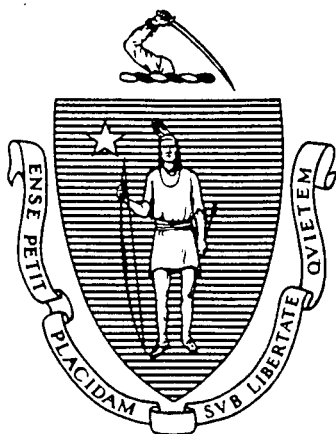


The Commonwealth of Massachusetts



FINAL REPORT
OF
THE SPECIAL COMMISSION
ON
PUBLIC FINANCING
OF
POLITICAL CAMPAIGNS

May 15, 1996

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EXECUTIVE SUMMARY

The Special Commission on Public Financing of Political Campaigns was created to make "an investigation and study relative to additional or full public financing of political campaigns and the implementation of the current public financing system in the Commonwealth." The Commission was further directed to report the results of its study, and draft legislation necessary to implement its recommendations, to the General Court by May 15, 1996.

The Commission held several meetings, organized three working groups and conducted two public hearings. Based upon its review, the Commission has proposed several recommendations regarding funding of the State Election Campaign Fund (SECF), candidate expenditures and various technical points. The Commission's recommendations are designed to encourage candidate participation by creating a simple, fair and smoothly implemented system of public financing for Massachusetts candidates, voters and taxpayers.

A. Funding - The Commission recommended two changes to ensure that the SECF has sufficient funds for participating candidates.

(i) Source of Funds: The taxpayer check-off should be increased from \$1 to \$3, starting with returns for the 1996 tax year.

(ii) Public Education: A public education program about the checkoff should be implemented, using existing resources of the Secretary of the Commonwealth, the Department of Revenue, the Comptroller and the Office of Campaign and Political Finance.

B. Candidate Expenditures - The Commission made a number of recommendations regarding candidate expenditures and related matters.

(i) Candidate Participation: Non-gubernatorial candidates should be allowed to "opt out" of the public financing system at any time before requesting SECF funds.

(ii) Limits on Non-Participants: Self-imposed spending limits for non-participating candidates should be eliminated.

(iii) Time Period for Spending Limitations: Spending limits should start on the deadline for filing a candidate's nomination papers and cover "front-loaded" expenses.

(iv) Exemptions to Limits/Prohibited Spending: Only those expenditures made for challenging or defending a candidate's nomination papers or for legal and accounting services should be exempt from spending limits.

(v) Changing Spending Limits: Spending limits should be indexed every four years for inflation beginning in 2002.

C. Technical Issues

(i) Submission Deadlines: Non-gubernatorial candidates should be allowed to file their requests for public funding a week after the deadline for gubernatorial candidates.

(ii) Candidate's Bond: The bond required by chapter 55A should be filed with OCPF with a candidate's request for public funds.

(iii) Confidentiality of Candidates' Statements: A candidate's statement to agree or not agree with spending limits should be confidential until the statutory deadline for filing such statement.

(iv) Division of Funds: The Comptroller should divide the SECF 60/40 instead of 50/50 between the primary and general election account. OCPF should, however, be responsible for dividing the primary and general election accounts into the individual candidate accounts.

(v) Oversight of the SECF and Public Financing: Consistent with prior recommendations by the State Auditor and the agreement of the various agencies involved in Massachusetts system of public financing, OCPF should be given oversight authority over the system.

The Commission further recommends the creation of a task force after the 1998 election to analyze the impact of public financing on that election and recommend any further changes.

Part I of the Commission's report sets forth the Commission's deliberations and specific recommendations. In addition, Part II contains the Commission's proposed legislation and Part III contains the report's appendices.

The Commission urges the Legislature to enact, and the Governor to sign, the proposed legislation set forth in Part II of this report before the end of the 1996 legislative session.

I. REPORT OF THE COMMISSION

INTRODUCTION

The public financing system in Massachusetts was one of the first such programs in the country when it was created more than 20 years ago. Modeled after the federal program of publicly financing presidential elections, the system was based on the premise that the use of public money in political campaigns would reduce the need to solicit private money and help level the playing field in statewide elections.

Since 1976 the Commonwealth's system has been funded by the earmarking of money by taxpayers on state income tax returns for a special State Election Campaign Fund (SECF). The money has been used to fund partially races for the six statewide constitutional offices: Governor, Lieutenant Governor, Attorney General, Secretary of the Commonwealth, Treasurer and Receiver General, and Auditor.

Changes made by Chapter 43 of the Acts of 1994 introduced spending limits, increased maximum public funding levels in each race, increased annual revenue by replacing the tax "add-on" system with a tax "check-off" mechanism and targeted the race for governor as the focal point of the public financing system.

In practice, however, the SECF has not reached its potential. The system has never amassed enough money to fully fund any of the six races. When candidates have participated, the amounts they have received have fallen far short of the potential maximums set by statute.

The Special Commission on Public Financing of Political Campaigns (Commission) was created by Chapter 43 of the Acts of 1994, as amended by Chapter 292 of the Acts of 1994 and Chapter 37 of the Acts of 1996, which was signed by Governor William Weld on March 14, 1996. The panel was charged with "making an investigation and study relative to additional or full public financing of political campaigns and the implementation of the current public financing system in the commonwealth" and directed to report to the Legislature by May 15, 1996.

At the meetings of the Commission, public hearings and smaller working groups, members studied several specific areas, such as statutory spending limits, the amounts set aside for each race from the SECF, filing deadlines and requirements and other technical details of the disbursement of funds. The Commission also reviewed the public financing systems of several other states for comparison.

The Commission developed recommendations in three general areas: funding; implementation of the current system, including limitations or exemptions to spending limits for candidates; and technical points, such as the timetable for submissions and oversight responsibilities for the SECF. A draft of proposed legislation to implement the Commission's recommendations is included in this report.

The Commission's fundamental goal is to encourage participation in the state's public financing system. To achieve this goal, the Commission adopted, as a guiding principle, a desire to keep the process simple and fair. The

success of the public financing system depends on the development of a steady revenue stream for the SECF and reasonable guidelines for candidates.

A. Funding

(i) Source of Funds

The SECF, codified in M.G.L. Chap. 10, Sec. 42, is the depository for all contributions to the public financing system. Through tax year 1993, the sole source of funds for the SECF was a voluntary contribution of \$1 (\$2 for joint returns) added onto annual returns by taxpayers. However, "add-on" participation never exceeded 5 percent of taxpayers annually and declined steadily to a low of approximately 1.5 percent in the 1993 tax year, a rate that raised only \$56,600 for the fund that year.

SECF revenues improved markedly in tax year 1994 when the "add-on" was changed to a "check-off" system, similar to that used for the federal Presidential Election Campaign Fund. Rather than donate money over and above their tax liability, taxpayers could now designate \$1 from their taxes to the fund, with no additional tax burden. The switch to a checkoff caused an increase in participation in the first year to just under 10 percent, which resulted in revenues of almost \$400,000. (Figures for the 1995 tax year are not yet available.)

While the switch to the check-off has improved cash flow, it still has not provided for full funding of the SECF. Assuming a 10 percent participation rate at a \$1 check-off for

the 1995, 1996 and 1997 tax years, the fund would have a balance of approximately \$2 million for the 1998 state election -- \$9 million short of the \$11 million that would be necessary to fully fund six contested primary and general races. (For purposes of this report, a "contested" primary assumes two candidates for nomination for each office from each party.) At a \$1 check-off figure, a taxpayer participation rate of 70 percent would be necessary to fully fund the existing system.

The Commission considered several options for increasing funding of the SECF, including keeping the check-off at its current level, increasing it to the federal check-off amount of \$3, either immediately or on a staggered basis, and supplementing any shortfall with a general appropriation.

An increase in the check-off to \$3, based on the federal example, was viewed as a logical step. Such an increase should not be staggered, given the need to increase revenue to the SECF as quickly as possible. The Commission also feels that an appropriation is not a viable option.

Therefore, the Commission recommends that the amount of the tax checkoff be increased from \$1 to \$3, starting with returns covering the current tax year.

(ii) Public Education

At both Commission meetings and public hearings, concern was expressed that public education be a critical component of a plan to increase check-off participation and taxpayer awareness of public financing.

Such a program would require the cooperation at least four

agencies: the Secretary of the Commonwealth, the Comptroller, the Department of Revenue and the Office of Campaign and Political Finance (OCPF). The effort is intended to utilize existing resources and should not require any additional appropriation. For example, text explaining the checkoff would be inserted into the Secretary's Information to Voter's guide and W-2 forms distributed to state employees by the Comptroller. Additional text would be placed in DOR tax preparation materials. Finally, OCPF would assist with its ongoing public outreach and education effort.

To help ensure the growth and ultimate success of the SECF, the Commission recommends the establishment of a public education program, intended to boost participation in the checkoff program.

(iii) Conclusion

The goal of the increased check-off and the public education effort is to increase taxpayer participation in the check-off to a level that is comparable to the participation rate for the Presidential Election Campaign Fund checkoff among Massachusetts taxpayers. Statewide participation in the federal program has exceeded 20 percent in recent years. Three dollars from 20 percent of the four million eligible taxpayers would result in an annual yield of \$2.4 million for the SECF, more than six times the amount raised in the 1994 tax year. Such an increase in revenue would provide approximately 90 percent of the necessary funding for the SECF in 2002, the first four-year election cycle after these recommendations

would take effect.

B. Candidate Expenditures

The Commission makes several recommendations concerning the regulation of spending of SECF funds, covering such areas as spending limits and deadlines.

(i) Candidate Participation

The race for governor is the focal point of the current public financing system. SECF funds are designated for gubernatorial candidates before they "spill over" to other statewide races. Candidates in those other five races receive money only after all participating gubernatorial candidates have been funded. The spending limits for governor are also the highest of the six races.

The Commission discussed the possibility of funding only the governor's race in 1998. Under that proposal, the other five statewide races would be included in 2002, after the SECF has had a chance to grow at the higher check-off and participation rate. That proposal was not approved by the Commission, because of the possibility that gubernatorial candidates would not take part in 1998, thus depriving non-gubernatorial candidates of funding. As a result, the Commission was concerned taxpayers would be discouraged from participating in the check-off because their money would not be used.

Even so, the Commission's recommendation treats the governor's race differently from the others. Gubernatorial

candidates, once they agree to participate, would not be able to opt out of the public financing system. The amount available for the other five races would be determined by the spillover from the governor's race. Non-gubernatorial candidates who have agreed to participate would be allowed to opt out at any time prior to requesting SECF funds. The ability of non-gubernatorial candidates to opt out was considered essential by the Commission, because there may be little or no money available based on the decisions and eligibility of gubernatorial candidates.

(ii) Limits on Non-Participants

All candidates for statewide office are now required to inform OCPF whether they agree to comply with statutory spending limits under Chapter 55A. Candidates who do not agree to abide by a limit are not eligible to receive SECF funds. Additionally, candidates who do not agree to abide by limits, but are opposed by at least one candidate who has agreed to do so, are required to file a statement of the maximum amount of expenditures to be made in their campaigns and face personal fines for exceeding those figures. The ceiling for participating candidates is then increased to the level of the highest estimate by any other candidate in the race.

This section of the law has not yet been applied in an election. However, the Commission concluded that it is unnecessary, and possibly illegal, to impose and enforce a spending limit on candidates who choose not to accept public funds. Moreover, since non-participating candidates can

declare any spending limit, the statute as a practical matter does not contain spending limits unless all candidates in a race accept public funds.

(iii) Time Period for Spending Limitations

The Commission considered several possible dates for the start of the spending limitation period, including the day after the previous election, Jan. 1 of the election year and the deadline for candidates to file statements of whether they will agree to spending limits, which is the first Tuesday in June. This is also the deadline for candidates to file their nomination papers for statewide office.

Starting the spending limitation period the day after the previous election or on Jan. 1 of the election year would require a candidate who receives public funds to stay under the limit over a longer period of time. Such early dates would further limit spending, but could require the exemption of more categories of spending, including incumbent expenses for constituent services that benefit a candidate but are not directly related to the upcoming election.

Starting spending limitations on the deadline for candidates to file their nomination papers and statements of whether they agree to participate in the public financing process would allow for simpler, more consistent application of the public financing standards and be fairer for all candidates, who by then have declared their intentions. One drawback to this date is the possibility that a candidate might "front load" some major expenses, spending money before the

deadline, to circumvent the cap. Therefore, the Commission recommends that the spending limitations also include prepaid expenses and inventories on hand at the beginning of the period.

(iv) Exemptions to Limits/Prohibited Spending

As discussed earlier, the Commission's overriding intention is to encourage participation in the public financing system by keeping it simple. In this vein, the Commission declined to recommend additional prohibitions on the use of SECF funds, as long as such spending meets the statutory requirements of campaign finance law, which prohibits spending primarily for personal use.

The Commission recommends that a few expenses be exempted from the spending limits. The Commission supports exempting expenses incurred in connection with challenging or defending a candidate's nomination papers, though such challenges are rare at the level of statewide office. The Commission also recommends that legal and accounting services be exempt from the limits to encourage compliance with election and campaign finance law.

(v) Changing Spending Limits

The Commission discussed whether to raise the statutory campaign spending limits, which vary according to each race. There was agreement, however, that the current limits, when viewed in concert with the above recommendations, are reasonable, though some adjustment for inflation is warranted. Therefore, the Commission recommends that an index for

inflation be built into the spending limits and adjusted every four years, starting in 2002. The recommended indicator is the federal Consumer Price Index for the Boston Statistical Area, currently used in other areas of campaign finance law.

C. Technical Changes

The Commission recommends changes in several technical areas of statute covering public financing, with the goal of ensuring smooth implementation of the current system.

(i) Submission Deadlines

Participating candidates for all six statewide offices are now required to meet the eligibility requirements for public funds at the same time, the Friday preceding the eighth Tuesday before the primary and the Friday preceding the fourth Tuesday before the general election. While the candidates for governor are assured of at least some funds from the SECF, non-gubernatorial candidates cannot count on receiving money because the amount of spillover from the governor's race depends on OCPF's determination of the eligible gubernatorial candidates and the funds available. As a result, the current system requires non-gubernatorial candidates to perform a substantial amount of work to prepare their applications for funds, perhaps to find their work was for naught.

Staggering the filing deadlines would give non-gubernatorial candidates a chance to determine what effect the filings by candidates for governor would have on their ability to receive public funds. OCPF and the candidates could

then determine whether any meaningful funding would be available for non-gubernatorial races, thereby providing the candidates with time to prepare their submissions for eligibility. The Commission therefore recommends that the deadline for candidates for non-gubernatorial races to make their submissions for funding be moved back to one week after those for governor in both the primary and general elections.

As discussed earlier, non-gubernatorial candidates should be able to opt out of the public financing system because the SECF may not contain sufficient funds to justify their participation.

(ii) Candidate's Bond

A candidate is required to post a bond with OCPF in the amount certified by the Comptroller before that candidate is determined to be eligible to receive public funds. The requirement ensures that money spent in violation of campaign finance law could be recovered by the Commonwealth if necessary.

The bonding process creates a "Catch-22" situation for candidates. Currently, the bond must be for the amount certified as available to a candidate, but that amount will not be known until the SECF is divided by the Comptroller into candidate accounts, which cannot be done until OCPF certifies eligibility. Legislative change is necessary to make the bonding requirement work.

