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# **PUBLIC CAMPAIGN FINANCING AND ILLINOIS ELECTIONS**

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**Illinois Campaign Finance Reform  
Task Force**



# CAMPAIGN FINANCE REFORM TASK FORCE

**STATE OF ILLINOIS**  
**PAT QUINN, GOVERNOR**

December 30, 2011

Dear Governor Pat Quinn:

The Campaign Finance Reform Task Force was established in 2010 to conduct a thorough review of the implementation of campaign finance reform legislation in the State of Illinois, and the feasibility of implementing a mechanism of campaign finance regulation that would subsidize political campaigns in exchange for voluntary adherence to specified expenditure limitations (10 ILCS 5/9-40).

The Task Force is charged with studying and reporting on the feasibility of implementing a mechanism of campaign finance regulation that would subsidize political campaigns in exchange for voluntary adherence to specified expenditure limitations.

The attached report on Public Campaign Financing and Illinois Elections (i) outlines the history and development of public campaign finance in the United States and in Illinois; (ii) examines the public policy arguments in support of and in opposition to the development and implementation of a public campaign finance system in Illinois; (iii) explains and analyzes the current state of the law with respect to public campaign finance; and (iv) offers several feasible alternatives on how a public campaign finance system might be implemented in Illinois. The report does not include a consensus recommendation regarding public financing, but rather, presents various options related to the adoption of public financing.

The Task Force encourages you and the Illinois General Assembly to examine and consider the public finance analysis and potentially feasible alternatives contained in this report.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lindsay Anderson".

Lindsay Anderson

Chair, Campaign Finance Reform Task Force

Enclosure

Cc: Honorable John Cullerton, President of the Senate  
Honorable Michael Madigan, Speaker of the House  
Honorable Christine Radogno, Senate Republican Leader  
Honorable Tom Cross, House Republican Leader  
Rupert Borgsmiller, Executive Director, Illinois State Board of Elections

## Chair

Lindsay Anderson

## Members

Barbara Flynn Currie

Don Harmon

Deborah Harrington

Jo Johnson

Michael Kasper

William McNary

Todd Maisch

Dawn Clark Netsch

John Noak

Joseph Seliga

# **A Report from the Illinois Campaign Finance Reform Task Force**

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**Senator Don Harmon**

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\* For further information, please see

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**PUBLIC CAMPAIGN**  
**FINANCING AND**  
**ILLINOIS ELECTIONS**

**December 29, 2011**

## **I. Introduction**

The election process is the cornerstone of representative government. For decades, the financing of elections has been a topic of robust debate in Illinois and around the country. In recent years, the debate has been affected by changes in the law, shifting political dynamics, and concerns about the influence of money in political campaigns and its subsequent effect on government. Of particular note in this ongoing dialogue are the opportunities, benefits, costs, and challenges of using government funds to provide financing for political campaigns. This Report is intended to focus and foster the debate regarding public financing and tailor the issues specifically to Illinois.

With this in mind, the Illinois Campaign Finance Reform Task Force (hereinafter “Task Force”) submits this Report examining public campaign finance and potentially feasible alternatives for Illinois to Governor Pat Quinn and the Members of the Illinois General Assembly. The discussion, analysis, and alternatives regarding public campaign finance described herein are designed to be compatible with and strengthen the State’s new system of campaign contribution limits. Nothing in this Report is intended to affect the requirements of Public Act 96-832.

## **II. Enabling Legislation**

The Task Force was established by Public Act 96-832, which enacted certain reforms related to the manner in which political campaigns are financed in Illinois. The portion of Public Act 96-832 establishing the Task Force reads as follows.<sup>1</sup>

10 ILCS 5/9-40 Campaign Finance Reform Task Force.

(a) There is hereby created the Campaign Finance Reform Task Force. The purpose of the Task Force is to conduct a thorough review of the implementation

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<sup>1</sup> For the full text of Public Act 96-832, see Appendix E.

of campaign finance reform legislation in the State of Illinois, and the feasibility of implementing a mechanism of campaign finance regulation that would subsidize political campaigns in exchange for voluntary adherence to specified expenditure limitations.

(b) The Task Force shall consist of 11 members, appointed as follows: 2 each by the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, and the Minority Leader of the Senate; and 3 by the Governor, one of whom shall serve as chairperson. Members shall be adults and residents of Illinois. The individual (or his or her successor) who appointed a member may remove that appointed member before the expiration of his or her term on the Task Force for official misconduct, incompetence, or neglect of duty. Members shall serve without compensation, but may be reimbursed for expenses. Appointments shall be made within 60 days after the effective date of this amendatory Act of the 96th General Assembly.

(c) The Task Force shall conduct meetings and conduct a public hearing before filing any report mandated by this Section. At the public hearings, the Task Force shall allow interested persons to present their views and comments. The Task Force shall submit all reports required by this Section to the Governor, the State Board of Elections, and the General Assembly. In addition to the reports required by this Section, the Task Force may provide, at its discretion, interim reports and recommendations. The State Board of Elections shall provide administrative support to the Task Force.

(d) The Task Force shall study the feasibility of implementing a mechanism of campaign finance regulation that would subsidize political campaigns in exchange for voluntary adherence to specified expenditure limitations. In conducting its study, the Task Force shall consider a system of public financing by State government for the conduct and finance of election campaigns for the following: (1) Representatives and Senators in the General Assembly, (2) constitutional offices of State government, and (3) judges. The Task Force may propose financing campaigns through funding mechanisms including, but not limited to, fines, voluntary contributions, surcharges on lobbying activities, and a whistleblower fund. In determining a plan for election to each office, the Task Force shall consider the following factors:

- (i) the amount of funds raised by past candidates for that office;
- (ii) the amount of funds expended by past candidates for that office;
- (iii) the disparity in the amount of funds raised by candidates of different political parties;
- (iv) the amount of funds expended by entities not affiliated with a candidate;

- (v) the amount of money contributed to or expended by a committee of a political party to promote a candidate;
- (vi) jurisprudence with relation to campaign finance and public financing; and
- (vii) such other factors, not confined to the foregoing, that the Task Force determines to be related to the public financing of elections in this State.

The Task Force shall also study the feasibility of creating public financing within the statutory system of limits, or if the system of limits should be changed to facilitate a system of public financing and the need for a process to protect candidates who receive public financing against candidates who do not opt to participate in public financing or who self-finance.

The Task Force shall submit the report required by this subsection no later than December 31, 2011. The Task Force may provide, at its discretion, interim reports and recommendations before that date.

(e) The Task Force shall examine and make recommendations related to the provisions of this amendatory Act of the 96th General Assembly in Section 9-8.5 (c-5) and (c-10) limiting contributions to a political party committee from a candidate political committee or political party committee. The Task Force shall submit a report with recommendations required by this subsection no later than September 30, 2012. The Task Force may provide, at its discretion, interim reports and recommendations before that date.

(f) The Task Force shall review the implementation of this amendatory Act of the 96th General Assembly [enacting new campaign finance requirements] and any additional campaign finance reform legislation considered by the General Assembly. The Task Force shall examine each provision of this amendatory Act of the 96th General Assembly and make recommendations for changes, deletions, or improvements. In conducting its review of campaign finance reform implementation, the Task Force shall also consider and address a variety of empirical measures, case studies, and comparative analyses, including, but not limited to the following:

- (i) campaign finance legislation in other states as well as the federal system of campaign finance regulation;
- (ii) the impact of contribution limits in Illinois, including the impact on contributions from individuals, corporations, associations, and labor organizations;

- (iii) the impact of contribution limits on independent expenditures in Illinois;
- (iv) the effectiveness, reliability, and cost of various enforcement mechanisms;
- (v) the best practices in mandating timely disclosure of the origin of campaign contributions; and
- (vi) the best way to require and conduct random audits and audits for cause.

The Task Force shall also submit a report detailing the following: (i) the effectiveness of enforcement mechanisms, (ii) whether the disclosure requirements and the definition of “receipt” result in accurate reporting; (iii) issues related to audits, (iv) the effect of using the same election cycle for all members of the General Assembly, and (v) the impact of Section 9-8.5(h). The Task Force shall submit reports required by this subsection no later than March 1, 2013 and March 1, 2015.

(g) The Task Force shall submit a final report by March 10, 2015. The Task Force is abolished and this Section is repealed on March 15, 2015.

### **III. Overview of Report**

The Task Force was established by the 96th Illinois General Assembly through Public Act 96-832, parts of which are now codified at 10 ILCS 5/9-40 (hereinafter “the Act”). Among other things, the Act charges the Task Force to study and issue a report on the feasibility of establishing a public financing system for political campaigns in Illinois. The Act requires the Task Force to consider the feasibility of public financing for the following offices: (i) those in the General Assembly, (ii) State constitutional officers—Governor, Lieutenant Governor, Secretary of State, Attorney General, Treasurer, and Comptroller—, and (iii) State Judges. Although the Act lays out several factors, issues, and statistics that this Report must consider as part of its inquiry, the Task Force is also allowed to consider anything related to public financing even if it is not expressly enumerated in the Act. The first among the required factors for the

Task Force to consider is the recently enacted campaign finance reform legislation. As a whole, the reform limits the amount of direct contributions to candidates from individuals, corporations, unions, and political committees and also implements a comprehensive disclosure process for self-funded candidates, direct contributions to candidates, and independent expenditures. In addition, the Task Force must consider the amount of funds raised and spent by candidates for a particular office and any disparity between candidates of different political parties running for that office. The Task Force must also take into account the amount of funds raised and expended by outside organizations and political parties. Further, this Report must consider the current state of the law and jurisprudence with respect to public campaign finance and evaluate the available mechanisms for funding any potential public finance system. Statistics complying with these requirements can be found in Appendix A to this Report. All of these factors and issues were contemplated in the drafting of this Report.

Additionally, the Act requires the report to be submitted to Governor Quinn and the General Assembly by no later than December 31, 2011. This Report (i) outlines the history and development of public campaign finance in the United States and in Illinois; (ii) examines the public policy arguments in support of and in opposition to the development and implementation of a public campaign finance system in Illinois; (iii) explains and analyzes the current state of the law with respect to public campaign finance; and (iv) offers several feasible alternatives on how a public campaign finance system might be implemented in Illinois. None of the alternatives outlined by this Report is an official recommendation from the Task Force; rather they are alternatives that could be feasible in Illinois. This Report satisfies the requirements of the Act.

## **IV. Background Information on Public Campaign Finance**

Part IV of this Report outlines relevant background information on public campaign financing, summarizes the approaches that other states have taken to public financing, and examines the public policy arguments surrounding public campaign finance.

### **A. The Development of Public Campaign Finance**

The roots of public campaign finance in America can be traced to the early 1900s and the campaign finance reform called for by President Theodore Roosevelt after he was embroiled in a pay-to-play scandal involving one of his campaign contributors.<sup>2</sup> In the wake of the scandal, President Roosevelt petitioned Congress to limit campaign contributions and implement a public campaign financing system for federal elections.<sup>3</sup> Nothing came of President Roosevelt's petition with respect to public financing, however, and the issue did not take on national significance again until the early 1970s.<sup>4</sup> In 1974, in the aftermath of the Watergate scandal, Congress amended federal election law to establish a public campaign finance system for presidential primary and general elections.<sup>5</sup> The presidential public financing system still exists today and served as an early model for the states.<sup>6</sup>

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<sup>2</sup> See L. Sandy Maisel, *PARTIES AND ELECTIONS IN AMERICA: THE ELECTORAL PROCESS* 236 (1987).

<sup>3</sup> See *id.*

<sup>4</sup> See Bradley A. Smith, *Faulty Assumptions and Undemocratic Consequences of Campaign Finance Reform*, 105 *YALE L.J.* 1049, 1055 (1996).

<sup>5</sup> See David R. Simon, *Watergate and the Nixon Presidency: A Comparative Ideological Analysis*, in *WATERGATE AND AFTERWARD: THE LEGACY OF RICHARD M. NIXON* 15 (Leon Friedman & William F. Levantrosser eds., 1992).

<sup>6</sup> See Federal Election Commission, *Public Financing of Presidential Elections*, <http://www.fec.gov/pages/brochures/pubfund.shtml> (last visited Nov. 3, 2011). Furthermore, the U.S. House of Representatives recently voted to repeal the Presidential Public Campaign Finance System, see H.R. 3463, 112th Cong. (Dec. 1, 2011), but the Senate has yet to take up the bill.

These models can be generally classified into two types of public campaign financing systems: “candidate-specific” models and “contributor-specific” models. In candidate-specific models, public funds are used to finance political campaigns in exchange for a candidate agreeing to abide by certain restrictions on the campaign. In contributor-specific models, on the other hand, the government provides matching funds to candidates or tax incentives to individual contributors based on smaller dollar contributions. These two general types of systems are not mutually exclusive, however, and aspects of each are usually incorporated into a public finance system.

In a typical public finance system, to be eligible for public financing candidates usually must meet certain threshold requirements regarding the campaign’s initial fundraising—known as “seed money”—and voluntarily submit to certain conditions and restrictions. Restrictions typically include spending caps on the campaign, specific dollar and individual contribution limits, rigorous auditing and public disclosure of the campaign’s finances, and increased reporting requirements to a jurisdiction’s election oversight body. Public finance systems are most often funded by a check-box on tax returns, special taxes, fees, or assessments, tax expenditures, special government accounts that are funded by criminal penalties, fines, fees, or restitution paid to the government, attorney registration fees, court filing surcharges, or from a state’s general revenue fund. Public financing systems may also be tailored to apply to all elected offices or only selected offices.

Candidate-specific public financing programs can be broadly categorized into one of two forms: (i) a hybrid structure where candidates are given either partial public grants—known as “fixed subsidies”—or matching funds for small dollar contributions or contributions up to a certain limit while continuing to receive money from private donors or (ii) a comprehensive

model, also known as a “clean elections” model, where candidates for public office use only public funds to support their campaigns.<sup>7</sup> A hybrid structure, which is the majority approach by jurisdictions who have adopted public financing, is less rigid than a comprehensive system because it allows candidates to continue to fundraise and also gives the government more leeway to tailor a system to the needs of its voters. A comprehensive system, on the other hand, is absolute and may not always provide the flexibility that circumstances might require. In states with comprehensive approaches, candidates who choose to participate in public financing programs are financed solely with public funds and are prohibited from raising private funds for campaign purposes. With hybrid systems, in contrast, public funds make up just a portion of a participating candidate’s expenditures and candidates can continue to raise and spend funds from private sources within certain limits.

In comprehensive systems, each candidate who chooses to participate in the system is given a fixed amount of money upfront when the candidate meets eligibility requirements. Typically, the eligibility requirements are based on the collection of a specified amount of signatures from registered voters, small-dollar contributions, or seed money. Once the candidate is eligible and opts into the system, the candidate cannot accept outside donations or use the candidate’s personal money to finance the campaign. Usually, candidates who do not opt into the system and choose to raise money privately are also subject to heightened administrative burdens and disclosure requirements as well.<sup>8</sup>

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<sup>7</sup> The use of the term “clean elections model” is intended only to refer to a particular public financing model and is not meant to insinuate that anything about the State’s current campaign finance system or recent reforms to that system are in any way corrupt.

<sup>8</sup> Some of these administrative burdens may potentially be unconstitutional in light of recent cases from the U.S. Supreme Court. For further discussion of the case law, see *infra*, Part V.

Hybrid systems typically involve smaller public subsidies that are not intended to provide full financing. As with the comprehensive system, candidates participating in a hybrid system usually have to meet certain eligibility requirements and comply with ongoing reporting and auditing requirements. The important difference with the comprehensive system is that the participating candidate in a hybrid system can usually continue to raise and spend funds from private sources, although the candidate is subject to certain dollar contribution limits that are often less than the otherwise applicable legal limit on contributions.

In comparison, contributor-specific systems are intended to encourage more citizens to make political contributions. To that end, certain states offer an income tax credit of up to several hundred dollars for contributions to the state fund that finances the public system. Other states issue small-dollar tax refunds or tax credits for political contributions made by taxpayers. In these states, the tax refund or tax credit may not apply only to contributions to publicly-financed candidates, but may apply to contributions made to any candidate for certain offices or to contributions made to political parties or political action committees (hereinafter “PACs”). Certain candidate-specific models described above include matching funds for small dollar contributions received by participating candidates. Along those same lines, a contributor-specific model could also be created to grant matching funds to any candidate for certain small-dollar contributions in an effort to encourage more participation in the political system.

A handful of states have enacted contributor-specific systems in which public grants are provided to political parties, typically funded by low-dollar check-offs on income tax returns or income tax add-ons. Typically tax check-offs are donated pre-tax and do not affect an individual’s tax liability, whereas tax add-ons increase an individual’s tax liability. But, in Illinois, tax check-offs are calculated on a post-tax basis, which is taken out of an individual’s

refund or results in an addition to someone's tax liability if a deficiency is owed. In most states, the amount is between \$1 and \$5 and, if the taxpayer fails to designate a political party, the amount is divided among the state's qualified political parties according to their voter registration or the most recent gubernatorial vote percentages.

Under both types of candidate-specific systems, comprehensive and hybrid, candidates may receive additional public funds or be released from certain contribution or expenditure limitations if specific "triggers" related to the spending of other candidates or independent expenditures are met. As described in Part V, a trigger system was recently declared unconstitutional by the United States Supreme Court, rendering other trigger systems constitutionally suspect. But this decision does not affect other components of comprehensive or hybrid public financing systems in which public funds are provided on a basis independent from the spending of other candidates or from independent expenditures.

As of the date of this Report, twenty-five states have public finance programs in place that incorporate the general principles outlined above. These systems and the various methods implemented by the states are further explored in Part IV.B.

## **B. Public Campaign Finance Systems Adopted by Other States**

Part IV.B provides data sets from the National Conference of State Legislatures that break down the varying approaches to public campaign finance of the states and elaborates on these approaches.

A total of sixteen states offer public funds to political candidates (see Table 1), primarily through candidate-specific systems.<sup>9</sup> The commentary following Table 1 is organized by which approach a state has adopted.

**Table 1. Candidate Public Financing Programs**<sup>10</sup>

<b><u>State</u></b>	<b><u>Candidates Eligible</u></b>	<b><u>Type of Program</u></b>	<b><u>Full/Partial Funding</u></b>
<b>Arizona</b>	All statewide offices; Legislature	Clean Elections	Full
<b>Connecticut</b>	All statewide offices; Legislature	Clean Elections	Full
<b>Florida</b>	Governor; Cabinet members	Matching grants	Partial
<b>Hawaii</b>	Governor; Lt. Governor; Off. Hawaiian Affairs	Matching grants	Partial
<b>Maine</b>	Governor; Legislature	Clean Elections	Full
<b>Maryland</b>	Governor; Lt. Governor	Matching grants	Partial

<sup>9</sup> National Conference of State Legislatures, *Public Financing of Campaigns: An Overview*, <http://www.ncsl.org/default.aspx?tabid=16591#Tab 4> (last visited Nov. 2, 2011). It bears noting that some of these systems may be unconstitutional in light of *Bennett*, see *infra*, Part V.B.

<sup>10</sup> Note that clean elections systems and/or systems providing full funding as described in Table 1 generally fit the comprehensive model described above, whereas systems providing matching grants or fixed subsidies and partial funding as described in the chart generally fit the hybrid model described above.

<b>Massachusetts</b>	All statewide offices	Matching grants	Partial
<b>Michigan</b>	Governor	Matching grants & fixed subsidy	Partial
<b>Minnesota</b>	All statewide offices; Legislature	Fixed subsidy	Partial
<b>Nebraska</b>	All statewide offices; Legislature	Matching grants	Partial
<b>New Jersey</b>	Governor	Matching grants	Partial
	Pilot Program for Select legislative districts (2008)	Clean Elections	Full
<b>New Mexico</b>	Public Regulation Commission; Statewide judicial offices;	Clean Elections	Full
<b>North Carolina</b>	Judicial offices; Auditor; School Superintendent; Insurance Commissioner	Clean Elections	Full
<b>Rhode Island</b>	All statewide offices	Matching grants	Partial
<b>Vermont</b>	Governor; Lt. Governor	Clean Elections	Full
<b>Wisconsin (abolished in 2011)</b>	All statewide offices; State Supreme Court; Legislature	Fixed subsidy	Partial

For those states with comprehensive systems, the majority have implemented clean elections models. For example, Connecticut's system gives varying lump sum grants depending on the particular office to qualifying candidates who (1) obtain a required amount of seed money through low-dollar individual contributions, (2) a certain number of signatures, (3) agree to abide by stringent financial reporting and disclosure requirements, and (4) restrict spending to certain

levels.<sup>11</sup> A candidate's seed money contributions cannot exceed \$250 and a specific percentage must come from in-state residents. Also, even though there are no matching funds under Connecticut's system, a non-participating candidate must disclose to the state's election oversight body when the candidate exceeds the amount of the initial public funds given to a publicly-financed candidate. For those candidates running in a "party-dominant district," their public grants are slightly adjusted depending on political party affiliation. With respect to funding, the majority of the dollars used to finance Connecticut's system come from the sale of abandoned property that has been placed in the state's custody.<sup>12</sup> Individuals and entities can contribute money to the state's election financing fund as well. In Connecticut's 2010 election cycle, 77% of state legislators participated in the state's public finance program.<sup>13</sup>

North Carolina's public financing system was instituted in 2004 and is used solely for the state's judicial elections, specifically the state's Supreme Court and Court of Appeals—both of which are elected statewide in non-partisan elections.<sup>14</sup> In order to take part in the system, a candidate must voluntarily accept fundraising and spending limits as well as raise a required amount of seed money from state-registered voters.<sup>15</sup> A candidate can start with seed money of

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<sup>11</sup> See generally CONN. GEN. STAT. Ch.157, § 9-700 *et seq.* (2011).

<sup>12</sup> See Report, Conn. St. Elecs. Enf. Comm., *Understanding Connecticut Campaign Finance Laws: A 2010 Guide for Statewide Offices and General Assembly Candidates Participating in the Citizen's Election Program*, (June 2010), available at [http://www.ct.gov/seec/lib/seec/publications/2010\\_participating\\_guidebook.pdf](http://www.ct.gov/seec/lib/seec/publications/2010_participating_guidebook.pdf); Teleconference with Marianne Sadowski, N.C. St. Elecs. Enf. Comm., Oct. 12, 2011.

<sup>13</sup> See Public Campaigns.Org, *Clean Elections Winners: Elections Results*, <http://www.publiccampaign.org/CleanElectionsWinners> (last visited Nov. 10, 2011).

<sup>14</sup> See Democracy North Carolina, *A Profile of the Judicial Public Campaign Program, 2004–2010*, <http://www.democracy-nc.org/downloads/JudicialPubFinSuccess2004-2010.pdf> (last visited Nov. 4, 2011); Teleconference with Marianne Sadowski, N.C. St. Elecs. Enf. Comm., Oct. 12, 2011.

<sup>15</sup> See generally N.C. GEN. REV. STAT. § 163-278.64 *et seq.* (2011).

up to \$10,000. To qualify, a candidate must have at least 350 donations from registered voters in the state. The donations can range from \$10 to \$500. The minimum qualifying amount is thirty times the filing fee which is 1% of the salary of the office for which a candidate is seeking; the maximum qualifying amount is sixty times the filing fee. Once a candidate is certified as a public candidate, the candidate receives funds in the amount of 175 times the filing fee for the Supreme Court and 125 times the filing fee for the Court of Appeals.<sup>16</sup> The program's funding comes from a \$3 voluntary surcharge from the estate tax on a state income tax form and a \$50 fee on the annual dues paid by the state's licensed attorneys to the North Carolina State Bar, regardless of whether the attorney lives in the state and can vote in the elections.

Nebraska has a comprehensive system for a limited number of statewide offices. Participating candidates can request public funds after receiving seed money of individual contributions equaling 25% of the spending cap for a particular office.<sup>17</sup> Candidates who meet this threshold and opt into the system receive a lump sum subsidy that differs depending on the race. Candidates have the option of receiving a lump sum that is the greater of (1) the difference between the statutory spending limitation and the highest estimated expenditure made by a non-participating opponent or (2) the difference between the spending limitation and the highest amount of expenditures reported by pre-election statements from any opponent.

Maine adopted a clean elections model in which candidates are required to collect a set amount of seed money from individual contributions, which are capped at \$100 per person, and a

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<sup>16</sup> Publicly-financed judicial candidates won four of the North Carolina Court of Appeals races and two spots on the North Carolina Supreme Court. In 2008, publicly-financed candidates in North Carolina won two statewide offices, Superintendent of Public Instruction and Commissioner of Insurance. The percentage of campaign contributions to the Commissioner of Insurance by those industries directly regulated by that office dropped from 66% in 2004 to 4% in 2008. Teleconferences with Frances Camara, N.C. St. Bd. of Elecs., Nov. 2 & 3, 2011

<sup>17</sup> *See generally* NEB. REV. STAT. §§ 32-1601–32-1613 (2011).

minimum number of contributions.<sup>18</sup> For qualifying legislative candidates, the public grant is the average amount of campaign expenditures made by all candidates for the same office based on the preceding two election cycles. Gubernatorial candidates, on the other hand, receive set amounts in both the primary and general elections. Matching funds are available through a trigger system when an opposing candidate's expenditures exceed the sum of the public candidate's and are dispersed in the amount equivalent to the difference between the candidates.<sup>19</sup> The matching funds are limited to two times the original amount distributed. In Maine, 79% of state legislators were elected using the state's public financing campaign program in 2010.<sup>20</sup>

As for those states with a hybrid public campaign finance system or matching program, Florida provides a voluntary high-dollar matching program to eligible candidates with no lump sum grant.<sup>21</sup> Initially, individual contributions to candidates are matched \$2-to-\$1 until a threshold amount is reached, at which point matching becomes \$1-to-\$1. Florida's system has a cap where matching funds do not continue beyond a certain limit. Additionally, Florida's program imposes an expenditure limit on candidates who opt into the program. But, if any opposing candidate does not participate in public financing, the participating candidate is able to exceed the maximum expenditures to the same extent as the non-participating candidate.<sup>22</sup>

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<sup>18</sup> See generally ME. REV. STAT. ANN. 21A, §1121 *et seq.* (2011).

<sup>19</sup> This portion of Maine's public finance system is likely unconstitutional in light of recent U.S. Supreme Court decisions. See *infra*, Part V.B.

<sup>20</sup> See *Clean Elections Winners: Election Results*, <http://www.publiccampaign.org/CleanElectionsWinners>, *supra* note 13.

<sup>21</sup> See generally FLA. STAT. §§ 106.33–106.36 (2011).

<sup>22</sup> This portion of Florida's public finance system may potentially be unconstitutional in light of recent U.S. Supreme Court decisions. For further analysis, see *infra*, Part V.B.

Similarly, Hawaii provides a voluntary matching program that differs based on the election.<sup>23</sup> To qualify, a candidate must accumulate a minimum amount of small-dollar contributions as seed money, which is capped at \$100 per person. Once the candidate reaches a specified, qualifying amount and opts into the system, the state matches the individual contributions that a candidate receives—capped at \$100 per person—on a \$1-to-\$1 basis.

Maryland’s public finance system offers a different approach. Under Maryland’s model, a candidate must first request to be eligible for public financing and then raise 10% of the maximum campaign expenditure limit after the candidate’s request is approved by the state’s governing body.<sup>24</sup> Once qualified, a candidate’s individual contributions are matched \$1-to-\$1 with public funds during the primary election. In the general election, publicly-financed candidates get equal shares of the money remaining in the public fund after the primaries. After this one-time grant in the general election, a publicly-financed candidate is allowed to raise additional low-dollar contributions and make expenditures pursuant to the following formula:  
$$\text{€}30 \times \text{State Population} = \text{Expenditure Limit}.$$

Massachusetts also has a unique system that requires candidates to declare at the outset of the campaign whether the candidate will abide by certain campaign expenditure limits.<sup>25</sup> A candidate who will not abide by those limits must give a good faith estimate of how much their campaign will spend. Based on the non-participating candidate’s estimate, a participating candidate’s statutorily-imposed expenditure limit will be increased by the highest amount offered

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<sup>23</sup> See generally HAW. REV. STAT §§ 11-191–11-229 (2011).

<sup>24</sup> See generally MD. ELECTION LAW CODE ANN. § 15-101 *et seq.* (2011).

<sup>25</sup> See generally MASS. GEN. LAWS § 55-1 *et seq.* (2011).

by a non-participating candidate.<sup>26</sup> Additionally, a participating candidate is eligible for public financing if the candidate raises a certain amount of seed money. After this, the state matches contributions \$1-to-\$1 up to a maximum amount. Finally, public candidates must deposit a bond in an amount determined by the state comptroller as evidence of their intent to comply with the public financing system's restrictions.

Minnesota's public finance system provides another creative adaptation on public finance.<sup>27</sup> Minnesota's system combines a lump sum public subsidy with caps on the amount of fundraising and expenditures a publicly-financed candidate can make. Although there is no matching funds provision, a public candidate has the option to be released from the candidate's commitment to the public finance system—and does not have to return to the government any subsidies the candidate received—when a privately-funded candidate's campaign expenditures during a quarterly period exceed a specified percentage of the lump sum public grant.<sup>28</sup>

New Jersey's public finance system applies only to gubernatorial races, but the state conducted a pilot public financing program for select legislative districts during the state's 2008 election cycle.<sup>29</sup> The model is a simple high-dollar matching system for gubernatorial races, which includes a candidate's running mate for Lieutenant Governor. A candidate is eligible for matching funds at a rate of \$2-to-\$1 after the candidate raises at least \$340,000 in seed money.

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<sup>26</sup> This provision is somewhat comparable to the trigger provision found unconstitutional in *Bennett*, see *infra*, Part V.B. When this provision is combined with the high-dollar matching fund model, Massachusetts's public finance system may be unconstitutional.

<sup>27</sup> See generally MINN. STAT. § 10A:01 *et seq.* (2011).

<sup>28</sup> This system also is comparable to the trigger provision held unconstitutional in *Bennett*, see *infra*, Part V.B., and the funds the participating candidate gets to keep could possibly be determined to be matching funds. This interpretation could possibly make Minnesota's approach unconstitutional due to the trigger and matching provisions.

<sup>29</sup> See generally N.J. REV. STAT. §§ 19:44A-3–19:44-32 (2011). The pilot program gave qualifying candidates a lump subsidy and limited matching funds. Study and analysis of the effectiveness of that pilot program are unclear.

The matching funds cease once the candidate reaches certain expenditure limitations. There is no trigger for higher limits based on the expenditures of a non-participating opponent.

New York City has implemented a hybrid low-dollar matching system loosely modeled on the Fair Elections Now Act<sup>30</sup> where the city matches contributions from city residents on a \$6-to-\$1 basis once a candidate raises a threshold amount of seed money.<sup>31</sup> The matching rate applies to the first \$175 in contributions only. For city council members, at least seventy-five contributions of \$10 must be from the candidate's district. For citywide candidates, such as mayor, the requirement is 1,000 contributors from the city. The total amount of funds a participating candidate can receive is capped at 55% of the overall spending limit, which is the amount a participating candidate can spend during the election cycle and differs depending on the election. When a participating candidate is faced with a high-spending opponent the spending limit for the participating candidate's campaign is incrementally increased pursuant to set formulas.<sup>32</sup> Additionally, if a non-participating candidate raises more than 50% of the spending limit, the spending limit is increased to 150% of the regular spending limit. In other words, the participating candidate is allowed to receive up to \$1,225 in public funds per contributor, up to two-thirds of the spending limit. When a non-participating candidate raises or spends three times the spending limit, the limit is either removed or a participant can receive up

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<sup>30</sup> The Fair Elections Now Act is a bill pending in the 112th Congress—Sen. 750 and H.R. 1404—that would establish a hybrid public finance system for congressional elections which provides low-dollar matching funds at a \$5-to-\$1 rate for individual contributions from registered voters in a House member's district or in a Senator's state. Fair Elections Now.Org, *About the Bill*, <http://fairelectionsnow.org/about-bill> (last visited Nov. 4, 2011).

<sup>31</sup> See generally N.Y. A.D.C. LAW § 3-701 *et seq.* (2011).

<sup>32</sup> See New York Campaign Finance Board, *A Citizen's Guide to the New York City Campaign Finance Board*, (Apr. 2011), available at [http://www.nyccfb.info/PDF/press/agency-brochure.pdf?sm=press\\_21d](http://www.nyccfb.info/PDF/press/agency-brochure.pdf?sm=press_21d).

to \$1,500 per contributor, up to 125% of the spending limit. The participating candidate also receives more public matching funds at a faster rate.<sup>33</sup>

Along those same lines, New Mexico uses a small-dollar matching system that allows participating candidates to accept seed money up to a certain amount.<sup>34</sup> The amount of the public subsidy distributed to certified candidates is determined by a set formula that multiplies the number of eligible voters by a variable amount based on certain factors. Additionally, certified candidates are eligible for matching funds up to twice the original expenditure limit when a non-participating opposing candidate exceeds the amount distributed to the certified candidate.<sup>35</sup>

Rhode Island's public finance system requires participating candidates to agree to abide by expenditure limits and raise seed money equal to 20% of the cap on matching funds.<sup>36</sup> The system provides for a maximum amount of public funds that can be provided to candidates based on the office sought. If an opponent does not receive public funds, the candidate is able to raise additional money beyond the limits up to the amount exceeding the maximum raised by the opponent. Publicly-funded candidates are eligible for either \$2-to-\$1 public matching funds for contributions of \$500 or less or a \$1-to-\$1 match for contributions in excess of \$500. If a non-participating candidate exceeds the public funds available, the publicly-funded candidate is granted a waiver to raise additional private funds and does not have to refund the public

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<sup>33</sup> The trigger provisions in the New York City system may be unconstitutional under *Bennett*, see *infra*, Part V.B.

<sup>34</sup> See generally N.M. STAT. § 1-19-1 *et seq.* (2011).

<sup>35</sup> This provision closely resembles a trigger provision and could be unconstitutional under *Bennett*, see *infra*, Part V.B.

<sup>36</sup> See generally R.I. GEN. LAWS § 17-25-1 *et seq.* (2011).

subsidy.<sup>37</sup> Public candidates also receive free air-time on community and state public access television.

Nine states have enacted contributor-specific systems that offer tax incentives to encourage citizens to make political contributions (see Table 2).

<b><u>Table 2. Tax Refunds, Credits, and Deductions for Political Contributions</u></b>	
<b><u>State</u></b>	<b><u>Description</u></b>
<b>Arizona</b>	Income tax credit of up to \$640 (adjusted 2009 amount) or 20% of tax amount, whichever is higher, for voluntary donations to the state's public finance system's fund
<b>Arkansas</b>	\$50 credit against state income taxes allowed for contributions to candidates, PACs ,and parties
<b>Hawaii</b>	\$500 income tax deduction for contributions of \$100 or less to candidates who agree to adhere to spending limits, to a party central committee, or county committee
<b>Minnesota</b>	\$50 per year refund for contributions to political parties and candidates who agree to spending limits
<b>Montana</b>	\$100 per year income tax deduction for political contributions
<b>Ohio</b>	\$50 credit against state income taxes owed for contributions to candidates
<b>Oklahoma</b>	\$100 per year income tax deduction for contributions to a candidate or political party
<b>Oregon</b>	Income tax credit equal to the lesser of \$50 or the tax liability of the taxpayer for contributions to major or minor parties, party committees, candidates who agree to spending limits, or political committees organized and operated exclusively to support or oppose ballot measures or questions to be voted upon in the state
<b>Virginia</b>	Income tax credit equal to 50% of the amount contributed to a local or state candidate up to \$25

<sup>37</sup> This provision potentially runs into conflict with *Bennett*, see *infra*, Part V.B.

Ten states provide grants to qualified political parties through a tax add-on or check-off system (see Table 3).

<b><u>Table 3. Public Grants to Political Parties</u></b>		
<b><u>State</u></b>	<b><u>Funding Source</u></b>	<b><u>Grant Recipient</u></b>
<b>Arizona</b>	\$2, \$5, or \$10 tax add-on	Political party specified by taxpayer
<b>Idaho</b>	\$1 income tax check-off	Political party specified by taxpayer
<b>Iowa</b>	\$1.50 income tax check-off	Political party specified by taxpayer
<b>Minnesota</b>	\$5 income tax check-off	Political party specified by taxpayer
<b>New Mexico</b>	\$2 tax add-on	Political party specified by taxpayer
<b>North Carolina</b>	\$1 income tax check-off	Political party specified by taxpayer
<b>Ohio</b>	\$1 income tax check-off	Divided equally among qualified parties
<b>Rhode Island</b>	\$5 income tax check-off	First \$2 to political party specified by taxpayer; remaining \$3 to candidate fund
<b>Utah</b>	\$2 income tax check-off	Political party specified by taxpayer
<b>Virginia</b>	\$25 tax add-on	Political party specified by taxpayer

The table below offers a complete overview of public financing systems at the state level (see Table 4).

<b><u>Table 4. Overview of State Public Financing Programs</u></b>						
	<b><u>Funds to Candidates</u></b>				<b><u>Public Funds Parties</u></b>	<b><u>Tax Refund, Credit, or Deduction to Donors</u></b>
	<b><u>Partial Public Financing</u></b>		<b><u>Comprehensive Public Financing</u></b>			
<b><u>State</u></b>	<b><u>Statewide</u></b>	<b><u>Legislative</u></b>	<b><u>Statewide</u></b>	<b><u>Legislative</u></b>		
<b>Arizona</b>			X	X	X	X
<b>Arkansas</b>						X
<b>Connecticut</b>			X	X		

<b>Florida</b>	X					
<b>Hawaii</b>	X	X				X
<b>Idaho</b>					X	
<b>Iowa</b>					X	
<b>Maine</b>			X	X		
<b>Maryland</b>	X					
<b>Massachusetts</b>	X					
<b>Michigan</b>	X					
<b>Minnesota</b>	X	X			X	X
<b>Montana</b>						X
<b>Nebraska</b>	X	X				
<b>New Jersey</b>	X			X		
<b>New Mexico</b>			X		X	
<b>North Carolina</b>			X		X	
<b>Ohio</b>					X	X
<b>Oklahoma</b>						X
<b>Oregon</b>						X
<b>Rhode Island</b>	X				X	
<b>Utah</b>					X	
<b>Vermont</b>			X			
<b>Virginia</b>					X	X
<b>Wisconsin (abolished in 2011)</b>	X	X				
<b><u>25 TOTAL</u></b>	<b><u>10 States</u></b>	<b><u>4 States</u></b>	<b><u>6 States</u></b>	<b><u>4 States</u></b>	<b><u>10 States</u></b>	<b><u>9 States</u></b>

### C. Public Campaign Finance in Illinois

Illinois has not enacted a public campaign finance system. Proponents of public financing in Illinois have been advocating the concept for well over three decades. The first and most successful of these efforts came in the early 1980s when the 83rd General Assembly passed

a public campaign finance bill that was vetoed by Governor James Thompson. The bill, SB938, called for a hybrid public financing system for gubernatorial and lieutenant gubernatorial primary and general elections.<sup>38</sup> Citing the increased presence and influence of special interest groups and an increase in campaign fundraising and expenditures, SB938 would have capped individual contributions to participating candidates at \$1,000 for both the primary and general elections, as well as instituted a \$5,000 cap for organizational donors and \$10,000 for political parties. SB938 called for limits on the amount of personal money a candidate could spend to \$35,000. To become eligible to participate in the system, a candidate would first have to raise \$100,000 in seed money from individual contributors, no single one of which could be greater than \$500. To opt into the program, an eligible candidate would then have had to agree to disclose all financial aspects of the campaign and to spend no more than \$1.5 million in the primary election and \$2 million in the general election. Once an eligible candidate had become certified, SB938 would have provided for dollar-for-dollar matching funds for the qualified candidate. The public finance system envisioned by SB938 would have been funded by a \$1 check-off box on State income tax returns with any deficiencies funded by the State's General Revenue Fund.<sup>39</sup>

Governor Thompson vetoed SB938 and in his veto message to the General Assembly he adamantly disagreed with the public policy cited by SB938. Governor Thompson emphasized his belief that the bill drastically overstated the influence of special interest groups and possibility of corruption in State politics.<sup>40</sup> Governor Thompson also stressed the fact that he

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<sup>38</sup> Sen. 938, 83d Ill. Gen. Ass. (1983). The Illinois House of Representatives passed an accompanying bill, H.B. 2012, which was also vetoed by Governor Thompson.

<sup>39</sup> Sen. 938, 83d Ill. Gen. Ass.

<sup>40</sup> Veto Message, Gov. James Thompson to Sen. 938, 83d Ill. Gen. Ass. (1983), (Sept. 24, 1983).

had been elected a year earlier and relied primarily on small contributions from individuals to finance his campaign. Nevertheless, Governor Thompson acknowledged the value that a public campaign finance system could have, but ultimately concluded that its time had not yet come.<sup>41</sup>

More recently, the 95th Illinois General Assembly considered a bill, SB222—The Judicial Campaign Reform Act of 2007—, that provided for a judicial public campaign finance system. SB222 passed in the Senate, but was never taken up in the House. Under SB222’s framework, the public campaign finance system would have applied only to Supreme Court and Court of Appeals elections. SB222 would have capped individual contributions to candidates at \$25 per contributor and required candidates to raise \$30,000 in seed money before becoming eligible for public financing. Once eligible, a candidate who opted into the system would have had to comply with heightened disclosure requirements and spending caps.<sup>42</sup>

Most recently two public financing bills have been introduced in the 97th Illinois General Assembly. The first of these, HB1273 (hereinafter the “Lincoln Act”), proposes a comprehensive public finance model that would be funded by an add-on check-box on State income taxes. To be eligible to participate in the system, a candidate must agree to abide by certain contribution limits, fundraising requirements, and comprehensive disclosures of campaign finances. After qualifying, the Lincoln Act would give publicly-financed candidates an initial lump sum that would vary depending upon the election. Under the Lincoln Act, if an opposing, non-participating candidate spent more than the initial disbursement given to the public candidate, matching public funds would be triggered and distributed to the public

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<sup>41</sup> *Id.*

<sup>42</sup> Sen. 222, 95th Ill. Gen. Ass. (2007). SB222 also contained a trigger and high-dollar matching provision that is very likely unconstitutional in light of *Bennett*, see *infra*, Part V.B.

candidate pursuant to a set formula.<sup>43</sup> The \$3-to-\$1 match would be capped at two times the initial lump sum given to the participating candidate.

The second public finance bill currently under consideration by the Illinois General Assembly is HB1241/SB1298 (hereinafter “Illinois Clean Elections Act”). The Illinois Clean Elections Act is similar to the Lincoln Act with several distinctions. First, the Illinois Clean Elections Act would be funded by a \$3 check-box on State income taxes with initial start-up transfers coming from the State’s General Revenue Account. Under the Illinois Clean Elections Act, a publicly-financed candidate would be required to limit campaign expenditures and debts to the public funds disbursed and could not accept any individual contributions unless approved by the State Board of Elections. The only contributions that would be approved under the Illinois Clean Elections Act are seed amounts, which would be capped at certain levels depending on the election. When an opposing, non-participating candidate’s campaign expenditures and/or those of independent outside groups exceed the initial public funds given to the certified candidate, the Illinois Clean Elections Act would distribute matching funds to the publicly-financed candidate up to two times the initial disbursement of public funds.<sup>44</sup>

Having reviewed the various systems that are present in other jurisdictions and the attempts to institute a public financing system in Illinois, Parts IV.D and IV.E discuss the public policy arguments for and against public campaign financing.

