

**COMMISSION TO STUDY THE FEASIBILITY OF PUBLIC  
FUNDING OF STATE ELECTION CAMPAIGNS**

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Stuart Comstock-Gay  
Barbara Hilton  
Martin Honigberg  
John Rauh  
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**Hon. John H. Lynch  
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State of New Hampshire  
State House  
Concord, NH 03301**

**Hon. Sylvia Larsen  
President  
New Hampshire Senate  
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**Hon. Terie Norelli  
Speaker  
New Hampshire House  
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State House  
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**Hon. Karen Wadsworth  
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New Hampshire House  
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**Tammy L. Wright, Clerk  
New Hampshire Senate  
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20 Park Street  
Concord, NH 03301**

**December 1, 2008**

**Dear Gov. Lynch, President Larsen, Speaker Norelli and Clerks  
Wadsworth and Wright,**

**As chairman of the Commission to Study the Feasibility of Public  
Funding of State Election Campaigns, I am pleased to enclose  
the report of the Commission, adopted unanimously by the**

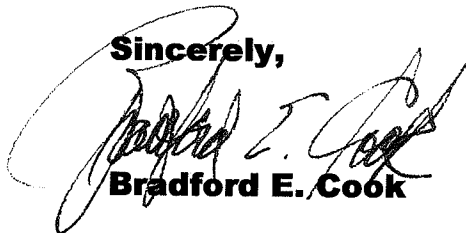
**members at the Commission's final meeting, as required by the provisions of Chapter 55 of the Laws of 2008.**

**I and the members of the Commission would welcome the opportunity to discuss the report with the Governor and legislative leadership, at your convenience.**

**Please feel free to contact me at 627-8110 or [bcook@sheehan.com](mailto:bcook@sheehan.com) and I shall be happy to arrange a discussion of the report.**

**The Commission members all appreciate the opportunity to serve the State of New Hampshire and believe the report is an important step towards public funding of elections in New Hampshire, and hope legislation consistent with the report will be introduced, considered and passed by the New Hampshire Legislature, and signed into law by the Governor.**

**Sincerely,**

A handwritten signature in black ink, appearing to read "Bradford E. Cook", written over a large, stylized circular flourish.

**Bradford E. Cook**

**REPORT OF THE COMMISSION TO STUDY THE FEASIBILITY OF PUBLIC  
FUNDING OF STATE ELECTION CAMPAIGNS**

**DECEMBER 1, 2008**

**Commission Members:**  
**Bradford Cook, Chair**  
**Stuart Comstock-Gay**  
**Barbara Hilton**  
**Martin Honigberg**  
**John Rauh**  
**Jim Rubens**  
**Abigail Abrash Walton**

## SUMMARY OF CONCLUSIONS

The Commission to Study the Feasibility of Public Funding of State Election Campaigns, established by Chapter 55 of the Laws of 2008, has met from August to November, performed its study, and submits this report, as required. Its conclusions, contained in the report, are summarized as follows:

**\* Our study confirmed the members' belief that a system of voluntary public funding of state election campaigns is in the best interest of New Hampshire.**

**\* A constitutionally valid voluntary public funding system can be designed. As outlined in this report, it is a hybrid system containing a qualifying number of small individual contributions from New Hampshire residents with matching public funds for primary elections and grants of public funds for general elections. This system is consistent with New Hampshire political traditions of volunteer support and citizen involvement.**

**\* A full system, covering races for state senate, executive council and governor, will require approximately \$6.5 million per year.**

**\* The Commission has identified revenue sources that will provide up to \$5.585 million per year. The system is worthy of full funding and implementation, with the balance of funds provided from the General Fund.**

**\* An interim Pilot Program involving six state senate elections over up to three election cycles could demonstrate the value of public funding, should full implementation not be possible at this time.**

**\* Additional changes in the election system to make our elections less costly and more efficient, including the provision of on-line reporting and assistance to candidates, are desirable and should be implemented.**

**\* Should New Hampshire establish a system of voluntary public funding for state elections, it will be the fourth state in the nation to do so<sup>1</sup>.**

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<sup>1</sup>Arizona, Connecticut and Maine are the other three.

## **Background**

The Commission to Study the Feasibility of Public Funding of State Election Campaigns was established by Chapter 55 of the Laws of 2008 (Appendix A), to examine the question of whether it is feasible to provide public funding for New Hampshire primary and general election campaigns of candidates running for Governor, Executive Council, and New Hampshire Senate.

Members of the Commission include,

Two members appointed by **Governor John Lynch**:

**Martin Honigberg** (Concord), attorney with the Sulloway & Hollis law firm; Attorney Honigberg is a former senior assistant attorney general; and  
Commission Chair **Bradford Cook** (Manchester), attorney with the law firm Sheehan Phinney Bass + Green; Attorney Cook is a member of the State Ballot Law Commission.

Two members appointed by **Senate President Sylvia Larsen**:

**Stuart Comstock-Gay** (Concord), Director of the Democracy Program at Demos: A Network of Ideas and Action; and  
**Abigail Abrash Walton** (Keene), a faculty member in the Department of Environmental Studies and Director of the Advocacy Clinic and Assistant to the President for Sustainability & Social Justice at Antioch University New England.

Two members appointed by **House Speaker Terie Norelli**:

**John Rauh** (New Castle), President and Founder of Americans for Campaign Reform, and former Democratic candidate for the U.S. Senate; and  
**Jim Rubens** (Etna), former NH State Senator and former candidate for Governor.

One member appointed by **Secretary of State William Gardner**:

**Barbara Hilton** (Portsmouth), a Citizen Activist.

The Commission convened in August and has met regularly in Concord through the months of September, October and November. It held a meeting on September 2, 2008 and received public comment from approximately fifteen legislators, former legislators and members of the public. It held a second meeting to receive public comment on its draft report on November 21, 2008. It invited and received comment from political party leaders, the administrator of the Maine public funding system, and several experts on public election funding systems (Appendix B). All meetings of the Commission have been pursuant to public notice and open to the public. Minutes of these meetings and other information concerning the Commission and its work are available online at: [www.nhPublicFundingCommission.org](http://www.nhPublicFundingCommission.org).

