PUBLIC FINANCING OF STATE POLITICAL CAMPAIGNS:

How Well Does It Work?

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Executive Summary

Many taxpayers might remember seeing "check-off" boxes on their North Carolina and federal income tax forms for $1 to go to a campaign fund. But most do not understand much about this public financing program -- where the money goes, or how it is spent, or who qualifies to use it. What's the record on public financing of campaigns in North Carolina, and how might it be improved?

Since 1977, North Carolina taxpayers have been allowed to divert $1 of their tax liability from the state's General Fund to the N.C. *Political Parties* Financing Fund (formerly the N.C. Election Campaign Fund). This check-off neither increases the tax owed nor decreases the taxpayer's refund. Until 1983, taxpayers could designate which political party would receive the check-off funds. Now the funds are distributed according to the voter registration levels for the Democratic and Republican parties, giving the Democrats a 2-to-1 edge, a sore point with Republicans. North Carolina Rep. Art Pope (R-Wake) cosponsored a bill in 1989 to repeal the check-off for political parties. "Party registration doesn't reflect voting strength. Most people don't realize that this is how the funds are being split," says Pope.

The Democratic Party receives one-third of all its funding from the N.C. Political Parties Financing Fund, and the Republican Party receives one-fifth of all its monies from the Fund. (See sidebar, Major Provisions of the N.C. Political Parties Financing Fund, on page ii).

The new N.C. *Candidates* Financing fund appeared for the first time in 1988 near the bottom of the state income tax form. Taxpayers may contribute all or part of their income tax *refunds* to the fund. When the fund has accumulated enough money, it will be used to assist certified Council of State candidates in their political campaigns. The candidates will have to agree to limit total campaign expenditures and raise qualifying matching contributions in exchange for receiving public funds for their campaigns. Rep. Walter B. Jones Jr. (D-Pitt), sponsor of the law, says, "The escalation in the cost of political campaigns has locked the door to public office for the average citizen. Excessive fund-raising to win an election has become the rule, rather than the exception. Voluntary public financing is necessary to correct a system that relies more on dollars than issues." The N.C. Candidates Financing Fund had a balance of $55,633.66 as of October 10, 1990. If enough money has accumulated in the Candidates Fund, grants will be distributed to certified candidates to pay for their campaigns, beginning in 1992. (See sidebar, Major Provisions of the N.C. Candidates Financing Fund, page iii.)

Major Provisions of the N.C. Political Parties Financing Fund

Enacted: 1975 *First Year Funds Distributed:* 1977

Source of Funds: $1 check-off on individual income tax forms.

Distribution: Political parties with at least one percent of the total number of registered voters receive funds on a pro-rata basis according to voter registration levels.

(1) In general election years, each party chair disburses 50 percent to the party and 50 percent to a "special committee" composed of the state chair, treasurer, congressional district chair, and two other appointees. This committee allocates the funds.

(2) In years with no general election, the chairman disburses 100 percent of funds paid over by the state treasurer to the party.

Discretion in Use of Funds: In general election years, the "special committee" may use funds only for any "legitimate campaign expenses," including party headquarters operations, as well as for direct and in-kind contributions to candidates.

Funds *cannot* be used by the party or special committee to support candidates in the primary or to select candidates at political conventions, nor can the funds be used to support or oppose a referendum, bond election, or constitutional amendment.

Reporting Requirements: All political parties and candidates receiving funds must submit an annual report to the State Board of Elections itemizing receipts, expenditures, and disbursements of Political Parties Financing Fund monies.

Total Funds Distributed in 1988:

Democratic Party	Republican Party
$857,797	$335,760

Major Provisions of the N.C. Candidates Financing Fund

Enacted: 1988 *First Year Funds Are To Be Distributed:* 1992

Source of Funds: Contributions by taxpayers of all or part of a refund of income taxes. The contribution qualifies as a tax deduction.

Distribution: One-to-one matching funds for candidates for all 10 statewide Council of State offices who (1) raise qualifying matching grants equal to 5 percent of the expenditure limit, (2) agree to abide by expenditure limits, (3) agree to a post-election audit, and (4) have opposition on the ballot in the general election.

Discretion in Use of Funds: Funds may be used only for general election expenses.

Campaign Expenditure Limits: For governor - $1 multiplied by the number of votes for governor in the last general election. Other Council of State races - $.50 multiplied by the number of votes for governor in the last general election.

Governor: $2,180,025
Other Council of State races: $1,090,012.50

Reporting Requirements: Reports are due from the candidates to the State Board of Elections in August and September listing contributions and expenditures in any year in which public funds were received. A report is due 60 days after the general election. It must itemize all receipts, expenditures, and disbursements of N.C. Candidates Financing Fund monies.

Total Funds Accumulated as of October 10, 1990: $55,633.66

The North Carolina Center for Public Policy Research examined the two North Carolina public financing programs for both political parties and candidates and compared them with programs currently operating in the other 19 states that provide public financing of political activities. While most people do not consider the *goals* of public financing to be controversial, the *type* of public financing program chosen by states is often marked by partisan and political debate.

On the other hand, some people oppose any type of public financing program on a philosophical basis, questioning the use of state tax monies to finance the campaigns of political candidates. "The incumbent officeholder has a tremendous advantage before the first campaign dollar is raised and spent, due to name recognition, access to the media, and other resources inherent in the office," says Representative Pope. Pope contends that public financing and expenditure limits "would prevent the challenger from overcoming this advantage ... and discourage people from running for office." Jones supports public financing because he thinks it levels the playing field for all candidates.

Still, the North Carolina law is on the statute books, so the Center decided it could best serve the public by analyzing how other such state laws work and how North Carolina's law could be improved. This report considers some of the tough issues states have had to face in creating public financing programs and in meeting the goals of public financing.

Public financing measures have been instituted in 26 states[1] with a variety of goals in mind. The specific goals of public financing to be examined in this report are: (1) to increase public participation in the electoral process; (2) to encourage more citizens to run for office by reducing the fundraising burden for those who are not independently wealthy; and (3) to strengthen political parties. (See Table 1, page v, for the year of enactment of state public financing programs).

Table 1. **Date of Enactment of Public Financing Programs**

Check-Off Programs		Add-On Programs[c]	
1. Iowa	1973	1. Maine	1973
2. Rhode Island	1973	2. Maryland[d]	1974
3. Utah	1973	3. Massachusetts	1975
4. Minnesota	1974	4. Montana[e]	1979
5. New Jersey	1974	5. California	1982
6. Idaho	1975	6. Virginia	1982
7. North Carolina[a]	**1975**	7. Alabama	1983
8. Kentucky	1976	8. Oregon[f]	1986
9. Michigan	1976	9. Arizona	1988
10. Wisconsin	1977	**10. North Carolina[a]**	**1988**
11. Oklahoma[b]	1978		
12. Hawaii	1979		
13. Ohio	1987		

[a] North Carolina is the only state that currently has both a check-off and an add-on program.
[b] Oklahoma's $1 state income tax check-off was never implemented. An advisory opinion by the attorney general ruled that the tax check-off was unconstitutional.
[c] Iowa instituted an add-on program in 1984 to complement its check-off program. The Iowa add-on program to fund political parties was abolished in 1986.
[d] Maryland's add-on program is inoperative. Money collected in the fund is to be distributed to gubernatorial candidates in 1990.
[e] Montana's public financing program began as a tax check-off to fund political parties. In 1979, the law was amended. Now the fund is supported through a tax add-on, and money is distributed to candidates.
[f] Oregon also had an experimental check-off program to fund political parties that was adopted in 1977. The legislature did not reauthorize the program and it expired January 1, 1980.

Goal 1: To Increase Public Participation in the Electoral Process.

Both campaign finance programs -- *check-off* programs -- that divert a certain amount of money from the state General Fund -- and *add-on* programs -- those that allow taxpayers to contribute part of their tax refund -- allow the public to participate financially in the electoral process. Because check-off programs do not cost taxpayers any of their refund to participate, they have higher rates of participation than do add-on programs.

North Carolina is the only state that has both a check-off and an add-on program in operation. In 1987, the average rate of taxpayer participation in 11 state check-off programs was 16.3 percent and in the federal check-off program, 21 percent. The participation rate in nine state add-on programs in 1987 ranged from 0.3 percent in California to 2.3 percent in Massachusetts. By contrast, participation in the check-off for the N.C. Political Parties Financing Fund is slightly *below* the average for the 11 states with check-off programs, with a participation rate of 14.4 percent during the 1987 tax year. The N.C. Candidates Financing Fund, an add-on program, was not in existence in 1987. The taxpayer participation rate for the 1988 tax year was less than 0.2 percent of all taxpayers who received a refund. (See Tables 2 and 3, pages vi and vii.)

Table 2. **Comparison of State Check-Off Programs**

	Funds to Candidates(C) or Parties(P)	1987 Tax Year Participation Rate[a]	1987 Tax Year Check-Off Amount[b]	1987 Tax Year Check-Off Total
Hawaii	C	30%	$2	$ 414,756
Idaho	P	10	1	39,328
Iowa	P	13	1.50	234,024
Kentucky	P	5	2[c]	185,832
Michigan	C	14	2	1,575,200
Minnesota	C, P	16	5	1,796,627
New Jersey	C	31	1	1,439,641
North Carolina	**P**	**14**	**1**	**553,554**
Ohio	P	17	1	713,785
Rhode Island	C, P	14	2[d]	66,303
Utah	P	15	1	90,147
Wisconsin	C	13	1	449,211

[a] Figures are rounded off to the nearest percent.
[b] If a joint return is filed, each spouse may designate the amount indicated.
[c] Fifty cents (50¢) of every $2 check-off is given to the party organization of the county of the taxpayer's residence.
[d] Beginning in tax year 1988, Rhode Island's check-off amount increased to $5. The public financing fund receives $3, and the political parties fund receives $2.

Table 3. **Comparison of State Add-On Programs**

	Whether Funds Go to Candidates(C) or Parties(P)	Taxpayer Contribution Limit[a]	1987 Tax Year Rate of Taxpayer Participation	1987 Tax Year Public Financing Fund Total
Alabama	P	$1	1.1%	$15,554
Arizona	P	No Limit ($2 min.)	--	--
California	P	$1, $5, $10 or $25	.3	233,152
Maine	P	No Limit	1.4	20,080
Massachusetts	C	$1	2.3	83,385
Montana	C	$1	.7	2,403
North Carolina	**C**	**No Limit ($1 min.)**	--	--
Oregon	P	No Limit	.5	24,192
Virginia	P	$2	1.8	63,368

[a] If a joint return is filed, each spouse may contribute the amount indicated.

-- = The program did not exist during the 1987 tax year.

Table 4. **Trends in Taxpayer Participation Rates**

Check-Off Programs

	Tax Year 1983	Tax Year 1987
Hawaii	54.0%	30.0%
Idaho	15.9	10.4
Iowa	13.0	13.0
Kentucky	9.5	5.2
Michigan	19.1	14.0
Minnesota	17.5	16.0
New Jersey	37.0	31.8
North Carolina	**15.5**	**14.4**
Ohio	--	17.1
Rhode Island	19.0	13.9
Utah	24.5	15.9
Wisconsin	16.0	13.9
State Average	21.9%	16.3%
Presidential Fund	24.0%	21.0%

Add-On Programs

	Tax Year 1983	Tax Year 1987
Alabama	1.5%	1.1%
Arizona	--	--
California	.6	.3
Maine	1.8	1.4
Massachusetts	2.9	2.3
Montana	1.0	.7
North Carolina	--	--
Oregon	--	.5
Virginia	1.4	1.8
State Average	1.5%	1.2%

Traditionally, the participation rates for the add-on programs have never been as high as they are for check-off programs. Add-on public financing provisions in other states have taken an extra beating in the last few years because of the addition of other opportunities for earmarking funds on the income tax form, such as a wildlife fund or a child abuse fund. These programs also receive their funding from contributions from tax *refund* dollars. North Carolina has only two add-on programs -- the N.C. Nongame and Endangered Wildlife Fund instituted in 1983 and the new N.C. Candidates Financing Fund instituted in 1988. The data from other state public financing programs show that the wildlife and child abuse add-on funds are consistently more popular with taxpayers and exceed the campaign funds in total contributions. Many states are continuing to add special funds to their income tax forms. From 1983 to 1988, the number of special funds on state income tax forms across the country increased from 63 to 103. (See Table 4, page vii, for taxpayer participation rates in public financing programs).

Another way of measuring the success of meeting the goal of public participation is whether new segments of the population have begun to contribute financially, different from those who have made direct contributions to political parties or candidates. According to public opinion polls, this appears to have happened. In North Carolina, as well as nationally, participants in check-off programs tend to reflect the demographics of the population at large, while those who make individual contributions tend to be a more elite segment of society.

Table 5. **North Carolina Political Parties Fund**

Tax Year	Participation Rate	Total Amount
1975	4.9%	$ 128,470
1976	5.4	144,974
1977	8.8	259,689
1978	7.4	219,494
1979	8.0	243,805
1980	7.8	241,783
1981	8.6	272,012
1982	9.7	305,459
1983	15.5	510,990
1984	15.2	526,299
1985	15.5	555,817
1986	14.8	534,879
1987	14.4	553,554
1988	13.6	531,586

Recommendation

The N.C. Center for Public Policy Research recommends that state officials conduct an aggressive public education campaign to increase taxpayer participation in North Carolina's public financing programs. The importance of a public education campaign is evident in light of the decreasing taxpayer participation rate in the N.C. Political Parties Fund and the low first-year participation in the N.C. Candidates Financing Fund. The Center has found that taxpayers do not know about the new Candidates Fund and that participation in both programs might be improved if more people knew what the two programs are designed to do.

State political parties, the State Board of Elections, the Department of Revenue, the governor, and other elected officials should work together to increase public awareness of the state's public financing programs. Since public financing is a state policy, the state of North Carolina, particularly the Department of Revenue, should take a lead role in conducting an education campaign. Common Cause/North Carolina and the League of Women Voters have kicked off an educational campaign to inform North Carolinians about the N.C. Candidates Financing Fund. Other public interest organizations could also be instrumental in efforts to educate the public. Cooperation from all of the above groups is vital to the success of a public education campaign.

Efforts should include, but not be limited to, the production and distribution of brochures and posters to Internal Revenue Service offices, the N.C. Department of Revenue, post offices, public libraries, local government offices, and tax return preparation firms. The state also should seek the cooperation of tax form preparers and certified public accountants by sending letters to them explaining the procedure for participating in both public financing programs and urging them to inform their clients about the programs. Other educational efforts should include: public service announcements; press conferences and news releases; editorials and guest columns in newspapers; newspaper ads; and television and radio talk shows.

The N.C. Center recommends that the explanation for the N.C. Candidates Financing Fund, as it appears in the Individual Income Tax Instruction Booklet, be rewritten by the N.C. Department of Revenue to fully explain the program. The instructions about the N.C. Candidates Financing Fund do not fully explain what the fund is, nor do they direct the taxpayer to any informed source for more information. The N.C. Nongame and Endangered Wildlife instructions provide taxpayers with an extensive description of the purposes of the fund and the programs it finances. They also direct taxpayers to the N.C. Wildlife Resources Commission for more information. The explanation of the candidates fund, as it appeared in the 1988 Individual Income Tax Instruction Booklet, was as follows:

"You may elect to contribute all or any portion of your income tax refund (at least $1.00 or more) to the North Carolina Candidates Financing Fund. The contributions will be used in political campaigns of certified candidates for the North Carolina Council of State. If you are due a refund and you wish to make a contribution, enter the amount on line 25 on the front of the income tax return, Form D-400. Once you make an election to contribute to the fund, the election is irrevocable and cannot by changed after you file your income tax return. You may claim your contribution as a tax deductible charitable contribution without being subject to the 15 percent limitation on your State income tax return for the next year if you itemize your nonbusiness deductions."

The legislature's General Research Division submitted a proposed change of the language to the N.C. Department of Revenue for the 1989 Individual Income Tax Instruction Booklet. The department agreed to print selected excerpts of the language for the 1989 instruction booklet.

The new explanation of the Candidates Fund is much better than the first explanation in the 1988 tax booklet, but there is still room for improvement. The N.C. Center for Public Policy Research recommends that the Department of Revenue further revise the candidates fund explanation in the 1990 Individual Income Tax Booklet to read as follows (recommended new language appears in italics):

"You may contribute all or any portion of your income tax refund (at least $1.00 or more) to the North Carolina Candidates Financing Fund. The General Assembly created this fund in 1988 as a first step toward controlling the rising cost of political campaigns. *The U.S. Supreme Court has ruled that the only way a state may limit a candidate's campaign spending is in exchange for public financing of that candidate's campaign. The federal government also uses the public financing method to encourage presidential candidates to agree to limit their spending.*

"The North Carolina Candidate's Financing Fund provides financial support for candidates seeking election to Council of State offices. Money in this fund will allow citizens who may not be wealthy or have access to wealth to run a competitive campaign for statewide elective office. In exchange for public funds, candidates agree to limit their campaign spending. If enough money accumulates in the fund, then matching grants from the fund will be made available in 1992 to the Council of State candidates. The Council of State consists of the governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, commissioner of agriculture, commissioner of insurance, commissioner of labor, and the superintendent of public instruction."

The N.C. Center also recommends that the General Assembly amend the income tax statutes[2] **so that** all taxpayers may contribute to the N.C. Candidates Fund via their state income tax forms. At the present time, only taxpayers who receive a refund may designate that all or part of the refund be transferred to the candidates fund. Taxpayers who are not eligible for a refund are allowed to send their donations to the N.C. state treasurer. The extra effort needed to send a separate check to the state treasurer may deter some taxpayers (who may otherwise wish to do so) from participating. The Department of Revenue should reword the instructions to read as follows: "You may make a voluntary contribution to the N.C. Candidates Financing Fund. Your contribution to this fund is added to your income tax liability. It will *reduce* your refund, or *increase* the amount due with your return." Alabama, California, and Massachusetts are among the states that allow contributions to be made to their public financing funds in this manner.

Goal 2: To Encourage More Citizens To Run for Office by Reducing the Fundraising Burden for Those Who Are Not Independently Wealthy.

Challengers, as well as some incumbents, have traditionally met with difficulty in their efforts to secure sufficient funds to run for office. North Carolina's public financing programs have not provided substantial sums of money directly to candidates. The political party check-off brings in about half a million dollars a year -- but very little of this money goes directly to the candidates. (For more on political parties, see page xiii.) Direct monetary assistance is provided to candidates at the discretion of the state parties. Distribution of money from the new candidates fund will theoretically begin in 1992.

Advocates of campaign reform think that limiting the amount candidates can spend on their campaigns is essential to cutting the costs of running for office. But since the U.S. Supreme Court decision in *Buckley v. Valeo* in 1976, limits on campaign spending cannot be imposed unless coupled with public financing.[3]

Recommendation

The legislature should amend the law that established the N.C. Candidates Financing Fund by initially reducing the number of Council of State races eligible for public financing. The N.C. Candidates Financing Fund, now in its building stage, is very unlikely to achieve the goal of providing money to certified candidates for all 10 Council of State races in 1992. The N.C. Candidates Financing Fund has received only $55,633.66 as of October 10, 1990. This indicates that North Carolina's taxpayers either do not know about the fund or are not interested in helping to finance the campaigns of statewide candidates from their refunds.