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<sup>43</sup> In light of *Bennett*, discussed *infra*, Part V.B., this provision of the Lincoln Act is likely unconstitutional.

<sup>44</sup> This provision is likely unconstitutional in light of *Bennett*, see *infra*, Part V.B.

## **D. Arguments in Support of Public Financing**

### **i. Public Financing Could be an Effective Method for Combating Political Corruption**

Proponents of public financing argue that public finance systems are the most effective means for combating political corruption. The U.S. Supreme Court has concluded that campaign financing and political contributions can be regulated in order to prevent illegality in the campaign or the appearance of corruption.<sup>45</sup> Although the vast majority of candidates who use private contributions to finance their campaigns do so without committing any crimes or without the appearance of impropriety, the public can potentially perceive that certain large donors may receive unfair or illicit benefits as a result of their donations. For instance, a January 2009 poll conducted by Beldon, Russonello & Stewart found that two-thirds of adults in Illinois agreed that “[u]nless we limit the influence of money in government, elected officials will not be able to keep their promises on issues that are important to people like me.”<sup>46</sup>

In Illinois, this perception is likely attributable to the few prominent candidates and elected officials that have engaged in criminal acts in the course of soliciting private contributors to donate to their campaigns. The most notable of these is Governor Rod Blagojevich, who was impeached and removed from office on the basis of a pattern of corruption that included trading jobs and board appointments for contributions to his campaign fund.<sup>47</sup> Governor Blagojevich was convicted in the summer of 2011 on nearly twenty federal criminal charges stemming from his pay-to-play schemes. Other recent cases include: (1) former City of Chicago Treasurer

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<sup>45</sup> See generally *Buckley v. Valeo*, 424 U.S. 1 (1976).

<sup>46</sup> Survey, Joyce Foundation, *Illinois Residents See Broad Corruption in State Government and Seek Action for Change*, Beldon, Russonello & Stewart, 22 (Jan. 2009).

<sup>47</sup> See Ill. Sen. Impeachment Tribunal Rec., 95th Gen. Ass. (Dec. 15, 2008), available at <http://ilga.gov/senate/ImpeachDocuments.asp>.

Miriam Santos, who was caught on tape telling an employee at a company that did business with her office that it was time to “belly up to the bar” by making a donation to her campaign in return for all the business his company had received from her office<sup>48</sup> and (2) employees at the Office of the Illinois Secretary of State that were convicted of accepting bribes from commercial driver’s license applicants; the bribes were then allegedly used to purchase tickets to fundraising events for then-Secretary of State George Ryan.<sup>49</sup>

Some commentators note that public financing is a method that could conceivably reduce the risk of political corruption by precluding or substantially reducing the amount of contributions candidates receive from individual donors and also by increasing the transparency of campaigns. If private contributions are creating the impression that government is in some sense for sale to the highest bidder, decreasing the emphasis on candidates obtaining large private contributions either by providing public funds to candidates or by encouraging more smaller dollar contributions from donors can likely address this concern.<sup>50</sup> Some areas of government are more sensitive to this concern than others, particularly the judicial branch, where a candidate who pursues large private contributions can be perceived as threatening the fairness and integrity of the judicial process.

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<sup>48</sup> See *U.S. v Santos*, 201 F.3d 953 (2000).

<sup>49</sup> See U.S. Atty., Northern Dist. of Ill., *Summary of Cases for “Operation Safe Roads,”* <http://www.justice.gov/usao/iln/osr/> (last visited Nov. 21, 2011). Secretary of State Ryan later became Governor of Illinois and was subsequently convicted on federal corruption charges.

<sup>50</sup> See *Daggett v. Comm’n on Gov’l Ethics & Elecs.*, 205 F.3d 445, 472 (1st Cir. 2000) (upholding full public funding system); *Gable v. Patton*, 142 F.3d 940, 948–49 (6th Cir. 1998) (upholding matching fund system); *Republican Nat’l Comm. v. F.E.C.*, 487 F. Supp. 280 (S.D.N.Y. 1980) (reviewing and upholding the federal system).

## ii. Public Financing Potentially Increases the Public's Faith and Confidence in Government

A related argument in support of public financing is that privately-funded campaigns can potentially diminish the participation of voters because such campaigns are typically financed primarily by wealthy individuals and businesses with significant financial means. Some research suggests that this paradigm may result in a relatively small number of people and organizations having a disproportionate influence on the government's agenda and priorities, which might disillusion some voters.<sup>51</sup> In contrast, public finance systems are structured so that candidates are increasingly accountable to the public as a whole, instead of only to a few individual donors.<sup>52</sup> Some commentators argue that by making public officials more accountable to taxpayers, public financing likely diminishes the incentives for elected officials to engage in political corruption.<sup>53</sup> The substantive effect is that the restrictions and more limited campaign funds implemented by public finance systems—particularly through candidate-specific systems—possibly foster greater public trust in the election process and, subsequently, the government as a whole. Thus, the public financing of campaigns could conceivably counteract the influence of large donors and special interests and increase the public's faith and confidence in government. Moreover, contributor-specific public financing systems that provide tax incentives for political contributions or provide matching funds for small dollar contributions can also address this concern by encouraging more individuals to get involved in the political process

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<sup>51</sup> See Ellen S. Miller and Philip M. Stern, *Democratically Financed Elections*, in CHANGING AMERICA: BLUEPRINTS FOR THE NEW ADMINISTRATION, 758–60 (1992).

<sup>52</sup> See generally Elizabeth Daniel, Brennan Ctr. for Justice, *Subsidizing Political Campaigns: The Varieties & Values of Public Financing*, 2–8 (2000).

<sup>53</sup> See *id.* at 6.

and, through matching funds, to believe that their small contributions have a greater impact on the political process.

In addition, studies and public opinion polls generally show strong support for campaign finance reform and public campaign finance systems. A 2009 Joyce Foundation Survey found that 71% of those surveyed in Illinois thought that “us[ing] tax dollars to provide state candidates with public funds to run their campaigns in exchange for agreeing not to accept money from special interests and to limit their campaign spending [would make a] big difference [or] some difference [in] making state government work better.”<sup>54</sup> Furthermore, 89% of Illinois voters said their legislator’s support for legislation to reduce money in politics would be important to their decision to re-elect their legislator, with half saying it would be very important.<sup>55</sup> Also, bipartisan national polling found that in 2010, over 60% of the public representing all major political parties supported or strongly supported a public financing system after being read a neutral description.<sup>56</sup>

With respect to individual states that have adopted public finance systems, over 80% of Maine residents polled in Spring 2011 responded that publicly-financed campaigns in Maine were important.<sup>57</sup> In a recent Pan Atlantic SMS Group survey, more than three-quarters of respondents opposed a repeal of the Maine Clean Elections Act.<sup>58</sup> The same survey also found that 82% of respondents believed that it was somewhat important or very important that Maine

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<sup>54</sup> See Joyce Foundation Illinois Statewide Survey, *supra* note 46.

<sup>55</sup> *Id.*

<sup>56</sup> See Memorandum, Lake Research Partners, *Nationwide Polling on Fair Elections Day* (July 8, 2010), available at <http://www.campaignmoney.org/files/messaging/memo-fairelectionspolling-final-071410.pdf>.

<sup>57</sup> See PowerPoint Presentation, Maine Citizens for Clean Elections, *Critical Insights on Maine Tracking Survey: Summary Report*, (Apr. 2011), available at [http://www.mainecleanelections.org/assets/files/Critical%20Insights%20MCCE\\_Spring%202011%20FINAL.pdf](http://www.mainecleanelections.org/assets/files/Critical%20Insights%20MCCE_Spring%202011%20FINAL.pdf).

<sup>58</sup> *See id.*

continued to have publicly-financed campaigns.<sup>59</sup> Over three-fourths of all respondents thought that continuing the state's public finance system was important.<sup>60</sup> In addition, a Zogby International poll from Arizona in April 2010 found that over 70% of respondents agreed with the following statement: "the state [of Arizona] needs the Clean Elections Program because, in the past, lobbyists and state contractors received special deals in exchange for political contributions."<sup>61</sup> Overall, this same poll found that 78% of voters were in favor of public financing and around that same percent opposed efforts to eliminate the program.<sup>62</sup>

Similarly, a 2003 survey of public candidates by the federal General Accountability Office (hereinafter "GAO") suggests that public financing systems might possibly encourage elected officials to serve broader constituent interests, rather than those of individual donors. The 2003 GAO Report measured electoral competitiveness based on the number of contested races, incumbent reelection rates, and incumbent victory margins and found no evidence that these indicators had increased significantly under public financing systems.<sup>63</sup> According to the GAO Report, 56% of respondents in Arizona and 42% in Maine agreed that publicly-funded candidates tended to serve the broader interests of their constituencies more so than privately-funded candidates.<sup>64</sup>

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<sup>59</sup> See Omnibus Poll, Pan Atl. SMS Grp., *The Benchmark of Maine Public Opinion* (May 2011), available at [http://www.panatlanticsmsgroup.com/research\\_information/sms\\_omnibus\\_polls\\_tm/](http://www.panatlanticsmsgroup.com/research_information/sms_omnibus_polls_tm/).

<sup>60</sup> *Id.*

<sup>61</sup> See Adam Smith, Save Clean Elections.Org, *New Zogby Poll Shows Strong Support for Arizona Clean Elections* (Apr. 12, 2010), available at <http://www.savecleanelections.com/releases/polling>.

<sup>62</sup> *Id.*

<sup>63</sup> See U.S. Gen. Accounting Off, Rpt. No. 2003-453 to Cong'l Comms., *Campaign Finance Reform: Early Experiences of Two States That Offer Full Public Funding for Political Candidates* (May 2003).

<sup>64</sup> *Id.*

As a whole, the polling and studies suggest that a majority of the public is likely skeptical about the influence and power of wealthy individuals and corporate donors in government. They also indicate that a public financing system in Illinois could possibly lead to an improvement in the public's perception of elected officials and allow the public to feel more valued and invested in government because the presence and influence of outside interests and money would likely be reduced. Hence, a public campaign finance system could conceivably play a critical role in fostering increased confidence in State government.<sup>65</sup>

### **iii. Public Financing May Cause Candidates to Spend More Time with Constituents and Less Time Fundraising**

In the last two decades, the costs of political campaigns have steadily increased. This has very likely caused the time and resources politicians spend fundraising and speaking with influential donors to increase as well. Some contend that this occurrence possibly takes away from an elected official's time with the elected official's own constituents.

Professor Michael Miller of the University of Illinois at Springfield recently observed that candidates for local or statewide offices that received full public financing spent nearly 10% more time with voters than did candidates who were privately financed.<sup>66</sup> Professor Miller found that by broadening the donor base, the dollar-amount of a candidate's contributions were lower but a candidate brought in similar cash totals. This possibly means that those constituent-donors felt more involved in the political process. Under a public finance system, candidates are

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<sup>65</sup> See generally Ctr. for Gov'l Studies, *Public Campaign Financing in the North Carolina Judiciary: Balancing the Scales*, (2009), available at [http://www.cgs.org/images/publications/cgs\\_nc\\_judg\\_061709.pdf](http://www.cgs.org/images/publications/cgs_nc_judg_061709.pdf) (discussing how the independent nature of the courts correlates with the goals of a public financing system).

<sup>66</sup> See Michael Miller, *Clean Elections vs. Political Speech*, in Ezra Klein, *The Importance of Campaign-Finance Reform in One Graph*, WASH. POST (Mar. 23, 2011), available at [http://www.washingtonpost.com/blogs/ezra-klein/post/the-importance-of-campaign-finance-reform-in-one-graph/2011/03/18/ABka8iKB\\_blog.html?wpisrc=nl\\_politics](http://www.washingtonpost.com/blogs/ezra-klein/post/the-importance-of-campaign-finance-reform-in-one-graph/2011/03/18/ABka8iKB_blog.html?wpisrc=nl_politics).

motivated to rely increasingly upon small dollar donors, potentially encouraging candidates to spend more time engaging with a broader array of their constituents and becoming more focused on issues important to individuals and the public, rather than those of special interests or large donors. Other research indicates that public campaign financing reduces the time that candidates spend on fundraising.<sup>67</sup> A byproduct of this increased interaction and rapport with constituents might be that publicly-financed candidates tend to build more lasting relationships with their constituents, which would be in candidate's best electoral interests. Therefore, reduced time spent on fundraising could potentially allow candidates to hold more public events and directly interact with voters, which could foster more ideas and constituent involvement.

#### **iv. Public Finance Systems Can Be Structured to Promote Competitive Elections and Enhance the Ability of Candidates to Respond to Unlimited Independent Expenditures**

Certain elected officials have been skeptical of supporting public financing systems on the basis that they would limit a publicly-financed candidate's ability to compete with other candidates and with persons making independent expenditures, even more so after the U.S. Supreme Court's decision in *Bennett* that prohibits trigger matching fund provisions that allow a publicly financing candidate to receive more public funds based on the spending of other candidates or on independent expenditures. However, public campaign finance systems can be designed to address these concerns. To illustrate, under a federal public financing bill in 2010 that was sponsored by Senator Richard Durbin more than 90% of congressional representatives would have received more funding under the public financing system proposed in the bill than what they actually raised. Furthermore, no expenditure limits were included within the public

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<sup>67</sup> See PETER L. FRANCA AND PAUL S. HERRENSON, THE IMPACT OF PUBLIC FINANCE LAWS ON FUNDRAISING IN STATE LEGISLATIVE ELECTIONS, AMERICAN POLITICS RESEARCH 531 (2003).

financing bills recently considered by the General Assembly—the Lincoln Act and the Illinois Clean Elections Act. These bills also take into account the increasing specialization of campaigns and do not restrict spending on essential political activities. A contributor-specific system that implements tax incentives for small dollar political contributors or that generally provides matching funds for small-dollar contributions would also likely provide a vehicle for additional public involvement and public contributions to political, particularly in a political environment with increased private independent expenditure activity. Therefore, a potential advantage of public financing is that it could be designed to encourage greater public involvement in the political process, while in the case of candidate-specific systems, preserving the ability of candidates to compete against one another and, in the case of contributor-specific systems, providing candidates with increased funds to respond more effectively to increasing independent expenditures activity.

#### **v. Public Financing Possibly Increases the Diversity of Candidates and Competition Among those Candidates**

Some evidence suggests that public financing might motivate a broader range of citizens to get involved in politics and run for elected office or engage their elected representatives.<sup>68</sup> For example, since public financing was implemented in Arizona, the percentage of minority candidates has doubled.<sup>69</sup> In Maine, almost one-quarter more women have run for office under

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<sup>68</sup> See R. Sam Garrett, Cong'l Research Serv., No. RL33814, *Report to Congress: Public Financing of Congressional Elections, Background and Analysis*, 45 (2007) (“There is some evidence that public financing allows candidates who would not otherwise do so, including minorities and women, to run for office.”).

<sup>69</sup> See Brennan Ctr. for Justice, et al., *Breaking Free with Fair Elections: A New Declaration of Independence for Congress*, 11 (Mar. 2007), available at [http://www.cleanupwashington.org/documents/breaking\\_free.pdf](http://www.cleanupwashington.org/documents/breaking_free.pdf).

the state's public finance system since the system was adopted.<sup>70</sup> Anecdotal evidence indicates that public financing helps individuals in underrepresented professions to run for office, such as veterans, nurses, and teachers.<sup>71</sup> Nevertheless, increasing the diversity of candidates should not be confused with increasing the number of fringe candidates. It is for this reason that public financing systems have strong qualifying threshold amounts and requirements, which are intended to ensure that only the top-tier candidates are given the opportunity to participate in a public system. Hence, public finance systems could possibly increase the diversity and number of available candidates while not diminishing in quality. As a result, a public finance system could possibly stimulate more competition in elections and add to the public dialogue on certain issues due to the increased access to campaign funds.

Nevertheless, these studies are inconclusive and the increased diversity of candidates could be due to other factors.<sup>72</sup> For instance, term limits for certain offices could also contribute to the diversity of available candidates because they create more opportunities for candidates to run for office.<sup>73</sup> The combination of other outside factors and demographics, according to a 2004 study from professors at the University of Wisconsin-Madison, likely causes enhanced

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<sup>70</sup> See Commission Report, Maine Commission on Governmental Ethics and Campaign Practices, *2007 Report on the Maine Clean Elections Act*, 16, 20 (2007), available at [http://www.state.me.us/ethics/pdf/publications/2007\\_study\\_report.pdf](http://www.state.me.us/ethics/pdf/publications/2007_study_report.pdf).

<sup>71</sup> See Tula Connell, *Maine State Rep.: Wisconsin War is about Every Worker*, (Feb. 21, 2011), available at <http://blog.aflcio.org/2011/02/21/maine-state-rep-wi-war-is-about-every-worker/>.

<sup>72</sup> See Raymond J. La Raja and Matthew Saradjian, *Clean Elections: An Evaluation of Public Funding for Maine Legislative Contests*, Ctr. for Pub. Pol. and Admin., University of Massachusetts-Amherst, 18 (2004).

<sup>73</sup> See New York City Campaign Finance Board, *An Election Interrupted: The Campaign Finance Program and the 2001 New York City Elections*, 11 (2002), available at <http://www.nyccfb.info/press/news/per.htm>.

competition and political discourse, which likely helps to develop issues and positions among candidates and the general public.<sup>74</sup>

## **vi. Public Finance Systems May Foster Coalition Building Among a Broader Range of Elected Officials, Advocacy Groups, and Voters**

Another potential benefit offered by public campaign financing is coalition building. An increased diversity and number of candidates can conceivably lead to coalition building among those candidates who are ultimately elected. Going through the same process and conducting grass roots campaigns with public financing could possibly bring those candidates together and allow them to be able to work together more effectively on a broader range of issues. Additionally, given the general public support for public finance, it might give elected officials common ground to begin to develop further issues and initiatives. Unusual allies have found common ground to support public financing in other states. For instance, when progressive-leaning groups have attempted to gut public financing systems in Arizona and Maine, local Tea Party groups have worked with them to support and foster public financing systems. The result is that greater cooperation could possibly be achieved by those groups and elected officials with differing views, which might enhance political dialogue and effective governance.

## **vii. Public Finance Systems Potentially Increase Public Involvement in the Political Process**

An overarching benefit of public financing systems, whether following the candidate-specific or contributor-specific model, is that they potentially encourage more public

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<sup>74</sup> See Kenneth R. Mayer, et al., *Do Public Funding Programs Enhance Electoral Competition?*, paper presented at, "Fourth Annual Conference on State Politics and Policy: Laboratories of Democracy: Public Policy in the American States," at Kent St. Univ., Apr. 30 to May 1, 2004 (updated Mar. 2005), available at [www.campfin.polisci.wisc.edu](http://www.campfin.polisci.wisc.edu).

involvement with the political process and possibly allow the public to build better relationships with their elected representatives. This likely encourages more people to get involved in politics and advocacy, which could counteract the influence of large donors and special interests. Furthermore, recent studies show increased participation in campaign donations to publicly-financed candidates coming from Hispanic and Native American households, as well as from lower- and middle-income Americans, when compared with the donor bases for privately-funded candidates.<sup>75</sup> Increased participation by rural, female, younger, and minority constituents have also been observed for publicly-financed candidates.<sup>76</sup> Therefore, public financing possibly acts as a catalyst for increased voter participation in the political process.

## **E. Arguments Opposing Public Financing**

### **i. Public Financing Likely Raises Both State and Federal Constitutional Issues in Light of Recent Court Decisions**

As described in Part V of this Report, recent court decisions, particularly the U.S. Supreme Court's decision in *Bennett*, raise concerns about the constitutionality of public financing systems. As described in more detail below, the *Bennett* decision indicates that trigger provisions that provide increased public funds to publicly-financed candidates based on the spending of other candidates or on independent expenditures are unconstitutional. While the Court in *Bennett* indicated it was not taking a position on public financing more generally, the decision raises several concerns with respect to candidate-specific systems which have not yet been fully resolved. The first among these is that public finance systems may unconstitutionally

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<sup>75</sup> See Nancy Watzman, *All Over the Map: Small Donors Bring Diversity to Arizona's Elections* (May 2008), available at [http://www.washclean.org/Library/AOTM\\_AZ08\\_Rpt.pdf](http://www.washclean.org/Library/AOTM_AZ08_Rpt.pdf).

<sup>76</sup> *Id.*

restrict a candidate's First Amendment right to spend his or her own money to support their campaign. Secondly, some commentators argue that the substantive effect of public financing is to conceivably place a preference on the speech of the publicly-financed candidate over that of a privately-financed candidate, which could be unconstitutional under *Bennett*. In addition, the use of public funds for political campaigns may violate Article VII, Section 1 of the Illinois Constitution, which requires that "public funds, property or credit shall be used only for public purpose." Based on this provision, over the past decade the State of Illinois has taken action to specifically separate political campaign operations for State offices from official State business. This is partly evidenced by the recently enacted campaign finance reforms. Hence, public financing would reintroduce State money and resources into political campaigns for State offices and possibly violate the Illinois Constitution and counteract all of the policy efforts the State has made to separate the two. Based on these unresolved constitutional questions, the exact scope and tools, if any, that can be used in public finance systems are unknown. Therefore, it could potentially be impractical to adopt a public finance system.

## **ii. Public Financing Systems Possibly Perpetuate the Power and Influence of Incumbent Politicians, which Undermines the Goals of Public Financing**

Concerns have been raised that public financing systems, rather than encouraging greater competition and diversity among candidates for public office, could possibly have the substantive effect of promoting the interest of incumbent politicians. Certain research shows that public finance systems potentially foster this unintended consequence by allowing incumbents, particularly over time, to raise increased amounts of small-dollar contributions because they have the public exposure of being in office. Some contend that this ability to receive large small-dollar contributions, when tied with relationships to special interests that develop over time when

serving in office, may foster political corruption and cronyism. Therefore, some commentators argue that public finance systems have the potential to perpetuate an incumbent candidate's power and undermine the goals of public financing. Another concern is that while public financing systems may encourage new challengers to enter into the political arena, possible limitations on their ability to raise additional funds beyond public funds as a condition of participating in a public financing system may stymie their ability to generate additional support. Further, the rules and structure of a public finance system will be established by the incumbent candidates, which could possibly result in a system that favors incumbents or those who are philosophically or ideologically aligned with the majority of incumbents. In sum, the combined effect of these dynamics—depending on the manner in which a public financing system is designed—is the possibility that incumbents could rely upon public financing systems to solidify their positions in office while hampering the ability of opponents to compete effectively.

### **iii. Public Financing's Comparative Effect on Participating and Non-Participating Candidates May Outweigh the Benefits of Public Financing**

Given recent developments in the law, proper consideration must be given to the effect of public financing on candidates who choose to not participate in a public finance system. Currently, it is unconstitutional for a public finance system to provide public financing contingent upon contributions to or expenditures of another candidate or by uncoordinated independent expenditures from outside groups. Also, public financing structures may produce unintended consequences that could conceivably run counter to their stated goals. Anti-competitive political behavior may actually be encouraged by matching grants where public candidates receive additional public money when they are out-spent by privately-funded

competitors.<sup>77</sup> Although matching provisions are usually intended to ensure a level playing field for publicly-funded candidates, it runs counter to the goal of reducing campaign spending by creating automatic spending increases through additional grants. Further, instituting additional grant thresholds for public subsidies may potentially provide incentives for privately-funded candidates to shift campaign strategies and expenses as much as possible in order to avoid triggering additional grants to their publicly-funded opponents. These strategic shifts include pushing large expenditures towards the end of a campaign cycle—since there is often a delay in granting public matching funds—and choosing to forego particular campaign expenditures in order to keep expenditures down. Such practices may even be mirrored by publicly financing candidates in order to respond to changes in election strategy.<sup>78</sup> Therefore, public financing possibly disillusioned some voters by restricting their choice of candidates and fostering undesirable campaign practices from the available candidates.

#### **iv. Public Financing has A High Cost and Impact on State Resources and May be Impractical in Light of the State’s Current Fiscal Condition**

As with any government undertaking, the cost to the taxpayer and the effect a public finance system would likely have on State resources and personnel is a critical issue.<sup>79</sup> Public financing systems in other jurisdictions are paid for through various means, including increased penalties for candidates who violate campaign finance laws, enhanced fines for various types of

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<sup>77</sup> See Michael Miller, *Gaming Arizona: Public Money and Shifting Candidate Strategies*, in PS: POLITICAL SCIENCE AND POLITICS, 527 (Fall 2008).

<sup>78</sup> See *id.* at 529–31.

<sup>79</sup> See Ctr. for Gov’t Studies, *Public Financing of Elections: Where to Get the Money?*, (L.A., July 2003), available at [http://www.cgs.org/images/publications/Where\\_to\\_get\\_the\\_money.pdf](http://www.cgs.org/images/publications/Where_to_get_the_money.pdf) (outlining the difficulties of funding public finance systems and offering funding alternative and non-traditional funding sources as well as several specific fees and taxes used to fund public financing systems).

civil penalties, a white collar crime fee, tax expenditures, check-offs or add-ons to tax returns, increased attorney registration fees—particularly with respect to judicial public financing systems—, and general appropriations.<sup>80</sup> These various methods offer ways to either pass the cost on to the taxpayers directly—check-boxes, tax add-ons, or money from the General Revenue Fund—or onto the government—allocating criminal costs, civil penalties, or other methods of raising government revenue to a specific public finance fund. The cost would also likely spillover into the administration of the public finance system. Oversight of the distributions to public candidates, diligence and regulation of the disclosures and reporting that public candidates must make, and wrapping up campaign budgets with closing audits after an election cycle would all likely increase the burden on the State Board of Elections and other State agencies and could lead to reduced efficiency in government.

Furthermore, public financing is conceivably impractical given the high operational cost of such a system. It is estimated that a sufficient public financing system in Illinois involving statewide elected officials would probably cost between \$75 million and \$100 million per election cycle depending on the number of offices covered and the percentage of candidates who opt in.<sup>81</sup> A system that also includes the General Assembly and judicial candidates would likely cost considerably more through State appropriations, lost State revenue, and diminished efficiency from State personnel and resources. Currently, Illinois is in the midst of the greatest fiscal and budgetary crisis in the State's history; its borrowing capacity is already highly leveraged, the State has had difficulty paying vendors on time, and individual and corporate tax rates were raised earlier this year. Given the State's troubled financial position,

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<sup>80</sup> For a survey of funding methods used by other jurisdictions, see *supra*, Part IV.B.

<sup>81</sup> See Citizen Action/Illinois, *FAQ for the Lincoln Act* (Mar. 2009), available at <http://www.citizenaction-il.org/node/108>.

enacting a system of public campaign financing is arguably not an appropriate allocation of scarce state resources.

To the extent public financing is proposed as a “self-funded” program through tax add-ons or check-offs, as an alternative to the use of government funds, the experience of other jurisdictions indicates that such a system may not be sustainable. Research shows that an inverse relationship possibly exists between decreasing taxpayer interest in funding public finance programs with tax dollars and the increasing cost of political campaigns.<sup>82</sup> Although polling data suggests that there is generally public support for public campaign finance, the number of taxpayers that are participating in the federal tax check-off system that funds the presidential public finance system has steadily gone down in recent years.<sup>83</sup> Certain states that use tax check-offs to fund their own public finance systems have seen a similar decrease in taxpayer participation.<sup>84</sup> Still other states are facing budgetary and fiscal constraints that imperil the very existence of their public finance systems.<sup>85</sup> This increased disillusionment with public finance in the midst of these state government revenue problems is likely attributable in part to the increasing costs of running competitive political campaigns.<sup>86</sup> Therefore, as the costs of political

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<sup>82</sup> See Stephen R. Weissman & Ruth A. Hassan, *Public Opinion Polls Concerning Public Financing of Federal Elections 1972–2000: A Critical Analysis and Proposed Future Directions*, Campaign Fin. Inst., 2 (2005), available at [www.cfinst.org/president/pdf/PublicFunding\\_Surveys.pdf](http://www.cfinst.org/president/pdf/PublicFunding_Surveys.pdf).

<sup>83</sup> See Samuel Issacharoff, et al., *THE LAW OF DEMOCRACY: LEGAL STRUCTURE OF THE POLITICAL PROCESS*, 443 (3d ed. 2007).

<sup>84</sup> See Sasha Horwitz, *Public Campaign Financing in Michigan: Driving Toward Collapse?*, Ctr. for Gov’t Studies, 10–11 (2008), available at [http://www.cgs.org/images/publications/cgs\\_mi\\_final\\_081808.pdf](http://www.cgs.org/images/publications/cgs_mi_final_081808.pdf); Steven M. Levin, *Public Campaign Financing in Wisconsin: Showing Its Age*, Ctr. for Gov’t Studies, 20 (2008), available at [http://www.cgs.org/images/publications/cgs\\_wi\\_final\\_081808.pdf](http://www.cgs.org/images/publications/cgs_wi_final_081808.pdf).

<sup>85</sup> See Jessica A. Levinson, *Public Campaign Financing in Florida: A Program Sours*, Ctr. for Gov’t Studies, 27 (2008), available at [http://www.cgs.org/images/publications/cgs\\_pcf fla\\_final\\_021909.pdf](http://www.cgs.org/images/publications/cgs_pcf fla_final_021909.pdf).

<sup>86</sup> See Leslie Wayne, *Campaign ‘08: Most Expensive Ever*, N.Y. TIMES, THE CAUCUS BLOG (Oct. 24, 2008), available at <http://thecaucus.blogs.nytimes.com/2008/10/24/campaign-08-most-expensive-ever/>.

campaigns continue to rise and state revenues and sources of funding for public campaign finance systems trend downwards, the long-term fiscal and motivational sustainability of public finance systems may come into jeopardy.

**v. Public Financing May Not Have A Substantive Effect Because Unlimited Independent Expenditures are Allowed**

Recent U.S. Supreme Court decisions now allow unlimited independent expenditures to be made in all federal, state, and local elections. As a result, even in a public finance system, unlimited independent expenditures can be made by independent outside groups. This could potentially limit the impact of the advantages to public financing.

After the U.S. Supreme Court's decision in *Citizens United*, which allows unlimited corporate political and campaign contributions to independent groups, substantially more money is being raised by these independent groups, political action committees (hereinafter "PAC"), and Super PACs. Essentially, some commentators argue that in a public financing system, large donors and special interests will simply redirect their political contributions and focus their efforts on independent expenditures and outside groups rather than making direct contributions to campaigns. Based on this, opponents to public financing point out that the increased cash flow to independent groups and PACs is most often used for electioneering communications targeted at either specific candidates or issues. Thus, the presence and availability of public finance systems likely will not fully neutralize the messages of independent groups or level the playing field among candidates, which undercuts some of the benefits of public financing.

**vi. Public Financing May Be Inconsistent with or Unnecessary as A Result of other Illinois Ethics and Campaign Contribution Requirements**

Since 2003, Illinois has enacted sweeping ethics reforms in an effort to prevent the use of State resources for political campaigns. In light of these reforms, public financing may be inconsistent with Section 9-25.1 of the Illinois Election Code, which prohibits the use of public funds in Illinois elections. Section 9-25.1 provides that

(a) As used in this Section, “public funds” means any funds appropriated by the Illinois General Assembly or by any political subdivision of the State of Illinois.

(b) No public funds shall be used to urge any elector to vote for or against any candidate or proposition, or be appropriated for political or campaign purposes to any candidate or political organization. This Section shall not prohibit the use of public funds for dissemination of factual information relative to any proposition appearing on an election ballot, or for dissemination of information and arguments published and distributed under law in connection with a proposition to amend the Constitution of the State of Illinois.

(c) The first time any person violates any provision of this Section, that person shall be guilty of a Class B misdemeanor. Upon the second or any subsequent violation of any provision of this Section, the person violating any provision of this Section shall be guilty of a Class A misdemeanor.<sup>87</sup>

In addition, a public financing system could also be incompatible with the ethics reforms present in the State Officials and Employees Ethics Act, which prohibits the use of State employees, funds, or resources for any prohibited political activity. Hence, public financing might impermissibly reinject State resources into politics and could undermine State ethics law. As a result, the implementation of a public financing system would need to take into account whether it would be consistent with or require an amendment to these statutory provisions.

A further consideration regarding the sustainability of any public campaign finance program that might be enacted in Illinois are the unknown effects of the State’s recent campaign finance reforms. These reforms introduced myriad campaign finance regulations and, yet, not a

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<sup>87</sup> 10 ILCS 5/9-25.1(a) – (c) (2011).

single election cycle has passed since the reforms were enacted. The impact and effectiveness of the reforms are unknown at this point. While public financing systems described in this Report can be implemented in a manner that is consistent with the campaign contribution reforms, if the reforms are highly successful, a public campaign finance system could be unwarranted and impractical. Hence, public financing may be rendered superfluous in light of the comprehensive campaign finance reforms.

### **vii. Public Financing Could Diminish the Role of Individual Citizens in the Political Process by Inserting the Government into the Funding of Campaigns Instead of Individual Choice**

Under Illinois' current campaign finance system, which does not include a public finance mechanism, the decision of whether or not to support a particular candidate rests with each individual citizen. Based on this premise, some argue that under a public financing system, the rules established by the government would determine what candidates receive public financing. Hence, the government's policies would drive a candidate's financing, and subsequently, the candidate's election chances, rather than the merits of the candidate's ideas or the desires of individual citizens who contribute to a candidate. As a result, some individuals may become disillusioned under a public campaign finance system because they will not be able to direct their financial resources to the candidates of their choice. Rather, those citizens will be faced with having to choose between contributing to a candidate who they may strongly disagree or not making political contributions at all.

## **V. Survey of the Law**

Part V provides a brief summary of the development and current state of the law in the field of public campaign finance as well as a synopsis of trends based on recent decisions.

## A. The Law Pre-*Bennett*

Public campaign finance jurisprudence has evolved hand-in-hand with similar campaign finance cases involving direct campaign contributions and expenditures. Prior to the recent decision from the U.S. Supreme Court in *Arizona Free Enterprise Club's Freedom PAC v. Bennett*,<sup>88</sup> the leading case in the area of public campaign finance was *Buckley v. Valeo*.<sup>89</sup> The *Bennett* decision has a significant impact on the mechanisms and scopes of public finance systems, but it does not specifically call into question *Buckley's* holding that public campaign finance systems are constitutional. Thus, an examination of *Buckley* offers a good starting point to understanding the implications of the *Bennett* decision.

In *Buckley*, the Supreme Court upheld portions of the Federal Election Campaign Act (hereinafter "FECA") that established a public campaign finance system for presidential campaigns. The system at issue in *Buckley* was a comprehensive public funding model for presidential elections that was financed through a \$3 check-box on individual income tax returns. The Court upheld the public finance system and reasoned that it was a constitutional restriction on speech because it was voluntary and acted as a speech subsidy which actually increased the available resources and exposure level for certain candidates.<sup>90</sup>

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<sup>88</sup> 564 U.S. \_\_\_\_ (2011), Slip Op., No. 10-238, available at <http://www.supremecourt.gov/opinions/10pdf/10-238.pdf>.

<sup>89</sup> 424 U.S. 1 (1976).

<sup>90</sup> The federal public finance system has different requirements for the primary and general elections. To receive subsidies in the primary, candidates must qualify by privately raising \$5,000 each in at least twenty states. For qualified candidates, the government provides a dollar for dollar match for each contribution to the campaign, up to a limit of \$250 per contribution. In exchange for opting into the public finance system, a candidate must agree to various restrictions on campaign expenditures during the primary and general elections. For primaries, the cap was \$10,000,000 with a limit of \$200,000 per state. The federal government matches up to \$250 of an individual's total contributions to an eligible candidate. In the general election, a public candidate is only allowed to spend \$20 million.

Recently, the Supreme Court has narrowed the scope of allowable restrictions on the financing of political campaigns. In *Davis v. Federal Election Commission*, the Court struck down portions of FECA that limited the amount of personal funds a candidate could spend on his or her own campaign without triggering additional benefits to other candidates.<sup>91</sup> Although *Davis* did not address public financing, its reasoning has subsequently been applied to public financing. The Court reasoned in *Davis* that limiting the amount of one's own money that a candidate could spend on his own campaign was an undue burden on free speech. The Court emphasized that the practical effect of limiting a self-funded candidate's personal contributions was to place a preference on the speech of the self-funded candidate's opponent. Thus, the FECA's personal expenditure limits and disclosure regime punished a self-funded candidate for exercising his First Amendment right to use his own money.

The Court's reasoning in *Davis* laid the groundwork for its next campaign finance decision in *Citizens United v. Federal Election Commission*.<sup>92</sup> In *Citizens United*, the Court held unconstitutional provisions of federal election law that prohibited corporations, businesses, unions, and not-for-profit organizations from engaging in independent expenditures that funded non-coordinated electioneering communications on issues and candidates. In its reasoning, the Court stressed that corporations had long been treated as individuals under the law and that the free speech rights of corporations were the same as those belonging to individuals. Therefore, since individuals were allowed to make unlimited political expenditures, corporations must be

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<sup>91</sup> 554 U.S. 724 (2008).

<sup>92</sup> 558 U.S. \_\_\_, (Jan. 21, 2010) Slip Op. No. 08-205, available at, <http://www.supremecourt.gov/opinions/09pdf/08-205.pdf>.

afforded that same freedom. Hence, restrictions on independent corporate political expenditures were unconstitutional.<sup>93</sup>

These decisions laid the analytical framework for the Court's decision in *Bennett*.

## **B. *Bennett* and the Law Post-*Bennett***

Properly structured public campaign finance systems remain constitutional under the Court's decision in *Bennett*. The Court expressly noted that the constitutionality of public finance systems was outside the scope of the decision. Rather, the holding of *Bennett* is focused on particular mechanisms used in certain public finance systems—trigger provisions and high-dollar matching funds.

*Bennett* concerned a portion of Arizona's public finance system that gave an eligible candidate the option to participate in the state's public finance system so long as the candidate agreed to restrict campaign fundraising and meet certain obligations during the campaign. To be eligible for public financing under the Arizona system, a candidate had to raise a specified number of \$5 contributions from eligible voters and agree to abide by certain campaign limits and conditions. These included a \$500 cap on spending the candidate's own money on the campaign, accepting only small contributions, participating in at least one public debate, adhering to an overall expenditure cap for the specific election, and returning all unspent public funds to the State. Once the eligible candidate opted into Arizona's system, an initial cash disbursement was made to the candidate by the state. These provisions were not at issue, though, and the Court's ruling did not touch upon these aspects of Arizona's system.

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<sup>93</sup> Recently, the Seventh Circuit Court of Appeals decided *Wisconsin Right to Life v. Barland*, which relied on *Citizens United* to strike down Wisconsin's \$10,000 cap on independent political donations given to independent political groups. See \_\_\_ F.3d \_\_\_, No. 11-2623 (7th. Cir., Dec. 12, 2011), available at <http://www.ca7.uscourts.gov/fdocs/docs.fwx>.

Rather, at issue in *Bennett* was the Arizona system's allocation of additional high-dollar matching funds to publicly-financed candidates and the trigger mechanism that disbursed those additional public funds. The matching funds granted under the Arizona system were triggered when a privately-financed candidate's fundraising, personal campaign expenditures and independent expenditures from outside groups exceeded the amount of the initial public funds given to a publicly-financed candidate. Once the matching public funds were triggered, a publicly-financed candidate received roughly one dollar for every dollar raised or spent by the privately-financed candidate's campaign—including the candidate's own personal money—and for every dollar spent by independent groups that supported the privately-financed candidate. The matching funds were triggered regardless of whether the independent expenditures were coordinated, helpful, or solicited. The matching funds given to a non-participating candidate topped-out at double the initial disbursement of public funds. Finally, the Arizona system provided that when a race consisted of multiple public candidates, each candidate received matching funds when the privately funded candidate exceeded the initial limit.

In a 5 – 4 decision, the Court struck down the trigger and matching provisions of Arizona's public finance system as violating the First Amendment; but the ruling did not find the entire system unconstitutional. The Court specifically held that Arizona's model substantially burdened the free speech rights of privately financed candidates and independent groups that supported them and that the burden was not justified by (1) the state's interests in preventing corruption, bribery, or the appearance thereof in its elections or (2) the state's purported goal of leveling the playing field in its elections. In so doing, the Court extended the holding of its decision in *Davis*. The Court applied *Davis*'s reasoning and emphasized that Arizona's system impermissibly required privately-financed candidates and independent groups supporting them to

choose between forgoing their own speech and effectively subsidizing their opponent's campaign by speaking out. The Court emphasized that this burden on non-participating candidates was compounded by the fact that the trigger provision was automatic and did not consider whether the independent expenditure was coordinated or even helpful to a campaign. The Court further found that independent groups were similarly burdened because their only choice was either to change substantially their message or forego speaking altogether. Therefore, the Court concluded that the matching funds and trigger provisions unconstitutionally infringed on (1) a privately-financed candidate's spending of his own money on his campaign and expressing the views of the campaign and (2) an independent group's ability to express its views through independent expenditures supporting a particular privately-financed candidate.

The dissent, on the other hand, concluded that Arizona's system was sufficiently tailored to protect First Amendment rights and criticized the majority for diminishing the interests and goals put forward by the state. According to the dissent, the system was justified by the compelling interests and the specific history in Arizona of preventing corruption and bribery in election financing. The dissent also reasoned that the model was narrowly tailored to these interests because the matching funds were ultimately capped at double the initial amount, which left an advantage for privately-financed candidates, and had no bearing on the content of that candidate's speech. Hence, the distinction between the majority and dissent was that the majority saw the system as an impermissible speech restriction, whereas the dissent saw it as a valid speech subsidy.

That said, the Court stressed that the decision was limited in scope because the initial disbursement of state funds to publicly funded candidates under the Act was not challenged. The Court explained that public campaign finance systems were constitutional under *Buckley*, but

Arizona’s system infringed on the First Amendment because it gave money to an opposing candidate in direct response to the speech of another candidate or independent group. The result, according to the majority, was that Arizona’s system in practice placed a preference on the speech of the publicly-financed candidate and impermissibly handicapped the speech of non-participating candidates and independent groups. The Court elaborated on its holding by emphasizing that other courts that had considered trigger provisions after *Davis* had held in favor of a candidate or independent group when that candidate or group might not spend their own money if the direct result of that spending was additional funding to political adversaries.<sup>94</sup>

The scope of *Bennett’s* impact on the breadth and effectiveness of public finance systems is yet to be fully seen. But the decision has affected nearly every state that has a candidate-specific public finance system in place and casts doubt on the constitutional viability of any candidate-specific public finance model that involves a trigger system.

### **C. Best Practices and Trends for Public Finance Systems**

It bears reiterating that properly structured public campaign financing systems remain constitutional after *Bennett*. The Court in *Bennett* expressly noted that “[w]e do not today call into question the wisdom of public financing as a means of funding political candidacy.”<sup>95</sup> Rather, *Bennett* imposes constitutional parameters on the scope of a constitutional public campaign finance system. Those guiding principles are outlined below as well as observations regarding their effects on public campaign finance systems.