As mandated, the Commission issues this report, which is divided into six sections: Public Funding System Model, Cost of Public System, Sources of Funding, Suggested Pilot Program, Other Recommendations, and Conclusion.

## I. PUBLIC FUNDING SYSTEM MODEL

The Commission was charged with examining “potential revenue sources for public funding of state election campaigns” and “developing a recommendation...for a plan to fund state election campaigns in a sustainable manner.” To accomplish this duty, it quickly became apparent to members that without deciding what model for public funding the Commission thought most feasible, it would be impossible to determine what amount of public funding for such a system would be required and whether finding those funds is feasible. Therefore, the Commission focused a portion of its work on the legislative framework for a system of public funding of state campaigns, as developed by the NH House of Representatives’ Election Law Committee as well as on hearing reports of how existing public funding systems work in Maine, Connecticut and Arizona, and on what current public funding proposals are for state and federal elections.

The Commission also considered decisions of the federal courts on the question of public funding. These decisions require public funding systems to be voluntary, and some states have faced recent litigation over provisions offering publicly funded candidates a “kicker” of additional funds in races where they are competing against high-spending candidates not participating in the public funding system, as has been the practice in Maine and Arizona.

While there are many possible ways to structure a public funding system, and the details of any system can be adjusted, the Commission believes the system it considered and for which it developed an estimated budget meets all Constitutional requirements and commends it to the New Hampshire Legislature.

Chapter 55 required appointment of members who are supportive of the concept of public funding. In developing the model and receiving input, the members became more aware and supportive of the goals of public financing. Those goals include:

- \* Increasing the number of candidates who run for public office

- \* Providing sufficient funds for candidates who opt into the system to run campaigns that meet a threshold for effectively getting their message out to voters
- \* Allowing candidates who are not wealthy to compete for office
- \* Lessening the influence of large contributors and interest groups
- \* Increasing “ownership” by citizens of the electoral process by strengthening participation both in making contributions and working in campaigns
- \* Increasing public enthusiasm for elections
- \* Strengthening public trust in elections

The model the Commission recommends is set forth in chart form in Appendix C. It is a hybrid model in that it allows public funding matches of in-state private contributions and allows candidates to continue to receive modestly sized in-district private contributions after the maximum public match has been reached. Under this proposed system, the amount raised by a candidate is the result of the candidate’s efforts, and the candidate must obtain a threshold number of small contributions to be eligible for public matching funds.

The levels of public funding – based on the extensive input received by the Commission from individuals with expertise listed in Appendix B – are designed to allow candidates opting into the public system to compete effectively and to be sufficient to encourage candidates to choose to participate. During its study, the Commission considered recommending varying funding levels for different state senate and executive council districts, based on variations in location and costs presented by running in those districts, but determined that such differentiation would create more issues than it would solve. Therefore, funding amounts are the same for all districts.

### **a-Candidate Qualifying**

As shown in Appendix C, candidates seeking to qualify for public funding must collect a minimum number of qualifying contributions of between \$5 and \$25 each for executive council and state senate, and \$5 and \$100 each for governor. The number of contributors a candidate must attract in order to qualify for a public investment of funds is 2,500 for governor, 500 for councilor, and 250 for senator. The Commission believes these thresholds fairly balance the need to fund only legitimate candidates and the need for accessibility of public funding to any candidate willing to demonstrate significant public support in seeking public office.

The Commission further believes that the modestly ranged amounts for qualifying contributions are such that they will encourage and support broader citizen participation in and “ownership” of the electoral process. The experience in other states, notably Maine, supports this belief. In his testimony before the Commission, Executive Director of the Maine system Jonathan Wayne emphasized the increased candidate participation in elections since public funding has been available there. Further, in its study report<sup>2</sup> last

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<sup>2</sup> *2007 Study Report: Has Public Funding Improved Maine Elections?* Maine Commission on Governmental Ethics and Election Practices (Online at: [www.state.me.us/ethics/publications/index.htm](http://www.state.me.us/ethics/publications/index.htm)).

year, the Maine Commission on Governmental Ethics and Election Practices found that the system there, "has had a positive effect in encouraging financially competitive races." In the last four elections:

- \* the financial advantage over challengers has been reduced
- \* the spending gap between winning and losing candidates in the general election has been reduced
- \* average spending by privately financed candidates has decreased, and
- \* the average spending by legislative candidates overall has stayed the same or gone down.

All of these are advantages of the proposed system.

Contributions qualifying to count toward the minimum number that triggers eligibility for public matching funds must come from individual residents who are eligible to vote in the state of New Hampshire. Non-individual contributions are not accepted (e.g., contributions from corporations, foundations, unions or other organizations), and if a candidate qualifies for public matching funds, any non-individual contributions must be returned. Furthermore, in order to strengthen the link between candidates and their prospective constituents, the proposed system contemplates that a majority of qualifying contributions for council and senate candidates must come from residents who are eligible to vote in that candidate's district.

Qualifying contributions must be made by check, money order, or credit card and must be accompanied by the name and address of the individual, and a certification that the contribution is made from personal funds of the individual. Contributions, both in number and qualifications, would be subject to review and audit.

The qualifying period for contributions that count in the minimum number to qualify begins on January 1 of the year of the election and must be submitted between 180 and 90 days before the party primary election for which a party candidate is seeking public funds, and from January 1 to the date petitions to be placed on the ballot are due for independent candidates.

