Political Reform That Works:
Public Campaign Financing Blooms in Tucson

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CGS
Center for Governmental Studies
Solutions for Democracy

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BLOOMS IN TUCSON

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Center for Governmental Studies
Solutions for Democracy

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CGS uses research, advocacy, technology and education to improve the fairness of governmental policies and processes, empower the underserved to participate more effectively in their communities, improve communication between voters and candidates for office, and help implement effective public policy reforms.

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Foreword

The Center for Governmental Studies (CGS) has spent six months studying the strengths and weaknesses of campaign finance laws and practices in Tucson. The ensuing report draws on a detailed textual analysis of Tucson law, Arizona state law, interviews with candidates, government administrators and political experts, relevant literature, experience from other jurisdictions and court decisions.

This Tucson report is the seventh report in the CGS series, *Public Financing in American Elections*. Earlier reports focused on public financing programs in New York City, Los Angeles, San Francisco and Suffolk County (NY). CGS has supplemented these jurisdiction-specific reports with two more general publications: a public financing primer entitled, *Investing in Democracy: Creating Public Financing of Elections in Your Community* and a report on innovative ways to fund public financing systems entitled, *Public Financing of Elections: Where to Get the Money?* Forthcoming reports in the series will examine public financing programs in the City of Long Beach (CA) and the states of Maine, Arizona, Minnesota and others.

CGS research on state and local campaign financing issues dates to 1983. Its first report, *The New Gold Rush: Financing California's Legislative Campaigns* (1985), examined campaign financing problems in the California State Legislature and offered two model laws to remedy them. The 353-page report served as the model for California's statewide Proposition 68 and New York City's campaign finance law in 1988. CGS published an *Update to the New Gold Rush* in 1987.

The third CGS report, *Money and Politics in the Golden State: Financing California's Local Elections* (1989), focused on campaign financing in seventeen California cities and counties. This report provided the foundation for the 1990 Los Angeles City campaign finance ordinance, analyzed more than a decade later in the 2001 CGS report, *Eleven Years of Reform: Many Successes—More to be Done, Campaign Financing in the City of Los Angeles*. *Eleven Years of Reform* inspired amendments to the law adopted by the Los Angles City Council in 2003. Local campaign finance laws throughout the nation have been based on CGS work, including the laws of Los Angeles County, Long Beach, Oakland, San Francisco and Miami-Dade County, Florida.

CGS Political Reform Project Director Paul Ryan authored this report. CGS Chief Executive Officer Tracy Westen and President Bob Stern supervised the study and provided valuable editing suggestions. CGS intern Min-Kuk Song assisted in research. The Tucson City Clerk and staff provided valuable information for the preparation of this report. CGS especially thanks Carnegie Corporation of New York for funding this study. The views in the study do not necessarily reflect the opinions of Carnegie Corporation, and it takes no responsibility for any of the statements or views in the report.

Executive Summary

Tuscon's public campaign financing system, enacted in 1985 by a voter-approved charter amendment, is an unqualified success and a model for small- and medium-sized cites throughout the United States. Tucson's law is the oldest local government public financing law currently administered in the nation and serves as strong evidence that, given sufficient time, public financing can become an integral part of a jurisdiction's political culture.

Tucson candidates who voluntarily agree to spending limits and meet the program's fundraising requirement may qualify to receive public matching funds to run their campaigns. Candidates able to raise a specified number of $10 contributions to demonstrate their viability may receive $1 in public funds for every $1 in private contributions received from individuals. Contributions from corporations and political committees are not matched with public funds. Since its enactment in 1985, Tucson's public financing program has cost city residents approximately 22¢ per year.

Tucson's public matching funds program has enabled candidates lacking access to wealthy campaign contributors to wage competitive campaigns and has encouraged all of the city's candidates to agree to spending limits in recent elections. Every Tucson official elected from 1991 through the present has been a participant in the city's public financing program. Even candidates ideologically opposed to public campaign financing have participated in the program to avoid criticism by opponents and voters for refusing to participate.

Based on its legal analyses and interviews with candidates, government administrators and political experts, CGS proposes a series of reforms to preserve Tucson's accomplishments against the threat of changing campaign practices that may undermine the future effectiveness of the public financing program. Independent campaign expenditures, which are not subject to Tucson's spending limits, have increased dramatically in recent years. CGS recommends that Tucson improve disclosure of independent expenditures made in the weeks before an election. CGS also recommends that Tucson lift its spending limits for candidates facing large independent expenditures and provide such candidates with additional public financing.

CGS further recommends that Tucson implement a system of electronic campaign finance reporting and disclosure. Information regarding the campaign finance activity of Tucson's candidates is unnecessarily difficult to obtain. Tucson should require candidates and political committees to file campaign finance reports electronically, and the city should post these reports immediately to the city's Web site. In addition, Tucson should adjust its spending limits, eliminate the city's three-year residency requirement for receipt of public funds, consolidate elections for all council wards into a single election year, include candidate statements of qualifications in the sample ballot mailed to all city voters and allow candidates to tape and distribute free video statements over the city's public and government cable access systems.

I. Introduction

Tucson voters approved charter amendments creating a system of public campaign financing of candidate campaigns in November 1985. A candidate who accepts the city's voluntary spending limit and raises a specified number of small contributions becomes eligible to receive public matching funds for private contributions made to the candidate's campaign. The combination of public matching funds and spending limits allows candidates with less access to wealthy campaign donors to wage competitive campaigns and to reject special interest contributions that might create real or apparent conflicts of interest.

Candidate participation in Tucson's program is the highest of any jurisdiction with public financing in the United States. Tucson's program is also the oldest local government public financing program currently in operation in the United States. These two facts are closely related. Like a desert flower, public financing requires patience to bloom. Over time, Tucson's public financing program has rooted itself in the city's political culture. During the course of eighteen years, candidate participation has steadily climbed from 50% in 1987 to 100% in 2001 and the city's upcoming November 2003 election. Indeed, every candidate elected to Tucson office from 1991 through the present has participated in the city's public financing program.

Full candidate participation is a strong indicator of program success. At a time when candidate spending is skyrocketing throughout the nation in elections at every level of government, Tucson candidates abide by spending limits and compete on a level campaign playing field. Candidates consistently report that Tucson's program requirements are by no means easy to meet, but that meeting them is worth the effort.

Public financing has become such an integral part of Tucson's political culture that even candidates who philosophically oppose public financing of candidate campaigns participate in the program and accept public funding. Tucson voters expect candidates to abide by the city's spending limits and campaign donors expect their contributions to be matched with public funds.

Tucson's public financing program costs a tiny fraction of the city's total budget—22¢ per resident per year over the program's 18-year history. The success of Tucson's program is attributable largely to two factors—the city's willingness to fully fund the program and the City Clerk staff's fair and competent administration of the program.

Despite the many achievements of Tucson's public financing program, political strategies continue to evolve and now threaten the program's future. Continued success of Tucson's public financing program will depend on the program's ability to adapt to changing political practices. This report identifies several weaknesses in Tucson's election laws and recommends specific ways to strengthen the law to ensure continued success.