If the candidates fund cannot provide public financing to all Council of State candidates, the law should be revised to provide public financing initially for eight of the 10 Council of State offices, preferably those where spending by the candidates is traditionally lower. The Council of State offices that should be eligible for funding are secretary of state, state treasurer, state auditor, attorney general, commissioner of agriculture, commissioner of insurance, commissioner of labor, and superintendent of public instruction. In 1988, these eight races cost a total of $2,432,015, while the governor's race cost $11,287,026 and the lieutenant governor's race, $6,149,092.[4] The lieutenant governor and governor races, traditionally the most costly of all Council of State races, should be included when the fund has reached funding levels sufficient to support these big money campaigns. By limiting the application of the law to these eight races, the law can take effect sooner and have an impact on more offices.

The N.C. Center recommends that the 1991 and 1993 N.C. General Assembly appropriate additional revenue from the General Fund for the 1992 and 1996 statewide elections, since funding from taxpayer participation in the candidates fund is unlikely to be sufficient to provide adequate resources for candidates to run an effective campaign. Appropriations will be needed for four to six years until the taxpayers become more aware of the fund and become accustomed to contributing to the program. The Center estimates that $3 million[5] in appropriations from the state (out of an annual budget of $12 billion) would be needed to finance *eight* Council of State races in 1992. The offices that should be eligible for funding are: secretary of state; state treasurer; state auditor; attorney general; commissioner of agriculture; commissioner of insurance; commissioner of labor; and superintendent of public instruction. Providing certified candidates in all ten races (including the governor and the lieutenant governor) with maximum public financing in the 1992 Council of State general election races would require an appropriation of about $12 million.

The N.C. Center recommends that campaign expenditure limits be revised to reflect more accurately the costs of campaigns and to ensure fair competition among candidates. Currently the statutory expenditure limit for gubernatorial candidates is one dollar ($1) multiplied by the number of votes cast for governor in the last general election. Based on 1988 voting statistics, certified gubernatorial candidates who accept public financing in 1992 would be allowed to spend $2,180,025 in the general election. Yet Robert B. Jordan III and James G. Martin, the party nominees for governor in 1988, spent $3.3 million and $3.7 million, respectively, in the general election. The Center recommends that the legislature raise the expenditure limitation formulas to $1.50 multiplied by the number of votes cast for governor in the last general election, thereby allowing certified candidates for governor to spend up to $3,270,038.

The new limit would allow gubernatorial candidates to wage a viable campaign yet still address the concern that expenditure limits work to the advantage of incumbents by prohibiting challengers from running an effective campaign. It would also help reduce the cost of campaigns. The expenditure limitation formula for the candidates for the office of lieutenant governor should be increased from fifty cents (50¢) to seventy-five cents (75¢). The new expenditure limit would allow the certified candidates for lieutenant governor to spend up to $1,635,018 each, instead of the 1992 expenditure limit of $1,090,013. James C. Gardner, the 1988 Republican nominee for lieutenant governor, spent $1.09 million to win the general election while Tony Rand, the Democratic nominee, spent $1.7 million in a losing effort. The expenditure limit for the remaining eight Council of State offices is sufficient and does not warrant an increase at this time.

The N.C. Center recommends that the N.C. Candidates Financing Fund law be revised to incorporate an inflationary measure to adjust expenditure limits for the effects of inflation. In an era of ever-increasing campaign costs, the Consumer Price Index would normalize the expenditure limit to current dollars. The federal expenditure limits for the presidential campaign are adjusted for inflation.

The N.C. Center recommends that the General Assembly amend the N.C. Candidates Financing Fund law to allow a candidate who has accepted public financing to exceed the expenditure limits when an opponent is eligible for public financing but chooses not to accept. The North Carolina law includes a withdrawal option for a person who is the only candidate in a race to apply for money from the candidates fund; however, upon withdrawal from the program, the candidate is no longer entitled to public funding. Minnesota has a provision that does just this and thereby effectively levels the playing field for candidates. An alternative might be to double-match all eligible contributions to a candidate who accepts public financing but whose opponent does not. A double-matching provision is contained in New York City's campaign financing program.

Goal 3: To Strengthen Political Parties.

Political parties that receive money from campaign finance programs do not dispute the impact that the funds have on party operations. North Carolina political party officials believe the N.C. Political Parties Financing Fund has made a real difference in the parties' roles. Both major state parties have been able to increase staff and centralize services for candidates in party headquarters. "The party's role has been substantially greater since the party fund was established. It has enabled parties to be more of a factor in campaigns," says former Gov. James B. Hunt Jr.

Political observers have documented the decline of political parties in state elections and politics. Larry Sabato, a political scientist at the University of Virginia, warns that when the roles of parties diminish, the roles of single interest groups and political action committees, wealthy and celebrity candidates, incumbents, and political consultants expands. By strengthening the political parties, supporters of this goal hope to reverse the decline in party support.

Recommendation

The North Carolina Center recommends that the state continue to support political parties by continuing the N.C. Political Parties Fund. Continued support would allow the state Democratic and Republican parties to coordinate campaigns, develop party programs, and organize their get-out-the-vote efforts. The N.C. Center's first recommendation above (see page ix) calls for a public education campaign to increase taxpayer participation in both of North Carolina's public financing programs. In order to have a successful education campaign, there must be strong bipartisan support for both public financing programs. The Republican Party feels that the current distribution of political party fund monies on the basis of party registration is unfair because registration is 2-1 in favor of the Democrats, yet since 1986, Republicans have won 11 out of the last 17 major statewide races.

Until 1983, North Carolina taxpayers could specify which political party would receive their check-off money. Legislation was introduced in 1989 to do away with the check-off for political parties.[6] However, the Democratic Party and the Republican Party both attest to the benefits they receive from the fund and the importance of keeping the check-off. The fund enables the political parties to hire staff, pay bills, and support the campaign efforts of their candidates.

The N.C. Center recommends that the General Assembly revise the N.C. Political Parties Financing Fund statute to allow taxpayers to designate their check-off to a specified political party or give to a general campaign fund. Each political party would receive all funds specifically designated to it. The money contributed to the general campaign fund would be distributed to the political parties according to voter registration. This recommendation is a compromise that would be fair to political parties and help garner the bipartisan support that the N.C. Political Parties Fund needs.

The universally prescribed goals of public financing programs should be the goals of North Carolina's public financing programs. The state's two programs, The N.C. Political Parties Fund and The N.C. Candidates Financing Fund, must be set up to achieve the goals of 1) increasing public participation in the electoral process; 2) encouraging more candidates to run by reducing the fundraising burden for those who are not independently wealthy; and 3) strengthening political parties. The N.C. Center believes that the recommendations above will help to achieve these objectives and put the state's two public financing programs on a sound course for the future.

FOOTNOTES:

[1] Twenty-one states currently use a check-off or add-on mechanism to finance state political campaigns. (See Table 1.) Three states also have public financing programs funded by other means. Maryland, Oklahoma, and Oregon have inoperative public financing programs. Because North Carolina has one of each, it is counted twice in the group of 26.

[2] G.S. 105-163.16.

[3] *Buckley v. Valeo*, 424 U.S. 1, 248 (1976).

[4] These figures include expenditures in the primary election and general election by *all* candidates for office.

[5]This $3 million estimate is significantly lower than the actual amount ($8.7 million) needed if *all* Council of State nominees for eight offices accepted funding and spent the maximum amount allowable under the law. None of these 16 Council of State nominees exceeded the $1.09 million expenditure limit in the 1988 general election. In accordance with the law, candidates who receive public funds are required to raise qualifying contributions equal to five percent of the expenditure limit ($54,000). Only nine of the 16 Council of State nominees would have qualifed for public funds based on the 1992 expenditure limit of $1.09 million.

[6]House Bill 1167 was introduced on April 11, 1989 by Reps. Larry Etheridge (R-Wilson), Art Pope (R-Wake), Trip Sizemore (R-Guilford), and Robert Grady (R-Onslow). The bill was assigned to the Judiciary Subcommittee on Elections Laws and Constitutional Amendments but was not taken up for consideration and was ineligible for consideration in the 1990 short session which began on May 21, 1990.

I. Introduction

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"It is my firm belief that many citizens of North Carolina are being discouraged from running for public office because of the high cost of campaigning."[1] State Rep. Walter B. Jones Jr. (D-Pitt), sponsor of The N.C. Candidates Financing Fund legislation in 1987

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The costs of running for a North Carolina state House or Senate seat almost doubled between 1984 and 1988 and are expected at least to double between 1988 and 1992. These costs mirror the concern expressed across the country that "electable" candidates are not running because of the extraordinary cost of campaigns. In Florida's 1988 U.S. Senate race, former Gov. Reubin Askew threw in the towel after raising $1 million to finance a race that was expected to cost $15 million. Despite his comfortable lead in the public opinion polls, Askew withdrew, protesting, "I found myself increasingly concerned about the extraordinary cost of running a statewide campaign."[2]

Political parties are also finding fundraising more difficult. Special interest groups have distracted citizens from the larger philosophical umbrella of the major parties. The increasingly large segment of citizens who consider themselves "independents" rather than affiliates of the Democratic or Republican parties further demonstrates the declining interest in party politics. In surveys of North Carolina residents, the percentage that generally considers themselves "independent" jumped from 17.6 percent in 1986 to 25.3 percent in 1988.[3]

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Public financing is the "ultimate tool in the election reformer's arsenal." [4]
Herbert Alexander, political scientist, director of the Citizens' Research Foundation, University of Southern California

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Public financing, limits on campaign spending, limits on special interest group contributions, and required disclosure by candidates of contribution sources are all tools intended to reform the electoral process. Public financing programs are directed toward providing public funds to candidates or political parties through a government-administered program. The goals generally ascribed to public financing are the following:

1. To increase public participation in the financing of campaigns in order to further public interest in the candidates and issues spotlighted in campaigns for government positions.
2. To encourage more citizens to run for office by reducing the fund-raising burden for those who are not independently wealthy.
3. To strengthen political parties by providing funding for party-building expenses; and
4. To reduce or eliminate the influence of special interest groups and wealthy individual contributors by providing alternative revenue sources to candidates running for political office.

This report will examine the first three goals of public financing outlined above. Some advocates of campaign finance reform say that the financing of political campaigns by special interest groups and wealthy individuals is corrupting the political system and that special interests expect favors in return for the contributions. While the N.C. Center does not deny that there is a public perception of corruptive influence in the practices of special interest groups, the Center's research efforts were not directed at this question.

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"[Public financing programs] are ideological, they are partisan, but above all, they are political."[5]
Ruth S. Jones, professor of political science at Arizona State University

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While many observers do not consider the *goals* of public financing to be controversial, the *type* of public financing program chosen by states is marked by partisan and political debate. Some observers oppose any type of public financing program on a philosophical basis. The ideological split over public financing is represented by the opposing views of former U.S. Sen. Mike Mansfield (D-Montana) and former U.S. Supreme Court Chief Justice Warren Burger. Senator Mansfield, in his State of the Congress Address in 1974, remarked, "We shall not finally come to grips with the problems except as we are prepared to pay for the *public business* of elections with public funds."[6] By contrast, in his dissent in the 1976 case of *Buckley v. Valeo* -- still the key decision on campaign finance -- Chief Justice Burger said, "The inappropriateness of subsidizing, from general revenues, the actual political dialogue of the people ... is as basic to our national tradition as the separation of church and state also deriving from the First Amendment."[7] (For more on the *Buckley v. Valeo* decision, see page 6.)

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"Oliver Wendell Holmes ... once said that judicial reform was no sport for the short-winded. The same can be said for campaign finance reform."[8] John Noble, "PAC Counsel," *Campaigns & Elections* magazine.

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Public financing has received considerable attention from state legislatures and Congress since the Watergate era. While there are some programs that have been in existence for as long as 17 years, the states are still, as U.S. Supreme Court Associate Justice Louis Brandeis described them, "laboratories of reform." The next section outlines the impact of federal legislation on the development of public financing laws in the states. This is followed by a discussion of the major policy issues that states must confront in developing public financing programs and a comparison of the laws adopted by North Carolina versus those of other states. Finally, the successes and failures of these programs will be outlined, with recommendations for improvements in North Carolina's programs.

II. Public Financing for Presidential Campaigns: A Catalyst for State Reform

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"[R]egardless of whether a campaign is publicly or privately funded, it is inevitable that some candidates will have advantages over others. To require that public funding equalize these differences would distort its purpose, which is to facilitate political communication by providing an alternative to private funding with its burdens and unhealthy influences."[9] Majority opinion in *Republican National Committee v. Federal Election Commission.*

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Public financing for presidential campaigns first appeared in The Presidential Election Campaign Fund Act of 1966, which never became operative. It resurfaced again in the Internal Revenue Act of 1971, but comprehensive legislation did not pass until 1974 in the wave of post-Watergate reforms. In U.S. Senate subcommittee hearings, more than 40 witnesses favoring public financing denounced the corruptive influence of big spenders in the presidential campaigns.[10] In the 1972 presidential election, three wealthy businessmen -- W. Clement Stone, Richard Mellon Scaife, and Stewart R. Mott -- contributed $4 million to the campaigns of Richard Nixon and George McGovern. Later, it was revealed that 21 U.S. companies made illegal contributions totalling $968,000 to presidential campaigns in 1972.[11]

The Federal Election Campaign Act (FECA) Amendments of 1974 established a system of public financing of presidential campaigns. The funding source for the Presidential Election Campaign Fund is the tax check-off on the federal income tax form. Taxpayers may divert $1 of their tax liability from the general fund to the presidential campaign fund.

In order to receive funding, presidential candidates must agree to state-by-state and overall expenditure limits. For presidential primaries, matching funds are available for the first $250 of each contribution (excluding political action committee contributions) after reaching a qualifying threshold of $5,000 in contributions from each of 20 states. For the 1988 elections, a total of $67.2 million was distributed to presidential candidates in the primary election.[12] Provisions of the FECA Amendments provide $20 million to major party candidates in the presidential general election. Due to annual inflation increases built into the law, the party nominees in 1988, President George Bush and Massachusetts Governor Michael Dukakis, each received $46.1 million in the general election. Funding for minor party candidates is based on votes received in prior elections. No funding was provided for minor party candidates in the 1988 general election.

The post-Watergate reform movement also spurred states to consider public financing programs. Some states looked to the provisions of the Presidential Election Campaign Fund for guidance. More important, however, were the parameters established by the Supreme Court's rulings on presidential campaign funding in 1976. The Supreme Court ruled that major provisions of the FECA amendments were unconstitutional. In *Buckley v. Valeo*, the Court ruled that campaign spending limits, restrictions on contributions by a candidate to his own campaign, and limits on independent expenditures violated the right of freedom of expression as granted in the First Amendment. The Court, however, upheld public financing for presidential campaigns.

The Court held that Congress' action placing limits on campaign expenditures did not abridge the First Amendment right of freedom of speech <u>if</u> it was coupled with public financing. The majority opinion stated that although "Congress shall make no law ... abridging the freedom of speech, or of the press, Subtitle H [the public financing law] is a congressional effort, not to abridge, restrict, or censor speech, but rather to use public money to facilitate and enlarge public discussion and participation in the electoral process, goals vital to a self-governing people. Subtitle H furthers, not abridges, pertinent first Amendment values."[13]

In a subsequent decision in 1980, *Republican National Committee v. Federal Election Commission*, the court underlined the validity of public financing as an alternative source of funding, holding that it is not unconstitutional to require candidates to choose between private and public funding.[14]

III. Public Financing Programs at the State Level

A. State Reform Movement

Within five years after Watergate unfolded, 17 states adopted public financing laws. While the pace of reform has slackened, another 9 states have passed laws since 1979, including three since 1986. Of these 26 states, three -- Alaska, Maryland, and Oklahoma -- have repealed their laws, or the programs are currently inoperable. Three other states have public financing programs funded by other means. Oregon's check-off program (adopted in 1977) was repealed, but in 1986, a new add-on program was enacted. Currently, 21 states have operating public financing programs.

The passage of these public financing laws has usually been more widely supported by Democrats than by Republicans. Many Republicans contend that the Democrats support public financing because they are less successful in raising funds. In the five election cycles from 1977-78 to 1985-86, the national Republican Party coffer grew from \$84.5 million in contributions to \$252.4

million; Democratic Party proceeds increased from $26.4 million to $61.8 million.[15]

As a source of revenue for public financing programs, most states adopted either a *check-off* or an *add-on* provision on the individual income tax form. The *check-off* is patterned after the federal income tax form that allows the taxpayer to divert $1 of his or her tax liability from the general fund to the Presidential Election Campaign Fund. The check-off neither increases nor decreases the taxpayer's liability. Of the 13 states enacting check-off programs, all but one (Ohio) passed their laws in the 1970s. One of these programs has been rendered inoperable as a result of an opinion by the Oklahoma attorney general that the law was unconstitutional.

The *add-on* provision allows tax refunds to be contributed to public financing programs by giving the taxpayer the opportunity to contribute an amount from his or her tax refund. Since an add-on is a voluntary contribution, some do not consider it to be true public financing. The concept of the add-on provision was first used in California for a wildlife fund and has gained popularity in the states in the 1980s. Of the 10 states enacting add-on public financing programs, six passed their laws after 1981. Two of these programs have been repealed. (See Table 1 for the year of enactment of state public financing programs.)

Table 1. **Year of Enactment of Public Financing Programs**

Check-Off Programs		Add-On Programs		Other Programs	
1. Iowa[a]	1973	1. Maine	1973	Alaska	1978
2. Rhode Island	1973	2. Maryland[d]	1974	Florida	1986
3. Utah	1973	3. Massachusetts	1975	Indiana	1985
4. Minnesota	1974	4. Montana[e]	1979		
5. New Jersey	1974	5. California	1982		
6. Idaho	1975	6. Virginia	1982		
7. North Carolina[b]	**1975**	7. Alabama	1983		
8. Kentucky	1976	8. Oregon[f]	1986		
9. Michigan	1976	9. Arizona	1988		
10. Wisconsin	1977	**10. North Carolina**[b]	**1988**		
11. Oklahoma[c]	1978				
12. Hawaii	1979				
13. Ohio	1987				

[a] Iowa instituted an add-on program in 1984 to complement its check-off program. The Iowa add-on program to fund political parties was abolished in 1986.
[b] North Carolina is the only state that currently has both a check-off and an add-on program.
[c] Oklahoma's $1 state income tax check-off was never implemented. An advisory opinion by the attorney general ruled that the tax check-off was unconstitutional.
[d] Maryland's add-on program is inoperative. Money collected in the fund is to be distributed to gubernatorial candidates in 1990.
[e] Montana's public financing program began as a tax check-off to fund political parties. In 1979, the law was amended. Now the fund is supported through a tax add-on, and money is distributed to candidates.
[f] Oregon also adopted an experimental check-off program to fund political parties in 1977. The legislature did not reauthorize the program and it expired January 1, 1980.

Only three states -- Alaska, Florida, and Indiana -- developed public financing programs funded by a source other than a check-off or add-on provision on the individual income tax form. Alaska provides a tax credit up to $100 for contributions to candidates running for public office.[16] However, in 1980, the legislature repealed the state income tax, resulting in a decrease in the amount of money available to fund the credit. Although the tax credit program is still on the books, it has been suspended until January 1, 1993.[17] The legislature wanted to retain the option of appropriating funds for the program in the future when it could afford to reinstate the credit or when the state income tax has been reinstated.