### **b-Public Matching Funds-Primary Elections**

Qualifying candidates are eligible to receive public matching funds on contributions of between \$5 and \$25 each for council and senate candidates and between \$5 and \$100 each for gubernatorial candidates. The ratio of public matching funds to private contributions is 2:1 for council and senate candidates and 4:1 for gubernatorial candidates. This allows a citizen who contributes \$25 to a senate or executive council candidate to know that the contribution is worth \$75 to the candidate, and one who contributes \$100 to a gubernatorial candidate to know that the contribution has potential to be worth \$500 to the candidate. The Commission believes that this matching system will support candidates in attaining the requisite number of private contributions thereby leveraging public funds. As stated above, contributions may be accepted only from those eligible to be New Hampshire registered voters.



Once candidates demonstrate eligibility through meeting the requisite number of private contributions, they may receive the matching public funds in the form of a grant. Candidates are able to use the funds actually raised from contributors prior to receiving the matching funds, and may seek to borrow funds against the expected matching funds, allowing them to campaign in a meaningful way while seeking the minimum number of contributions needed to qualify.

The limit of matching funds payable from the public system in contested primary elections results in \$35,000 for senate candidates when considering matched contributions, \$70,000 for council candidates, and \$1.75 million for gubernatorial candidates. In uncontested primaries, the limit is \$20,000, \$40,000 and \$750,000, respectively, which recognizes the need to campaign to become known during the primary period, whether or not the election is contested. A contested primary occurs when two or more candidates for a senate, council or gubernatorial race each report expenditures of \$5,000, \$10,000 and \$50,000, respectively, on or after the June 30, July 31, August 20 or September 3 finance filing deadline of the election year. The Commission suggests such filings be required by law for all candidates.

After the maximum public match amount has been received, participating candidates may raise additional contributions from individual residents of the state of New Hampshire up to the respective contribution limits of \$25/contributor for senate and council candidates, and \$100/contributor for gubernatorial candidates. The additional contributions for council and senate races may come from in-district individual residents only.

### **c-General Election Grant of Public Funds**

Candidates running in a general election receive grants and not matching funds. Those who qualify are those who received public funds in a party primary and won the primary, and independent candidates who qualify for the ballot under applicable state law and qualify for public funds because of the number of contributions received. All candidates for governor, executive council and senate from parties listed on the ballot under the provisions of NHRSA 652:11 are eligible to participate in the public funding system. Candidates who collect nomination papers to get on the ballot and who have reached the threshold number of contributions receive the same grant that candidates who ran in party primaries receive for the general election. Those candidates must follow all the provisions of state law required to be listed on the ballot and, as noted above, must receive the same minimum number of contributions with the same requirements as to form and source of contribution in order to qualify.<sup>3</sup>

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<sup>3</sup> The Commission considered whether independents should have a higher number of contributors to qualify for a public grant when compared to the efforts of a candidate who has to compete in a primary, a position several commissioners think deserves further examination. Other commissioners thought that the number of signatures and thorough confirmation process required to appear on the ballot was a high enough hurdle for independent candidates to qualify for public funds in a manner similar to party candidates.

Qualifying candidates who receive their party's nomination or qualified independent candidates are eligible to receive a public grant in the amount of \$50,000 for a contested senate election, \$100,000 for council, and \$2.25 million for governor. In the event there is no contest for a position in a general election, the public grant amounts are \$5,000 for senate, \$10,000 for council, and \$225,000 for governor. A contested general election occurs when two or more candidates for a senate, council or gubernatorial race each report \$5,000, \$10,000 or \$100,000 or more in campaign contributions, expenditures or funds held over from prior campaigns, respectively.

Qualifying candidates may raise additional contributions from individual residents eligible to vote in the state of New Hampshire up to the respective contribution limits of \$25 each for senate and council candidates, and \$100 each for gubernatorial candidates. The additional contributions for council and senate races may come from in-district individual residents only.

#### **d-Program Requirements**

The Commission recommends that candidates participating in public funding be required to participate in at least one public debate with other participating candidates during both the primary and general election campaign periods. Participating candidates may spend up to a limit of \$500 in personal, non-contributed funds for senate and council, and \$1,000 for gubernatorial candidates, during the primary election only. As suggested above, participating candidates may accept only \$25/contributor in the primaries for council and senate, \$25 in the general election for those offices (\$50 total from any one individual New Hampshire resident contributor), and gubernatorial candidates may accept \$100 each in the primary and general election for a total of \$200 from New Hampshire individuals qualified to vote. All contributions by out-of-state individuals and by corporations/organizations are prohibited for those candidates participating in the system.

## **II. COST OF PUBLIC SYSTEM**

Appendix D is the cost estimate of the system described above. Variables in estimating cost include the number of candidates running in any primary and the percentage of candidates choosing and qualifying for the public financing system. As presented, the estimate is that the system, if implemented for the offices of governor, executive council and state senate, would cost \$12.8 million per biennium (\$6.4 million/year). New Hampshire has two-year terms for all three offices, so the biennial cost also is the per-election-cycle cost.

In making these estimates, the Commission considered the actual candidate participation rate in states that have public funding systems, and the typical number of candidates who have run for governor, executive council and state senate in New Hampshire in the past, recognizing that the effect (and goal) of a public funding system is

increased participation in the election system by candidates and the public. The "Notes" section in Appendix D outlines the assumptions used in making the estimates.

In addition to the cost of actual public funding of elections, any system established requires administration. That entails cost as well. The Commission urges the Legislature to provide adequate funding to allow administration of the system, and not to assume that officials presently administering elections in the Office of the Secretary of State and Department of Justice have elasticity sufficient to assume the responsibilities required without additional positions being funded.

In making its estimate of cost of administration, the Commission reviewed the cost of administering the system in Maine, where all administrative and personnel expenses averaged \$223,321 for FY 2003, 2004, 2005 and 2006. Points of difference between the Maine system and the proposed New Hampshire system include these: Maine has 187 races that are covered by the public funding system (as opposed to the proposed 30 races in New Hampshire) and has a four-year gubernatorial term (as opposed to the two-year terms for all offices in New Hampshire). Based on all these considerations, the Commission believes that administration would be less expensive in New Hampshire than it is in Maine, and that \$100,000 or less per year would be required to administer the New Hampshire system, making the total annual cost \$6.5 million.