The most significant threat is independent campaign spending. Independent expenditures first appeared in Tucson's 1997 elections and played an even more prominent role in the city's 1999 and 2001 elections. Political committees have spent approximately $200,000 independently advocating the election or defeat of Tucson candidates since 1997. Independent expenditures are expected to play a substantial role in this November's city elections.

Independent expenditures are a threat to public financing systems because those candidates who agree to spending limits in exchange for public funds may lack the capacity to respond to unlimited independent expenditure attacking them. CGS recommends that Tucson require last-minute independent expenditures to be reported to the City Clerk within 24 hours. CGS recommends further that Tucson adopt a "trigger provision" lifting its spending limits and increasing public funding to candidates facing large independent expenditures. These reforms would encourage candidates to participate in the public financing program despite the looming possibility of independent spending.

CGS also recommends that Tucson adjust its spending limits, eliminate its staggered elections, improve public access to candidate fundraising and spending information by posting such information on the city's Web site, eliminate the city's three-year durational residency requirement for participation in the public funding program and include candidate information in the city's sample ballot mailed to all voters.

This report explores the strengths and weaknesses of Tucson's public financing program. The report begins with a brief description of Tucson's structure of government, followed by a summary of Tucson's campaign finance law. The remainder of the report is dedicated to specific findings and recommendations based on legal analyses and interviews with Tucson candidates, government administrators and political experts.

II. Tucson City Government

The City of Tucson, home to nearly 500,000 residents, is located in southern Arizona. Tucson utilizes a council-manager form of government with several unique characteristics. Tucson voters elect a mayor and six city council members in partisan elections. The mayor and six councilmembers collectively serve as the city's seven member legislative body. Ordinances are adopted by a majority vote of the city's seven elected officials, with the mayor's vote weighted equally with the six councilmembers. In addition to serving as one of seven city legislators, the mayor performs a number of ceremonial duties. The mayor and council appoint the city manager, who serves as the city's executive officer and is responsible for implementing the legislative actions of the mayor and council. The mayor and council also appoint the city attorney, city clerk and city magistrates.

One unique characteristic of Tucson city government is its method of electing city council members. Candidates for city council run in partisan primary elections in one of six wards. The winners of the ward-based party primaries then run citywide in the general election. Councilmember Steve Leal describes Tucson's combined system of wards and at-large council elections as the "best of both worlds," explaining that it forces council candidates to pay special attention to the needs of their neighborhood while also keeping in mind the good of the entire city.[1] Likewise, the system provides Tucson residents with an individual city council representative to whom they may voice concerns, while also allowing each resident to vote for of all six councilmembers and the mayor.

III. Tucson Campaign Finance Law

Tucson voters approved a charter amendment establishing contribution limits and a voluntary system of public campaign financing on November 5, 1985, by a margin of 52% to 48%.[2] Then-councilman Tom Volgy cites skyrocketing campaign spending in the early 1980s as the impetus for the charter amendment. Volgy described the 1983 mayoral race as follows:

> A guy running against the incumbent raised a little over $200,000, which doesn't seem a lot now but, in 1983, that was a lot of money for a guy who didn't stand a chance of beating the incumbent. And the incumbent had unlimited access to resources. We projected it out and figured that in ten years a mayoral race in Tucson would cost a million and a half dollars. We had to stop that trend.[3]

Volgy and a group of Arizona Common Cause activists committed to enacting a comprehensive campaign finance reform law considered a number of options. Rather than seek the passage of an ordinance by the mayor and council, Volgy and Common Cause pursued a charter amendment. Their reasoning was simple. An ordinance adopted by the mayor and council could later be amended or repealed by the mayor and council. A charter amendment, by contrast, requires voter approval for adoption, amendment or repeal. In short, charter amendments are immune from tampering by elected officials.

A charter amendment has two possible routes to the Tucson ballot. First, proponents of a charter amendment can gain ballot access by gathering signatures of registered voters equal in number to fifteen percent of the ballots cast in the most recent mayoral general election. Approximately 10,000 signatures would have been required to place the charter amendment on the ballot in 1985.

Second, the mayor and council may place a charter amendment on the ballot by a majority vote. Volgy and the Common Cause activists persuaded the mayor and council to place the campaign finance reform measure on the ballot, avoiding a time-consuming signature gathering campaign. The decision to reach the ballot through the mayor and council, however, was not without cost. Volgy recalls two compromises that were made to secure the necessary votes on the council: "One place where we had to make a compromise to get the fourth vote was to reduce the spending limit a bit." Negotiations with councilmember George Miller resulted in a per-voter spending limit of forty cents for mayor and twenty cents for city council—about half of what Volgy and his supporters originally had in mind.[4] "In retrospect," Volgy continued,

> George had an interesting point, because [the low spending limits] force people to do an enormous amount of grassroots work. And historically it also forced people into a huge number of debates. When I ran for mayor I probably did two dozen debates. That's not a bad thing, that's a really good thing. You're getting a lot of direct voter contact. You're getting

> people out there talking more about the issues. You get a lot less—or no—television and a focus on as much voter contact for your dollar as possible.[5]

The second compromise that was made—abandoning a provision mitigating the impact of independent expenditures—has come back to haunt Tucson's public financing program. Volgy now cites the public financing program's "inability to deal with independent campaigns" as it's most significant weakness.[6] The role of independent expenditures in Tucson elections is thoroughly explored in Section V(A), below.

The mayor and council designated the city clerk as the "campaign finance administrator" in January 1986. The mayor and council adopted rules and regulations for implementation of the campaign finance program in June 1986. Tucson's first publicly-financed elections were held in 1987. The city's campaign finance rules and regulations have been updated on a regular basis, while the public financing provisions in the charter have been amended only once. On November 5, 1991, Tucson voters approved a charter amendment requiring publicly-financed candidates to return any surplus campaign funds, up to the full amount of public funds received by the candidate, to the city's election campaign account following the election or defeat of the candidate. The provisions of the campaign finance charter amendment adopted by Tucson voters in 1985 remains otherwise intact. The following section details all local and state laws pertinent to the public financing of candidate campaigns in Tucson.

A. Matching Funds Program

1. Campaign Contract and Offices Covered

Any candidate for mayor or city council—the city's only elective offices[7]—may sign a contract with the city agreeing to abide by spending limits and other campaign finance restrictions to be eligible to receive public matching funds. A candidate must sign the campaign contract within thirty days of becoming a candidate.[8] An individual becomes a candidate when the individual receives a campaign contribution, makes a campaign expenditure, publicly declares candidacy or files nomination papers with the city clerk. The candidate filing deadline for Tucson's 2003 elections was June 11, 2003.

A candidate who has signed a campaign contract may void the contract within fifteen days of the candidate filing deadline if the candidate faces an opponent who did not sign the contract and the candidate returns to the city all public funds received prior to voiding the contract.[9]

2. Ballot Qualification

Tucson law allows candidates to apply for and receive public funds prior to qualifying to appear on the ballot. In the event that a candidate receives public funds but "later fails to file for public office or withdraws as a candidate after filing," the candidate must return all public funds received to the city within ten days of the candidate filing deadline.[10]

3. Three-Year Residency Requirement

Tucson law requires a candidate for mayor or council to have been a resident and "duly qualified elector" in the city for at least three years immediately prior to becoming a candidate.[11] Tucson law also requires that, in order to be eligible for public financing, a candidate “must meet the requirements of the City Charter.”[12] This provision has been interpreted by the city clerk as requiring three-year city residency to be eligible for public financing.