The Commission recommends that the bond be filed with OCPF at the same time as a candidate's request for public funds.

This change would give a candidate time to secure a bond in the necessary amount prior to the release of funds.

(iii) Confidentiality of Candidates' Statements

The Commission considered whether a candidate's declaration that he or she will comply with spending limits is a public record as well as the implication of that issue on a race. If the declaration were considered a public record upon filing, a type of gamesmanship could take place, with each candidate jockeying for advantage. For example, under current law, a candidate who learns before the deadline that his opponent does not plan to agree to limit spending could agree to limits, a decision that not only makes him eligible for public financing but also bumps his spending limit up to that of his opponent.

The Commission therefore recommends that statements of whether a candidate will abide by spending limits be confidential until after the filing deadline, when they would become public record.

(iv) Division of Funds

Until 1994, the SECF was divided on a 60/40 basis; that is, 60 percent of the available funds were earmarked for the primary election and 40 percent went to the general election. The division reflects the 20-year history of the SECF, which shows that 61 percent of the distributed funds went to primary candidates and 39 percent went to general election candidates.

The breakdown of funds was changed to 50/50 in 1994. While such a change places more resources in the general

election, it will likely result in inadequate funds for the primary and, therefore, less participation by candidates. Accordingly, the Commission recommends a return to the 60/40 formula for a more practical division of funds from the SECF.

As noted above, the Comptroller is now responsible for the division of funds from the SECF into separate accounts for the primary and general election, as well as the further division into candidate accounts as certified by OCPF.

As illustrated by the example of a candidate's bond, having the Comptroller handle the division of funds raises issues of coordination and timing. The Commission recommends that OCPF be given the authority to divide the SECF into accounts for each candidate, to rectify these problems.

(v) Oversight of the SECF and Public Financing

Statute provides for the implementation of public financing under the coordination of several offices, including the Treasurer, the Comptroller, the Secretary of the Commonwealth and OCPF. While these agencies have worked cooperatively in the past, legislation has been filed for many years to place SECF oversight responsibility under OCPF's jurisdiction: This legislation, Senate 376, has been recommended by the State Auditor and supported by all these agencies.

The Commission also feels that placing the functions of the SECF and public financing under the OCPF's oversight authority would lead to greater coordination of the process. The other agencies would still play a vital role in the public

financing process and would still be needed for its future success, but a change in oversight would help ensure that success.

D. Conclusion

The future of public financing is contingent on a sound, workable system that candidates and the public can understand and that leads to greater participation by candidates and taxpayers. The revised system, with its spending limits, increased revenues and emphasis on full funding of the governor's race, along with the recommendations in this report, will pave the way for greater acceptance of public financing of campaigns in Massachusetts. The 1998 and 2002 state elections would be the practical demonstration of these goals and recommendations, remaining consistent with the system's original principles.

Therefore, the Commission recommends the creation of a task force to evaluate the implementation of these proposed changes in the public financing system on the 1998 election and to make any recommendations for further changes. The task force would be made up of OCPF staff, interested citizens and legislators, including the House and Senate Chairmen of the Joint Committee on Election Laws and the Chairmen of the Senate and House Committees on Ways and Means.

For the above reasons, the Commission voted unanimously on May 13, 1996, to approve this report and recommend the adoption of the attached legislation.

II. PROPOSED LEGISLATION

AN ACT REGARDING VOLUNTARY CONTRIBUTIONS TO THE STATE ELECTION
CAMPAIGN FUND.

Be it enacted by the Senate and House of Representatives
in General Court assembled, and by the authority of the same,
as follows:

SECTION 1. Section 6C of chapter 62 of the General Laws, as
appearing in the 1994 Official Edition, is hereby amended by
deleting the word "one" in line 8 and line 11, and inserting in
place thereof the word:- three.

AN ACT REGARDING THE IMPLEMENTATION OF THE PUBLIC FINANCING OF CAMPAIGNS FOR STATEWIDE OFFICES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 42 of chapter 10 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the last paragraph the following paragraph:-

The director of campaign and political finance shall be responsible for monitoring the overall financial and program operations of the state election campaign fund.

SECTION 2. Section 43 of chapter 10 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by deleting said section in its entirety and inserting in place thereof the following section 43:-

Section 43. On or before the eighth Tuesday before the primary election in any year in which elections are held for statewide elective office, the balance of the state election campaign fund shall be determined by the comptroller as of June thirtieth of that year and the state election campaign fund shall thereupon be divided by the comptroller into primary and state election accounts as follows:

(a) Sixty percent of the fund shall be allocated to the primary election account which shall be further subdivided by the comptroller into as many primary candidate accounts as there are candidates for governor who have been certified by the director of campaign and political finance as eligible for public financing pursuant to section four of chapter fifty-five. A proportionately allocated in equal amounts by the director of campaign and political finance. Each primary candidate account of a candidate for governor so certified shall first be credited with seven hundred and fifty thousand dollars; provided, however, that if the primary election account does not contain sufficient funds, said amount shall be proportionately reduced accordingly by the director of campaign and political finance. Thereafter, on the seventh Tuesday before said primary election funds remaining in the primary election account shall be further subdivided into as many primary candidate accounts as there are candidates for all other statewide elective offices so certified proportionately allocated by the director of campaign and political finance in equal amounts to the remaining primary candidate accounts.

(b) Forty percent of the fund shall be allocated to the state election account. On or before the fourth Tuesday preceding the state election, the state election account shall be further subdivided into as many state election candidate accounts as there are teams of governor and lieutenant governor

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candidates who have been certified by the director of campaign and political finance as eligible for public financing pursuant to section six of chapter fifty-five A. Each state election candidate account for a team of candidates for governor and lieutenant governor so certified shall first be credited with seven hundred and fifty thousand dollars; provided, however, that if the state election account does not contain sufficient funds, said amount shall be proportionately reduced accordingly. Thereafter, on the third Tuesday before said state election funds remaining in the state election account shall be further subdivided into as many state election accounts as there are candidates for all other statewide elective offices so certified proportionately allocated in equal amounts to the remaining state election candidate accounts.

SECTION 3. Section 44 of chapter 10 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by deleting said section in its entirety and inserting in place thereof the following section 44:-

Section 44. For candidates for governor on or before the eighth, sixth, fourth and second Tuesday before the primary election in any year in which elections for statewide elective office are held and for all other candidates for statewide elective office on or before the sixth, fourth and second Tuesday before said primary election the state treasurer shall without further appropriation distribute from each primary candidate account the amounts then certified by the director of campaign and political finance to be due to each eligible candidate which shall equal the qualifying contributions provided the amount distributed shall not exceed (a) the amount in the primary candidate account established under section forty-three of chapter ten, (b) the maximum amount established for such candidate by section 5 of chapter 55A or (c) the amount of the bond filed by such candidate with the director of campaign and political finance in accordance with section 8 of chapter 55A. All distributions shall be made by direct deposit to the depository accounts designated by such candidates under section nineteen of chapter fifty-five. Immediately following the second Tuesday before the primary election all primary candidate accounts established under section forty-three shall be closed and any balance remaining shall be allocated to the general election account and shall be available for distribution as herein provided.

For teams of governor and lieutenant governor candidates on or before the fourth and second Tuesday before the state election in any year in which elections are held for statewide elective office and for all other candidates for statewide elective office on or before the third and second Tuesday before said state election, the state treasurer shall without further appropriation distribute from each state election candidate account the amounts then certified by the director of

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campaign and political finance to be due to each eligible candidate which shall equal the qualifying contributions provided the amount distributed shall not exceed (a) the amount in the state election candidate account established under section forty-two of chapter ten, (b) the maximum amount established for such candidate by section 7 of chapter 55A or (c) the amount of the bond filed by such candidate with the director of campaign and political finance in accordance with section 8 of chapter 55A. All distributions shall be made by direct deposit to the depository accounts designated by such candidates under section nineteen of chapter fifty-five. Immediately following the second Tuesday before the state election all state election candidate accounts established under section forty-three shall be closed and any balances remaining shall be redeposited as provided in section forty-one pending the next year in which statewide elections are held.

SECTION 4. Section 1A of chapter 55 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by deleting said section in its entirety and inserting in place thereof the following section 1A:-

Section 1A. (a) On or before the last day for filing that candidate's nomination papers with the state secretary pursuant to chapter fifty-three, every candidate for statewide elective office shall file with the director a statement, in a form prescribed by the director, that the candidate does or does not agree:

(1) in the case of primary candidates, to abide by the following limits on expenditures, commencing on the day for filing said nomination papers and continuing through the day of the state primary, for the following elective offices in the campaign for the state primary :

Governor	\$1,500,000
Lieutenant Governor	625,000
Attorney General	625,000
Secretary	375,000
Treasurer and Receiver General	375,000
Auditor	375,000; and

(2) in the case of all candidates for statewide elective office, to abide by the following limits on expenditures, commencing on the day after the state primary and continuing through the day of the state election, for the following elective offices in the campaign for the state election:

Governor and Lieutenant Governor	\$1,500,000
Attorney General	625,000
Secretary	375,000
Treasurer and Receiver General	375,000
Auditor	375,000.

The limits on expenditures established by this subsection shall be indexed for inflation using January 1, 1998, as a base

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by the director, who, on or before January 1, 2002, and every four years thereafter on or before January 1, shall calculate and publish such index amount, using the federal consumer price index for the Boston statistical area.

The name of a candidate who fails to file any statement within the time required by this subsection shall not appear on the state primary ballot nor on the state election ballot, and the director shall inform the state secretary of any such failure.

(b) Expenditures for media, office supplies, inventories or other expenses for goods and services, except as specifically exempted by subsection (c), for use between the last day for filing nomination papers pursuant to chapter 53 and the state primary election or for use between the day after the state primary election and the state election shall be included in the limits on expenditures set forth in subsection (a).

(c) Expenditures made for the purpose of challenging, or defending a challenge to, a candidate's nomination papers or for reasonable legal and accounting fees or services shall be exempted from the limits on expenditures established by subsection (a).

(d) Any primary candidate for statewide office in the primary election who has not agreed to abide by the expenditure limit under subsection (a) and any candidate for statewide office who has agreed to abide by said expenditure limit who is opposed in said primary by one or more candidates who have not so agreed shall not be subject to said expenditure limits.

(e) Any candidate for statewide office in the state election who has not agreed to abide by the expenditure limit under subsection (a) and any candidate for statewide office in the state election who has agreed to abide by said expenditure limit who is opposed in said election by one or more candidates who have not so agreed shall not be subject to said expenditure limits.

(f) At any time prior to filing a request for public financing pursuant to section five or section seven of this chapter, a candidate for statewide elective office who has agreed to abide by the limits on expenditures established under this section, other than a candidate for governor, may file with the director a statement, in a form prescribed by the director, that the candidate is withdrawing his statement to abide by said expenditure limits.

(g) Statements filed with the director pursuant to subsection (a) shall be confidential until the day after the last day for filing candidate nomination papers with the state secretary pursuant to chapter 53.

(h) Any candidate appointed to fill a vacancy in a nomination for statewide elective office shall file the statement required by subsection (a) not later than the last day for filing the certificate of nomination to fill such vacancy.

(i) Any candidate who files a statement with the director under this section and who makes expenditures in excess of the

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limit established by this section, if applicable, shall be punished by a fine of not more than the total of two times the amount of the expenditures in excess of said limit or said amount, as the case may be, in addition to the penalties provided by section twelve.

SECTION 5. Section 4 of chapter 55 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by deleting said section in its entirety and inserting in place thereof the following section 4:-

Section 4. Any candidate for statewide elective office certified by the state secretary under section two as qualifying for the ballot and having opposition in the primary election shall be eligible to receive limited public financing of his primary election campaign, to the extent provided by section five, on determination and certification by the director that the candidate (a) has filed with the director a statement under subsection (a) of section one A agreeing to abide by the expenditure limits provided thereby and (b) has received qualifying contributions as defined by section one in at least the following minimum amounts for the following statewide elective offices:

Governor	\$75,000
Lieutenant Governor	15,000
Attorney General	37,500
Secretary	15,000
Treasurer and Receiver General	15,000
Auditor	15,000

Only amounts appearing in statements of qualifying contributions filed with the director, in such form as he shall prescribe, shall be considered in determining whether any such minimum amount has been met. Determination and certification of the eligibility of candidates shall be made by the director (a) for candidates for governor on the eighth Tuesday before the primary and shall be based solely upon information contained in such statements as have been filed on or before the Friday next preceding said eighth Tuesday; and (b) for all other candidates for statewide elective office on the seventh Tuesday before the primary and shall be based solely upon information contained in such statements as have been filed on or before the Friday next preceding said seventh Tuesday.

SECTION 6. Section 5 of chapter 55 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by deleting said section in its entirety and inserting in place thereof the following section 5:-

Section 5. Upon filing a request for public financing with the director together with the bond required by section eight, any candidate eligible to receive limited public financing of his primary election campaign shall, on determination and certification by the director of the amount

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of qualifying contributions as defined by section one filed by such candidate with the director, be entitled to an amount equal to one dollar for each one dollar of qualifying contributions, subject to the following limitations: (a) no candidate shall be entitled to receive any amount in excess of the balance then remaining in the primary candidate account established for that candidate by the comptroller under section forty-three of chapter ten or the amount of the bond filed pursuant to section eight; (b) nor shall any candidate be entitled to receive any amount in excess of the following maximum amounts for the following statewide elective offices:

Governor	\$750,000
Lieutenant Governor	312,500
Attorney General	312,500
Secretary	187,500
Treasurer and Receiver General	187,500
Auditor	187,500.

Only amounts appearing in statements of qualifying contributions filed with the director, in such form as he shall prescribe, shall be considered in determining amounts to which candidates are entitled. Determinations and certifications of the amounts to which eligible candidates are entitled shall be made by the director (a) for candidates for governor on or before the eighth, sixth, fourth and second Tuesday before the primary election and shall be based solely upon information contained in such statements as have been filed on or before the Friday next preceding said eighth, sixth, fourth and second Tuesday; and (b) for all other candidates for statewide elective office on or before the sixth, fourth and second Tuesday before the primary election and shall be based solely upon information contained in such statements as have been filed on or before the Friday next preceding said sixth, fourth and second Tuesday.

SECTION 7. Section 6 of chapter 55 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by deleting the first two paragraphs and inserting in place thereof the following paragraphs:-

Any candidate for statewide elective office certified by the state secretary under section two as qualifying for the ballot and having opposition in the state election shall be eligible to receive limited public financing of his state election campaign, to the extent provided by section seven, on determination and certification by the director that the candidate (a) has filed with the director a statement under subsection (a) of section one A agreeing to abide by the expenditure limits provided thereby and (b) has received qualifying contributions as defined by section one in at least the following minimum amounts for the following statewide elective offices:

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Governor and Lieutenant Governor	\$125,000
Attorney General	62,500
Secretary	25,000
Treasurer and Receiver General	25,000
Auditor	25,000

Only amounts appearing in statements of qualifying contributions filed with the director, in such form as he shall prescribe, shall be considered in determining whether any such minimum amount has been met. Determination and certification of the eligibility of candidates shall be made by the director (a) for teams of governor and lieutenant governor candidates on the fourth Tuesday before the state election and shall be based solely upon information contained in such statements as have been filed on or before the Friday next preceding said fourth Tuesday; and (b) for all other candidates for statewide elective office on the third Tuesday before the state election and shall be based solely upon information contained in such statements as have been filed on or before the Friday next preceding said third Tuesday.