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<sup>94</sup> See *Green Party of Conn. v. Garfield*, 616 F.3d 213 (2d Cir. 2010); *Scott v. Roberts*, 612 F. 3d 1279, 1290 (11th Cir. 2010); see also *Day v. Holahan*, 34 F. 3d 1356, 1360 (8th Cir. 1994).

<sup>95</sup> *Ariz. Free Enterprise Club’s Freedom PAC v. Bennett*, 564 U.S. \_\_\_\_ (2011), Slip Op., No. 10-238, at \*28, available at <http://www.supremecourt.gov/opinions/10pdf/10-238.pdf>.

The main thrust of *Bennett* pertains to trigger and high-dollar matching provisions. First, trigger and matching provisions that tie increased or matching funds to publicly-financed candidates based on the conduct, spending, or speech of a privately-financed candidate violate the First Amendment. In addition, these provisions are not justified by the state's goals of (1) preventing corruption in elections and campaign finance and (2) leveling the election playing field. Next, trigger and matching provisions unconstitutionally infringe on a privately-financed candidate's First Amendment right to spend the candidate's own money on the candidate's campaign and express the candidate's views by penalizing the privately-financed candidate based on the candidate's speech. Finally, these provisions violate the constitutional rights of independent groups by unduly restricting their ability to express their views through independent expenditures supporting a particular privately-financed candidate, regardless of whether those expenditures were coordinated with the campaign. Thus, public finance systems that increase matching funds or public subsidies as well as sanction or restrict candidates in response to a non-participating candidate's or independent group's campaign expenditures or fundraising are very likely unconstitutional.

From these general rules, *Bennett* provides a glimpse into future trends with respect to public campaign finance. Without being able to use trigger and matching provisions, the initial and/or lump sums provided by public finance systems would likely increase to accommodate a non-participating candidate's increased fundraising potential. Fiscal constraints may prevent a drastic increase in the size of such grants, though. Alternatively, the amount of seed money a candidate is allowed to raise could potentially increase or the amount of funds a candidate is allowed to raise after opting in to a public-financed system may increase, along with the public match for the funds raised by the publicly-financed candidate—either as seed money and/or on

an ongoing basis after opting in to publicly-financed system. These types of dollar-for-dollar matching systems may be called into constitutional scrutiny in light of *Bennett*, though, if they are perceived as being tied to spending by other candidates or by independent groups.

The other trend that may occur is increased use of contributor-specific systems, either through tax incentives or matching funds for small-dollar contributions. These systems can be established without creating a distinction between participating or non-participating candidates and with the goal of increasing participation more generally in the political system. Under a tax incentive system, contributors of up to a certain amount to all qualified candidates for certain offices and/or to political parties or PACs may receive a tax credit or tax deduction based on the amount of the contribution. Similarly, a system in which all qualified candidates for certain offices receive matching funds for smaller dollar contributions can be enacted in order to encourage greater participation in the political process.

## **VI. Viable Public Finance Alternatives for Illinois**

Part VI offers various alternatives related to public financing that could be feasible in Illinois. The alternatives described below are not official recommendations from the Task Force; rather, they are viable approaches that could be adopted in Illinois. Each of these alternatives is consistent with and would not require making any changes to the system of campaign contribution limits recently enacted into law. The alternatives described below are not mutually exclusive; more than one such alternative can be implemented with respect to the same public officers or for different offices.

## **A. A Comprehensive or Hybrid Public Finance System Providing Grants or Grants and Matching Funds to Eligible Candidates Who Choose to Participate in the System**

A robust public financing system for all statewide and legislative offices in Illinois would likely be the most effective method of enacting a public financing system. The system could be fashioned as either a comprehensive or hybrid system. A potential framework for such a system—but not the only alternative—, whether it be comprehensive or hybrid, is the Lincoln Act.<sup>96</sup> To be feasible, however, the trigger and high-dollar matching provisions as previously proposed in the Lincoln Act could not be included in light of *Bennett*.

Under a comprehensive model, the State would make one-time, lump sum grants of public funds to candidates who meet certain eligibility thresholds—including conditions such as seed money and signatures from registered voters—, agree to abide by specific restrictions and disclosure conditions on their campaign, and forego any further private fundraising. A campaign’s operating budget would consist solely of the lump sum public grant plus the threshold amount of seed money. In the alternative, a hybrid public finance approach would incorporate the same framework, but allow qualifying candidates who opt into the system to continue to raise small-dollar contributions. The small-dollar contributions could possibly be capped at a certain amount or could be matched by the State. The matching funds provided by the State pursuant to a hybrid system could also be capped at a certain amount.

A comprehensive or hybrid system could be applied to all or a subset of the following offices: State constitutional officers—Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, and Treasurer—State Senators, State Representatives, and State judges. To be eligible for a lump sum grant, candidates would be required to meet certain

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<sup>96</sup> For other specific alternatives, see *supra*, Part IV.B.

eligibility requirements, which could include: (1) raising a specified amount of seed money through either capped, small-dollar contributions or uncapped contributions, (2) obtaining a set number of signatures from registered voters eligible to vote for the candidate on a petition for public financing, and (3) expressly agreeing in writing to abide certain conditions being placed on their campaign. These conditions could potentially include (1) either forgoing all or limiting additional fundraising in exchange for the lump sum grant of public funds to the campaign, (2) fully disclosing the campaign's finances and additional contributions, if allowed, to the financing system's oversight body, and (3) adhering to specific spending caps if additional contributions or matching funds are allowed. The lump sum public subsidy and matching funds, if implemented through a hybrid system, could vary depending on the office and whether the public grant is given during the primary or general election. For more discussion of the public finance model as applied to judicial contests, see *infra*, Part VI.E.

A comprehensive or hybrid model as described above could potentially achieve some of the advantages of a public financing system outlined in Part IV.D, including expanding the number and diversity of candidates, promoting greater coalition building, addressing concerns about public confidence in the political process and corruption among elected officials, and helping to promote competitive elections. At the same time, however, a comprehensive or hybrid system could potentially come with certain drawbacks, such as (1) the high cost of a broader system—the amount of which would vary depending on the scope of the system—, (2) that any system enacted could be circumvented through independent expenditures on behalf of participating candidates, (3) the system may potentially benefit incumbents and disillusion voters, (4) and any public finance system would likely require a change in the Illinois law prohibiting the use of public funds on political campaigns.

## **B. A Hybrid Public Finance System Implementing Matching Funds for Small-Dollar Contributions to Eligible Candidates Who Choose to Participate in the System**

Another alternative approach would be to implement a hybrid public finance system that matches small-dollar contributions made directly to candidates for those candidates who qualify and opt into the public finance system. A hybrid public finance system that incorporates the use of matching funds for small-dollar contributions directly to candidates likely encourages candidates to receive larger amounts of small dollar contributions and motivates more individuals to make small-dollar contributions.

A possible model for such a system is New York City's public finance system. Under New York City's system, the State would adopt a system of small-dollar automatic matching funds that would match dollar-for-dollar small-dollar individual contributions up to a set cap for all candidates. A system under this model could potentially match up to a certain amount of dollars, such as \$200, for every individual contribution to any candidate up to certain amount. Alternatively, another hybrid system option would be for the State to institute a low-dollar matching regime—such as at a rate of \$5 to \$1—for candidates who opted into the system up to a certain amount. Under this model, the eligibility criteria could be substantially similar to those laid out in Part VI.A. The contribution amount and matching rate could fluctuate depending on the office and election, which could bring down the overall costs of this type of system.

Under a hybrid model that uses matching funds, it may be beneficial to tie the matching funds solely to contributions from individuals eligible to vote for the candidate. When combined with a provision that allows the matching funds only when they are tied to registered voters eligible to vote for the candidate, a small-dollar or low-dollar matching system could probably better serve several of the public policy goals of public campaign finance described earlier in this

Report. Such a system could encourage small-dollar contributions from individual constituents and place a greater emphasis on candidates broadening their fundraising bases among voters eligible to vote for the candidate. This in turn would also probably encourage these particular voters to become more engaged in the political process. This approach would also likely pass constitutional muster under *Bennett* because the model is donor-specific and is closer to a speech subsidy of the contributor rather than that of any candidate, which makes it distinct from the trigger and matching provisions at issue in *Bennett*. Finally, such a system could encourage more candidates to become involved in the electoral process and more diversity among candidates, particularly encouraging candidates who believe they can establish a large and diverse small donor base.

As with the comprehensive and hybrid systems described above, however, such a system will involve the expenditure of public funds, although likely not as much as the earlier systems. This type of system could likely be circumvented through independent expenditures on behalf of participating candidates, may conceivably benefit incumbents, and disillusion voters as described earlier in this Report. Further, such a system would probably require a change in the Illinois statute that prohibits the use of public funds on political campaigns.

### **C. A Public Finance System that Provides Matching Funds For Small Dollar Contributions to Every Eligible Candidate in Certain Elections**

A system similar to the hybrid matching system outlined in Part VI.B., but based on a different public purpose, could be adopted for all candidates in certain elections. As opposed to the alternatives in Part VI.A. and Part VI.B., which are candidate-specific, this alternative would be contributor-specific and intended to promote more involvement in the political process.

Under such a system, eligibility requirements would need to be established to avoid subsidizing fringe candidates. In order to limit the amount of public funds used for such a system, the State could give matching funds up to a certain threshold amount for each candidate. For example, the State could match contributions up to the first \$150 made to a candidate on a \$1-to-\$1 basis up to a certain overall capped amount. The small-dollar amount, the matching ratio, and the overall cap could be implemented at different amounts for various types of elections or to address concerns related to the cost of such a program. Another reasonable limit that could be used in this approach would be for the system to only apply in general elections where there are fewer candidates than in the primary election. Limiting the system's application to the general election only would be a way for the State to make the system more economically sustainable.<sup>97</sup>

Such a system could achieve some of the advantages of a candidate-specific system—but with reduced public funds and administrative costs. These advantages include (1) encouraging more candidates to run, particularly those that can generate a broad base of support through small dollar contributions, (2) encouraging greater interaction with constituents, (3) addressing concerns about public confidence in the political process and corruption among elected officials, and (4) helping to promote competitive elections by enabling individuals who make small-dollar contributions to have a greater impact, particularly in light of increased use of independent expenditures. On the other hand, such a system, still involves an expenditure of public funds, although likely less than the candidate-specific alternatives described earlier. Additionally, such a system may potentially benefit incumbents and disillusion voters and would also likely require a change in Illinois law prohibiting the use of public funds on political campaigns.

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<sup>97</sup> Limiting matching funds for only the general election would also be feasible under the alternative outlined in Part VI.B.

## **D. Offering Tax Incentives for Small-Dollar Political Donations**

A public finance system that is either fully or partially financed by tax incentives—credits, deductions, or refunds—for all or a portion of a taxpayer’s political contributions could conceivably be beneficial and popular in Illinois. An approach that utilizes tax incentives could possibly have a broad application and apply not just to contributions made directly to candidates, but also to contributions made to political parties, independent outside advocacy groups, or directly to a government’s operating fund for its public finance system. Implementing tax incentives to encourage political activity would likely promote public policy goals in much of the same way as the federal tax code’s charitable donation deduction.

One possible approach is to provide a tax credit that could be allocated in a manner that is candidate-, party-, or system-specific. For instance, Arizona gives a tax credit for donations up to \$640 or 20% of an individual’s tax liability, provided the donation is given directly to the operations fund of the state’s public finance system. Oregon’s public finance system, on the other hand, gives a tax credit to taxpayers for the lesser of \$50 or the tax liability of the taxpayer for contributions made directly to political parties, political party committees, or publicly-financed candidates. In Minnesota, voters receive a tax refund of up to \$50 for contributions to candidates and political parties that agree to certain spending limits. A tax incentive could also be limited to apply to only certain offices, such as in Virginia where the state offers a partial tax credit for donations to local and state candidates only. In addition, a tax incentive could conceivably be allocated to contributions to privately-financed candidates as well as to independent outside groups. Thus, the available alternatives for tax incentives for political donations are flexible and could even be successful since such a system would incentivize

political contributions and have the added effect of encouraging involvement in the political process.

A more innovative variation of this approach was recently suggested by Professor Lawrence Lessig, who proposed that a federal system of “democracy vouchers” where every registered-voter would be given a tax rebate of \$50 that could be used to support congressional candidates who agree only to accept contributions from citizens capped at \$100. If a voter did not use their democracy voucher for a candidate, Professor Lessig suggests that the voucher could be allocated to the individual’s political party or to the federal public financing system.<sup>98</sup> A variation of this system could be implemented to support any candidate in an election as a means of encouraging citizen participation in the political process.

A tax incentive model is a contributor-specific model that is intended to encourage political activity by voters and counteract to some extent the increased use of independent expenditures. It would also likely involve less administrative structure and costs than a candidate-specific model. This approach could also achieve some of the advantages of a candidate-specific system by encouraging more candidates to run for office, particularly those that can generate a broad base of support through small dollar contributions. It would also likely encourage greater candidate interaction with constituents, address concerns about public confidence in the political process and corruption among elected officials, and help to promote competitive elections. A tax incentive system would not necessarily require the expenditure of public funds, except in the case of tax rebates or democracy vouchers, but might result in the reduction of tax revenues to the State. As with other feasible alternatives, such a system could

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<sup>98</sup> See Lawrence Lessig, *More Money Can Beat Big Money*, N.Y. TIMES, A31 (Nov. 17, 2011), available at <http://www.nytimes.com/2011/11/17/opinion/in-campaign-financing-more-money-can-beat-big-money.html>.

feasibly benefit incumbents, disillusion voters, and may require a change in the Illinois statute that prohibits the use of public funds on political campaigns.

### **E. Special Consideration of Public Financing System for Judicial Elections**

Special consideration could potentially be given to a public finance system for judicial elections because of the need for the judiciary to be impartial and independent. A public finance system for judicial elections could generate greater public confidence in the courts.

Two possible templates for a judicial public campaign finance system are the Judicial Election Reform Act of 2007—SB222 from the 95th Illinois General Assembly—and North Carolina’s public judicial campaign finance system. The Judicial Reform Act, which applied to Supreme Court and Appellate Court candidates, capped individual contributions to candidates at \$25 per contributor and required candidates to raise \$30,000 in seed money before becoming eligible for public financing. Once eligible, a candidate who opted into the system would be required to comply with heightened disclosure requirements and spending caps. Under North Carolina’s system, which applies to the state’s Supreme Court and Appellate Courts, a candidate can start with seed money of up to \$10,000 and, to be eligible for public funds, must receive at least 350 donations from registered North Carolina voters. Once a candidate is certified as a public candidate, the candidate receives funds in the amount of 175 times the filing fee for the Supreme Court and 125 times the filing fee for the appellate courts.

Furthermore, in 2009, the Illinois Reform Commission also proposed a pilot program for public financing of judicial elections at the Circuit, Appellate, and Supreme Court levels, which it suggested could be expanded to include legislative candidates and constitutional officers. Under the Reform Commission’s proposal, candidates who raise a minimum number of small-dollar contributions and agree to spending caps and to refrain from further fundraising would

then receive a lump sum grant from the state. The Commission proposed that the program be funded from a \$50 surcharge on attorney registration fees and a \$1 surcharge on court filings.

A judicial public campaign finance system that is established using some combination of these mechanisms and that applies to some or all Illinois Circuit, Appellate, or Supreme Court elections could be a feasible, affordable, and potentially popular option for Illinois. Since judicial campaigns typically cost less and a judicial public campaign finance system would be more limited in scope than one applying to the statewide elected officials or the General Assembly, such an alternative would be less costly to fund and administer. Furthermore, to the extent such a system is financed by attorney registration fees and surcharges on court filings, it could conceivably be funded without the use of other public funds. Such a system could generate greater public confidence in the judiciary and encourage more candidates for judicial office and greater diversity among those candidates. In addition, such a system could be a feasible pilot project to assess the expanded use of candidate-specific public financing systems in Illinois.

## **F. No Public Campaign Financing at this Time**

A final feasible option for public financing in Illinois is to not establish a public financing system at this time. Several reasons support this position, the first of which is that recent Supreme Court decisions cast uncertainty as to the allowable scope of public financing systems. As such, more time may be needed for the law to develop and for greater direction to be given by the courts on what types of public finance systems are constitutional, if any. Furthermore, the numerous policy concerns that persist with respect to public financing are another basis to conclude that a public finance system should not be enacted at this time. The potentially high costs associated with public financing, particularly when considered in light of the current

budgetary and fiscal pressures facing the State, is another reason that now might not be the right time to adopt public financing. Finally, as pointed out earlier in this Report, the State recently adopted comprehensive campaign finance reform and the full effect of these reforms is unknown because a full election cycle has not passed since the reforms were enacted. Based on these considerations, adopting a public financing system at this time could be premature and unwarranted given the current legal and policy questions surrounding public campaign finance and the recent reforms in Illinois.

## **VII. Conclusion**

The Task Force encourages Governor Quinn and the Illinois General Assembly to examine and consider the public campaign finance analysis and potentially feasible alternatives contained in this Report. The Task Force will continue to evaluate the potential feasibility of public financing, including the options laid out in this Report as well as others that may subsequently be presented to the Task Force or introduced in the General Assembly, and may make specific recommendations to Governor Quinn or the General Assembly on these or other public financing alternatives at some point in the future. It bears reiterating that nothing discussed or analyzed herein is intended to be contrary to or undermine the newly enacted restrictions on political campaign contribution limits contained in Public Act 96-836. By filing this report, the Task Force is in compliance with the requirements of 10 ILCS 5/9-40(d).

# **APPENDICES**

## **Appendix A: Required Statistical Compilations**

Candidates in Illinois have always funded their campaigns by raising money from private donors. The compiled statistics in Appendix A were compiled by the Task Force with the help of the State Board of Elections for purposes of this Report. The 2006 data shows that candidates for statewide offices raised a total of \$50.5 million for that election cycle and that legislative candidates raised \$28.4 million. For the 2006 judicial elections, judicial candidates raised \$5.4 million. In addition, non-partisan PACs reported \$37.4 million raised for the 2006 election cycle.<sup>99</sup> Official statistics from the 2008 legislative election cycle from the State Board of Elections show that legislative candidates raised \$29.3 million, judicial candidates raised \$6.9 million, and non-partisan PACs raised \$37 million, respectively.<sup>100</sup> Data from the State Board of Elections for the 2010 election cycle shows that candidates for statewide office raised a total of \$39.5 million and legislative candidates raised \$24.3 million.<sup>101</sup>

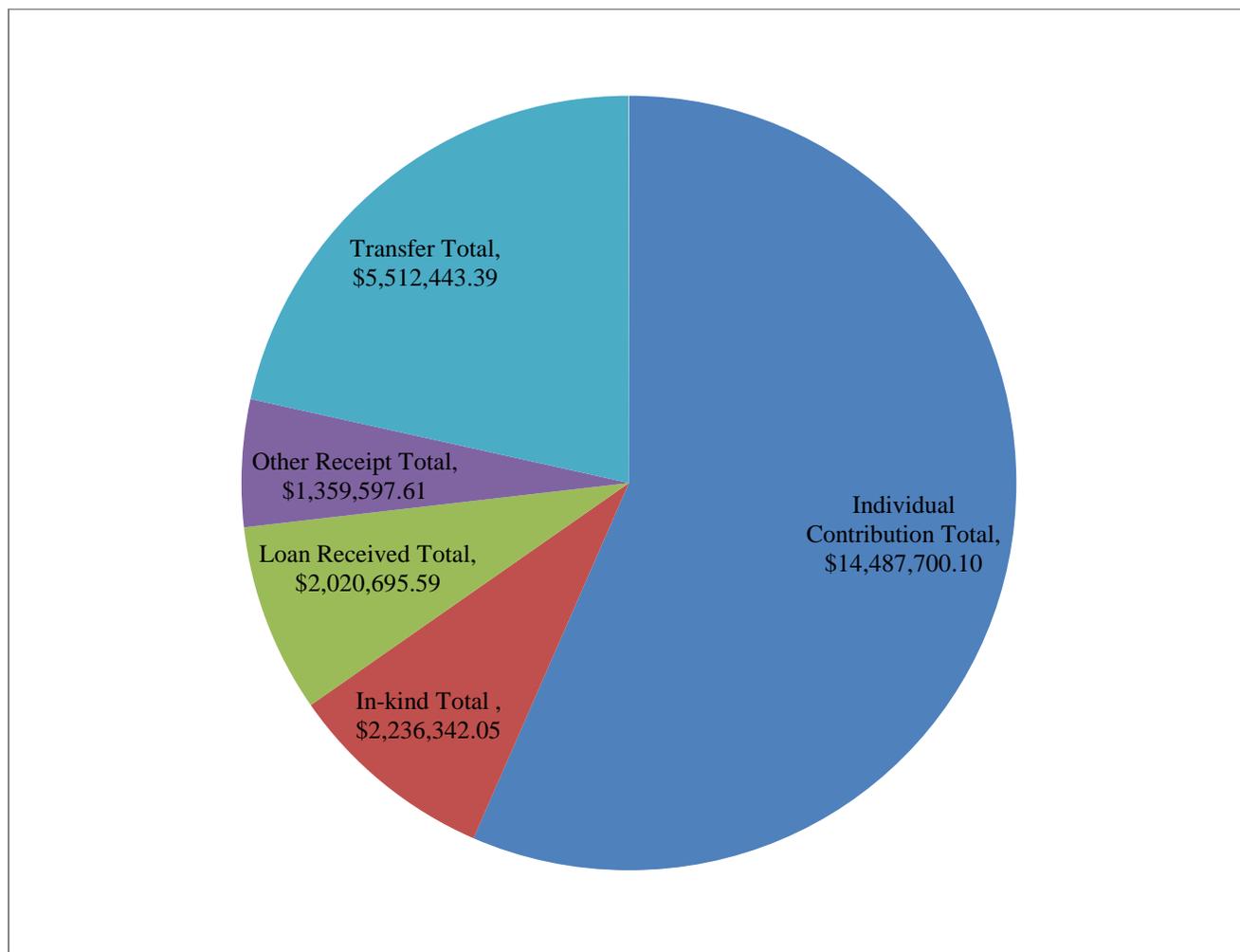
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<sup>99</sup> See Report, *Money and Elections in Illinois 2006*, Ill. St. Bd. of Elecs., (2006), available at <http://elections.il.gov/DocDisplay.aspx?Doc=Downloads/CampaignDisclosure/PDF/Money2006.pdf>. See also Ctr. for State Policy and Leadership, *Almanac of Illinois Politics 2006*, (Springfield, Ill., Amy S. Karhliker, ed., 2006).

<sup>100</sup> See Report, *Money and Elections in Illinois 2008*, Ill. St. Bd. of Elecs., (2008), available at: <http://elections.il.gov/DocDisplay.aspx?Doc=Downloads/CampaignDisclosure/PDF/Money2008.pdf>.

<sup>101</sup> See Report, *Money and Elections in Illinois 2010*, Ill. St. Bd. of Elecs., (2010), available at <http://elections.il.gov/DocDisplay.aspx?Doc=Downloads/CampaignDisclosure/PDF/Money2010.pdf>.

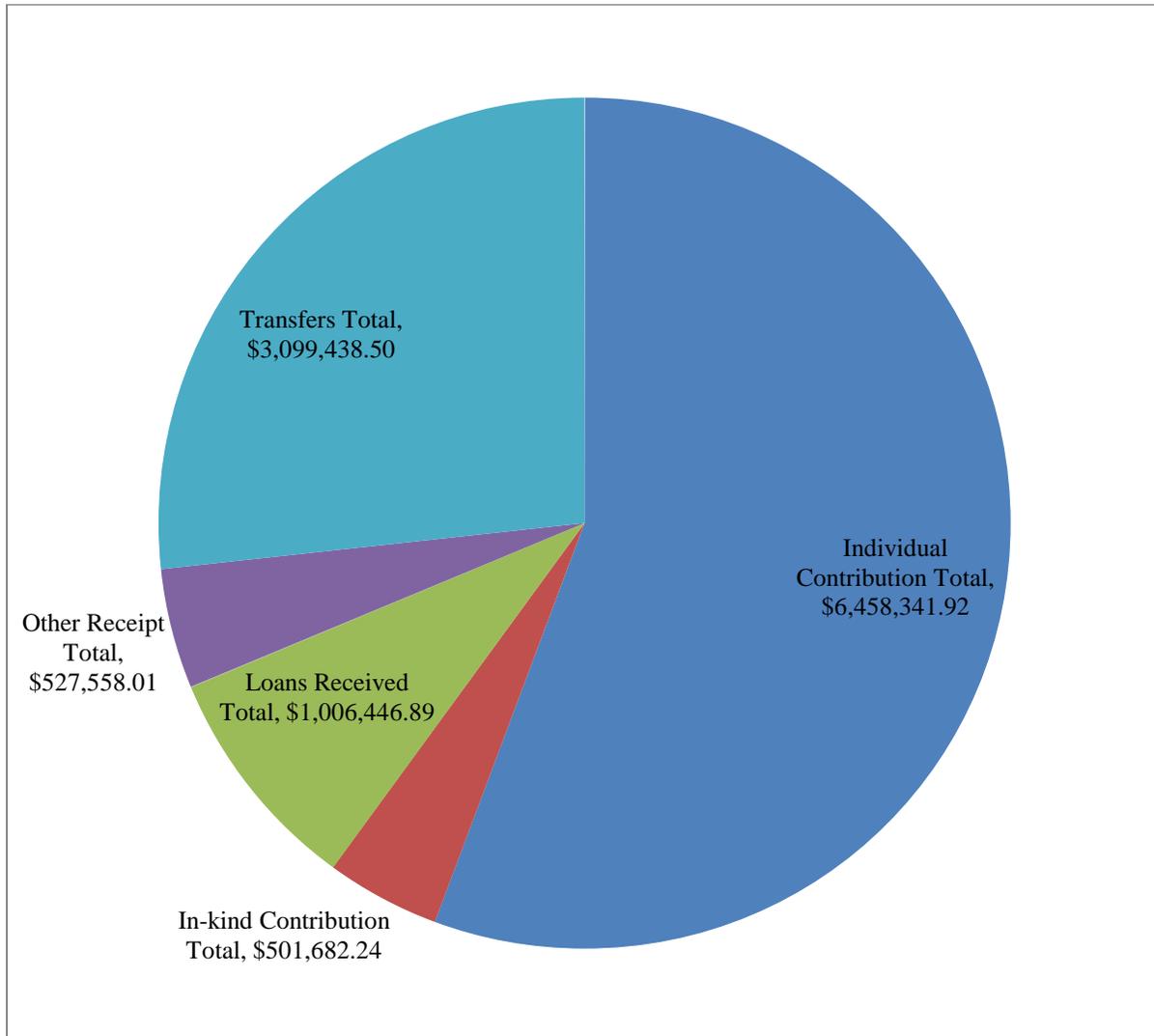
## I. 2007 Campaign Contributions (1st Quarter)<sup>102</sup>



2007 Contributions Total: \$25,616,778.74

<sup>102</sup> Chart Compiled by Task Force with reference to Ill. St. Bd. of Elecs., *Campaign Expenditure Numbers: Jan 1, 2007 – Mar. 31, 2007*, unpublished statistical compilation (Mar. 31, 2007).

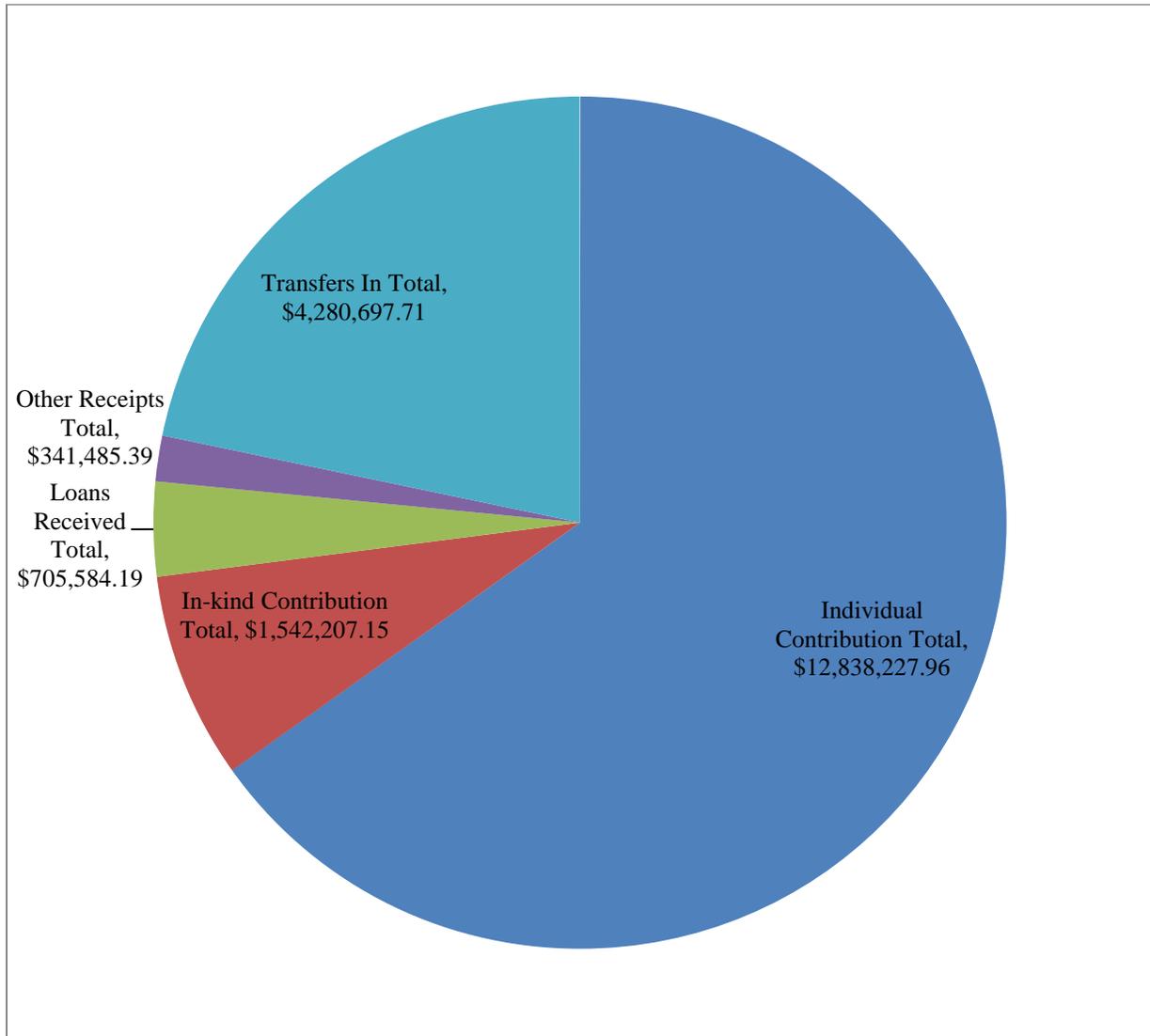
## II. 2009 Campaign Contributions (1st Quarter)<sup>103</sup>



2009 Contributions Total: \$11,593,467.56

<sup>103</sup> Chart Compiled by Task Force with reference to Ill. St. Bd. of Elecs., *Campaign Expenditure Numbers: Jan 1, 2009 – Mar. 31, 2009*, unpublished statistical compilation (Mar. 31, 2009).

### III. 2011 Campaign Contributions (1st Quarter)<sup>104</sup>



2011 Contributions Total: \$19,708,202.40

<sup>104</sup> Chart Compiled by Task Force with reference to Ill. St. Bd. of Elecs., *Campaign Expenditure Numbers: Jan 1, 2011 – Mar. 31, 2011*, unpublished statistical compilation (Mar. 31, 2011).

## IV. Statistics for Recent Illinois General Elections

### A. 2008 — Illinois General Assembly<sup>105</sup>

#### Legislative

##### Average Campaign Costs

Senate – Republican: \$ 281,153.55

Senate – Democrat: \$ 191,338.74

*Senate – Average:* \$236,246.15

House – Republican: \$ 130,664.65

House – Democrat: \$ 103,392.04

*House – Average:* \$ 117,028.35

##### Average Individual Contributions Received

Senate – Republican: \$ 556.35

Senate – Democrat: \$ 938.00

*Senate – Average:* \$ 747.18

House – Republican: \$ 1,648.58

House – Democrat: \$ 742.17

*House – Average:* \$ 1,195.38

##### Average PAC Contributions Received

Senate – Republican: \$ 2,779.85

Senate – Democrat: \$ 2,720.84

*Senate – Average:* \$ 2,750.35

House – Republican: \$ 1,418.56

House – Democrat: \$ 1,880.90

*House – Average:* \$ 1,649.73

### B. 2010 — Illinois General Assembly<sup>106</sup>

#### Legislative

##### Average Campaign Costs

Senate – Republican: \$ 264,437

Senate – Democrat: \$ 386,303

*Senate – Average:* \$ 325,370

House – Republican: \$ 125,855

House – Democrat: \$ 133,461

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<sup>105</sup> See *Money and Elections in Illinois 2010*, supra, note 101.

<sup>106</sup> *Id.*

*House – Average:* \$ 129,658

**Average Individual Contributions Received**

Senate – Republican: \$ 1,289.36

Senate – Democrat: \$ 988.70

*Senate – Average:* \$ 1,139.03

House – Republican: \$ 909.52

House – Democrat: \$ 965.52

*House – Average:* \$ 937.52

**Average PAC Contributions Received**

Senate – Republican: \$ 7,776.70

Senate – Democrat: \$ 1,540.25

*Senate – Average:* \$ 4,658.48

House – Republican: \$ 1,580.48

House – Democrat: \$ 2,749.30

*House – Average:* \$ 2,164.89

**C. 2004 — Illinois Supreme Court (5th District, Karmeier vs. Maag)**<sup>107</sup>

**Karmeier (R)**

*Individual Contributions*

Itemized: \$ 415,411.50

Non-itemized: \$ 76,965.62

- 567 individual contributions
- Range: \$200–\$10,000  
(In aggregation)

*Transfers In*

Itemized: \$ 900,350.00

Non-itemized: \$ 1,050.00

- 70 transfers in
- Range: \$200–\$341,150.00  
(In aggregation)

Loans Received: \$ 0.00

*Other*

Itemized: \$ 2,132.51

Non-itemized: \$ 125.00

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<sup>107</sup> D-2 Semiannual Report, July 7, 2010 – Dec. 31, 2010, Ill. St. Bd. of Elecs., *Citizens for Karmeier*, <http://www.elections.il.gov/CampaignDisclosure/D2Semi.aspx?id=292046> (last visited Dec. 28, 2011); D-2 Semiannual Report, July 7, 2010 – Dec. 31, 2010, Ill. St. Bd. of Elecs., *Maag for Justice*, <http://www.elections.il.gov/CampaignDisclosure/D2Semi.aspx?id=290516> (last visited Dec. 28, 2011).

*In-Kind Contributions*

Itemized:	\$ 3,059,639.53
Non-itemized:	\$ 406.00
- 46 in-kinds	
- Range: \$164.56–\$1,938,454.44	

*Major Contributors*

*In-Kinds*

IL Republican Party:	\$1,938,454.44
IL Chamber of Commerce:	\$58,001.60
IL State Med Society PAC:	\$89,818.92
IL Hospital Assn PAC:	\$85,583.10
JUSTPAC:	\$779,285.65
S.IL Medical Alliance Survival Health Care:	\$32,301.73

*Transfers in*

American Council of Life Insurers PAC:	\$22,500
American Family Ins. IL PAC:	\$16,000

**Maag (D)**

*Individual Contributions*

Itemized:	\$ 162,250.00
Non-itemized:	\$ 10,910.00
- 157 individual contributions	
- Range: \$200 – \$2,000 (in aggregation)	

*Transfers In*

Itemized:	\$ 66,500.00
Non-itemized:	\$ 1,500.00
- 38 transfers in	
- Range: \$200–\$17,000.00 (In aggregation)	

Loans Received:	\$ 0.00
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*Other*

Itemized:	\$ 365.33
Non-itemized:	\$ 57.79

*In-Kind Contributions*

Itemized:	\$ 4,136,262.12
Non-itemized:	\$ 544.91
- 25 in-kinds	

- Range: \$125–\$2,774,544.40

*Major Contributors*

*In-Kinds*

IL Democratic Party:	\$2,774,544.40
Citizen Action Party/IL Progressive Action Project:	\$23,411.89
IL AFL-CIO COPE:	\$53,024.47
IFT:	\$15,353.34
Justice for All PAC:	\$1,221,366.88
Korein Tillery LLC (Belleville):	\$17,988.50
Madison County Dem Team:	\$16,544.57

*Transfers in*

IL Democratic Party Coordinated Campaign:	\$12,000
IL Democratic Party:	\$17,000
Chicagoland Chamber of Commerce PAC:	\$15,000
Citizens for Watson:	\$14,000
Defense Trail Counsel's PAC:	\\$11,750
IL Chamber of Commerce:	\$210,000
IL Hospital Assn PAC:	\$104,100
JUSTPAC:	\$341,150
Manufacturers PAC:	\$35,000
Renew Illinois PAC:	\$30,200

**D. 2010 — Illinois Gubernatorial General Election (Brady v. Quinn)**<sup>108</sup>

**Brady (R)**

*Individual Contributions*

Itemized:	\$ 6,194,385.79
Non-itemized:	\$ 289,284.73

- 4,254 itemized individual contributions (non-aggregate)
- Range: \$50–\$225,000 (In aggregation)

*Transfers In*

Itemized:	\$ 6,048,529.00
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<sup>108</sup> D-2 Final Report, July 7, 2010 – Dec. 31, 2010, Ill. St. Bd. of Elecs., *Quinn/Simon for Illinois*, <http://www.elections.il.gov/CampaignDisclosure/D2Semi.aspx?id=422567> (last visited Dec. 28, 2011); D-2 Semiannual Report, July 7, 2010 – Dec. 31, 2010, Ill. St. Bd. of Elecs., *Brady for Senate Inc.*, <http://www.elections.il.gov/CampaignDisclosure/D2Semi.aspx?id=435604> (last visited Dec. 28, 2011).

Non-itemized:	\$ 2,050.00
- 56 transfers in (in aggregation)	
- Range: \$68.41–\$4,200,000 (In aggregation)	
Loans Received:	\$ 0.00
<i>Other</i>	
Itemized:	\$ 7,004.20
Non-itemized:	\$ 14.62
<i>In-Kind Contributions</i>	
Itemized:	\$ 3,175,074.47
Non-itemized:	\$ 514.12
- 121 itemized in-kinds (Non-aggregate)	
<i>Major Individual Contributors</i>	
Altria Client Services:	\$ 35,000
Consumer Lending Alliance:	\$ 25,000
Family Video Movie Club:	\$ 50,000
Foster Friess:	\$ 200,000
Farmers Insurance Exchange:	\$ 25,000
Ronald Gidwitz:	\$ 25,000
Great Lakes Cement Promotion:	\$ 25,000
Anne Griffin:	\$ 225,000
Kenneth Griffin:	\$ 225,000
Edward Heil:	\$ 50,000
David Herro:	\$ 75,000
Patricia Cherry (plus additional \$100,000 Loan):	\$ 25,000
Robert Stein:	\$ 25,000
Simmons Browder Gianaris	
Angelides & Barnerd LLC:	\$ 25,000
USNTF International Inc.:	\$ 25,000
NFIB – IL Safe Trust:	\$ 25,000
McDonough County Republican Central Cmte:	\$ 25,350
Realtor PAC:	\$ 175,000
RGA Illinois 2010 PAC:	\$ 4,200,000
Mid-West Truckers Assn:	\$ 12,000
Volunteers for Shimkus:	\$ 10,000
<i>Transfers in</i>	
Allstate Insurance Company PAC:	\$ 30,000
Bradley A. Stephens Committeeman	

Fund:	\$ 20,000
Chempac:	\$ 13,000
Chicagoland Chamber of Commerce:	\$ 25,000
Citizens for Roger C. Claar:	\$ 21,000
Citizens for Stephens:	\$ 15,500
Committee to Re-Elect Brent Hassert:	\$ 12,000
Contractors for Free Enterprise:	\$ 13,000
IL Chamber of Commerce:	\$ 255,000
IL Hospital Assn PAC:	\$ 50,000
IL Insurance Political Cmte:	\$ 15,000
IPAC:	\$ 21,000
Lee County Republican Central Cmte:	\$ 12,000
Manufacturers PAC:	\$ 500,000
Mason County Republican Central Cmte:	\$ 13,829
The Associated General Contractors of IL:	\$ 100,000

*In-Kinds*

455 W. Lake Street LLC:	\$ 41,666.70
Greg Ervin: \$ 40,000	
IL Chamber of Commerce PAC:	\$ 45,000
IL Republican Party:	\$ 482,438.69
Gary Melvin:	\$ 43,835.73
RGA Illinois 2010 PAC:	\$ 2,324,617.33
Smart Bomb Media Group:	\$ 22,500
Richard Workman:	\$ 32,505.56

**Quinn (D)**

*Individual Contributions*

Itemized:	\$ 2,075,353.00
Non-itemized:	\$ 80,157.60
- 1,122 itemized individual contributions (non-aggregate)	
- Range: \$25-\$350,000 (non-aggregate)	

*Transfers In*

Itemized:	\$ 7,455,383.00
Non-itemized:	\$ 1,300.00
- 171 transfers in (in aggregate)	
- Range: \$-\$ (non-aggregate)	

Loans Received:	\$ 500,000.00
<i>Other</i>	
Itemized:	\$ 16,472.63
Non-itemized:	\$ 0.00

*In-Kind Contributions*

Itemized:	\$ 2,836,908.04
Non-itemized:	\$ 931.15
- itemized in-kinds (non-aggregate)	

*Major Individual Contributors*

AFSCME Special Account:	\$ 350,000
Clifford Law Offices P.C.:	\$ 50,000
Cooney and Conway:	\$ 50,000
Cornelius Maggette:	\$ 25,000
Development Specialists Inc.:	\$ 75,000
ELH Partners LLC:	\$ 50,000
Foresight Energy LLC:	\$ 86,000
Interstate Insurance Brokerage Inc.:	\$ 25,000
J.B. Pritzker:	\$ 75,000
Richard Driehaus:	\$ 100,000
International Capital Investment:	\$ 25,000
J and J Ventures:	\$ 25,000
John Krehbiel:	\$ 25,000
Midwest Insurance Co:	\$ 25,000
John Miller:	\$ 25,000
James Liautaud:	\$ 100,000
MillerCoors:	\$ 25,000
Murray Energy Corp:	\$ 50,000
William O’Kane:	\$ 60,000
Oak Street Management LLC:	\$ 35,000
Patrick Ryan:	\$ 25,000
James Pritzker:	\$ 532,500
SLP, LLC:	\$ 25,000
William Smithburg:	\$ 45,000
Alexander Stuart:	\$ 70,000
Robert Stuart, Jr.:	\$ 25,000
The Gold Center:	\$ 25,000
Richard Uihlein:	\$ 85,000
Wirtz Corporation:	\$ 25,000
Samuel Zell:	\$ 40,000
Paul Zeller:	\$ 22,050

*Transfers in*

AFSCME Illinois Council

No. 31 PAC:	\$ 225,000
American Federation of Teachers:	\$ 150,000
Associated Fire Fighters of IL PAC Fund:	\$ 45,000
Boilermakers-Blacksmiths LEAP:	\$ 50,000
Chicago Regional Council of Carpenters PAC:	\$ 100,000
Democratic Party of IL:	\$ 350,000
Engineers Political Education Committee:	\$ 400,000
Friends of Clayborne:	\$ 25,000
Friends of Edward M. Burke:	\$ 25,000
Friends of John Bradley:	\$ 20,000
IBEW Educational Cmte:	\$ 40,000
IL Federation of Teachers COPE:	\$ 450,000
IL Laborers' Legislative Cmte:	\$ 25,000
IL State AFL-CIO COPE:	\$ 60,000
IPACE:	\$ 300,000
Laborers' Political League Education Fund:	\$ 250,000
Montgomery County Democratic Central Committee:	\$ 20,000
North Central Illinois Laborers' District Council:	\$ 50,750
Painters District Council #14 Political Action Fund:	\$ 70,000
Pipe Fitters Assn. Local 597 U.A. Illinois PAC Fund:	\$ 25,000
SEIU COPE:	\$ 1,000,000
SEIU Healthcare IL IN PAC:	\$ 1,100,000
SEIU IPEA:	\$ 100,000
Southern Central IL Laborers' Political League:	\$ 100,000
Southern IL Political Victory (plus \$ 11,267.13):	\$ 20,000
Southwestern IL Laborers Political League:	\$ 26,000
Taxpayers for Quinn:	\$ 1,194,013
Teamsters Local Union 700 PAC (plus \$ 5,580 in-kind):	\$ 25,000
Teamsters Volunteers in Politics:	\$ 150,000
UA Political Action Fund:	\$ 75,000
UAW Illinois PAC:	\$ 300,000
UFCW Active Ballot Club Education/ Political Fund:	\$ 200,000

*Loans*

Patricia Cherry:	\$ 100,000
Citizens for Emil Jones Jr.:	\$ 200,000
Friends of Edward M. Burke:	\$ 100,000
The Burnham Committee:	\$ 100,000

*In-Kinds*

Democratic Governors Assn – IL:	\$ 1,773,732
Friends of Iris Y. Martinez:	\$ 14,400
Health Care Council of IL PAC:	\$ 239,928.05
IL Education Assn:	\$ 12,130
IL Democratic County Chairmen’s Association:	\$ 68,744.46
IL Laborers’ Legislative Committee:	\$ 17,971.97
IPACE:	\$ 48,357.57
Thomas Keefe, Jr.:	\$ 16,859.71
Personal PAC:	\$ 416,271.15
SEIU HealthCare IL IN PAC:	\$ 74,560.78

# **Appendix B: Approved Task Force Meeting Minutes that Address Public Campaign Finance**

## **I. January 26, 2011 Meeting**



Office of the Governor of Illinois

JRTC, 100 WEST RANDOLPH, SUITE 16-100  
CHICAGO, ILLINOIS 60601

### **Illinois Campaign Finance Reform Task Force**

*January 26, 2011, 1-3 PM*

*State Board of Elections Conference Room*

*JRTC 100 W. Randolph, 14<sup>th</sup> Floor (Chicago)/1020 South Spring Street (Springfield)*

### **MINUTES**

#### **Attendees at the Meeting:**

#### **Members**

##### **Chicago:**

**Lindsay Anderson, Chair**  
**Sen. Don Harmon**  
**Deborah Harrington**  
**Michael Kasper**  
**William McNary**  
**Dawn Clark Netsch**  
**Mayor John Noak**  
**Joseph Seliga**

##### **Springfield:**

**Jo Ellen Johnson**  
**Todd Maisch**

#### **Also Present**

##### **Chicago:**

*State Board of Elections:*

**Steve Sandvoss**

**Mark Greben**

**Andrew Nauman**

*Office of the Majority Leader, IL  
House:*

**Ryan O'Leary**

*Latino Policy Forum:*

**Isabel Anadon**

*Lieutenant Governor's Office:*

**Maria Capoccia**

*Governor's Office:*

**Jason Perkins**

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Chair Lindsay Anderson brought the first meeting of the Illinois Campaign Finance Reform Task Force to order at 1:15 PM with eight members present. Representative Currie could not attend, but Ryan O'Leary, the Chief of Staff for the Majority Leader of the Illinois House of

Representatives was present. Members of the Task Force then introduced themselves to one another.