In Florida, legislation was enacted in 1986 to allocate $3 million a year from the General Fund to the Election Campaign Financing Trust. The trust will provide partial funding for candidates for governor and the six cabinet positions in the primary and general elections. After the 1987 legislature made the initial $3 million appropriation to the fund, however, the money was withdrawn and reappropriated for other purposes. The trust fund currently has $348,320 in it, which was collected from fines and penalties levied for election law violations.[18] Indiana funds political parties from revenues from personalized license plate fees. Because of the difficulty in comparing the components of these three programs with the others, they will not be included in this study. This study will focus on North Carolina and the other 19 states which operate public financing programs.

B. State Reform Issues

No two states have devised the exact same public financing program, but all state policymakers have wrestled with these key issues:

1. Should the program be financed through an add-on or check-off provision on the state income tax form?
2. Should the funds be distributed to political parties or to candidates, or both?
3. If money is distributed to political parties, how much discretion should be given to the parties in the use of the funds?
4. If money is allocated directly to candidates, which races should be eligible for public funding?
5. Should candidates be required to raise matching funds in order to receive public funding?
6. Should candidates receive public funding for the primary as well as for the general election?
7. Should candidates who accept public financing be required to accept spending limits on overall campaign spending?

While ideological, partisan, or political motives may explain some of the choies made by the states, there is also a lively debate about which approaches will best achieve public financing goals. The contrasting views are presented below.

1. Should public financing be funded through an add-on or check-off provision on the state income tax form?

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"If voting is the most important individual act in politics, then financial participation may be the second most important. A system of free elections cannot survive without voluntarism."[19] Herbert Alexander, political scientist, director of the Citizens' Research Foundation, University of Southern California

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Debates about particular methods of public financing usually focus on whether they (a) achieve public participation goals and (b) whether the funds generated are adequate to make an impact in the electoral process. Most debates focus on the relative advantages of check-off programs, which divert money from the general fund, and add-on programs, which use contributions from taxpayers' refunds.

a. Public Participation

Proponents of the check-off argue that it is the best means of obtaining public participation in the financing of campaigns. Because check-off programs do not "cost" the taxpayer any of his or her refund to participate, they have higher rates of participation than other types of funding programs. In 1987, the average rate of participation in state check-off programs was 16 percent and in the federal check-off, 21 percent. By contrast, the participation rate for add-on programs was only 1.2 percent. Even when federal tax credits for contributions were available, less than 7 percent of the taxpayers participated.[20]

Opponents of the check-off counter that the public may not perceive the check-off as a way of participating in the electoral system. This assertion may be substantiated by a 1985 survey of North Carolina residents that found that the decision of whether to participate in the tax check-off is not a memorable event. A greater percentage of the respondents said that they checked-off on the state form than actually did so (28 percent v. 16 percent), and 13 percent were not sure whether they checked off.[21] (See Appendix A for further discussion.)

By comparison, proponents of add-on programs argue that deducting part of one's tax refund is a more deliberate, conscious act. Add-on proponents also argue that it is a purer form of voluntary participation since it does not divert money from the general fund. Larry Sabato, a political scientist at the University of Virginia, says, "The voluntary nature of this self-imposed tax will appeal to conservatives and Republicans, while the ready cash will draw the assent of money-starved Democrats and liberals."[22]

Both programs are subject to the criticism that public participation is limited to citizens who file income tax forms, with add-on programs sometimes restricted to those who will receive tax refunds. In North Carolina, 73 percent of the taxpayers received a refund for the 1987 tax year. However, no programs have been suggested that would reach a larger portion of the population.[23]

b. Adequacy of Funding

In Montana, the amount of money designated to the campaign fund plummeted from $66,180 in 1978 to $6,280 in 1979. The law had been changed from a check-off to an add-on funding program. There is little debate that the check-off can raise more funds than the add-on. The question is whether the add-on can raise sufficient funds to make it the better buy since it does not divert money from the general fund. In 1987, California's add-on program had the lowest rate of participation of any state public financing program at .3 percent, but because of its population size and an average contribution of $5.51, its add-on raised $233,152. Massachusetts' add-on public financing program raised $83,385 and Virginia's, $63,368. Four add-on states -- Alabama, Maine, Oregon, and Montana -- raised less than $25,000 each. Most of these add-on states do not appear to be raising enough funds to make a dent in the total amount of money needed for a modern campaign. Still, the amount of money required to make an impact is also affected by decisions made on the other reform issues, such as the number of races eligible for funding.

2. Should the funds be distributed to political parties or to candidates, or both?

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"Public financing is not a reform tool until the money reaches the candidates."
William G. Hancock, former N.C state senator, Durham.

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Influence of special interest groups. Exclusion of worthy candidates. The need to do constant fundraising, rather than debating public issues. These are the ills often cited by those who advocate giving funds directly to candidates. They argue that candidates must have alternative funding sources to political action committees (PACs) and wealthy individuals. And they say the only way to have equal access to funding for all candidates -- whether mainstream, minority, women, or non-party -- is to provide it directly from a public financing fund.

Opponents of direct funding of candidates counter that this may create more single-issue races by allowing candidates to skirt the party's broad recruitment criteria and appeal to the public on one volatile topic, e.g., abortion. Ken Eudy, former executive director of the North Carolina Democratic Party, warns that public financing could encourage people to run for office whose campaigns are based solely on their pro-choice or anti-abortion position, potentially resulting in elected officials who have strong voting records on a variety of issues being ousted by single-issue candidates. Furthermore, opponents of direct funding of candidates argue that money given directly to candidates might erode the candidate's ties with the party.

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"The Party's Just Begun." Larry Sabato, political scientist, University of Virginia.

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That's what Sabato would like to be able to say about party politics. In his book of the same title, he advocates public financing of political parties and enumerates the benefits of a strong two-party system:

* Voting is made easier by associating party values and issues with particular candidates.
* Governing coalitions can join together under the parties' umbrella to create powerful voting blocks.
* Stability is provided in direction on issues.
* Another layer of accountability is created by holding candidates and elected officials accountable to the party for their performance.[24]

Sabato also warns that when the roles of parties are diminished, the roles of single interest groups and PACs, wealthy and celebrity candidates, incumbents, and political consultants are expanded.[25]

In support of public funding going to political parties for party-building expenses, Lawrence Davis, chairman of the North Carolina Democratic Party, argues, "The party check-off is more justifiable than a candidates check-off because the taxpayer may not be interested in a particular candidate or race. The party system is a positive value to society. Most people participate in the two-party system." Critics counter that while the political parties may need funding, they already have an elaborate apparatus for conducting fundraising, and public financing may lessen the incentive for parties to utilize these resources.

Those favoring political party funding over direct candidate funding also argue that parties can allocate funds more efficiently through direct and in-kind contributions to candidates in tight races and to those with fewer financial resources. Opponents point out that this power can be used to reward those who toe the party line, as well as punish those who get out of line. This concern was evident in the decision made by a group of North Carolina women Democrats to form an organization in 1989 called Women Elect to raise money for female candidates who support the pro-choice abortion position. According to spokeswoman Stephanie Bass, the group was formed because its founders did not believe these candidates would get sufficient funds from the Democratic Party.

Rather than choose between funding political parties or candidates, three states in 1988 decided to provide separate funding for both political parties and candidates. After 54 percent of the voters in a public referendum approved funding for gubernatorial candidates, Rhode Island increased its check-off amount from $1 to $5 and reserved 60 percent for direct distribution to gubernatorial candidates. Minnesota amended its law to divert 10 percent of the money from the candidates fund to political parties. North Carolina has had a check-off provision on its income tax form for political parties since 1975. A separate add-on provision was included on the form in 1988 for Council of State candidates.

3. If money is distributed to political parties, how much discretion should be given to parties in the use of the funds?

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"There should be a debate on what you want your state party to be. Do you want a 10- to 12-person staff with a $750,000 operating budget, or is it best to divvy up the funds among the candidates?" Ken Eudy, former executive director of the North Carolina Democratic Party

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Those who favor discretionary use of funds argue that party officials are in the best position to decide how to allocate the funds -- whether to distribute the funds to candidates, to build up headquarters for centralization of services, or to finance local party operations to enhance grassroots activities.

Some counter that it is not usually the party but the governor or the highest elected official calling the shots on how funds should be spent. Thus, funds appropriated for party-building and campaign expenses may end up helping the top of the ticket considerably more than other party candidates. To curb this effect, some argue that the party should be required to allocate at least a portion of their funds directly to candidates.

4. If money is allocated directly to candidates, what races should be eligible for public funding?

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"Legislatures have been more willing to provide public funding (and the expenditure limits that often come with it) for gubernatorial candidates than for their own campaigns."[26] Herbert Alexander, political scientist, director of Citizen's Research Foundation, University of Southern California

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Politics aside, states must decide where they can get the biggest bang for the buck. On one end of the scale, in New Jersey, where the governorship is the only elected state office, the state pours all its public financing into gubernatorial races. On the other end, Hawaii spreads its funds around to campaigns for governor, state senator, state representative, prosecuting attorney, mayor, and other local races. The consequence of programs such as Hawaii's is that candidates will choose not to participate if they think the funding is inadequate, especially if there are spending limits tied to accepting public funds (see section 7, page 23).

Besides determining the number of races to fund, states must decide whether legislative, gubernatorial or other statewide offices would benefit the most from funding. In North Carolina, the 10 statewide Council of State offices are the governor, lieutenant governor, secretary of state, attorney general, treasurer, auditor, superintendent of public instruction, commissioner of agriculture, commissioner of labor, and commissioner of insurance. Proponents of funding gubernatorial races argue that the races for governor tend to be the most expensive and are therefore in the greatest need of public funds and most in need of limits on expenditures. In the 1988 elections in North Carolina, as much money was raised for the governor's race as for all other Council of State and legislative races combined. The total amount raised for all the legislative races was $2.9 million; for all Council of State races excluding the governor's race, $8.5 million; and for the governor's race, $11.4 million.[27]

On the other hand, candidates for Council of State positions such as commissioner of insurance may have more trouble than gubernatorial or legislative candidates in raising money. This is due to relative lack of interest in these races, except among those whose business or financial interests are regulated by the department. Finally, whereas the Council of State positions tend to be filled by career politicians, the North Carolina General Assembly prides itself on being a citizen legislature. Public funding might encourage more citizens to run for a state Senate or House of Representatives seat. David Broder, a prominent national political columnist holds this view:

> [T]o introduce public funds into the campaign finance mix, the experiment ought to begin at exactly the opposite end of the ballot from the Presidential race ... at the level of the state legislature, where candidates today typically have no alternative but to go to special-interest groups for whatever money they need.[28]

In North Carolina, the average cost for a House campaign in 1988 was $14,912 and for a Senate seat, $22,720.[29] Since these costs are significantly below those for gubernatorial campaigns, Ed Turlington, former executive director of the North Carolina Democratic Party argues, "You can make a much bigger impact in the legislative races than in the gubernatorial races." Opponents of providing public funds for legislative races argue that there is sometimes enormous variation in legislative spending and that many races don't need the funding. Furthermore, they say, the *cost* of campaigns is not what prohibits potential candidates from running but instead the potential income lost from one's occupation while serving in the General Assembly. This is a very legitimate concern in North Carolina, as the length of legislative sessions continues to increase.

5. Should candidates be required to raise matching funds in order to receive public financing?

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"Those who would replace private financing with total government funding might succeed unwittingly in changing fundamental balances in the political system.... In whatever form or quantity elections draw upon government assistance, freely contributed money and services still will be needed."[30] Herbert Alexander, director of the Citizen's Research Foundation, University of Southern California.

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Herbert Alexander speaks of the need for campaigns to be financed by a mix of private and public funds. Advocates of matching funds say that this requirement achieves the necessary balance. Former N.C. state Senator William G. Hancock says, "Historically, we know that there is danger in giving any government agency too much power to make discretionary decisions. Matching grants would provide both public and private financing. But private funds should only be matched to some ceiling -- for instance, the first $250 of any one contribution."

Some proponents also argue that a matching funds requirement ensures that candidates will have to demonstrate a reasonable measure of public support. However, an opposing view was articulated by Chief Justice Burger in his dissenting opinion in *Buckley v. Valeo.*

> I would also find unconstitutional the system of matching grants which makes a candidate's ability to amass private funds the sole criterion for eligibility for public funds ... The ability of a candidate's supporters to help pay for his campaign cannot be equated with their willingness to cast a ballot for him.[31]

The Presidential Election Campaign Fund and some of the states have resolved this issue by requiring matching funds in the primary but then providing outright grants in the general election. The rationale for this was explained by the U.S. Senate Committee on Rules and Administration in their endorsement of the 1974 Federal Election Campaign Act.

> The Committee bill embodies the sounder principle that once someone becomes an unquestionably serious candidate, by virtue of his being a major party nominee, he should be assured of adequate financing to run a fully informative and effective campaign. The use of matching payments is appropriate in the primary phase ... when it is not yet clear who may be the serious candidates and who may be the frivolous ones.[32]

6. Should candidates receive public financing for the primary as well as for general elections?

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"If a goal of finance reform is to increase alternative choice through a greater competition of candidates and ideas, then primary elections which permit a multiplicity of candidates are logical targets of campaign financing policies."[33]
Ruth Jones, professor of political science at Arizona State University

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The issues in financing primaries mirror the concerns discussed in matching funds verses outright grants. Should a candidate be required to demonstrate political viability by surviving the primary before obtaining public funding? Or will such a policy discourage candidates who have broad support but little ability to raise funds from running, especially in "one-party" states where the real competition may be in the primary?

States have also approached the issue from the practical standpoint of the availability of funds. States may ultimately want to provide funding for both primary and general elections but, because of budgetary constraints, decide to fund only general elections in the early years of a public financing program.

7. Should candidates who accept public financing be required to accept spending limitations on overall campaign spending?

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"Candidates should be encouraged to maximize communication with the public, and the public should have ample opportunity to become acquainted with the candidate."[34] New Jersey Election Law Enforcement Commission

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Controversy over expenditure limits in New Jersey has focused on whether it effectively chokes off candidates' communications with the public by restricting expenditures. In 1977, the first year of public funding by the New Jersey Gubernatorial Elections Fund, both the incumbent and the challenger raised the maximum amount of private funds and accepted the full amount available of public funds. The expenditure limit worked to the disadvantage of the challenger, then-state Sen. Raymond Bateman, when he was unable to revise strategies late in the campaign without exceeding the expenditure limit. The New Jersey Election Law Enforcement Commission said in its recommendation to eliminate expenditure limits that:

> [E]xpenditure limits can work to the disadvantage of non-incumbents who must often spend more money to achieve name

> recognition with the voters and to overcome the built-in advantages of incumbency. Also, the expenditure limits unnecessarily restrict first amendment rights of free speech and deny a candidate the opportunity to demonstrate widespread support among less wealthy voters by attracting as many small contributors as possible. Finally, the expenditure limits can put a premium on independent expenditures [money spent on behalf of a candidate but not with his or her consent -- therefore not recorded by the candidate], a trend which greatly concerns the Commission.[35]

The Commission's recommendation was not accepted by the New Jersey legislature. However, expenditure limits for the gubernatorial races were increased in 1989 from approximately $1.1 million to $2.2 million for the primary and from $2.3 million to $5 million for the general election.

Minnesota took a similar route in 1982 when it doubled its expenditure limits. The participation rate of candidates increased from 66 percent in 1978 to 90 percent in 1982, caused in part by a substantial increase in the number of Republican challengers accepting public funds. This approach of public financing coupled with reasonable expenditure limits is favored by those who consider cutting the costs of campaigns to be an essential goal of any program.

Critics of expenditure limits argue that the costs being cut are those related to grassroots activities, which has the effect of cutting out local involvement in campaigns. This is because all available money in a tight campaign budget will be directed to media expenditures, political consultants, and centralized campaign drives. Testimony along that line was submitted by the national Republican Party to the U.S. Supreme Court in its lawsuit against the Federal Election Commission in 1980. The regional director for the Gerald R. Ford 1976 presidential campaign in the deep South testified:

> [Y]ou have [only] so much money for carrying the message and the most effective way for these kind of bucks was in advertising, in media, in direct mail.[36]

Other testimony stipulated:

> Because of the short supply of these [campaign] materials, traditional volunteer activity such as bumper sticker "blitzes," yard sign programs and leafleting of factories and shopping centers did not take place. Similarly, no county or local storefront headquarters were set up by the Ford national committee in the Deep South.[37]

In the presidential elections, the candidates have shared the problems with expenditure limitations since each one has chosen to accept public financing since it was made available in 1976. But in state programs -- especially when only a modest amount of public funding is made available -- there is a greater likelihood that some candidates will choose to raise all their money privately in order to avoid state expenditure limitations. This may leave the candidate who accepts public financing funds in a less competitive position.

In 1988, Minnesota adopted a unique approach to this problem. The vast majority of candidates accepted public financing (89 percent) and thus agreed to campaign expenditure limits. Under the new law, if a candidate's opponent is eligible for public financing but chooses not to accept, then the candidate who accepts public financing is not held to the expenditure limits.

IV. Public Financing Programs in North Carolina

North Carolina first entered the public financing of campaigns movement in 1975 when it created a check-off program providing funds for political parties. Then in 1988, concern over the cost of campaigns culminated in the passage of an add-on provision on the income tax form for direct public funding of candidates. North Carolina is unique among the 19 states in having two separate provisions for public financing programs on its income tax form.

A. The "North Carolina Political Parties Financing Fund"

1. Legislative History

Robert W. Spearman, a lobbyist for the public financing bills in 1975 and later chairman of the N.C. State Board of Elections, remembers when the General Assembly considered the N.C. Election Campaign Fund (now the N.C. Political Parties Fund). "Not much attention had been given to campaign finance before Watergate," says Spearman. "North Carolina had a law, but it had many loopholes. After Watergate there was public outrage, and it was unpopular to take a position against campaign finance reform."

The General Assembly passed a temporary law in 1975 for a political party check-off that was loosely patterned after the federal check-off. The majority of the Democrats favored passage of the bill. In the Senate, Democrats voted 32-2 for the bill, and in the House, Democrats voted 78-22 for its passage. In comparison, the one Republican senator voted against the bill, and in the

House, one Republican voted for the bill while six voted against its passage. Jack Hawke, current chairman of the N.C. Republican Party, contends that "public financing was designed to perpetuate the Democrats' position in power." Republicans charged at the time that the provision was an attempt by Democrats to neutralize the Republicans' private fund-raising ability by raiding the public General Fund.

Over the next 15 years, the law was refined technically as well as revised substantively. The substantive changes included a 1978 clause requiring political parties to earmark 50 percent of the check-off funds for individual candidates in election years. In 1983, this provision was repealed. In its place, the law was amended to require that a special committee comprised of party officials allocate the 50 percent in election years for "legitimate campaign expenses," including contributions to candidates. In 1983, a change was also made on the tax form eliminating the option for the taxpayer to specify which political party would receive the check-off. Instead, taxpayers now indicate their wish to participate, and funds are distributed according to the voter registration levels for the Republican and Democratic parties. Both models are used by the other political party check-off states: half allow party preference, and half of the programs use a check-off to a general fund.

The rationale for the change to a general check-off, as explained by the Democrats, was that more taxpayers would participate if they did not have to disclose party preference. This may have been true. From 1982 to 1983, the rate of participation among taxpayers increased from 9.7 percent to 15.5

percent. (See Table 4 on page 37 for more recent public participation rates.) The Republicans argued that the real motivation was that Democrats wanted to increase their share of funds. This also appears to have been true. The percentage of total funds received by the Democrats increased from 57 percent in 1982 to 73 percent in 1983.