4. Spending Limits

In order to be eligible for public matching funds, a candidate must agree to spending limits. Tucson’s spending limits are based on the number of registered voters in Tucson and are adjusted annually for changes in the cost of living. **Figure 1** displays the 2003 spending limits, based on the 219,759 registered voters living in Tucson as of June 30, 2003.[13] A single spending limit applies to the entire election cycle—primary and general elections combined. No more than 75% of the total spending limit, however, may be spent through the day of the primary election.[14] As originally adopted in 1985, per voter spending limits were 40¢ and 20¢ for mayor and council candidates, respectively. The amounts listed in **Figure 1** reflect adjustments made for changes in the cost of living.

Figure 1

2003 Voluntary Spending Limits		
	Mayor	**City Council**
Spending Limit Per Voter	64¢	32¢
Total Spending Limit—Primary and General Elections Combined	$142,271	$71,135
Primary Election Spending Limit (75% of Total Limit)	$106,703	$53,351

5. Public Matching Funds

A candidate who has met all eligibility requirements is entitled to receive $1 in public matching funds for each $1 raised in individual contributions.[15] Tucson law does not explicitly state the maximum amount of public funds a candidate may receive. Under the city’s matching funds formula, however, no candidate could receive more than 50% of the applicable spending limit in public funds. A 2003 mayoral candidate could receive up to $71,135 in public funding, while a candidate for city council could receive up to $35,567 in public matching funds.

6. Fundraising Threshold

A candidate for the office of mayor must raise at least 300 contributions of $10 or more from Tucson residents in order to be eligible for public matching funds. A candidate for city council must raise at least 200 contributions of $10 or more from Tucson residents in order to be eligible for public matching funds.[16]

7. Candidate Use of Personal Funds

A Tucson candidate who signs a contract to participate in the public financing program is limited in the amount of personal wealth the candidate may spend on his or her campaign. A participating candidate's use of personal funds may not exceed 3% of the applicable spending limit.[17] The limits on use of personal funds in Tucson's 2003 elections are as follows:[18]

- Mayor: $4,268
- City Council: $2,134

8. Funding the Program

Tucson's public financing law directs the mayor and city council to establish a public financing campaign account and deposit into the account "such sums as may be appropriated from time to time in the annual budget."[19] Tucson's annual budget is developed by the city manager and submitted to the mayor and council for adoption. The city clerk estimates the cost of administering Tucson's campaign finance laws, including the public financing provision, and submits a budget request to the city manager for inclusion in the city budget. The source of public financing program funding is the city's general fund.

Prior to 2003, Tucson residents were given the opportunity to make contributions to the public financing campaign account by rounding up their water bill payments each month. This mechanism produced consistent, but small amounts of funding. The mayor and council voted in 2002 to redirect water bill round-up contributions from the public financing campaign account to a newly-created open space fund. It is expected that this change will not impact public financing program funding levels.

B. Arizona and Tucson Contribution Limits[20]

Tucson's 1985 campaign finance charter amendment contained not only the public financing provisions described above, but also campaign contribution limits. In November 1986, the voters of the State of Arizona approved a ballot initiative establishing contribution limits for candidates for all state and local offices. The state contribution limits supersede Tucson's limits except in those instances where Tucson's limits are more strict than those contained in state law.[21]

Arizona's 1986 ballot initiative established separate contribution limits for statewide office candidates and non-statewide office candidates. The non-statewide office contribution limits apply to all candidates running for office in Tucson and in other local jurisdictions throughout the state. (The Arizona Citizens Clean Elections Act, passed by voter initiative in 1998, reduced the state's contribution limits by 20%—but only as applied to candidates for state office, not local office.)

Tucson candidates and political committees must abide by state contribution limits in all but one instance. State law contains a wealthy opponent trigger provision, which suspends various state contribution limits if a candidate spends personal funds in excess of specified amounts. A full explanation of this trigger provision may be found below, in the section entitled "Wealthy Opponent Trigger Provision." When state contribution limits are suspended for Tucson candidates, Tucson's contribution limits take effect.

1. State Limit on Contributions from Individuals and PACs to Tucson Candidates

Arizona law limits contributions to Tucson candidates from individuals and political committees, other than political party committees and "Super PACs," to $350 per election in the 2003-2004 election cycle.[22]

2. State Limit on Contributions from "Super PACs" to Tucson Candidates

Arizona law allows political committees that received contributions of $10 or more from at least 500 individuals within a single year to apply to Secretary of State for certification as a "Super PAC." State law allows such "Super PACs" to contribute up to $1,800 to candidates for local office, whereas contributions from individuals and other political committees are limited to $350.[23]

The state's designation of "Super PACs" seems intended to encourage individuals to participate in broad-based political organizations. Contributions to a political committee from corporations or other business entities do not count toward the 500-donor requirement for "Super PAC" designation.

3. State Limit on Aggregate Contributions from Political Party Committees to Tucson Candidates

Arizona law limits aggregate contributions from all political parties or political organizations to a candidate for local office to $8,990 per election.[24]

4. State Limit on Aggregate Contributions from PACs to Tucson Candidates

State law likewise limits aggregate contributions from all political committees, other than political party committees, to a candidate for local office to $8,990 per election.[25]

5. State Limit on Aggregate Contributions By Individuals to Candidates, PACs and Independent Expenditure Committees

Arizona law prohibits an individual from making contributions totaling more than $3,360 per calendar year to state or local candidates, political committees contributing to state or local candidates and political committees advocating the election or defeat of state or local candidates. Contributions from individuals to political parties are exempt from this limitation.[26]

6. State Loan Restrictions

A loan made to a candidate or political committee for the purpose of influencing an election is subject to the state contribution limits. A loan to a candidate or political committee within the contribution limits remains a loan to the extent it remains unpaid, but it is no longer a contribution to the extent it is repaid.[27]

7. *State Transfer Ban*

State law prohibits a candidate's campaign committee from loaning, transferring or contributing money to another candidate's campaign committee.[28]

8. *Wealthy Opponent Trigger Provision*

Tucson law does not contain a "trigger" provision to assist candidates who face an opponent who spends a large amount of personal wealth. Arizona law does, however, contain a wealthy opponent trigger provision. Under state law, expenditure of personal funds by a local office candidate exceeding $14,070 triggers the suspension of certain contribution limits for other candidates in the race—until such candidates raise an amount equal to the personal funds expended.[29] The following limits are suspended:

- $350 limit on contributions from individuals and committees to candidates
- $1,800 limit on contributions from "Super PACs" to candidates
- $8,900 limit on total contributions a candidate may accept from all committees combined
- $3,360 limit on total contributions from an individual to all candidates and committees combined

When the state's $350 limit on contributions from individuals and committees to local candidates is suspended as a function of state law, Tucson's contribution limit takes effect.