The Chairperson recognized Steve Sandvoss, General Counsel for the Illinois State Board of Elections, for an overview of his agency's recent efforts to implement Public Act 96-832, which took effect January 1, 2011. The State Board of Elections is now accepting A-1 forms and will receive the first round of quarterly reports in April 2011. Although there have been a number of "very challenging" implementation concerns with respect to computer software, Mayor John Noak and Senator Don Harmon praised the work of the State Board of Elections in meeting these challenges. Sen. Harmon requested that the State Board of Elections deliver periodic reports on the implementation of P.A. 96-832 to the Task Force. Going forward, the Chairperson asked for these reports to be delivered in advance of the Task Force's bimonthly meeting.

Mr. Sandvoss also described in brief detail the new administrative rules related to implementing P.A. 96-832 and informed the Task Force members that these rules will be published in the Flinn Report of the Joint Committee on Administrative Rules (JCAR) on February 7, 2011. In their next report for the Task Force, the State Board of Elections will detail clarifications of and policies pertaining to P.A. 96-832 that should be addressed through legislation.

The Chairperson then moved to the third agenda item, interpreting the role of the Task Force and its legislative directives. A number of members responded with their views on this subject.

Senator Harmon interprets the charge of the Task Force to be two-fold: to observe and monitor the effectiveness and implications of the present campaign finance law and study future options for improving upon this system. In line with these objectives, Senator Harmon asked the Chairperson to place a discussion of the practical effects of P.A. 96-832's contribution limits to be put on the future agenda of the Task Force. In particular, the Senator seeks for the Task Force to study and discuss the effectiveness and implementation challenges of tracking structured contributions to political entities, namely if individuals or groups are able to evade the disclosure restrictions contained in the legislation by making multiple donations beneath the \$1,000 disclosure threshold (known as "aggregations") instead of single lump-sum contributions.

Member McNary followed by sending his regards to Governor Quinn and congratulating the 96<sup>th</sup> General Assembly on its many accomplishments. Referencing Citizen Action, Illinois' proposed Lincoln Act to establish a public financing system in Illinois, Mr. McNary pointed to the example of other states in creating effective public financing systems. In Arizona, 9 of 11 statewide officeholders took advantage of the state's public financing system, along with 85% of the newly elected legislators in Maine. Mr. McNary pointed out to the Task Force that a public financing system addresses three salient challenges to the democratic process in Illinois—keeping particular interests from purchasing policy outcomes through political fundraising, ensuring that the voices of the people and of small-dollar contributors are respected, and

allowing public officials the freedom to spend the bulk of their time serving the people and raising hopes instead of raising money.

Member Netsch followed by also praising the example of public financing in other states, in particular in North Carolina's judicial races, where 76% of public survey respondents thought the system, presently in its 4<sup>th</sup> cycle, was "a great idea". However, part of Arizona's campaign financing reform law is presently being litigated in the U.S. Supreme Court, showing that there are significant legal challenges to implementing such a system. Ms. Netsch asked the Chair to reach out to relevant researchers and experts on the issue of ethics and campaign finance in order to advise the Task Force on the applicability of other states' models in Illinois. Ms. Netsch mentioned several helpful pieces of information that should be brought to the Task Force's attention; in particular, she cited the "state of the law" and judicial opinions overview from the Illinois Campaign for Political Reform as a helpful introduction. Ms. Netsch highlighted two areas of concern with the present financing limits in place in Illinois: unregulated independent expenditures by outside groups, and the lack of contribution caps on state political parties and leadership groups. Member Harrington seconded these concerns, and also stressed the importance of gathering metrics and other information about the effectiveness and consequences of campaign finance limits and policies on electoral outcomes.

Member Seliga offered his interpretation of the duties of the Task Force for the group to consider, namely that its responsibilities will evolve in three steps: 1) interpreting and monitoring the implementation of P.A. 96-832; 2) gathering data on elections and the consequences that financing limits have on the democratic and electoral processes and; 3) "what to do next" in order to continue to reform Illinois's political system, particularly with respect to public financing system options.

Mayor Noak reminded the Task Force that there is no "perfect system" for campaign finance, and believes that a central mission of the Task Force should be to promote citizen investment in the electoral process by limiting the factors that discourage private citizens from making small donations. Several members of the Task Force nodded in agreement. Mayor Noak also supported an income-tax check-off option to support a public financing system (like the Presidential election fund check-off on the federal income tax form) as a way to build both investment and citizen inclusion in the political process.

Member Maisch raised three concerns for the future consideration of the Task Force: 1) studying the relationship and coordination between state and federal campaign finance laws; 2) interpreting P.A. 96-832 with respect to coordinated fundraising—particularly whether or not coordinated fundraising campaigns between candidates and outside groups can exceed \$50,000 in contributions, so long as their coordination stops after the \$50,000 threshold has been reached (in other words, does the statute set forth a "coordination cap" or a "contribution cap"?) and; 3) determining the process of issuing Task Force reports, specifically whether the Task Force will issue only consensus reports and recommendations or majority-minority reports and recommendations.

Member Kasper, after reserving the right to issue minority reports from the Task Force's recommendations, raised the issue of independent expenditures and accountability for future consideration. Mr. Kasper pointed to the problem of outsourcing of campaign messaging and electioneering communications to independent groups or "outsourced political speakers". Because these groups are not connected with a particular candidate or party's campaign apparatus, and are not required to disclose their donor lists, they therefore exist outside of the present campaign finance system and its contribution limits. Also, since they are not associated with candidates for public office, independent groups have less accountability for their political speech than do groups that participate within the realm of campaign finance regulations. Mr. Kasper pointed out that the U.S. Supreme Court's ruling in *Citizens United v. Federal Election Commission* (2010) allows independent groups to (potentially) have a strong influence in future election cycles across the county, including in Illinois. Several members of the Task Force indicated their agreement that the issue of independent groups that participate in the electoral process despite being outside of present regulations should be discussed in future meetings.

The Chair then moved to the fourth and final item on the agenda, a discussion of the Task Force's reporting deadlines and next steps. Senator Harmon pointed out that in order to include data gathered by the State Board of Elections from the primary and general elections—which is of interest to many Task Force members—legislative leave for these reporting deadlines may be necessary. The Chair then outlined the steps to be taken before the next meeting of the Task Force, including circulation of a proposed schedule of future bi-monthly meetings, the dissemination of a State Board of Elections update on implementation and action items before the next meeting, outreach to various agencies and groups for expert advice and analysis of issues before the Task Force, and an understanding of the impact of election data-collecting availability on the statutory reporting deadlines. The Chair adjourned the meeting at 2:02 PM, and the Task Force will (tentatively) meet next on Friday March 25, 2011.

## II. March 25, 2011 Meeting



Office of the Governor of Illinois

JRTC, 100 WEST RANDOLPH, SUITE 16-100  
CHICAGO, ILLINOIS 60601

### Illinois Campaign Finance Reform Task Force

*March 25, 2011, 1-3 PM*

*State Board of Elections Conference Room*

*JRTC 100 W. Randolph, 14<sup>th</sup> Floor (Chicago)/1020 South Spring Street (Springfield)*

### MINUTES

#### **Attendees at the Meeting:**

##### **Members**

##### **Chicago:**

**Lindsay Anderson, Chair**  
**Rep. Barbara Flynn Currie**  
**Deborah Harrington**  
**Michael Kasper**  
**William McNary**  
**Dawn Clark Netsch**  
**Joseph Seliga**

##### **Springfield:**

**Jo Ellen Johnson**  
**Todd Maisch**

*Senate Democrats (for Sen. Harmon):*

**Giovanni Randazzo**

##### **Also Present**

##### **Chicago:**

*State Board of Elections:*

**Mark Greben**

*IL Campaign for Political Reform:*

**David Morrison**

*Governor's Office:*

**Sarah Myerscough-Mueller**

**Joshua Faucette**

**Ben Winick**

##### **Springfield:**

*Governor's Office:*

**Jason Perkins**

*State Board of Elections:*

**Steve Sandvoss**

**Rupert Borgsmiller**

**Cris Cray**

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Chair Lindsay Anderson brought the second meeting of the Illinois Campaign Finance Reform Task Force to order at 1:10 PM with nine members present. Senator Harmon and Mayor Noak could not attend due to scheduling conflicts.

The Chairperson recognized Steve Sandvoss, General Counsel for the Illinois State Board of Elections, for an overview of his agency's interpretive questions regarding Public Act 96-832, which took effect January 1, 2011. These questions were distributed in hard copy and

electronically to the members of the Task Force. The State Board of Elections highlighted two of these concerns as pressing issues—first the “conduit” organization provision (Section 9-8.5 (i) of 10 ILCS 5—Illinois Election Code) and potential evasions of disclosure that this could represent, as well as the nature of contribution limits as they pertain to self-funded candidates under Section 9-8.5(h). The State Board of Elections requested that these interpretive questions, especially those that are most time sensitive, be addressed at the next Task Force meeting. Mr. Seliga also shared that Mayer Brown has several interpretive questions about P.A. 96-832 that have come up in legal practice that he intends to share with the Task Force.

During discussion of these interpretive issues, which led to mention of a complaint filed by the Illinois Campaign for Political Reform under P.A. 96-832, Mr. Morrison from the ICPR indicated his interest in sharing the hearing officer’s report from the State Board of Elections closed hearing on the matter. The complaint, filed against the For a Better Chicago PAC, highlighted some of the concerns that the ICPR has with potential gaps in campaign finance law, particularly with respect to the formation of fundraising organizations.

The Chairperson then gave an update on the research underway to address the questions raised in Task Force’s January meeting, investigating how public financing and other aspects of election law works in other states and the practical consequences of contribution limits in Illinois and elsewhere. Mrs. Clark Netsch asked for research into the contributions made by state political committee and leadership political action committees, and a draft recommendation for legislative action in the spring legislative session. In particular, Mrs. Clark Netsch asked for a future discussion of Illinois Senate Bill 1272 from the 97<sup>th</sup> General Assembly (which sets limits on political committee campaign contributions). Mr. McNary and Ms. Harrington agreed that this proposal should be discussed. Mr. Kasper expressed concern that imposing limits and restrictions on party and leadership groups would have serious negative unintended consequences by encouraging the further “outsourcing” of political speech to outside groups. By severing coordination between candidates and their parties above a certain contribution level, “independent expenditures” by outside groups would become even more commonplace. Mr. Kasper reiterated his concern from the January 26 meeting that such outside groups are not accountable to the voters for their political speech, at least to the same degree as candidates and political parties who must go before the voters for their support. Miss Johnson suggested that the research being done on behalf of the Task Force include the issue of cost savings achieved by leadership and party involvement in a candidate’s affairs, particularly with respect to purchasing media and direct mail advertisements. Due to efficiencies from large scale purchases, oftentimes significant cost-savings can be achieved when media and direct mail purchases are coordinated by leadership and state party committees, and such savings should be kept in mind as potential contribution limits are considered. Mr. Kasper added that he may be able to assist researchers in finding empirical data on campaign spending and the effects of contribution limits.

The Task Force also considered the concerns of the State Board of Elections with respect to “conduit” organizations covered under Section 9-8.5(i) of the Election Code. This section allows partner organizations to act as a conduit in facilitating the delivery of donations to a

political action committee and disclose contributions as aggregate figures if they are made through “dues, levies or similar assessments”. As explained by Mr. Kasper and agreed to by the other Task Force members, this section was intended to alleviate potential burdens on labor unions and other membership organizations, who under other provisions of the act might have had to disclose all of their membership rolls and dues collection figures (down to individual members) to the State Board of Elections. This section permits an aggregate disclosure instead. The State Board of Elections, though, is concerned that this section may be used by political fundraisers seeking to circumvent disclosure by forming “membership organizations” that do not have to itemize contributions. This item was suggested for discussion at future meetings.

Mr. Maisch moved discussion towards procedural concerns by suggesting that the Task Force issue two sets of recommendations—one set about technical or interpretive issues regarding P.A. 96-832 and its implementation (which would likely find consensus in the Task Force), and another set about substantive additions to campaign finance law (which may not find consensus among Task Force members). This idea was well-received by members in both Chicago and Springfield. After brief discussion, the members of the Task Force agreed upon a voting procedure for issuing Task Force reports: a seven (7) vote majority will be required to issue a majority opinion or recommendation, a minority dissenting report will be permitted and proxy votes on reports and recommendations will be permitted if allowed under the Open Meetings Act.

The Task Force adjourned at 2:30 PM and will next meet on Thursday April 21<sup>st</sup> at 1 PM in the State Board of Elections conference room in the Thompson Center in Chicago with a teleconference link to the State Board of Elections Board Room in Springfield.

### III. June 3, 2011 Meeting



Office of the Governor of Illinois

JRTC, 100 WEST RANDOLPH, SUITE 16-100  
CHICAGO, ILLINOIS 60601

#### Illinois Campaign Finance Reform Task Force

*June 3, 2011, 1-3 PM*

*State Board of Elections Conference Room*

*JRTC 100 W. Randolph, 14<sup>th</sup> Floor (Chicago)/1020 South Spring Street (Springfield)*

#### MINUTES

##### **Attendees at the Meeting:**

##### Members

##### **Chicago:**

**Lindsay Anderson, Chair**  
**Rep. Barbara Flynn Currie**  
**Deborah Harrington**  
**Mayor John Noak**  
**Dawn Clark Netsch**  
**Joseph Seliga**

##### Also Present

##### **Chicago:**

*State Board of Elections:*

**Mark Greben**

*IL Campaign for Political Reform:*

**David Morrison**

*Governor's Office:*

**Joshua Faucette**

**Ben Winick**

##### **Springfield:**

*Governor's Office:*

**Jason Perkins**

*State Board of Elections:*

**Steve Sandvoss**

**Rupert Borgsmiller**

**Cris Cray**

**Sharon Steward**

*Senate Democrats:*

**Giovanni Randazzo**

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Chair Lindsay Anderson brought the second meeting of the Illinois Campaign Finance Reform Task Force to order at 1:10 PM with six members present. Senator Harmon, Todd Maisch, Jo Johnson, Michael Kasper and William McNary could not attend due to scheduling conflicts.

The Chairperson recognized Joshua Faucette from the Governor's Office for an update on *McComish v. Bennett*, a pending court case on campaign finance currently before the U.S.

Supreme Court. At issue in the case is a provision of Arizona's Clean Elections campaign finance law regarding self-funded candidates. Oral arguments were heard in March and a decision is expected by the fall. David Morrison from the Illinois Campaign for Political Reform also provided an update on a pending legal challenge to Illinois' campaign finance law, *Center for Individual Freedom v. Lisa Madigan*. This challenge to Public Act 96-832 seeks to strike down most campaign finance legislation on First and Fourteenth Amendment grounds, revolving around the disclosure exemption for membership organizations (labor unions). The ICPR has filed a brief in the case and a response from the Attorney General's office is expected by the end of next week.

The Chairperson moved discussion to the topic of interpretive questions regarding Public Act 96-832 raised by the State Board of Elections. As in previous meetings, members discussed the law's treatment of contributions by family members of self-funded candidates and the issue of independent expenditures or outsourced political speakers. In addition, Member Netsch raised the issue of allowed money transfers between national and state-level political parties as a concern.

For the remainder of the meeting, members discussed future topics of discussion that should be brought to the attention of the full Task Force at more fully attended meetings.

- Steve Sandvoss from the State Board of Elections asked for clarification from the Task Force regarding the law's treatment of donations that exceed contribution limits. Mr. Sandvoss would like the Task Force to specifically address whether an entire donation is disallowed if it exceeds contribution limits or if just the portion of the donation above the contribution limit threshold is prohibited. For example, if a \$7,000 donation is made by an individual, should the entirety of the \$7,000 donation be considered a violation of campaign contribution limits law or just the \$2,000 in excess of the limit on individual donations? This question speaks directly to the divestiture procedure of any improper donations and the magnitude of any civil penalties that may be imposed.
- Member Seliga also asked for a fuller discussion of the specifics of election cycles on contribution limit periods, especially for the scores of municipal offices that have varying terms of service and election cycles.
- Mr. Sandvoss also asked for a discussion of the severability of Public Act 96-832, and in particular raised the issue of whether disclosure requirements can be maintained even if contribution limits or other aspects of the law are ruled unconstitutional by a court.<sup>109</sup>
- The Chairperson asked the Task Force to consider at its next meeting the 2011 report on public financing expected by the General Assembly by the end of the year. Member Seliga commented that the preparation of this report may need to

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<sup>109</sup> Article 9 of the Election Code does contain a severability clause, although it is unclear if disclosure requirements are necessarily separate from other aspects of the law.

be very fluid and tentative given the number of pending court cases that could alter the parameters of campaign finance law in Illinois.

The Task Force adjourned at 2:30 PM and will next meet on Thursday July 28<sup>th</sup> at 1 PM in the State Board of Elections conference room in the Thompson Center in Chicago with a teleconference link to the State Board of Elections Board Room in Springfield.

## IV. July 28, 2011 Meeting



Office of the Governor of Illinois

JRTC, 100 WEST RANDOLPH, SUITE 16-100  
CHICAGO, ILLINOIS 60601

### Illinois Campaign Finance Reform Task Force

*July 28, 2011, 1-3 PM*

*State Board of Elections Conference Room*

*JRTC 100 W. Randolph, 14<sup>th</sup> Floor (Chicago)/1020 South Spring Street (Springfield)*

### MINUTES

#### **Attendees at the Meeting:**

##### Members

##### **Chicago:**

**Lindsay Anderson, Chair**  
**Deborah Harrington**  
**Mayor John Noak**  
**Dawn Clark Netsch**  
**Joseph Seliga**  
**Michael Kasper**  
**William McNary**

##### **Springfield:**

**Jo Johnson**  
**Todd Maisch**

##### **Chicago:**

##### *Governor's Office:*

**Josh Faucette**  
**Ben Winick**  
**Jake Weisbecker**  
**Sarah Myerscough-Mueller**

##### *Lieutenant Governor's Office:*

**Mark Schauerte**  
**John Lanctot**  
**Leslie Reis**

##### *State Board of Elections:*

**Andy Nauman**  
*IL Campaign for Political Reform*  
**David Morrison**  
*IL League of Women Voters*  
**Paula Lawson**

##### **Springfield:**

##### *Governor's Office*

**Jason Perkins**  
*State Board of Elections:*  
**Steve Sandvoss**  
**Cris Cray**  
**Sharon Steward**  
*Senate Democrats:*  
**Giovanni Randazzo**

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Chair Lindsay Anderson brought the third meeting of the Illinois Campaign Finance Reform Task Force to order at 1:15 PM with nine members present. Senator Harmon and Representative Barbara Flynn Currie could not attend due to scheduling conflicts.

The Chairperson recognized Joshua Faucette from the Governor's Office for a report on public finance in Illinois and across the country. The Task Force is required by statute to issue their first report by December 31, 2011, on public finance. The report included information on the U.S. Supreme Court's decision striking down Arizona's Clean Elections campaign finance law in *McComish v. Bennett*. The 5-4 decision invalidates a 1998 Arizona law giving a financial boost to publicly funded candidates when their privately funded opponents spend more money. The report also mentioned bills that were introduced in the most recent 97<sup>th</sup> General Assembly's spring session proposing public finance systems in Illinois and information from other states that currently have a public finance system in place or those that have introduced a potential system. At the end of the discussion, it was decided that in order to start the report-making process, the Task Force would begin work on a Compare and Contrast list on public finance policies, a document on encompassing all the public financing options that have been implemented or have been introduced across the U.S. as well as a study on the public finance structures that have been successfully executed.

The Chairperson moved discussion to the topic of the interpretation of legal questions on the new campaign finance law. Task Force member Joe Seliga presented the document to the Task Force. The topic areas included:

- Election cycles: Section 9-1.9 of the Election Code has timelines set as 2- or 4-year cycles, based on the term of office. The discussion included questions of the Board of Elections on the Illinois State Senate election cycles versus municipal election cycles. Senators run on 4- and 2-year terms that are staggered, but have a 2-year election cycle while municipal offices run on 4-year cycles with many not having a true primary and general election cycle.
- "State political committees" subject to contribution limits: Specifically, the transferring from state to federal PACs or vice versa. It was concluded that this term refers to political party committees and thus are not subject to limits.
- *Citizens United* violation: Not clearly defined in the language of the Law. It was decided that language would be drafted to allow for another PAC definition just for these expenditures so that they would still be required to register as a political committee, but would not be subject to contribution limits.
- Self-funded candidates and families: Immediate family members (children & parents) are exempt for self-funded candidacies (up to \$100,000 or \$250,000).
- Conduits: Allows for organizations, unions, corporations or PACs to act as a middleman between members and other PACs. The way the law is written, it allows each individual to give up to \$20,000, without being disclosed. Todd Maisch offered to draft language to put a limit on individual contributions for these PACs.

The Chairperson then moved the discussion onto Member Dawn Clark Netsch's memo. The issues included in the memo are penalties for late reports of independent expenditures, penalties for exceeding contribution limits and a clear definition for the municipal election cycle. The penalties for late reports were discussed previously and the municipal election cycles were a topic of discussion earlier in the meeting so those areas were skipped over. The penalties for exceeding contribution limits were briefly discussed. The Task Force decided that the penalty, under the current law, is understood to be the "amount in violation." The Board of Elections concurred with this and stated that that is what is currently in practice.

Chairperson Lindsay Anderson moved the meeting to the final discussion topic which was Additional Issues, wherein each Task Force member could bring up any outstanding topics for discussion.

- Member Dawn Clark Netsch asked for some discussed/resolution on the leadership and political party limits. She would like to see it addressed and voted on one way or another. She also introduced an issue regarding aggregation in contributions. The Illinois Campaign for Political Reform (ICPR) has studied the issue to see if there were any issues arising under the new system with the requirement that A-1 disclosures be made within 5 days if a PAC receives a contribution of over \$1,000 at one time during a quarter. Because there is no aggregation requirement, ICPR found that several candidates/committees were receiving several contributions just under the \$1,000 mark for several consecutive days that, in aggregate, far exceed the \$1,000 amount for reporting. ICPR has a report that they will send to the Task Force.
- Member John Noak reiterated what was discussed at the start of the meeting regarding public finance and the report that is due by the end of the year. He encouraged the Task Force to study all the sides and interpretations of public finance structures in an effort to present the best, most comprehensive report they can.

The Task Force adjourned at 2:45 PM and will next meet on Thursday September 15<sup>th</sup> at 1 PM in the State Board of Elections conference room in the Thompson Center in Chicago with a teleconference link to the State Board of Elections Board Room in Springfield.

## V. September 15, 2011 Meeting



Office of the Governor of Illinois

JRTC, 100 WEST RANDOLPH, SUITE 16-100  
CHICAGO, ILLINOIS 60601

### Illinois Campaign Finance Reform Task Force

*September 15, 2011, 1-3 PM*

*State Board of Elections Conference Room*

*JRTC 100 W. Randolph, 14<sup>th</sup> Floor (Chicago)/1020 South Spring Street (Springfield)*

### MINUTES

#### Attendees at the Meeting:

#### Members

##### Chicago:

**Lindsay Anderson, Chair**  
**Senator Don Harmon**  
**Representative Barbara Flynn Currie**  
**Deborah Harrington**  
**Mayor John Noak**  
**Dawn Clark Netsch**  
**Joseph Seliga**  
**Michael Kasper**  
**William McNary**

##### Springfield:

**Jo Johnson**  
**Todd Maisch**

##### Chicago:

*Governor's Office:*

**Josh Faucette**  
**Sarah Myerscough-Mueller**  
*Lieutenant Governor's Office*

**John Lanctot**

*State Board of Elections:*

**Andy Nauman**

*IL Campaign for Political Reform*

**David Morrison**

**Brian Gladstein**

*IL League of Women Voters*

**Paula Lawson**

##### Springfield:

*Governor's Office*

**Kristen Clark**

*State Board of Elections*

**Steve Sandvoss**

**Cris Cray**

**Sharon Steward**

**Bernadette Harrington**

*Senate Democrats*

**Giovanni Randazzo**

*House Democrats*

**Tiffany Elking**

Chair Lindsay Anderson brought the Illinois Campaign Finance Reform Task Force to order at 1:15 PM. All members of the Task Force were present.

The Chairperson began with the approval of the July 28<sup>th</sup> meeting's minutes. After a few minor changes, Member Netsch moved to accept the minutes, Member Seliga seconded and the Task Force approved.

Chairperson Anderson then moved the discussion to public finance, reminding the Task Force of the December 31<sup>st</sup> deadline for the group's first report to the General Assembly. The Chairperson then recognized Task Force member William McNary to give a report on public finance. He began his presentation by speaking of Member Dawn Clark Netsch's public finance legislation for gubernatorial candidates that passed both legislative chambers in the 83<sup>rd</sup> General Assembly, but was vetoed by then-Governor Jim Thompson. He then discussed his organization, Citizen Action and their work with the Brennan Center to draft the Lincoln Act that was introduced during the most recent spring session with former-Representative Will Burns and Senator Jackie Collins serving as sponsors. Member McNary explained that the Act was done using best practices from Arizona, Connecticut, New York, North Carolina, Vermont and Maine, with Connecticut being used most frequently with contributions and thresholds changed to accommodate Illinois. Mr. McNary discussed these and other states with public financing systems and how prevalent it is in the various offices in those states. He mentioned the Fair Elections Act, federal public financing legislation sponsored by U.S. Senator Dick Durbin. He concluded by asking the Task Force to focus on three things when working on public financing issues: (1) A change in ethics; (2) getting average citizens involved in the political process; and (3) moving candidates to focus their time on the issues instead of on their PAC.

The Task Force moved into an open discussion on public financing with several Task Force members asking questions of Member McNary and the rest of the Task Force. Mr. McNary stated that the Lincoln Act was by no means an end-all for the Task Force's public finance report, but could be used as a starting point. The two points of contention for public finance within the group are: the sources of public finance funding and to which elected officials public financing will apply. Additional concerns raised included whether the program would be mandatory or voluntary, questions about finding enough funding to support multiple races and issues regarding private funding and its limits. With a price tag of potentially more than \$140 million, members raised concerns as to whether such a system would be feasible in the current economic climate. A decision was made to have a list of all of the potential issues or factors in public financing for the next Task Force meeting to discuss and that some sort of list of options in the report to be presented to the Governor may be the most appropriate way to present the findings of the Task Force. Mr. McNary volunteered to work on this list and the public financing report. Member Joe Seliga also volunteered to help with these tasks.

The Chairperson moved discussion to the topic of the new campaign finance law and those issues that needed clarification via draft language. The topic areas included:

- "State political committees" subject to contribution limits: Specifically, the transferring from state to federal PACs or vice versa. It was determined at the last Task Force

meeting that this term refers to political party committees and thus is not subject to limits and draft language was presented. After further discussion by the Task Force, it was decided that more clarification would be necessary to make it clear that a “state political party committee” and “its federal political committee” would not be subject to contribution limits as there are requirements for transfers between the two. Member Michael Kasper volunteered to handle the redrafting.

- **Conduits:** Allows for organizations, unions, corporations or PACs to act as a middleman between members and other PACs. The way the law is written, it allows each individual to give up to \$20,000, without being disclosed. Member Todd Maisch introduced the draft language he produced which was an effort to close the loophole that was inadvertently made in the campaign finance law. He attempted to do so by clarifying that contributions made through dues, levies, etc. could not exceed \$1,000 per person in a calendar year. There was an extensive discussion on this issue with many questions/concerns being raised such as would the entire amount of the dues be counted as the contribution and therefore limit the dues a conduit can receive? Would the amount to be used as a contribution be limited to whatever was transferred to the PAC? What is a typical amount that a conduit asks for in dues? Would this be limiting the dues conduits can receive? Is the \$1,000 limit too small? It was decided that further research needs to be conducted. Specific clarity should be sought regarding dues from various organizations. The draft language should be clearer in the transfer portion of the law as to PACs receiving the money. Member Kasper said he would work with the unions and other conduit organizations
- **Contribution penalties:** Allows the State Board of Elections to assess civil penalties when individuals/organizations that violate the campaign finance law. The Task Force made the decision to wait on this because there is the potential for litigation on this issue and the issue is currently in litigation. The decision was made to work with the Board of Elections and Speaker’s Counsel to see what is happening with it before a decision and vote can be made. Chair Anderson said she would reach out to counsel to follow up before the next meeting of the Task Force.

Chair Anderson then moved the discussion to outstanding issues. These issues included:

- **Self-funded candidates and families:** Chair Anderson presented the Task Force with Administrative Code Rule 100.75 (i) that corresponds to this issue.
- **Aggregate contributions:** Members Dawn Clark Netsch and Deborah Harrington presented their letter and proposed resolution to the Task Force. They are requesting the GA and Governor to enact new legislation that would require a disclosure of any contribution received during one reporting period that is \$1,000 or more singly as well as in aggregate. Currently the statute requires disclosure of only those contributions that are singly \$1,000 or more. Senator Don Harmon mentioned that there may have been a trade-off with no aggregation in exchange for year-round reporting. Additionally, he raised a concern with the already demanding reporting and adding that extra layer for committees and individuals with this change. Member Joe Seliga suggested an

alternative that during the 30-days preceding an election, aggregation should be in place with the 2 business day requirement. Harmon then said that a change such as that might cause more harm than good because uniformity in the law is what keeps it running. A request was made that the Illinois Campaign for Political Reform present a report or memo on how non-aggregation is affecting contributions currently including the number of committees and the dollar figures that are not being reporting because of the new rule.

- Election cycles: Section 9-1.9 of the Election Code has timelines set as 2- or 4-year cycles, based on the term of office. The discussion included questions of the Board of Elections on the Illinois State Senate election cycles versus municipal election cycles. Senators run on 4- and 2-year terms that are staggered, but have a 2-year election cycle while municipal offices run on 4-year cycles with many not having a true primary and general election cycle.
- Contributions under \$20: Member Jo Johnson raised a new issue of contributions under \$20, citing raffles as the biggest issue, because the new law requires a name, address and amount for *all* contributions which is a huge administrative burden for committees and individuals. After some discussion, it was decided that Member Johnson would draft language to revise record keeping requirements for small contributions.

Prior to the Task Force's adjournment, they discussed the public finance report and concluded that a list of all possible systems would be a good starting point.

The next meeting will be held Thursday, October 13, from 1-3pm and the second will be Thursday, November 17, from 1-3pm. Both will be held at the State Board of Elections offices in Springfield and Chicago. The Task Force adjourned at 2:30 PM.

## VI. October 13, 2011 Meeting



Office of the Governor of Illinois

JRTC, 100 WEST RANDOLPH, SUITE 16-100  
CHICAGO, ILLINOIS 60601

### Illinois Campaign Finance Reform Task Force Minutes

*October 13, 2011, 1-3 PM*

*State Board of Elections Conference Room*

*JRTC 100 W. Randolph, 14<sup>th</sup> Floor (Chicago)/1020 South Spring Street (Springfield)*

### MEETING MINUTES

#### **Attendees at the Meeting:**

#### **Chicago**

#### **Members:**

**Lindsay Hansen-Anderson, Chair**  
**Senator Don Harmon**  
**Representative Barbara Flynn Currie**  
**Deborah Harrington**

**Mayor John Noak**  
**Dawn Clark Netsch**  
**Joe Seliga**

#### **Springfield:**

**William McNary**  
**Jo Johnson**  
**Todd Misch**

*Lieutenant Governor's Office*

**John Lancot**

*State Board of Elections*

**Andy Nauman**

*Illinois Campaign for Political Reform*

**David Morrison**

**Brian Gladstein**

*Mayer Brown*

**Josh Faucette**

*Governor's Office*

**Sarah Myerscough-Mueller**

**Kristen Clark**

*State Board of Elections*

**Steve Sandvoss**

**Cris Cray**

**Sharon Steward**

Chairperson Anderson brought the meeting of the Illinois Campaign Finance Reform Task Force to order at 1:07 PM. Member Seliga arrived late after the first vote and Member Kasper was absent.

The Chair began the meeting with the approval of the minutes from the Task Force's September 15<sup>th</sup>, 2011 meeting. With no debate, Member Currie moved to approve the minutes as presented by the Chair which was seconded by Member Netsch. The Task Force Members voted unanimously to approve the minutes.

The Chair then moved on to the first item on the agenda, "I. Issues to be reviewed and approved by the Task Force – Illinois Campaign Finance Law," and informed the Task Force that she was still waiting for draft language on item 1(b) on the agenda regarding contributions to conduit organizations. The Chair stated that Member Kasper, who is in charge of drafting language, was in the final stages of drafting language for the Task Force to review, but was not ready at the time of the meeting. The members unanimously agreed to table the issue until the next meeting. Next, the Chair moved the Task Force into discussion on item 1(a) on the agenda pertaining to the definition of State political committees under the current Illinois Election Code. The floor was yielded to Member Johnson who offered the following draft language to the Task Force that was developed with the help of Member Kasper:

*(10 ILCS 5/98.5)*

*Sec. 98.5. Limitations on campaign contributions. © During an election cycle, a political party committee may not accept contributions with an aggregate value over the following: (i) \$10,000 from any individual, (ii) \$20,000 from any corporation, labor organization, or association, or (iii) \$50,000 from a political action committee. A political party committee may accept contributions in any amount from another political party committee or a candidate political committee, except as provided in subsection (c5). Nothing in this Section shall limit the amounts that may be transferred between a ~~State~~ political party committee established under Section 7-8(a) of this Code and affiliated federal political committees established pursuant to the Federal Election Code by that same political party. A political party committee may not accept contributions from a ballot initiative committee. A political party committee established by a legislative caucus may not accept contributions from another political party committee established by a legislative caucus.*

Member Johnson explained the reasoning underlying the revisions and the need for the provision to track current federal law. This is the intent of the revision. After Member Johnson's explanation, Member Currie moved to recommend that the Task Force recommend that the Illinois General Assembly take up the proposed revisions. The motion was seconded by Member Netsch. It was approved by a unanimous vote (9 – 0) of the Task Force.

Subsequently, Members Harmon and Currie discussed the timeframe for the General Assembly to take up the proposed revisions and agreed that it was unlikely that the General Assembly would take up the proposal during the Fall Veto Session.

The Chair then moved into discussion on item 1© on the agenda relating to small donations and contributions made in connection with raffles and other games of chance. The Chair recognized Member Johnson who provided draft language on the issue to the Task Force. The draft language is as follows:

*(10 ILCS 5/9 7) (from Ch. 46, par. 9 7)*

*Sec. 9 7. (1) Except as provided in (2), The treasurer of a political committee shall keep a detailed and exact account of (a) the total of all contributions made to or for the committee; (b) the full name and mailing address of every person making a contribution and the date and amount thereof; (c) the total of all expenditures made by or on behalf of the committee; (d) the full name and mailing address of every person to whom any expenditure is made, and the date and amount thereof; (e) proof of payment, stating the particulars, for every expenditure made by or on behalf of the committee. The treasurer shall preserve all records and accounts required by this section for a period of 2 years.*

*(2) The treasurer shall keep a detailed and exact account of the total amount of contributions made from an event licensed pursuant to Section 8.1 of the Raffles Act. For an event licensed pursuant to Section 8.1 of the Raffles Act, the full name and mailing address of a person purchasing tickets is not required if the amount of the tickets purchased does not exceed \$20.*

Member Johnson was given the floor who argued in support of the revisions. During debate on the issue, Members Netsch and Harmon questioned the reasoning and need for the revisions. Member Currie explained that the current law's requirements are impractical. Member Johnson further explained that the record keeping requirements imposed by the new law created an administrative nightmare for raffle sponsors as well as those who sponsored games of chance that were tied to political donations. In response, Members Noak and Harrington questioned if that was the case, should the cap in the proposed revision. Member Johnson explained that a \$20 limit would be the most pragmatic. Member Currie moved for the Task Force to vote to recommend the draft language to the General Assembly, which was seconded by Members Seliga and Netsch. By a unanimous vote (10 – 0), the Task Force voted to recommend the proposal to the General Assembly.

Next, the Chair moved onto the next item on the agenda “II. Public Finance Report.” The Chair recognized Member McNary who reported to the Task Force that his policy report on the pros and cons of public financing would be finished by the next meeting. Member McNary briefly shared an outline of his report and ran down the social benefits, costs, obstacles to implementing public financing, and campaign fundraising. At the close of his update, Member Netsch reiterated her position that any approach to public financing should be a balanced one. Member Seliga then reminded the Task Force that the due date for the Task Force's Public Finance Report was quickly approaching and volunteered Josh Faucette of Mayer Brown to draft the Public Finance Report. Member Seliga also asked the Task Force whether it preferred a report on public financing or if the Task Force intended to make specific recommendations to the General Assembly on public financing; and, if so, whether the recommendations would be precise or general in nature. Member Noak stated that the Public Finance Report should present a snapshot at the state of public financing and any specific recommendation should be a limited pilot program in a specific jurisdiction. Member Seliga then introduced an idea he and Member Noak had come up with for a public finance system that combines low-dollar matching public funds with a limited tax credit for political contributions directly to candidates. Members Seliga and Noak explained that this idea would spur public participation with candidates as opposed to private organizations, such as Super PACs, and would incentivize a candidate's fundraising. In response, Member Curry expressed doubt that any system could fully negate the affect of Super PACs and other private organizations. Further, Member Misch added that the system proposed by Members Seliga and Noak could protect those who choose not to participate in direct

candidate fundraising, which itself was an unfair result. The Chair then concluded discussion on the issue and moved onto the scheduling of the next meeting and drafting of the Public Finance Report.

The Chair stated that the Task Force would consider Member McNary's report and the draft Public Finance Report at the Task Force's next meeting on November 17, 2011. Revisions will be made after that and a final report prepared for the Task Force's approval at a final meeting for the year in December. The Task Force decided that the final meeting for the year will be held on December 15, 2011.

The Chair then moved discussion onto the last item on the meeting agenda, "III. Outstanding Issues." The Chair informed the Task Force members that a comprehensive list of outstanding issues for the Task Force would be provided to them at the next meeting so that the Task Force could schedule its agenda and priorities for 2012. Next, Member Netsch asked the State Board of Elections whether the Board has encountered any new issues since the last meeting. Steve Sandvoss from the Board of Elections took the floor and reported that the major issue remains to be contributions to conduit organizations.

Upon unanimous consent of the Task Force Members, the Chair adjourned the meeting at 2:07 PM.

