

⁸ Local Law of the City of New York No. 21 § 1 (2001), available at http://www.nycouncil.info/pdf_files/bills/law01021.pdf.

⁹ See New York City Council Local Law 58, §6, (2004) (amending Section 3-706(3) of the Administrative Code of the City of New York), available at http://www.nycouncil.info/pdf_files/bills/law04058.pdf. The six-to-one match is capped at \$1500 in public funds per contributor, and the total public funds payment capped at 125% of the expenditure limit for the office the candidate is seeking. See also Richard Briffault, Home Rule and Local Political Innovation, *Journal of Law & Politics*, Vol. 22, p. 1, 2006, available at: <http://ssrn.com/abstract=894481>.

¹⁰ New York City Administrative Code § 3-702(13), available at <http://public.leginfo.state.ny.us/menuf.cgi> (follow "Laws of New York" link under search, then follow "ADC" link at the bottom of the page, then follow link for Chapter 7 under title 3, and link for 3-702).

¹¹ New York City Campaign Finance Board, *supra* note 1, at 8.

¹² New York Campaign Finance Board, *A Report on the 2005 Elections*, 1 http://www.nycffb.info/PDF/per/2005_PER/2005_Post_Election_Report.pdf.

¹³ New York City Administrative Code § 3-703(h), available at <http://public.leginfo.state.ny.us/menuf.cgi> (follow instructions *supra* note 10).

¹⁴ New York City Administrative Code § 3-718, available at <http://public.leginfo.state.ny.us/menuf.cgi> (follow instructions *supra* note 10).

¹⁵ New York City Administrative Code § 3-719, available at <http://public.leginfo.state.ny.us/menuf.cgi> (follow instructions *supra* note 10).

¹⁶ New York City Administrative Code § 3-703(6), available at <http://public.leginfo.state.ny.us/menuf.cgi> (follow instructions *supra* note 10).

¹⁷ § 3-703(2).

¹⁸ New York City, N.Y., Local Laws No. 34, at 7 (2007), available at http://www.nycouncil.info/pdf_files/bills/law07034.pdf.

¹⁹ *Id.* at 14.

²⁰ New York City Administrative Code § 3-703(1)(f) (2007), available at <http://public.leginfo.state.ny.us/menuf.cgi> (follow instructions *supra* note 10).

²¹ § 3-703(1)(f)

²² New York City, N.Y., Local Laws No. 34, at 7 (2007), *available at* http://www.nycouncil.info/pdf_files/bills/law07034.pdf.

²³ A participating candidate may only accept money from a PAC that has been registered with the CFB, while a non-participating candidate may accept money from an unregistered PAC, but neither may accept any corporate money. *See* New York City Campaign Finance Board: Frequently Asked Questions, <http://www.nyccfb.info/press/info/faq.aspx> (click on “Who is prohibited from contributing to a candidate?”) (last visited Mar. 16, 2009).

²⁴ New York City Administrative Code § 3-718(1), *available at* <http://public.leginfo.state.ny.us/menuf.cgi> (follow instructions *supra* note 10).

²⁵ 116 Stat. 109, 2 U.S.C. § 441a-1(a) (2002).

²⁶ *Davis v. Fed. Election Comm’n*, 128 S. Ct. 2759, 2766 (2008).

²⁷ *Id.* at 2771 (quoting *Buckley v. Valeo* 424 U.S. 1, 52-53 (1976) (citation omitted)).

²⁸ *Davis*, 128 S. Ct. at 2771.

²⁹ *Id.* at 2772.

³⁰ *Id.* at 2773.

³¹ *Id.*

³² *Id.* at 2774.

³³ *Id.*

³⁴ *Id.* at 2775.

³⁵ *Id.*

³⁶ *Id.* at 2772.

³⁷ *Id.*