### **III. SOURCES OF FUNDING**

In creating the Commission, the Legislature directed the Commission to "consider voluntary contributions, in-kind donations of services, and other means to generate revenue from public and private sources," but prohibited the Commission from considering revenue from the state General Fund. Other states have various means for funding their voluntary public funding of elections systems, ranging from general fund appropriations to the proceeds from sale of surplus state property. The Commission notes that the restriction that General Fund revenues not be used is somewhat illusory, as almost all additional revenue sources that could be identified as dedicated to the funding of state election campaigns theoretically also could enhance the General Fund, if established and not dedicated to election funding. Accordingly, the Commission believes new funding sources or increases to existing sources are within its purview to examine in its deliberations. Also, in considering funding sources and feasibility, the Commission is aware of the fiscal challenges facing the state government during this biennium and in these economic times, and the need to fund already existing programs and obligations.

During its deliberations, the Commission reviewed every source of funding used in the states that have publicly funded election systems, all funding sources suggested by those appearing before the commission or contacting it in writing or on-line, and all that members themselves suggested. The Commission considered more than fifty different recommendations. A list of sources suggested is attached as Appendix E.

Public comment suggested many different sources of public funding for election campaigns, including such things as taxing political advertizing, political contributions or

expenditures by those candidates not choosing to participate in the public financing system, and other sources that the Commission considers either inappropriate or illegal because they violate Constitutional provisions or are pre-empted by federal law. Also, a number of suggested sources face state constitutional problems or were considered so unlikely to be passed by the Legislature that they were not considered further.

In addition, the commission considered a number of criteria when reviewing proposed sources:

- \* whether the source conceptually related to the political or electoral system;
- \* whether any single source could generate adequate funds for the entire program;
- \* whether the source would generate undue political opposition from others in the state; and
- \* whether the source is used by any other state in its public funding system.

These criteria were not the only issues discussed, but they directed the conversation. Moreover, no single criterion was given disproportionate weight in the Commission's deliberations.

The following are sources the Commission considers worthy of serious consideration for adoption and dedication, in whole or in part, to funding a public election campaign finance system:

**Grants and Voluntary Contributions.** Grants from foundations or other sources could be solicited to create a start-up fund. Individual contributions from citizens also should be allowed. However, the amount that could be raised on a sustainable basis from such sources is not easily calculable and the Commission does not believe it would be significant. The experience in Maine supports this belief.

**Voluntary Check-off On Tax Returns.** This would include, on all state tax and fee forms, the voluntary payment of an additional amount (e.g., \$5-\$25 and greater, with no cap) to go into the public funding of elections account. This would have to be an additional payment, because a check-off option, as appears on federal IRS forms for the Presidential Election Fund, would decrease amounts going to the General Fund. The Commission estimates that this would produce \$20,000 per year. This amount was determined as follows: According to data from the Department of Revenue Administration, there were 439,939 documents filed with the state in 2007. By assuming that 1% of those filers may make a voluntary contribution in addition to their tax or fee due, and that the average contribution would be \$5, the total raised would be \$20,000/yr. (The Commission also notes the additional benefit of publicity that including this on forms would create in terms of informing the public of the state's system of voluntary public funding, and that using this free form of communicating this "Public Service Announcement" might be worth more than the amount of the funds raised.)

**Special "First in the Nation" or other Designated License Plate.** It is estimated that this would generate \$250,000 per year. This amount assumes an annual fee

of \$30 (the cost of the so-called "Moose Plate"), and 8,300 plates, about one-third the number of Moose Plates.

**Low-Number License Plate Annual Fee Increase.** Currently, the desirable low-number license plates do not cost any extra amount to plate holders. If the fee for plates with numbers between 2 and 9999 were increased by \$25 per year, this would raise \$250,000.

**Auction of Low-Number License Plates.** Low-number license plates would become non-transferrable. If there were an on-line auction when a plate was surrendered (see definition above), funds could be generated in the amount estimated to be \$50,000 per year. This option does not contemplate imposing a fee on the present holders of such license plates or requiring present holders to surrender them before they otherwise would. In Massachusetts, a summer 2008 auction of low-numbered plates on the "Cape Cod & Islands" specialty plate generated \$147,000 for one plate alone. The calculation here estimates that among numbers 2-999, ten plates per year would become available and average \$2,500 each, raising \$25,000; among numbers 1000-9999, ninety per year become available at an average bid of \$275, raising \$24,750. This totals just under \$50,000, which has been rounded to that amount.

**Criminal and Civil Fine Surcharge.** Adding 10% to criminal fines, which currently are in the \$2.9-\$3.1 million range each year, and to motor vehicle fine collections, which have been between \$19.1 and \$20 million in the last three years, would generate \$2.3 million.

**Lobbyist Fee Increase.** If registration fees for lobbyists were increased from the current \$50 to \$100 or \$150, between \$45,000 and \$90,000 would be generated.

**Car Rental Tax Increase.** Currently, car rentals are covered by the Rooms and Meals Tax, which is an 8.5% tax. Other states tax car rentals as high as 12%, although in New England the state tax maximum is 10%. If the tax were increased, each 1% of increase would generate \$750,000 so this could raise from \$750,000 (if the tax were increased to 9.5%) to \$2.625 million (if the tax were increased to 12%). The Commission recognizes that for this to happen, car rentals would have to be removed from the existing Rooms and Meals Tax and that a new car rental tax would have to be created, with 8.5% going to the General Fund and the amounts above going to the election fund.

**Administrative Income.** The Commission recommends that all earnings on funds in the public election fund bear interest and that interest be added to the fund and not revert to the General Fund. Also, the fund should not lapse as appropriations are made and not spent in a given fiscal year or biennium.