SECTION 8. Section 7 of chapter 55 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by deleting the first two paragraphs and inserting in place thereof the following paragraphs:-

Upon filing a request for public financing with the director together with the bond required by section eight, any candidate eligible to receive limited public financing of his state election campaign shall, on determination and certification by the director of the amount of qualifying contributions as defined by section one filed by such candidate with the director, be entitled to an amount equal to one dollar for each one dollar of qualifying contributions subject to section nine and subject to the following limitations: (a) no candidate shall be entitled to receive any amount in excess of the balance then remaining in the state election candidate account established for that candidate by the comptroller under section forty-three of chapter ten or the amount of the bond filed pursuant to section eight; (b) nor shall any candidate be entitled to receive any amount in excess of the following maximum amounts for the following statewide elective offices:

Governor and Lieutenant Governor	\$750,000
Attorney General	312,500
Secretary	187,500
Treasurer and Receiver General	187,500
Auditor	187,500.

Only amounts appearing in statements of qualifying contributions filed with the director, in such form as he shall prescribe, shall be considered in determining amounts to which candidates are entitled. Determinations and certifications of the amounts to which eligible candidates are entitled shall be

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made by the director (a) for teams of governor and lieutenant governor candidates on or before the fourth and second Tuesday before the state election and shall be solely upon information contained in such statements as have been filed on the Friday prior to such dates, and (b) for all other candidates for statewide elective office on or before the second Tuesday before the state election and shall be based solely upon information contained in such statements as have been filed on or before the Friday prior to such Tuesday.

SECTION 9. Section 8 of chapter 55 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by deleting the first paragraph and inserting in place thereof the following paragraph:-

No candidate shall receive a distribution of public financing under this chapter and chapter 10 unless and until the candidate deposits with the director a bond for the faithful compliance by such candidate and any political committee organized on his behalf with the provisions of this chapter. Such bond shall be in a form approved by the director, shall be signed by such candidate and the chairman and treasurer of any such committee, shall run to the commonwealth, shall be in force during the year in which elections for statewide elective office are held and for the following calendar year.

SECTION 10. Section 9 of chapter 55 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by deleting the first paragraph and inserting in place thereof the following paragraph:-

Within two weeks following any primary or state election for statewide elective office any candidate who has received public financing under this chapter shall file a statement with the director showing the balance remaining in the candidate's depository, savings, money market or other accounts or otherwise held for investment purposes and a list of all accounts receivable and checks received but not deposited as of the primary or state election less any reserve necessary to cover debts incurred to defray campaign expenditures incurred during such primary or state election. Except as herein provided, any candidate having a surplus balance following any such primary or state election shall thereupon pay to the director for deposit by the state treasurer to the state election campaign fund an amount determined by multiplying such surplus balance by a fraction the numerator of which is the total amount of public financing received on account of such primary or state election campaign and the denominator of which is the sum of such public financing received and all contributions received by such candidate. No candidate having a surplus balance following the primary election shall be required to make any payment on account of such surplus if such candidate is certified by the state secretary under section two

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as qualifying for the ballot and having opposition in the state election and is certified by the director of campaign and political finance as eligible for public financing for the state election within three weeks following such primary election; provided, however, that in determining and certifying the amount to which any such candidate is entitled under section seven the director shall reduce the amount that would otherwise be determined thereunder by an amount equal to the amount that such candidate would be required to pay to the state treasurer under this section but for this sentence.

SECTION 11. Chapter 55 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting the following new section:-

Section 10A. (a) The director shall prepare a statement, approved by the Attorney General, for distribution by the comptroller, the commissioner of the department of revenue and the state secretary explaining the purpose of the commonwealth's system of public financing of campaigns for statewide elective offices established by this chapter, the voluntary contribution taxpayers may make pursuant to section six c of chapter sixty-two, and the state election campaign fund established by section forty-two of chapter ten.

(b) The comptroller shall include the statement prepared pursuant to subsection (a) with each W-2 statement mailed or distributed by the comptroller. In consultation with the director, the comptroller may also include such other information consistent with this section in appropriate sections of other publications and materials distributed by the comptroller.

(c) The commissioner of the department of revenue shall include the statement prepared pursuant to subsection (a) in appropriate sections of the personal income tax forms, instructions or other materials furnished and distributed by said commissioner pursuant to section 3 and section 5 of chapter 62C. In consultation with the director, the commissioner of the department of revenue may also include such other information consistent with this section in appropriate sections of other forms, instructions, publications and materials distributed by the department of revenue.

(d) The state secretary, when required by sections 53 and 54 of chapter 54 to cause information to be printed and mailed, shall include the statement prepared pursuant to subsection (a). The state secretary may also include such other information consistent with this section in appropriate sections of other publications and materials distributed by the secretary of the commonwealth.

CHAPTER 10 - STATE TREASURER

(Delineation of Proposed Legislative Changes)

Section 42. There shall be established on the books of the commonwealth a separate fund to be known as the state election campaign fund, consisting of all revenues received under the provisions of section six C of chapter sixty-two, and all other monies credited or transferred thereto from any other fund or source pursuant to law.

The state treasurer shall deposit the fund in accordance with the provisions of sections thirty-four and thirty-four A of chapter twenty-nine in such manner as will secure the highest interest rate available consistent with safety of the fund and with the requirement that all amounts on deposit be available for immediate withdrawal at any time after June thirtieth in any year in which elections are held for statewide elective office.

The state election campaign fund shall be expended only for the payment to eligible candidates, as determined under chapter fifty-five A, of amounts due on account of public financing on campaigns for statewide elective office and any unexpended balances shall be redeposited, as herein provided, pending the next year in which elections are held for statewide elective office.

The director of campaign and political finance shall be responsible for monitoring the overall financial and program operations of the state election campaign fund.

Section 43. On or before the eighth Tuesday before the primary election in any year in which elections are held for statewide elective office, the balance of the state election campaign fund shall be determined by the comptroller as of June thirtieth of that year and the state election campaign fund shall thereupon be divided by the comptroller into primary and state election accounts as follows:

(a) Sixty-Fifty percent of the fund shall be allocated to the primary election account which shall be further subdivided by the comptroller into as many primary candidate accounts as there are candidates for governor statewide-elective-office who have been certified by the director of campaign and political finance as eligible for public financing pursuant to section four of chapter fifty-five A proportionately allocated in equal amounts by the director of campaign and political finance. Each primary candidate account of a candidate for governor so certified shall first be credited with seven hundred and fifty thousand dollars; provided, however, that if the primary election account does not contain sufficient funds, said amount shall be proportionately reduced accordingly by the director of campaign and political finance. Thereafter, on the seventh Tuesday before said primary election funds remaining in the

primary election account shall be further subdivided into as many primary candidate accounts as there are candidates for all other statewide elective offices so certified proportionately allocated by the director of campaign and political finance in equal amounts to the remaining primary candidate accounts.

(b) Forty Fifty percent of the fund shall be allocated to the state election account. On or before the fourth Tuesday preceding the state election, the state election account shall be further subdivided into as many state election candidate accounts as there are teams of candidates for governor and lieutenant governor candidates statewide-elective-office who have been certified by the director of campaign and political finance as eligible for public financing pursuant to section six of chapter fifty-five A. provided, however, that one state election candidate account only shall be established for each governor and lieutenant governor team of candidates. Each state election candidate account for a team of candidates for governor and lieutenant governor so certified shall first be credited with seven hundred and fifty thousand dollars; provided, however, that if the state election account does not contain sufficient funds, said amount shall be proportionately reduced accordingly. Thereafter, on the third Tuesday before said state election funds remaining in the state election account shall be further subdivided into as many state election accounts as there are candidates for all other statewide elective offices so certified proportionately allocated in equal amounts to the remaining state election candidate accounts.

Section 44. For candidates for governor on or before the eighth, sixth, fourth and second Tuesday before the primary election in any year in which elections for statewide elective office are held and for all other candidates for statewide elective office on or before the sixth, fourth and second Tuesday before said primary election the state treasurer shall without further appropriation distribute from each primary candidate account the amounts then certified by the director of campaign and political finance to be due to each eligible candidate which shall equal the qualifying contributions provided the amount distributed shall not exceed (a) the amount in the primary candidate account established under section forty-three of chapter ten, (b) the maximum amount established for such candidate by section 5 of chapter 55A or (c) the amount of the bond filed by such candidate with the director of campaign and political finance in accordance with section 8 of chapter 55A. All distributions shall be made by direct deposit to the depository accounts designated by such candidates under section nineteen of chapter fifty-five. Immediately following the second Tuesday before the primary election all primary candidate accounts established under section forty-three shall be closed and any balance remaining shall be allocated to the general election account and shall be available for distribution as herein provided.

For teams of governor and lieutenant governor candidates on or before the fourth and second Tuesday before the state election in any year in which elections are held for statewide elective office and for all other candidates for statewide elective office on or before the third and second Tuesday before said state election, the state treasurer shall without further appropriation distribute from each state election candidate account the amounts then certified by the director of campaign and political finance to be due to each eligible candidate which shall equal the qualifying contributions provided the amount distributed shall not exceed (a) the amount in the state election candidate account established under section forty-two of chapter ten, (b) the maximum amount established for such candidate by section 7 of chapter 55A or (c) the amount of the bond filed by such candidate with the director of campaign and political finance in accordance with section 8 of chapter 55A. All distributions shall be made by direct deposit to the depository accounts designated by such candidates under section nineteen of chapter fifty-five. Immediately following the second Tuesday before the state election all state election candidate accounts established under section forty-three shall be closed and any balances remaining shall be redeposited as provided in section forty-one pending the next year in which statewide elections are held.

Section 45. The state auditor shall conduct a post-audit of all accounts and transactions involving the state election campaign fund for any year in which elections are held for state wide elective office and shall conduct such other special audits and post-audits as he may deem necessary. The state auditor shall publish a report of any post-audit required by this section on or before April first of the year following any year in which elections are held for statewide elective office. The comptroller shall conduct a post-audit of the accounts and transactions of any candidate for state auditor.

CHAPTER 55A - LIMITED PUBLIC FINANCING
(Delineation of Proposed Legislative Changes)

55A:1. Definitions.

Section 1. Unless a contrary intention clearly appears, the words and phrases used in this chapter shall have the following meanings:

"Director", the director of campaign and political finance as established by chapter fifty-five.

"Candidate", any candidate as defined by chapter fifty-five.

"Statewide elective office", the office of governor, lieutenant governor, attorney general, secretary, treasurer and receiver general, and auditor.

"Contribution", any contribution as defined by chapter fifty-five.

"Qualifying contribution", any contribution made by an individual and deposited in a candidate's depository account as required by section nineteen of chapter fifty-five during the calendar year in which elections are held for statewide elective office or the next preceding calendar year except as follows: (a) no contribution shall be considered a qualifying contribution unless the name and address of the individual making the contribution can be determined from statements required to be filed with the director; (b) no contribution shall be considered a qualifying contribution to the extent that it exceeds two hundred and fifty dollars or would exceed two hundred and fifty dollars when added to any such contribution previously made by the same individual during the calendar year in which elections are held for statewide elective office or the next preceding calendar year.

The same contribution may be a qualifying contribution for both the primary election and the state election in a year in which elections are held for statewide elective office but no contribution shall remain a qualified contribution after the end of any such year.

55.1A. Candidate expenditure limits; statement of agreement to abide by limits; filing; penalty.

Section 1A. (a) On or before the last day for filing that candidate's nomination papers with the state secretary pursuant to chapter fifty-three, every candidate for statewide elective office shall file with the director a statement, in a form prescribed by the director, that the candidate does or does not agree:

(1) in the case of primary candidates, to abide by the following limits on expenditures, commencing on the day for filing said nomination papers and continuing through the day of the state primary, for the following elective offices in the campaign for the state primary :

Governor	\$1,500,000
Lieutenant Governor	625,000
Attorney General	625,000

Secretary	375,000
Treasurer and Receiver General	375,000
Auditor	375,000; and

(2) in the case of all candidates for statewide elective office, to abide by the following limits on expenditures, commencing on the day after the state primary and continuing through the day of the state election, for the following elective offices in the campaign for the state election:

Governor and Lieutenant Governor	\$1,500,000
Attorney General	625,000
Secretary	375,000
Treasurer and Receiver General	375,000
Auditor	375,000.

The limits on expenditures established by this subsection shall be indexed for inflation using January 1, 1998 as a base by the director, who, on or before January 1, 2002, and every four years thereafter on or before January 1, shall calculate and publish such index amount, using the federal consumer price index for the Boston statistical area.

The name of a candidate who fails to file any statement within the time required by this subsection shall not appear on the state primary ballot nor on the state election ballot, and the director shall inform the state secretary of any such failure.

(b) Expenditures for media, office supplies, inventories or other expenses for goods and services, except as specifically exempted by subsection (c), for use between the last day for filing nomination papers pursuant to chapter 53 and the state primary election or for use between the day after the state primary election and the state election shall be included in the limits on expenditures set forth in subsection (a).

(c) Expenditures made for the purpose of challenging, or defending a challenge to, a candidate's nomination papers or for reasonable legal and accounting fees or services shall be exempted from the limits on expenditures established by subsection (a).

~~{b}-On-or-before- the-last-day- for-filing-withdrawals- of nominations-for-the-state-primary;-every-primary-candidate- for statewide-office-who-has-not-agreed-to-abide-by-the-expenditure limit-under-subsection-(a);-and-who-is-opposed-in-said- primary by-one-or-more-candidates-who-have-agreed-to-said-limit;- shall file-with-the-director-a-statement;-in-a-form-prescribed-by-the director;-of-the-maximum-amount- of-expenditures-to-be-made- in his-campaign-for- said-primary-- -The-name-of- a-candidate- who fails-to-file- a-statement-required- by-this-subsection- within the-time-so-required-shall-not-appear-on-the-state-primary;-and the-director- shall- inform-the- state- secretary-of- any- such failure.--The-state-primary- campaign-expenditure-limit- agreed to-under-subsection-(a)-by-any-candidate-shall-be-increased- to the- highest- amount- stated- under- this- -subsection- by- any opposing-candidate-who-has-not-agreed-to-said-limit-~~

-----{e}-On-or-before- the-last-day- for-filing-withdrawals- of nominations-made-at-the-state-primary-election,-every-candidate for-statewide-office-in-the- state-election-who-has-not- agreed to-abide-by-the-expenditure-limit-under-subsection-{a},-and-who is-opposed-in-said-election-by-one-or-more-candidates-who- have agreed-to-said-limit,-shall-file-with-the-director-a-statement, in-a-form-prescribed-by-the-director,-of-the-maximum-amount- of expenditures-to- be- made- in-his- campaign- for- said- primary election.--The- name- of- a- candidate- who- fails- to- file- a statement-required- by- this- subsection- within- the- time- so required-shall-not-appear-on-the-state-election-ballot,-and-the director-shall-inform-the-state-secretary-of-any-such- failure. The-state-election-campaign- expenditure-limit-agreed-to- under subsection-{a}- by- any-candidate- shall- be-increased- to- the highest-amount- stated-under- this-subsection- by-any- opposing candidate-who-has-not-agreed-to-said-limit.