The Republicans are still rankled by this 1983 amendment. Jack Hawke said that while the Republicans are now out-registering the Democrats, it will be years before voter registration is even. From October 1986 to October 1990, the Democratic Party increased its registration by 17,843. The Republican Party in the same two years increased its registration by 193,166.[38] As a result, the Democrats' share of registered voters dropped from 68.6 percent in 1986 to 63.7 percent in 1990. N.C. Rep. Art Pope (R-Wake), one of the sponsors of a bill in the 1989 session of the N.C. General Assembly to repeal the check-off, argues that "party registration doesn't reflect voting strength. Most people don't realize that this is how the funds are being split." In 1989, Sen. Russell Walker (D-Randolph) set out to protect the political party check-off. A bill was passed that prohibits a paid preparer of tax returns from designating on a return that a taxpayer does or does not desire to make a contribution to the political parties fund, without the taxpayer's consent.[39] (See Major Provisions of the N.C. Political Parties Financing Fund on page 29.)

Major Provisions of the N.C. Political Parties Financing Fund

Enacted: 1975 *First Year Funds Distributed:* 1977

Source of Funds: $1 check-off on individual income tax forms

Distribution: Political parties with at least one percent of the total number of registered voters receive funds on a pro-rata basis according to voter registration levels.

(1) In general election years, each party chair disburses 50 percent to the party and 50 percent to a "special committee" comprised of the state chair, treasurer, congressional district chair and two other appointees. This committee allocates the funds.

(2) In years with no general election, the chairman disburses 100 percent of funds paid over by the state treasurer to the party.

Discretion in Use of Funds: In general election years, the "special committee" may only use funds for any "legitimate campaign expenses," including party headquarters operations, as well as direct and in-kind contributions to candidates.

Funds *cannot* be used by the party or special committee to support candidates in the primary or to select candidates at political conventions. Nor can the funds be used to support or oppose a referendum, bond election, or constitutional amendment.

Reporting Requirements: All political parties and candidates receiving funds must submit an annual report to the State Board of Elections itemizing receipts, expenditures, and disbursements of Political Parties Financing Fund monies.

Total Funds Distributed in 1988:

Democratic Party	Republican Party
$857,797	$335,760

2. Comparisons With Other State Check-Off Programs

Eleven other states have active check-off programs; five give to political parties, four to candidates, while two states give both to political parties and candidates. In 1987, the rate of participation among taxpayers ranged from a low of 5.2 percent in Kentucky to a high of 31.8 percent in New Jersey. North Carolina's 1987 taxpayer participation rate of 14.4 percent was slightly *below* the national average of 16 percent for the 12 states with check-off programs, and was down to 13.6 percent in 1988. For the 1987 tax year, six states allowed $1 to be checked off, one state allowed $1.50, while four states allowed $2, and one state, $5. In 1988, Rhode Island increased its check-off amount to $5. The participation rate was fairly similar for each check-off amount. The average participation rate among states with a $1 check-off was 17.25 percent; with a $1.50 check-off, 13.0 percent; with a $2 check-off, 15.7 percent; and with a $5 check-off, 16 percent.

Table 2. **Comparison of State Check-Off Programs**

	Funds to Candidates(C) or Parties(P)	1987 Tax Year Check-Off Amount[a]	1987 Tax Year Participation Rate[b]	1987 Tax Year Check-Off Total
Hawaii	C	$2	30.0%	$ 414,756
Idaho	P	1	10.4	39,328
Iowa	P	1.50	13.0	234,024
Kentucky	P	2[c]	5.2	185,832
Michigan	C	2	14.0	1,575,200
Minnesota	C, P	5	16.0	1,796,627
New Jersey	C	1	31.8	1,439,641
North Carolina	**P**	**1**	**14.4**	**553,554**
Ohio	P	1	17.1	713,785
Rhode Island	C, P	2[d]	13.9	66,303
Utah	P	1	15.9	90,147
Wisconsin	C	1	13.9	449,211

[a]If a joint return is filed, each spouse may designate the amount indicated.
[b]Figures are rounded off to the nearest percent.
[c]Fifty cents (50¢) of every $2 check-off is given to the party organization of the county of the taxpayer's residence.
[d]Beginning in tax year 1988, Rhode Island's check-off amount increased to $5. The public financing fund receives $3, and the political parties fund receives $2.

The tax form with the most explanation to the taxpayer about the check-off opportunity is Minnesota's, which states, "If you want $5 to go to help candidates for state offices pay campaign expenses, you may check one box. This will not increase your tax or reduce your refund." The wording on North Carolina's 1989 tax form was typical of state check-off programs. "N.C. Political Parties Financing Fund/ Do you want $1 to go to this fund? ... Note: Checking "YES" will not increase your tax or reduce your refund." (See Appendix B for a copy of the 1989 N.C. tax form.)

Most states allow the party to determine the percentage of funding it will give to candidates. Only two states, Minnesota and Ohio, prohibit political parties from providing public financing funds to candidates.[40]

B. The "North Carolina Candidates Financing Fund"

1. Legislative History

The passage of the Candidates Financing Fund in 1988 was largely the result of efforts by Rep. Walter B. Jones Jr. (D-Pitt), who has been dubbed "a one-man reform movement."[41] In describing the purpose of the bill for partial public financing for candidates, Jones said, "The escalation in the cost of political campaigns has locked the door to public office for the average citizen. Excessive fund-raising to win an election has become the rule, rather that the exception. Voluntary public financing is necessary to correct a system that relies more on dollars than issues."[42]

Some of the major proponents of previous public financing legislation were against the 1988 bill. For example, Sen. Russell Walker (D-Randolph), a former state party chief, said he was opposed to the candidates fund because it would dilute the effect of the check-off for political parties. Others questioned the viability of the program. During committee debate, Sen. James E. Ezzell Jr. (D-Nash), commented, "I can't see anybody ever wanting to participate. It is much ado about nothing. We are creating something that looks good, but that's all it does."[43] Despite questions of doubt about the program, Senator Ezzell voted in favor of public financing.

During the legislative maneuvering, the scope of the bill was restricted by removing legislative races from those which would be eligible for public financing and therefore subject to spending limits. A further compromise was made in changing the funding provision from a check-off to an add-on. These compromises were essential to gain passage of the bill. Sen. Marshall Rauch (D-Gaston), who was managing the bill in the Senate, said "The bill definitely has weaknesses ... but its great strength is that it is going to start something that needs to be started."[44] The bill passed the Senate by a margin of 41 to 4 with all 37 voting Democrats favoring the bill and the Republicans split four to four on the measure. The House approved the Senate committee substitute by a vote of 72 to 25. The majority of House Democrats voted for the bill (64 to 3), while the majority of Republicans voted against it (8 to 22). (See Major Provisions of the N.C. Candidates Financing Fund on page 34.)

Major Provisions of the N.C. Candidates Financing Fund

Enacted: 1988 *First Year Funds Are To Be Distributed:* 1992

Source of Funds: Contributions by taxpayers of all or part of a refund of income taxes. The contribution qualifies as a deduction.

Distribution: One-to-one matching funds for all 10 statewide Council of State offices who (1) raise qualifying matching grants equal to 5 percent of the expenditure limit, (2) agree to abide by expenditure limits, (3) agree to a post-election audit, and (4) have opposition on the ballot in the general election.

Maximum amount candidates may receive from the public fund:

Governor: $1,090,012.50
Other Council of State races: $545,006.25

Discretion in Use of Funds: Funds may only be used for general election expenses.

Campaign Expenditure Limits: For governor - $1 multiplied by the number of votes for governor in the last general election. Other Council of State races - $.50 multiplied by the number of votes for governor in the last general election.

Governor: $2,180,025
Other Council of State races: $1,090,012.50

Reporting Requirements: Reports are due from the candidates to the State Board of Elections in August and September listing contributions and expenditures in any year in which public funds were received. A report is due 60 days after the general election. It must itemize all receipts, expenditures, and disbursements of candidates fund monies.

Total Funds Accumulated as of October 10, 1990: $55,633.66

2. Comparisons With Other State Add-On Programs

Three of the nine add-on states -- North Carolina, Montana, and Massachusetts -- distribute money directly to candidates. These add-on states provide public funds for only a limited number of races. North Carolina funds the 10 statewide Council of State races, Massachusetts funds six races, and Montana, four races. Massachusetts is the only add-on state that provides funds in both primary and general elections. By comparison, four of the six check-off candidate programs provide funding in the primaries -- Hawaii, Michigan, New Jersey, and Rhode Island. While all of the check-off programs require candidates to abide by expenditure limits, North Carolina is the only state of the three with add-on programs that has this requirement.

Taxpayer participation in state add-on programs in 1987 ranged from 0.3 percent in California to 2.3 percent in Massachusetts. Four states, including North Carolina, allow taxpayers to contribute their entire tax refund. The rest of the states impose some maximum amount, the most common being $1. The contribution limit does not have a consistent effect on the participation rates of taxpayers or in the total amount contributed; however, the lowest total raised for public financing ($2,403) was in Montana where there is a $1 limit. The highest total raised ($233,152) was in California where there is no limit on what the taxpayer can contribute and where the average contribution was $5.50.

Table 3. **Comparison of State Add-On Programs**

	Funds to Candidates(C) or Parties(P)	Taxpayer Contribution Limit[a]	1987 Tax Year Participation Rate	1987 Tax Year Add-On Total
Alabama	P	$1	1.1%	$15,554
Arizona	P	No Limit ($2 min.)	--	--
California	P	$1, $5, $10 or $25	.3	233,152
Maine	P	No Limit	1.4	20,080
Massachusetts	C	$1	2.3	83,385
Montana	C	$1	.7	2,403
North Carolina	**C**	**No Limit ($1 min.)**	**--**	**--**
Oregon	P	No Limit	.5	24,192
Virginia	P	$2	1.8	63,368

[a] If a joint return is filed, each spouse may contribute the amount indicated.

-- = The program did not exist during the 1987 tax year.

V. Meeting the Goals of Public Financing: North Carolina and Other State Public Financing Programs

Goal #1. To Increase Public Participation in the Electoral Process

In the 1970s, North Carolina was cited by the California Commission on Campaign Financing for having the lowest taxpayer participation rate in the country among state public financing check-off programs.[45] While still slightly below the national average, participation increased substantially in the early 1980s. Participation reached a high of 15.5 percent in 1983 and 1985, and has declined steadily to 13.6 in the 1988 tax year.

Table 4. **North Carolina Political Parties Fund**

Tax Year	Participation Rate	Total Amount
1975	4.9%	$ 128,470
1976	5.4	144,974
1977	8.8	259,689
1978	7.4	219,494
1979	8.0	243,805
1980	7.8	241,783
1981	8.6	272,012
1982	9.7	305,459
1983	15.5	510,990
1984	15.2	526,299
1985	15.5	555,817
1986	14.8	534,879
1987	14.4	553,554
1988	13.6	531,586

The check-off program has been successful in increasing the pool of financial participants in the electoral process. According to North Carolina and national public opinion polls, a different segment of the public participates in the check-off programs than contributes individually to candidates. In comparison with the general public, individual contributors tend to have much more education, more political awareness, higher incomes, and are disproportionately Republican. By contrast, check-off program participants much more closely reflect the demographics of the public.[46] (See Appendix A for figures.)

Check-off programs which provide funds to *candidates* enjoy the highest taxpayer participation rate among the various public financing programs; the average rate in 1987 was 21.2 percent, compared to 12.8 percent for *check-off* programs for *political parties* and only 1.2 percent for *add-on* programs. The difference is due, in part, to the high taxpayer participation rates in New Jersey (31.8 percent) and Hawaii (30 percent).

States have been successful in increasing total funds by raising the amount which could be contributed. The check-off amount for Minnesota's candidates public financing program was raised in 1987 from $2 to $5. From 1986 to 1987, the rate of participation dipped slightly from 17 percent to 16 percent while the total amount designated increased 128 percent, from $787,528 to $1,796,627. In Maine's add-on program for political parties, the limit on what could be checked off was lifted entirely. While the participation rate remained stable (1.8 percent to 1.4 percent), the total amount designated for the fund increased 64 percent, from $12,290 to $20,080.

In several states, the check-off is publicized routinely by the parties or by the state government department responsible for administering the program. In Idaho and Utah, the party chairs issue joint press releases. In the past, the political parties in North Carolina have held press conferences and produced public service announcements, although not on a consistent basis. In Minnesota, the Ethical Practices Board annually issues press releases in March before the tax filing deadline on April 15.

A universal trend from 1983 to 1987 was a decrease in the rate of public participation in all public financing programs -- state and federal. The federal check-off program is in danger of going broke. The participation rate has decreased in ensuing years to an all-time low of 20 percent in 1988. According to a statement from the Federal Elections Commission, "Assuming the program's receipts decline $450,000 per year, as they have averaged from 1983-1989, and the rate of inflation averages 4.5 percent for the next eight years, the commission estimates a possible deficit of $201,969 at the end of 1992."

Table 5. **Trends in Taxpayer Participation Rates**

Check-Off Programs

	Tax Year 1983	Tax Year 1987
Hawaii	54.0%	30.0%
Idaho	15.9	10.4
Iowa	13.0	13.0
Kentucky	9.5	5.2
Michigan	19.1	14.0
Minnesota	17.5	16.0
New Jersey	37.0	31.8
North Carolina	**15.5**	**14.4**
Ohio	--	17.1
Rhode Island	19.0	13.9
Utah	24.5	15.9
Wisconsin	16.0	13.9
State Average	21.9%	16.3%
PresidentialFund	24.0%	21.0%

Add-On Programs

	Tax Year 1983	Tax Year 1987
Alabama	1.5%	1.1%
Arizona	--	--
California	.6	.3
Maine	1.8	1.4
Massachusetts	2.9	2.3
Montana	1.0	.7
North Carolina	--	--
Oregon	--	.5
Virginia	1.4	1.8
State Average	1.5%	1.2%

Why is the participation rate in public financing programs on the decline? The decrease may be explained by public apathy for politics or disdain for the negative advertising that has characterized many recent high visibility campaigns. Another reason for the decline in public participation may be the increase in the special funds and charities that have been added to the tax forms in the mid-1980s. These programs, such as wildlife funds or child abuse funds, compete directly with add-on programs for tax refund dollars. In North Carolina, the Nongame and Endangered Wildlife Fund received $486,525 from the check-off for the 1988 tax year, while the N.C. Candidates Financing Fund received only $19,331.[47] The vast difference may be the result of the wildlife fund having a broader appeal. Some would argue that people tend to be concerned more about the plight of endangered species than helping candidates to run for public office. Having been in existence since 1983, the wildlife fund is also a more established program. It even has a brochure describing the program and explaining the add-on provision on the tax form. The candidates fund may have performed poorly because the program was not explained clearly in the tax instruction booklet. The N.C. Wildlife Commission wrote the description for its program. Because no explanation of the candidates fund was provided to the N.C. Department of Revenue, the department paraphrased the law. The difference in clarity and persuasiveness is apparent in these excerpts. (See Appendix C for full description.)

Wildlife Fund:
Bald eagles, peregrine falcons, sea turtles, and many other native North Carolina wildlife species are benefitting from your continuing financial support.... Your continuing support will allow our descendents to inherit the same natural heritage passed along to us from our ancestors.

Candidates Fund:
The contributions will be used in political campaigns of certified candidates for the North Carolina Council of State.

Oregon has had results similar to North Carolina's. An add-on provision for political parties was adopted after special funds were already on the form. Of all funds contributed by taxpayers in 1987, the political party fund received 3 percent, arts (14 percent), Alzheimer research (16 percent), wildlife (30 percent), and child abuse (36 percent). In California, another add-on state with funds going to political parties, the number of special funds on the form increased in 1987 from four to six. Even though the total number of contributors to all programs increased by 38 percent, the number contributing to the political party fund dropped by 31 percent and the percentage of all donated funds going to the parties dropped from 9.7 percent to 6.7 percent.

Because the check-off programs do not use tax refund dollars, they compete better than do add-on programs with the special funds. In Rhode Island, the political party check-off received 46 percent of total contributions, followed by the Olympics (18 percent), wildlife (18 percent), organ transplants (17 percent) and arts/tourism (1 percent). The check-off programs, on average, are also operating in states with a smaller number of special funds with an average of 1.5 competitors in check-off states per tax form compared to an average of 3.0 competitors on the add-on states' tax forms.

Table 6. **Number of Special Funds (Other than Public Financing Programs) To Which Taxpayers Can Contribute on Income Tax Forms**

Check-Off Programs		Add-On Programs	
Rhode Island	4	California	6
Arizona	2	Alabama	4
Michigan	2	Oregon	4
New Jersey	2	Virginia	4
Ohio	2	Kentucky	3
North Carolina	**1**	Montana	3
Utah	1	Maine	2
Wisconsin	1	Massachusetts	2
Hawaii	0	Minnesota	1
Idaho	0	**North Carolina**	**1**
Minnesota	0		
Average	1.5	Average	3.0

Many states are continuing to add special funds to the income tax forms. In the 38 states with such provisions (out of 43 states with income tax forms), the number of special funds increased from 63 in 1983 to 103 in 1988.[48] In Virginia, three new programs were added in 1988. In North Carolina, bills were introduced, but not passed, in 1989 to allow taxpayers to contribute to programs for child abuse and for home care for Alzheimer patients.

The experience of other states is strong evidence that public financing for campaigns can be substantially cut by the addition of special funds, such as a child abuse program. Because campaign add-on programs compete head-to-head for tax refund dollars, they are more susceptible to decreases in contributions than campaign check-off programs when new special funds are added. According to Rep. Art Pope, "The primary reason for the low amount of voluntary contributions from refunds is because most people do indeed prefer to give directly to the candidate of their choice, or to not give at all."

Bob Spearman, former N.C. State Board of Elections chairman, argues that "check-offs and add-ons should *only* be used for public financing." He says, "public financing is special because it involves the relationship of state government to its citizens. The public should be encouraged to make a contribution to good government. Among all the worthwhile charities, how would you decide which ones should be included on the form?"

According to Randy Wilson, non-game section manager for the Non-game and Endangered Species Section of the Wildlife Resources Commission, the increase in the number of charities only slightly increases the number of contributors. He says that the experience in other states is that those who already contribute to one program will switch to another. This puts programs relying almost exclusively on add-on funds for their operating budget in a precarious position.

Recommendations

(1) The N.C. Center for Public Policy Research recommends that state officials conduct an aggressive public education campaign to increase taxpayer participation in North Carolina's public financing programs. The importance of a public education campaign is evident in light of the decreasing taxpayer participation rate in the N.C. Political Parties Fund and the low first-year participation in the N.C. Candidates Financing Fund. The Center believes that taxpayers do not know about the new candidates fund and that participation in both programs might be improved if more people knew what the two programs are designed to do. Then, taxpayers would at least be able to make an informed decision on whether to participate. Increased taxpayer participation would ensure the stability of both funds.

State political parties, the State Board of Elections, the Department of Revenue, the Governor, and other elected officials should work together to increase public awareness of the state's public financing programs. The State Board of Elections, the Democratic Party, and the Republican Party should issue joint press releases, public service announcements, and hold press conferences during tax filing season to explain the public financing programs and why taxpayers should participate. Since public financing is a state policy, the state of North Carolina, particularly the Department of Revenue, should take a lead role in conducting an education campaign.

Common Cause/North Carolina and the League of Women Voters of North Carolina Education Fund conducted an educational campaign to inform North Carolinians about the N.C. Candidates Financing Fund. Other public interest organizations could also be instrumental in efforts to educate the public. Cooperation from all of the above groups is vital to the success of a public education campaign.