The Tucson city charter limits contributions from persons, other than certain political committees, to $500 in a campaign period. A campaign committee, however, may contribute up to $1,000 to a Tucson candidate, provided that no donor to the committee has contributed more than $500 to the committee, nor more than $500 total supporting any candidate either directly or through a committee.[30]

C. Tucson City Clerk Program Administration

The Tucson City Clerk has been designated by the mayor and council as the campaign finance administrator and is authorized by the charter to adopt administrative rules and regulations to carry out the purposes of the public financing charter provisions.[31] Staffing in the city clerk's office for administration of the public financing program varies depending on proximity to an election. At the height of an election year, the city clerk, the clerk's administrative assistant and approximately four full-time temporary city employees administer the program. In addition to this in-house staff, the city clerk employs several independent auditors, who conduct pre- and post-election audits of each candidate participating in the public financing program.

The city clerk shares responsibility for investigation and enforcement of campaign finance law violations with the city attorney and the city police department. A candidate who knowingly violates the city's campaign finance laws is guilty of a misdemeanor, will be prohibited from appearing on the ballot if convicted before the ballots are printed, and will be denied the right to hold office if elected. If a candidate who has agreed to the spending limit exceeds the limit, the candidate is fined three dollars for each dollar overspent.[32]

IV. Program Achievements

A. Candidate Participation Is the Highest in the Nation, Reaching 100% in Recent Elections

Candidate participation in Tucson's public financing program is the highest in the nation, surpassing participation levels in the two other U.S. cities with well-established public financing programs—New York City and Los Angeles.[33] Matching funds were first available to Tucson candidates in 1987, when 12 of 20 candidates (60%) running for office voluntarily participated in the public financing program. Throughout the ensuing seventeen years, program participation has risen steadily, reaching 100% in both 2001 and 2003.

Figure 2[34]

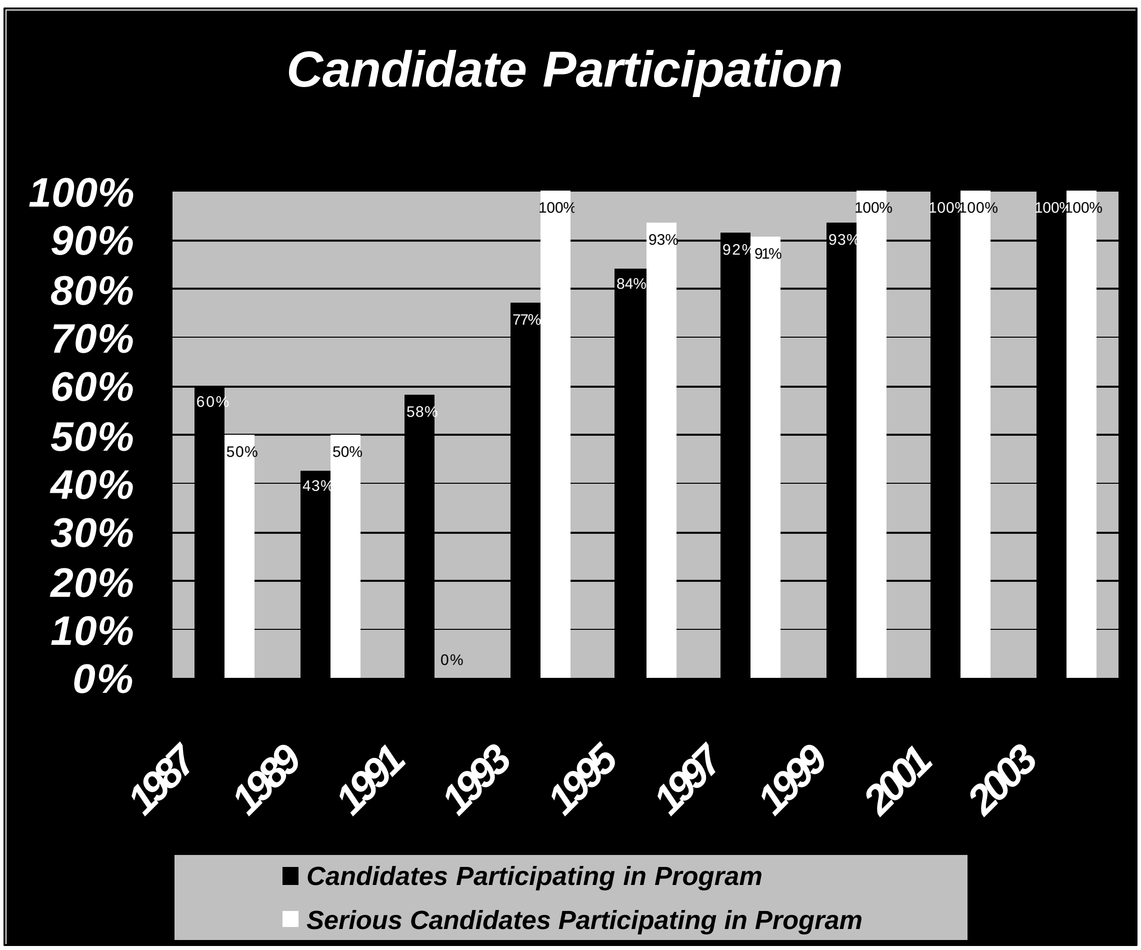


Figure 2 shows an increasing trend in the percentage of candidates choosing to participate in Tucson's program, as well as an increasing trend in the percentage of

candidates qualifying to receive public matching funds. ("Participating" candidates agree to abide by spending limits and other campaign finance restrictions, but may not meet all of the requirements to receive public funds.) **Figure 3** contains raw data on candidate participation.

Figure 3

Candidate Participation									
	1987	**1989**	**1991**	**1993**	**1995**	**1997**	**1999**	**2001**	**2003**
Total Candidates	20	7	19	13	19[35]	12[36]	15[37]	9	8
Candidates Participating in the Program	12 60%	3 43%	11 58%	10 77%	16 84%	11 92%	14 93%	9 100%	8 100%
Total "Serious" Candidates	16	6	N/A[38]	7	15	11	11	N/A[39]	N/A
"Serious" Candidates Participating in the Program	8 50%	3 50%	N/A[40]	7 100%	14 93%	10 91%	11 100%	100%	100%[41]

While candidate participation dipped from 60% in 1987 to 43% in 1989, participation jumped back to 58% in 1991 and has continued to climb in every election since. The early dip may have been the result of initial enthusiasm for the program, followed by a realization of the difficulty of meeting the program's requirements to receive public funds.

Candidate participation has exceeded 90% in every election since 1997, with 100% of Tucson candidates participating in the program in 2001 and 2003. This increasing trend in candidate participation is consistent with participation trends in other jurisdictions. During a public financing program's nascent years, some candidates are reluctant to limit their spending in exchange for public funds before the program is proven to work. Candidates become increasingly comfortable with public financing over time. Similar trends of increasing participation are observable in New York City and Los Angeles, but they are even more pronounced in Tucson—the nation's oldest local government public financing program.[42]

Overall candidate participation in the public financing program is a useful gauge of the program's popularity and effectiveness. An arguably more accurate gauge of the program's popularity is participation among serious candidates, as opposed to candidates who wish merely to appear on the ballot. **Figures 2** and **3** show program participation among serious candidates, with "serious" defined as a candidate who has spent at least $5,000. A candidate who raises or spends only $5,000 for a campaign might not be deemed a serious candidate by some political observers. A low threshold of exclusion was chosen, however, in order to be over-inclusive rather than under-inclusive.