## VII. November 17, 2011



Office of the Governor of Illinois

JRTC, 100 WEST RANDOLPH, SUITE 16-100  
CHICAGO, ILLINOIS 60601

### **Illinois Campaign Finance Reform Task Force**

*November 17, 2011, 1-3 PM*

*State Board of Elections Conference Room*

*JRTC 100 W. Randolph, 14<sup>th</sup> Floor (Chicago)/1020 South Spring Street (Springfield)*

### **Minutes**

#### **Meeting Attendees**

#### **Members**

##### **Chicago:**

**Lindsay Anderson, Chair**  
**Senate President Pro Tempore Don Harmon**  
**Majority Leader Barbara Flynn Currie**  
**Dawn Clark Netsch**  
**Joe Seliga**  
**William McNary**

##### **Springfield:**

**Jo Johnson**  
**Todd Maisch**

##### **By telephone:**

**Deborah Harrington**

##### **Chicago:**

*Governor's Office*  
**Jessica Bruskin**  
**Sarah Myerscough-Mueller**  
**Ben Winick**  
*Lieutenant Governor's Office*  
**John Lanctot**  
**Mark Schauerte**  
*Minority Leader Cross' Office*  
**Andrew Freiheit**  
*State Board of Elections*  
**Andy Nauman**  
*IL Campaign for Political Reform*  
**David Morrison**  
*IL League of Women Voters*  
**Paula Lawson**

##### **Springfield:**

*Governor's Office*  
**Andre Jordan**  
**Kristen Clark**  
*House Democrats*  
**Tiffany Elking**

*Senate Democrats*  
**Giovanni Randazzo**  
*State Board of  
Election*  
**Cris Cray**  
**Rupert Borgsmiller**  
*Springfield State-  
Journal Register*  
**Bernie Schoenberg**  
*MetroSource News*  
**Nicole Wilson**  
*Illinois Radio Network*  
**Alex Degman**

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Task Force Chairperson Lindsay Anderson brought the Illinois Campaign Finance Reform Task Force to order 1:10 p.m. Members Kasper and Noak were absent. Member Harrington was present via teleconference.

Chairperson Anderson began with the approval of minutes from the Task Force meeting on October 13, 2011. Member Netsch proposed two changes to the minutes. The first change (page 2, paragraph 1) was to reflect that the Task Force did not “unanimously agree to table the issue” of conduit organizations, but instead they “unanimously agreed to postpone the issue until a later meeting.” The second change (page 3, paragraph following draft language) was regarding a sentence in which Members Harmon and Netsch “questioned the reasoning and need for the revisions.” It was decided that sentence would be removed. Member Seliga requested a change (page 4, paragraph 1) as well that the phrase “that combines law dollar matching funds with a limited tax credit,” should be changed to “that consists of low-dollar matching public funds or a limited tax credit.” This request was accepted. The Task Force approved the minutes, with changes, by a unanimous 6-0 vote after a motion by Member Netsch and a second by Member Currie (Task Force members Harmon, Harrington and McNary arrived late).

The Chairperson outlined the meeting agenda and encouraged the Task Force to focus on the big picture and what the next six weeks will hold including the public financing report, public hearings, the comprehensive issues list and the next steps for the rest of the year as well as the coming year.

Member Netsch asked for the State Board of Elections’ guidance on the issues list. It was decided that the Task Force would work with the State Board over the coming weeks to advise on the issue areas, specifically those that are time-sensitive. Additionally, a letter, separate from the public finance report, was discussed to present to the Governor and the General Assembly the recommendations that have been approved by the Task Force over the course of the year.

Chairperson Anderson moved to the first item on the agenda, the Public Finance Report with its December 31, 2011, deadline to be presented to the Governor and the General Assembly. The Task Force subsequently began discussions on the working draft of the report with Member

Seliga giving a general overview of the report. Questions were posed by members as to what the final report should look like, specifically if there would be one recommendation given, a list of possible alternatives or no recommendation at all on a public finance system for Illinois.

Improvements to the report were discussed by the Task Force. Suggestions included listing the systems by state followed by how they would work (or wouldn't) in Illinois, inserting a section indicating the cost of each system on the taxpayer and the state as a whole with concerns being raised as to the availability of matching funds. In one of the proposed systems in the report, anyone would have the ability to receive these funds with all candidates still abiding by the newly imposed contribution limits. The report currently includes four structures: (1) comprehensive public financing system; (2) a matching funds system; (3) a small dollar contributions system; and (4) a judicial system-only system.

The Task Force began going through the report section by section with Chairperson Anderson leading the discussion. Member McNary suggested that the report be looked at broadly for purposes of the meeting time allotted. Member Netsch asked if there would be clear conclusions or recommendations given by the Task Force. Member Maisch, in that context, asked that the pro/con section of the report be more balanced. He volunteered himself to make an addition to the report. Member Johnson suggested that there be two sets of arguments: proponents and opponents with neither side tinkering with the others'. Member Seliga made the suggestion that each side send their arguments for or against public finance to Lindsay Anderson and Josh Faucette at Mayer Brown to be included in the report. An additional recommendation of no public finance system at all will be presented in the report by Members Johnson and Maisch.

With the general idea for the report taking shape, Chairperson Anderson moved the discussion onto next steps for the report over the coming weeks. She asked whether subcommittees or working groups would be needed while also requesting that all additions and suggested changes (edits) be sent to her and to Josh Faucette. It was decided that all edits made to the working draft would be highlighted and sent to the entire Task Force to see and approve of.

A discussion on the statutorily required public hearings was begun by Chair Anderson who suggested two hearings, one in Springfield and one in Chicago. Questions were asked by Task Force members as to what the goal of the hearing should be and whether the report should be released to the public prior to. A suggestion was made that a summary report could be made available with only the factual information and could possibly contain the pros and cons as well. The final decision was that there would be one public hearing in Springfield with an outline and one in Chicago with a full report. The Springfield hearing will be on Monday, November 28, 2011, at 2:00 p.m. The Chicago hearing will be on Thursday, December 15, 2011, at 10:30 a.m. prior to the Task Force's 1:00 p.m. meeting. Both locations will be decided at a later date.

Chair Anderson then brought up the issue of the 2012 calendar; she will present a proposed calendar at the next Task Force meeting. The comprehensive list will, as stated at the beginning of the meeting, be discussed in more detail after work has been done with the State Board of Elections. Chair Anderson mentioned an addition to the list, the Governor's wish for there to be a ban on gaming contributions. That topic will be added and discussed at a later date.

With all business being finished, Chairperson Anderson, with a motion by Member Harmon and seconded by Member Currie, adjourned the Task Force at 2:25 p.m.

## VIII. December 15, 2011



Office of the Governor of Illinois

JRTC, 100 West Randolph, Suite 16-100  
Chicago, Illinois 60601

### **Illinois Campaign Finance Reform Task Force**

*December 15, 2011, 1-3 PM*

*State Board of Elections Conference Room*

*JRTC 100 W. Randolph, 14<sup>th</sup> Floor (Chicago)/1020 South Spring Street (Springfield)*

#### **Meeting Attendees**

##### **Members**

##### **Chicago:**

**Lindsay Anderson, Chair**  
**Majority Leader Barbara Flynn Currie**  
**Dawn Clark Netsch**  
**Joe Seliga**  
**William McNary**  
**Jo Johnson**  
**Mayor John Noak**  
**Deborah Harrington**

##### **Springfield:**

**None**

##### **Chicago:**

*Governor's Office*  
Sarah Myerscough-Mueller  
*Lieutenant Governor's Office*  
John Lanctot  
Mark Schauerte  
*Senate Democrats*  
Giovanni Randazzo  
*State Board of Elections*  
Andy Nauman  
*IL Campaign for Political Reform*  
David Morrison  
Brian Gladstein

##### **Springfield:**

*Governor's Office*  
Andre Jordan  
Kristen Clark  
*State Board of Elections*  
Cris Cray  
Rupert Borgsmiller  
Steve Sandvoss  
Sharon Steward

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Chairperson Anderson began the Campaign Finance Reform Task Force at approximately 2:00 p.m. Members Anderson, Currie, Netsch, Seliga, McNary, Johnson, Noak and Harrington were present in Chicago. Members Harmon, Kasper and Maisch were absent. The first order of

business was introductions of all present in Chicago and Springfield. Following that was the approval of the minutes from the Task Force's last meeting, held Thursday, November 17, 2011. The minutes were moved for approval by Member McNary and seconded by Member Currie. The Task Force voted unanimously (7-0) to approve the minutes.

The third order of business was the public finance report, due by December 31, 2011, to the Governor, the General Assembly and the State Board of Elections. Several Task Force members asked about the possibility of reading the minutes of the public hearing as well as the written testimony provided. Both will be sent to Task Force members shortly. Member Johnson expressed concerns with the opposition arguments. She and Josh Faucette will flush out the reasoning and add reference footnotes to the current draft.

Member Netsch posed the question of the Task Force's charge going forward? Specifically after the hearings with the testimonies and arguments raised. Member Seliga did not believe any substantive changes need to be made at this time. Member Johnson agreed and believe a sort of consensus had been reached already with the report. There was some discussion as to whether the "maintenance of the current system" option should be kept in the report with Member McNary asking for it to be removed and Member Johnson saying she would vote no on the report if it was taken out. It was decided that the report would allow for further study after this is given to the Governor and the General Assembly, to leave the option of a strong recommendation on the table. The report will also include a reference to the 7<sup>th</sup> Circuit Court of Appeals decision that was handed down this week which could potentially affect the new campaign finance law.

Chairperson Anderson suggested that a provisional vote could be taken now on the report, with non-substantive changes being all that is left to make. A final approval email will be sent out next week and the Chair will contact each Task Force Member to get their approval. The possibility was left on the table that the Task Force would need to meet again with the tentative date of Thursday, December 22, 2011, at 1:00 p.m. set for that potential meeting. The Chair requested final recommendations by early next week so that a provisional vote could be taken. Member Currie moved to provisionally approve the public finance report, Member McNary seconded. All members voted to approve (8-0).

The Chair moved the meeting to the next item on the agenda, the State Board of Elections' time sensitive issues list. The first item being election cycles (Section 5/9-1.9), specifically odd year election cycles. The question asked by the State Board being: does "the election for the office to which they are running mean it with each primary/general"? Member Noak spoke to the issue saying the problem with this section is not having a level-playing field as it currently stands or how it is currently being interpreted. This system sets these cycles so that the legislature becomes the predominant way to raise money; specifically the State Senators are able to receive undue advantage because they can keep raising every 2 years when no one else in district can do so. This allows higher offices to have the superior position – challengers to State Senator will be at a huge disadvantage – being unable to transfer money would help, but that won't happen. Member Johnson explained that she thought the goal was to put State Representatives and State Senators on a level playing field. She pointed out that there are certain limits with transfers.

Member Noak expressed his desire to see this problem fixed. He was understanding of the way they tried to fix this perceivable problem, but believes they caused another one and a bigger one at that. Member Johnson suggested that they flag for future issue so that Member Harmon could shed light on this topic as a member of the Illinois Senate. The State Board did ask that it be done sooner rather than later because if Legislature doesn't address it soon, it might make it too late for consolidated elections of following year. They ask for Task Force consensus specifically on whether Subsections (1) and (4) were the same or whether (4) was different and that local elections have a 4-part election cycle over 4 years and whether there was a 4-part election cycle over 4 years for constitutionals.

Member Johnson requested clarification from SBE on consolidated elections, asking if they could provide the Task Force with data on this issue and on the local elections across the State. Member Noak asked them to include all municipal and local offices, including everything from mayors to village presidents to park district boards.

The next issue on SBE's list was Independent Expenditures (Section 5/9-8.6(b)). Member Johnson suggested that the Task Force and the public digest the effect of the recent 7<sup>th</sup> Circuit Court of Appeals decision before deciding on anything. The issue of Federal Super PAC going into only State PACs. There might be some issues with the constitutionality; we need to work through the decision first. That decision could bring Illinois' Act up in court. Member Seliga agreed saying there was also a DC Circuit Court decision that reflected similar findings. The State Board said waiting on the impact was fine and asked about any work done on the Citizens United issue. This decision seems to reinforce CU so should probably be looked at first. Member Seliga suggested that wording for disclosure purposes only could be added, but that closer scrutiny still needed to take place.

The final issue on Elections' list was the Federal/State Committee transfer language (Section 5/9-8.5(c)). Chair Anderson explained that part of this issue had already been fixed with wording approved by the Task Force. Member Johnson did bring up the Super PAC issue, saying that current language leaves room for Federal Super PACs to transfer to State Super PACs. The 7<sup>th</sup> Circuit decision might affect this Section as well. Additional wording may need to be worked on for Super PACs. Member Currie agreed, but said for now the language should still be recommended. Chair Anderson made the final judgment saying consensus was to recommend the agreed upon language for the time being.

Chair Anderson discussed the proposed meeting times for 2012. They are April 5, 2012, June 21, 2012, September 27, 2012, and December 6, 2012. Additionally there is a reporting deadline of September 30, 2012, for the Task Force so more meeting dates can be added as necessary. No discussion was necessary. Member Currie moved to approve the 2012 proposed dates, Member Netsch seconded. All Members approved (8-0). Member Noak volunteered to hold meetings in the suburbs.

The next item on the agenda, next steps for reporting, was addressed by Chairperson Anderson. There will be two things sent to the Governor and the General Assembly; they will be the recommendations letter and then the public finance report. For the letter, the Chair explained

that she would be drafting it for Task Force approval and that it would have no real substance, just a letter recommending the federal/state committees language (Section 5/9-8.5(c)) and the raffle donations language (Section 5/9-7 (2)). The letter will be a request to be voted on by the General Assembly. The public finance report will be sent with a cover letter from the Task Force to the Governor, the General Assembly and the State Board of Elections upon completion.

The final item on the agenda was addressed by the Chair. The comprehensive issues list is what the Board of Elections and Task Force members have brought forth as issues to be discussed and addressed. The document continues to be expanded as more issues arise. Member Netsch raised the issue of how the new campaign finance law is working, whether it is making a difference and where the money is coming from now. She expressed that the Task Force is tasked with addressing these things and should be addressed soon. Members Johnson and Seliga said the Task Force should wait for more structured data as one election cycle has not been able to take place yet. It was decided that the law could still be looked at, comparing 2010 and 2008. Specifically, after the 2012 primary, a comparison should be done between that primary and the primary from 2002 as both are redistricting election years. David Morrison of ICPR was asked to provide data when it was available.

Member Netsch suggested that the issues list be given to the Governor and the General Assembly with the other documents. The Task Force decided against this as the document is a working one that is constantly changing as things are resolved or added. Rupert Borgsmiller of the State Board of Elections suggested only recommending the raffle language, but it was decided that they would still recommend the federal/state committees language to clean up the language for the time being and that they would be open to making changes to that piece as the Super PAC issue is discussed and potentially resolved.

Chairperson Anderson asked for a motion to adjourn. Member Currie moved for adjournment, seconded by Member McNary. The Task Force adjourned at 3:10 p.m. with plans to meet Thursday, December 22, 2011, at 1:00 p.m., if needed.

# **Appendix C: Approved Minutes of Task Force's Public Hearings on Public Campaign Finance**

## **I. November 28, 2011 Public Hearing — Springfield, Illinois**



Office of the Governor of Illinois

JRTC, 100 WEST RANDOLPH, SUITE 16-100  
CHICAGO, ILLINOIS 60601

### **Illinois Campaign Finance Reform Task Force Public Hearing**

*November 28, 2011, 2:00 PM*

*Illinois State Capitol Room 400, Springfield*

### **Public Hearing Minutes**

#### *Task Force Members Present:*

Lindsay Hansen Anderson (Chair)  
Joe Seliga  
Todd Maisch  
Senator Don Harmon  
William McNary

#### *Testimonies:*

State Representative Elaine Nekritz  
David Morrison, Illinois Campaign for Political Reform  
Kent Redfield, Professor Emeritus – UIS

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## **I. Call to Order; Campaign Finance Reform Task Force Overview**

Chairperson Anderson began the public hearing by explaining the purpose of the Campaign Finance Reform Task Force as well as what they are tasked with, including several reports, specifically a report on public finance that is to be presented to the Governor and the General Assembly by December 31, 2011.

The Chair went on to explain what the Task Force has decided upon, at this point, for the report. The report will contain descriptions of multiple options that are currently in use by other

states and how feasible the options are for the State of Illinois and even whether public finance is a feasible option for the State. Member Joe Seliga went on to explain the draft outline that was posted prior to the meeting and how it relates to what the Task Force is asked by statute to discuss and decide upon including the options for imposition of public finance, types that might be feasible for Illinois, options involving tax credits, candidate opt-ins, candidate requirements and offices to which a system might apply. Member Todd Maisch thanked Member Seliga and his team for putting together the initial report for the Task Force.

## **II. Witness Testimony**

### **A. Representative Elaine Nekritz**

State Representative Elaine Nekritz testified that she strongly believes that campaign contributions limits are not doing the job they should. She understands that spending limits will not pass through the Supreme Court of the United States, as is evident from recent court decisions. She used Connecticut as an example as they created their own mechanism to publicly fund campaigns. Due to the State's dire financial situation, it is understood that we may have to wait to implement such a system, but that an open, critical dialogue is necessary for the time being. She is supportive, as a member of the General Assembly, of this type of system for campaigns in Illinois.

Member Todd Maisch: Do you think your public funding would work with independent expenditures? Do you think they are compatible?

- Representative Nekritz: Believes it would work and that the increase to disclosures would increase accountability and allow the public to see all who are giving and how much they are giving.

Member Maisch: Is this just one more thing government is getting into that they shouldn't? What would you say to those people?

- Representative Nekritz: One could argue that the current campaign finance system allows for the funneling of more money into government and that the only way to reduce that money is to use a public financing system. Member Seliga

Member Seliga: What about the people who say it's too soon to implement public financing? The State did just pass a large campaign finance reform package.

- Representative Nekritz: While the limits are a good thing, they do not really take away any influence. The federal government has had a system in place for years; it is Illinois' turn and there is no need to wait.

### **B. David Morrison, Illinois Campaign for Political Reform**

Speaking in a broad context, Mr. Morrison addressed the subject of statewide and judicial public finance systems. The judicial system is quite different in that they are not elected to change the law, but to interpret it and read the Constitution which is very different from the executive and the legislative branches.

The two forms of public financing are: block grants (candidates jump through hoops to get a sum of money). These candidates believe they'll run a certain kind of race, but often run into an opponent with way more money. These candidates were able to receive rescue/trigger funds when they had such opponents – the Supreme Court recently struck down the matching funds provision. The second form is the taxpayer-directed system. In that, individuals can select a tax check-off on their tax forms or they can allocate a portion of their taxes to such a program. For various systems, a matching component is available for funds received by donors where the state matches on say a 4-to-1 or 8-to-1 ratio. Other ways to generate public money include a general revenue fund for public financing, penalty surcharges (AZ - \$2M), speeding ticket/DUI ticket surcharges (\$5M and \$1M), attorney registration fees (NC – to the benefit of all lawyers).

In the 2004 election, 50,000 people donated to campaigns. There are 13 million people in Illinois. In the 2010 election, three percent of donations came from donors giving less than \$100. A public finance system would encourage more participation from the public which would increase the number of small donors.

The Illinois Campaign for Political Reform has been a long-standing advocate for a public financing system in Illinois. They would specifically like to see a judicial public financing system in this State. The base line is that a public finance system would not necessarily be a cure-all for corruption, but it would encourage more involvement by the general public and get better candidates to run which could increase accountability in government.

Member Seliga: Your proposal encouraging small donors – candidate opt-in system; not candidate specific, but contributor specific – would allow any person in Illinois to receive tax credit and that money could go to anyone. Is that correct?

- There are two basic approaches: block grant programs for lump sums (hoops – certain number of small donations); reimbursement of donors to make small contributions to any campaign – taxpayers would decide who gets that tax benefit (instead of candidates opting-in to the system).

Member Maisch: 50,000 donors aka ½ of 1% of Illinois citizens donated; what about those union members/groups who are giving to their PAC to then give to a candidate? I am glad to hear ICPR wants more participation.

- 2004 election using D-2s
- We looked at other states and estimated the average donation. Our methods found that not quite 50,000 people were giving to candidates.

Member McNary: Can you address the CONs people have on public finance? → Read the list from the Public Finance report outline

- *Public financing likely raises both State and Federal Constitutional issues in light of recent court decisions:* There have been many challenges, but as long as system is meant to address corruption it is constitutional.
- *Public finance systems possibly perpetuate the power and influence of incumbent politicians, which undermines the goals of public financings:* Building base of support for election day doesn't favor one or the other

- *Public Choice Theory and its comparative effect on participating and non-participating candidates might disillusion some voters:* Public Choice Theory: candidates choose for own reasons not to join system; how candidates raise money is one way people look at candidate and whether or not to vote for them
- *Public financing may not have a substantive effect on campaigns because independent expenditures are allowed:* Allowance of independent expenditures was not previously part of Illinois' campaign finance, it is *now*; 5<sup>th</sup> District Supreme Court – highest spending race in country to-date
  - o Both candidates were unhappy with ads, but did not have enough money to stop ads or run their own ads
  - o With own money, they can craft their own message, run their own ads
  - o Providing public financing allows candidates to run own campaign
- *Public financing could diminish the role of individual citizens in the political process by inserting the government into the funding of campaigns instead of individual choice:* all programs they support require candidates to demonstrate area support via signatures/funds

### C. Kent Redfield, Professor Emeritus at University of Illinois at Springfield

A written statement is forthcoming. Professor Redfield explained his background; working on campaign finance issues since the 1990's, including the gift ban. The Supreme Court of the United States is implementing contribution limits as we speak with their decisions on the campaigns including Buckley, Citizens United, Davis and Bennett. Their goal has been and will continue to maintain free speech for all.

Must ask: what are the goals of the system – is it increased competitiveness or increased diversity? There is a threshold of viability vs. visibility. With visibility, the State provides resources to all candidates so that voters are made aware of each. With viability, the money is the key to making a difference. Incumbency doesn't always require more money, though in general money does tend to rule things campaign-related. The marginal dollar is more important to the challenger because the incumbent has the name recognition.

A comparison of campaigns, State Senator Bill Brady spent \$17.8 million last year and Governor Pat Quinn spent \$15.2 million. For Glenn Poshard or Dawn Clark Netsch, neither spent more than \$4 million in their general elections against George Ryan and Jim Edgar, respectively. In the State legislature, 15 candidates spent \$300,000, in the general election last year; leader-funded raises spent anywhere between \$750,000, and \$1 million, with only about 2% of that money coming from individuals in the district. With these numbers in mind, it is obvious that a large amount needs to be given to candidates so that they feel it is worth it to opt-in to the system. It would allow such candidates the opportunity to spend more time meeting and speaking with constituents instead of raising funds.

Building a foundation to give certain funds to every candidate will create a larger pool and would level the playing field, though it may not change the outcomes. There is inherent value in more candidates which is more competition and thus better candidates being elected.

Citizens do not trust their legislators and Governor, but having a public financing system they can give to will invest in public confidence to gain back that trust.

Recent campaigns have showed us what the effect of social media and the internet can have on politics – lots of people getting involved with small donations and feeling part of the process. There is no way to tell what the laws will look like five to ten years from now, but they are always changing and should be updated to what is happening in the country and world.

Member Maisch: Are independent expenditures constitutional?

- Independent Expenditures must be run through a PAC. If you play in Illinois, you must be required to form a committee and report your expenditures.
- The Supreme Court's Citizens United case says they are on solid Constitutional grounds;
- Must make individuals report themselves on this; must be aggressive on this subject.
- The only way to disclose these expenditures is to report them.
- There can be compliance without being unduly burdensome.

Member Seliga: What about the Independent Expenditures and Super PACs? Numbers will continue to go up, but now more structured.

- Post-Buckley: Citizens United means an explosion of private money; cost of campaigns will not go down; rise of social media will allow for more targeting via social media/broadcasting.
- There should be ways to use these to a candidate's benefit.

Member McNary: There are four main reasons for public financing; 2 of those have been struck down because of court cases. I would like to ask you about each.

- Public Finance helps curb political corruption: competing with private money – fewer opportunities for private money allows for cleaner elections
- Public Finance increases diversity: there are historic patterns of participation; there is a correlation between money and socioeconomic status – less participation with women and minorities (those with lower socioeconomic status); no wealth primary; more that there is less reliance on own finances and legislative leaders, the more many groups will participate.
- Trust in Government: designing a political system that encourages candidates – healthy for political system; allows people to feel involved and be confident in their government; allows for more creative ways to put power/money in the hands of more candidates; increases of small donations increases participation
- Huge fan of public financing, small donations, contribution limits
- Judicial elections MUST be publicly financed – but might be tough for retainment, but worth a look for this branch; vote for judges because they are good people, not because of their vote on tort reform or votes on criminal justice system

Member McNary: Public money being used for private companies; others are “sucking-up” and dealing with hardships while businesses are being given exception; what are your thoughts on this?

- Public Financing curbs public corruption; allows more diversity; allows for more time with constituency and less time fundraising

## II. December 15, 2011 Public Hearing — Chicago, Illinois



Office of the Governor of Illinois

JRTC, 100 WEST RANDOLPH, SUITE 16-100  
CHICAGO, ILLINOIS 60601

### **Illinois Campaign Finance Reform Task Force Public Hearing**

*December 15, 2011, 10:30 AM*

*James R. Thompson Center, Senate Hearing Room 16-503, Chicago*

### **Public Hearing Minutes**

#### *Task Force Members Present:*

Lindsay Hansen Anderson (Chair)  
Joe Seliga  
Senator Don Harmon  
Representative Barbara Flynn Currie  
Dawn Clark Netsch  
Mayor John Noak  
William McNary  
Deborah Harrington  
Jo Johnson

#### *Testimonies:*

John Loreda  
Judge Wanda Bryant  
Chris Heagarty  
Dick Simpson  
Michelle Jordan  
Terry Pastika  
Rev. Alexander Sharpe  
Walter Kendall  
Paula Lawson  
Emily Miller  
Rey Lopez-Calderon

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### **I. Call to Order; Campaign Finance Reform Task Force Overview**

Chairwoman Anderson called the hearing to order and gave a brief overview of the Task Force's charge including what the Task Force is, by statute, required to look at/study. She asked Members McNary and Seliga to explain the Task Force's required Public Finance Report.

Member Seliga described, in detail, what the Task Force is obliged to study for the public finance as well as what exactly is in the public finance report that was posted for the public. He explained the Campaign Finance Act, specifically speaking to the Campaign Finance Reform Task Force that was set up in the Act and explaining that it requires the Task Force to develop a report on Public Finance – what is required in the report, what is asked; arguments for/against

public finance as a whole; options for Governor Quinn and the General Assembly to consider if implementing a public financing system as well as the option of maintaining the current system (no public finance); survey of current laws and regulations and recent Supreme Court decisions that have struck down portions of public finance systems and how those might affect Illinois.

The options for public financing systems were explained in detail. They include: a hybrid system in which public grants (with matching funds) are given to eligible candidates; a hybrid system with matching funds for small dollar donations, not a comprehensive system, but other fundraising could be possible with limits (candidate-specific); matching funds system for small donations to all candidates which would be contributor specific, encouraging contributors to become more involved; tax incentives system for small donations which would be contributor specific as well with tax exemptions for contributors; judicial public finance to be specific to the judicial branch (or specific judicial positions); and maintenance of the current system which would mean no public finance.

Member Seliga went on to outline the arguments in support of public financing in Illinois. Those include: combating corruption; increasing the public's faith in government – private financing goes away which could lead to greater participation; allows for candidates to spend more time with their constituency; the promotion of competition in elections; an increase in the diversity of candidates; the building of coalitions of people united to elect certain kinds of candidates; and public involvement in the political system as a whole.

The arguments were then outlined for those in opposition to public financing. Arguments within the report include: State and Federal Constitutional issues are continually arising such that a structure would need to be adopted that could withstand scrutiny; the promotion of incumbency meaning the benefits from certain types of public finance systems could favor incumbents; the fairness of those candidates participating versus those not participating; a funding source may not be available for the system; unlimited independent expenditures would still be allowed so a public finance system might not actually help; the necessity of a system when contribution limits are in place – statute says no public funds for candidates; and the diminishing role of individual citizens coupled with the increase in government's role – if a system with grants was incorporated.

Member McNary then made his opening remarks. Governor Quinn has charged the Task Force with studying campaign finance including the feasibility of public finance in the state. He expressed his opinions that government was made to be of the people, not bought/paid for by the wealthy. Currently there is representation of the 1%, instead the 99%. Public perception across Illinois is that Springfield is being bought, that corporations are continuously purchasing their needs/wants. Government should be for everyone, including the working/middle/lower classes. This state needs to replace elections with *fair* ones to change/help the ethics crisis happening in Illinois. Elected officials should work for all.

Member Harrington made her opening remarks in which she conveyed her support for a public financing system for Illinois. She discussed the black eye Illinois has received in regards to corruption both internationally and nationally. She requested that the state try to test judicial

elections as a starting point. Her hope is that the Task Force does not get caught up in technicalities and legalities and gets real work done.

Professor Dawn Clark Netsch began her remarks by explaining that she has worked for many years on the issue of dominance of our elected officials, concluding that there are a lot of reforms, restrictions and regulations that are worth making – some of which have been made recently. She expressed her belief that the state must get private, large donors out of the political process, that that is essential to the integrity of political office. These donors are bad for system and the viability of public servants. Her long-term goal is one of openness and viability with an effort to reduce the dominant role of private money.

Member Seliga made his own remarks including his support of the adoption of public financing in Illinois. He explained that a public financing system last passed the General Assembly in the early 1980s under the lead of Task Force Member Dawn Clark Netsch, among others, but it was vetoed by Governor Thompson. Since then, two major developments have occurred: two Governors of Illinois have been convicted and court decisions have permitted unlimited personal and corporate independent expenditures related to elections, the effect of which is just beginning to be understood. In discussing the report, he commended the report's list of a variety of possible systems. He stated that he believes the options can create public financing systems that improve faith in government and public involvement in elections. He would like to see Governor Quinn and the General Assembly closely examine the options and their feasibility.

## **II. Witness Testimony**

### **A. John Laredo, Arizona**

John Loredó is a former member of the Arizona House of Representatives and the former Democratic leader of the House. He was termed out of office after 8 years due to Arizona's term limits. He is now a consultant for progressive causes across the country including a public campaign out of DC that promotes public finance. The group promotes the value of public finance such that it has a unifying narrative – people are concerned with public interest and private sector money/funding. Special interest is a concern for the right and the left. He explained that Arizona was one of the first states to adopt a public financing system. Loredó himself never used the system because he did not have an opponent and thus did not feel the need to use the state's funding.

In Arizona, there were concerns from public officials as to the changing of how money would flow to candidates. The leaders obviously didn't want to change things, but they had to consent to the public's will by way of their ballot initiative. The system calls for 200 \$5 donations from a candidate's own constituency. It forced politicians to go out and persuade people to vote for them which in turn made those people their biggest supporters or biggest opponents. The system got people *very* engaged in the process.

The "clean elections" system didn't necessarily guarantee you more money; in fact, it was usually about the same as non-clean candidate. The Clean Elections Fund is one of

healthiest funds in the State with their dedicated revenue stream with a surcharge on fees and fines only as well as campaign violation fines by candidates and lobbyists. The Fund actually just donated \$6 million to the State because it has so much extra money.

There are obvious restrictions to running clean, but it has many upsides. Legislators are now insulated from special interests and are able to judge issues independently. The legislative leaders who were skeptical of public finance because they didn't want to yield control have realized that it doesn't affect their ability to lead. They are actually able to save funds because they don't have to use their money for those candidates. Special interest groups make it difficult to line up votes and control variables, but with clean candidates, things are made things easier.

As a great example, Arizona runs in a huge deficit. A massive tax break package that would cost an enormous amount over several years was introduced in 2009. It was similar to the one recently passed in Illinois. In 2009, the bill went down in flames because special interests were unable to line up the votes. In 2010, the bill died again because of the same reason. Then this year, the bill passed because of the McComish/Bennett Supreme Court ruling that struck down matching funds. The special interests were able to get the votes because candidates are already worried about funding in next year's election.

Arizona's matching funds section did a match based on what an opponent spent against the clean candidate. The State is working to correct this part. They are looking into a small donor match which would allow anything under \$100 can be matched. The belief is that that will make the provision constitutional again.

Member Netsch: Is there a matching for participating and for non-participating candidates?

- Only for participating candidates; they get initial grants and matching funds.

Member Netsch: What is the level of participation?

- High 40% running clean – both chambers, both parties – more participating on Democratic side
- Former Governor Napolitano and Governor Brewer ran clean; all Governor candidates have been running this way for the past several elections. Also Secretary of State and Corporation Commission candidates are running clean. Most statewide in general are running clean.
- Democrats and Republicans have strong support of constituents.

Member Netsch: When SCOTUS decided to hear Bennett, it took people by surprise. There was an obvious impact on people in the system. How did that work?

- Grant for primary, grant for general: candidates received those
- Candidates had to decide with court case whether to run clean or not
- Left everyone "holding the bag."

Member Johnson: Did you see changes in voter turnout?

- It goes up and down like anywhere else.
- For minority voters, goes up and down but has seen an increase.
- There is a \$240 limit – for all individuals.

Member Seliga: Have there been challenges to the process?

- In Arizona, there is a referendum/initiative process in which anything must receive large number of signatures to get on ballot
- Voter protected: cannot be overturned without legislative super majority
- Have tried to repeal before (only need simple majority), but has failed each time.
- Healthy fund has been an issue, particularly in a deficit, but still has not been overturned.

Member McNary: Has there been any sort of incumbency issue?

- Incumbents must be more open to constituents and work with them, but other than that, no, there hasn't been.

Member McNary: Public Finance systems are constantly being challenged – do clean candidates lose?

- Can't always tell who will win and who will lose whether or not they are clean.
- Statewide office almost requires clean elections these days.
- Russell Pierce: Recall; spent 3-to-1 what his opponent spent and still lost by 12 points; main issue wasn't immigration and his legislation, it was special interests.

Member Johnson: Incumbents didn't set the rules, it was a ballot initiative that passed?

- They did not write the rules, they helped work them in.
- Can change statute by super majority votes, but that has never happened.
- Most likely way to change this is through ballot referendum.
- Measures in place to keep incumbents from changing the law.

## **B. Judge Wanda Bryant, North Carolina Court of Appeals**

Judge Bryant participated in North Carolina's public finance system for judges. In 2001, she was appointed to the Court. She ran for her post in 2002 under a partisan system and lost. She was reappointed by the Governor in 2002. Then in 2004, a judicial finance system was implemented across the State that changed elections.

Candidates can opt into public funding. In the system, a candidate must raise small amounts of money from a group of people; 350 registered North Carolina voters with donations between \$5 and \$10. They must raise a minimum qualifying amount near \$40,000; maximum qualifying amount is near \$80,000. Funds for the system come from a taxpayer check-off and a \$50 attorney surcharge. These funding sources raise enough money for the fund. It allows judges to run as nonpartisan.

The system also publishes the Judicial Voter Guide that goes out to all registered voters in North Carolina and can be found online. It puts all judicial candidates in the Guide at no cost to them. With the four elections cycles using this system, there have been at least 39 qualifying candidates with 19 out of 22 candidates having obtained office by public funding. Voter contact is so important and very key to North Carolina public funding. There is a \$500 limit for individuals who give to system candidates. It allows for judicial independence – judges can decide cases on all topics without feeling beholden to special interests.

**C. Chris Heagarty, former North Carolina Representative, Center for Voter Education (One of architects of judicial public finance system)**

As a former member of the House of Representatives in North Carolina, he was one of architects of this judicial public finance system. When putting together this system, there were tactics that needed to be implemented with the system. Without the ability for citizen initiatives, the legislation must get consensus from legislators, stakeholders, leaders, etc. They talked to former elected officials, civic groups, judges/jurists/NC Bar Association. All of these groups helped them to identify issues and problems that could arise. They legislature wanted a solution to the real problems in the system though they were realistic in the knowledge that there would be problems and challenges to overcome as everything was implemented.

They decided to devise this system as a means to combat corruption, though there was the realization that there will always be the potential for corruption. The thought was that the system could help prevent corruption by insulating candidates from outside interests; prevent – no, combat – yes (minimize the opportunity for it). They looked at the judicial systems in West Virginia, Texas, Ohio and Michigan. The judicial branch should be held up to a higher standard and thus kept further away from an appearance of impropriety.

The public was outraged at the idea of judicial special interests. They like the idea of many small donors. There was cynicism with government. When explaining the process and informing individuals of the system, people were very supportive of it. The system allowed for more constituent time by the candidates. The idea was that judicial candidates can and must get out there and meet a lot of voters. They would have much more time for such things without having “call time” for fundraising.

The original system had matching funds, but it is in litigation currently, though it isn't believed to make that big of a difference. In North Carolina there are not significant independent expenditures made because companies haven't gotten the bang for their buck with judges.

The system allowed for an increase in diversity. Previously there was very little minority representation on Supreme Court/Court of Appeals. Now, the playing field has been leveled more with 4 of 7 Supreme Court judges and 7 of 15 Appeals judges being women. Additionally, there has been a tripling of African Americans on the Court of Appeals since 2002.

There has been a great increase in the public's involvement with the political process. Once candidates join the system, people have an almost automatically greater familiarity with them and with the judicial branch/system as a whole. There have been more donors than ever before – even if they are donating in small amounts.

As for the opponent positions in the Task Force's report, the State can work around federal/state constitutional issues. There has been an even split on winners and losers in and out of the system, though incumbents are naturally favored. This system does allow for a more competitive floor in which to give new candidates more of an advantage against incumbents.

The system is sustainable without the attorney surcharge and without the matching funds provision. He did express that contribution limits are a good step, but that they are not enough – independent expenditures are the way to get by limits and exact your mission (plan). As for the credibility of the system, it is necessary to make sure it can be used for all, that the system is fair and that there is no categorization/stigmatization of candidates.

Member Netsch: Are there any limits to contributions in North Carolina?

- Contribution limits for non-participating candidates are \$4,000 in each election, no matter position running for

Member Netsch: Are there challenges?

- State has prevailed in all challenges thus far
- Matching funds is next – this will be changed by the legislature and is being worked on currently.

Member Johnson: Has the system affected turnout?

- No way to truly measure.
- There is generally a decline in judicial voters, but that can be correlated to the doing away with single party ballots. Judges are so far down the ballot often people just skip them.

Member Johnson: If you had only switched to non-partisan, would that have changed things?

- No. Saw nasty non-partisan fights.
- Legislation to change back to partisan is in the process currently

Member Johnson: Any sort of corruption since implementation? Are the executive and legislative levels still dealing with corruption?

- No problems thus far.
- Protecting judiciary from these issues with public financing.
- Many issues that have arisen in the other branches have been due to large donors/special interests.

Member Harmon: What about the 7<sup>th</sup> Circuit Court of Appeals decision? Would that affect public financing for you?

- Independent Expenditures: NC has taken measures to require strict disclosure of these donations.
- Restructuring: funding source/disclosure; heightened scrutiny with independent expenditures; providing initial grants has made them competitive (enough)
- Core of program is still sustainable/viable at this point
- Remove spending/raising caps to take place of trigger funds

#### **D. Honorable Dick Simpson, former Alderman – City of Chicago, Ward 44**

Report gives excellent background on the issue of public financing by states. He believes the only weakness lies in the fact that it ends without making any real recommendation, even though the index very obviously shows that there is a problem with outside donors and

independent expenditures. He implored the Task Force to recommend public funding (at least for judicial campaigns).

His group at the University of Illinois at Chicago has issued a series of reports on corruption in Illinois and will shortly be issuing one studying whether Illinois is the most corrupt state in the union. Since 1970, more than 1,500 public officials have been convicted of public corruption including Chicago, suburbs, downstate and state government.

He stated that the Task Force must take up the issue of public finance now, while it is on the minds of the public, with Governor Blagojevich's corruption trial having just ended. He expressed his support of *all* of the arguments favoring public campaigns, though understands it isn't a silver bullet to fighting all corruption.

Democracy is being undermined currently by all levels of elected officials. The depth of corruption in the State is more than most know. It is criminal not to have public financing, especially with judicial elections. Every Task Force member should read the Sun-Times editorial in support of public financing that was published earlier in the week.

Member Harmon: Do you have a list of convictions for municipalities?

- Will be in report 6 on suburban areas; individually in Cook County Report #3
- Suburban felons: 200 including mayors, police chiefs, aldermen
- Northwestern doing study on suburban corruption as well
- Fewer in downstate, but still exists

Member Harmon: Rosemont in particular?

- Will send list to Task Force members.

Member McNary: Is there a solid corruption number for cost? Straight line corruption versus court/life?

- The studies took what was in court – trial costs, individual costs; systems/centers of corruption – Quinn Commission; 5-10% of contracts were rigged/corrupt – specific costs, in the vicinity of \$500 Million
- Loss of life for such things as licenses for bribes, porch collapse, night club stampede
- Cost for everything involved

### **E. Michelle Jordan, Illinois Campaign for Political Reform (ICPR)**

The Supreme Court's decision in *Buckley* continues to allow public financing. The idea brought forth in this report that the Illinois statute could prohibit public financing is incorrect. ICPR believes that there is a legitimate public purpose to creating a system offering public funds to all candidates for an office equally. Relieving candidates of the next campaign will allow them to perform the work they were elected to do.

She urged the Task Force to recommend a system of public finance for Illinois to the General Assembly and Governor Quinn.

## **F. Terry Pastika, Citizen Advocacy Center (CAC)**

Thank you to the Task Force for this third report; it will serve as a good prompting for debate on the issue of political reforms. Citizen Advocacy works mostly on local policy issues and public financing comes up frequently. CAC is very much supportive of the implementation of such a system in Illinois. Public participation is at an all-time low currently, but a public finance system could be a way to get people involved again.

The State's Election Code is hostile to 3<sup>rd</sup> party candidates. It would be useful to look at more than public financing. It is the opinion of CAC that the report needs more footnotes and more references of studies that have been done. Specifically, the coalition building supportive argument is the only supporting one without sources. As for the opposition arguments, they need considerable more footnotes. Many say they are based in case law, but only two points have references to those.

CAC is very supportive of the inclusion of the judicial public financing. Running the contribution reports for judges is what CAC does each time they face a new judge during litigation – they find it is a good indicator for how the case will go. Judges have the self-fund or participate in campaign funding that comes from the attorneys that appear before them and those who are parties to litigation in their court.

The Appellate Court of Illinois would be the best place to start in Illinois. Can this be added and addressed in the report?

## **G. Reverend Alexander Sharp, Protestants for the Common Good**

Thankful for thoroughness and breadth of report presented for this public hearing. Protestants for the Common Good believes a political system that reflects the idea that all are created equal in the eyes of God is the way it should be done. The corrosive influence of money in politics diminishes that idea. Both sides, from Occupy Wall Street to the Tea Party believe that the political process is rigged against them.

They believe the arguments against public finance are small, technical and true, but should not be the reason a system is not considered.

## **H. Professor Walter Kendall, Professor of Law – John Marshall Law School**

The one critical fault that can be found in this report is that it too narrowly defines the issue of corruption. It reduces the problem to criminal law. It is also a threat to public interest, constitution. Public finance should reflect what Paul Wellstone said, that the whole discussion should be framed on the outrage of the public.