There should be an active effort by the governor, leaders of the parties, the legislature and the judiciary to encourage people to participate.
As former Gov. James B. Hunt Jr. says, "Somebody has to take the lead in promoting the candidates fund. If it's not a private figure like Bill Friday,

then it should be the governor." Hunt believes that party officials are not likely to spearhead the effort because they see the candidates fund -- at least while it is a separate fund -- as competition for the political party check-off. And the legislature has not fully backed the Candidates Fund in the past, and in fact managed to remove legislative races from those eligible for public financing. Ed Turlington, former executive director of the N.C. Democratic Party, suggests that "leading Republicans and Democrats [should] do public service announcements on the subject for television." He recalled the collaborative efforts of the Jim Hunt-Jesse Helms campaign to save the Cape Hatteras Lighthouse.

The N.C. State Board of Elections is responsible for administering the program and the Department of Revenue is responsible for the tax forms. It should also be involved in efforts to provide information to the public. The N.C. General Assembly should appropriate funds for the production of posters and leaflets promoting public financing of political campaigns. The wildlife fund produced 120,000 copies of a brochure at a cost of $7,000. To produce posters and include increases in printing costs, the General Assembly should appropriate at least $15,000 for a public education campaign, including

(a) production and distribution of brochures and posters to:

* Internal Revenue Service offices
* the N.C. Department of Revenue
* Post Offices
* Public libraries

* County and municipal offices

* H & R Block offices and other tax return preparation firms;

(b) gaining the cooperation of tax form preparers and certified public accountants by sending letters to them explaining the procedure for participating in both public financing programs and urging them to inform their clients about the programs;

(c) public service announcements;

(d) press conferences and news releases;

(e) editorials and guest columns in newspapers across the state;

(f) newspaper ads; and

(g) television and radio talk shows.

(2) The N.C. Center recommends that the explanation for the N.C. Candidates Financing Fund, as it appears in the Individual Income Tax Instruction Booklet, be rewritten by the N.C. Department of Revenue to explain the program more fully. The instructions about the N.C. Candidates Financing Fund do not provide a complete explanation of what the fund is, nor do they direct the taxpayer to any informed source for more information. The N.C. Nongame and Endangered Wildlife instructions provide taxpayers with an extensive description of the purposes of the fund and the programs it finances. It also directs taxpayers to the N.C. Wildlife Resources Commission for more information. The explanation of the candidates fund, as it appeared in the 1988 Individual Income Tax Instruction Booklet, was as follows:

"You may elect to contribute all or any portion of your income tax refund (at least $1.00 or more) to the North Carolina Candidates Financing Fund. The contributions will be used in political campaigns of certified candidates for the North Carolina Council of State. If you are due a refund and you wish to make a contribution, enter the amount on line 25 on the front of the income tax return, Form D-400. Once you make an election to contribute to the fund, the election is irrevocable and cannot be changed after you file your income tax return. You may claim your contribution as a tax deductible charitable contribution without being subject to the 15 percent limitation on your State income tax return for the next year if you itemize your nonbusiness contributions."

Bill Gilkeson, a staff attorney in the legislature's General Research Division who specializes in campaign and election procedures, submitted a proposed change of the language to the N.C. Department of Revenue for the 1989 Individual Income Tax Instruction Booklet. The department agreed to print selected excerpts of the proposed language. The new language is as follows:

"You may elect to contribute all or any portion of your income tax refund (at least $1.00 or more) to the North Carolina Candidates Financing Fund. The General Assembly created this fund in 1988 as a first step toward controlling the rising cost of political campaigns.

The U.S. Supreme Court has ruled that a State may not place an involuntary limit on how much a candidate may spend on a campaign. The Court said the only way a State may limit a candidate's campaign spending is in exchange for public financing of that candidate's campaign. The Federal Government already used the public-financing method to induce Presidential candidates to agree to limit their spending. A check-off on your Federal tax return allows you to earmark $1.00 of your federal income tax to a fund for that purpose. The North Carolina Candidates Financing Fund was created to induce candidates for governor and council of state office to limit their campaign spending, and the contributions you make from your refund will be placed in the Fund.

If you are due a refund and you wish to make a contribution, enter the amount on Line 23 of your tax return, Form D-400. Once you elect to contribute to the fund, the election is irrevocable and cannot be changed after you file your income tax return. If you are not due a refund, you may still contribute to this Fund by mailing your donation to the North Carolina Candidates Financing Fund, N.C. State Treasurer, 325 N.

Salisbury Street, Raleigh, North Carolina 27611. Checks should be payable to the North Carolina Candidates Financing Fund."

The new explanation of the Candidates Fund is much better than the first explanation in the 1988 tax booklet, but there is still room for improvement. **The N.C. Center for Public Policy Research recommends that the Department of Revenue further revise the candidates fund explanation in the 1990 Individual Income Tax Booklet to read as follows** (recommended new language appears in italics):

"You may contribute all or any portion of your income tax refund (at least $1.00 or more to the North Carolina Candidates Financing Fund. The General Assembly created this fund in 1988 as a first step toward controlling the rising cost of political campaigns. The U.S. Supreme Court has ruled that the only way a State may limit a candidate's campaign spending is in exchange for public financing of that candidate's campaign. The Federal Government also used the public financing method to encourage Presidential candidates to agree to limit their spending.

The North Carolina Candidate's Financing Fund provides financial support for candidates seeking election to Council of State offices. Money in this fund will allow citizens who may not be wealthy or have access to wealth to run a competitive campaign for statewide elective office. In exchange for public funds, candidates agree to limit their campaign spending. If enough money accumulates in the fund, then matching grants from the fund will be made available in 1992 to the Council of State candidates. The Council of State consists of the governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, commissioner of agriculture, commissioner of insurance, commissioner of labor, and the superintendent of public instruction.

If you are due a refund and you wish to make a contribution, enter the amount on Line 23 of your tax return, Form D-400. *Once you choose to contribute to the fund, your decision cannot be changed after you file your income tax return. For more information about the North Carolina Candidates Financing Fund, write or call the N.C. State Board of Elections, P.O. Box 1166, Raleigh, North Carolina, (919) 733-7173.* If you are not due a refund, you may still contribute to the fund by mailing your donation to the North Carolina Candidates Financing Fund, N.C. State Treasurer, 325 N. Salisbury Street, Raleigh, North Carolina 27611. Checks should be made payable to the North Carolina Candidates Financing Fund."

(3) **The N.C. Center recommends that the General Assembly amend the income tax statutes so that all taxpayers may contribute to the N.C. Candidates Fund via their state income tax forms.** Taxpayers not getting refunds could include their contribution in their tax payment to the state. At the present time, only taxpayers who receive a refund may designate that all or part of the refund be transferred to the candidates fund. Taxpayers who are not eligible for a refund are allowed to send their donations to the N.C. state treasurer. The extra effort needed to send a separate check to the state treasurer may deter some taxpayers (who may otherwise wish to do so) from participating. The N.C. Department of Revenue should reword the instructions to read as follows: "You may make a voluntary contribution to the N.C. Candidates Financing Fund. Your contribution to this fund is added to your income tax liability. It will reduce your refund, or increase the amount due with your return." Alabama, Arizona, California, and Massachusetts are among the states that allow contributions to be made to their public financing funds in this manner.

Goal #2 To Encourage Candidates Who Might Not Be Personally Wealthy to Run by Reducing the Fundraising Burden

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"Who are to be the electors of the federal representatives? Not the rich, more than the poor; not the learned more than the ignorant; not the haughty heirs of distinguished names, more than the humble sons of obscure and unpropitious fortune."[49] James Madison, *The Federalist, No. 57*

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In discussing his campaign for U.S. Senate, former U.S. Rep. Michael Barnes, Democrat of Maryland, commented, "There was never a waking moment that I was not either raising money or feeling guilty that I was not."[50] Candidates in Minnesota's 1978 elections indicated that they thought public financing had helped, with the majority (72 percent) responding in a survey that they believed public financing had encouraged more people to run for office.[51] However, most states do not provide enough funds to have an effect on reducing campaign costs for candidates. Check-off programs for political parties do not serve this goal because most of the funds are retained for party expenses.

In North Carolina, the Democrats received $857,797 from the Political Parties Fund in 1988. Only 10 percent ($88,361) was given to a total of 23 candidates. By contrast, the Republicans received $335,759 and gave 38 percent ($129,800) to 116 candidates. The average contribution was $3,800 for Democrat candidates and $1,120 for Republican candidates.[52] The Democrats' strategy was to offer the maximum amount allowed of $5,000 to all congressional candidates, and to Council of State and judicial candidates who were running in contested races, as well as to provide services to legislative candidates. The services included a staff person designated to work with legislative candidates, radio spots for targeted races, direct mail, seminars, and extensive phone banks. But according to Lawrence Davis, chairman of the Democratic Party, "This will be different in the future. Legislative candidates have expressed a desire for more direct contributions."[53]

The Republicans' strategy was to concentrate on providing direct cash contributions to candidates for the General Assembly and Council of State offices. Jack Hawke, chairman of the Republican Party, said this was a deliberate decision to focus on these races and let congressional candidates receive funding from the national party. The strategy appears to have paid off. Using public financing funds as well as state and party resources, the GOP poured $98,000 into targeted legislative races.[54] The Republicans took 13 seats away from the Democrats in the General Assembly -- the most by any party in state legislative elections across the country in 1988.[55]

The two check-off programs that provide funds only to gubernatorial races make significant contributions toward candidates' campaign costs. In the 1986 Michigan elections, a total of $1.4 million was disbursed to four of six candidates in the primary, and a total of $1.5 million to two of the three candidates in the general election. Michigan upped the ante in 1989 and now provides up to $990,000 for each gubernatorial candidate in the primary and $1.5 million in the general election.

New Jersey increased the amount of public funds available for the 1989 gubernatorial races. Each candidate was eligible to receive up to $1.35 million in the primary and up to $3.3 million in the general election. In the

1989 election, five candidates received a total of $8.5 million dollars in funds for the primary, and the two general election candidates each received $3.3 million in matching funds. Of the total campaign expenditures, 60 percent were paid with public funding.

Of the three states that provide funding for state legislative races, Minnesota has the highest participation rate, with 89 percent of the candidates accepting public funding in 1988. This includes 242 House of Representative candidates, who received an average of $4,500 each. In Wisconsin's 1986 elections, two-thirds of the 298 candidates qualified for funding, and one-half of these candidates accepted funding. In 1988, 105 candidates received an average of $6,370 each.

Hawaii, the third state that provides funding to legislative candidates, has not been successful in lowering campaign costs for candidates. As the California Commission on Campaign Financing advises, "The reward of public financing must be great enough to encourage candidates to accept limits on expenditures."[56] A maximum of $100 is available to legislative candidates and if accepted, the candidate must agree to expenditure limits. This funding amount is obviously too low to make a difference in legislative campaigns. The participation rate of candidates in Hawaii's program has dropped from 82 percent in 1980 to 62 percent in 1988. The percentage of winners who accepted public financing in 1988 was even lower (41 percent), ironically resulting in the chances of winning being better when candidates refused to accept public funds. In 1989, legislation was passed that would increase the maximum amount of funds available to candidates to $100 for a trial period to end Dec. 31, 1990.

Wisconsin provides a greater proportion of the funding to challengers than incumbents as a means of increasing competition for offices. The following chart shows the number of incumbents and challengers who received funding and the amount of funding provided in the last three elections.

Table 7. **Wisconsin Funding of Candidates Challengers and Incumbents**

	1984		1986		1988	
	Challengers	Incumbents	Challengers	Incumbents	Challengers	Incumbents
Number of Candidates	64	47	71	63	50	48
Total Funding	$481,907	$264,988	$905,891	$687,043	$372,365	$258,258
Funding Per Candidate	$7,520	$5,638	$12,759	$10,905	$7,447	$5,380

Source: State of Wisconsin Elections Board

Massachusetts is the only state with an add-on program that has provided substantial funds to candidates, and it is supplemented by the general fund when the taxpayer contributions are inadequate. The maximum support made available for the gubernatorial race in the primary is $300,000 ($250,000 for candidates for governor, $50,000 for the lieutenant governor's race) and in the general election, $250,000 (candidates for the two positions run as a team). The other four eligible races receive considerably less funding.

In New Jersey, where the governor is the only statewide elected official, primary and general election candidates for that office received 60 percent of their financing through the check-off program in the 1989 election. But receiving a significant portion of funding from a public financing program is the exception. Generally, the states which have made a substantial difference in reducing the fundraising burden for candidates distribute check-off funds to candidates running for only one or two of the top elected offices.

Advocates of campaign finance reform are committed to limiting the amount candidates can spend on their campaigns. This is considered to be the key to cutting the costs of running for office. Since the U.S. Supreme Court decision in *Buckley v. Valeo* in 1976, limits on campaign spending cannot be imposed unless coupled with public financing.

Challengers, as well as some incumbents, have traditionally met with difficulty in their efforts to secure sufficient funds to run for office. North Carolina's public financing programs have not provided substantial sums of money directly to candidates. The political party check-off brings in about half a million dollars a year -- but very little of this money goes directly to the candidates. (See Goal #3, page 64, for more on political parties). Direct monetary assistance is provided to candidates at the discretion of the state parties. Distribution of money from the new Candidates Fund is scheduled to begin in 1992. Fewer than one percent of taxpayers participated in the North Carolina Candidates Financing Fund during the 1988 tax year. The highest rate of participation of any add-on program in the country in 1987 was Massachusetts with 2.3 percent of the eligible taxpayers participating. Even if taxpayer participation increases dramatically, it is doubtful that the candidates fund would be able to support a single candidate for statewide office in 1992.

Recommendations

(4) **The N.C. General Assembly should amend the law that established the N.C. Candidates Financing Fund by initially reducing the number of Council of State races eligible for public financing.** The N.C. Candidates Financing Fund, now in its building stage, is very unlikely to achieve the goal of providing money to certified candidates for all 10 Council of State races in the 1992 general election. The N.C. Candidates Financing Fund had received only $55,633.66 as of October 10, 1990. In order to raise $12 million (approximately the amount spent on these races in 1988) every four years, the add-on must produce $3 million a year. This indicates that North Carolina's taxpayers either do not know about the fund, are confused now that there are two funds, or are not interested in helping to finance the campaigns of statewide candidates from their refunds. The N.C. Center believes that taxpayers do not know about the candidates fund or do not understand its purposes.

If the Candidates Fund cannot provide public financing to all Council of State candidates, the law should be revised to provide public financing initially for eight of the 10 Council of State offices, preferably those where spending by the candidates is traditionally lower. The Council of State offices that should be eligible for funding are secretary of state, state treasurer, state auditor, attorney general, commissioner of agriculture, commissioner of insurance, commissioner of labor, and superintendent of public instruction. In 1988, these eight races cost a *total* of $2,432,015, while the governor's race cost $11,287,025 and the lieutenant governor's race $6,149,092.[57] The lieutenant governor and governor races, traditionally the most costly of all Council of State races, should be included when the fund has reached funding levels sufficient to support these big money campaigns. By limiting the application of the law to these eight races, the law can take effect sooner and have an impact on more offices.

The N.C. Center considered recommending that only certified candidates for governor and lieutenant governor be eligible for funding, as is the practice in some other states. The candidates fund would need a total of nearly $3.3 million[58] just to fund the nominees for these two offices. The cost of running for statewide office in North Carolina (especially for governor and lieutenant governor) has increased dramatically in recent years. Representative Jones, sponsor of the law believes that limiting the candidates fund to the gubernatorial race is the solution. "The only chance it has to survive is to narrow it down to the most important race in North Carolina -- the race for governor. When you come down to it, you're not going to get anyone excited about the Department of Labor race," says Jones.

Since the candidates fund will provide money to party nominees in the general election, the N.C. Center attempted to zero in on the campaign costs associated with the 1988 general election. The N.C. Campaign Reporting Act requires candidates to submit detailed reports itemizing all contributions, loans, and expenditures to the N.C. Campaign Reporting Office. The Center examined report #2 which covered the preelection period from April 17, 1988 through Oct. 22, 1988 and the annual report which covered the period from Oct. 23, 1988 through Dec. 31, 1988 for all party nominees in the general election. Although the expenditures during these two periods will include some costs associated with the May primary election, the subtotals will serve as a gauge to determine expenditures in the general election.

In the 1988 general election, both gubernatorial nominees spent more than $2.18 million -- the 1992 expenditure limit for governor under the current statutory formula. Gov. James G. Martin had general election expenditures of $3,765,131, and Robert B. Jordan III spent $3,302,113 in the general election. Both nominees for lieutenant governor in 1988 spent more than the $1.09 million expenditure limit that will be in effect in 1992. Lt. Gov. James Gardner's general election expenditures were $1,098,401, while Tony Rand's general election expenditures tallied $1,727,014. Because the expenditure limits are so low in light of the upward trend in campaign costs, the N.C. Center believes that candidates for governor and lieutenant governor are not likely to accept public funding under the current law. The low expenditure limit will not allow the party nominees to run an effective campaign in the general election. (See recommendation #5 which deals with revising expenditure limits.)

1988 Campaign Expenditures of the Council of State Party Nominees

	Expenditures from 4/17/88 - 12/31/88	Total Expenditures
Governor		
James G. Martin (R)*	$3,765,131.49	$6,338,185.02
Robert B. Jordan III (D)	3,302,112.97	4,932,703.58
Lieutenant Governor		
James C. Gardner (R)*	$1,098,401.02	$1,371,600.54
Anthony E. Rand (D)	1,727,014.34	2,523,157.70
Secretary of State		
Rufus L. Edmisten (D)*	$183,759.61	$505,202.46
John H. Carrington (R)	380,110.88	438,927.73
State Treasurer		
Harlan E. Boyles (D)*	$16,978.84	$56,532.49
Nancy Lake Coward (R)	5,205.00	5,846.00
State Auditor		
Edward Renfrow (D)*	$62,095.27	$127,727.35
Edward Garner Jr. (R)	15,623.07	16,645.30
Attorney General		
Lacy H. Thornburg (D)*	$165,572.00	$232,360.00
Samuel A. Wilson III (R)	107,363.56	123,926.85
Commissioner of Agriculture		
Jim Graham (D)*	$35,660.96	$86,880.56
Leo Tew (R)	2,344.12	2,992.12
Commissioner of Insurance		
James E. Long (D)*	$53,943.04	$237,215.95
Herman L. Rednour (R)	2,379.83	3,499.03
Superintendent of Public Instruction		
Bob Etheridge (D)*	$264,521.57	$368,233.82
Thomas L. Rogers (R)	1,366.95	1,827.95
Commissioner of Labor		
John C. Brooks (D)*	$6,390.30	$11,702.55
Richard D. Levy (R)	4,188.62	4,887.37

*Denotes winner of the election

(5) The N.C. Center recommends that the 1991 and 1993 N.C. General Assembly appropriate additional revenue from the General Fund to support candidates in the 1992 and 1996 statewide elections, since funding from taxpayer participation in the candidates fund is unlikely to be sufficient to provide adequate resources for candidates to run an effective campaign. Michigan and New Jersey have successful public financing programs due to high taxpayer participation and legislative appropriations. Appropriations will be needed for four to six years until the taxpayers become more aware of the fund and become accustomed to contributing to the program. The Center estimates that $3 million[59] in appropriations from the state (out of an annual budget of $12 billion) would be needed to finance eight Council of State races in 1992.