(d) Any primary candidate for statewide office in the primary election who has not agreed to abide by the expenditure limit under subsection (a) and any candidate for statewide office who has agreed to abide by said expenditure limit who is opposed in said primary by one or more candidates who have not so agreed shall not be subject to said expenditure limits.

(e) Any candidate for statewide office in the state election who has not agreed to abide by the expenditure limit under subsection (a) and any candidate for statewide office in the state election who has agreed to abide by said expenditure limit who is opposed in said election by one or more candidates who have not so agreed shall not be subject to said expenditure limits.

(f) At any time prior to filing a request for public financing pursuant to section five or section seven of this chapter, a candidate for statewide elective office who has agreed to abide by the limits on expenditures established under this section, other than a candidate for governor, may file with the director a statement, in a form prescribed by the director, that the candidate is withdrawing his statement to abide by said expenditure limits.

(g) Statements filed with the director pursuant to subsection (a) shall be confidential until the day after the last day for filing candidate nomination papers with the state secretary pursuant to chapter 53.

(h) Any candidate appointed to fill a vacancy in a nomination for statewide elective office shall file the statement required by subsection (a) not later than the last day for filing the certificate of nomination to fill such vacancy. The- time- for- opposing- candidates- to- file- the statements-required-by-subsection-{b}- or-{e},-as-the-case- may be,-shall-be-extended-accordingly.

(i) Any candidate who files a statement with the director under this section and who makes expenditures in excess of the limit established by this section, if applicable,-or-in- excess of-the-amount-stated-by- said-candidate-pursuant-to- subsection {b}-or-{e}, shall be punished by a fine of not more than the total of two times the amount of the expenditures in excess of

said limit or said amount, as the case may be, in addition to the penalties provided by section twelve.

55A:2. Public financing of campaigns; qualifying candidates; certification.

Section 2. On or before the ninth Tuesday before the primary election in any year in which elections are held for statewide elective office the state secretary shall determine and certify to the director and the state treasurer the names and addresses of all candidates for statewide elective office who qualify for the primary ballot and are opposed by one or more candidates who have qualified for the same ballot in the primary election. For purposes of this chapter any candidate for statewide elective office for whom certificates of nomination and nomination papers have been filed in apparent conformity with law shall be considered qualified for the ballot notwithstanding any objections thereto that may be filed and notwithstanding any vacancy that may occur following the filing of such certificates of nominations and nomination papers other than a vacancy caused by withdrawal of a candidate within the time allowed by law. On or before the fifth Tuesday before the state election in any such year the state secretary shall determine and certify to the director and to the state treasurer the names and addresses of all candidates for statewide elective office who qualify for the state election ballot and are opposed by one or more candidates who have qualified for the state election ballot. For purposes of this chapter any candidate for statewide elective office for whom certificates of nomination and nomination papers have been filed in apparent conformity with law shall be considered qualified for the ballot, as provided with respect to candidates for the primary election, and any such candidates nominated at the primary election shall be considered qualified for the ballot notwithstanding any objections thereto that may be filed and notwithstanding any vacancy that may occur other than a vacancy caused by withdrawal of a candidate within the time allowed by law. The state secretary shall promptly determine and certify to the director and state treasurer the name and address of any candidate that no longer qualifies for the primary or state election ballot or no longer has opposition because of death or withdrawal or ineligibility for office or because objections to certificates of nomination and nomination papers have been sustained or because of a recount or for any other like reason.

55A:3. Contributors to fund; filing of names by candidate; director's report.

Section 3. The director shall determine and certify to the state treasurer those candidates for statewide elective office that are eligible for limited public financing as provided in sections four and six and shall determine and certify to the state treasurer the amounts due to each eligible candidate as provided in sections five and seven.

Said director shall prescribe and make available forms on

which statements of qualifying contributions shall be filed by candidates, which statements shall contain the name and address of each individual making a contribution, the amount of the contribution and date of deposit, the cumulative total of all contributions made by that individual during the calendar year in which elections are held for statewide elective office and the next preceding calendar year and shall contain such other information and shall be organized in such a manner as the director may reasonably require to expedite the determinations required to be made by the director by this chapter. The director shall notify candidates of any amounts determined by the director to be due from candidates under section nine and shall direct that such amounts be paid to the state election campaign fund. On or before January thirtieth of any year next following a year in which elections are held for statewide elective office the director shall prepare and submit a report relating to the matters entrusted to him under this chapter to the clerk of the senate and to the commission established by section three of chapter fifty-five and shall make copies of such report available to any person upon payment of the reasonable cost of copying or reproduction.

55A:4. Primary financing; eligibility; minimum amounts for qualifying contributions.

Section 4. Any candidate for statewide elective office certified by the state secretary under section two as qualifying for the ballot and having opposition in the primary election shall be eligible to receive limited public financing of his primary election campaign, to the extent provided by section five, on determination and certification by the director that the candidate-~~{a}-has-filed-a-request-for-public-financing-with-the-director-together-with-the-bond-required-by-section-eight;~~ (a) has filed with the director a statement under subsection (a) of section one A agreeing to abide by the expenditure limits provided thereby; and (b) has received qualifying contributions as defined by section one in at least the following minimum amounts for the following statewide elective offices:

Governor	\$75,000
Lieutenant Governor	15,000
Attorney General	37,500
Secretary	15,000
Treasurer and Receiver General	15,000
Auditor	15,000

Only amounts appearing in statements of qualifying contributions filed with the director, in such form as he shall prescribe, shall be considered in determining whether any such minimum amount has been met. Determination and certification of the eligibility of candidates shall be made by the director (a) for candidates for governor on the eighth Tuesday before the primary and shall be based solely upon information contained in such statements as have been filed on or before the Friday next preceding said eighth Tuesday; and (b) for all

other candidates for statewide elective office on the seventh Tuesday before the primary and shall be based solely upon information contained in such statements as have been filed on or before the Friday next preceding said seventh Tuesday.

55A:5. Primary financing; maximum amounts allowed to candidates.

Section 5. Upon filing a request for public financing with the director together with the bond required by section eight, any candidate eligible to receive limited public financing of his primary election campaign shall, on determination and certification by the director of the amount of qualifying contributions as defined by section one filed by such candidate with the director, be entitled to an amount equal to one dollar for each one dollar of qualifying contributions as defined by section one, subject to the following limitations: (a) no candidate shall be entitled to receive any amount in excess of the balance then remaining in the primary candidate account established for that candidate by the comptroller under section forty-two-forty-three of chapter ten or the amount of the bond filed pursuant to section eight; (b) nor shall any candidate be entitled to receive any amount in excess of the following maximum amounts for the following statewide elective offices:

Governor	\$750,000
Lieutenant Governor	312,500
Attorney General	312,500
Secretary	187,500
Treasurer and Receiver General	187,500
Auditor	187,500.

Only amounts appearing in statements of qualifying contributions filed with the director, in such form as he shall prescribe, shall be considered in determining amounts to which candidates are entitled. Determinations and certifications of the amounts to which eligible candidates are entitled shall be made by the director (a) for candidates for governor on or before the eighth, sixth, fourth and second Tuesday before the primary election and shall be based solely upon information contained in such statements as have been filed prior to such dates: on or before the Friday next preceding said eighth, sixth, fourth and second Tuesday; and (b) for all other candidates for statewide elective office on or before the sixth, fourth and second Tuesday before the primary election and shall be based solely upon information contained in such statements as have been filed on or before the Friday next preceding said sixth, fourth and second Tuesday.

55A:6. Statewide elective office financing; eligibility; minimum amounts for qualifying contributions.

Section 6. Any candidate for statewide elective office certified by the state secretary under section two as qualifying for the ballot and having opposition in the state

election shall be eligible to receive limited public financing of his state election campaign, to the extent provided by section seven, on determination and certification by the director that the candidate ~~{a}-has-filed-a-request-for-public-financing-with-the-director-together-with-the-bond-required-by-section-eight;~~ (a) has filed with the director a statement under subsection (a) of section one A agreeing to abide by the expenditure limits provided thereby; and (b) has received qualifying contributions as defined by section one in at least the following minimum amounts for the following statewide elective offices:

Governor and Lieutenant Governor	\$125,000
Attorney General	62,500
Secretary	25,000
Treasurer and Receiver General	25,000
Auditor	25,000

Only amounts appearing in statements of qualifying contributions filed with the director, in such form as he shall prescribe, shall be considered in determining whether any such minimum amount has been met. Determination and certification of the eligibility of candidates shall be made by the director (a) for teams of governor and lieutenant governor candidates on the fourth Tuesday before the state election and shall be based solely upon information contained in such statements as have been filed on or before the Friday next preceding said fourth Tuesday; and (b) for all other candidates for statewide elective office on the third Tuesday before the state election and shall be based solely upon information contained in such statements as have been filed on or before the Friday next preceding said third Tuesday.

The fact that a qualifying contribution has previously been considered in determining eligibility for, or the extent of, public financing of a candidate's primary election campaign shall not prevent consideration of the same contribution in determining eligibility for public financing of such candidate's state election campaign.

55A:7. Statewide elective office financing; maximum amounts allowed to candidates.

Section 7. Upon filing a request for public financing with the director together with the bond required by section eight, any candidate eligible to receive limited public financing of his state election campaign shall, on determination and certification by the director of the amount of qualifying contributions as defined by section one filed by such candidate with the director, be entitled to an amount equal to one dollar for each one dollar of qualifying contributions as defined-by-section-one subject to section nine and subject to the following limitations: (a) no candidate shall be entitled to receive any amount in excess of the balance then remaining in the state election candidate account established for that candidate by the comptroller under section forty-three of

chapter ten or the amount of the bond filed pursuant to section eight; (b) nor shall any candidate be entitled to receive any amount in excess of the following maximum amounts for the following statewide elective offices:

Governor and Lieutenant Governor	\$750,000
Attorney General	312,500
Secretary	187,500
Treasurer and Receiver General	187,500
Auditor	187,500.

Only amounts appearing in statements of qualifying contributions filed with the director, in such form as he shall prescribe, shall be considered in determining amounts to which candidates are entitled. Determinations and certifications of the amounts to which eligible candidates are entitled shall be made by the director (a) for teams of governor and lieutenant governor candidates on or before the fourth and second Tuesday before the state election and shall be solely upon information contained in such statements as have been filed on the Friday prior to such dates, and (b) for all other candidates for statewide elective office on or before the second Tuesday before the state election and shall be based solely upon information contained in such statements as have been filed on or before the Friday prior to such Tuesday.

The fact that a qualifying contribution has previously been considered in determining eligibility for, or the extent of, public financing of a candidate's primary election campaign shall not prevent consideration of the same contribution in determining the extent of public financing of such candidate's state election campaign.

55A:8. Candidate's bond; amount.

Section 8. No candidate shall be- eligible-to receive a distribution of public financing under this chapter and chapter 10 unless and until the candidate deposits with the director a bond for the faithful compliance by such candidate and any political committee organized on his behalf with the provisions of this chapter. Such bond shall be in a form approved by the director, shall be signed by such candidate and the chairman and treasurer of any such committee, shall run to the commonwealth, shall be in force during the year in which elections for statewide elective office are held and for the following calendar year. The-bond-deposited-for-the-purpose-of receiving-public-financing- for-the- primary-election- campaign must-be-for-the- amount-which-the- comptroller-has-credited- to the-account-established- on-behalf- of-that- candidate-for- the primary-election-campaign--The-bond-deposited-for-the- purpose of-receiving-public-financing- for-the-state-election- campaign must-be-for-the- amount-which-the- comptroller-has-credited- to the-account-established- on-behalf- of-that- candidate-for- the state-election-campaign;- but-in- the-case-of- a-candidate- for governor,-the-bond-on-behalf-of-said-candidate-shall-be-in- the amount-which- the- comptroller- has- credited- to- the- account

~~established-on-behalf-of-that-governor-and-lieutenant- governor~~
~~team-~~

On determination by the director that a candidate has failed to make the payments to the state treasurer required by section nine the director may request the attorney general to bring an action in the name of the state treasurer upon the bond of such candidate and his political committee and may recover for the benefit of the state election campaign fund, up to the sum of such bond, any such payments so required. Any such action shall be in addition to remedies otherwise available by law and no action any such bond shall preclude the director from bringing such other civil or criminal proceedings as may otherwise be provided by law.

55A:9. Balance remaining in candidate's accounts; filing statement; repayment of surplus money to fund.

Section 9. Within two weeks following any primary or state election for statewide elective office any candidate who has received public financing under this chapter shall file a statement with the director showing the balance remaining in the candidate's depository, savings, money market or other accounts or otherwise held for investment purposes and a list of all accounts receivable and checks received but not deposited as of the primary or state election less any reserve necessary to cover debts incurred to defray campaign expenditures incurred during such primary or state election. Except as herein provided, any candidate having a surplus balance following any such primary or state election shall thereupon pay to the director state- treasurer for deposit by the state treasurer to the state election campaign fund an amount determined by multiplying such surplus balance by a fraction the numerator of which is the total amount of public financing received on account of such primary or state election campaign and the denominator of which is the sum of such public financing received and all contributions received by such candidate. No candidate having a surplus balance following the primary election shall be required to make any payment on account of such surplus if such candidate is certified by the state secretary under section two as qualifying for the ballot and having opposition in the state election and is certified by the director of campaign and political finance as eligible for public financing for the state election within three weeks following such primary election; provided, however, that in determining and certifying the amount to which any such candidate is entitled under section seven the director shall reduce the amount that would otherwise be determined thereunder by an amount equal to the amount that such candidate would be required to pay to the state treasurer under this section but for this sentence.

If the director determines that any portion of the payments made to an eligible candidate under this chapter was in excess of the aggregate amount of the payments to which the candidate was entitled he shall so notify the candidate and he shall thereupon pay to the state treasurer an amount equal to

the excess amount.

If the director determines that any portion of the payments made to a candidate under this chapter for use in his primary election campaign or his state election campaign was used for any purpose other than to defray campaign expenditures in that campaign, or to repay loans the proceeds of which were used to defray campaign expenditures in that campaign, the director shall so notify the candidate and he shall thereupon pay an amount equal to the full amount so used to the state treasurer without regard to the source of the funds so used.

Any candidate who fails to pay an amount determined by the director to be due within ten days of notice thereof shall be subject to a penalty of fifty dollars per day for every day that such amount remains unpaid.

55A:10. Acceptance or refusal of public financing.

Section 10. No candidate shall be required to accept public financing nor shall any candidate otherwise eligible for public financing be denied such financing solely because an opposing candidate declines to accept such financing.

55A:10A Public Education. [NEW]

Section 10A. (a) The director shall prepare a statement, approved by the Attorney General, for distribution by the comptroller, the commissioner of the department of revenue and the state secretary explaining the purpose of the commonwealth's system of public financing of campaigns for statewide elective offices established by this chapter, the voluntary contribution taxpayers may make pursuant to section six c of chapter sixty-two, and the state election campaign fund established by section forty-two of chapter ten.

(b) The comptroller shall include the statement prepared pursuant to subsection (a) with each W-2 statement mailed or distributed by the comptroller. In consultation with the director, the comptroller may also include such other information consistent with this section in appropriate sections of other publications and materials distributed by the comptroller.