Figure 2 shows that program participation among "serious" candidates who raised or spent at least $5,000 is substantially higher than overall candidate participation, having exceeded 90% in six out of nine elections held under the program, with 100%

participation among serious candidates in four of the last six elections. Tucson's serious candidate participation rate is the highest in the United States, trailed by the public financing programs in Los Angeles and New York City which also have near-full participation.

Tucson's high levels of candidate participation suggest strong approval by candidates of the public financing program as a whole. Near-full participation is solid evidence that the spending limits, public funding levels, auditing procedures and other provisions of the program are reasonable. To put it simply, in the words of Tucson City Clerk Kathleen Detrick, "The test of the fact that our program works is that people participate in it."[43]

Candidates interviewed for this report consistently praised the program. When asked whether the availability of public financing influenced her decision to run for office, 2003 city council candidate Lianda Ludwig replied,

> Absolutely. I could not have run if there weren't matching funds available. I think it's very important for all elections to be publicly financed throughout the country. I think it encourages people like myself, who would never have thought about running, to give it a chance and try it out. I think that's a very positive thing.[44]

The public financing program is popular not only among candidates who might experience difficulty raising funds, but all candidates. When asked why he chose to participate in Tucson's program, Republican Mayor Bob Walkup replied,

> It was just logical. This is the first political job I've ever had, out of 37 years in aerospace—an engineer. I ran on an issue and the issue was water. I said, by gosh, I'm gonna run for mayor and make sure that this community has water. How to finance a campaign became incidental. I said, well, what are the rules? And they said you have a choice of either taking matching funds or raising all the money yourself. I said, why would you do that? It was not a decision that was hard to make.[45]

Tom Volgy, who ran a successful publicly-financed mayoral campaign in 1987 and is running for mayor again in 2003 under the public financing program, acknowledges that the public financing program has played a significant role in both of his campaigns. "Would I have run this second time without these public controls on spending? I probably would not have run. And I probably would not have won the first time—well, I don't know if I would have won or not—but it would have been very, very difficult."[46]

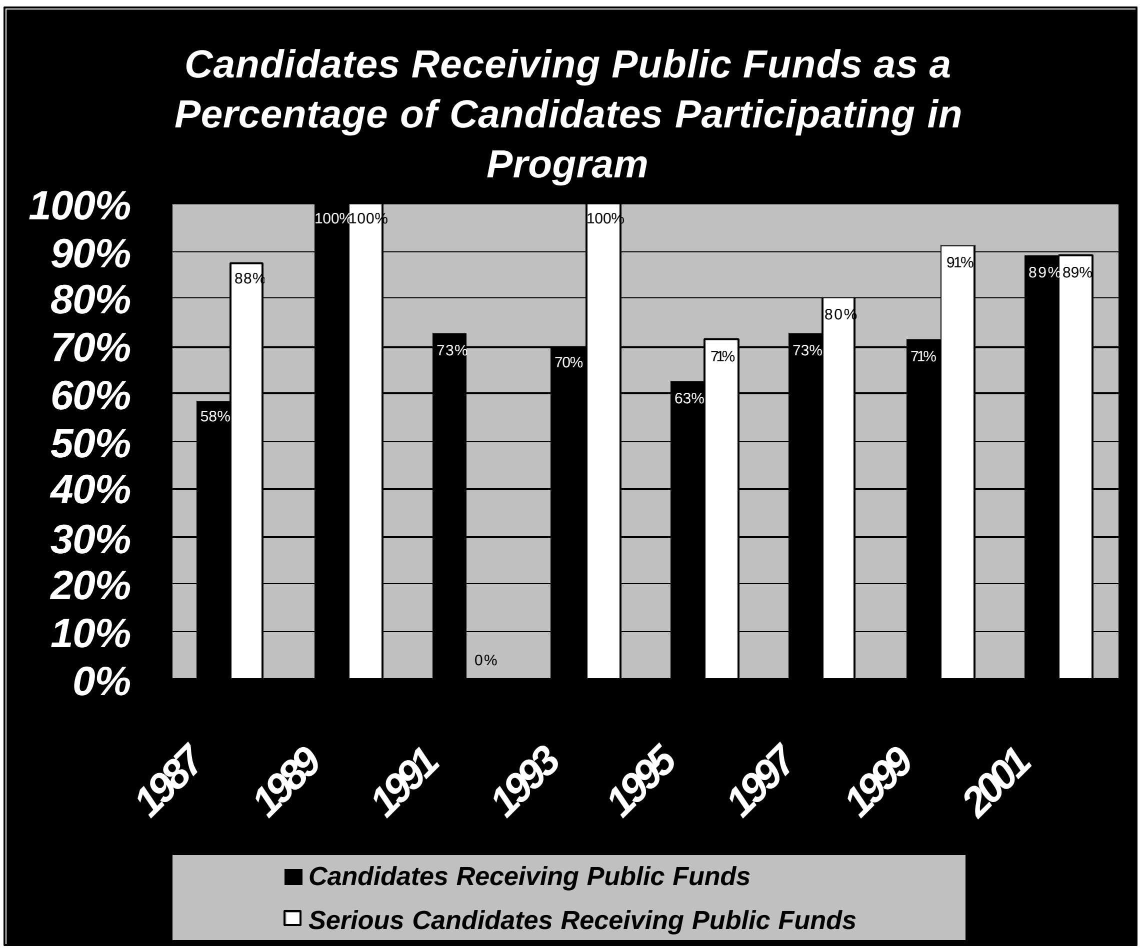
The general trend of increasing candidate participation over time is evidence of the city's willingness to review and revise, as necessary, the rules, regulations and procedures related to the public financing program. An ongoing willingness to adapt the public financing program to changing campaign practices will likely result in continued high levels of candidate participation, carrying on the vision of Tucson voters who enacted the program nearly twenty years ago.

B. Public Financing Qualification Thresholds Are Appropriately Set

Architects of public financing programs are charged with the difficult task of establishing eligibility requirements for the distribution of public funds. The crux of the task is distinguishing between deserving and undeserving candidates. If eligibility requirements are too stringent, few candidates will qualify for public funding and the goals of the program will be frustrated. If eligibility requirements are too lax, program costs will balloon while precious tax dollars are wasted on candidates with no realistic chance of election.

In order to qualify for public funds, a candidate for the office of mayor must raise at least 300 contributions of $10 or more from Tucson residents, while a candidate for city council must raise at least 200 contributions of $10 or more from Tucson residents.[47] The architects of Tucson's public financing program struck an appropriate balance. Tucson candidates report that the qualification thresholds are difficult to reach, yet a reasonably high percentage of candidates have managed to qualify for public funds.

Figure 4



In the program's inaugural 1987 election, 12 candidates chose to participate in the public financing program; 7 of these participants (58%) met all program requirements and qualified to receive public matching funds. The percentage of participating candidates qualifying to receive public funds has exceeded 58% in every election since 1987. **Figure 4** graphs the receipt of public funds by candidates participating in the program. **Figure 5** displays the raw data for candidate receipt of public funds.