As explained in Recommendation #3 above, the N.C. Center recommends that the offices that should be eligible for funding are secretary of state, state treasurer, state auditor, attorney general, commissioner of agriculture, commissioner of insurance, commissioner of labor, and superintendent of public instruction. If the two certified candidates in all 10 races (including the governor and the lieutenant governor) choose to accept public financing and are eligible to receive the maximum in public financing dollars in 1992, the state would need to appropriate $12 million to the fund.

The N.C. Center believes that the candidates for these offices would be more likely to accept public funding. Candidates for many of the Council of State offices have a difficult time raising money. The expenditure limit of

$1.09 million is adequate for these races and will allow them to run a competitive campaign. It seems logical, then, to put the public funds where they will have the most impact and truly make a difference.

(6) **The N.C. Center recommends that campaign expenditure limits be revised to reflect more accurately the costs of campaigns and to ensure fair competition among candidates.** Former Governor Hunt says, "The issue is whether you are going to make other funds available. Don't just cut what candidates can spend and make it difficult to communicate with the constituents." The experience of other states such as Hawaii demonstrate that candidates will not accept public financing when coupled with campaign spending limits that are set too low. Currently the statutory expenditure limit for gubernatorial candidates is one dollar ($1) multiplied by the number of votes cast for governor in the last general election. Based on 1988 voting statistics, certified gubernatorial candidates who accept public financing in 1992 would be allowed to spend $2,180,025 in the general election. Yet Robert B. Jordan III and James G. Martin, the Democratic and Republican nominees for governor in 1988, spent $3.3 million and $3.7 million, respectively, in the general election. Total campaign expenditures for Martin were $6.3 million and $4.9 million for Jordan.

The Center recommends that the legislature raise the expenditure limitation formulas to make them more realistic and take into consideration the high cost of running for office in North Carolina. Obvious problems arise when the spending cap is too low. It may discriminate against a candidate who is less well known and needs to buy more media time than an incumbent. And it may influence candidates who have the ability to raise money not to participate in public financing, preferring not to be restricted to the spending limits. When the expenditure limit reflects the actual cost of a statewide political campaign, candidates will have an incentive to accept public financing dollars. The expenditure limitation formula for the gubernatorial race should be increased to $1.50 multiplied by the number of votes cast for governor in the last general election. Based on 1988 voting statistics, certified candidates for governor would be allowed to spend up to $3,270,038 in the general election. This revised expenditure limit would still be about $32,000 less than the amount of money spent by the losing Democratic nominee for governor in the 1988 general election. The new limit would allow gubernatorial candidates to wage a viable campaign, yet still address the concern that expenditure limits work to the advantage of incumbents by prohibiting challengers from running an effective campaign. It would also help reduce the cost of campaigns.

The expenditure limitation formula for the candidates for the office of lieutenant governor should be increased from fifty cents (50¢) to seventy-five cents (75¢). The new expenditure limit would allow the certified candidates for lieutenant governor to spend up to $1,635,018 each in the general election, instead of the 1992 expenditure limit of $1,090,013. James C. Gardner, the 1988 Republican nominee for lieutenant governor, spent $1.09 million in the general election in his successful campaign for office, while Tony Rand, the

Democratic nominee, had general election expenditures of $1.7 million in a losing effort.

The expenditure limit for the remaining eight Council of State offices is sufficient and does not warrant an increase at this time. These Council of State candidates spent varying amounts of money in the 1988 general election from a low of $1,367 in a losing bid by Thomas Rogers, the Republican nominee for superintendent of public instruction, to a high of $380,111 by John H. Carrington in an unsuccessful race for the office of secretary of state. The N.C. General Assembly should closely monitor the cost of campaigns for these offices and revise the expenditure limits as necessary.

(7) The N.C. Center recommends that the N.C. Candidates Financing Fund law be revised to incorporate an inflationary measure to adjust expenditure limits for the effects of inflation. In an era of ever-increasing campaign costs, the Consumer Price Index would normalize the expenditure limit to current dollars. The federal expenditure limits for the presidential campaign are adjusted for inflation. In Hawaii, the expenditure limit is compounded 10 percent annually.

Media expenses increase dramatically each year. Other costs of campaigning also increase significantly between each election. The North Carolina law has no provision for inflationary adjustments. In fact, because the limit is based solely on the number of votes cast for governor in the last general election, the expenditure limit could go down if voter participation decreased. The Consumer Price Index would provide a minimal level of adjustment.

(8) The N.C. Center **recommends that the General Assembly amend the** N.C. Candidates **Financing Fund law to allow a candidate who has accepted** public **financing to exceed the expenditure limits when an opponent is eligible for public financing but chooses not to accept.** A primary concern about expenditure limits is that it places the candidate who accepts funding at a disadvantage when opposed by a candidate who is independently wealthy or is willing to kowtow to special interest groups. The North Carolina law includes a withdrawal option for a person who is the only candidate in a race to apply for money from the candidates fund; however, upon withdrawal from the program, the candidate is not be entitled to public funding.[60]

In Hawaii, candidates who did not accept public financing won more frequently than those who accepted the financing. Minnesota's provision levels the playing field by lifting the expenditure limit when the candidate's opposition was eligible for public financing but chose not to accept. According to Minnesota law, "A candidate who agrees to be bound by the limits and receives a public subsidy, who has an opponent who does not agree to be bound by the limits but is otherwise eligible to receive a public subsidy, is no longer bound by the limits but is still eligible to receive a public subsidy."

An alternative option might be to double-match all eligible contributions to a candidate who accepts public financing when his opponent does not. A double-matching provision is contained in New York City's campaign financing program. This provision allows the candidate to receive two dollars for every one dollar raised for matchable contributions the candidate collects. The expenditure limit is lifted for the participating candidate.[61]

Goal #3 To Strengthen the Political Parties

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"The party's role has been substantially greater since the party fund was established. It has enabled parties to be more of a factor in campaigns."
Former Gov. James B. Hunt Jr.

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In the 1988 election cycle, the Democratic and Republican parties in North Carolina received a combined total of more than $1 million from the Political Parties Fund. Ken Eudy, former executive director of the N.C. Democratic Party says, "Without the public funds, the parties would cease to exist as we know them." In 1988, the fund accounted for one-third of the Democratic Party's revenues and one-fifth of the Republican Party's. According to Lawrence Davis, chairman of the Democratic Party, public financing funds are not allocated for particular expenses, but rather pay one-third of the costs of the budget approved by the Democratic Executive Committee. Because of the bills associated with the 1988 campaign, the fund is being used to pay debts.[62] Jack Hawke, chairman of the N.C. Republican Party, also said that the funds are not allocated for specific purposes. But without the $335,000 from the check-off, the party would not have been able to give $274,000 to candidates in 1988.[63] If the parties were to lose the public financing funds, both chairmen said that the number on the staff would have to be cut. This could have a deleterious effect on the parties. According to political scientist Ruth Jones, "Staff is viewed by most party leaders as the key to expanding the influence and status of the party."

Analyzing how the North Carolina political parties have benefitted from the fund is difficult. The annual reports the parties are required by law to submit on how the public financing money was spent are available for public inspection at the N.C. State Board of Elections. But when the State Board of Elections was given the responsibility for housing and reviewing the reports in 1985, it was not given any additional funds or staff to audit or analyze the reports. The consequence, according to Yvonne Southerland, deputy director of the State Board of Elections, is that the staff has time only to review the reports for gross errors. In order to find out how money was spent, the public must review voluminous reports and tally line items. But this can be a frustrating effort since the parties do not describe expenditures in a manner consistent with each other, or consistent from year to year. Furthermore, because there is considerable turnover in the bookkeeping function for the parties, the party may not be able to explain what particular figures or descriptions mean.

Although 14 states provide money for political parties, the literature on public financing is notable for its absence of discussion on how political parties have benefitted. Assumptions are made by some authors that the parties are benefitting because most states give the party considerable discretion in allocating funds.[64] But there has been little analysis of how the funds have helped build the parties.

Political parties that receive money from campaign finance programs do not dispute the impact that the funds have on party operations. North Carolina political party officials believe that N.C. Political Parties Financing Fund has made a real difference in the parties' roles. Both major state parties have been able to increase staff and centralize services for candidates in party headquarters. "The party's role has been substantially greater since the party fund was established. It has enabled parties to be more of a factor in campaigns," says former Gov. James B. Hunt Jr.

Political observers have documented the decline of political parties in state elections and politics. Larry Sabato, a political scientist at the University of Virginia, warns that when the roles of parties diminish, the roles of single interest groups and political action committees, wealthy and celebrity candidates, incumbents, and political consultants expand. By strengthening the political parties, supporters of this goal hope to reverse the decline in party support.

Recommendations

(9) The North Carolina Center recommends that the state continue to support political parties by continuing the N.C. Political Parties Fund. Continued support would allow the state Democratic and Republican parties to coordinate campaigns, develop party programs, and organize their get-out-the-vote efforts. The N.C. Center's first recommendation above (see page 43) calls for a public education campaign to increase taxpayer participation in both of North Carolina's public financing programs. In order to have a successful education campaign, there must be strong bipartisan support for both public financing programs.

The Republican Party feels that the current distribution of political party fund monies on the basis of party registration is unfair because registration is 2-1 in favor of Democrats, yet since 1986, Republicans have won 11 out of the last 17 major statewide races. Until 1983, North Carolina taxpayers could specify which political party would receive their check-off money. Legislation was introduced in 1989 to repeal the check-off for political parties.[65] However, the Democratic Party and the Republican Party both attest to the benefits they receive from the fund and the importance of keeping the check-off. The fund enables the political parties to hire staff, pay bills, and support the campaign efforts of their candidates.

(10) The N.C. Center recommends that the General Assembly revise the N.C. Political Parties Financing Fund statute to allow taxpayers to designate their check-off to a specified political party (Democratic, Republican, or Unaffiliated) or give to a general campaign fund. Each political party would receive all funds specifically designated to it. The money contributed to the general campaign fund would be distributed to the political parties according to voter registration. This recommendation is a compromise that would be fair to political parties and help garner the bipartisan support that the N.C. Political Parties Fund needs. Minnesota has a political party designation and a general campaign fund designation on its tax return. Money designated for the political parties is distributed to qualified candidates of the respective political parties. Money designated to the general campaign fund is also available for candidates who received a certain percentage of the votes cast for that office in the primary election.

VI. Conclusions and Recommendations

On the 1988 income tax form, N.C. taxpayers contributed 25 times as much money to the Nongame Wildlife Fund as to the Candidates Fund. In North Carolina, as well as in each of the other 19 states with public financing, the rate of taxpayer participation decreased from 1983 to 1988. And according to Yvonne Southerland, deputy director of the N.C. State Board of Elections, the political parties' reports itemizing how public funds are spent are rarely reviewed by reporters, citizens, or public interest groups.

These accounts indicate a lack of interest in the candidate and political party public financing funds. And in many states, that lack of interest may be valid given the minimal impact made by public financing on the electoral system. Party officials in North Carolina assert that the fund has made a real difference in the influence political parties have in elections by allowing them to build staffs and provide more services and direct contributions to candidates. But in general, there is little analysis of political party public financing programs to determine whether the funds have helped build the party or whether they have merely saved the parties the effort of raising the funds themselves.

With few exceptions, only the states with check-off programs for gubernatorial candidates have made a substantial difference in lowering or stabilizing the cost of campaigning and lessening the influence of PACs (political action committees) and wealthy contributors. Programs that fund more races must spread the money too thinly among the candidates to make any real impact in the campaign. And in North Carolina, where the funds have gone to the parties, the candidates have not received enough funds from the parties to replace PAC money. In fact, PAC money has increased as a percentage of total contributions in legislative races from 24 percent in 1984 to 37 percent in 1988. Those who subscribe to the view that anything helps may support add-on public financing programs. But add-ons have always had extremely low rates of participation that will only get lower with the increase in special funds on the tax form.

While states are still revising their programs to meet the goals of public financing, the programs represent an opportunity for citizens to participate in financing elections and to be a source of funding in some states. *Surveys show that a different segment of the population participates in public financing programs than contribute individually to a particular campaign. This seems to indicate that public financing programs have been successful in the goal of involving more people in financing elections.* States have also been able to increase substantially revenues from the public financing programs by increasing the amount that can be diverted from the general fund for a check-off program or by removing limits on the amount taxpayers could contribute from their tax refunds to the add-on programs.

Based on the Center's research above, the following recommendations are made to improve the performance of North Carolina's public financing programs for candidates and political parties in reaching the goals of public financing.

Goal #1: To Increase Public Participation in the Electoral Process

(1) The N.C. Center for Public Policy Research recommends that state officials conduct an aggressive public education campaign to increase taxpayer participation in North Carolina's public financing programs.

(2) The N.C. Center recommends that the explanation for the N.C. Candidates Financing Fund, as it appears in the Individual Income Tax Instruction Booklet, be rewritten by the N.C. Department of Revenue to explain the program more fully.

(3) The N.C. Center recommends that the General Assembly amend the income tax statutes so that <u>all</u> taxpayers may contribute to the N.C. Candidates Financing Fund via their state income tax forms. Taxpayers not getting refunds could include their contribution in their tax payment to the state. At the present time, only taxpayers who receive a refund may designate that all or part of that refund be transferred to the candidates fund.

Goal #2: To Encourage More Citizens To Run for Office by Reducing the Fundraising Burden for Those Who Are Not Independently Wealthy.

(4) **The legislature should amend the law that established the N.C. Candidates Financing Fund by initially reducing the number of Council of State races eligible for public financing.** The N.C. Candidates Financing Fund, now in its building stage, is very unlikely to achieve the goal of providing money to certified candidates for all 10 Council of State races in 1992.

If the Candidates Fund cannot provide public financing to all Council of State candidates, the law should be revised to provide public financing initially for eight of the 10 Council of State offices, preferably those where spending by the candidates is traditionally lower. The Council of State offices that should be eligible for funding are secretary of state, state treasurer, state auditor, attorney general, commissioner of agriculture, commissioner of insurance, commissioner of labor, and superintendent of public instruction.

(5) The N.C. Center recommends that the 1991 and 1993 N.C. General Assembly appropriate additional revenue from the General Fund for the 1992 and 1996 statewide elections, since funding from taxpayer participation is unlikely to be sufficient to provide adequate resources for candidates to run an effective campaign.

(6) The N.C. Center recommends that campaign expenditure limits be revised to reflect more accurately the costs of campaigns and to ensure fair competition among candidates.

(7) The N.C. Center recommends that the N.C. Candidates Financing Fund law be revised to incorporate an inflationary measure to adjust expenditure limits for the effects of inflation.

(8) **The N.C. Center recommends that the General Assembly amend the N.C. Candidates Financing Fund law to allow a candidate who has accepted public financing to exceed the expenditure limits when an opponent is eligible for public financing but chooses not to accept.** Minnesota has a provision that does just this and thereby effectively levels the playing field for candidates.

Goal #3: To Strengthen Political Parties.

(9) The N.C. Center recommends that the state continue to support political parties by continuing the N.C. Political Parties Fund.

(10) The N.C. Center recommends that the General Assembly revise the N.C. Political Parties Financing Fund statute to allow taxpayers to designate their check-off to a specified political party or give to a general campaign fund. Each political party would receive all funds specifically designated to it. The money contributed to the general campaign fund would be distributed to the political parties according to voter registration.

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"Having good government depends on having campaign finance reform."
Former Gov. James B. Hunt Jr.

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Bob Spearman, former chairman of the State Board of Elections, predicts that it will take a another series of incidents like Watergate to get the public interested in campaign reform again. In Iowa, ethics legislation was introduced after public outcry at the Senate Minority Leader and another legislator accepting consulting fees from PACs. A campaign finance reform bill passed in Kentucky passed shortly after a series of articles in *The Courier-Journal* of Louisville on electoral corruption, including vote buying at rural polling places. The South Carolina legislature is in the midst of a scandal involving payoffs by lobbyists to legislators for votes on a pari-mutual betting bill. Revelations of these activities are leading to calls for much more stringent campaign finance regulations in the state, as South Carolina's campaign finance laws are among the least restrictive in the nation.

The universally prescribed goals of public financing programs should be the goals of North Carolina's public financing programs. The state's two programs, The N.C. Political Parties Fund and The N.C. Candidates Financing Fund, must be set up to achieve the goals of 1) increasing public participation in the electoral process; 2) encouraging more candidates to run by reducing the fundraising burden for those who are not independently wealthy; and 3) strengthening political parties.

The N.C. Center believes that the recommendations above will help achieve these objectives and put the state's two public financing programs on a sound course for the future. Instead of waiting for a series of incidents in North Carolina, if public financing is, indeed, the "ultimate tool in the election reformer's arsenal,"[66] then it is worth policymakers' time to improve North Carolina's programs -- and make them worth the public's money.

ENDNOTES

[1]Jim Morrill, "Panel Backs Campaign Cash Limits," *The Charlotte Observer,* June 16, 1988.

[2]"The Real Political Scandal," *The Charlotte Observer*, May 13, 1988, p. A22.

[3]Fall 1986 and Fall 1988 Carolina Opinion Polls, co-sponsored by the University of North Carolina School of Journalism and the Institute for Research and Social Sciences.

[4]Herbert E. Alexander, *Campaign Money: Reform and Reality in the States* (New York: The Free Press, 1976), p. 10.

[5]Ruth S. Jones, "State Public Financing and the State Parties," in *Parties, Interest Groups, and Campaign Finance Laws*, Michael J. Malbin, ed. (Washington, D.C.: American Enterprise Institute for Public Policy Research, 1980), p. 322.

[6]State of the Congress Address by Senator Mansfield, February 6, 1974 (emphasis added).

[7]*Buckley v. Valeo*, 424 U.S. 248 (1976).

[8]John Noble, "PAC Counsel," *Campaigns and Elections,* Summer 1983, p. 56.

[9]*Republican National Committee v. Federal Election Commission*, 487 F. Supp. 287 (1980).

[10]1974 U.S. Code Congressional & Administrative News 5587-5588.

[11]Herbert E. Alexander, *Financing Politics* (Washington, D.C.: CQ Press, 1984), pp. 61 and 86.

[12]Federal Elections Commission.

[13]*Buckley v. Valeo,* 424 U.S. 92-93 (1976).

[14]*Republican National Committee v. Federal Election Commission*, 487 F. Supp. 280 (1980).

[15]Thomas Byrne Edsall, "The Return of Inequality," *The Atlantic Monthly,* June 1988, p. 90.

[16]Alaska G.S. § 43.20.013.

[17]Alaska G.S. § 1, Ch. 27, 1987.

[18]Florida Division of Elections.

[19]Alexander, *Financing Politics*, p. 198.

[20]California Commission on Campaign Financing, *The New Gold Rush* (Los Angeles: The Center for Responsive Government, 1985), p. 189.

[21]Fall 1985 Carolina Opinion Poll, co-sponsored by the University of North Carolina School of Journalism and the Institute for Research and Social Sciences.

[22]Larry J. Sabato, *The Party's Just Begun* (Glenview, Illinois: Scott, Foresman/Little, Brown College Division, 1988), p. 213.

[23]Florida's public financing program appropriates revenues from the General Fund; Alaska's system of tax credits also is limited to those who file income tax forms; and participation in Indiana's public financing program is limited to those registering motor vehicles.

[24]Larry J. Sabato, *Paying for Elections* (New York: Priority Press Publications, 1989), pp. 43-45.

[25]Sabato, *Paying for Elections*, pp. 43-44.