**The identified sources of funds listed above would generate between \$3,665,000 and \$5,585,000 each year.**

The Commission also reviewed two additional sources of funding that would more than adequately fund a public election campaign funding system that appear to have merit. The first is the reinstatement of the Legacies and Succession Tax eliminated some years ago. That tax is estimated to have the potential to raise a minimum of \$68 million per year, the amount raised during the final year the tax was in place. The second is a surcharge on the use of plastic bags for groceries and other large retail outlets. Where such fees are in existence, they have the dual advantage of raising funds and reducing the use of the bags, an acknowledged environmental and public health issue. It is estimated that the institution of a fee initially would raise between \$4 million and \$40 million per year, depending on the size of the fee, with a steep reduction in the amount raised after the first year since the surcharge would reduce the use of such bags, and a leveling off at a lower amount per year thereafter.

The Commission believes that if the Legislature were to adopt either of these options, it would do so largely to add to the General Fund, and that it would not entertain either solely tied to funding public election campaigns, for practical and political reasons. Therefore, the Commission notes that if either source were passed, a portion should be dedicated to funding election campaigns, with the remainder going to the General Fund.

Comparing the estimated cost of the public funding system and the amounts that can be generated by the specific funding sources listed (not including Legacies and Succession Tax and plastic bag surcharge), the deficit is approximately between \$915,000 (\$6,500,000 minus \$5,585,000) and \$2,835,000 (\$6,500,000 minus \$3,665,000). If a portion of additional revenue sources were used for funding public financing of election campaigns, or if the Legislature paid the difference from the General Fund, a system of public funding of state election campaigns is feasible. If not, the calculations indicate that it is not feasible to fund a complete system with the identified sources of funds.

#### **IV. SUGGESTED PILOT PROGRAM**

Commission members believe that a system of public funding of state election campaigns should be implemented in New Hampshire, and that because the proposed system represents important and sound public policy, it should be passed and funded from the General Fund. However, considering the state's fiscal challenges and the fact that implementation of a system of public funding may require a demonstration of merit and efficacy, the Commission recommends that if full funding is not possible, an interim pilot program be established.

The pilot program would involve six (6) New Hampshire Senate districts, selected at random by lot, where the system described above would be implemented for the three biennial elections following passage of the system (with the same districts used for the pilot in all cycles). This would require passage of a funding system, establishment of a limited administrative system that would be significantly less expensive than the full system would require, and would provide a demonstration of the participation rate, satisfaction of candidates with the system, and policy advantages that public funding

provides. It would be overseen by a commission or board, established in the statute, that would report after each election on the operation of the system, adequacy of funding levels provided, candidate participation, and recommended changes to make the system work better. (Indeed, the Commission suggests the establishment of such a group to oversee the system, no matter what scope it has, as a necessary part of the plan, because flaws in any system become apparent only after it is in operation). After the third pilot election cycle, the Legislature would evaluate the system and decide whether to continue, expand, or terminate it. The Commission recommends that a minimum of three cycles be used for a meaningful pilot program. However, should the program prove successful, the oversight body could recommend, and the legislature could implement the full program after either one or two cycles.

The pilot would be substantially less expensive than full implementation of the system, and based on the costs estimated in Appendix D, would cost \$725,000 in estimated public funding, and an estimated \$40,000 in administrative costs, for a total of \$765,000 per election cycle or \$382,500 per year.

## V. OTHER RECOMMENDATIONS

In the course of its deliberations, the Commission received comments and noted certain related matters that have an effect on the conduct of elections and would have an impact on a system of public funding of state election campaigns. While not directly part of its charge, the Commission makes the following additional recommendations for the consideration of the Legislature, state administration, and public:

**Supervisory Commission.** As stated in Section IV above, the Commission believes that any system of public funding needs a supervisory commission or board to oversee, evaluate and make recommendations about the operation of the system and law.

**Length of Terms.** New Hampshire has two-year terms for all state officeholders. This makes the cost of any public finance system higher than a system would be if New Hampshire joined the 48 states with four-year terms for governor, and established four-year terms for executive councilors and state senators, with half of the senate elected every two years. The Commission believes this subject merits consideration and debate.

**Earlier Primary.** New Hampshire's political calendar results in long primary campaigns and short general election campaigns. It may make sense to consider an earlier state primary election to balance the system and make campaign expenditures more effective.

**Restrictions on Expenditures.** A system of public funding of state election campaigns suggests and may require restrictions on what those funds can be used to fund, and as part of any system, rules and regulations about the operation of the system and permissible expenditure categories, should be established. A thorough review of the campaign finance laws, regulations and enforcement procedures should accompany any implementation of the new system.

**Audits of Expenditures.** The system will require audits of campaign expenditures and the form and conduct of such audits will have to be defined. Also, more detail of expenditures and contributions will have to be developed, as reports currently required do not produce information to understand campaign fundraising and expenditures adequately.

**Possible Triggering Event.** Although inconsistent with other recommendations of this report, a requirement that the system would not start operating until voluntary and government funding reaches a certain level of funds in the public funding dedicated, non-lapsing account sufficient to fund the first cycle of the full program or pilot might be adopted.

**Improved On-Line Assistance and Reporting System.** The state should provide a method to candidates participating in the public finance system to facilitate on-line small-dollar contributions fundraising and to all candidates for reporting of campaign contributions and expenditures. The Secretary of State should implement a means by which both contributions and expenditures must be reported on-line for all elections, providing uniformity of reporting categories and immediate public access.