(c) The commissioner of the department of revenue shall include the statement prepared pursuant to subsection (a) in appropriate sections of the personal income tax forms, instructions or other materials furnished and distributed by said commissioner pursuant to section 3 and section 5 of chapter 62C. In consultation with the director, the commissioner of the department of revenue may also include such other information consistent with this section in appropriate sections of other forms, instructions, publications and materials distributed by the department of revenue.

(d) The state secretary, when required by sections 53 and 54 of chapter 54 to cause information to be printed and mailed, shall include the statement prepared pursuant to subsection (a). The state secretary may also include such other information consistent with this section in appropriate sections of other publications and materials distributed by the

secretary of the commonwealth.

55A:11. Rules and regulations; investigations.

Section 11. The director shall promulgate such rules and regulations as are necessary to effectuate the purposes of this chapter.

The director shall have the same power and authority to investigate the legality, validity, completeness and accuracy of all reports and actions required to be filed and taken by candidates pursuant to this chapter as is provided by section three of chapter fifty-five pertaining to campaign contributions and expenditures.

55A:12. Violations; penalty.

Section 12. Violation by any person of any provision of this chapter shall, in addition to any civil liabilities established by this chapter, be punished by imprisonment for not more than one year or by a fine of not more than one thousand dollars or both.

III. APPENDICES

III. APPENDICES

- A. Legislation establishing the Commission
- B. Membership of the Commission
- C. Meetings of the Commission and Working Groups
- D. Section by Section Analysis of Massachusetts
Public Financing Law
- E. Highlights of other states' public funding provisions
- F. Report of the Commission's Working Groups
- G. Time Line Chart of Proposed Public Financing Process
- H. Report on the Commission's public hearing
- I. Written testimony and materials submitted to the
Commission

APPENDIX A

Legislation Establishing the Commission

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Ninety-six

AN ACT RELATIVE TO THE SPECIAL COMMISSION ON PUBLIC FINANCING OF POLITICAL CAMPAIGNS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 43 of the acts of 1994 is hereby amended by striking out section 48, as amended by section 16 of chapter 292 of the acts of 1994, and inserting in place thereof the following section:-

Section 48. There is hereby established a special commission to consist of three members of the senate, one of whom shall be the chairman of the joint committee on election laws or his designee, one of whom shall be the chairman of the senate committee on ways and means or his designee, and one of whom shall be the senate minority leader or his designee, and three members of the house of representatives, one of whom shall be the chairman of the joint committee on election laws or his designee, one of whom shall be the chairman of the house committee on ways and means or his designee, and one whom shall be the house minority leader or his designee, the governor or his designee, the state secretary or his designee, the attorney general or his designee, the state treasurer or his designee, the state auditor or his designee, the director of campaign and political finance or his designee who shall serve as chairman, the deputy director of campaign and political finance or his designee, the commissioner of revenue or his designee, the comptroller or his designee, three persons to be appointed by the speaker of the house of representatives, three persons to be appointed by the president of the senate, and three persons to be appointed by the governor, for the purpose of making an investigation and study relative to additional or full public financing of political campaigns and the implementation of the current public financing system in the commonwealth.

Said commission shall report to the general court the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing

the same with the clerks of the senate and the house of representatives on or before the third Wednesday of May, nineteen hundred and ninety-six.

House of Representatives, February 1, 1996.

Passed to be enacted,  , Acting Speaker.

In Senate, March 4, 1996.

Passed to be enacted,  , President.

14 March, 1996.

Approved,

11:50 AM



Governor.

APPENDIX B
Membership of the Commission

SPECIAL COMMISSION ON PUBLIC FINANCING
OF POLITICAL CAMPAIGNS

MEMBER

REPRESENTING

Michael J. Sullivan, Chairman	Director Office of Campaign & Political Finance
Bradley S. Balzer	Deputy Director Office of Campaign & Political Finance
Sen. Robert A. Bernstein	Senate Chairman, Committee on Election Laws
Elizabeth Campbell Chair, Mass. State Legislative Committee American Association of Retired Persons	Governor
Laureen Casper Director of Legislative Relations Office of the Treasurer	State Treasurer
Cheryl Cronin Partner, Hoopes and Cronin	Senate President
Donald L. Davenport Chief of Staff Office of the Attorney General	Attorney General
Rep. Thomas M. Finneran Speaker of the House	House Committee on Ways and Means
William F. Galvin	Secretary of the Commonwealth
Rep. William J. Glodis	House Chair, Committee on Election Laws
Morris Gray Treasurer Pioneer Institute	Governor

Commission membership
Page Two

William A. Hazel
Acting General Counsel
Department of Revenue

Department of Revenue

William Kilmartin

Comptroller

Sen. Brian P. Lees

Senate Minority Leader

Rep. Jacqueline Lewis
First Assistant House
Minority Leader

House Minority Leader

Stephen Long
Legislative aide to
Sen. Stanley C. Rosenberg

Senate Committee on Ways and—
Means

Mary F. McTigue
Former Director
Office of Campaign &
Political Finance

Governor

Larry Overlan
President
New England Institute
for Public Policy

Senate President

John Parsons
General Counsel
Office of the State Auditor

State Auditor

David Sullivan
Office of the
Senate President

Senate President

Edward T. Tobin
Chief Secretary to
the Governor

Governor

APPENDIX C

Meetings of the Commission
and Working Groups

COMMISSION MEETINGS

<u>Date</u>	<u>Location</u>	<u>Purpose/Agenda</u>
April 3, 1996	State House	Organizational meeting and OCPF presentation on public financing law
April 24, 1996	State House	Public hearing on public financing law
April 30, 1996	State House	Review of group reports and vote on recommendations
May 13, 1996	State House	Review and approval of final report

WORKING GROUP MEETINGS

<u>Date</u>	<u>Location</u>	<u>Group</u>
April 9, 1996	OCPF	Technical Group on Implementation
April 11, 1996	OCPF	Policy Group on Implementation
April 25, 1996	OCPF	Future of Public Financing Group
April 25, 1996	OCPF	Policy Group on Implementation
April 26, 1996	OCPF	Technical Group on Implementation

APPENDIX D

Section-by-Section Analysis
of Massachusetts Public Financing Law

MASSACHUSETTS PUBLIC CAMPAIGN FINANCING
Section by Section Analysis

This memorandum contains a section by section analysis of Massachusetts' current public campaign financing system. Next to each specific citation is a brief description of the purpose of the cited statute. In addition, the comment section notes changes to the public financing system made by chapter 43 of the Acts of 1994 and finally identifies key issues for the Special Commission consideration.

<u>Citation</u>	<u>Comments</u>
-----------------	-----------------

62.6C	Establishes funding mechanism for the State Election Campaign Fund ("SECF").
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1994 Legislation: Changed \$ 1.00 "add on" to \$ 1.00 "check off" to increase the SECF.

Issue: Additional revenues may not be sufficient to encourage candidates to limit spending.

10.43	Comptroller divides SECF into primary and election accounts and candidate accounts.
-------	---

1994 Legislation: Changed to primary/election funding to from 60/40 to 50/50; comptroller divides fund based on OCPF not Secretary of State certification; fully funds governors race; if additional "spill over" funds are available, other statewide races are proportionately funded in equal amounts.

Issues: Non-gubernatorial candidates will not know if "spill over" funds are available until OCPF certification which occurs 4 days after deadline to file qualifying contributions and bond; comptroller requirement to divide SECF based on OCPF's certification due on same day.

10.44	Distribution of funds to candidates on 8th, 6th, 4th and 2nd Tuesday prior to primary and 4th and 2nd Tuesday prior to election.
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1994 Legislation: No change.

Issues: None.

55A.1	Statutory definitions including "qualifying contribution."
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1994 Legislation: No change.

Issues: None.

55A.1A	Establishes candidate spending limits and requires candidate's to file statement of agreement to limits
--------	---

or self imposed maximum. Limits ballot access to candidates failing to file statements.

1994 Legislation: New section.

Issues: Law or regulation must address (a) time period applicable to expenditures subject to limits, (b) which expenditures, if any, are exempt from limits, (c) ensure that candidate who files limit statement first is not at disadvantage, (d) address fact that non-gubernatorial candidate must agree to limits even though funds will not be available, (e) are limits reasonable. Note: section 1A(c) has incorrect reference to primary.

- 55A.2 Secretary of States determines and certifies candidates who qualify for ballot and are opposed on 9th Tuesday before primary and 5th Tuesday before election.

1994 Legislation: No change.

Issues: None.

- 55A.3 OCPF certifies to State Treasurer candidates eligible for public financing and the amounts due such candidates based upon amount of qualifying contributions.

1994 Legislation: No change.

Issues: OCPF does not know amount available for candidates upon initial determination of eligibility because comptroller now divides fund based on the OCPF certification. See c. 10 s. 44.

- 55A.4 Establishes primary financing eligibility and minimum amounts of qualifying contributions candidates must submit.

1994 Legislation: Candidate must accept spending limits to qualify; statements must be filed on Friday before Tuesday certification date; only candidates certified on 8th Tuesday will receive monies; all primary account funds distributed.

Issues: Candidates will not know if or how much money is available to them at deadline to file bond and contributions; bond amount will be unknown at time required to file; candidates will have had to agree to limits even though money eventually isn't available.

- 55A.5 Primary financing; maximum amounts available to candidates.

1994 Legislation: Increased amounts of financing

theoretically available.

Issues: Monday deadline for submission conflicts with Friday deadline in section 4; OCPF required to limit maximum funds available in account established by comptroller even though account has not been established.

- 55A.6 Establishes election financing eligibility and minimum amounts of qualifying contributions candidates must submit.

1994 Legislation: See section 4.

Issues: See section 4.

- 55A.7 Election financing; maximum amounts available to candidates.

1994 Legislation: See section 5.

Issues: See section 5.

- 55A.8 Candidates must file bond with director.

1994 Legislation: Changed bond amount from maximum eligible amount to amount in candidate's account.

Issues: Requirement that candidate file bond with OCPF prior to comptroller's division of fund creates "catch 22" since amount in account is unknown at time of filing.

- 55A.9 Candidates file statements with OCPF regarding candidate account balance. Surplus funds must be returned to SECF in accordance with statutory formula.

1994 Legislation: No change.

Issues: Clarification that surplus balance includes all available funds of committee not just funds on deposit in committee checking account. Exempt expenditures, if any, must be reported. Reporting of use of public funds be used for certain specific purposes and the reporting of that.

APPENDIX E

Public Financing in Other States

NEW YORK (PROPOSED)

Statewide and legislative

Funding: \$3 checkoff and difference is made up with money from general fund

Spending limits: Governor \$.75 per enrolled voter not to exceed \$2,500,000 primary
\$7,000,000 election

Exempt from limits: Expenditures to challenge or defend nomination papers

Prohibited use: -Expenditure in violation of any law of U.S. or New York
-Payments to candidate or relative of candidate or to businesses 10% owned by candidate or relative of candidate
-Payments in excess of fair value
-Expenditures to defend or challenge nomination papers
-Expenditures for Gifts except brochures, buttons signs and other campaign material

RHODE ISLAND

Statewide

Funding: \$1 checkoff plus automatic appropriation if there is a shortfall

Spending Limits: Governor
\$1,500,000 for 24 months preceding election
2,000,000 if in contested primary
These are also the fundraising limits for the entire 48 month term

Exemptions from limits: Fundraising costs

Prohibited expenditures: Seven categories, gifts and others

Other: Must limit candidate loans to 10% of total monies raised

WISCONSIN

Statewide and legislative offices

Funding: \$1 checkoff

Expenditure limits: Governor \$1,078,000 Primary Election combined; starts January 1 of election year expenditures made prior for "goods to be delivered or services to be rendered in connection with the campaign are applied against limits"

Exemption from limits: -Tax payments (wages, sales etc.)
-Repayment of personal loans
-Returned or purge contributions
-Certain fund raising costs
-Recount costs
-Candidate travel
-Deposits or refunds

Prohibited expenditures: Public money may only be used for the purchase of services from a communications medium and for printing, graphic arts, advertising office supplies and postage.

Other: Candidate's contributions are limited to two times an individuals legal limit.

LOS ANGELES

Mayor, Comptroller, City Attorney, Council

Funding: Appropriation

Expenditure limits: Mayor \$2,000,000 primary
1,600,000 election
Comptroller 800,000 primary
600,000 election
City Attorney 900,000 primary
700,000 election

May only organize committee to raise and spend money within 24 months of election, all such expenditures are applied against limits

Exempt from limits: -Compliance costs (up to twenty percent of spending limits.)
-Funds raised and spent out of an elected officials "officeholder's expense fund" or "legal defense fund"

Prohibited expenditures: Money may only be used for "qualified campaign expenses" same standard as for privately raised funds

MICHIGAN

Governor

Funding: \$3 checkoff

Spending Limit: \$2,000,000 primary; starts day after last
election
2,000,000 election

Exempt from limits: -Purchase of space in newspapers and
broadcast media to respond to editorials
in that specific media outlet.
-Expenditures incidental to holding public
office

Prohibited Expenditures: -Expenditures in violation of state
law
-Payments to candidate and family
-Payments to businesses 10% owned by
the candidate or family
-Wages to an individual that exceed
\$5,000 per month
-Gifts

NEW JERSEY

Governor

Funding: \$1 checkoff plus general appropriation if there is a
shortfall.

Spending Limit: \$2,600,000 primary; Starts when gubernatorial
committee is established
for that election
5,900,000 election
Adjusted for inflation every 4 years

Exempt from limits: -Candidate travel expenditures
-Certain fund raising costs
-Compliance costs
-Election eve expenditures

Use of public money: May only be used for printing, mailing,
media and production of printing mailing
and media, and telephones.

Other: Recipient must debate opponents

KENTUCKY

Governor

Funding: General appropriation

Spending limit: \$1,800,000 primary; starts when candidate
"slates" (picks running
mate)
1,800,000 election

Exempt from limits: In-Kind contributions of \$100 or less

Prohibited expenditures: None, other than restrictions in
statute which apply to all
candidates.

Other: Party cannot spend to support nominee. (regulation)

NEW YORK CITY

Mayor, Comptroller, Borough President, Council

Spending limits: Mayor \$5,002,000 primary; 4,732,000 in
election year,
180,000 in year
preceding election,
90,000 in each of
two years preceding

	4,732,000 election
Comptroller	3,228,000 primary
	2,958,000 election
Borough President	1,245,000 primary
	1,065,000 election

Exempt from limits: -Compliance costs
-Costs to challenge or defend nomination
papers

Prohibited expenditures: -Payments to candidates and
relatives
-Payments to businesses if 10% owned
by candidate or relatives
-Expenditures in violation of law
-Cash payments
-Gifts
-Expenditures to challenge or defend
nomination papers
-Expenditures where appropriate
records are not kept

MINNESOTA

Statewide, legislative, political parties

Funding: \$5 checkoff and a \$1,500,000 appropriation each election year

Spending limit: Governor \$1,700,000 for 1994 **election year** x 110% if first time candidate x 120% if in contested primary and opponent receives 50% of nominees vote total
off election year limit is 20% of prior election years limit (ie: $.20 \times 1,700,000 = 340,000$ for 1995, 1996, 1997; 1998 limit will be adjusted) 1998 limit to be set shortly

Exemptions from limits:- Food, facilities and entertainment at fundraisers
- Accounting, legal fees
- Child care
- Repayment of loans
- Food for volunteers
- Post election parties and thank you
- Constituent services

Prohibited expenditures: Same as exemptions listed above

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APPENDIX F

Reports of the Commission's Working Groups

MEMORANDUM

TO: Members of the Special Commission on Public Financing
FROM: Michael J. Sullivan
RE: Report of the Working Groups
DATE: April 30, 1996

As determined at the Commission's first meeting, three working policy groups were organized to discuss policy and technical issues connected to implementation and the future funding of public finance. These groups were called the Policy Group on Implementation, the Technical Group on Implementation and the Future of Public Financing Group.