At least 70% of participating candidates have qualified for public matching funds in seven out of nine elections held under the public financing program. Tucson leads the nation's local government public financing programs in the percentage of participating candidates who receive public financing. In addition to displaying public financing qualification statistics for all candidates participating in the program, **Figures 4** and **5** also show qualification data for serious candidates[48]. At least 70% of serious participating candidates have qualified for public funds in *every year* of the program's operation, with qualification among serious participating candidates reaching 100% in 1989 and 1993.

Figure 5

Candidates Receiving Public Matching Funds								
	1987	**1989**	**1991**	**1993**	**1995**	**1997**	**1999**	**2001**
Candidates Participating in the Program	12	3	11	10	16	11	14	9
Candidates Receiving Public Funds	7 58%	3 100%	8 73%	7 70%	10 63%	8 73%	10 71%	8 89%
"Serious" Candidates Participating in the Program	8	3	N/A[49]	7	14	10	11	N/A[50]
"Serious" Candidates Receiving Public Funds	7 88%	3 100%	N/A[51]	7 100%	10 71%	8 80%	10 91%	8 89%

Nevertheless, having overseen the efforts of nearly 100 candidates who have attempted to qualify for public funds throughout the program's history, City Clerk Kathleen Detrick believes the qualifying contributions are "difficult to get, but attainable."[52] Candidates share Detrick's perspective. When asked whether the fundraising threshold was appropriate, Councilman Jose Ibarra responded, "I think it's just right. It's tough."[53] Councilman Leal echoed this sentiment stating, "I think it's fine. It's hard—harder than people think. It's like a long highway. You feel like you're never going to get there."[54] And Mayor Walkup said, "It's tough. I think it's wisely set. If I were king for a day, I don't think I'd change it. It's a threshold that is tough to make."[55]

First-time council candidate Lianda Ludwig commented that, "ten dollars for people here is a lot of money," wishing the qualifying threshold was 400 five dollar contributions instead of 200 ten dollar contributions.[56] Despite her difficulty raising the necessary contributions, Ludwig managed to qualify for public matching funds.

Tom Linn, an accountant and experienced campaign treasurer volunteering his services for council candidate Mike Jenkins in 2003, likewise expressed concern regarding the difficulty collecting the qualifying contributions.

> Unless you have a well-oiled machine that can go out and get those contributions for you, it takes the candidate a lot of time to get them. It's nice that the city is going to give you some financing, but if you're starting from a clean slate, it's going to take you a number of months—because you also have a full-time job. You can only do this on evenings and weekends. It's very difficult for an individual to get the signatures and the money required to get matching funds.[57]

Statistics that reveal high percentages of serious candidates receiving public funds, combined with abundant candidate testimony that the qualification thresholds are difficult to reach, provide persuasive evidence that Tucson's qualification thresholds are appropriately set.

C. Public Financing Program Is Integral to Tucson's Grassroots Political Culture—Candidates Reject It at Their Own Peril

In an age when door-to-door political campaigning is all but extinct in cities like Los Angeles, Tucson's public financing has helped preserve a grassroots political culture in a city of nearly 500,000 residents. The public financing program has become so widely supported among Tucson voters and media, that candidates who chose not to participate in the program must be prepared to suffer the consequences. According to mayoral candidate Tom Volgy,

> The real genius behind our program is that we forced the public to make a decision on this [by placing it on the ballot]. So it's the public's campaign finance reform system. And every time you, as a politician, run against it you say, "I think the public is stupid for doing this." And the public's response is, "Go away. We don't want you to represent us."[58]

Volgy cites the 1989 city council campaign of Steve Leal as a potent example. Leal challenged incumbent Roy Laos. Laos chose not to participate in the city's public financing program, whereas first-time candidate Leal did participate. Despite being outspent $70,872 to $27,629, Leal defeated the incumbent winning 58% of the votes cast. Volgy attributes Leal's victory, in large part, to the public's reaction to Laos' rejection of the public financing program and spending limits.

In fact, not a single candidate who has opted out of the public financing program has won office in Tucson since 1989. Only two nonparticipating candidates have won office since the program took effect in 1987.[59] Although both Democrats and Republicans have consistently participated in the program, some Republicans have voiced philosophical disapproval of the program.

Republican Councilman Fred Ronstadt doesn't like the program, but felt public pressure to participate. "Philosophically, I'm opposed to the program because I perceive it as being welfare for politicians. A viable candidate should be able to raise money. To some degree, the system rewards people who really aren't viable candidates, so long as they can get two-hundred checks." But Ronstadt continued,

> People in Tucson expect that when you run for city council you will participate. It's an expectation. The advantage to those people who

> contribute is that their contribution, for all intents and purposes, gets doubled. There's a perception that it's their money—they're doubling their money and benefiting you, as well.[60]

This public expectation is, in Ronstadt's mind, a bad thing. When asked what, if anything, the city could do to improve its public financing program, Ronstadt replied "Abolish it!"[61]

Pima County Republican Party Executive Director Ed Parker echoed Ronstadt's dissent. When asked why several Republicans who disagree with public financing on philosophical grounds choose to participate in Tucson's program, Parker replied, "Because it's the only way that they can run, if they do run."[62]

Tucson residents have come to appreciate and expect the grassroots campaigns fostered by the public financing program. The program's requirement that candidates collect hundreds of ten dollar contributions in order to qualify for public matching funds forces candidates to campaign door-to-door. Low spending limits provide further incentive for candidates to meet voters door-to-door, because media advertising is expensive. City residents are encouraged to participate in the electoral process by making campaign contributions that are matched with public funds.

Although candidates sometimes use the mass media as a campaign tool, according to Councilman Jose Ibarra and others, grassroots community organizing is the defining characteristic of Tucson politics.

> You can win a campaign with a ground war instead of an air war. You can spend all that money on beautiful campaign, but that's not really where you win the hearts and the votes of the voters. You win it by knocking on their doors and saying, "Look, we might not be as flashy as everybody else, but we're at least here knocking on your door to listen to you."[63]

Councilman Steve Leal claims that the public financing program "forces the candidate to have to talk to a whole lot more people and ask them for stuff." Leal thinks this is a good thing for Tucson politics.[64] City Clerk Kathleen Detrick agrees, commenting on the ten dollar contribution requirement,

> It's tough to get people to give you money. It's a lot harder than candidates think initially. So a lot of our candidates will get 150 contributions, 180 contributions, and then they find that they better go out there pounding the streets and talking to people about issues, in order to get them to give them the ten dollars. I really think the program does work well. I think it does get the candidates out into the community.[65]

Candidates consistently emphasized their grassroots campaign styles. Councilwoman Carol West described herself as a "door-to-door person." "But I don't get too far down the street, because each constituent wants to spend ten minutes visiting. And I want to do that because I want to hear what their concerns are and how they feel about the issues. I walked in every ward in the city last time I ran."[66] West's opponent, first-time council candidate Lianda Ludwig, is using the same strategy in her 2003 campaign.