## VI. CONCLUSION

**In conclusion, the Commission's work confirmed members' belief that a system of public funding of state election campaigns is in the best interest of New Hampshire. A constitutional system can be designed and has been suggested in Section I of this report. Such a system is consistent with New Hampshire political traditions of citizen involvement in elections and government. It will require estimated expenditures of \$6.5 million each year. Identified revenue sources could provide an estimated \$3.665 to \$5.585 million, leaving a shortfall that would require a portion of major revenue sources or General Fund revenue to implement completely. While the Commission believes an idea with such compelling merit deserves funding from the General Fund, a possible interim solution that would show the merit of public funding would be a pilot program for three election cycles. The Legislature and state should consider additional changes in the election system to make our system of elections less costly and more consistent with common best practices in other political jurisdictions.**

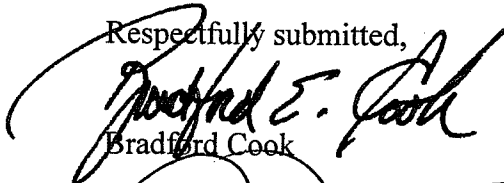
## ACKNOWLEDGEMENTS

Commission members wish to acknowledge the invaluable assistance of Pam Smarling and David Frydman of the New Hampshire House of Representatives staff. Also, the volunteer efforts of Dan Weeks and Rob Werner of Americans for Campaign Reform, Cathy Silber of the New Hampshire Coalition for Public Funding of Elections, Arn Pearson of Common Cause and Jonathan Wayne, Executive Director of the Maine

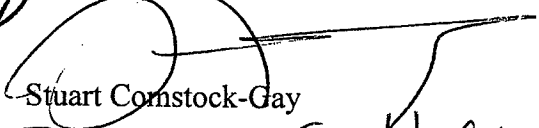


Commission on Governmental Ethics and Election Practices, who all provided valuable research and background on a subject about which they know far more than the members of the Commission. Chairman Raymond Buckley and Executive Director David Scannell of the New Hampshire Democratic Party provided valuable input regarding the cost of campaigns in New Hampshire. The Commission also thanks the staff of the Legislative Office Building for their flexibility in allowing meetings that facilitated public input. Finally, we note the inspiration and attendance of Doris "Granny D" Haddock, who along with Gov. Walter Peterson, were named "special consultants" to the Commission.

Respectfully submitted,



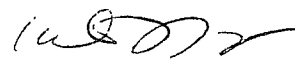
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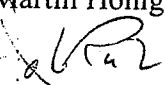
Stuart Comstock-Gay



Barbara Hilton



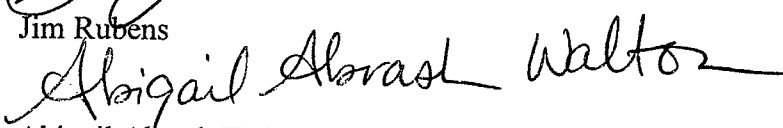
Martin Honigberg



John Rauh



Jim Rubens



Abigail Abrash Walton

December 1, 2008  
Concord, NH

APPENDIX A

CHAPTER 55 OF THE LAWS OF 2008

CHAPTER 55

HB 794-FN – FINAL VERSION

16Jan2008... 2635h

2008 SESSION

07-0010

03/04

HOUSE BILL **794-FN**

AN ACT establishing a commission to study the feasibility of public funding of state election campaigns.

SPONSORS: Rep. Splaine, Rock 16; Rep. Hilliard, Straf 2; Rep. B. Richardson, Ches 5; Rep. P. Allen, Ches 6; Rep. Hall, Hills 5; Sen. Cilley, Dist 6

COMMITTEE: Election Law

AMENDED ANALYSIS

This bill establishes a commission to study the feasibility of public funding of state election campaigns.

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Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

16Jan2008... 2635h

07-0010

03/04

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Eight*

AN ACT establishing a commission to study the feasibility of public funding of state election campaigns.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

55:1 Commission Established. There is established a commission to study the feasibility of public funding of state election campaigns.

55:2 Membership.

I. The members of the commission shall be as follows:

(a) Two members appointed by the president of the senate, no more than one of whom shall be a member of the same political party.

(b) Two members appointed by the speaker of the house of representatives, no more than one of whom shall be a member of the same political party.

(c) Two members appointed by the governor, no more than one of whom shall be a member of the same political party.

(d) One member appointed by the secretary of state.

II.(a) The president of the senate, speaker of the house of representatives, governor, and secretary of state shall seek to appoint members to the commission who have demonstrated support for a system of public funding of election campaigns and have knowledge or expertise in campaign financing or state budget issues.

(b) No commission member may simultaneously serve in an elected state office.

(c) No commission member may be a candidate for state elected office.

(d) No more than 3 members of the commission shall be members of the same party.

III. All appointments to the commission shall be made within 30 days of the effective date of this section. The secretary of state shall defer appointing a member under subparagraph I(d) until after the other members of the commission have been appointed, and shall utilize such appointment to ensure compliance with subparagraph II(d).

55:3 Duties. The commission shall examine potential revenue sources for public funding of state election campaigns and develop a recommendation to the general court for a plan to fund state election campaigns in a sustainable manner. The commission may not consider revenue from the state general fund in developing its plan, but may consider voluntary contributions, in-kind donations of services, and other means to generate revenue from public and private sources. The commission may also consider the legislative framework for a system of public funding of state election campaigns developed by the election law committee of the house of representatives, which the election law committee shall file with the secretary of state within 30 days of the effective date of this section.

55:4 Chairperson; Quorum. The commission shall elect a chairperson and other officers from among the members as necessary to fulfill its duties. The first meeting shall be called by the first-named member appointed by the speaker of the house of representatives. The first meeting of the commission shall be held within 45 days of the effective date of this section. Four members of the commission shall represent a quorum. The commission may seek assistance and staff support from any agency.

55:5 Report. The commission shall report its findings and any recommendations for proposed legislation

to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2008.

55:6 Effective Date. This act shall take effect upon its passage.