The Implementation and Technical groups appeared to reach consensus, while the Future's group decided to outline several options for the full Commission's consideration. Because many of the issues are intertwined, it is difficult to know where to begin. I would highlight, however, the basic goals or principles which guided each of the working groups.

(a) The Implementation group was guided by a strong consensus that the system should be fair to candidates and simple to administer and understand.

(b) The Technical group sought to address inconsistencies in the 1994 statute, to provide a single point of contact for candidates, to provide oversight and to assign responsibilities in a manner appropriate to each agency participating in the public financing system.

(c) The Future's group primary goal was to ensure the viability and effectiveness of the Massachusetts system of public financing. There was agreement in the area of increasing public education, while no formal recommendation was made by this group regarding funding.

While we were preparing this information, we identified another issue which I believe should be considered. Previously, the balance of the primary and election accounts were split on a 60/40 (primary/general) basis. The current statute has changed that to a 50/50 split. It appears, however, that a 60/40 funding split may be more consistent with the goal of full public financing of constitutional candidates.

In closing, I extend my thanks and appreciation to the members of the Special Commission for their interest in this issue and for the time they have spent reviewing the future of public financing of political campaigns in the Commonwealth.

POLICY GROUP ON IMPLEMENTATION

The Policy Group met on April 11 and 25 to discuss several issues critical to the implementation of the current system of public financing in Massachusetts.

1. **Inadequate Funding:** At current participation levels, approximately \$2.0 million will be available for gubernatorial candidates in 1998. As a result, funding for non-gubernatorial candidates will largely depend on decisions by gubernatorial candidates whether to apply for public financing. Therefore, little or no public financing may be available to non-gubernatorial candidates.

Recommendation: Non-gubernatorial candidates should be able to "opt out" at any time prior to the receipt of public funds.

2. **Self-imposed Spending Limits:** If a candidate is permitted to withdraw from receiving public funding, it seems unnecessary and possibly illegal to require the candidate to establish an artificial, voluntary spending limit as now required. Similarly, such limits seem unnecessary and possibly illegal relative to candidates who do not initially choose to accept public financing.

Recommendation: Remove self-imposed spending limits for all candidates who choose not to accept public financing.

3. **Confidential Statements of Agreements:** Current law is silent on whether a candidate's statement of agreement to abide by spending limits is confidential prior to the filing deadline. As a result, the statute creates incentives for candidates to take advantage of the decisions of other candidates. For example, if one candidate files a statement not to abide by limits prior to another candidate, the second candidate can file a statement to abide by limits, thereby receiving public financing. Yet, that candidate will not be bound by spending limits.

Recommendation: All statements of agreements should be confidential until after applicable deadline and released publicly by OCPF at the same time.

4. **Expenditures - Exemptions From Limits:** The Group believed that the administrative burden placed on candidates in categorizing certain costs for the purpose of spending limit exemption would be severe. In addition, such a burden would be inconsistent with the Group's overriding commitment to keep the system simple and fair. Exempting the cost of challenging or defending the legitimacy of a candidate's nomination paper, however, received support at the public hearing. The Group believes this cost can be readily segregated from other costs.

Recommendation: No costs, except those costs directly associated with challenging or defending a candidate's nomination papers, should be exempt.

5. Spending Limit Time Period: There are a number of dates which could be used to "trigger" spending limits, i.e. January 1 of the election year or the date a candidate agrees to be bound by such limits. Arguments pro and con can be made for each date. While an early date could reduce campaign costs, an early date will require additional costs to be exempted. On the other hand, while a later date simplifies which expenditures should be exempted, expenditures could be prepaid or inventories increased to subvert spending limits. On balance, the Group believed that a later date would be fairer to all candidates, simpler to administer and more consistent with the existing system.

Recommendation: Spending limits should start on the statutory deadline for a candidate's statement to abide by spending limits and include prepaid expenses and inventories.

6. Campaign Spending Limits: No one at the public hearing held on April 24, 1996, or in the working group on implementation supported changing the current spending limits. Members of the working group agreed, however, that an index for inflation should be included in the spending limits.

Recommendation: Maintain current spending limits; build in inflation index.

7. Prohibited Expenditures: A number of other state laws provide that public funds may not be used to pay for certain costs; other states identify the specific goods or services, i.e. media services, for which public funds may be used. While these laws are designed to help ensure that taxpayer funds are not used for campaign costs that some may see as inappropriate, compliance with such provisions can be extremely burdensome to candidates and administrators alike since it requires either separate bank accounts or separate accounting systems. Massachusetts law and regulation currently prohibits candidates and political committees from making expenditures which are primarily for personal use.

Recommendation: No change.

FUTURE OF PUBLIC FINANCING GROUP

The Futures Group met on April 25 to discuss options for the future implementation of the public financing system, with the goal of ensuring its viability and effectiveness in future elections.

1. **Public Education:** To many group members, this component is essential to the future success of public financing of political campaigns. Increased participation in the checkoff program, whether at its current level or with an increase to \$2 or \$3, depends on a coordinated effort to educate voters on the importance of funding the SECF. Education could take many forms. Chief among them would be information disseminated by the Secretary of State (voter's guides), the Department of Revenue (written and telephone tax instructions), the Treasurer's office (information in public employee's W-2 forms), and OCPF. Interested citizens' groups could also play an important role in the campaign.

Such a program could be implemented using existing resources, given the existence of such means of education as the Secretary of State's voter's guide and DOR tax guides.

Recommendation: Legislation that requires OCPF to prepare statements for publication in the Secretary of the Commonwealth's Voter Information Guide, Massachusetts individual taxpayer guides and state employee's W-2s.

2. **Public Funding of Campaigns**

(a) **No Changes to System:** Taking no action is the easiest course. Without an increase in the amount of revenue for the fund, there will not be enough funds to finance all the races covered under Chapter 55A.

(b) **Increase Tax Checkoff:** The sole source of funding for the SECF is a \$1 checkoff on state income tax returns (\$2 for joint returns). From 1988 to 1993, the participation rate under the add-on system never exceeded 2 percent and the amount collected annually was substantially less than \$100,000. By contrast, the federal checkoff system had a participation rate of over 20 percent in Massachusetts.

Using the federal system as a model, the state switched to a checkoff system for the 1994 tax year (returns filed in 1995). As expected, participation increased dramatically, rising sevenfold to just under 10 percent. Despite the increase in participation, however, a continued \$1 checkoff will not draw enough revenue to ensure full funding.

The futures group discussed raising the checkoff amount to \$2 or \$3, though no formal recommendation was made. Such a change would increase the possibility of full funding of races.

A disadvantage of an increase in the checkoff is that it would reduce tax revenues that would otherwise be earmarked for other areas.

(c) **Cover SECF Deficit with Appropriation:** Another option is to cover any deficit in the SECF with a general appropriation. The chief advantage of such an option is that it would guarantee that sufficient funding for all races would be available. Candidates now take a gamble when filing their declarations of whether they would take state funds because the exact amount of money that may be available is not yet known. An appropriation ensuring full funding would take that guesswork out of candidates' declarations. The chief negative to the appropriation option was some group members' reluctance to support the commitment of more public funds to the SECF, given a tight state budget, unless voters directly approved such a commitment by their participation in the checkoff.

3. **Limited Funding of Races in 1998:** The 1998 election season is two years away. Some members discussed using the SECF to fund one race in 1998: the contest for governor. Assuming four candidates, a total of \$4.5 million would be needed -- an amount that would not be covered by the fund. While the statute calls for the other races to be funded by any spillover of funds left over from the governor's race, the projected balance of the fund makes full funding of those races in 1998 unlikely.

Under the proposal, the races for all six constitutional offices would be eligible for financing in 2002, when an enhanced funding mechanism has had a chance to bolster the fund.

The chief advantage of covering only one race in 1998 is concentrating limited resources on that race. The chief disadvantage is the fact that the other candidates would be excluded, not getting any spillover from the governor's race.

TECHNICAL GROUP ON IMPLEMENTATION

The Technical Group on Implementation met on April 9 and 26 to review technical issues relevant to the implementation of the current system of public financing in Massachusetts.

1. **Staggered Submission of Qualified Contributions:** Under the current system, candidates for constitutional offices other than governor will probably not be able to determine whether public funds will be available until after gubernatorial candidates have made their submissions. This inability occurs because the deadline for candidates for all constitutional offices to make their submissions is at the same time. If the law is not changed, therefore, non-gubernatorial candidates will have to perform a substantial amount of work to make the required submissions with the possibility that little or no funds will be available. This seems unfair and unduly burdensome and can be remedied through a staggered submission procedure.

Recommendation: Non-gubernatorial candidates should file submission for qualifying contributions one week after candidates for governor during both primary and election.

2. **Candidate's Bond:** Current law provides that the candidate must file a bond with OCPF in the amount certified by the comptroller before OCPF certifies that the candidate is a "qualified candidate." However, at the time the candidate is seeking OCPF certification, the comptroller has not determined the amount in each candidate's account. The technical group looked at two approaches. The first would change the law's requirement so that the bond would be filed with the state treasurer prior to the receipt of any public funds; the second would change the requirement so that the bond would still be filed with OCPF but prior to the disbursement of public funds.

Recommendation: Bond should be filed with OCPF at any time prior to disbursement of public funds rather than prior to certification.

3. **Certification of Available Funds:** Current law provides that the Comptroller divides the fund into primary and election account and further subdivides these funds into as many candidate accounts as certified by OCPF. Similar to the issues raised by the filing of the bond, the existing certification process creates timing issues. These issues can be solved, however, by having OCPF rather than the Comptroller subdivide the specific amount of public funds that each eligible candidate is entitled to receive. Giving OCPF this responsibility is also consistent with assigning activities to the agency primarily responsible for the activity.

Recommendation: OCPF should certify amount of public funds for each eligible candidate.

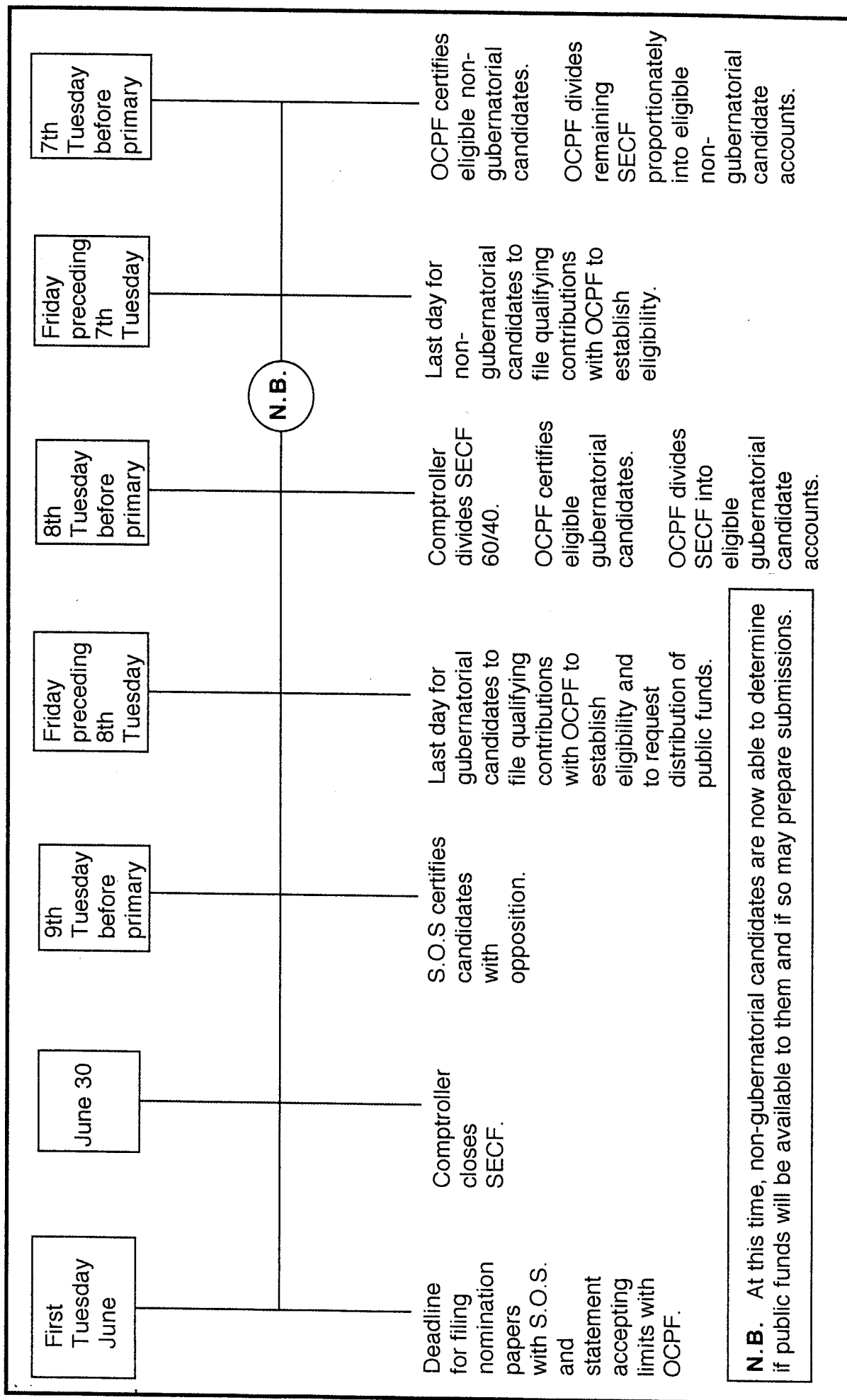
4. Oversight: Over the years, OCPF, the Secretary of the Commonwealth, the State Treasurer, the Office of the Comptroller, and the Department of Revenue have worked cooperatively to implement Massachusetts' public financing statute. The State Auditor, however, has recommended, and the various agencies have agreed, that OCPF should have oversight authority over the entire process.

Recommendation: The text of Senate 376 should be incorporated into any legislation proposed by the Special Commission.