[26]Herbert E. Alexander, *Public Financing of State Elections: A Data Book on Tax-Assisted Funding of Political Parties and Candidates in Twenty States* (Citizens Research Foundation, 1986), p. 10.

[27]North Carolina State Board of Elections, Campaign Reporting Office.

[28]David Broder, "Assessing Campaign Reform: Lessons for the Future," in *Campaign Money: Reform and Reality in the States,* Herbert Alexander, ed. (New York: The Free Press, 1976), p. 315.

[29]Jim Morrill, "Lobbyists Escalate 'Arms Race'," *The Charlotte Observer,* April 9, 1989, p. A1.

[30]Alexander, *Financing Politics*, p. 198.

[31]*Buckley v. Valeo*, 424 U.S. 251-252 (1976).

[32]1974 U.S. Code Congressional & Administrative News 5587, 5592.

[33]Ruth S. Jones, "State Public Financing and the State Parties," in *Parties, Interest Groups and Campaign Finance Laws*, Michael J. Malbin, ed. (Washington, D.C.: American Enterprise Institute for Public Policy Research, 1980) p. 290.

[34]New Jersey Election Law Enforcement Commission, *Public Financing in New Jersey* (August, 1978), p. 34.

[35]New Jersey Election Law Enforcement Commission, *New Jersey Public Financing in the 1981 Gubernatorial Elections* (1982), p. 23.

[36]*Republican National Committee v. Federal Election Commission*, 487 F. Supp. 295 (1980).

[37]*Ibid.*

[38]North Carolina State Board of Elections.

[39]Chapter 713 (SB 1163) of the 1989 Session Laws.

[40]Ohio Revenue Code Ann. §3517.18 provides that political parties can use funds for operation of party headquarters, voter registration drives, get-out-the vote campaigns, party fundraising drives, paid advertisements for the check-off, and direct mail campaigns not related to a particular candidate or election to registered voters of the party. Funds cannot be used to further the election or defeat of any particular candidate or issue, or to pay party debts related to elections.

[41]Paul O'Connor, "Jones: A One-Man Reform Movement." Reprinted in *Legislative Update* (Common Cause North Carolina, 1987) p. 5.

[42]"Ending the Money Chase -- You Can Help Eliminate the Spiraling Costs of Campaigns in North Carolina," a pamphlet about the N.C. Candidates Financing Fund, published by Common Cause/North Carolina.

[43]Comments by Sen. James E. Ezzell, Jr. (D-Nash) in the Senate Election Laws Committee Meeting, June 30, 1988.

[44]"Senate backs campaign expense cap, omitting legislative races," *The News and Observer*, July 1, 1988, p. 9A.

[45]Jim Morrill, "Panel Backs Campaign Cash Limits."

[46]Fall 1985 Carolina Opinion Poll, co-sponsored by the University of North Carolina School of Journalism and the Institute for Research and Social Sciences.

[47]North Carolina Department of Revenue.

[48]Federation of Tax Administrators, "State Personal Income Tax Check-Off Programs," *Tax Administrator News*, January 1989, Vol. 53, no. 1, p. 1.

[49]James Madison, *The Federalist No. 57* (New York: Random House, 1941), p. 371.

[50]Philip Stern, "The Tin Cup Congress," *The Washington Monthly*, May 1988, p. 23.

[51]California Commission on Campaign Financing, p. 184. Ruth S. Jones, "Public Campaign Finance: The Minnesota Experiment," paper presented at the annual meeting of the Midwest Political Science Association (1981).

[52]Campaign reports filed with the N.C. State Board of Election's Campaign Reporting Office and analyzed by the North Carolina Center for Public Policy Research.

[53]Interview with Lawrence Davis, July 12, 1989.

[54]Interview with R. Jack Hawke, July 20, 1989.

[55]Tim Funk, "GOP leaves Democrats Far Behind in Aid to Candidates," *The Charlotte Observer*, April 9, 1989, p. A9.

[56]California Commission on Campaign Financing, *The New Gold Rush* (1985), p. 191.

[57]These figures include expenditures in the primary election and general election by **all** candidates for office.

[58]Under the North Carolina law's formula, the Candidates Fund may pay out a maximum of $1.09 million to each certified gubernatorial nominee and up to $545,006 to each certified nominee for Lt. Governor. [($1.09 million x 2) + ($545,006 x 2)] = $3.27 million.

[59]This $3 million estimate is significantly lower than the actual amount ($8.7 million) needed if all Council of State nominees for the eight offices suggested by the N.C. Center accepted funding and spent the maximum amount allowable under the law. None of the 16 Council of State nominees exceeded the $1.09 million expenditure limit in the 1988 general election. In accordance with the law, candidates who receive public funds are required to raise qualifying contributions equal to five percent of the expenditure limit ($54,000). Only nine of these 16 Council of State nominees would have qualified for public funds based on the 1992 expenditure limit of $1.09 million.

[60]N.C.G.S. §163-278.51

[61]New York City Administrative Code §3-706(4).

[62]Interview with Lawrence Davis, July 12, 1989.

[63]Interview with R. Jack Hawke, July 20, 1989.

[64]Ruth S. Jones.

[65]House Bill 1167 was introduced on April 11, 1989 by Reps. Larry Etheridge (R-Wilson), Art Pope (R-Wake), Trip Sizemore (R-Guilford), and Robert Grady (R-Onslow). The bill was assigned to the Judiciary Subcommittee on Election Laws and Constitutional Amendments but was not considered in 1989 and thus was ineligible for consideration in the 1990 short session.

[66]Alexander, *Campaign Money: Reform and Reality in the States*, p. 10.

Citations to State Public Financing Laws

Alabama: Ala. Code § 40-18-146 (1985 & Supp. 1988).

Arizona: Ariz. Rev. Stat. Ann. § 16-807, 43-612 (Supp. 1988).

California: Cal. Code § 84200-84226 (West 1987).

Hawaii: Haw. Rev. Stat. § 11-191 (1985).

Idaho: Idaho Code § 34-2502, 03, 63-3088 (1981 & Supp. 1988).

Kentucky: Ky. Rev. Stat. Ann. § 141.071-141.073, 121.230 (Michie 192 & Supp. 1988).

Maine: Me. Rev. Stat. Ann. title 21, § 35 (1964 & Supp. 1988).

Massachusetts: Mass. Gen. L. ch. 10, § 62 (1981 & Supp. 1988).

Michigan: Mich. Comp. Laws § 169.201-169.282 (Supp. 1988).

Minnesota: Minn. Stat. Ann. § 10A.30-.335 (West 1988).

Montana: Mont. Code Ann. § 13-37-301-07 (1987).

New Jersey: N.J. Stat. Ann. § 19:44A (West 1960 & Supp. 1989).

North Carolina: N.C. Gen. Stat. § 163-278.41 -- 163-278.57 (Supp. 1989).

Ohio: Ohio Rev. Code Ann. § 3517.15-.18, .99 (Anderson 1953 & Supp. 1988).

Oregon: Or. Rev. Stat. § 316.487, 260.165-.170, 260.175 (1987).

Rhode Island: R.I. Pub. Laws 36-14, 25 (1988).

Utah: Utah Code Ann. § 59-10-47, 48 (1987).

Virginia: Va. Code Ann. § 58.1-345, 346 (1950 & Supp. 1989).

Wisconsin: Wis. Stat. § 11.50 (West 1986 & Supp. 1988).

Partial List of Interviews

Stephanie Bass, spokeswoman for Women Elect, July 11, 1989.

Lawrence Davis, chairman of the N.C. Democratic Party, July 12, 1989.

Ken Eudy, former executive director of the N.C. Democratic Party, July 20, 1989.

William G. Hancock, attorney, former state senator, June 21, 1989.

R. Jack Hawke, chairman of the N.C. Republican Party, July 20, 1989.

The Hon. James B. Hunt, Jr., August 4, 1989.

Rep. Walter B. Jones, Jr., July 11, 1989.

Rep. Art Pope, July 27, 1989.

Yvonne Southerland, deputy director of the N.C. State Board of Elections, June 21, 1989.

Robert Spearman, attorney, former chairman of the N.C. State Board of Elections, July 17, 1989.

Ed Turlington, attorney, former executive director of the N.C. Democratic Party, June 29, 1989.

Sen. Russell G. Walker, July 11, 1989.

Appendix A

Comparison of Who Individually Contributes to Candidates and Who Participates in the "Check-Off"

Survey Resources: The School of Journalism at the University of North Carolina conducted a "Carolina Opinion Poll" in the fall of 1985 with a random sample of 605 North Carolina residents who were 18 years of age or older. The National Elections Survey, conducted in the fall of 1986, asked similar questions to a national sample of 2176 people.

Level of Participation

Approximately one-fourth of North Carolina survey respondents participated in the North Carolina tax check-off or made a campaign contribution to a particular candidate. Most did not participate in both, suggesting that the tax check-off is reaching another group of people. The reported rate of participation in the check-off is higher than the actual record of 16%. This may be due to confusion with the federal tax check-off or that the decision to participate is not a memorable event. Either interpretation is supported by the significant proportion that said they were "not sure" whether they participated.

While the percent of national survey respondents who contributed to a campaign is lower than the percent in North Carolina, the other patterns are fairly similar.

	PARTICIPATION		
	Yes	No	Not Sure
North Carolina:			
Participated in check-off	28%	52%	13%
Made a campaign contribution	24	74	2
National:			
Participated in check-off	30%	62%	8%
Made a campaign contribution	10	90	1

Demographics

In comparison to the general population, those that either individually contribute or participate in the tax check-off have more education and income. Check-off participants, however, are closer to reflecting the demographics of the general population than are individual contributors. Those who are ages 30 to 49 are more likely than any other group to contribute or check-off. In North Carolina, taxpayers over age 65 are considerably less likely than others to choose to check-off. Some theorize that this may be interpreted as cynicism and that this group of people was not affected as much as others by the Watergate reform era because their views were already firmly established.

	AGE			
	18-29 yrs.	30-49 yrs.	50-64 yrs.	65+ yrs.
North Carolina:				
Total for Sample	23%	38%	16%	23%
Participated in check-off	28	45	16	12
Made a campaign contribution	19	43	19	19
National:				
Total for Sample	25%	40%	18%	6%
Participated in check-off	22	48	19	11
Made a campaign contribution	10	41	30	18

	INCOME				EDUCATION		
	Under $20K	$20-29K	$30-49K	$50K+	Less than H.S.	Some H.S.	College
North Carolina:							
Total for Sample	43%	22%	21%	7%	25%	30%	44%
Participated in check-off	32	25	29	10	17	25	58
Made a campaign contribution	24	20	35	17	13	24	63

	INCOME				EDUCATION		
	Under $20K	$20-29K	$30-49K	$50K+	Less than H.S.	Some H.S.	College
National:							
Total for Sample	42%	19%	25%	14%	22%	35%	43%
Participated in check-off	27	22	32	19	12	32	57
Made a campaign contribution	15	1	38	37	7	23	70

Readership and Interest in Campaigns

Those who read the newspaper daily or a magazine such as *Newsweek* or *Time* are much more likely to have contributed individually to a campaign. Those who have participated in the tax check-off reflect the general population in readership levels. According to a national survey, there is a dramatic difference between the general population and those who have contributed to a campaign in the likelihood of having discussed elections with someone. Again, those who participated in the check-off fairly closely reflect the level of political interest of the general population.

	Read Newspaper Daily	Read National Magazine
North Carolina:		
Total Sample	41%	26%
Participated in check-off	46	29
Made a campaign contribution	51	43

		Talked About Elections
National:		
Total Sample	44%	21%
Participated in check-off	50	28
Made a campaign contribution	61	52

Party Affiliation

National and North Carolina survey respondents were asked whether they generally consider themselves to be Republicans, Democrats, or independents. The question did not address actual party registration. Those who identified themselves as Republicans were much more likely than others to have contributed to a candidate. While representing 30% of the total sample, Republicans represented 44% of those who had contributed.

	Republican	Democrat	Independent
North Carolina:			
Total for Sample	30%	41%	21%
Participated in check-off	34	37	25
Made a campaign contribution	44	35	16
National:			
Total for Sample	25%	40%	25%
Participated in check-off	28	41	24
Made a campaign contribution	38	39	20

Appendix B

FORM
D-400
NORTH CAROLINA
INDIVIDUAL INCOME TAX RETURN
(resident or nonresident)
1989

For the year January 1-December 31, 1989, or other tax year beginning / /89, ending / /90

YOUR FIRST NAME AND INITIAL (If joint return also give spouse's name and initial) | LAST NAME | Your Social Security Number

PLEASE PRINT OR TYPE

PRESENT HOME ADDRESS (number and street, including apartment number, or rural route) | Spouse's Social Security Number

CITY, TOWN OR POST OFFICE, STATE AND ZIP CODE | COUNTY OF RESIDENCE | If you filed a return in 1988 and this address is different, check here | OFFICE USE

N.C. POLITICAL PARTIES FINANCING FUND ▶ Do you want $1 to go to this fund? YES NO
If a joint return does your spouse want $1 to go to this fund? YES NO
NOTE: Checking "YES" will not increase your tax or reduce your refund.

If this is a separate form give your wife's (or husband's) name ______ and S.S. No. ______

Were you a resident of N.C. for the entire year 1989? Husb., Sep., or Sing. Yes ☐ No ☐ Wife Yes ☐ No ☐ If not, complete lines 43 through 47

Your (or husband's) present employer and address ______ Your Occupation ▶

Wife's present employer and address ______ Spouse's Occupation ▶

FILING STATUS: 1 ☐ **SINGLE** 3 ☐ **MARRIED FILING SEPARATELY** 5 ☐ **QUALIFYING WIDOW(ER) WITH DEPENDENT CHILD**

(Check same as Federal) 2 ☐ **MARRIED FILING JOINTLY** 4 ☐ **HEAD OF HOUSEHOLD** Year spouse died: ______

Enter the NUMBER OF EXEMPTIONS claimed on your Federal income tax return (from line 6e, Form 1040; line 6e, Form 1040A) ▶ ☐

If you attach a copy of your Federal return, check the Federal schedules that are included: ☐A ☐B ☐C ☐D ☐E ☐F

ATTACH WAGE AND TAX STATEMENT HERE

ATTACH PAYMENT HERE

6 TAXABLE INCOME FROM YOUR FEDERAL INCOME TAX RETURN--line 37 of Form 1040; line 19 of Form 1040A; or line 5 of Form 1040EZ (If zero, see line by line instructions for line 6) ● 6

7 ADDITIONS TO TAXABLE INCOME--Complete lines 26 through 29 on page 2 of this form and enter the amount from line 29 (See instructions on page 6) ● 7

8 Add lines 6 and 7 and enter the total here 8

9 DEDUCTIONS FROM TAXABLE INCOME--Complete lines 30 through 37 on page 2 of this form and enter the amount from line 37 (See instructions on page 7) ● 9

10 Subtract line 9 from line 8 and enter the result here 10

11 STATE INCOME TAX DEDUCTION OR STANDARD DEDUCTION ADJUSTMENT--Complete lines 38 through 42 on page 2 of this form and enter the amount from line 40 (or from line 42 if you itemized your deductions) ● 11

12 Add lines 10 and 11 and enter the total here ● 12

13 NORTH CAROLINA TAXABLE INCOME--(Full-year residents--enter the amount from line 12 on line 13b. **Part-year residents and nonresidents**--complete lines 43 through 47 on page 2; Enter the percentage from line 47 on line 13a ● 13a ______ % ; Multiply the amount on line 12 by the percentage on line 13a and enter the result here) ● 13b

14 NORTH CAROLINA INCOME TAX--Figure the tax using the tax rate schedule on page 2 of this form or on page 12 of the instructions 14

15 NORTH CAROLINA INCOME TAX WITHHELD: (Attach State copy of each wage and tax statement) a Husband, separate, single ● 15a
b Wife ● 15b

16 PAYMENTS ON 1989 ESTIMATED INCOME TAX and/or other tax payments ● 16

17 TAX CREDITS--Enter the amount from Part IV, line 14 of Schedule A and attach the schedule to this form ● 17

18 Add lines 15a through 17 and enter the total here 18

19 If line 14 is more than line 18, subtract and enter the **AMOUNT YOU OWE (including any penalty and interest due)** ● 19

20 If line 14 is less than line 18, subtract and enter the **OVERPAYMENT** 20

21 Amount of line 20 to be applied to **1990 ESTIMATED INCOME TAX** ● 21

22 Contribution to the **NC NONGAME AND ENDANGERED WILDLIFE FUND** (See page 6) ● 22

23 Contribution to the **NORTH CAROLINA CANDIDATES FINANCING FUND** (See page 6) ● 23

24 Add lines 21, 22 and 23 and enter total here 24

25 Subtract line 24 from line 20 and enter the **AMOUNT TO BE REFUNDED** to you ● 25

Under penalties prescribed by law, I hereby affirm that to the best of my knowledge and belief this return, including any accompanying schedules and statements, is true and complete.

If prepared by a person other than taxpayer, this affirmation is based on all information of which he has any knowledge.

Sign here ▶ Your signature ______ Date ______

▶ Spouse's signature (if filing joint return, both must sign) ______ ▶ (Paid Preparer's Signature) ______ Date

If **REFUND** mail to: N.C. DEPT. OF REVENUE, P.O. BOX R, RALEIGH, N.C. 27634

If **BALANCE DUE** mail check to: N.C. DEPT. OF REVENUE, P.O. BOX 25000, RALEIGH, N.C. 27640

Appendix C

Excerpts from the 1989 North Carolina Income Tax Instructions

N.C. Political Parties Financing Fund

If you wish, you may designate $1.00 of the tax you pay to be distributed to political parties in North Carolina on a pro-rata basis according to party voter registration. No political party with less than 1% of the total number of registered voters in the state will receive any of the designated funds. The designation will not increase your tax or reduce your refund.

N.C. Candidates Financing Fund

You may elect to contribute all or any portion of your income tax refund (at least $1.00 or more) to the North Carolina Candidates Financing Fund. The General Assembly created this fund in 1988 as a first step toward controlling the rising cost of political campaigns.

The U.S. Supreme Court has ruled that a State may not place an involuntary limit on how much a candidate may spend on a campaign. The Court said the only way a State may limit a candidate's campaign spending is in exchange for public financing of that candidate's campaign. The Federal Government already used the public-financing method to induce Presidential candidates to agree to limit their spending. A checkoff on your Federal tax return allows you to earmark $1.00 or your federal income tax to a fund for that purpose. The North Carolina Candidates Financing fund was created to induce candidates for governor and council of state offices to limit their campaign spending, and the contributions you make from your refund will be placed in the Fund.

If you are due a refund and you wish to make a contribution, enter the amount on Line 23 of your tax return, Form D-400. Once you elect to contribute to the fund, the election is irrevocable and cannot be changed after you file your income tax return. If you are not due a refund, you may still contribute to this Fund by mailing your donation to the North Carolina Candidates Financing Fund, N.C. State Treasurer, 325 N. Salisbury Street, Raleigh, North Carolina, 27611. Checks should be made payable to the North Carolina Candidates Financing Fund.

Excerpts from the 1988 North Carolina Income Tax Instructions

N. C. Political Parties Financing Fund

If you wish, you may designate $1.00 of the tax you pay to be distributed to political parties in North Carolina on a pro-rata basis according to party voter registration. No political party with less than 1% of the total number of registered voters in the state will receive any of the designated funds. The designation will not increase your tax or reduce your refund.