There is no obvious correlation between dollars and public interest. Representation and accountability are threatened by the current system. A lot more constitutional space in legal issues – current Illinois statute addresses standards: connect things unequivocally to voting. Constitutional law requires coordination in real world, understanding of independent

expenditures and coordination and view from two sides (moral point and cramped legal analysis). Allowing more creativity and boldness in thinking when it comes to a system is key.

Member McNary: Is there a corruption argument?

- Part that corruption is inevitable, founders set it as anti-corruption mechanism
- Corruption/bribery are always on the fringes
- Moral fervor; misses driving force – we are all corrupt creatures

Member Currie: Legal framework – coordination between criminal and constitution?

- Criminal law: perpetrator, accessories, accomplices
- Here: conduct prone – 5 parts: re-craft Illinois’ understanding

Member Currie: Is this an evidentiary question?

- How is issue defined? Defined narrowly, doesn’t include what we know (people on fringes – like it is in criminal law).

### **I. Paula Lawson, League of Women Voters**

The public has a right to know the source of funding their candidates receive. Ensuring open and honest elections is necessary. The majority of people want to see changes to the political process. Two ways that could work in Illinois are block grants and taxpayer-collected funds. With the increasing costs of judicial races, the League supports judicial public finance (for the Supreme and Appellate Courts of Illinois). They urge the recommendation of judicial public finance in the report.

A source of funds could be a surcharge on civil penalties in the State. Asks that the Task Force recommend a system of public financing that would be open and fair for all citizens.

### **J. Emily Miller, Better Government Association**

The Supreme Court’s decision in Buckley says limits and thus public finance are both constitutional as an effort to stop corruption and appearance of it. In Illinois’ history, large campaign contributions are the norm. Capping limits is a good step, but public financing should be the next step. BGA would like to see this issue raised via legislation in both legislative chambers. They will be holding forums on public financing in the New Year.

While BGA realizes it is impossible to legislate corruption and ethics (or the act of), it should be government’s job to make those opportunities few and far between. Judicial public financing is crucial as the impartiality of the office is so important.

Member Currie: How would retention with public finance work?

- I don’t know
- Merit selection or public financing initially would be the best option.
- Makes it tough

Member Netsch: Performance Review Commission could make recommendations for judge’s retention.

## **K. Rey Lopez-Calderon, Common Cause of Illinois**

Common Cause has a report they have just recently published that gives an overview of post-Arizona Bennett policy alternatives (submitted). Public financing is huge, pet issue for Common Cause. The triggering problem identified in Arizona via Bennett needs severability clauses.

As a public we have the fundamental right to be free people. The Citizens United decision opened a new wave for the running of shareholder resolutions allowing them to start their own organizations and look at all the different avenues.

Using surcharge/taxes would be meaningful because it would fundamentally help the State. As for the opposition's arguments, there was a feeling of helplessness after the Supreme Court's latest decision, but if you can look at states with smaller versions (NC), there are still options. The entrenched culture needs to be reshaped so that people will be held accountable. A new culture should be shaped starting with the debate of the issue in both legislative chambers.

## **III. Closing Remarks**

Chairperson Anderson closed by saying that Governor Quinn has been very open to making wide-sweeping changes to Illinois's campaign finance system. He knows there is more to do and wants to continue to look at the system to make appropriate changes to the system as he and the General Assembly see fit.

The feedback given today will shape this report and will help Illinois to achieve real results in the future. She thanked all the witnesses and the Task Force members for the engagement and their help.

## **Appendix D: Written Testimony Submitted at Task Force's Public Hearings on Public Campaign Finance**

### **I. November 28, 2011 Public Hearing — Springfield, Illinois**

#### **A. David Morrison, Illinois Campaign for Political Reform**

Statement from David Morrison  
Deputy Director, ICPR  
November 28, 2011

Good afternoon members of the Campaign Finance Reform Task Force. My name is David Morrison, and I am the Deputy Director of the Illinois Campaign for Political Reform. The late Sen. Paul Simon co-founded ICPR in 1997, after co-chairing a task force on campaign finance reform with former Gov. William Stratton. Between them, Simon and Stratton both had decades of experience in Illinois politics, from both of the two largest political parties. And the final report of the Simon-Stratton Commission worried about what they called a “startling growth and dominance of money” in political processes and elections. They concluded that people in Illinois increasingly felt unrepresented by their own elected officials.

In the years since ICPR's founding, the state has taken several major steps forward to minimize the risks posed by private campaign contributions. Just two examples of recent changes:

- In 2005, Illinois created an on-line voters guide, which allows candidates for certain offices to speak directly to voters at a minimal cost.
- And in 2009, Illinois enacted contribution limits on candidates, political parties, and political action committees, which addresses the problem of people who write very large checks and then appear to receive benefits that the general public cannot receive – things like state jobs, appointments to boards and commissions, favorable regulatory rulings, and contracts.

These changes were designed to address specific threats or risks of corruption, or the appearance of corruption. Public financing is one more step that Illinois could take to address that risk. ICPR has long supported public financing for statewide, legislative, and especially judicial candidates, , and I commend this Task Force for exploring ways to use public financing to improve state government.

Let me acknowledge at the outset that no system of laws will prevent corruption. As long as government is staffed by mortals, there will be a risk of that our democratic republic will not reach its goals, and a concomitant risk that the public will understand that failure as proof that government is corrupt. But there are steps that Illinois can take to minimize those risks, to assure the public that elected officials are concerned mostly with the interests, wants and needs of voters.

## *I. Forms of Public Financing*

There are two broad forms of public financing which I will outline: what might be called block grants, which candidates can opt to receive, and taxpayer-directed systems, in which the funds are given by taxpayers.

In block grant systems, candidates take steps to qualify for public funds and if they satisfy the requirements, they receive a sum or sums of money. This is how the US presidential system works, and is the model for systems in many states. These kinds of systems have been around for decades, and courts have regularly held that such programs are appropriate and constitutional exercises of state authority.

The key to setting up block grant systems is to find the right balance, so that there are adequate funds for candidates without spending too much from the public treasury. Giving candidates more than they need is a waste of public resources; not giving enough will discourage candidates from opting into the program. The initial allocation of funds should be adequate for a typical, “garden variety” race. Problems have arisen with candidates who opt into a public financing system and received an initial grant of funds, only to learn that they are not in a garden variety of race and need more money in order to remain competitive. Note that in any given year, the cost of running for the General Assembly, for instance, varies greatly from one district to another, and from the primary to the general.

It is well worth remembering, in instances where the cost of a particular candidate’s race turns out to be higher than expected, that it is not necessary to spend more than your opponent(s) in order to win the election. When one candidate starts spending much more than another, the practical result is not that other candidates must match them dollar for dollar. More often, the result can be that a candidate needs to spend more in order to be heard and considered by voters, but not as much as the other candidate is spending.

A widely-used solution to this problem of unpredictability was through the use of so-called “rescue” or “trigger” funds. The public financing program in Arizona was created in the wake of a huge corruption scandal, with broad public support. It provided an initial grant of funds, and allowed candidates to apply for additional funds based on spending by opposing candidates or interest groups. It was this trigger for additional funds, this idea of basing additional funds on oppositional spending, that was the subject of the recent US Supreme Court ruling from Arizona, in which the high court declared, by a 5-4 vote, that such triggers were an impermissible burden on that oppositional speech. However, the Court upheld public financing generally, recognizing it as a tool to address the fact or appearance of corruption.

So if oppositional spending cannot be used to provide additional funding to candidates who find themselves in races that are more complex than they expected, then how can a state design a program that assures candidates that if they opt in, they will have the resources to run a competitive race? Tracey Westen, founder and CEO of the Center for Governmental Studies, has outlined several options:

- (1) The state could increase the initial grant of money. This solution increases the cost of the program and gives funds to candidates who in truth do not need it, but it is one way to ensure that candidates have enough to face any opponent.
- (2) The state could allow the candidate to raise private donations in addition to the initial public grant. Public finance systems are often set up to address concerns that private money is corrupting or appears to be corrupting, and so set strict limits on how much private money a candidate may raise. Some systems prohibit private fundraising; many require candidates to prove viability by raising a set number of small donations, and cap those small donations to further limit the risk or appearance of corruption. One option would be to allow candidates to continue to raise small donations without a cap on the total number of private contributions. The more private money a system allows in, the greater the risk of actual corruption or the risk of the appearance of corruption, but allowing candidates to continue to raise private money within strict limits should reduce those risks.
- (3) Somewhat related, the public financing system could combine allowing candidates to raise small amounts of money with a public funding match. I'll talk more about public matching later, but giving candidates 4:1 or 8:1 in public funds for every dollar they raise in private money is another way of addressing the trigger issue.
- (4) Opinion polling is another means of providing additional funds to candidates who need them. For instance, the election authority could conduct a poll of a district and use the polling results to make an additional allocation to participating candidates. If the poll finds that there is no clear favorite in the race, either because the candidates are close to each other or because a large block of voters is undecided, then they could give additional funds to participating candidates in those races. This approach would target money to races where additional outreach to voters would help them to decide whom to support.

Block grant systems like those I've just outlined represent one common form of public financing, programs designed to give candidates an option that may shield them from charges that they are overly dependent on a particular private donor. Another common system is to give taxpayers the option of allocating a portion of their annual tax bill to a given candidate or group of candidates. These systems offer a tax credit or other incentive to make campaign donations.

Illinois currently offers a tax check-off to raise money for charitable causes. This check-off raises the amount owed by the taxpayer – the check-off is on the tax form, but does not relate to the taxpayers' income or the amount of taxes owed. The cause that raises the most money, the last time I checked, raised on the order of two hundred thousand dollars a year. While that is a significant sum, it is worth noting that \$200,000 a year will not be enough to fund a public financing system for even one statewide race, let alone all statewides, legislators, or judicial candidates.

Other taxpayer systems, like the federal presidential system, allow taxpayers to allocate a portion of what they owe in taxes to the public financing program. Allowing taxpayers to direct a portion of the taxes they owe to a public financing program would generate more funds for candidates;

additionally, offering a tax credit for small campaign donations would give taxpayers control over which candidates benefit from the program.

## *II. Encouraging Small Donors*

A few years ago, ICPR surveyed contributions to campaigns, and found that “In a state of 13 million people, where about five and a half million voters took ballots in the 2004 general election, it appears that fewer than 43,000, or roughly ½ of 1% of all adults, made a campaign contribution to a state political committee.”

A very small percentage of Illinoisans give to candidates. Increasing the number of people who give to candidates, even if they give small amounts, can change the dynamic of campaign financing in significant ways. Prof. Michael Malbin, of the Campaign Finance Institute at George Washington University and also a professor at SUNY-Albany, has done extensive research on these kinds of taxpayer-incentivising systems, including a thorough consideration of Illinois’ campaign finance records.

A system of public financing designed to encourage small donors to contribute to campaigns could greatly increase voter participation in campaign financing and change the dynamic of how races are funded. Affording voters an income tax credit for the first \$50 that they give to candidates in any given year could encourage more Illinoisans to give money to campaigns.

Prof. Malbin found that in 2010, donors who gave less than \$150 accounted for 3% of all fundraising by statewide and legislative candidates. Offering a tax credit for contributions of up to \$50 could increase the number of small donors to as many as 200,000, raising the share of small contributions to 14%. Combining a tax credit with a 5:1 match would raise the percentage of money resulting from small donors to 62% of all money raised.

## *III. How to Pay for Public Financing*

I realize that there are strict budget constraints on Illinois government, and so let me outline several possible funding sources:

*General revenue:* several states fund their programs with general revenue. I understand that general revenue is in short supply these days. The \$50 tax credit outlined by Prof. Malbin could cost the state \$10 million in tax receipts. Adding a 5:1 match could encourage more people to give, raising the cost to the state to \$100 million. I will suggest several revenue sources used in other states, but I also want to point out that the lack of surplus funds in general revenue need not torpedo any public financing proposal, including plans that would offer a tax credit to taxpayer directed contributions. Illinois could establish a fund drawing on other revenue sources, and use that as a hold-harmless revenue source to replace funds lost to the general revenue fund from a tax credit program.

*Penalty surcharges:* Arizona and other states have used a surcharge on criminal and civil penalties. In Arizona, the surcharge is 10%, and it generates over \$2 million each year.

Massachusetts raised \$5 million in speeding ticket surcharges and \$1 million from DUI surcharges.

*Attorney filing and appearance fees.* ICPR has estimated that adding \$1 to filing and appearance fees paid by attorneys in civil cases would raise almost \$2 million each year.

*Attorney registration fees:* North Carolina charges all registered attorneys a set fee each year, a portion of which goes toward their public financing system. In theory, having judges who are not dependent on contributors benefits all lawyers who practice in North Carolina. There are almost 90,000 attorneys on the Master Roll in Illinois, and an addition of \$20 per year, even if there were offsets for the increased appearance and filing fees, would generate well over \$1 million each year. These registration fees, it should be noted, are set in Illinois by the Supreme Court, not the legislature, and so the General Assembly cannot design a program that relies solely on such fees. But, the General Assembly could create a program that allowed the Supreme Court to add such monies to a public finance fund at its discretion.

#### *IV. Conclusion*

I applaud this Task Force for examining public financing. I recognize that the state faces a fiscal deficit, and that money is in short supply. I hope you also recognize that the state faces a credibility deficit, and that public support for government is also hard to come by. Too many voters think that contributors matter more than constituents. Instituting public financing would be one way to assure the public that contributors have no special access or influence. ICPR has long supported public financing for statewide and legislative candidates, but we also think that public financing is ideal for the judiciary.

Judges, after all, are different. They are elected to interpret the laws, not to write them. Judges do not represent either constituents or contributors; rather, they serve the constitution. But private financing of elections threatens that. The US Supreme Court recognized the threat to the public's trust in the judiciary in their recent *Caperton v Massey* ruling. And here in Illinois, litigants have cited campaign contributions in their arguments for a justice of the state Supreme Court to recuse himself. Enacting public financing in any of the three branches of government would be good public policy; it would be particularly wise in judicial elections.

Public financing is one way to help candidates avoid the risk of corruption that can arise in the context of soliciting or collecting private campaign contributions. I commend this Task Force for exploring the possibilities, and I will be happy to answer any questions you may have.

## **B. Professor Kent Redfield, University of Illinois at Springfield**

Statement from Kent Redfield  
November 28, 2011 Public Hearing on the Public Financing of Elections  
Written Testimony

I appreciate the opportunity to provide testimony to the IL Campaign Finance Reform Task Force. My name is Kent Redfield. I am a Professor Emeritus of political science at the

University of Illinois Springfield (UIS). I am affiliated with both the Center for State Policy and Leadership at UIS and the Institute for Government and Public Affairs at the University of Illinois.

I came to Illinois in 1975 to work for the Illinois General Assembly. I served for 4 years as a legislative analyst for the Speaker of the IL General Assembly before joining the faculty at SSU, now UIS. Through my position at UIS I was Director of the General Assembly's Illinois Legislative Staff Intern Program from 1979 to 1999.

I began working on campaign finance and ethics issues in Illinois in the early 1990's. I staffed both the Simon-Stratton Commission and the legislative/gubernatorial task force directed by Paul Simon and Mike Lawrence which produced the gift ban legislation in 1998. I have been building databases of campaign contributions and expenditures since the mid 1990's. For most of time my work was supported by the Joyce Foundation and UIS. For the last two years I have worked on a contractual basis with the Illinois Campaign for Political Reform (ICPR). I have been working closely with ICPR for more than 20 years.

My testimony reflects my own research and opinions and not those of the organization with which I am affiliated. It consists of two parts.

After an opening comment, I first provide some summary data on the cost of running for statewide office, the legislative and the Illinois Supreme Court and briefly discuss the implications of the data for designing a system of public financing for elections in Illinois.

Second, I will offer some suggestions for how public financing should be considered within the context of both the current constitutional climate and the struggle between forces which have the potential to decentralize political power in public elections and those forces which are concentrating political power in public elections in the hands of fewer and fewer people, most of whom are not elected public officials or officials of political parties.

### **Irony**

There is no small amount of irony in the fact that Illinois is in the process of implementing contribution limits and talking about public financing for political campaigns at a time when both the US Supreme Court and modern communication technologies (including social networking) have completely altered the basic assumptions and parameters for regulating the role of money in politics that existing in the post-Buckley world of 1976. That being said, it is what it is.

### **What are the Goals of Public Financing for Political Campaigns?**

It is impossible to know what type of public financing system would be appropriate for Illinois elections without first knowing what goals you are trying to accomplish by adopting public financing.

Generally, the goals of a public financing system fit into two broad categories. The first focuses on improving the nature of the process and the quality of the participation by candidates and citizens. Success is measured by increased competition, greater citizen participation in campaigns and voting and greater diversity - economic, cultural, racial, ethnic, and gender in the pool of candidates.

The second category of goals focuses on altering outcomes and the power relationships within the political system. Success is measured by increases in competitiveness, a decrease in the influence of money, organized interests, and political parties, and a general leveling of the

playing field by putting public resources in the hands of candidates and decreasing the influence of private resources.

Before a candidate can win an election he or she has to pass two critical thresholds, visibility and viability. These are two very different standards. Visibility is about being on the radar screen, about having a presence where the media and a portion of the electorate are aware of your candidacy. If no one knows you are running you are not going to win. Becoming visible is a necessary but not sufficient condition for winning an election. Visibility is often a function of resources. Money is necessary to do the advertising and build the organizational structure needed to establish a presence in a political race. Because incumbents already have name recognition and organizational resources, modest amounts of public funding, modest levels of matching funds for small donations or even a published voter's guide which are provided equally to all candidates are much more valuable to a challenger than to an incumbent.

A viable candidate has the potential to win an election. Candidates can be viable because of who they are, the issues they are promoting, how much money they have, or who supports them. Viability is also a function of resources, but it more a question of having enough resources rather than having the most resources. Candidates without money almost always lose to candidates with money. But the candidate with the most money does not always win. Some of the highest spending candidates in every election cycle are losing incumbents. Incumbents generally do not have trouble raising money. But if their constituents have stopped listening to them because they have lost faith in their representation, then more spending will not do them any good.

If the goal of a public finance system is to increase the number of candidates, increase public participation in campaigns, increase voting, and increase the diversity of candidates, then providing a modest level of public financing equally to all candidates, particularly at the primary level, will help achieve those goals.

If the goal of a public financing system is to level the playing field by substituting public money for private money and thereby limiting the influence of private money and political organizations, the amount of money offered to candidate has to be an amount sufficient to make a challenger facing a well-funded incumbent viable or to keep an incumbent viable in a contest with a well-funded challenger. If the amount of public funding is not at that level, the only candidates who will opt for public funding are safe incumbents and challengers who are sure losers.

The level of public funding necessary to make a candidate viable in state-wide and legislative elections in Illinois is substantial.

The following data was taken from the documents provided in a separate attachment.

### **The Cost of Running for Governor**

In the 2010 general election, Quinn (D) spent \$15.2 million and Brady (R) spent \$17.8 million. The Green Party was also an official party in 2010 and their candidate, Whitney spent less than \$58,000. In 2006 Blagojevich (D) spent \$16.7 million and Topinka (R) spent \$6.9 million. In 2002 Blagojevich (D) spent \$14.6 million and Ryan (R) spent \$6.8 million.

In 2010 Democratic primary Quinn spent \$6.4 million and Hynes spent \$7.1 million. In the Republican primary McKenna spent \$5.7 million, Dillard spent \$2.4 million, and Brady spent \$2.1 million. There were four other Republican candidates who spent between \$1.3 million and \$374,000.

In 2006 Democratic primary Blagojevich spent \$10.6 million and Eisendrath spent \$1.5 million. In the Republican primary Gidwitz spent \$12.3 million, Topinka spent \$3.5 million, Oberweis spent \$3.6 million and Brady spent \$1.8 million.

In the 2002 Democratic primary Blagojevich spent \$8.0 million, Vallas spent \$3.2 million, and Burris spent \$1.9 million. In the Republican primary Ryan spent \$8.0 million, Wood spent \$7.9 million, and O'Malley spent \$4.3 million.

### **Running for Constitutional Office**

Unlike the office of Governor, the level of competition for the other constitutional officers varies greatly.

In the 2002 general election for Attorney General Madigan (D) spent \$6.4 million and Birkett (R) spent \$2.4 million. In the same election for comptroller Topinka (R) spent \$2.1 million and Dart (D) spent \$1.2 million. In the 2006 general election for Treasurer Giannoulias (D) spent \$3.0 million while Radogno (R) spent \$.9 million.

In the 2010 primary only one candidate for constitutional office spent more than \$1 million (Krishnamorthi \$1.1 million). In 2006 only one candidate spent more than \$1million (Giannoulias \$2.2 million). In 2002 in the Democratic primary for Attorney General Madigan spent \$3.7 million and Schmidt spent \$2.8 million. On the Republican side, Coleman spent \$1.7 million and Birkett spent \$1.4 million for the same office. No other constitutional candidate spent more than \$1million in that primary.

### **Running for the House**

In considering legislative elections, the role of legislative leaders in providing support in the general election for legislative candidates in competitive elections greatly complicates designing a system of public financing.

In the 2010 general election there were two House candidates who spent more than \$1 million and 21 other House candidates who spent more than \$400,000. Most of these candidates were running in targeted race where contributions for the legislative leaders, legislative caucuses and state parties constituted the great majority of the total funding they received. These targeted races determine which party will control each chamber in the legislature. In 2008 sixteen House candidates spent more than \$400,000 with most of them in targeted races. In 2006 thirteen House candidates exceeded \$400,000 in spending.

In the 2010 primary elections for the House fourteen candidates spent more than \$150,000. None of these candidates opposed each other. In 2008 twelve candidates spent more than \$150,000. Only two of these candidates opposed each other. In 2006 sixteen candidates spent more than \$150,000. None of these candidates opposed each other.

### **Running for the Senate**

The picture with Senate candidate in the general election is similar to that in the House. In the 2010 general election two Senate candidates spent more than \$1 million and eleven others spent more than \$400,000. All of these candidates were in targeted races. In 2008 one Senate candidate spent more than \$1 million and eight others spent more than \$400,000, all in targeted

racers. In 2006 two Senate candidates spent more than \$1 million and twelve others spent more than \$400,000, again all in targeted races.

In the 2010 primary elections five Senate candidates spent more than \$150,000. In 2008 eighteen Senate candidates spent more than \$150,000. Four of these candidates opposed each other. In 2006 seventeen Senate candidates spent more than \$150,000.

### **Running for the State Supreme Court**

Designing a system of public financing for Supreme Court or appellate court races is complicated by the fact that judges run in judicial districts. In the 1<sup>st</sup> and 2<sup>nd</sup> judicial districts the primary is the most important election. In the 1<sup>st</sup> district whoever wins the Democratic nomination will win the general election and in the 2<sup>nd</sup> district whoever wins the Republican nomination will win the general election. In the other three districts the outcome is less predictable. Because Supreme Court judges serve 10 year terms, these elections do not occur on a regular basis.

In 2000 two candidate for a position in the 1<sup>st</sup> district spent more than \$1 million in the Democratic primary. In the Republican primary in the 2<sup>nd</sup> district two candidates spent more than \$1 million. In the general election in the 3<sup>rd</sup> district the two candidates in the general election each spent more than \$800,000.

In 2002 the eventual winner spent \$1 million in the general election and an additional \$400,000 in the Republican primary while the Democratic candidate spent more than \$800,000 in the general.

In 2004 the Republican candidate in the 5<sup>th</sup> district spent \$4.8 million in the general election while the Democratic candidate spent \$4.5 million. The \$9.3 million is the most money ever spent on a state Supreme Court race in any state.

### **Thoughts on Public Financing**

Recent US Supreme Court ruling do not prohibit Illinois from making good public policy in the area of regulating the role of money in elections. Illinois is free to adopt a system of public financing for elections as long as what is adopted does not unduly burden the exercise of free speech, The Court has consistently upheld reasonable contribution limits. Finally, the Court has strongly upheld regulations requiring disclosure and reporting of contributions to political campaigns and expenditures on political campaigns.

That being said, there is no question that the *Bennett* ruling by the US Supreme Court has significantly weakened the attractiveness of public financing for candidates in competitive elections. There is always considerable uncertainty as to how much money will be needed in any campaign for a candidate to be viable. The grant of public money has to be significant in relation to the typical cost of a strongly contested election for the office in question. The problem is that “significant” is not a very precise standard. The safety net provided by rescue money triggered when an opponent spent above a certain level gave candidates a degree of security when making the decision to accept public financing and agree to spending limits. That is now gone. Absent triggers and rescue money, the level of public funding necessary for a candidate in a strongly contested election to opt for public funding and agree to spending limits is likely to be much higher that was previously the case. And the cost of running a viable campaign for statewide office or for a targeted legislative race in Illinois is very high.

There is also no question that the *Citizens United* ruling has significantly changed the landscape of political campaigns in the United States. The rise of the super PACs aggregating corporate and union money in unlimited amounts for independent expenditures is giving rise to a whole new breed of political bosses. The old political bosses were generally elected public officials or political party officials with a territorial base – a city, a county or a state – who relied on government programs, patronage workers and public jobs to build and maintain support. The new political bosses are private citizens who come armed, not with a patronage army, but a fist full of wire transfers. The politics of the new political bosses is non-territorial, based on wealth, and accountable to no one.

The one possible counter balance to the legal restraints of *Bennett* and the forces concentrating the influence of money unleashed by *Citizens United* is the communication revolution created by cable television, the internet and online social networking. The 2008 Obama campaign demonstrated the way that social networking and online contributions could be linked to reinforce both the political and financial support of individuals to campaigns. Public policies that encourage small contributions through tax credits and matching funds can help develop a non-territorial, individual based politics that has the potential to compete with the forces of big money and big institutions which threaten to dominate American politics at all levels.

The campaign finance system in Illinois must be developed within the context of the world of 2011. There is no one silver bullet which fix all the things that are wrong with our politics and produce the positive behaviors we value. What works best is likely to be a combination of contribution limits, increased disclosure and reporting, and public financing focused on encouraging greater participation by candidates and individual donors. Making this happen will take vision and creativity.

A final thought on public financing for judicial elections. Because of the parameters set by *Bennett* and the forces unleashed by *Citizen's United*, it is not possible to design a public financing system for judicial elections that would guarantee we could not have a repeat of the \$9.3 million Karmier – Magg outrage of 2004. That being said, if we are not going to adopt a system of appointing Supreme Court and Appellate Court Judges in Illinois, then we have to provide a system of complete public financing for these judicial elections. In most cases judicial candidates for the Supreme and Appellate Court would opt for public funding and forgo private contributions. Judges elected with public fund would not be subject to questions about recusal based on the conflicts of interest that arise when a group or individual who has supported the election of a judge comes before that judge in a court case. Our current system of electing judges places the integrity and legitimacy of the courts at risk. Anything that can be done to lessen that risk is worth doing, even if it is not a complete solution.

## **II. December 15, 2011 Public Hearing — Chicago, Illinois**

### **A. Judge Wanda G. Bryant, North Carolina Court of Appeals**

#### **STATEMENT ON JUDICIAL CAMPAIGN FINANCE REFORM**

*The Honorable Wanda G. Bryant*

I was appointed to the North Carolina Court of Appeals in 2001 by Gov. Mike Easley. Since then I have run for election under the old partisan system which allowed private financing of judicial campaigns as well as the new public financing system. The 2002 judicial election was partisan and I ran on the Democratic ticket along with several other incumbent judges on my Court. Despite our experience as Court of Appeals judges, we all lost our elections. However, a vacancy occurred in December 2002 and I was reappointed to the Court.

In order to keep my seat I had to again run a statewide election in 2004. Meanwhile, our legislature had enacted a Judicial Campaign Finance Reform Act (JCFRA) which changed the way in which appellate judicial races are conducted. The JCFRA made judicial races nonpartisan and gave appellate judicial candidates (for the North Carolina Supreme Court and Court of Appeals) the option to voluntarily participate and receive public funding upon agreeing to certain fund raising and spending limits. As a sitting judge and statewide judicial candidate, I was one of the first candidates to opt-in and participate and win election under this new system. I was strongly in favor of a reform that would limit the influence of big money contributions and reduce partisan politics in judicial campaigns. I am very pleased to say that North Carolina's first-ever publicly funded appellate judicial elections were successful, just as subsequent ones have been.

This system of electing appellate judges provides a very important step toward an independent and impartial judiciary. By voluntarily agreeing to opt-in and abide by fund raising and spending limits as required, candidates receive public financing. Candidates are required to show a broad base of public support by collecting a select number of small donations (\$10 to \$500) from a large number of people (at least 350 registered North Carolina voters) prior to the primary elections. After qualifying to participate in the funding program and upon certification by the North Carolina Board of Elections, candidates agree to take no private money and to adhere to strict spending limits. If a publicly financed candidate faces a privately financed opponent, matching rescue funds are available under certain circumstances to ensure a level playing field.

These requirements not only help to dispel the perception of large money influence on judicial campaigns in North Carolina, but help judicial candidates obtain a larger base of committed voters (and campaign volunteers) at an early point in the campaign season. Once the qualifications are met, candidates are certified and public funding received pursuant to the Act, judicial campaigns know exactly how much money is available for a campaign budget. This allows candidates to make informed decisions on early media buys and other important campaign expenditures, one of the many positive aspects of the financial portion of the JCFRA.

Funds to support this program come from several sources, most notably a check off option for taxpayers on the state income tax form. The check off is a designation, not an additional tax. All North Carolina lawyers are assessed a fee, currently \$50 per year, that is also deposited into the public fund. Because of public financing, appellate judicial campaigns in 2004

relied on attorneys and special-interest groups for less than 14 percent of their non-family qualifying funds, compared to 73 percent for candidates in 2002, before judicial campaign reform was implemented. The level of public funding of judicial races might seem to some to be insufficient to adequately reach the attention of the voting public in an increasingly expensive media environment; however, the fact is the amount of money available to candidates in appellate judicial races (particularly Court of Appeals) in the 2004, 2006 and likely 2008 elections under the public financing program was greater than the amount candidates raised in previous election cycles.

The nonpartisan aspect of campaign reform is also a welcome change. Trials judges in North Carolina, District and Superior Court judges, have been elected on nonpartisan ballots at the local level for several years now. Only appellate judicial races recently became nonpartisan. While statewide judicial campaigns require more time — more grassroots efforts and more direct contact with voters — it helps to ensure that the voting public cast their ballots for judicial candidates based on something other than party affiliation. Voters are no longer able to vote for judges along party lines by simply voting a straight ticket. Voters now have to go to a separate, nonpartisan portion of the ballot and make a decision about which judicial candidates will receive their vote.

The Judicial Voter Guide, an integral part of the JCFRA, is another one of the most positive aspects of the Act. The voter guide is a great educational piece which sets out the qualifications and experience of the appellate judicial candidates and also contains a statement (approximately 300 words) from each candidate. The voter guide is distributed by mail to the households of all registered voters in North Carolina. It is also available on line.

As a candidate, I found the voter guide to be extremely helpful in disseminating information to registered voters in a timely manner to enable them to make "informed" decisions about the candidates for the two highest courts in our state. Notwithstanding statistics which show that after enactment of campaign finance reform and the shift to nonpartisan judicial elections significantly fewer votes were cast for judicial candidates than for candidates in other statewide races, I prefer the nonpartisan system with all its frailties, to the former partisan judicial election system. And I prefer "informed voters" voting the separate nonpartisan ballot rather than "uniformed voters" pulling a straight-party ticket.

We have had public financing of judicial races in place for three election cycles in North Carolina. During those three cycles in which a total of forty-one (41) appellate court candidates were on the ballot, thirty-one (31) candidates qualified for and accepted public financing. Of the eighteen (18) seats up for election in those three cycles — 2004, 2006, and 2008 — fifteen (15) have been won by publicly financed candidates. To date, fourteen (14) justices and judges on the North Carolina Supreme Court and Court of Appeals have been elected using the system, including our Chief Justice, Sarah Parker (who has won twice as a publicly financed candidate).

Because of public financing, appellate judicial campaigns in 2004 relied on attorneys and special-interest groups for less than 14 percent of their non-family qualifying funds, compared to 73 percent for candidates in 2002, before judicial campaign reform was implemented.

In 2007 the North Carolina General Assembly took the extraordinary step of expanding public financing to three Council of State elections: State Auditor, Insurance Commissioner and Superintendent of Public Instruction. The legislation known as the "Voter-Owned Elections Act," ratified on August 2, 2007 and signed by Governor Easley, is a pilot program designed to work much like the judicial campaign financing program, absent the nonpartisan requirement. Five of the six candidates opted to use the program in the 2008 election. Four candidates were

certified and two won office as publicly financed candidates. The new "Voter-Owned Elections Act" appears to have had a successful debut. It remains to be seen whether it will be as popular as Judicial Campaign Finance Reform.

I fully support judicial public financing. I think it is a strong means of ensuring an independent judiciary. Public financing reduces the concern of undue influence perceived in large-money contributions, and protects the integrity of the individual judicial candidate. Further, public financing under North Carolina's JCFRA benefits the voters, allowing them direct participation through funding of candidates prior to primary elections as well as casting informed ballots. Voters who are donors who contribute small amounts of money can feel like they make a difference; because they do.

Public financing may not be a perfect solution. However, if the ultimate goal is, as I believe, to have an independent judiciary immune to outside influences, this system of public financing is far superior to judicial races run on strictly privately financed campaigns.

Not only does public financing prevent the appearance of undue influence, it also curbs the escalating costs of campaign spending. As a recent (and future) participant in the judicial public financing system and with over 25 years of legal experience, I fully support a system which: 1) allows for fewer concerns about the influence of big money campaign contributions; 2) promotes a better educated electorate; and 3) promotes less blatant partisanship.

Isn't that a better way to run our judicial elections?

Isn't that a better way to ensure judicial independence? I think so.

## **B. Professor Dick Simpson, University of Illinois-Chicago**

### **CAMPAIGN FINANCE REFORM NOW**

*Testimony by UIC Professor Dick Simpson*

I compliment the Task Force on the working draft of its report: *Public Campaign Financing and Illinois Elections*. It is an excellent report providing balanced information on the state of campaign financing in Illinois currently and on the arguments for and against further reform.

It's only weakness is that it ends without making any recommendation despite the fact that even a glance at the appendix would quickly convince one that there is a major problem of interest group involvement in campaigns and further investigation would show the un-due influence of large donors as well. I am here today to implore you to add a conclusion in support of the adoption of public funding of some or all campaigns — and most especially, public funding of judicial campaigns.

The task force is meeting a week after the sentencing of former Governor Rod Blagojevich to 14 years in jail for masterminding a corruption scheme centered on illicit kick-backs and campaign contributions shake-downs. Since more than 1500 public officials have been convicted and our anti-corruption studies at the University of Illinois at Chicago estimate the corruption cost to the taxpayers is over \$500 million a year, the times cry out for actions to curb this corruption.

The adoption of the new state campaign finance law last year which requires better reporting and places some limits on contributions was a step forward but incomplete. This task force now has the opportunity to take the next step. It should take advantage of the post Blagojevich trial and sentencing climate and public outrage to convince the state legislature and governor to enact the necessary legislation to further curb corruption.

I support all the arguments in favor of public financing of campaigns advanced in the report. I believe that public financing, while not a silver bullet able to solve all of our state's problems, will serve to combat political corruption, increase faith in our government, allow candidates and government officials to spend more time in contact with constituents and less time fundraising. I believe it will allow for more competitive elections, allow better candidates to be elected, increase candidate diversity and increase voter participation.

In opposition to public financing is the proposition that if all offices were included it might cost from \$75-\$100 million an election cycle. But that is more than offset by the current cost of corruption.

At the University of Illinois at Chicago we have issued four reports on corruption and I will file with the commission at this time our latest report, *Patronage, Cronyism and Criminality in Chicago Government Agencies*. All of our reports, including those involving Illinois corruption, can be found on my web site: <http://www.uic.edu/depts/pols/chicagopolitics.htm>.

I recognize that the new state campaign finance regulations will only fully take effect with the elections of 2012 although they had some effect in the last stages of the 2011 campaigns. Nonetheless, the Blagojevich conviction along with the many other state officials involved in his corruption schemes makes this the time when we have public support to press for new legislative amendments.

I personally support public financing at all levels as has occurred successfully and to great public support in early adoption states like Maine. However, if the task force is unwilling to go that far, I think it is criminal not to support public funding of judicial elections.

As the Sun-Times wrote in its editorial of December 12, 2011 in support of public funding of judicial campaigns, "Let's not waste another minute on another study, on another task force. Let's make 2012, the year Blagojevich heads to prison the year Illinois finally gets this done.

### **C. Professor Walter Kendall, The John Marshall Law School**

STATEMENT OF WALTER KENDALL  
Professor of Law  
The John Marshall Law School

My name is Walter Kendall. I am a Professor of Law at The John Marshall Law School. I have been teaching there for over 35 years specializing in Administrative and Constitutional Law. At one time or another since graduating from law school, I have worked for a federal regulatory commission (the then FPC), a state Department (IDPA), and a multi-national corporation (Baxter Laboratories). I've been an elected School Board member of a large suburban district (District 15 in the northwest suburbs) and a Cook County Democratic Township Committeemen (Palatine Township); and worked in every election cycle for one candidate or another since 1970. I have through the years served on the Boards of and represented many public interest groups, local, statewide and national, including the Cook County Human Rights Commission.

The Illinois Campaign for Political Reform asked me to prepare some remarks on the historical constitutional context in which the debates about campaign finance reform, particularly public financing of elections, have and are taking place. I am honored to be so asked and happy to try to be helpful to the Task Force.

Elections are the cornerstone of republican or representative democracy. They are an essential part of how we identify, measure, aggregate and give voice to our individual and common interests, needs and dreams. That means that the range of views considered and the salience they have must be determined by all who are eligible to and do participate.

From the very beginning of the Republic the better off have had power disproportionate to their numbers. Some say that's what the Founders intended: that they feared the rabble would pursue their private interests rather than the public interest. Certainly Madison wanted large electoral districts to increase the likelihood that the best candidates would succeed. But he also famously knew that men were not angels, that the elites could not be trusted either. Lord Acton put into a famous statement the deep belief of the Founders — power corrupts. This recognition, this concern about corruption, underlies all the great principles of our system — federalism, separation of powers, even the first amendment.

Upon some reflection one can see the constitution as creating an anti-corruption structure. The following chart is from Professor Zephyr Teachout's article in the Cornell Law Review The Anti-Corruption Principle

<b>Constitutional Provision</b>	<b>Feature</b>	<b>Reference</b>
Article I, Section 2	Fact and Frequency of Elections	<i>The Federalist No. 39</i>
Article I, Section 2	Residency Section in Qualifications Clause	Notes of King, August 8, 1787 Notes of Madison, August 8,
Article I, Section 2	Requirement that the Same Qualifications Apply to State and Federal Elections	
Article I, Section 2	Advise and Consent	Notes of Madison, July 18
Article I, Section 2	Inhabitancy Requirement	Notes of King, August 8, 1787 Notes of Madison, August 8,
Article I, Section 2	Number of Representatives	Letter from Madison to George Hay, August 23, 1823
Article I, Section 2, Clause 1	Election "By the People"	Notes of Yates, June 6, 1787
Article I, Section 6, Clause 2	No Conflict Clause	Notes of Yates, June 22, 1787
Article I, Section 7	2/3 Veto Override	Notes of Madison, September 12
Article I, Section 9	Power of the Purse	
Article I, Section 9	No Title of Nobility or Gifts from Foreign States	Randolph, <i>in Debates and Other Proceedings of the Convention of Virginia</i> 321-45 (2d ed. 1805)
Article I, Section 10	Forbids the Creation of Titles of Nobility	
Article II, generally	Generally — An Executive	Notes of Madison, September 6, 1787
Article II, Section 1	Same Day Elections	Notes of Madison, August 8, 1787
Article II, Section 1	Method of Electors Voting	Rufus King in the Senate of the United States, March 18, 1824
Article II, Section 2	Treaty-Make Power	Notes of Madison, August 8, 1787
Article II, Section 2	Appointments Clause	William Findley in the House of Representatives, January 23, 1798
Article II, Section 4	Causes for Impeachment	Notes of Madison, July 24, 1787
Article II, Section 4	Fact of Impeachment	Notes of Madison, July 24, 1787
Article II, Section 4	Agents of Impeachment	Notes of Madison, September 8, 1787
Article III Section 1	Inferior Federal Courts	Notes of Madison, June 5, 1787

And it was not just corruption in the use of governmental power that concerned the Founders. They were also concerned about corruption in the use of private economic power. In that regard, let me shamelessly refer you to a brief review essay I wrote on Madison and the Market Economy published in the Quinnipiac Law Review.

As Professor Teachout says, "The Framers were obsessed with corruption." George Mason said early in the deliberations at the Constitutional Convention, "If we do not provide against corruption, our government will soon be at an end." To begin to understand what they understood by corruption, we can look at the warning of Pierce Butler: "We have no way of judging of mankind but by experience. Look at the history of the government of Great Britain ... A man takes a seat in parliament to get an office for himself or friends, or both; and this is the great source from which flows its great venality and corruption."

Notice the emphasis on experience; then substitute Illinois for Great Britain, and the General Assembly for Parliament and one can see that there is a continuing urgency to understanding the Constitution as the Founders did. Professor Teachout makes it clear that they understood corruption as "self-serving use of public power for private ends, including without limitation, bribery, public decisions to serve executive power (or legislative leadership) because of dependent relationships, and use by public officials of their positions of power to become wealthy."

The Supreme Court's opinions beginning with Buckley v. Valeo have considered corruption in its various guises: to be either criminal bribery (Citizens Against Rent Control ... v. City of Berkeley); inequality (FEC v. Mass. Citizens for Life); drowned voices (1<sup>st</sup> N/Bk of Boston v. Bellotti); a dispirited public (Nixon v. Shrink Missouri Government PAC); or a loss of integrity in the system at large ("corruption is a subversion of the political process") (FEC v. Nat'l Conservative PAC).

In Arizona Free Enterprise Club's Freedom Club PAC v. Bennett, the current Court seemed to focus on the quid pro quo, (the bribery or criminal) understanding of corruption; and perhaps the drowned voices concern. It was dismissive of the inequality or leveling concern. Sadly perhaps because of the Common law methodology or because none of the Justices were ever elected officials, the dispirited public and loss of integrity (rotting from within) understandings of how the Constitution have been overlooked — but not rejected.

Frankly, I sometimes think this Supreme Court's understanding of the workings of democracy and political power is as unrealistically idealized as was the Court's understanding of the market and economic power before the New Deal. Neither Court seemed to understand the truth in Justice Brandeis's warning: "We can either have democracy in this country or we can have great wealth concentrated in the hands of the few, but we can't have both."

It is therefore important that this Task Force recognize that the Founders had it right. Corruption is about more than bribery. Any systemic practice that distorts the pursuit of the public interest; that diminishes participation in politics; or that permits officials to enrich themselves is corruption.

This look back to the Founders and the summary of the Supreme Court's decisions beginning with Buckley v. Valeo shows that:

1. Anti-corruption is a high order constitutional norm or value that underlies separation of powers and federalism even the first amendment and thus helps to constitute our system of governance.