APPENDIX G
Time Line Chart
of Proposed Public Financing Process

**MASSACHUSETTS SYSTEM OF PUBLIC
FINANCING OF CAMPAIGNS FOR STATEWIDE
OFFICE**

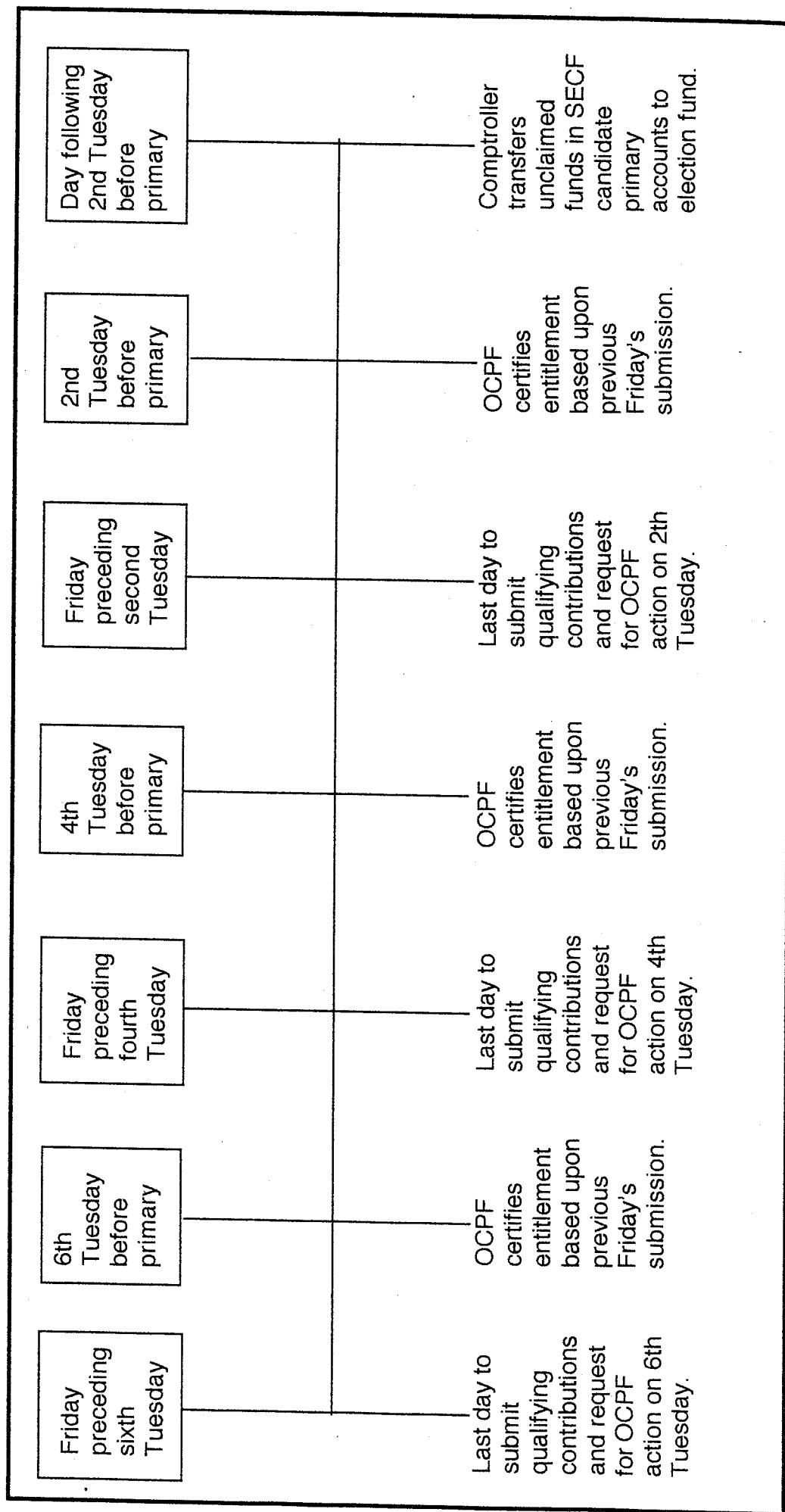
PRIMARY TIME LINE CHART - PROPOSED



MASSACHUSETTS SYSTEM OF PUBLIC
FINANCING OF CAMPAIGNS FOR STATEWIDE
OFFICE

Page 2

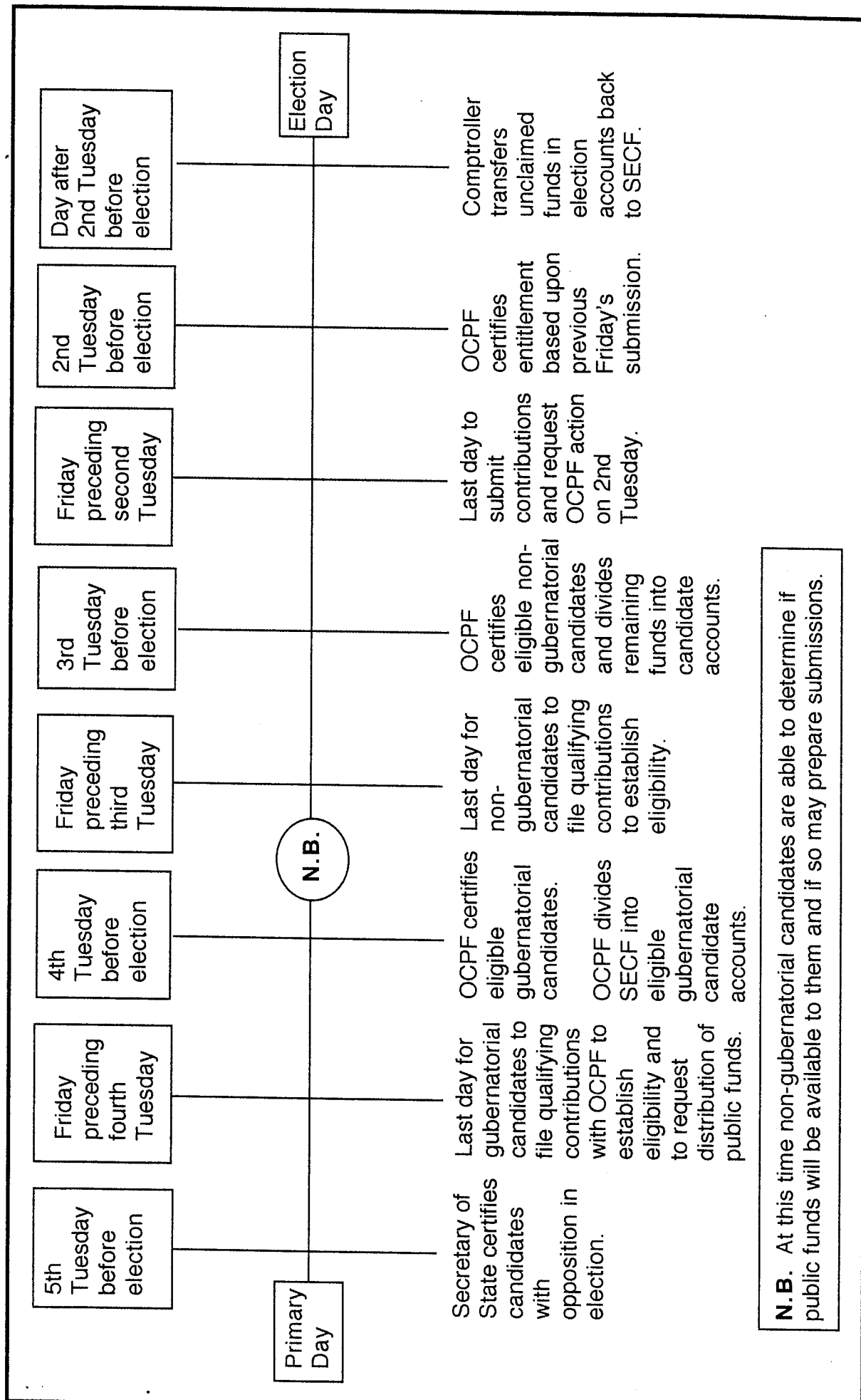
PRIMARY TIME LINE CHART - PROPOSED



MASSACHUSETTS SYSTEM OF PUBLIC
FINANCING OF CAMPAIGNS FOR STATEWIDE
OFFICE

Page 3

ELECTION TIME LINE CHART - PROPOSED



N.B. At this time non-gubernatorial candidates are able to determine if public funds will be available to them and if so may prepare submissions.

APPENDIX H

Report on the Commission's public hearings

**SPECIAL COMMISSION
ON
PUBLIC FINANCING OF POLITICAL CAMPAIGNS
PUBLIC HEARINGS**

AGENDA: Public comment on the implementation and future of public financing of elections in Massachusetts.

**FIRST HEARING
APRIL 24, 1996**

SPEAKER	AFFILIATION
Paul Fitzgerald	Common Cause
Joshua Friedes	Common Cause
Jason Cohen	Commonwealth Coalition
John Bonifaz	National Voting Rights Institute
Kevin O'Connell	Private Citizen
Marc Draisen	Former state representative and candidate for lieutenant governor
Pam Temure	Chairwoman, Cambridge Democratic City Committee and former candidate for state auditor
Lester Lee	Professor, Wheelock College, and chairman of 1994 ballot question committee in Cambridge

**SECOND HEARING
MAY 13, 1996**

SPEAKER	AFFILIATION
Hannah Laipson	Common Cause
Paul Fitzgerald	Common Cause
Joshua Friedes	Common Cause
George Pillsbury	Massachusetts Money and Politics Project
James Paisner	Common Cause

APPENDIX I

Written Testimony and Other Material
Submitted to the Commission

Testimony Presented to the
Special Commission on Public Financing
of Political Campaigns

By
Senator Stan Rosenberg
(D-Amherst)
Chairman
Senate Committee on Ways and Means

State House
Room 222

April 24, 1996

For the record my name is Stan Rosenberg of Amherst, state senator from the Hampshire-Franklin District and Chairman of the Senate Committee on Ways and Means. I am submitting the following testimony on the state's system of providing public financing for political campaigns.

In the past few years we have made significant progress in publicly financing political campaigns. The most prominent example of this is the provision in the 1994 Campaign Finance Reform Law that changed the way taxpayers may contribute to the State Election Campaign Fund.

For the first 18 years of the Fund's existence, taxpayers could make a voluntary donation that increased their tax bill by \$1. Not many did. According to Office of Campaign and Political Finance figures, in 1993, only 1.5 percent of the total returns filed opted to pay the additional \$1. That's 42,587 returns, including joint returns, for a total contribution of \$56,648.

But when the Campaign Finance Reform Law took effect, and changed the mechanism for the Campaign Fund to a check-off that diverts \$1 from a taxpayer's payment or refund, the results were dramatic. In the first year, 1994, almost 10 percent of all returns filed made the \$1 contribution. That's 284,225 returns, including joint returns, for a total of \$399,796.

These results tell us at least three things: 1) that taxpayers are becoming increasingly aware of public financing as a way of limiting the perceived influence of private money in political campaigns; 2) that taxpayers prefer the check-off to the add-on system; and 3) that we still have a long way to go before full public financing is viable.

Under the reform law, money from the Campaign Fund must be distributed on a cascading basis, beginning with gubernatorial candidates who have agreed to spending limits. Those candidates are eligible to receive up to \$750,000 each during the primary and \$750,000 each during the general election. Any money left in the fund would then be distributed equally among the candidates who have agreed to spending limits for the remaining constitutional offices. But according to the OCPF, the Campaign Fund, as of last December, contained approximately \$530,000.

That's not a very attractive amount.

As it is currently being implemented, the Campaign Fund, although much improved over its first 18 years, still needs more work.

I recommend that the Commission explore the following:

- 1) **Work closely with the Department of Revenue to implement more intensive public education efforts.**

The Revenue Department has been very cooperative, but this past year the Campaign Fund information on the telefile form and the DOR's telephone message was ambiguous.

Revenue officials have agreed to change the telephone recording and I look forward to seeing changes in next year's telefile form. But in the meantime, it seems worthwhile for the Commission and Revenue Department to develop a vigorous public information strategy.

Based on the figures I have cited, it is clear that full public financing for Legislative campaigns, which would cost in excess of \$36 million for the election cycle, is not feasible in the near future. With a more active public information strategy, taxpayers who are ambivalent about contributing to the fund might be more inclined to do so. This effort might also encourage those who have participated in the program to continue their contributions.

2) Consider increasing the check-off amount soon to \$2 and then to \$3.

Any public education effort will include information on the real costs of political campaigns, even those with spending limits, and the dollars available through the Campaign Fund. There is the risk of driving potential contributors away, but Massachusetts' taxpayers' participation rates in the Presidential Election Campaign Fund seems to indicate otherwise.

In 1993, 21 percent of the state's federal tax returns opted for the \$3 Presidential Election Campaign Fund check-off. That's six percent better than the national average. I would also request that the OCPF examine the revenue implications of increasing the check-off amount and explore the feasibility of giving taxpayers the option of contributing \$1, \$2 or \$3 on their tax returns. By providing this option, the hope is that at least those taxpayer who contributed at the \$1 level would continue their support at the higher rates, thereby doubling, perhaps tripling the current contribution level. This would make the Campaign Fund much more attractive to candidates and possibly encourage more to agree to spending limits. The success of increasing the check-off, however, would seem to depend on the public information effort.

Finally, it is also important to note that full public financing, although a worthwhile goal, is not the only answer to the problem of the public mistrusting government. There are a number of provisions in the reform law that should be allowed time to work before we give up on the State Election Campaign Fund's potential.

The ultimate objective of the Campaign Finance Reform Law is to help restore the public's faith in government. Replacing private money in political campaigns with public dollars is one way to do that.



The Commonwealth of Massachusetts POLITICAL
FINANCE

House of Representatives

State House, Boston 02133-APR 24 11 37 AM '96

PAUL C. DEMAKIS
REPRESENTATIVE

8TH SUFFOLK DISTRICT

BOSTON • BROOKLINE • CAMBRIDGE

ROOM 443, STATE HOUSE

TEL. (617) 722-2460

Committees on
Government Regulations
Judiciary
Local Affairs

ERIC LINZER
LEGISLATIVE AIDE

April 24, 1996

Brad Balzer, Deputy Director
Office of Campaign and Political Finance
One Ashburton Place, Room 411
Boston, MA 02108

Dear Mr. Balzer:

I am writing to express my support for the study to determine the feasibility of additional or full public financing of political campaigns, and ask that the scope of the study include the possibility of funding legislative races, as well.

The use of public funds would reduce the amount of time candidates spend raising money. It will also effectively limit the influence of special interests in elections and restore public confidence in the electoral and legislative processes.

Additionally, public funding may encourage more people to seek elected office by eliminating some of the financial obstacles which discourage individuals from running. As a result, this may have the effect of attracting candidates from a wide range of backgrounds. For all of these reasons, I strongly support this study.

Thank you for your consideration.

Sincerely,

Paul C. Demakis

Paul C. Demakis
State Representative
8th Suffolk District

CAMPAIGN FINANCE REFORM

AARP's Position

Testimony of John Stouffer:

For many years, AARP and other organizations have been warning of the danger to our democracy in our current method of financing political campaigns of candidates at all levels of government, including presidents, governors, Congress and state legislators.

AARP's Public Policy Agenda States:

"Congress should adopt campaign finance reforms that build on the principles of the presidential financing system establishing for Congress a system of spending limits and public financing.

Campaign finance reform should include ending the 'soft money' campaign contribution system, which has opened the door to huge campaign contributions.

Stricter controls should be placed on independent expenditures and on contributions by political action committees (PACs). The 'bundling' loophole, whereby campaign contributions arranged by a PAC or other intermediary are used to evade contribution limits, should be closed. These reforms would reduce the increasing amount of time spent during congressional campaigns raising money at the expense of time spent addressing policy matters.