Approved: May 16, 2008

Effective Date: May 16, 2008

APPENDIX B

WITNESSES APPEARING BEFORE THE COMMISSION

**Witnesses at Meeting to Receive Public Comment—September 2, 2008**

Hon. Peter H. Allen, State Representative, Chesham, NH  
Ms. Linda Garrish Thomas, NH Citizens Alliance and former State Representative,  
Manchester  
Ms. Peg Fargo, NH League of Women Voters  
Hon. Richard Drisko, State Representative (District 5, Hillsborough County)  
Hon. James Splaine, State Representative, Portsmouth, NH  
Hon. Betty Hall, State Representative, Brookline, NH  
Hon. Dan Burnham, former State Representative, Dublin, NH  
Hon. Martha Fuller Clark, State Senator (District 24)  
Mr. Alexander Lee  
Ms. Cathy Silber, NH Coalition for Public Funding of Elections  
Mrs. Doris "Granny D" Haddock  
Hon. Robert Gerry, Seabrook, NH  
Hon. Larry Brown, State Representative (District 3, Strafford County)  
Hon. Jackie Cilley, State Senator (District 6)  
Ms. Carol Wyndham for Hon. Debora Pignatelli, Executive Councilor

**Other witnesses before the Commission:**

Mr. Dan Weeks—Policy Director, Americans for Campaign Reform  
Ms. Cathy Silber – Coordinator, NH Coalition for Public Funding of Elections  
Mr. Rob Werner—National Field Director, Americans for Campaign Reform  
Mr. Arn Pearson—Campaign Reform Director, Common Cause  
Mr. Jonathan Wayne—Executive Director, Maine Commission on Governmental Ethics  
and Election Practices  
Hon. Raymond Buckley—Chairman, NH Democratic Party  
Mr. Christopher Booth

**Witnesses at Meeting to Receive Public Comment—November 21, 2008**

Ms. Judy Gardner, Durham, NH  
Mr. Dick Anderson, Concord, NH  
Ms. Cathy Silber, NH Coalition for Public Funding of Elections  
Hon. Betty Hall, State Representative, Brookline, NH  
Hon. James Splaine, State Representative, Portsmouth, NH  
Mrs. Doris "Granny D" Haddock  
Hon. Peter Allen, State Representative, Chesham, NH  
Ms. Sue Hocking

APPENDIX C

CHART SUMMARY OF SUGGESTED PUBLIC FUNDING SYSTEM



## N.H. Commission on Public Funding of Elections Hybrid Public Funding Model - Summary of Major Provisions

Provision	Governor	Councilor	Senator
1 Candidate Qualifying	<ul style="list-style-type: none"> <li>- 2,500 contributions \$5-\$100 each</li> <li>- \$100 limit per contributor</li> <li>- In-state contributors only</li> </ul>	<ul style="list-style-type: none"> <li>- 500 contributions \$5-\$25 each</li> <li>- \$25 limit per contributor</li> <li>- In-state contributors only</li> <li>- Majority of contributors in-district</li> </ul>	<ul style="list-style-type: none"> <li>- 250 contributions \$5-\$25 each</li> <li>- \$25 limit per contributor</li> <li>- In-state contributors only</li> <li>- Majority of contributors in-district</li> </ul>
2 Primary Matching Funds	<ul style="list-style-type: none"> <li>- 4:1 match on contributions ≤\$100</li> <li>- \$1.75 million matching funds limit (\$750,000 untested); additional unmatched contributions ≤\$100</li> <li>- In-state contributors only</li> </ul>	<ul style="list-style-type: none"> <li>- 2:1 match on contributions ≤\$25</li> <li>- \$70,000 matching funds limit (\$40,000 untested); additional unmatched contributions ≤\$25</li> <li>- In-district contributors matched</li> </ul>	<ul style="list-style-type: none"> <li>- 2:1 match on contributions ≤\$25</li> <li>- \$35,000 matching funds limit (\$20,000 untested); additional unmatched contributions ≤\$25</li> <li>- In-district contributors matched</li> </ul>
3 General Election Grant	<ul style="list-style-type: none"> <li>- \$2.25 m (\$225,000 untested) grant</li> <li>- Additional contributions ≤\$100</li> <li>- In-state contributors only</li> </ul>	<ul style="list-style-type: none"> <li>- \$100,000 (\$10,000 untested) grant</li> <li>- Additional contributions ≤\$25</li> <li>- In-state contributors only</li> </ul>	<ul style="list-style-type: none"> <li>- \$50,000 (\$5,000 untested) grant</li> <li>- Additional contributions ≤\$25</li> <li>- In-state contributors only</li> </ul>
4 Minor Party/Independent Candidates	<ul style="list-style-type: none"> <li>- Defined: &lt;10% of vote in last election</li> <li>- Qualifying: same as major party</li> <li>- Primary Match: same as major party</li> <li>- General: 4:1 match up to grant limits; additional unmatched contribs. ≤\$100</li> <li>- In-state contributors only</li> </ul>	<ul style="list-style-type: none"> <li>- Defined: &lt;10% of vote in last election</li> <li>- Qualifying: same as major party</li> <li>- Primary Match: same as major party</li> <li>- General: 2:1 match up to grant limits; additional unmatched contribs. ≤\$25</li> <li>- In-state contributors only</li> </ul>	<ul style="list-style-type: none"> <li>- Defined: &lt;10% of vote in last election</li> <li>- Qualifying: same as major party</li> <li>- Primary Match: same as major party</li> <li>- General: 2:1 match up to grant limits; additional unmatched contribs. ≤\$25</li> <li>- In-state contributors only</li> </ul>
5 Requirements	<ul style="list-style-type: none"> <li>- Participate in public debate(s)</li> <li>- \$200 limit per contributor (\$100/primary, \$100/general election)</li> <li>- \$1,000 limit personal funds</li> <li>- In-state contributors only</li> </ul>	<ul style="list-style-type: none"> <li>- Participate in public debate(s)</li> <li>- \$50 limit per contributor (\$25/primary, \$25/general election)</li> <li>- \$500 limit personal funds</li> <li>- In-state contributors only</li> </ul>	<ul style="list-style-type: none"> <li>- Participate in public debate(s)</li> <li>- \$50 limit per contributor (\$25/primary, \$25/general election)</li> <li>- \$500 limit personal funds</li> <li>- In-state contributors only</li> </ul>