2. The Court recognizes that "dependence on outside contributions (creates) coercive pressures and attendant risks of abuse of money in politics."

3. Public financing is a constitutional response to the inherently corrupting effects (i.e., dependency creating effects) of money in electoral politics.

4. Public financing systems that are voluntary, do not limit non-participant candidate expenditures, or the expenditures of independent entities, and do not trigger state benefits or burdens "in direct response to the political speech" of non-participating candidates are constitutional.

5. Supreme Court opinions, none of which were repudiated by Bennett, permit subsidies to speech on a differential basis as long as the basis is viewpoint neutral. So for instance exclusion of marginal candidates from public television debates is permissible (Arkansas ETV v. Forbes); granting tax benefits on condition of not lobbying (speech) is permissible (Reagan); making government grants limiting the speech topics the recipients can address is permissible (Rust v. Sullivan).

6. As the court said in Bennett; "Limiting contributions, of course, is the primary means we have upheld to combat corruption." As long as the limits are not so low that they limit effective campaign contribution requirements and limitations they are constitutionally permissible.

7. Disclosure requirements on candidates and their campaigns both in connection with contributions received, and expenditures made, have been sustained as long as the requirements are clearly limited to concerns about corruption.

So in closing, let me offer a thought or two about the Report you will be writing, and also suggest a few reforms you might consider.

In my opinion the Report ought to emphasize the centralness of what Professor Teachout calls the anti-corruption principle. It should approach campaign finance reform and public funding not as externals introduced to work at the margins, but rather as constitutive of our democracy.

- The Report should clearly recognize the reality of the corrupting effect of money, especially big money, in politics generally and elections particularly. The Supreme Court has, so should the Report.
- There should be no equivocalism about the Constitutionality of public funding of elections in the Report. Yes arguments about how the balance between democracy (independence and accountability of elected officials), federalism, separation of powers, and the first amendment should be struck, but no question that the State has constitutional authority to work towards clean elections.
- The Report should make clear that the effects of public financing that the Supreme Court found troubling and that critics point to, things like candidates changing plans depending on how they assess the resources of their opponents, or last minute expenditures, are the norm now, and not arguments against public financing.
- The Report should reject the argument that public financing results in less speech. It seems to me the Court's critics of public financing confuse loudness and frequency of speech with quantity and quality of speech when they say it will result in less speech. A properly constructed system should encourage more people to actively participate as contributors, even candidates. More participants means more speech.
- And it should be bold in suggesting possible reforms. The Task Force needs to be realistic, but it should not assume the role of the Legislature. Rather it should be more like a think tank and present lots of possibilities to be analyzed and criticized. Yes eliminate the obviously unrealistic or unconstitutional, but open new avenues of thought. Our rules

of elections are constantly changing as our economy and society change, and as our understanding of democracy, equality and liberty change. Your Task Force Report should be thought of as an agent of change towards clean elections.

— TV and other media time and space could be bought and made available to participating candidates.

— In the language of the Bennett opinion expenditures are currently considered "independent" if "not coordinated with a candidate (as) the candidate-funding circuit is broken." Just as the law distinguishes between degrees of involvement and cooperation in liability contexts the definition of "independent" could be tightened to reduce bundling and other congruent forms of participation in campaigns. Unless the separation between candidates and "independent" expenditures groups negates the possibility that quid pro quo corruption will occur it is insufficient to be truly independent and should be considered as contributions.

— Upon the exceeding of the limit on the participating candidate by the non-participating candidate, the limit could be removed and the participating candidate would be free to raise funds on their own. This triggers no state conferred benefits and thus does not fall under the ban of Bennett.

— To encourage greater participation of individual voters the system should operate in such a way that (a) individuals making small contributions are given a tax benefit; and (b) candidates that raise money in small individual amounts receive some additional benefit.

— Similarly, efforts should be made to revitalize political parties. All official publications in connection with the election could prominently indicate which candidates have participated in this program.

These comments are offered as a historical constitutional context for your deliberations in the spirit of reform. The suggestions all need further thought. But again unless your Report challenges the Legislature little or no change will result. I think it was FDR who reminded us that "Where there is no vision the people perish."

Thank you for this opportunity to participate in your important work.

## **D. Michelle Jordan, Illinois Campaign for Political Reform**

### **STATEMENT OF MICHELLE JORDAN**

*Board Member, Illinois Campaign for Political Reform*

Good Morning members of the Illinois Campaign Finance Task Force. I am Michelle Jordan. I sit on the board of The Illinois Campaign for Political Reform. We are a nonpartisan public interest group that conducts research and advocates reforms to promote public participation in government, to address the role of money in politics and to encourage integrity, accountability, and transparency in government.

The US Supreme Court has addressed the issue that we are here today to discuss. The Court in *Buckley* considered the constitutionality of public financing in its 1976 ruling. [*Buckley v Valeo* (424 U.S. 1).] The Buckley decision, while better known for holding that contribution limits are a legitimate exercise of state authority, held that the public financing for presidential elections was constitutional.

Some claimed that public financing, was "inconsistent with the First Amendment" Other arguments claimed that it discriminated against certain interests that violated Due Process. But the Court clearly stated that they found no merit in these contentions. (at 85) Moreover: the majority noted that there is a significant government interest in eliminating the improper influence of large private contributions (96). So, on a federal level, it is settled law that public financing programs can be constitutional In fact, they have been enacted in many jurisdictions.

The draft report of this Campaign Finance Reform Task Force suggests (on page 42) that there might be a conflict between public financing and the Illinois' Constitution's provision in Article VII. ("Public funds, property or credit shall be used only for public purposes." [Art. VII, Sec 1(a)])

Certainly it would be inappropriate, under Article VII, for example, if a sitting Secretary of State decided that photocopiers and other equipment of his office should be used to support the candidacy of the same sitting Secretary of State in his candidacy for governor, as was the case here in Illinois more than a dozen years ago.

ICPR, objects to the clandestine use of public resources to benefit favored candidates, candidates that were chosen for private reasons with out meaningful public input. But we see no conflict between the idea that public funds should be used for public purposes and accomplishing the goal of offering public financing to candidates for public office.

The question is, can there be a legitimate public purpose in creating a system that offers, on a voluntary basis, public funds to all candidates for an office equally. The answer is a clearly YES. Every major court ruling that has looked at campaign finance laws has concluded that it is legitimate for government to protect the integrity of its elections, to promote the honest operation of government, and to combat the fact or appearance of corruption that may arise as a result of privately financed elections. The Supreme Court ruled in 1976 specifically that public financing is a legitimate means of "eliminating the improper influence of large private contributions." On this basis, I am confident that public financing serves a public purpose, and would survive any and all Article VII challenges.

Without the specter of the next campaign hanging over their heads without the fear that they cannot raise the money equal or greater than that of their challenger public servants would be more able to perform the work that they were elected to do. It is unfortunate and corrosive to the public trust, and oftentimes demeaning and humiliating that they are required to beg for money from the citizens of Illinois, from the voters of Illinois, from their constituents their neighbors and friends or in the case of the judiciary the very attorneys who come into their courtrooms every day asking them for a fair and impartial hearing on behalf of their clients.

I am certain if you asked them no elected official would claim they enjoy the process. It is demeaning to have to beg for money to keep your job. We know that it has become a necessary evil if they want to continue their public service and for the best and the brightest public servants, that is the very thing that propelled them into politics: Serving the public.

I urge that you recommend that the General Assembly consider a system of public financing.

## **E. Paula Lawson, League of Women Voters of Illinois**

### **STATEMENT OF PAULA LAWSON, CAMPAIGN FINANCE REFORM ISSUE SPECIALIST**

Good Morning members of the Illinois Campaign Finance Reform Task Force. My name is Paula Lawson, and I am the League of Women Voters of Illinois (LWVIL) Campaign Finance Reform Issue Specialist and a former State League President. The League is a nonpartisan political organization that encourages informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy.

Campaign Finance Reform is a very high priority of LWV. We have focused on this critical issue since the early 1970s -at the national level during the Watergate era and on the state level since the mid 1990s. In the 1999 spring legislative session, we initiated a contribution limits bill.

It is the League's position that the methods of financing political campaigns should ensure the public's right to know the source of the money, combat corruption and deter undue influence, make competing for public office more equitable, and ensure open and honest elections. The League's campaign finance reform strategy is to achieve incremental reforms where possible in the short term with the ultimate goal of public financing as the best long-term solution. This would level the "playing field" and allow for maximum citizen participation in the political process.

In a survey conducted for the Joyce Foundation in January 2009 by Belden, Russonello and Stewart, concerns about corruption in state government and the influence of money in state politics topped residents' list of concerns for the State. Six in ten (61%) were extremely concerned about the corruption in state government and 54% were concerned about the influence of money in state politics. Seventy one percent (71%) of people surveyed believe that public financing of political campaigns will make a difference in helping state government work better.

In the fall of 2009, Illinois did enact legislation that establishes a framework for better disclosure and enforcement. For the first time limits were placed on money coming into the political system. Although the goal of taking this action is to ensure the public's right to know and to end corruption, to ultimately restore the public's faith in its government, public financing of elections is necessary.

Testimony given to the Task Force by David Morrison of ICPR outlined two forms of public financing - block grants and taxpayer-directed systems. Either of these systems would be steps that Illinois can implement to minimize the risk of corruption and to assure the public that elected officials are concerned mostly with the interests and needs of voters. A system of public financing designed to encourage small donors to contribute to campaigns could greatly increase voter participation in campaign financing and change the dynamic of how races are funded.

### **JUDICIAL ELECTIONS**

The LWVIL supports merit selection as the ideal method for appointing judges to serve in the Illinois court system and succeed in limiting political influence in the selection process. With the escalating cost of judicial races and the slow progress in achieving merit

selection, since 2003 the League has also advocated for public financing of judicial elections at the Supreme and Appellate Court levels.

While legislative and executive officials serve in representative capacities and are agents of the people, judges are not political actors. They do not have constituencies and must be impartial and not subjected to political influences in making their decisions that should be based on law, evidence and facts of individual cases.

The League urges you to recommend implementing a public funding system for judicial elections. We recognize the severe budget constraints of the State of Illinois and know that this must be addressed but possibly a surcharge on criminal and civil penalties would be one source of revenue.

There is support for public financing of judicial elections. The Joyce Foundation poll found that 72% thought that public financing for election of judges would make a difference. A poll conducted by the Paul Simon Public Policy Institute in October 2011 found, that when asked if they favored or opposed eliminating contributions to judicial races by providing public funding for all candidates who qualify for it, more than 53.6% of voters surveyed favored or strongly favored the proposal. Thirty four percent (34%) opposed it.

The League of Women Voters of Illinois urges the Task Force to recommend that the General Assembly consider a system of public financing that will be open, fair and restore the trust of the public in elections in Illinois and in their state government.

Jan Dornier  
LWVIL President

Paula Lawson  
LWVIL Campaign Finance Reform Issue Specialist

## **F. Emily Miller, Better Government Association**

### **STATEMENT OF EMILY MILLER, STAFF ATTORNEY**

**[emiller@bettergov.org](mailto:emiller@bettergov.org), 312-821-9034**

In 1976 in *Buckley v. Valeo*, the United States Supreme Court acknowledged that in a system of privately financed elections, candidates lacking immense personal wealth must rely on campaign contributions of considerable amounts to successfully communicate their message to voters. And those campaign contributions, the court found, are the aspect of political association where the actuality and potential for corruption have been identified.

The court ruled that the government has an interest in preventing both corruption and the appearance of corruption, and it can restrict the role of large campaign contributions to that end (with the caveat that prevention is weighed against the First Amendment's guarantee of freedom of expression.)

Given that large campaign contributions in privately financed election systems are linked to both corruption and the appearance of corruption, reducing the role that large campaign contributions play in elections will reduce the influence big money has over the political process.

In Illinois, we have an embarrassing history of political corruption stemming from the need to raise large amounts of campaign cash in order to compete in the political game. Quid pro quo agreements that go far beyond usual "political horse-trading" are natural extensions of a

privately financed campaign system where candidates must raise big bucks to be competitive in the political game. Trading government services, grants, appointments, jobs, etc for political campaign contributions means that corrupt politicians win and the public loses. The recent conviction and subsequent sentencing of Governor Blagojevich reminds us all that this kind of corruption can and will go all the way to the top of our government.

A good faith effort to reduce the impact large campaign contributions have over the political process will lead to a reduction of corruption and the appearance of corruption. That includes taking measures to limit campaign contributions from individuals, corporations, and political PACs, some of which have already been written into Illinois law.

But it also includes a real debate on the merits of public financing for campaigns—particularly in the judiciary where impartiality is key to the integrity of the office.

In the end, no law can prevent public corruption. Honesty, integrity and morality are not requirements for holding public office. But the state should take steps to make it as easy as possible for elected officials to avoid the conflicts of interest inherent in a privately financed election system.

## **G. Common Cause**

Submitted copy of: Janice Thompson, Jessica Levinson *Overview of Post-Arizona Free Enterprise Policy Alternatives*, Common Cause (2011)

## **H. Brian Imus, Illinois Public Interest Research Group**

TO: Illinois Campaign Finance Reform Taskforce  
FROM: Brian Imus, Illinois PIRG  
RE: Written Testimony, Public Campaign Financing Draft Report  
DATE: December 15, 2011

Thank you for the opportunity to provide comment from the Illinois Public Interest Research Group (Illinois PIRG) before the Illinois Campaign Finance Reform Taskforce. The work by taskforce members this past year is an important step in renewing the public's confidence in government. The taskforce is commended for their commitment and time this past year to helping achieve that goal.

Illinois PIRG is a non-profit consumer advocacy and research organization. As a public interest organization concerned with public policy, we support campaign finance reform that will help level the playing field for voters and candidates by reducing the role of big money in elections. Public financing of elections is one such way to do so.

Despite the history and attention paid to corruption scandals in Illinois, there is a danger in focusing too narrowly on scandal and quid pro quo corruption; we may miss the forest for the trees. After all, the vast majority of Illinois lawmakers are not on the take. Looking only at influence-peddling masks a far deeper and more profound impact of money on our political system. The most significant problem with money in politics is that large contributions unduly influence who runs for office and who wins elections. Money is a critical — and perhaps decisive — factor in determining election outcomes. Candidates who wish to present their views to the voters must first compete for campaign contributions. Without personal wealth or the ability to raise large sums of money from well-heeled contributors, many aspiring officeholders

are locked out of the process before the first vote is cast. Those voters who wish to express views that are not supported by wealthy donors are left without an outlet.

The need to raise large sums of campaign dollars from wealthy donors means candidates are running election campaigns differently than they might be with a more democratic campaign finance system. Currently, fundraising and campaigning are largely separate activities. Rather than meeting with voters, candidates—and elected officials—must spend much of their time dialing for dollars and interacting with a narrow segment of wealthy donors—many of whom do not even live in their districts or states.

In addition, elected officials may not be representative of and often may not be representing—average, non-wealthy voters in their districts. Because of the important role large contributors play in financing campaigns, legislators may feel more accountable, at least in part, to the wealthy donors that determine their chances of re-election.

Finally, and most importantly, because elected officials may be more accountable to donors than ordinary Illinoisans, public policy decisions on issues ranging from the environment to consumer protection may reflect the interests of large contributors at the expense of average citizens.

The work of the task force should not be an academic exercise. The final report should provide a springboard for further debate and policy reform in Illinois.

To do so, and strengthen the voices of ordinary non-wealthy Americans in the political process, we recommend the following policy proposals:

- Offer candidates who demonstrate sufficient community support a full public funding option in exchange for accepting a voluntary spending limit and forgoing private funds;
- Provide free media for qualified candidates;
- Provide incentives for small political contributions such as tax credits, refunds, and vouchers; and
- Lower campaign contribution limits to a level that average Americans can afford to give.

Thank you again for your consideration and commitment to this important issue.

## **I. Lieutenant Governor Sheila Simon**

I would like to commend the Campaign Finance Reform Task Force for continuing the important work of the Illinois Reform Commission, which helped pass the first campaign finance limits in the history of this state. As a logical next step, I support a public finance system for judicial elections in Illinois that does not use general revenue dollars but is instead funded through an increase in court filing or lawyer registration fees. The perception that any judges could be unduly influenced by campaign contributions is something that our democracy and judicial system cannot afford to ignore.

## **J. David Orr, Cook County Clerk**

Illinois Campaign Finance Reform Task  
Force Honorable Barbara Flynn Currie and  
members [Repcurrie@sbcglobal.net](mailto:Repcurrie@sbcglobal.net)

Dear Representative Barbara Flynn Currie and Members of the Task Force:

In recent years our political discussions have been increasingly dominated by paid communications from wealthy private special interests. This has tended to silence the voices of less affluent and ordinary people and turn up the volume for the wealthy. This trend has increased the power of the privileged

I support the important work that the Campaign Finance Task Force has been doing to investigate proposals to remove the excessive influence of money from political discourse.

I encourage the members of the task force to press on with their work and to devise workable legal solutions to the abuses of campaign spending, and to inject fairness to our electoral processes in Illinois.

Sincerely,

David Orr  
Cook County Clerk

## **Appendix E: Full Text of Public Act 96-832**

AN ACT concerning elections.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Election Code is amended by changing the heading of Article 9 and Sections 9-1.4, 9-1.5, 9-1.6, 9-1.8, 9-1.9, 9-1.10, 9-1.12, 9-1.13, 9-1.14, 9-2, 9-3, 9-5, 9-6, 9-7, 9-8, 9-9, 9-10, 9-11, 9-13, 9-16, 9-21, 9-28, 9-30, and 29-12 and by adding Sections 9-1.15, 9-8.5, 9-8.6, 9-23.5, 9-28.5, and 9-40 as follows:

(10 ILCS 5/Art. 9 heading)

ARTICLE 9. DISCLOSURE AND REGULATION OF CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

(10 ILCS 5/9-1.4) (from Ch. 46, par. 9-1.4)

Sec. 9-1.4. Contribution.

(A) "Contribution" means: -

(1) a gift, subscription, donation, dues, loan, advance, ~~or~~ deposit of money, or anything of value, knowingly received in connection with the nomination for election, ~~or~~ election, or retention of any candidate or person to or in public office, ~~in connection with the election of any person as ward or township committeeman in counties of 3,000,000 or more population,~~ or in connection with any question of public policy;

(1.5) a gift, subscription, donation, dues, loan, advance, deposit of money, or anything of value that constitutes an electioneering communication ~~regardless of whether the communication is made in concert or cooperation with or at the~~

request, suggestion, or knowledge of a candidate, a ~~candidate's~~  
~~authorized local political committee, a State political~~  
~~committee, a political committee in support of or opposition to~~  
~~a question of public policy,~~ or any of their agents;

(2) the purchase of tickets for fund-raising events,  
including but not limited to dinners, luncheons, cocktail  
parties, and rallies made in connection with the nomination for  
election, ~~or election,~~ or retention of any person in or to  
public office, ~~in connection with the election of any person as~~  
~~ward or township committeeman in counties of 3,000,000 or more~~  
~~population,~~ or in connection with any question of public  
policy;

(3) a transfer of funds received by a political committee  
from another ~~between~~ political committee committees; ~~and~~

(4) the services of an employee donated by an employer, in  
which case the contribution shall be listed in the name of the  
employer, except that any individual services provided  
voluntarily and without promise or expectation of compensation  
from any source shall not be deemed a contribution; and but

(5) an expenditure by a political committee made in  
cooperation, consultation, or concert with another political  
committee.

(B) "Contribution" does not include: —

- (a) the use of real or personal property and the  
cost of invitations, food, and beverages, voluntarily  
provided by an individual in rendering voluntary  
personal services on the individual's residential  
premises for candidate-related activities; provided  
the value of the service provided does not exceed an  
aggregate of \$150 in a reporting period;
- (b) the sale of any food or beverage by a vendor  
for use in a candidate's campaign at a charge less than

the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor; -

© communications by a corporation to its stockholders and executive or administrative personnel or their families;

(d) communications by an association to its members and executive or administrative personnel or their families;

(e) voter registration or other campaigns encouraging voting that make no mention of any clearly identified candidate, public question, political party, group, or combination thereof;

(f) a loan of money by a national or State bank or credit union made in accordance with the applicable banking laws and regulations and in the ordinary course

of business, but the loan shall be listed on disclosure reports required by this Article; however, the use, ownership, or control of any security for such a loan, if provided by a person other than the candidate or his or her committee, qualifies as a contribution; or

(g) an independent expenditure.

© Interest or other investment income, earnings or proceeds, and refunds or returns of all or part of a committee's previous expenditures shall not be considered contributions but shall be listed on disclosure reports required by this Article.

(Source: P.A. 94-645, eff. 8-22-05.)

(10 ILCS 5/9-1.5) (from Ch. 46, par. 9-1.5)

Sec. 9-1.5. Expenditure ~~defined~~.

(A) "Expenditure" means: -

(1) a payment, distribution, purchase, loan, advance, deposit, ~~or~~ gift of money, or anything of value, in connection with the nomination for election, ~~or~~ election, or retention of any person to or in public office, ~~in~~ connection with the election of any person as ward or township committeeman in counties of 3,000,000 or more population, or in connection with any question of public policy; -

(2) “Expenditure” also includes a payment, distribution, purchase, loan, advance, deposit, ~~or~~ gift of

money, or anything of value that constitutes an electioneering communication ~~regardless of whether the communication is made in concert or cooperation with or at the request, suggestion, or knowledge of a candidate, a candidate’s authorized local political committee, a State political committee, a political committee in support of or opposition to a question of public policy, or any of their agents; or~~ ~~However,~~

(3) a transfer of funds by a political committee to another political committee.

(B) “Expenditure” expenditure does not include: -

(a) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual in rendering voluntary personal services on the individual’s residential premises for candidate-related activities; provided the value of the service provided does not exceed an aggregate of \$150 in a reporting period; or

(b) the sale of any food or beverage by a vendor for use in a candidate’s campaign at a charge less than the normal comparable charge, if such charge for use in a candidate’s campaign is at least equal to the cost of such

food or beverage to the vendor.

~~(2) a transfer of funds between political committees.~~

(Source: P.A. 93-574, eff. 8-21-03; 93-615, eff. 11-19-03; 93-847, eff. 7-30-04.)

(10 ILCS 5/9-1.6) (from Ch. 46, par. 9-1.6)

Sec. 9-1.6. Person. “Person” or “whoever” means a natural person ~~an individual~~, trust, partnership, committee, association, corporation, or any other organization or group of persons.

(Source: P.A. 78-1183.)

(10 ILCS 5/9-1.8) (from Ch. 46, par. 9-1.8)

Sec. 9-1.8. Political committees.

(a) “Political committee” includes a candidate political committee, a political party committee, a political action committee, and a ballot initiative committee.

(b) “Candidate political committee” means the candidate himself or herself or any natural person, trust, partnership, corporation, or other organization or group of persons designated by the candidate that accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 on behalf of the candidate.

© “Political party committee” means the State central committee of a political party, a county central committee of a political party, a legislative caucus committee, or a committee formed by a ward or township committeeman of a political party. For purposes of this Article, a “legislative caucus committee” means a committee established for the purpose of electing candidates to the General Assembly by the person elected

President of the Senate, Minority Leader of the Senate, Speaker

of the House of Representatives, Minority Leader of the House of Representatives, or a committee established by 5 or more members of the same caucus of the Senate or 10 or more members of the same caucus of the House of Representatives.

(d) “Political action committee” means any natural person, trust, partnership, committee, association, corporation, or other organization or group of persons, other than a candidate, political party, candidate political committee, or political party committee, that accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 on behalf of or in opposition to a candidate or candidates for public office. “Political action committee” includes any natural person, trust, partnership, committee, association, corporation, or other organization or group of persons, other than a candidate, political party, candidate political committee, or political party committee, that makes electioneering communications during any 12-month period in an aggregate amount exceeding \$3,000 related to any candidate or candidates for public office.

(e) “Ballot initiative committee” means any natural person, trust, partnership, committee, association, corporation, or other organization or group of persons that accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 in support of or in opposition to any question of public policy to

be submitted to the electors. “Ballot initiative committee” includes any natural person, trust, partnership, committee, association, corporation, or other organization or group of persons that makes electioneering communications during any 12-month period in an aggregate amount exceeding \$3,000 related to any question of public policy to be submitted to the voters.

The \$3,000 threshold applies to any contributions or

expenditures received or made with the purpose of securing a place on the ballot for, advocating the defeat or passage of, or engaging in electioneering communication regarding the question of public policy, regardless of the method of initiation of the question of public policy and regardless of whether petitions have been circulated or filed with the appropriate office or whether the question has been adopted and certified by the governing body.

~~“State political committee” means the candidate himself or any individual, trust, partnership, committee, association, corporation, or any other organization or group of persons which—~~

~~(a) accepts contributions or grants or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 on behalf of or in opposition to a candidate or candidates for public office who are required by the Illinois Governmental Ethics Act to file statements of economic interests with the Secretary of State,~~

~~(b) accepts contributions or makes expenditures during any~~

~~12-month period in an aggregate amount exceeding \$3,000 in support of or in opposition to any question of public policy to be submitted to the electors of an area encompassing more than one county. The \$3,000 threshold established in this paragraph~~

~~(b) applies to any receipts or expenditures received or made with the purpose of securing a place on the ballot for, advocating the defeat or passage of, or engaging in electioneering communication regarding the question of public policy regardless of the method of initiation of the question of public policy and regardless of whether petitions have been circulated or filed with the appropriate office or whether the question has been adopted and certified by the governing body,~~

~~© accepts contributions or makes expenditures during any~~

~~12-month period in an aggregate amount exceeding \$3,000 and has as its primary purpose the furtherance of governmental, political or social values, is organized on a not-for-profit basis, and which publicly endorses or publicly opposes a candidate or candidates for public office who are required by the Illinois Governmental Ethics Act to file statements of economic interest with the Secretary of State, or~~  
~~(d) accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 for electioneering communications relating to any candidate or candidates described in paragraph (a) or any question of public policy described in paragraph (b).~~  
(Source: P.A. 95-963, eff. 1-1-09.)

(10 ILCS 5/9-1.9) (from Ch. 46, par. 9-1.9)

Sec. 9-1.9. Election cycle. “Election cycle” means any of the following:

(1) For a candidate political committee organized to support a candidate to be elected at a general primary election or general election, (i) the period beginning January 1 following the general election for the office to which a candidate seeks nomination or election and ending on the day of the general primary election for that office or (ii) the period beginning the day after a general primary election for the office to which the candidate seeks nomination or election and through December 31 following the general election.

(2) Notwithstanding paragraph (1), for a candidate political committee organized to support a candidate for the General Assembly, (i) the period beginning January 1 following a general election and ending on the day of the next general primary election or (ii) the period beginning the day after the general primary election and ending on December 31 following a

general election.

(3) For a candidate political committee organized to support a candidate for a retention election, (i) the period beginning January 1 following the general election at which the candidate was elected through the day the candidate files a declaration of intent to seek retention or (ii) the period beginning the day after the candidate files a declaration of

intent to seek retention through December 31 following the retention election.

(4) For a candidate political committee organized to support a candidate to be elected at a consolidated primary election or consolidated election, (i) the period beginning July 1 following a consolidated election and ending on the day of the consolidated primary election or (ii) the period beginning the day after the consolidated primary election and ending on June 30 following a consolidated election.

(5) For a political party committee, political action committee, or ballot initiative committee, the period beginning on January 1 and ending on December 31 of each calendar year. "Political committee" includes State central and county central committees of any political party, and also includes local political committees and state political committees, but does not include any candidate who does not accept contributions or make expenditures during any 12-month period in an aggregate amount exceeding \$3,000, nor does it include, with the exception of State central and county central committees of any political party, any individual, trust, partnership, committee, association, corporation, or any other organization or group of persons which does not (i) accept contributions or make expenditures during any 12-month period in an aggregate amount exceeding \$3,000 on behalf of or in opposition to a candidate or candidates or to any question of

~~public policy or (ii) accept contributions or make expenditures~~

~~during any 12-month period in an aggregate amount exceeding \$3,000 for electioneering communications relating to any candidate or candidates described in paragraph (a) of Section 9-1.7 or 9-1.8 or any question of public policy described in paragraph (b) of Section 9-1.7 or 9-1.8, and such candidates and persons shall not be required to comply with any filing provisions in this Article.~~

(Source: P.A. 93-847, eff. 7-30-04.)

(10 ILCS 5/9-1.10) (from Ch. 46, par. 9-1.10)

Sec. 9-1.10. Public Office. “Public office” means any elective office or judicial office subject to retention for ~~which candidates are required to file statements of economic interests under the “Illinois Governmental Ethics Act”, approved August 26, 1967, as amended.~~

(Source: P.A. 78-1183.)

(10 ILCS 5/9-1.12) (from Ch. 46, par. 9-1.12)

Sec. 9-1.12. Anything of value. “Anything of value” means any item, thing, service ~~includes all things, services, or good goods~~, regardless of whether it ~~they~~ may be valued in monetary terms according to ascertainable market value. Anything of value which does not have an ascertainable market value must be reported by describing the item, thing, service ~~services~~, or good goods contributed and by using the contributor’s certified market value required under Section 9-6.

(Source: P.A. 90-737, eff. 1-1-99.)

(10 ILCS 5/9-1.13) (from Ch. 46, par. 9-1.13)

Sec. 9-1.13. Transfer of funds. “Transfer of funds” means

~~any conveyance of money or the purchase of tickets made in connection with the nomination for election, election or retention of any person to or in public office or in connection with any question of public policy from one political committee to another political committee.~~

(Source: P.A. 86-873.)

(10 ILCS 5/9-1.14)

Sec. 9-1.14. Electioneering communication ~~defined.~~

(a) “Electioneering communication” means, for the purposes of this Article, any broadcast, cable, or satellite form of communication, ~~in whatever medium,~~ including ~~but not limited to~~ a newspaper, radio, television, or Internet communication, that (1) refers to (i) a clearly identified candidate or candidates who will appear on the ballot for nomination for election, election, or retention, ~~(ii) refers to~~ a clearly identified political party, or ~~(iii) refers to~~ a clearly identified question of public policy that will appear on the ballot, ~~and~~ (2) is made within (i) 60 days before a general election or consolidated election or (ii) 30 days before a primary election, (3) is targeted to the relevant electorate, and (4) is susceptible to no reasonable interpretation other

than as an appeal to vote for or against a clearly identified candidate for nomination for election, election, or retention, a political party, or a question of public policy.

(b) “Electioneering communication” does not include:

(1) A communication, other than an advertisement, appearing in a news story, commentary, or editorial distributed through the facilities of any legitimate news organization, unless the facilities are owned or controlled by any political party, political committee, or candidate.

(2) A communication made solely to promote a candidate debate or forum that is made by or on behalf of the person sponsoring the debate or forum.

(3) A communication made as part of a non-partisan activity designed to encourage individuals to vote or to register to vote.

(4) A communication by an organization operating and remaining in good standing under Section 501©(3) of the Internal Revenue Code of 1986.

(5) A communication exclusively between a labor organization, as defined under federal or State law, and its members.

(6) A communication exclusively between an organization formed under Section 501©(6) of the Internal Revenue Code and its members.

(Source: P.A. 93-574, eff. 8-21-03; 93-615, eff. 11-19-03;

93-847, eff. 7-30-04; 94-461, eff. 8-4-05; 94-645, eff. 8-22-05.)

(10 ILCS 5/9-1.15 new)

Sec. 9-1.15. Independent expenditure. “Independent expenditure” means any payment, gift, donation, or expenditure of funds (i) by a natural person or political committee for the purpose of making electioneering communications or of expressly advocating for or against the nomination for election, election, retention, or defeat of a clearly identifiable public official or candidate and (ii) that is not made in connection, consultation, or concert with or at the request or suggestion of the public official or candidate, the public official’s or candidate’s designated political committee or campaign, or the agent or agents of the public

official, candidate, or political committee or campaign.

(10 ILCS 5/9-2) (from Ch. 46, par. 9-2)

Sec. 9-2. Political committee designations.

(a) Every political committee shall be designated as a (i) candidate political committee, (ii) political party committee, (iii) political action committee, or (iv) ballot initiative committee.

(b) Beginning January 1, 2011, no public official or candidate for public office may maintain or establish more than one candidate political committee for each office that public

official or candidate holds or is seeking. The name of each candidate political committee shall identify the name of the public official or candidate supported by the candidate political committee. If a candidate establishes separate candidate political committees for each public office, the name of each candidate political committee shall also include the public office to which the candidate seeks nomination for election, election, or retention. If a candidate establishes one candidate political committee for multiple offices elected at different elections, then the candidate shall designate an election cycle, as defined in Section 9-1.9, for purposes of contribution limitations and reporting requirements set forth in this Article. No political committee, other than a candidate political committee, may include the name of a candidate in its name.

© Beginning January 1, 2011, no State central committee of a political party, county central committee of a political party, committee formed by a ward or township committeeman, or committee established for the purpose of electing candidates to the General Assembly may maintain or establish more than one political party committee. The name of the committee must

include the name of the political party.

(d) Beginning January 1, 2011, no natural person, trust, partnership, committee, association, corporation, or other organization or group of persons forming a political action committee shall maintain or establish more than one political

action committee. The name of a political action committee must include the name of the entity forming the committee.

(e) Beginning January 1, 2011, the name of a ballot initiative committee must include words describing the question of public policy and whether the group supports or opposes the question.

(f) Every political committee shall designate a chairman and a treasurer. The same person may serve as both chairman and treasurer of any political committee. A candidate who administers his own campaign contributions and expenditures shall be deemed a political committee for purposes of this Article and shall designate himself as chairman, treasurer, or both chairman and treasurer of such political committee. The treasurer of a political committee shall be responsible for keeping the records and filing the statements and reports required by this Article.

(g) No contribution and no expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of chairman or treasurer thereof. No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents.

(h) For purposes of implementing the changes made by this amendatory Act of the 96<sup>th</sup> General Assembly, every political committee in existence on the effective date of this amendatory Act of the 96<sup>th</sup> General Assembly shall make the designation

required by this Section by December 31, 2010.

(Source: P.A. 80-756.)

(10 ILCS 5/9-3) (from Ch. 46, par. 9-3)

Sec. 9-3. Political committee statement of organization.

(a) Every ~~state~~ political committee ~~and every local political committee~~ shall file with the State Board of Elections, ~~and every local political committee shall file with the county clerk,~~ a statement of organization within 10 business days of the creation of such committee, except any political committee created within the 30 days before an election shall file a statement of organization within 2 5 business days in person, by facsimile transmission, or by electronic mail. Any change in information previously submitted in a statement of organization shall be reported, as required for the original statement of organization by this Section, within 10 days following that change. A political committee that acts as both a state political committee and a local political committee shall file a copy of each statement of organization with the State Board of Elections and the county clerk. The Board shall impose a civil penalty of ~~\$50~~ \$25 per business day upon political committees for failing to file or late filing of a statement of organization, ~~except that for committees formed to support candidates for statewide office, the civil penalty shall be \$50 per business day.~~ Such penalties shall not exceed \$5,000, and shall not exceed \$10,000 for

statewide office political committees. There shall be no fine if the statement is mailed and postmarked at least 72 hours prior to the filing deadline.

In addition to the civil penalties authorized by this Section, the State Board of Elections or any other ~~affected~~ political committee may apply to the circuit court for a

temporary restraining order or a preliminary or permanent injunction against the political committee to cease the expenditure of funds and to cease operations until the statement of organization is filed.

For the purpose of this Section, “statewide office” means the Governor, Lieutenant Governor, Secretary of State, Attorney General, State Treasurer, and State Comptroller.

(b) The statement of organization shall include: -

(1) ~~(a)~~ the name and address of the political committee and the designation required by Section 9-2 ~~(the name of the political committee must include the name of any sponsoring entity);~~

(2) ~~(b)~~ the scope, area of activity, party affiliation, ~~candidate affiliation and his county of residence,~~ and purposes of the political committee;

(3) ~~(c)~~ the name, address, and position of each custodian of the committee’s books and accounts;

(4) ~~(d)~~ the name, address, and position of the committee’s principal officers, including the chairman, treasurer, and officers and members of its finance

committee, if any;

(5) the name and address of any sponsoring entity ~~(e)~~ ~~(Blank)~~;

(6) ~~(f)~~ a statement of what specific disposition of residual fund will be made in the event of the dissolution or termination of the committee;

(7) ~~(g)~~ a listing of all banks or other financial institutions, safety deposit boxes, and any other repositories or custodians of funds used by the committee; and

(8) ~~(h)~~ the amount of funds available for campaign expenditures as of the filing date of the committee’s

statement of organization.

For purposes of this Section, a “sponsoring entity” is (i) any person, ~~political committee~~, organization, corporation, or association that contributes at least 33% of the total funding of the political committee or (ii) any person or other entity that is registered or is required to register under the Lobbyist Registration Act and contributes at least 33% of the total funding of the political committee; ~~except that a political committee is not a “sponsoring entity” for purposes of this Section if it is a political committee organized by (i) an established political party as defined in Section 10-2, (ii) a partisan caucus of either house of the General Assembly, or (iii) the Speaker or Minority Leader of the House of Representatives or the President or Minority Leader of the~~

~~Senate, in his or her capacity as a legislative leader of the House of Representatives or Senate and not as a candidate for Representative or Senator.~~

© Each statement of organization required to be filed in accordance with this Section shall be verified, dated, and signed by either the treasurer of the political committee making the statement or the candidate on whose behalf the statement is made and shall contain substantially the following verification:

“VERIFICATION:

I declare that this statement of organization (including any accompanying schedules and statements) has been examined by me and, to the best of my knowledge and belief, is a true, correct, and complete statement of organization as required by Article 9 of the Election Code. I understand that willfully filing a false or incomplete statement is subject to a civil penalty of at least \$1,001 and up to \$5,000.

.....

(date of filing) (signature of person making the statement)”.

(d) The statement of organization for a ballot initiative committee also shall include a verification signed by the chairperson of the committee that (i) the committee is formed for the purpose of supporting or opposing a question of public policy, (ii) all contributions and expenditures of the committee will be used for the purpose described in the statement of organization, (iii) the committee may accept

unlimited contributions from any source, provided that the ballot initiative committee does not make contributions or expenditures in support of or opposition to a candidate or candidates for nomination for election, election, or retention, and (iv) failure to abide by these requirements shall deem the committee in violation of this Article.

(e) For purposes of implementing the changes made by this amendatory Act of the 96<sup>th</sup> General Assembly, every political committee in existence on the effective date of this amendatory Act of the 96<sup>th</sup> General Assembly shall file the statement required by this Section with the Board by December 31, 2010.

(Source: P.A. 93-574, eff. 8-21-03; 93-615, eff. 11-19-03; 94-645, eff. 8-22-05.)

(10 ILCS 5/9-5) (from Ch. 46, par. 9-5)

Sec. 9-5. Dissolved or inactive committee. Any change in information previously submitted in a statement of organization except for information submitted under Section 9-3 (h) shall be reported, as required of statements of organization by Section 9-3 of this Article, within 10 days following such change.

Any political committee which, after having filed a statement of organization, dissolves as a political committee or determines that it will no longer receive any campaign

contributions nor make any campaign expenditures shall notify the Board, ~~or the Board and the county clerk, as required of~~

~~statements of organization by Section 9-3 of this Article, of that fact and file with the Board, or the Board and the county clerk, as required of statements of organization by Section 9-3 of this Article,~~ a final report with respect to its contributions and expenditures, including the final disposition of its funds and assets.

In the event that a political committee dissolves, all contributions in its possession, after payment of the committee's outstanding liabilities, including staff salaries, shall be refunded to the contributors in amounts not exceeding their individual contributions, or transferred to other political or charitable organizations consistent with the positions of the committee or the candidates it represented. In no case shall these funds be used for the personal aggrandizement of any committee member or campaign worker. (Source: P.A. 90-495, eff. 1-1-98.)

(10 ILCS 5/9-6) (from Ch. 46, par. 9-6)

Sec. 9-6. Accounting for contributions.

(a) A ~~Every~~ person who collects or accepts ~~receives~~ a contribution ~~in excess of \$20~~ for a political committee shall, ~~on demand of the treasurer, and in any event~~ within 5 days after receipt of such contribution, submit ~~render~~ to the treasurer a detailed account of the contribution ~~thereof~~, including (i) the amount, (ii) the name and address of the person making such contribution, (iii) ~~and~~ the date on which

the contribution ~~it~~ was received, and (iv) the name and address of the person collecting or accepting the contribution for the political committee. A political committee shall disclose on

the quarterly statement the name, address, and occupation of any person who collects or accepts contributions from at least 5 persons in the aggregate of \$3,000 or more outside of the presence of a candidate or not in connection with a fundraising event sanctioned or coordinated by the political committee during a reporting period. This subsection does not apply to a person who is an officer of the committee, a compensated employee, a person authorized by an officer or the candidate of a committee to accept contributions on behalf of the committee, or an entity used for processing financial transactions by credit card or other means.

(b) Within 5 business days of contributing goods or services ~~of more than \$50 value~~ to a political committee, the contributor shall submit to the treasurer a detailed account of the contribution, including (i) the name and address of the person making the contribution, (ii) certify the value of the contribution to the political committee on forms prescribed by the State Board of Elections. The forms shall include the name and address of the contributor, a description and market value of the goods or services, and (iii) the date on which the contribution was made.

© All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of

officers, members, or associates of such committee.

(Source: P.A. 90-737, eff. 1-1-99.)

(10 ILCS 5/9-7) (from Ch. 46, par. 9-7)

Sec. 9-7. The treasurer of a political committee shall keep a detailed and exact account of-

(a) the total of all contributions made to or for the committee;

(b) the full name and mailing address of every person

making a contribution ~~in excess of \$20~~ and the date and amount thereof;

© the total of all expenditures made by or on behalf of the committee;

(d) the full name and mailing address of every person to whom any expenditure ~~in excess of \$20~~ is made, and the date and amount thereof;

(e) proof of payment, stating the particulars, for every expenditure ~~in excess of \$20~~ made by or on behalf of the committee.

The treasurer shall preserve all records and accounts required by this section for a period of 2 years.

(Source: P.A. 79-293.)

(10 ILCS 5/9-8) (from Ch. 46, par. 9-8)

Sec. 9-8. Any political committee which solicits or receives contributions or makes expenditures on behalf of any

candidate that is not authorized in writing by such candidate to do so shall include a notice on the face or front page of all literature and advertisements published and following all commercials broadcast, that are authorized by the committee and that mention the candidate, in connection with such candidate's campaign by such committee or on its behalf stating that the committee is not authorized by such candidate and that such candidate is not responsible for the activities of such committee.

(Source: P.A. 78-1183.)

(10 ILCS 5/9-8.5 new)

Sec. 9-8.5. Limitations on campaign contributions.

(a) It is unlawful for a political committee to accept contributions except as provided in this Section.