> I really feel is that the only way I'm going to get elected is by meeting as many people as possible because nobody knows my name. Spending money on an advertisement isn't going to be as effective as having a one-on-one meeting with somebody. So, I guess that's my strategy, real grassroots.[67]

No other jurisdiction with a public financing program has had the program embraced so completely by the political community. To be sure, thousands of Tucson residents likely have no idea the public financing program exists. But the simple fact that all serious candidates—even those who philosophically oppose public financing—feel compelled to voluntarily limit their campaign spending and apply for public matching funds is an achievement for Tucson campaign finance reform.

Mayoral candidate Tom Volgy listed the strengths of Tucson's public financing program as, "Creating more competition, creating more public interest in elections, creating cleaner politics and creating a political culture that forces politicians to play by the rules."[68] Only time will tell if it is possible for other jurisdictions with public financing programs to enjoy such a thorough transformation of political culture.

D. City Clerk Program Administration Gets High Marks—A Viable Alternative to Administration by Commission

Many jurisdictions with public campaign financing programs have established government agencies specifically for the purpose of administering campaign finance laws. Public financing programs in Los Angeles, San Francisco and Oakland, for example, are administered by "ethics commissions." Public financing programs in New York City and Suffolk County, New York are administered by "campaign finance boards." These boards and commissions are composed of appointed, unpaid members who direct the activities of paid staff. Tucson's public financing program, by contrast, is administered by the city clerk, who is a paid city employee serving at the will of the city council and mayor.

At first glance, it may seem as though the establishment of an ethics commission or campaign finance board—which are typically perceived as more "independent" than paid government employees—would be the preferred method of administering campaign finance and government ethics laws. The success of Tucson's public financing program, however, suggests that administration by a city clerk provides a viable alternative for small and mid-sized cities throughout the nation.

When asked to rate the city clerk's administration of the public financing program, candidates gave her high marks. Mayor Walkup declared, "I'd give her an A. I'd give her a 92 or maybe as high as 95 percent score. I think she's tough. She's honest, sincere. She goes out of her way to be sure that people understand the rules." Walkup continued, "Both sides complain about the city clerk, which means she's doing her job."[69] Councilwoman West praised the city clerk and staff saying, "They do an excellent job."[70]

Most candidates and officeholders dismiss the need for an ethics commission or campaign finance board. Mayoral candidate Tom Volgy explained,

> I haven't seen the need for it yet. But I can see the need for it in a lot of other cities. We have a very long history of independence in the city clerk's office. The city clerk's office functions for the care and feeding of elected officials as well as clerking. And that means that she's got to be scrupulously independent of both Democrats and Republicans.[71]

Councilman Steve Leal has "a certain amount of ambivalence about ethics commissions," noting that Pima County has one, but that county government seems no more ethical that Tucson city government.[72]

Reservations about the need for a separate government agency to administer the public financing program are rooted in both fiscal concerns and skepticism of the so-called independence of such agencies. Treasurer Tom Linn commented,

> I don't think they're independent. Public financing programs have to be controlled by government in some fashion—even though you may be a "Clean Elections Commission" and the secretary of state is next door. As far as the city clerk is concerned, administration of the program is probably where it should be. I don't think the city has the finances to set up a separate agency. So, from a cost standpoint, leave it where it is.[73]

The concept of an independent commission does appeal to Councilman Ibarra, who reasons that "there's an inherent conflict of interest when the council appoints the city clerk, who is the one who oversees the program. The elected officials and city staff appointed by elected officials should not be anywhere near the program." He would like to see an "independent commission that's not beholden to anybody."[74]

Tucson City Clerk Kathleen Detrick not only serves as Tucson's campaign finance administrator, but is also an appointed member of the Arizona Citizens Clean Elections Commission. Detrick, better than anyone else, knows the pros and cons of administering a public financing program through the city clerk's office versus an separate agency. When asked whether they would be any value in establishing an independent commission to administer Tucson's public financing program, Detrick responded,

> It's just a different way of doing it. In the end, who appoints the commission? There's never true independence, in my opinion. It's just a different way of doing it. There are times when I would like to have somebody else—to say, "Go to the commission and let them make a decision." But having sat on a commission, my perspective is that they both work. It's just a question of approach. Who's to say which is better? I really don't have an opinion on it, having dealt with both. I think both have good and bad points.[75]

Detrick and others interviewed for this report pointed out that elected officials control the appointment process and the purse strings regardless of whether the administrator is an individual, such as a city clerk, or a volunteer commission directing a paid staff. Detrick noted the benefit of continuity when the power of administration is vested in an individual city employee. Detrick was serving as elections director for the city and helped craft the public financing program in the mid-1980s, so she knows the city's program as well as anyone. A drawback of independent commissions is that commissioner terms are typically limited and commissioners often have little knowledge of the campaign finance laws when appointed.

Detrick has developed a reputation for independence, which she recognizes as crucial to the performance of her duties. "It does require a great deal of independence. There's no question about it. In Tucson, it's a mayor-council appointment to be campaign finance administrator. It could become a very political office."[76]

The success of Tucson's program is attributable not only to the city clerk's independence, but also to her proactive attitude. Detrick emphasizes this point.

> The strength of this program is that we're dedicated to helping candidates get what the voters said they wanted them to have—and that's public funding for their campaigns. The key to success is that you've got to keep proactive. You can't ever sit back and let it just take its course. You've got to get out there and work with the candidates and their treasurers. The other part of public funding that is really important is keeping it simple. Public funding with too many rules causes great grief.[77]

The city clerk's staff reviews the rules and regulations the year before an election and make any necessary changes in an effort to constantly improve the program. The city clerk publishes a candidate information pamphlet, which details all aspects of the election process—redistricting of city council wards, nomination procedures, campaign finance laws, campaign finance reporting schedules and regulations related to campaign advertisements. Candidates and their treasurers are also encouraged to attend informational seminars held several times throughout the election year.

Treasurer Tom Linn feels the city clerk's commitment to educating candidates makes perfect sense. High levels of candidate compliance with reporting requirements, for example, makes the city clerk's job of enforcing the campaign finance laws easier. Linn explains, "I think they realize it's always going to be garbage in, garbage out. The cleaner they can get the campaign finance information coming in, the better it's going to be for them." When asked whether there was anything the city clerk could be doing better, Linn replied, "At this particular time, I can say no. They are on top of this. Questions do get answered. I was very pleased with the response I got. It was within the same day and that's a help."[78]

The city clerk's independence, combined with a dedication meeting the candidates needs, has resulted in widespread approval of the clerk's administration of the public financing program. Tucson serves as a model for public financing program administration in small and mid-sized cities that lack the financial resources and the need for an independent commission. The ethics commissions and campaign finance boards administering public financing programs in other jurisdictions work well, but there is more than one way to publicly finance elections—and Tucson's way works well.

E. Public Financing Limits the Time Candidates Spend Fundraising and Levels the Campaign Playing Field

Advocates of public campaign financing have long argued that providing public funds to candidates would reduce the amount of time candidates spend fundraising and would allow candidates with limited access to campaign funds to wage competitive campaigns on a level playing field. Less time spent fundraising means more time discussing issues with prospective voters and, in the case of incumbent candidates, more time fulfilling their duties as elected officials. A level campaign playing field allows a more representative cross-section of qualified candidates to run for office and win.