N.C. Candidates Financing Fund

You may elect to contribute all or any portion of your income tax refund (at least $1.00 or more) to the North Carolina Candidates Financing Fund. The contributions will be used in political campaigns of certified candidates for the North Carolina Council of State. If you are due a refund and you wish to make a contribution, enter the amount on line 25 on the front of the income tax return, Form D-400. Once you make an election to contribute to the fund, the election is irrevocable and cannot be changed after you file your income tax return. You may claim your contribution as a tax deductible charitable contribution without being subject to the 15 percent limitation on your State income tax return for next year if you itemize your nonbusiness deductions.

Appendix D

Reprint of North Carolina's Public Financing Laws

Article 22B

Appropriations from the North Carolina Political Parties Financing Fund

163-278.41. Appropriations in general election years and other years.

(a) Following the conclusion of the last primary or nominating convention held by a political party in a general election year in which a presidential election is held, the State chairman of that political party may apply to the State Treasurer for the disbursement of all funds deposited on behalf of such party in the North Carolina Political Parties Fund. Upon receipt of such application, the State Treasurer shall forthwith, and every 30 days thereafter, pay over to said chairman all funds currently held by him on behalf of said chairman's political party, but provided that all such payments shall cease 30 days after the State Board of Elections has certified all of the results of the general election to the Secretary of State. Additionally and upon receipt of such application, the State Treasurer shall pay over to the said chairman all funds currently held by the State Treasurer in the "Presidential Election Year Candidates Fund" of that party, which funds shall be allocated and disbursed during the presidential election year by the same procedure as the funds received from the North Carolina Political Parties Fund are allocated. Any remaining funds of the political party in the hands of the State Treasurer shall thereafter be held by him until eligible for distribution pursuant to this section.

(b) Following the conclusion of the last primary or nominating convention held by a political party in a general election year in which there is not a presidential election, the State chairman of the political party may apply to the State Treasurer for the disbursement of all funds deposited on behalf of such party in the North Carolina Political Parties Fund. Upon receipt of such application, the State Treasurer shall forthwith, and every 30 days thereafter, pay over to said chairman all funds currently held by him on behalf of said chairman's political party provided that all such payments to the said chairman shall cease 30 days after the State Board of Elections has certified all of the results of the general election to the Secretary of State. Any remaining funds of the political party in the hands of the State Treasurer shall thereafter be held by him until eligible for distribution pursuant to this section.

(c) In each year in which no general election is held, each State chairman of a political party on behalf of which funds have been deposited in the North Carolina Political Parties Fund may, on or between August 1 and September 1 thereof, apply to the State Treasurer for payment of an amount not to exceed fifty percent (50%) of the then available funds credited to the account of his party. Upon receipt of such application, the State Treasurer shall pay over to said State chairman an amount not to exceed fifty percent (50%) of the then available funds credited to the account of his party. Additionally and upon receipt of such application, the State Treasurer shall place fifty percent (50%)

of the said available funds in a separate interest bearing account to be known as the "Presidential Election Year Candidates Fund of the (name of party) Party" to be disbursed in accord with the provisions of subsection (a) above. Any remaining funds of the political party in the hands of the State Treasurer shall thereafter be held by him until eliglble for distribution pursuant to this section. Any interest earned on the funds deposited by the State Treasurer in such Presidential Election Year Campaign Fund shall be credited thereto. (1977, 2nd Sess., c. 1298, s. 2; 1983, c. 700, s. 5.)

163-278.42. Distribution of campaign funds; legitimate expenses permitted.

(a) In a general election year in which a presidential election is held, every State chairman of a political party shall disburse fifty percent (50%) of all funds received from the North Carolina Political Parties Fund to that political party. The remaining fifty percent (50%) of such funds shall be allocated by the special committee established by subsection (d) of this sections and used for one or more of the purposed permitted by subsection (e) of this section. Any candidate may elect to decline in whole or in part any funds that the party chooses to distribute to the candidate.

(b) In a general election year in which there is not a presidential election, every State chairman of a political party shall disburse fifty percent (50%) of all funds received from the North Carolina Political Parties Fund to that political party. The remaining fifty percent (50%) of such funds shall be allocated by the special committee established by subsection (d) of this section and used for one or more of the purposes permitted by subsection (e) of this section. Any candidate may elect to decline in whole or in part any funds that the party chooses to distribute to the candidate.

(c) In each year in which no general election is held, every State chairman of a political party shall disburse all funds received from the North Carolina Political Parties Fund to that political party.

(d) The allocation of the remaining fifty percent (50%) of the funds under subsections (a) or (b) of this section shall be made by a committee composed of the State Chairman of that political party, the Treasurer of that party, the Comgressional District Chairman of that party, and two persons appointed by the State Chairman of that party, and the State Chairman shall serve as Chairman of this committee. The allocation of funds shall be in the sole discretion of the committee, but must be for a purpose permitted by subsection (e) of this section and if allocated to a candidate, shall be disbursed by the State Chairman of that party only to the Treasurer of that candidate or committee appointed under Article 22A of this Chapter or under the Federal Election Campaign Act of 1971, Chapter 14 of Title 2, United States Code.

(e) Funds distributed from the North Carolina Political Parties Fund or from the "Presidential Election Year Candidates Fund" of a political party shall only be expended for legitimate campaign expenses. By way of illustration but not by way of limitation, the following are examples of legitimate campaign expenses:

(1) Radio, television, newspaper, and billboard advertising for and on behalf of a political party or candidate;

(2) Leaflets, fliers, buttons, and stickers;

(3) Campaign staff salaries, provided each staff member is listed by name and

by the amount paid as salary and the amount paid as campaign expense reimbursement;

(4) Travel expenses, lodging and food for candidate and staff;

(4a) Expenses to ensure compliance with federal and State campaign finance and reporting laws;

(4b) Contributions to or expenses on behalf of candidates of that political party;

(5) Party headquarters operations related to upcoming general elections, including the purchase, maintenance and programming of computers to provide lists of voters, party workers, officers, committee members and participants in party functions, patterns of voting and other data for use in general election campaigns and party activities and functions prior thereto, the establishment and updating computer file systems of voter registration lists, State, district, county and precinct officers and committee member lists, party clubs or organization lists, the organizing of voter registration, fundraising and get-out-the-vote programs at the county level when conducted by State party personnel, and the preparation of reports required to be filed by State and federal laws and systems needed to prepare the same and keep records incident thereto.

(f) All moneys and funds previously designated by taxpayers being held by the North Carolina Secretary of Revenue and being held by the North Carolina State Treasurer which moneys and funds have not been disbursed or delivered to a political party as of June 16, 1978, when disbursed shall be allocated by the State Chairman of the political party as follows: sixty-two and one-half percent (62-1/2%) of such funds to the political party for legitimate general election campaign expenditures; thirty-seven and one-half percent (37-1/2%) to the eligible candidates as determined by the committee established under this Articel.

(g) It shall be unlawful for any person, candidate, political committee or political party to use either directly or indirectly any part of funds distributed from the North Carolina Political Parties Fund or the Presidential Election Year Candidates Fund of any political party for the support or assistance either directly or indirectly of any candidate in a primary election, for support or assistance relating to the selection of a candidate at a political convention or by the executive committee of a party, for the payment or repayment of any debt or obligation of whatsoever kind or nature incurred by any person, candidate or political committee in a primary election, the selection of a candidate at a political convention or by the executive committee of a party, or for the support, promotion, or opposition of a national, State, or local referendum, bond election or constitutional amendment. (1977, 2nd Sess., c. 1298, s. 2; 1983, c. 700, ss. 1-4; 1985 (Reg. Sess., 1986), c. 866.)

163-278.43. Annual report to State Board of Elections; suspension of disbursements; willful violations a misdemeanor; adoption of rules.

(a) The State chairman of each political party and the treasurer of each candidate or political committee receiving funds from the North Carolina Political Parties Fund or the Presidential Election Year Candidates Fund or both shall maintain a full and complete record of their receipts and any and all subsequent expenditures and disbursements thereof, and such shall be substantiated by any records, receipts, and information that the Executive Director of the State Board of Elections shall require. Such record shall be centrally located and shall be readily available at reasonable hours for public inspection. Treasurers of political committees and candidates shall maintain all such funds received from the North Carolina Political Parties Fund or a Presidential Election Year Candidates Fund or both in a separate account, and shall not allow the same to be commingled with the funds from any other source.

(b) By December 31 of each year, the State chairman of each political party receiving funds form the North Carolina Political Parties Fund or a Presidential Election Year Candidates Fund and the treasurer of all other political committees or candidates receiving any such funds in the 12 preceding months shall file with the State Board of Elections an itemized statement reporting all receipts, expenditures and disbursements from the date of the last report and attached to such report shall be the verification of such chairman or treasurer that all such funds received were expended in accordance with the provisions of this Article. If the Executive Secretary of the State Board of Elections determines and finds as a fact that any such funds were not disbursed or expended in accordance with this Article, he shall order such political party, political committee or candidate to reimburse the amount improperly expended or disbursed to the General Fund of the State and such political party, committee or candidate shall not receive further disbursements from the North Carolina Political Parties Fund or a Presidential Election Year Candidates Fund until such reimbursement has been accomplished in full. A copy of any such order shall be forwarded to the State Treasurer, which shall constitute notice to him to suspend further disbursements from the campaign fund.

(c), (d) Repealed by Session Laws 1985, c. 259, effective May 27, 1985. (1977, 2nd Sess., c. 1298, s. 2; 1979, c. 926, s. 1; 1985, c. 259.)

163-278.44. Crime; punishment.

Any individual person, candidate, political committee, or treasurer who willfully and intentionally violates any provisions of this Article, shall be guilty of a misdemeanor. (1977, 2nd Sess., c. 1298, s. 2; 1987, c. 565, s. 18.)

163-278.45. Definitions.

The terms "candidate," "expend," "individual," "person," "political committee," and "treasurer" as used in this Article shall be as defined in G.S. 163-278.6. (1977, 2nd Sess., c. 1298, s. 2.)

Article 22C

Appropriations from the North Carolina Candidates Financing Fund

163-278.46. (Effective January 1, 1992) Establishment of Candidates Fund; administrative expenses; financing in case of insufficiency.

There is established in the State Treasury a North Carolina Candidates Financing Fund (Candidates Fund) to be administered by the State Board of Elections (State Board) in which shall be placed money contributed by taxpayers as provided in G.S. 105-163.16(f). If the money in the Candidates Fund is insufficient to fully fund qualifying candidates, available money shall be distributed proportionally. (1987 (Reg. Sess., 1988), c. 1063, s. 1.) Session Laws 1987 (Reg. Sess., 1988), c. 1063, s. 4 provides: "The Secretary of Revenue, the State Treasurer, and the Executive Secretary-Director of the State Board of Elections shall monitor and evaluate the reponse of the taxpayers and the growth of the Candidates Fund and each shall report to the General Assembly by May 15, 1991. The 1991 General Assembly is urged to review those reports and to determine if enough money has accumulated in the Candidates Fund to warrant distribution according to Section 1 of this act. If the 1991 General Assembly determines that an insufficient amount of money has accumulated to warrant proceeding with Section 1 of this act, the money that has accumulated in the Candidates Fund shall be transferred to the General Fund."

163-278.47. (Effective January 1, 1992) Application; eligibility.

(a) Application. -- Each candidate for Council of State who seeks grants from the Candidates Fund shall file an application for the grants with the State Board on forms provided by the State Board. The candidate may file an application after being certified as a party's nominee for the office, but not after June 15.

(b) Notice of Other Applicants. -- By June 30, the State Board shall notify each candidate in a contest of all the applications made by candidates in the same contest.

(c) Eligibility. -- To be eligible to receive grants from the Candidates Fund, a candidate shall have opposition on the ballot in the general election and shall:

(1) Agree to abide by the expenditure limits provided in G.S. 163-278.48,

(2) Raise qualifying matching contributions equal to five percent (5%) of the expenditure limit. "Qualifying matching contributions" are those from political committees or individuals. They are limited to contributions raised after the candidate's certification as nominee, or raised before his certification but left unspent after certification.

(3) Agree to submit to a postelection audit of the campaign account by the State Board. (1987 (Reg. Sess., 1988), c. 1063, s. 1.)

163-278.48. (Effective January 1, 1992) Expenditure limits.

Limitation Formulas. -- Any candidate for Council of State who requests grants from the Candidates Fund shall limit total expenditures after certification as party nominee as follows:

(1) Governor: One dollar (!1.00) times the number of votes cast for Governor in the last general election in which more than one candidate appeared on the ballot for Governor.

(2) Council of State office other than Governor: Fifty cents ($.50) times the number of votes cast for Governor in the last general election in which more than one candidate appeared on the ballot for Governor. (1987 (Reg. Sess., 1988), c. 1063, s. 1.)

163-278.49. (Effective January 1, 1992) Qualified campaign expenditures.

A candidate may use the money received from the Candidates Fund under this Article only to further that candidate's election to office through expenditures allowable under North Carolina law. (1987 (Reg. Sess., 1988), c. 1063, s. 1.)

163-278.50. (Effective January 1, 1992) Distribution of funds.

(a) Certification and Notice. -- The State Board shall review each request for grants from the Candidates Fund and certify by July 15 before the general election whether the candidate is eligible to receive them. The State Board shall notify the candidate of the certification decision in that candidate's case within seven days after the decision is made.

(b) Formula for Distribution. -- A candidate certified to receive money from the Candidates Fund shall be entitled to distribution of funds on a one-to-one basis for all qualifying matching contributions as defined in G.S. 163-278.47. No candidate, however, shall receive money from the Candidates Fund in excess of half the amount of that candidate's expenditure limit under G.S. 163-278.48.

(c) Reporting. -- Certification and distribution of funds shall be based on contributions to the candidate reported pursuant to G.S. 163-278.9 and pursuant to this section. In addition to the reports required in G.S. 163-278.9, a candidate who seeks to receive contributions from the Candidates Fund shall file a report of contributions and expenditures at each of the following times before the general election:

(1) The second Wednesday in August, and

(2) The second Wednesday in September.

Those two reports shall be filed on forms prescribed by the State Board. The State Board may prescribe separate forms on which candidates who seek grants from the Candidates Fund shall file the other reports required by G.S. 163-278.9.

(d) Timetable for Distribution. -- Funds shall be distributed to candidates by September 1 before the general election, based on the August reports required in subsection (c) of this section. Further distribution shall be made within seven days after the filing of each succeeding pre-election contribution report required by this section or by G.S. 163-278.9. (1987 (Reg. Sess., 1988), c. 1063, s. 1.)

163-278.51. (Effective January 1, 1992) Withdrawal of application.

(a) Regular Deadline for Withdrawal. -- A candidate, by written notice to the State Board before July 10, may withdraw application to receive money from the Candidates Fund.

(b) Extended Deadline for Withdrawal. -- Notwithstanding the provisionos of subsection (a) of this section, if withdrawal by any other candidate or candidates leaves a person as the only candidate in a contest applying for money from the Candidates Fund, that candidate may withdraw by written notice to the State Board before August 22.

(c) Consequences of Withdrawal. -- A candidate shall receive no money from the Candidates Fund after that candidate's notice of withdrawal. The candidate will not be subject to the limitations or penalties of the Article if the candidate makes a timely withdrawal.

(d) Vacancies and Replacement Nominees. -- If a party nominee who has been certified to receive money from the Candidates Fund dies, resigns, or for any reason becomes ineligible or disqualified before the general election but after the applicable deadline in subsection (a) or (b) of this section, that candidate's application for the Candidates Fund is automatically withdrawn without penalty, but the candidate shall return all money received from the Candidates Fund that is unspent at the time that candidate leaves the race. If the nominee is replaced, the new candidate may either:

(1) Forego participation in the Candidates Fund; in that case, the new candidate will:
   a. Not be eligible for any of the money the former candidate received or became entitled to before leaving the race, and
   b. Not be subject to the expenditure limit, or

(2) Assume the position of the former candidate with respect to the Candidates Fund; in that case, the new candidate will:
   a. Be eligible for the unspent money the former candidate returned to the Candidates Fund, and for any money to which the former candidate had become entitled through qualifying matching contributions but had not received before leaving the race, and
   b. Be eligible for any money from the Fund the new candidate may earn through qualifying matching contributions, and
   c. Be subject to the remainder of the former candidate's expenditure limit, and
   d. Be subject to all other requirements for participation in the Candidates Fund that the candidate's late entry into the race do not make inappropriate.

If the new candidate elects to forego the Candidates Fund, any other candidate in the race may withdraw his application within seven days after the new candidate has notified the State Board of a decision to forego the Candidates Fund, if the candidate seeking to withdraw is left as the only publicly funded candidate in the race. A candidate who withdraws from participation in the Candidates Fund under the circumstances set out in this paragraph must return all money received from the Candidates Fund at the time of withdrawal. (1987 (Reg. Sess., 1988), c. 1063, s. 1.)

163-278.52. (Effective January 1, 1992) Penalties; fines.

In addition to any other penalties which may be applicable under this Chapter, any candidate who receives contributions from the Candidates Fund and who exceeds the applicable expenditure limit or falsely reports qualifying matching contributions and thereby receives contributions from the Candidates Fund to which the candidate was not entitled shall be fined an amount equal to the amount at issue plus ten percent (10%). (1987 (Reg. Sess., 1988), c. 1063, s.1.)

163-278.53. (Effective January 1, 1992) Criminal punishment.

Any individual, person, candidate, political committee, or treasurer who willfully and intentionally violates any of the provisions of this Article, shall be guilty of a Class J felony. (1987 (Reg. Sess., 1988), c. 1963, s. 1.)

163-278.54. (Effective January 1, 1992) Sixty-day post-election report to Sate Board; audit.

(a) Maintenance of Records. -- The treasurer of each candidate shall keep a complete record of receipts from the Candidates Fund and of all subsequent expenditures and disbursements, substantiated by any records, receipts, and information that the State Director of Elections shall require.

(b) Sixty-day Report. -- By 60 days after each general election, the treasurer of each candidate receiving funds from the Candidates Fund in that general election campaign shall file with the State Board an itemized statement reporting all receipts of Candidates Fund monies and of all subsequent expenditures and disbursements and attach to the report the treasurer's verification that all funds were spent in accordance with the provisions of this Article.

(c) Audit. -- The State Board shall conduct an audit of the 60-day post-election report. If the Secretary of the State Board finds that any funds were not dusbursed or expended in accordance with this Article, the Secretary shall order the candidate to reimburse to the Candidates fund the amount improperly expended or disbursed. (1987 (Reg. Sess., 1988), c. 1063, s. 1.)

163-278.55. (Effective January 1, 1992) Return of unspent money within 90 days of election.

Any money a candidate receives from the Candidates Fund that is unspent within 90 days after the general election shall be returned to the Candidates fund. One-half of any amount in the candidate's campaign account required by G.S. 163-278.8 shall be deemed to be money received from the Candidates Fund; provided that if, pursuant to G.S. 163-278.46, the candidate received grants from the Candidates Fund on less than a one-to-one ratio, the same proportion of the candidate's campaign account shall be deemed to be money received from the Candidates Fund. (1987 (Reg. Sess., 1988), c. 1063, s. 1.)

163-278.56. (Effective January 1, 1992) Duties of the State Board.

The State Board shall establish rules for the administration and enforcement of this Article. (1987 (Reg. Sess., 1988), c. 1063, s. 1.)

163-278.57. (Effective January 1, 1992) Definitions.

The terms "candidate," "expend," "individual," "person," and "treasurer" as used in this Article shall be as defined in G.S. 163-278.6. (1987 (Reg. Sess., 1988), c. 1063, s. 1.)