(b) During an election cycle, a candidate political committee may not accept contributions with an aggregate value over the following: (i) \$5,000 from any individual, (ii) \$10,000 from any corporation, labor organization, or association, or (iii) \$50,000 from a candidate political committee or political action committee. A candidate political committee may accept contributions in any amount from a political party committee except during an election cycle in which the candidate seeks nomination at a primary election. During an election cycle in which the candidate seeks nomination at a primary election, a candidate political

committee may not accept contributions from political party committees with an aggregate value over the following: (i) \$200,000 for a candidate political committee established to support a candidate seeking nomination to statewide office, (ii) \$125,000 for a candidate political committee established to support a candidate seeking nomination to the Senate, the Supreme Court or Appellate Court in the First Judicial District, or an office elected by all voters in a county with 1,000,000 or more residents, (iii) \$75,000 for a candidate political committee established to support a candidate seeking nomination to the House of Representatives, the Supreme Court or Appellate Court for a Judicial District other than the First Judicial District, an office elected by all voters of a county of fewer than 1,000,000 residents, and municipal and county offices in Cook County other than those elected by all voters of Cook County, and (iv) \$50,000 for a candidate political committee established to support the nomination of a candidate to any other office. A candidate political committee established to elect a candidate to the General Assembly may accept contributions from only one legislative caucus committee. A candidate political committee may not accept

contributions from a ballot initiative committee.

© During an election cycle, a political party committee may not accept contributions with an aggregate value over the following: (i) \$10,000 from any individual, (ii) \$20,000 from any corporation, labor organization, or association, or (iii)

\$50,000 from a political action committee. A political party committee may accept contributions in any amount from another political party committee or a candidate political committee, except as provided in subsection (c-5). Nothing in this Section shall limit the amounts that may be transferred between a State political committee and federal political committee. A political party committee may not accept contributions from a ballot initiative committee. A political party committee established by a legislative caucus may not accept contributions from another political party committee established by a legislative caucus.

(c-5) During the period beginning on the date candidates may begin circulating petitions for a primary election and ending on the day of the primary election, a political party committee may not accept contributions with an aggregate value over \$50,000 from a candidate political committee or political party committee. A political party committee may accept contributions in any amount from a candidate political committee or political party committee if the political party committee receiving the contribution filed a statement of nonparticipation in the primary as provided in subsection (c-10). The Task Force on Campaign Finance Reform shall study and make recommendations on the provisions of this subsection to the Governor and General Assembly by September 30, 2012. This subsection becomes inoperative on July 1, 2013 and thereafter no longer applies.

(c-10) A political party committee that does not intend to make contributions to candidates to be nominated at a general primary election or consolidated primary election may file a Statement of Nonparticipation in a Primary Election with the Board. The Statement of Nonparticipation shall include a verification signed by the chairperson and treasurer of the committee that (i) the committee will not make contributions or coordinated expenditures in support of or opposition to a candidate or candidates to be nominated at the general primary election or consolidated primary election (select one) to be held on (insert date), (ii) the political party committee may accept unlimited contributions from candidate political committees and political party committees, provided that the political party committee does not make contributions to a candidate or candidates to be nominated at the primary election, and (iii) failure to abide by these requirements shall deem the political party committee in violation of this Article and subject the committee to a fine of no more than 150% of the total contributions or coordinated expenditures made by the committee in violation of this Article. This subsection becomes inoperative on July 1, 2013 and thereafter no longer applies.

(d) During an election cycle, a political action committee may not accept contributions with an aggregate value over the following: (i) \$10,000 from any individual, (ii) \$20,000 from any corporation, labor organization, political party

committee, or association, or (iii) \$50,000 from a political action committee or candidate political committee. A political action committee may not accept contributions from a ballot initiative committee.

(e) A ballot initiative committee may accept contributions in any amount from any source, provided that the committee

files the document required by Section 9-3 of this Article.

(f) Nothing in this Section shall prohibit a political committee from dividing the proceeds of joint fundraising efforts; provided that no political committee may receive more than the limit from any one contributor.

(g) On January 1 of each odd-numbered year, the State Board of Elections shall adjust the amounts of the contribution limitations established in this Section for inflation as determined by the Consumer Price Index for All Urban Consumers as issued by the United States Department of Labor and rounded to the nearest \$100. The State Board shall publish this information on its official website.

(h) Self-funding candidates. If a public official, a candidate, or the public official's or candidate's immediate family contributes or loans to the public official's or candidate's political committee or to other political committees that transfer funds to the public official's or candidate's political committee or makes independent expenditures for the benefit of the public official's or candidate's campaign during the 12 months prior to an election

in an aggregate amount of more than (i) \$250,000 for statewide office or (ii) \$100,000 for all other elective offices, then the public official or candidate shall file with the State Board of Elections, within one day, a Notification of Self-funding that shall detail each contribution or loan made by the public official, the candidate, or the public official's or candidate's immediate family. Within 2 business days after the filing of a Notification of Self-funding, the notification shall be posted on the Board's website and the Board shall give official notice of the filing to each candidate for the same office as the public official or candidate making the filing, including the public official or candidate filing the

Notification of Self-funding. Upon receiving notice from the Board, all candidates for that office, including the public official or candidate who filed a Notification of Self-funding, shall be permitted to accept contributions in excess of any contribution limits imposed by subsection (b). For the purposes of this subsection, “immediate family” means the spouse, parent, or child of a public official or candidate.

(i) For the purposes of this Section, a corporation, labor organization, association, or a political action committee established by a corporation, labor organization, or association may act as a conduit in facilitating the delivery to a political action committee of contributions made through dues, levies, or similar assessments and the political action committee may report the contributions in the aggregate,

provided that: (i) the dues, levies, or similar assessments paid by any natural person, corporation, labor organization, or association in a calendar year may not exceed the limits set forth in this Section and (ii) the corporation, labor organization, association, or a political action committee established by a corporation, labor organization, or association facilitating the delivery of contributions maintains a list of natural persons, corporations, labor organizations, and associations that paid the dues, levies, or similar assessments from which the contributions comprising the aggregate amount derive. A political action committee facilitating the delivery of contributions or receiving contributions shall disclose the amount of dues delivered or received and the name of the corporation, labor organization, association, or political action committee delivering the contributions, if applicable.

(j) A political committee that receives a contribution or transfer in violation of this Section shall dispose of the

contribution or transfer by returning the contribution or transfer, or an amount equal to the contribution or transfer, to the contributor or transferor or donating the contribution or transfer, or an amount equal to the contribution or transfer, to a charity. A contribution or transfer received in violation of this Section that is not disposed of as provided in this subsection within 15 days after its receipt shall escheat to the General Revenue Fund and the political committee

shall be deemed in violation of this Section and subject to a civil penalty not to exceed 150% of the total amount of the contribution.

(k) For the purposes of this Section, “statewide office” means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, and Treasurer.

(l) This Section is repealed if and when the United States Supreme Court invalidates contribution limits on committees formed to assist candidates, political parties, corporations, associations, or labor organizations established by or pursuant to federal law.

(10 ILCS 5/9-8.6 new)

Sec. 9-8.6. Independent expenditures.

(a) An independent expenditure is not considered a contribution to a political committee. An expenditure made by a natural person or political committee for an electioneering communication in connection, consultation, or concert with or at the request or suggestion of the public official or candidate, the public official’s or candidate’s candidate political committee, or the agent or agents of the public official, candidate, or political committee or campaign shall not be considered an independent expenditure but rather shall be considered a contribution to the public official’s or

candidate's candidate political committee.

A natural person who makes an independent expenditure

supporting or opposing a public official or candidate that, alone or in combination with any other independent expenditure made by that natural person supporting or opposing that public official or candidate during any 12-month period, equals an aggregate value of at least \$3,000 must file a written disclosure with the State Board of Elections within 2 business days after making any expenditure that results in the natural person meeting or exceeding the \$3,000 threshold. Each disclosure must identify the natural person, the public official or candidate supported or opposed, the date, amount, and nature of each independent expenditure, and the natural person's occupation and employer.

(b) Any entity other than a natural person that makes expenditures of any kind in an aggregate amount exceeding \$3,000 during any 12-month period supporting or opposing a public official or candidate must organize as a political committee in accordance with this Article.

© Every political committee that makes independent expenditures must report all such independent expenditures as required under Section 9-10 of this Article.

(10 ILCS 5/9-9) (from Ch. 46, par. 9-9)

Sec. 9-9. Any State political committee shall include on all literature and advertisements soliciting funds the following notice:

“A copy of our report filed with the State Board of

Elections is (or will be) available on the Board's official website (insert the current website address) or for purchase from the State Board of Elections, Springfield, Illinois.”

~~Any local political committee shall include on all literature and advertisements soliciting funds the following notice:~~

~~“A copy of our report filed with the county clerk is (or will be) available for purchase from the county clerk, (county clerk’s address), Illinois.”~~

~~Any political committee that acts as both a state political committee and a local political committee shall include on all literature and advertisements soliciting funds the following notice:~~

~~“A copy of our report filed with the State Board of Elections and the county clerk is (or will be) available for purchase from the State Board of Elections, Springfield, Illinois, and from the county clerk, (county clerk’s address), Illinois.”~~

(Source: P.A. 83-259.)

(10 ILCS 5/9-10) (from Ch. 46, par. 9-10)

Sec. 9-10. Disclosure of contributions and expenditures  
Financial reports.

(a) The treasurer of every ~~state~~ political committee ~~and the treasurer of every local political committee~~ shall file with the Board, ~~and the treasurer of every local political~~

~~committee shall file with the county clerk, reports of campaign contributions, and semi-annual reports of campaign contributions and expenditures as required by this Section on forms to be prescribed or approved by the Board. The treasurer of every political committee that acts as both a state political committee and a local political committee shall file a copy of each report with the State Board of Elections and the county clerk. Entities subject to Section 9-7.5 shall file reports required by that Section at times provided in this~~

~~Section and are subject to the penalties provided in this Section.~~

(b) Every political committee shall file quarterly reports of campaign contributions, expenditures, and independent expenditures. The reports shall cover the period January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31 of each year. A political committee shall file quarterly reports no later than the 15<sup>th</sup> day of the month following each period. Reports of contributions and expenditures must be filed to cover the prescribed time periods even though no contributions or expenditures may have been received or made during the period. The Board shall assess a civil penalty not to exceed \$5,000 for failure to file a report required by this subsection. The fine, however, shall not exceed \$1,000 for a first violation if the committee files less than 10 days after the deadline. There shall be no fine if the report is mailed and postmarked at

least 72 hours prior to the filing deadline. When considering the amount of the fine to be imposed, the Board shall consider whether the violation was committed inadvertently, negligently, knowingly, or intentionally and any past violations of this Section.

© A political committee shall file a report of any contribution of \$1,000 or more electronically with the Board within 5 business days after receipt of the contribution, except that the report shall be filed within 2 business days after receipt if (i) the contribution is received 30 or fewer days before the date of an election and (ii) the political committee supports or opposes a candidate or public question on the ballot at that election or makes expenditures in excess of \$500 on behalf of or in opposition to a candidate, candidates, a public question, or public questions on the ballot at that

election. The State Board shall allow filings of reports of contributions of \$1,000 or more by political committees that are not required to file electronically to be made by facsimile transmission. The Board shall assess a civil penalty for failure to file a report required by this subsection. Failure to report each contribution is a separate violation of this subsection. The Board shall impose fines for willful or wanton violations of this subsection © not to exceed 150% of the total amount of the contributions that were untimely reported, but in no case shall it be less than 10% of the total amount of the contributions that were untimely reported. When

considering the amount of the fine to be imposed for willful or wanton violations, the Board shall consider the number of days the contribution was reported late and past violations of this Section and Section 9-3. The Board may impose a fine for negligent or inadvertent violations of this subsection not to exceed 50% of the total amount of the contributions that were untimely reported, or the Board may waive the fine. When considering whether to impose a fine and the amount of the fine, the Board shall consider the following factors: (1) whether the political committee made an attempt to disclose the contribution and any attempts made to correct the violation, (2) whether the violation is attributed to a clerical or computer error, (3) the amount of the contribution, (4) whether the violation arose from a discrepancy between the date the contribution was reported transferred by a political committee and the date the contribution was received by a political committee, (5) the number of days the contribution was reported late, and (6) past violations of this Section and Section 9-3 by the political committee.

(d) For the purpose of this Section, a contribution is considered received on the date (i) a monetary contribution was

deposited in a bank, financial institution, or other repository of funds for the committee, (ii) the date a committee receives notice a monetary contribution was deposited by an entity used to process financial transactions by credit card or other entity used for processing a monetary contribution that was

deposited in a bank, financial institution, or other repository of funds for the committee, or (iii) the public official, candidate, or political committee receives the notification of contribution of goods or services as required under subsection (b) of Section 9-6.

(e) A political committee that makes independent expenditures of \$1,000 or more during the period 30 days or fewer before an election shall electronically file a report with the Board within 5 business days after making the independent expenditure. The report shall contain the information required in Section 9-11© of this Article. This subsection does not apply with respect to general primary elections. Reports of campaign contributions shall be filed no later than the 15<sup>th</sup> day next preceding each election in connection with which the political committee has accepted or is accepting contributions or has made or is making expenditures. Such reports shall be complete as of the 30<sup>th</sup> day next preceding each election. The Board shall assess a civil penalty not to exceed \$5,000 for a violation of this subsection, except that for State officers and candidates and political committees formed for statewide office, the civil penalty may not exceed \$10,000. The fine, however, shall not exceed \$500 for a first filing violation for filing less than 10 days after the deadline. There shall be no fine if the report is mailed and postmarked at least 72 hours prior to the filing deadline. For the purpose of this subsection, “statewide

office” and “State officer” means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, and Treasurer. However, a continuing political committee that does not make an expenditure or expenditures in an aggregate amount of more than \$500 on behalf of or in opposition to any (i) candidate or candidates, (ii) public question or questions, or (iii) candidate or candidates and public question or questions on the ballot at an election shall not be required to file the reports prescribed in this subsection (b) and subsection (b-5) but may file in lieu thereof a Statement of Nonparticipation in the Election with the Board or the Board and the county clerk ; except that if the political committee, by the terms of its statement of organization filed in accordance with this Article, is organized to support or oppose a candidate or public question on the ballot at the next election or primary, that committee must file reports required by this subsection (b) and by subsection (b-5).

(b-5) Notwithstanding the provisions of subsection (b) and Section 1.25 of the Statute on Statutes, any contribution of more than \$500 received (i) with respect to elections other than the general primary election, in the interim between the last date of the period covered by the last report filed under subsection (b) prior to the election and the date of the election or (ii) with respect to general primary elections, in the period beginning January 1 of the year of the general primary election and prior to the date of the general primary

election shall be filed with and must actually be received by the State Board of Elections within 2 business days after receipt of such contribution. A continuing political committee that does not support or oppose a candidate or public question on the ballot at a general primary election and does not make expenditures in excess of \$500 on behalf of or in opposition to

~~any candidate or public question on the ballot at the general primary election shall not be required to file the report prescribed in this subsection unless the committee makes an expenditure in excess of \$500 on behalf of or in opposition to any candidate or public question on the ballot at the general primary election. The committee shall timely file the report required under this subsection beginning with the date the expenditure that triggered participation was made. The State Board shall allow filings of reports of contributions of more than \$500 under this subsection (b-5) by political committees that are not required to file electronically to be made by facsimile transmission. For the purpose of this subsection, a contribution is considered received on the date the public official, candidate, or political committee (or equivalent person in the case of a reporting entity other than a political committee) actually receives it or, in the case of goods or services, 2 business days after the date the public official, candidate, committee, or other reporting entity receives the certification required under subsection (b) of Section 9-6. Failure to report each contribution is a separate violation of~~

~~this subsection. In the final disposition of any matter by the Board on or after the effective date of this amendatory Act of the 93<sup>rd</sup> General Assembly, the Board may impose fines for violations of this subsection not to exceed 100% of the total amount of the contributions that were untimely reported, but in no case when a fine is imposed shall it be less than 10% of the total amount of the contributions that were untimely reported. When considering the amount of the fine to be imposed, the Board shall consider, but is not limited to, the following factors:~~

~~(1) whether in the Board's opinion the violation was committed inadvertently, negligently, knowingly, or~~

intentionally;

(2) the number of days the contribution was reported late; and

(3) ~~past violations of Sections 9-3 and 9-10 of this Article by the committee.~~

© ~~In addition to such reports the treasurer of every political committee shall file semi-annual reports of campaign contributions and expenditures no later than July 20<sup>th</sup>; covering the period from January 1<sup>st</sup> through June 30<sup>th</sup> immediately preceding, and no later than January 20<sup>th</sup>, covering the period from July 1<sup>st</sup> through December 31<sup>st</sup> of the preceding calendar year. Reports of contributions and expenditures must be filed to cover the prescribed time periods even though no contributions or expenditures may have been received or made~~

~~during the period. The Board shall assess a civil penalty not to exceed \$5,000 for a violation of this subsection, except that for State officers and candidates and political committees formed for statewide office, the civil penalty may not exceed \$10,000. The fine, however, shall not exceed \$500 for a first filing violation for filing less than 10 days after the deadline. There shall be no fine if the report is mailed and postmarked at least 72 hours prior to the filing deadline. For the purpose of this subsection, "statewide office" and "State officer" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, and Treasurer.~~

~~(c-5) A political committee that acts as either (i) a State and local political committee or (ii) a local political committee and that files reports electronically under Section 9-28 is not required to file copies of the reports with the appropriate county clerk if the county clerk has a system that permits access to, and duplication of, reports that are filed with the State Board of Elections. A State and local political~~

~~committee or a local political committee shall file with the county clerk a copy of its statement of organization pursuant to Section 9-3.~~

(f) ~~(d)~~ A copy of each report or statement filed under this Article shall be preserved by the person filing it for a period of two years from the date of filing.

(Source: P.A. 94-645, eff. 8-22-05; 95-6, eff. 6-20-07; 95-957, eff. 1-1-09.)

(10 ILCS 5/9-11) (from Ch. 46, par. 9-11)

Sec. 9-11. Financial reports.

(a) Each quarterly report of campaign contributions, expenditures, and independent expenditures under Section 9-10 shall disclose the following:

(1) the name and address of the political committee;

(2) the name and address of the person submitting the report on behalf of the committee, if other than the chairman or treasurer;

(3) the amount of funds on hand at the beginning of the reporting period;

(4) the full name and mailing address of each person who has made one or more contributions to or for the committee within the reporting period in an aggregate amount or value in excess of \$150, together with the amounts and dates of those contributions, and, if the contributor is an individual who contributed more than \$500, the occupation and employer of the contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information;

(5) the total sum of individual contributions made to or for the committee during the reporting period and not

reported under item (4);

(6) the name and address of each political committee

from which the reporting committee received, or to which that committee made, any transfer of funds in the aggregate amount or value in excess of \$150, together with the amounts and dates of all transfers;

(7) the total sum of transfers made to or from the committee during the reporting period and not reported under item (6);

(8) each loan to or from any person, political committee, or financial institution within the reporting period by or to the committee in an aggregate amount or value in excess of \$150, together with the full names and mailing addresses of the lender and endorsers, if any; the dates and amounts of the loans; and, if a lender or endorser is an individual who loaned or endorsed a loan of more than \$500, the occupation and employer of that individual or, if the occupation and employer of the individual are unknown, a statement that the committee has made a good faith effort to ascertain this information;

(9) the total amount of proceeds received by the committee from (i) the sale of tickets for each dinner, luncheon, cocktail party, rally, and other fund-raising events; (ii) mass collections made at those events; and (iii) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;

(10) each contribution, rebate, refund, income from

investments, or other receipt in excess of \$150 received by the committee not otherwise listed under items (4) through (9) and, if the contributor is an individual who

contributed more than \$500, the occupation and employer of the contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information;

(11) the total sum of all receipts by or for the committee or candidate during the reporting period;

(12) the full name and mailing address of each person to whom expenditures have been made by the committee or candidate within the reporting period in an aggregate amount or value in excess of \$150; the amount, date, and purpose of each of those expenditures; and the question of public policy or the name and address of, and the office sought by, each candidate on whose behalf that expenditure was made;

(13) the full name and mailing address of each person to whom an expenditure for personal services, salaries, and reimbursed expenses in excess of \$150 has been made and that is not otherwise reported, including the amount, date, and purpose of the expenditure;

(14) the value of each asset held as an investment, as of the final day of the reporting period;

(15) the total sum of expenditures made by the committee during the reporting period; and

(16) the full name and mailing address of each person to whom the committee owes debts or obligations in excess of \$150 and the amount of those debts or obligations.

For purposes of reporting campaign receipts and expenses, income from investments shall be included as receipts during the reporting period they are actually received. The gross purchase price of each investment shall be reported as an expenditure at time of purchase. Net proceeds from the sale of an investment shall be reported as a receipt. During the period

investments are held they shall be identified by name and quantity of security or instrument on each semi-annual report during the period.

(b) Each report of a campaign contribution of \$1,000 or more required contributions under subsection © of Section 9-10 shall disclose the following: -

(1) the name and address of the political committee;

(2) the name and address of the person submitting the report on behalf of the committee, if other than the chairman or treasurer ~~(Blank)~~; and

~~(3) the amount of funds on hand at the beginning of the reporting period;~~

(3) ~~(4)~~ the full name and mailing address of each person who has made a contribution of \$1,000 or more. ~~one or more contributions to or for such committee within the reporting period in an aggregate amount or value in excess of \$150, together with the amount and date of such~~

~~contributions, and if a contributor is an individual who contributed more than \$500, the occupation and employer of the contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information;~~

~~(5) the total sum of individual contributions made to or for such committee during the reporting period and not reported under item (4);~~

~~(6) the name and address of each political committee from which the reporting committee received, or to which that committee made, any transfer of funds, in any aggregate amount or value in excess of \$150, together with the amounts and dates of all transfers;~~

~~(7) the total sum of transfers made to or from such committee during the reporting period and not reported~~

~~under item (6);~~

~~(8) each loan to or from any person within the reporting period by or to such committee in an aggregate amount or value in excess of \$150, together with the full names and mailing addresses of the lender and endorsers, if any, and the date and amount of such loans, and if a lender or endorser is an individual who loaned or endorsed a loan of more than \$500, the occupation and employer of that individual, or if the occupation and employer of the individual are unknown, a statement that the committee has made a good faith effort to ascertain this information;~~

~~(9) the total amount of proceeds received by such committee from (a) the sale of tickets for each dinner, luncheon, cocktail party, rally, and other fund raising events; (b) mass collections made at such events; and (c) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;~~

~~(10) each contribution, rebate, refund, or other receipt in excess of \$150 received by such committee not otherwise listed under items (4) through (9), and if a contributor is an individual who contributed more than \$500, the occupation and employer of the contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information;~~

~~(11) the total sum of all receipts by or for such committee or candidate during the reporting period.~~

© Each quarterly report shall include the following information regarding any independent expenditures made during the reporting period: (1) the full name and mailing address of each person to whom an expenditure in excess of \$150 has been

made in connection with an independent expenditure; (2) the amount, date, and purpose of such expenditure; (3) a statement whether the independent expenditure was in support of or in opposition to a particular candidate; (4) the name of the candidate; (5) the office and, when applicable, district,

sought by the candidate; and (6) a certification, under penalty of perjury, that such expenditure was not made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such committee. The report shall also include (I) the total of all independent expenditures of \$150 or less made during the reporting period and (II) the total amount of all independent expenditures made during the reporting period.

(d) The Board shall by rule define a “good faith effort”.

The reports of campaign contributions filed under this Article shall be cumulative during the reporting period to which they relate.

(e) Each report shall be verified, dated, and signed by either the treasurer of the political committee or the candidate on whose behalf the report is filed and shall contain the following verification:

“I declare that this report (including any accompanying schedules and statements) has been examined by me and, to the best of my knowledge and belief, is a true, correct, and complete report as required by Article 9 of the Election Code. I understand that willfully filing a false or incomplete statement is subject to a civil penalty of up to \$5,000.”.

(f) A political committee may amend a report filed under subsection (a) or (b). The Board may reduce or waive a fine if the amendment is due to a technical or inadvertent error and the political committee files the amended report, except that a

report filed under subsection (b) must be amended within 5 business days. The State Board shall ensure that a description of the amended information is available to the public. The Board may promulgate rules to enforce this subsection.

(Source: P.A. 90-495, eff. 1-1-98; 90-737, eff. 1-1-99.)

(10 ILCS 5/9-13) (from Ch. 46, par. 9-13)

Sec. 9-13. Audits of political committees.

(a) The Board shall have the authority to order a political committee to conduct an audit of the financial records required to be maintained by the committee to ensure compliance with Sections 9-8.5 and 9-10. Audits ordered by the Board shall be conducted as provided in this Section and as provided by Board rule.

(b) The Board may order a political committee to conduct an audit of its financial records for any of the following reasons: (i) a discrepancy between the ending balance of a reporting period and the beginning balance of the next reporting period, (ii) failure to account for previously reported investments or loans, or (iii) a discrepancy between reporting contributions received by or expenditures made for a political committee that are reported by another political committee, except the Board shall not order an audit pursuant to this item (iii) unless there is a willful pattern of inaccurate reporting or there is a pattern of similar inaccurate reporting involving similar contributions by the

same contributor. Prior to ordering an audit, the Board shall afford the political committee due notice and an opportunity for a closed preliminary hearing. A political committee shall hire an entity qualified to perform an audit; except, a political committee shall not hire a person that has contributed to the political committee during the previous 4

years.

© In each calendar year, the Board shall randomly order no more than 3% of registered political committees to conduct an audit. The Board shall establish a standard, scientific method of selecting the political committees that are to be audited so that every political committee has an equal mathematical chance of being selected.

(d) Upon receipt of notification from the Board ordering an audit, a political committee shall conduct an audit of the financial records required to be maintained by the committee to ensure compliance with the contribution limitations established in Section 9-8.5 and the reporting requirements established in Section 9-3 and Section 9-10 for a period of 2 years or the period since the committee was previously ordered to conduct an audit, whichever is shorter. The entity performing the audit shall review the amount of funds and investments maintained by the political committee and ensure the financial records accurately account for any contributions and expenditures made by the political committee. A certified copy of the audit shall be delivered to the Board within 60

calendar days after receipt of notice from the Board, unless the Board grants an extension to complete the audit. A political committee ordered to conduct an audit through the random selection process shall not be required to conduct another audit for a minimum of 5 years unless the Board has reason to believe the political committee is in violation of Section 9-3, 9-8.5, or 9-10.

(e) The Board shall not disclose the name of any political committee ordered to conduct an audit or any documents in possession of the Board related to an audit unless, after review of the audit findings, the Board has reason to believe the political committee is in violation of Section 9-3, 9-8.5,

or 9-10 and the Board imposed a fine.

(f) Failure to deliver a certified audit in a timely manner is a business offense punishable by a fine of \$250 per day that the audit is late, up to a maximum of \$5,000.

~~Each semi-annual report of campaign contributions and expenditures under Section 9-10 shall disclose-~~

~~(1) the name and address of the political committee;~~

~~(2) (Blank);~~

~~(3) the amount of funds on hand at the beginning of the reporting period;~~

~~(4) the full name and mailing address of each person who has made one or more contributions to or for such committee within the reporting period in an aggregate amount or value in excess of \$150, together with the amount and date of such~~

~~contributions, and if the contributor is an individual who contributed more than \$500, the occupation and employer of the contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information;~~

~~(5) the total sum of individual contributions made to or for such committee during the reporting period and not reported under item (4);~~

~~(6) the name and address of each political committee from which the reporting committee received, or to which that committee made, any transfer of funds, in the aggregate amount or value in excess of \$150, together with the amounts and dates of all transfers;~~

~~(7) the total sum of transfers made to or from such committee during the reporting period and not reported under item (6);~~

~~(8) each loan to or from any person within the reporting period by or to such committee in an aggregate amount or value~~

~~in excess of \$150, together with the full names and mailing addresses of the lender and endorsers, if any, and the date and amount of such loans, and if a lender or endorser is an individual who loaned or endorsed a loan of more than \$500, the occupation and employer of that individual, or if the occupation and employer of the individual are unknown, a statement that the committee has made a good faith effort to ascertain this information;~~

~~(9) the total amount of proceeds received by such committee from (a) the sale of tickets for each dinner, luncheon, cocktail party, rally, and other fund-raising events; (b) mass collections made at such events; and (c) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;~~

~~(10) each contribution, rebate, refund, or other receipt in excess of \$150 received by such committee not otherwise listed under items (4) through (9), and if the contributor is an individual who contributed more than \$500, the occupation and employer of the contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information;~~

~~(11) the total sum of all receipts by or for such committee or candidate during the reporting period;~~

~~(12) the full name and mailing address of each person to whom expenditures have been made by such committee or candidate within the reporting period in an aggregate amount or value in excess of \$150, the amount, date, and purpose of each such expenditure and the question of public policy or the name and address of, and office sought by, each candidate on whose behalf such expenditure was made;~~

~~(13) the full name and mailing address of each person to whom an expenditure for personal services, salaries, and~~

~~reimbursed expenses in excess of \$150 has been made, and which is not otherwise reported, including the amount, date, and~~

~~purpose of such expenditure;~~

~~(14) the total sum of expenditures made by such committee during the reporting period;~~

~~(15) the full name and mailing address of each person to whom the committee owes debts or obligations in excess of \$150, and the amount of such debts or obligations.~~

~~The Board shall by rule define a “good faith effort”.~~

~~(Source: P.A. 90-495, eff. 1-1-98; 90-737, eff. 1-1-99.)~~

(10 ILCS 5/9-16) (from Ch. 46, par. 9-16)

Sec. 9-16. It shall be the duty of the board and of each county clerk-

~~(1) to make the reports and statements filed with them available for public inspection and copying, commencing as soon as practicable but not later than the end of the second day following the day during which it was received, and to permit copying of any such report or statement by hand or at cost by duplicating machine, as requested by any person, at the expense of such person;~~

~~(2) to preserve such reports and statements for a period of 2 years from the date of receipt;~~

~~(3) to develop a filing, coding, and cross-indexing system consonant with the purposes of this Article;~~

~~(4) to compile and maintain a current list of all statements or parts of statements pertaining to each candidate;~~

~~(5) to prepare and publish such reports as the board or~~

~~county clerk may deem appropriate;~~

~~(6) to report apparent violations of law to the appropriate law enforcement authorities; and~~

~~(7) to provide to each candidate at the time he files his nomination papers a notice of obligations under this Article. Said notice shall state that the manual of instructions and forms for the statements required to be filed under this Article are available from the Board or the county clerk upon request. Said notice shall be given each candidate by the Board or county clerk and the candidate shall receipt therefor. However, if a candidate files his nomination papers by mail or if an agent of the candidate files nomination papers on behalf of the candidate, the Board or the county clerk shall within 2 business days of the day and hour endorsed on the petition send such notice to the candidate by first class mail. Such notice shall briefly outline who is required to file under the campaign disclosure law and the penalties for failure to file. The notice of obligations under this Article shall be prepared by the Board.~~

~~Thereafter, at least 30 days before each filing date for reports of campaign contributions and for semi-annual reports of campaign contributions and expenditures, the Board shall send by first class mail to each political committee that has filed a statement of organization with the Board or the Board and the county clerk, a notice of obligations under this Article, and appropriate forms for filing the report. The~~

~~notice shall contain a statement that the manual of instructions is available from the Board or the county clerk upon request.~~

~~The board or the appropriate clerk shall preserve the receipts for said packets and notices for a period of 2 years from the date of receipt.~~

(Source: P.A. 86-873.)

(10 ILCS 5/9-21) (from Ch. 46, par. 9-21)

Sec. 9-21. Upon receipt of a ~~such~~ complaint as provided in Section 9-20, the Board shall hold a closed preliminary hearing to determine whether or not the complaint appears to have been filed on justifiable grounds. Such closed preliminary hearing shall be conducted as soon as practicable after affording reasonable notice, a copy of the complaint, and an opportunity to testify at such hearing to both the person making the complaint and the person against whom the complaint is directed. If the Board fails to determine that the complaint has been filed on justifiable grounds, it shall dismiss the complaint without further hearing. Any additional hearings shall be open to the public.

Whenever ~~in the judgment of the Board~~, in an open meeting, determines, after affording due notice and an opportunity for a public hearing, that any person has engaged or is about to engage in an act or practice which constitutes or will constitute a violation of any provision of this Article or any

regulation or order issued thereunder, the Board shall issue an order directing such person to take such action as the Board determines may be necessary in the public interest to correct the violation. In addition, if the act or practice engaged in consists of the failure to file any required report within the time prescribed by this Article, the Board, as part of its order, shall further provide that if, within the 12-month period following the issuance of the order, such person fails to file within the time prescribed by this Article any subsequent report as may be required, such person may be subject to a civil penalty pursuant to Section 9-23. The Board shall render its final judgment within 60 days of the date the complaint is filed; except that during the 60 days preceding the date of the election in reference to which the complaint is filed, the Board shall render its final judgment within 7 days

of the date the complaint is filed, and during the 7 days preceding such election, the Board shall render such judgment before the date of such election, if possible.

At any time prior to the issuance of the Board's final judgment, the parties may dispose of the complaint by a written stipulation, agreed settlement or consent order. Any such stipulation, settlement or order shall, however, be submitted in writing to the Board and shall become effective only if approved by the Board in an open meeting. If the act or practice complained of consists of the failure to file any required report within the time prescribed by this Article,

such stipulation, settlement or order may provide that if, within the 12-month period following the approval of such stipulation, agreement or order, the person complained of fails to file within the time prescribed by this Article any subsequent reports as may be required, such person may be subject to a civil penalty pursuant to Section 9-23.

Any person filing a complaint pursuant to Section 9-20 may, upon written notice to the other parties and to the Board, voluntarily withdraw the complaint at any time prior to the issuance of the Board's final determination.

(Source: P.A. 93-574, eff. 8-21-03.)

(10 ILCS 5/9-23.5 new)

Sec. 9-23.5. Public database of founded complaints. The State Board of Elections shall establish and maintain on its official website a searchable database, freely accessible to the public, of each complaint filed with the Board under this Article with respect to which Board action was taken, including all Board actions and penalties imposed, if any. The Board must update the database within 5 business days after an action is taken or a penalty is imposed to include that complaint.

action, or penalty in the database. The Task Force on Campaign Finance Reform shall make recommendations on improving access to information related to founded complaints.

(10 ILCS 5/9-28)

Sec. 9-28. Electronic filing and availability. The Board shall by rule provide for the electronic filing of expenditure and contribution reports as follows:

Electronic ~~Beginning July 1, 1999, or as soon thereafter as the Board has provided adequate software to the political committee,~~ electronic filing is required for all political committees that during the reporting period (i) had at any time a balance or an accumulation of contributions of \$10,000 ~~\$25,000~~ or more, (ii) made aggregate expenditures of \$10,000 ~~\$25,000~~ or more, or (iii) received loans of an aggregate of \$10,000 ~~\$25,000~~ or more.

~~Beginning July 1, 2003, electronic filing is required for all political committees that during the reporting period (i) had at any time a balance or an accumulation of contributions of \$10,000 or more, (ii) made aggregate expenditures of \$10,000 or more, or (iii) received loans of an aggregate of \$10,000 or more.~~

The Board may provide by rule for the optional electronic filing of expenditure and contribution reports for all other political committees. The Board shall promptly make all reports filed under this Article by all political committees publicly available by means of a searchable database that is accessible on the Board's website ~~through the World Wide Web.~~

The Board shall provide all software necessary to comply with this Section to candidates, public officials, political committees, and election authorities.

The Board shall implement a plan to provide computer access and assistance to candidates, public officials, political committees, and election authorities with respect to electronic filings required under this Article.

~~For the purposes of this Section, “political committees” includes entities required to report to the Board under Section 9-7.5.~~

(Source: P.A. 90-495, eff. 8-18-97; 90-737, eff. 1-1-99.)

(10 ILCS 5/9-28.5 new)

Sec. 9-28.5. Injunctive relief for electioneering communications.

(a) Whenever the Attorney General, or a State’s Attorney with jurisdiction over any portion of the relevant electorate, believes that any person, as defined in Section 9-1.6, is making, producing, publishing, republishing, or broadcasting an electioneering communication paid for by any person, as defined in Section 9-1.6, who has not first complied with the registration and disclosure requirements of this Article, he or she may bring an action in the name of the People of the State of Illinois or, in the case of a State’s Attorney, the People of the County, against such person or persons to restrain by preliminary or permanent injunction the making, producing, publishing, republishing, or broadcasting of such electioneering communication until the registration and disclosure requirements have been met.

(b) Any political committee that believes any person, as defined in Section 9-1.6, is making, producing, publishing, republishing, or broadcasting an electioneering communication paid for by any person, as defined in Section 9-1.6, who has not first complied with the registration and disclosure requirements of this Article may bring an action in the circuit

court against such person or persons to restrain by preliminary or permanent injunction the making, producing, publishing, republishing, or broadcasting of such electioneering communication until the registration and disclosure requirements have been met.

(10 ILCS 5/9-30)

Sec. 9-30. Ballot forfeiture. The State Board of Elections shall not certify the ~~The~~ name of any a person who has not paid a civil penalty imposed against his or her political committee him or her under this Article to shall not appear upon any ballot for any office in any election if while the penalty is unpaid by the date required for certification.

The State Board of Elections shall generate a list of all candidates whose political committees have not paid any civil penalty assessed against them under this Article. Such list shall be transmitted to any election authority whose duty it is to place the name of any such candidate on the ballot. The election authority shall not place upon the ballot the name of any candidate appearing on this list for any office in any

election while the penalty is unpaid, unless the candidate has requested a hearing and the Board has not disposed of the matter by the date of certification.

(Source: P.A. 93-615, eff. 11-19-03.)

(10 ILCS 5/9-40 new)

Sec. 9-40. Campaign Finance Reform Task Force.

(a) There is hereby created the Campaign Finance Reform Task Force. The purpose of the Task Force is to conduct a thorough review of the implementation of campaign finance reform legislation in the State of Illinois, and the feasibility of implementing a mechanism of campaign finance

regulation that would subsidize political campaigns in exchange for voluntary adherence to specified expenditure limitations.

(b) The Task Force shall consist of 11 members, appointed as follows: 2 each by the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, and the Minority Leader of the Senate; and 3 by the Governor, one of whom shall serve as chairperson. Members shall be adults and residents of Illinois. The individual (or his or her successor) who appointed a member may remove that appointed member before the expiration of his or her term on the Task Force for official misconduct, incompetence, or neglect of duty. Members shall serve without compensation, but may be reimbursed for expenses.

Appointments shall be made within 60 days after the effective date of this amendatory Act of the 96<sup>th</sup> General Assembly.

© The Task Force shall conduct meetings and conduct a public hearing before filing any report mandated by this Section. At the public hearings, the Task Force shall allow interested persons to present their views and comments. The Task Force shall submit all reports required by this Section to the Governor, the State Board of Elections, and the General Assembly. In addition to the reports required by this Section, the Task Force may provide, at its discretion, interim reports and recommendations. The State Board of Elections shall provide administrative support to the Task Force.

(d) The Task Force shall study the feasibility of implementing a mechanism of campaign finance regulation that would subsidize political campaigns in exchange for voluntary adherence to specified expenditure limitations. In conducting its study, the Task Force shall consider a system of public financing by State government for the conduct and finance of

election campaigns for the following: (1) Representatives and Senators in the General Assembly, (2) constitutional offices of State government, and (3) judges. The Task Force may propose financing campaigns through funding mechanisms including, but not limited to, fines, voluntary contributions, surcharges on lobbying activities, and a whistleblower fund. In determining a plan for election to each office, the Task Force shall consider the following factors:

(i) the amount of funds raised by past candidates for that office;

(ii) the amount of funds expended by past candidates for that office;

(iii) the disparity in the amount of funds raised by candidates of different political parties;

(iv) the amount of funds expended by entities not affiliated with a candidate;

(v) the amount of money contributed to or expended by a committee of a political party to promote a candidate;

(vi) jurisprudence with relation to campaign finance and public financing; and

(vii) such other factors, not confined to the foregoing, that the Task Force determines to be related to the public financing of elections in this State.

The Task Force shall also study the feasibility of creating public financing within the statutory system of limits, or if the system of limits should be changed to facilitate a system of public financing and the need for a process to protect candidates who receive public financing against candidates who do not opt to participate in public financing or who self-finance.

The Task Force shall submit the report required by this subsection no later than December 31, 2011. The Task Force may

provide, at its discretion, interim reports and recommendations before that date.

(e) The Task Force shall examine and make recommendations related to the provisions of this amendatory Act of the 96<sup>th</sup> General Assembly in Section 9-8.5 (c-5) and (c-10) limiting contributions to a political party committee from a candidate political committee or political party committee. The Task Force shall submit a report with recommendations required by this subsection no later than September 30, 2012. The Task Force may provide, at its discretion, interim reports and recommendations before that date.

(f) The Task Force shall review the implementation of this amendatory Act of the 96<sup>th</sup> General Assembly and any additional campaign finance reform legislation considered by the General Assembly. The Task Force shall examine each provision of this amendatory Act of the 96<sup>th</sup> General Assembly and make recommendations for changes, deletions, or improvements. In conducting its review of campaign finance reform implementation, the Task Force shall also consider and address a variety of empirical measures, case studies, and comparative analyses, including, but not limited to the following:

(i) campaign finance legislation in other states as well as the federal system of campaign finance regulation;

(ii) the impact of contribution limits in Illinois, including the impact on contributions from individuals, corporations, associations, and labor organizations;

(iii) the impact of contribution limits on independent expenditures in Illinois;

(iv) the effectiveness, reliability, and cost of various enforcement mechanisms;

(v) the best practices in mandating timely disclosure

of the origin of campaign contributions; and  
(vi) the best way to require and conduct random audits  
and audits for cause.

The Task Force shall also submit a report detailing the  
following: (i) the effectiveness of enforcement mechanisms,  
(ii) whether the disclosure requirements and the definition of  
“receipt” result in accurate reporting; (iii) issues related to  
audits, (iv) the effect of using the same election cycle for  
all members of the General Assembly, and (v) the impact of  
Section 9-8.5(h).

The Task Force shall submit reports required by this  
subsection no later than March 1, 2013 and March 1, 2015.

(g) The Task Force shall submit a final report by March 10,  
2015. The Task Force is abolished and this Section is repealed  
on March 15, 2015.

(10 ILCS 5/29-12) (from Ch. 46, par. 29-12)

Sec. 29-12. Disregard of Election Code. Except with respect  
to Article 9 of this Code, any ~~Any~~ person who knowingly (a)  
does any act prohibited by or declared unlawful by, or (b)  
fails to do any act required by, this Code, shall, unless a  
different punishment is prescribed by this Code, be guilty of a  
Class A misdemeanor.

(Source: P.A. 78-887.)

(10 ILCS 5/9-1.7 rep.)

(10 ILCS 5/9-4 rep.)

(10 ILCS 5/9-7.5 rep.)

(10 ILCS 5/9-12 rep.)

(10 ILCS 5/9-14 rep.)

Section 10. The Election Code is amended by repealing

Sections 9-1.7, 9-4, 9-7.5, 9-12, and 9-14.

Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 99. Effective date. This Act takes effect on January 1, 2011, except that this Section and the changes in Section 5 to Sections 9-1.14, 9-1.15, 9-2, 9-3, 9-8.6, 9-28.5, and 9-40 of the Election Code take effect on July 1, 2010.