Legislative and regulatory efforts should be made to improve the quality of political advertisements. For example, candidates and other sponsors of ads should be required to identify themselves in a meaningful way within the ads, and candidates should be required to appear in their ads and assume responsibility for the ads contents."

The emphasis of this policy statement is clearly on the financing of federal level campaigns. However, the principles obtain equally at the state level.

The great amount of time spent, and the substantial amount of cash needed, to run a campaign under our present system not only diverts too much of an incumbent's energies away from the duties he/she was elected to perform for us, but makes it all but impossible for challengers to run for office unless they have large personal incomes and/or well-to-do contributors to whom they will be obligated if elected. We would be naive to think otherwise.

In view of the Public Policy Agenda quoted above and the observations that follow it AARP suggests the following:

- ◆ Voluntary spending limits

- ◆ Incentives for candidates to limit spending such as

- public funding
 - free or reduced rates for TV or radio advertising; and/or
 - reduced postal rates for mailings

- ◆ End "soft money"

- i.e. money raised by the political parties and technically used for "party building" but in fact is given to candidates

- ◆ Stricter controls on the time candidates spend raising campaign funds (Incumbents now spend too much time in this endeavor as opposed to legislating)
- ◆ Stricter limits on independent expenditures
- ◆ Stricter limits on political action committee (PAC) contributions
- ◆ Elimination of "bundling" loopholes



common cause / massachusetts

59 temple place / boston / massachusetts / 02111 • 617 / 426 / 9600

April 30, 1996

Mr. Michael J. Sullivan, Director
Office of Campaign and Political Finance
One Ashburton Place, Room 411
Boston, Massachusetts 02108

Dear Mr. Sullivan:

We want to take this opportunity and thank the members of the Special Commission for considering our comments and listening to our previous testimony. We appreciated the opportunity to participate in the discussions of the working groups set up by the Special Commission.

This Commission was given a herculean task and asked to perform it in an unreasonably short time period. We recognize that this commission must immediately propose technical and substantive changes if there is to be a viable system for spending limits/public financing in place for the 1998 gubernatorial election as required by campaign reform legislation passed in 1994. The only avenue which allows the Commission to faithfully execute all its duties is to file proposed legislation which will create a viable spending limit/public financing system for constitutional officers by 1988 and request that it be given an extension for the broader purpose of considering the complex question of spending limits/public financing for the State Legislature.

Below are answers to some of the questions posed by the Special Commission and our thoughts on a number of issues that have been considered by the working groups. The questions we answer are as follows.

- 1. Should a Time Period Be Set for Spending Limits?**
- 2. Should Certain Types of Expenditures Be Exempt from Spending Limits?**
- 3. Should Spending Limits Be Increased to Encourage Candidates' Participation in Massachusetts' Public Financing System?**
- 4) Should (A) the Checkoff Be Increased from \$1 to \$2 or \$3; (B) the General Fund Be Used to Make up Any Shortfall to Fully Fund the Campaign Fund; or (c) a Combination of Both Actions Be Used to Maintain Sufficient Funding Levels to Encourage Candidates' Participation in Massachusetts' Public Financing System?**
- 5) Should Candidates Be Able to Withdraw from Spending Limits If There Is No or Minimal Public Financing?**
- 6) If a Candidate chooses Not to Participate in the Spending Limits/Public Financing System, What Should the Spending Limit Be for Candidates Who Participate?**

Answers to Questions

1. Should a Time Period Be Set for Spending Limits?

For the administration of the public financing system a time period must be set. In determining the time period, the Special Commission must balance the goals of the system with the need to design a program in which candidates will choose to participate.

A number of dates have been discussed by the Special Commission: the beginning of the election cycle, the date nomination papers are taken out, the date a committee is formed, the final filing date for nomination papers, and January 1st of either the election year or a nonelection year.

Common Cause Massachusetts recommends the adoption of January 1st of the election year. From the administrative standpoint and from the perspective of implementing a public financing system which achieves meaningful spending limits which candidates will choose to opt into, January 1, is the pragmatic choice. Because there are so many legitimate campaign expenditures during the first 5 months of an election year, especially those associated with party conventions, a later date would essentially eviscerate the goal of limiting overall campaign spending and would greatly benefit candidates who enter election years with significant monetary resources.¹

Using January 1st of the election year makes sense from an administrative standpoint because disclosure laws and contribution limits are also tied to the calendar year.

¹During the first 5 months of an election year significant and expensive campaign activity occurs. This is a period of significant organizing and well financed campaigns are advantaged at this point. Prior to the filing deadline candidates will most likely make expenditures:

- to enable the candidate and campaign staff to travel around the state and conduct events to gain name recognition and build support.
- to organize for party caucuses that elect delegates to state party conventions
- to win the support uncommitted state convention delegates after the caucuses
- to setup, equip and operate a campaign headquarters
- to hire and pay a full time campaign staff
- to pay for political and media consultants
- to pay for convention delegate polling and other general polling
- to pay for campaign literature, buttons, signs etc.
- to gather signatures for the ballot
- to pay many of the expenses that will be incurred at the party nominating convention
- to organize and conduct fundraisers
- to conduct candidacy announcement activities

Although some of these costs may be attributable to spending limit totals via regulations, most of these expenses are legitimate campaign costs which are incurred in the normal practices of running a campaign. If the spending limit period begins after this major period of organizing, well financed campaigns will be placed at a permanent advantage. For this reason, we strongly believe that the spending limit period must start prior to the collection of signatures and party conventions and significantly before the primary campaigning begins in earnest.

In determining an appropriate date, it is important to challenge theoretical concerns with experience from previous elections. While early money is important if candidates of merit with limited name recognition are to win, experience has shown that such candidates are unable to raise \$3 million in the course of the election cycle.² The importance of early money will be minimized if spending is limited throughout the election year.

For any spending limit period to work the OCPF will need to promulgate regulations to create meaningful spending limits to ensure that expenditures prior to, and contributions during the spending limit period do not compromise the integrity of the public financing system. Issues the OCPF will need to consider include: prepaid expenses, in-kind contributions, production of campaign materials, and capital expenditures. Generally speaking Common Cause believes that expenditures for tangible goods used or distributed during the spending limit period should be charged against the spending limit. Services provided through in-kind contributions during the spending limit period should be charged against the spending limit.

2. Should Certain Types of Expenditures Be Exempt from Spending Limits

The existing plan is elegant in its simplicity. It is easily understood, by both candidates and the public. Exempting certain costs would lead to ambiguity. The only exception we can see as being in the public interest are costs to challenge or defend nomination papers. These costs are difficult to anticipate and will vary widely.

Compliance costs should not be exempt because, with changes in technology, it is hard to distinguish compliance costs from campaign costs since the same data is used in both contexts. Compliance costs should be a consideration in determining spending limits. Simplicity should be an important goal in the Commonwealth's campaign finance law. Attorney and accounting fees will be minimized by limiting exemptions.

3. Should Spending Limits Be Increased to Encourage Candidates' Participation in Massachusetts' Public Financing System?

The existing limits should not be increased.

The 3 million dollar limit represents a very realistic figure for running an effective campaign. Public financing of elections is of no virtue, unless the system furthers important citizen interests. Especially when coupled with a spending limit period that is less than the entire election period, increasing spending limits would not result in any appreciable decrease in reliance on private monies, nor would it help in accomplishing the goal of creating competitive elections.

If substantial public resources are to be spent on public financing then it is incumbent upon the legislature to ensure that the cost of the system is less than or equal to the benefit conferred on the

²In the 1994 Gubernatorial election, the challenger to the incumbent governor spent \$1,041,152 roughly 1/3 of the proposed 3 million dollar spending limit. The challenger qualified for, requested, and received public funds. Because of insufficient funds in the public financing account, the candidate received only \$38,404.05

citizens of the Commonwealth. If spending limits are increased than the public financing system would do little more than pour public dollars into a system in which there is already an overabundance of private money.

Second, the current limits resulted from a compromise between the Legislature and public interest organizations which had already garnered enough signatures from voters to place a campaign finance reform proposal on the ballot. The Legislature must consider the wishes of the electorate and the need to honor its commitments in order to prevent the over utilization of the ballot initiative process. While Common Cause recognizes the need to make changes in the law, changing the spending limits would be a material change. Because such a change would be contrary to the intent of the ballot initiative, Common Cause could not support such a change.

As Common Cause has previously testified before this Commission, if there are concerns about candidates opting out of the system then the Commission should recommend the adoption of incentives to encourage persons to opt in. These incentives do not require expenditures of general funds. **Perhaps the best incentive is variable contribution limits. Under such a system persons who opt-into a public financing system are allowed to accept larger contributions than those who opt out of the spending limits/ public financing system.** Such a system is presently in use in Rhode Island³. The system has withstood constitutional challenge.⁴ The Bipartisan Clean Congress Act, which is presently before the House and Senate makes use of a similar system.⁵ Certainly the public would be supportive of such a system. Polls show that Massachusetts voters prefer \$100 spending limits to the existing \$500 limits. And Massachusetts voters strongly believe that there is too much money in politics.

4) Should (A) the Checkoff Be Increased from \$1 to \$2 or \$3; (B) the General Fund Be Used to Make up Any Shortfall to Fully Fund the Campaign Fund; or (c) a Combination of Both Actions Be Used to Maintain Sufficient Funding Levels to Encourage Candidates' Participation in Massachusetts' Public Financing System?

The checkoff should be increased to \$3 as soon as possible. Even without significant voter education, the rate of participation in the public financing system increased seven fold when the legislature changed from an add on to a check off. Massachusetts has a higher than average participation rate in the federal checkoff system. There is no reason to believe, that with appropriate voter education, citizen participation in the state system will not match that of the federal checkoff. Common Cause recommends an immediate increase to \$3, rather than phased in increases, because

³ In Rhode Island candidates who participate in their spending limit/public financing system are allowed to accept contributions twice as large as the contributions which may be accepted by nonparticipating candidates. R.I. Gen. Laws 17-25-30.

⁴Vote Choice, Inc v. Stefano, 814 F. Supp. 195 (D.R.I.), aff'd, 4 F.3d 26 (1st Cir 1993) Holding that the incentive provisions granting a higher aggregate contribution limit & free television advertising time to publicly funded candidates do not violate either the First or the Fourteenth amendments.

⁵H.R. 2566, S. 1219

this will simplify voter education. From an accounting perspective, if general revenues are utilized, it doesn't really matter how the increase is implemented.

If public financing is to succeed there must be sufficient levels of funding. For this reason, we recommend that the general fund be used to make up any shortfall to fully fund the campaign fund. This will be especially important in the 1998 race because the \$3 checkoff will not have been in place during the full election cycle. There is significant voter support for limiting campaign expenditures and reducing candidates reliance on special interest dollars.

In order to minimize the amount of money needed from general revenues we believe that more creative methods of funding the system need to be considered.

Below is a list of methods of increasing revenues to the public financing fund. It in no way represents the myriad of options available to this Commission or the Legislature:

- 1) Increasing the fees on lobbyists. Presently Legislative and Executive Agents pay a \$50 registration fee to register their first client and \$25 dollars for each additional client. Although concern were previously raised about how increasing lobbyist fees might impact bona fide public interest groups, changes in the definition of Executive and Legislative Agents effectively nullify such concerns.
- 2) Examining more creative means of ensuring funds are available. For example it may be possible to prohibit the use of warchests. Candidates could be allowed to contribute such money to a public financing account. In the event that a challenger would not agree to spending limits, a candidate, who had contributed to the fund, would be provided by the fund a sum not greater than his or her contribution. This would be in excess of what the candidate would receive as a participant in the public financing system. Based on the dicta in a 1994 Opinion of the Justices to the House of Representatives concerning warchests such a system should meet constitutional muster.⁶

Additional alternatives for income generation were discussed in a report issued in October 1993 by the Office of Campaign and Political Finance⁷. The alternatives discussed in this report are all deserving of substantial consideration.

5) Should Candidates Be Able to Withdraw from Spending Limits If There Is No or Minimal Public Financing?

This should become a non issue. If a candidate opts out of the system then his or her opponents may spend money in excess of the spending limit, thus candidates opting into the system are not disadvantaged. Certainly there is not a constitutional problem if the variable contribution limits discussed above-- or other benefits for opting into the spending limits/public financing system-- are enacted. The only real question is what happens when all candidates opt into the system and there is

⁶418 Mass.1201, 637 N.E.2d 213

⁷Report of the Task force on Public Financing of Campaigns in Massachusetts (October 1993)

no funding or minimal funding. Even here however a significant benefit is being conferred upon all candidates in their mutual and voluntary agreement to abide by spending limits. The Buckley decision stands for the proposition that legislation which encourages persons to abide by spending limits is legal if it is not unduly coercive. Mutual assent to spending limits should be binding upon candidates even in the absence of direct monetary contributions.

To avoid any problems the commission should recommend the inclusion of a fall back provision.

6) If a Candidate chooses Not to Participate in the Spending Limits/public Financing System, What Should the Spending Limit Be for Candidates Who Participate?

Under the current law candidates who do not opt into the public financing system must report a spending limit. The nonparticipating candidate is assessed a fine if he or she violates this limit. Candidates who opt into the system may spend up to this amount. The Commission has expressed concerns about the constitutionality of such a system because it imposes defacto spending limits on candidates who have chosen not to participate in the public financing scheme.

While the system may be open to constitutional challenge, a mechanism for limiting spending is required for participating candidates, and disclosure of expenditure by nonparticipating candidates prior to the election should also be mandatory. There are many options to achieving this goal. The Bipartisan Clean Congress Act, presently provides an example. Noncomplying candidates may be required to report their expenditure levels thereby triggering extended limits for complying candidates.

One option which is unacceptable, is allowing candidates who accept public financing to spend unlimited funds if a challenger does not agree to opting into the spending limits/ public financing system. If this were allowed, no important state interest would be furthered by the spending of public funds.

If you have any questions about our testimony, or these answers to questions you have posed, please contact us.

Respectfully submitted,

Paul Fitzgerald
Executive Director

Joshua Friedes
Assistant Director

Draft Response of the Cambridge Democratic City Committee

MASSACHUSETTS PUBLIC CAMPAIGN FINANCING
Questions for discussion

- 1) Should a time period be set for spending limits?

Yes, an eighteen-month campaign is different from an eight week campaign. A state-wide campaign is different from a county or state-house campaign.

- 2) Should certain types of expenditures be exempt from spending limits?

No, as long as the expenditures are reasonably related to campaign.

- 3) Should spending limits be increased to encourage candidates' participation in Massachusetts' public financing system?

No, if anything limits on individuals spending their own money needs encouragement to level the playing field.

- 4) Should (a) the checkoff be increased from \$1 to \$2 or \$3; (b) the general fund be used to make up any shortfall to fully fund the campaign fund; or (c) a combination of both actions be used to maintain sufficient funding levels to encourage candidates' participation in Massachusetts' public financing system?

- (a) Yes;
- (b) Only if absolutely necessary; and
- (c) Yes

- 5) Should statements on the acceptance or rejection of the statutory spending limits be confidential until the day after the due date for such statements?

No, public disclosure is essential to open campaign reporting.

- 6) Should candidates be able to withdraw from spending limits if there is no or minimal public financing available?

No, to achieve a level playing field limits need to be mandatory.

- 7) Should certain expenditures with public funds be prohibited?

Again, as long as reasonably related to campaign no prohibitions need to be used.

- END -

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