APPENDIX D

COMMISSION ESTIMATE OF SYSTEM COST

**N.H. Commission on Public Funding of Elections**  
**Hybrid Public Funding Model - Cost Estimate**

**I. State Senate**

Election Period	Public Spending Limit	Candidates per District	Rate of Candidate Participation	Total Participating Candidates	Participating Candidate Spending	Cost in Public Funds
Primary	\$35,000	2.5	75%	45	\$1.58 million	<b>\$1.1 million</b>
General	\$50,000	2	75%	36	\$1.8 million	<b>\$1.8 million</b>
Cost per cycle						<b><u>\$2.9 million</u></b>

**II. Executive Council**

Election Period	Public Spending Limit	Candidates per District	Rate of Candidate Participation	Total Participating Candidates	Participating Candidate Spending	Cost in Public Funds
Primary	\$70,000	2.5	75%	9.4	\$658,000	<b>\$440,860</b>
General	\$100,000	2	75%	7.5	\$750,000	<b>\$750,000</b>
Cost per cycle						<b><u>\$1.2 million</u></b>

**III. Governor**

Election Period	Public Spending Limit	Total Participating Candidates	Percent Public Spending Limit Raised, avg.	Participating Candidate Spending	Cost in Public Funds
Primary	\$1.75 million	4	75%	\$5.25 million	<b>\$4.2 million</b>
General	\$2.25 million	2	100%	\$4.5 million	<b>\$4.5 million</b>
Cost per cycle					<b><u>\$8.7 million</u></b>

Est. Program Cost: **\$12.8 million per cycle**  
**\$6.4 million per year**

Notes:

1. Average number of candidates per senate seat, last three cycles: 2.1 primary / 2.0 general
2. Average number of candidates per executive council seat, three recent cycles (2006, 2004, 2000; 2002 data anomalously low): 1.9 primary / 1.6 general
3. Number of candidates per AZ Senate seat, 2006: 2.01 primary / 1.7 general
4. Number of candidates per ME Senate seat, 2006: 2.05 primary / 2.2 general
5. Rate of candidate participation for AZ Senate: 53% primary / 55% general
6. Rate of candidate participation for ME Senate: 81% primary / 86% general
7. Assumes qualifying senate and council candidates collect maximum primary funds; 33% primary spending private
8. Assumes 20% of gubernatorial candidate primary spending private

## APPENDIX E

### SUGGESTED SOURCES OF FUNDING

## **IDEAS FOR SOURCES FOR PUBLIC FUNDING OF ELECTIONS**

*These ideas were obtained from a variety of sources, including the history of other state public financing systems, individual suggestions, the commission public hearing on September 2, and testimony presented to the testimony at other times. No suggestions have been removed from this list.*

- Income tax
- Criminal and Civil Fines
- Punitive Damage Surcharges and Proportional Awards
- Elimination of Tax Credits, Deductions or Exemption
- Corporate Tax Surcharges
- New or Increased Sales Taxes on Discretionary Items
- Sales Taxes on Advertising
- Tax on Candidate Consultant Income
- Mineral Severance Taxes
- Fees or Surcharges on Bids for State Contracts
- Fees or Surcharges on Regulated Industries
- Tax Amnesty Programs
- Public Campaign Finance Bonds
- Slot Machine Taxes
- Refundable Deposits on Containers
- New or Enhanced State Lottery Revenues
- "Jock" taxes
- Sales of Surplus Property
- Voluntary Designations
- Extensions of Temporary Taxes
- "Democracy Endowment"
- "Patriot Credit Card" and Campaign Vouchers
- Larger Campaign Contributions with a Percentage of the Increase for Public Financing
- General Fund Appropriations
- Candidate PF Elections Qualifying Contributions
- Penalties for Public Campaign Finance Law Violations
- Reinstatement of Legacy and Succession tax
- Car rental tax
- "poll tax" (head tax, not tax for voting)
- New temporary taxes
- Sell state voter file list
- Special voluntary license plate fee
- Unspent candidate seed and qualifying monies
- Candidate late report filing fines
- Earnings from fund balance

- Voluntary contributions
- Incremental contributions on many state tax/fee forms
- Election sponsorships – naming rights via auction
- Lobbyist registration fees
- Special voluntary license plate fee
- No lapse on unspent funds
- Tax on advertising income
- Fee for posting political signs on state property
- Sources that tie public financing to the public good of sustainable living. One of these is the idea that plastic bags are a scourge on the earth and that a surcharge on the use of plastic bags somewhere along the chain either at manufacture, import, wholesale or retail levels might be beneficial to our effort, our cities, states, oceans and the planet. Just google “sea of plastic” to understand what this effort is about.
- A special program in which the State sold bonds for a limited time particularly earmarked to fund public funding of elections.
- A surcharge on hard liquor.
- Ask individuals to donate to a general fund that would be for all candidates, not a specific party.
- Change the process by raising awareness. As people learn what ‘public funding’ means, communities, citizens and officials come to understand that a do-nothing course of action in the face of larger campaign financing trends is neither a feasible life choice nor an acceptable municipal course of action. This realization gives rise to the political will to change.
- Equal free media time given to all candidates based on the idea that the airwaves supposedly belong to the people.
- Surcharge on candy.
- Lottery tickets for clean elections
- Clean vote license plates
- Fund through laws mandating producer responsibility of certain solid wastes—such as packaging, newspapers, cars, car tires, batteries, electric and electronic products, etc. Producers would be responsible for recycling their products or have to pay a surcharge to the state that could be used to fund public financing of elections.
- Surcharge on waste dumped at landfills to reduce toxicity in our environment.
- Voluntary check-off
- Surcharge on sale of boats over a certain size
- Surcharge on golf
- Surcharge on restaurant bills over a set amount, say \$150.00
- Surcharge on driver’s license renewals
- Add \$6 to car registrations
- Swap one cost for another: ie have the parties pay for the primary elections so that state-spent money would be freed up to use for public financing.
- Take a % of transfer station income from recycling
- Have a grocery-store donation-at-the-register campaign every year.
- School board members get paid. What if towns/counties proceed to pay their legislators? The money freed up from that could help finance public funding.