Candidate testimony makes clear that these goals have been achieved in Tucson. While candidates running for office in many large cities around the nation fundraise nearly full-time, Tucson candidates typically rely on grassroots fundraising strategies and complete their fundraising months before an election. In Los Angeles, for example, every candidate interviewed for the 2001 CGS publication *Eleven Years of Reform* reported fundraising nearly full-time right up to election day despite the availability of public matching funds.[79]

The amount of time candidates spend fundraising depends on a variety of factors, most important of which include the amount of the spending limit, public funding levels and the size of the contribution limit. Candidates may be forced to spend substantial time fundraising if spending limits are too high or if either public funding levels or contribution limits are set too low. The architects of Tucson's public financing program struck an effective balance when designing the program.

Tucson candidates typically begin raising funds between January and March of the election year for a September Primary. Mayor Bob Walkup began fundraising in March for both his 1999 election campaign and for his 2003 reelection campaign.[80] Walkup's opponent, Tom Volgy, explained his fundraising strategy for both his first successful mayoral campaign and this year's challenge to Walkup.

> One of the real nice things about this system is that fundraising is not the primary consideration, so it becomes part of everything else we do. I started the coffee circuit in January. Last time I ran for mayor I started the coffee circuit in January. The coffee circuit is done to raise money, but also to raise volunteers and a whole bunch of other stuff. So money is only a single part of a multi-campaign process. And we'll be done with our fundraising probably by the end of June.[81]

A "coffee" (a.k.a. "house party") is a gathering held in the home of one of a candidate's supporters. The candidate meets with a small group of this supporter's friends to discuss campaign issues, solicit campaign contributions and recruit campaign volunteers. Coffees are a popular campaign tool in Tucson.

Councilwoman West began her fundraising for this year's reelection in January, with the goal of finishing in June.[82] Not all candidates, however, have an easy time with fundraising. West's opponent, first-time candidate Lianda Ludwig, began fundraising in February, but had a difficult time raising funds to challenge an incumbent in the party primary. When asked in May of the election year how much time she was spending fundraising, Ludwig replied, “Asking for money is a very difficult thing for me.” Ludwig continued,

> I’m spending a lot of time worrying about it, but I am really putting my eggs in one basket. That one basket is meeting as many people as possible, because I know that I’m not going to have the money for expensive advertising and for the buttons and whistles and all the things that you can do when you have the money. I’m getting a lot of ten dollar contributions.[83]

Ludwig spent $24,328 in her September 2003 primary campaign in an unsuccessful attempt to unseat incumbent Carol West.

In addition to holding small house parties, candidates rely on direct mail solicitations targeted to past donors, door to door solicitations and medium-sized fundraising events with as many as 100 attendees. In past election years, Councilman Ibarra “used to have house parties or cocktail parties or carne asadas, where you’re usually getting $25 or $15 contributions.” Rather than trying to raise enough campaign funds to reach the spending limit, Ibarra has decided to simplify his campaign operations this year. Ibarra will not be using radio or television and instead only “raise enough for one mailing and for food and beverages for volunteers. That’s it.”[84]

The grassroots style of campaigning and fundraising, made possible by the combination of public financing and spending limits, has created a level playing field in Tucson. According to Tom Volgy, “In actual dollar costs, in non-inflationary dollars, it is cheaper to run a campaign in Tucson today than it was in 1983 [before the public financing program was created].” Volgy continued,

> What I do know is that there has been a tremendous flowering of candidates running for office under campaign finance reform. Elections have become competitive, whereas they were not competitive before. And public matching funding actually has a tremendous impact in terms of public policy—the guarantee that half your money is coming anonymously from the public. This makes it almost impossible for you to be bought.[85]

Councilman Steve Leal reasons that public financing not only helps challengers against incumbents, but also helps “incumbents who have been courageous in fighting for issues and not afraid to make themselves a target for retaliation of moneyed interests. Courageous incumbents have enough money to protect themselves when the retaliation starts.”[86] Councilman Ibarra explained that the public financing program has,

> done a wonderful job of evening out the playing field. In the past, the wealthy and the privileged had the ability to buy an election and it was pretty hard for a candidate who did not have a lot of money to compete. With the public financing program, it’s about issues instead of about who can raise the most money and who can buy the most political ads and make the most mailings. Pima County, for example, does not have public financing. So when you start a campaign in Pima County, you don’t start talking about your platform or your issues. You start talking about how

> much money you can raise by this date. If you can raise the money, then you're a legitimate candidate.[87]

Mayor Walkup stated emphatically that the public financing program "absolutely, positively levels the playing field. It puts both candidates at the same level. The principle issue is not how much money you can raise and spend, but what are the issues and how well can you campaign face to face."[88] City Clerk Kathleen Detrick believes the program "gives the candidates who don't have a name an opportunity to run and to win."[89]

One individual interviewed for this report disapproves of the level playing field created by the public financing program. Ed Parker, executive director of the Pima County Republican Party, believes the public financing program "benefits the unpopular candidate." According to Parker, an unpopular candidate can raise $35,000 and reach the spending limit with matching funds, while a more popular candidate who has the potential of raising a lot more money is limited in what they can spend.[90] Nevertheless, Republicans and Democrats alike have overwhelmingly opted to limit their spending in exchange for public funds since the program's creation—strong evidence that a level campaign playing field is more desirable than not.

F. Contribution Limits are Reasonable

Arizona law limits contributions to 2003 Tucson candidates from individuals and political committees, other than political party committees and "Super PACs,"[91] to $350 per election.[92] According to City Clerk Kathleen Detrick, candidates occasionally receive contributions from political committees, but the overwhelming majority of contributions to candidates come from individuals and are subject to the $350 limit, because only individual contributions are matched with public funds.[93]

Most candidates and officeholders interviewed for this report are comfortable with the state's $350 limit. At least one, Councilman Ibarra, would like to see the limit reduced to $250.[94] Most candidates claim their average contribution is far lower than the $350 maximum.[95] Ibarra typically aims for contributions in the $100-$150 range.[96] Mayor Walkup stated that his average contribution is less than $50.[97] According to Councilwoman West, the vast majority of her campaign contributions have been "around $25 to $50."[98]

When asked whether the contribution limit should be increased or decreased, first-time council candidate Lianda Ludwig replied, "I think $350 is fine."[99] When asked the same question, even Pima County Republican Party Executive Director Ed Parker responded, "I think it's OK."[100] Councilwoman West thinks the $350 limit "is about right."[101] And in the words of Tom Volgy, "I don't think it makes much of a difference. We're living under the $350 limit."[102]

While the City of Tucson has the legal authority to reduce the state $350 limit even further, it is unnecessary to do so. The $350 limit seems low enough to prevent political corruption or the appearance of corruption and, combined with public matching funds, is high enough to accommodate the fundraising necessary to wage effective campaigns. Reducing the contribution limit could have the undesired effect of increasing the amount of time candidates and officeholders spend fundraising, while offering no substantial advantages over the current $350 limit.

G. Program Costs Are a Tiny Fraction of the Total City Budget

Opponents of public campaign financing around the nation often argue that the cost of public financing will bankrupt a jurisdiction. Such claims have no basis in fact. On the contrary, the cost of public financing in Tucson and in other jurisdictions is a tiny fraction of the total budget. **Figure 6** estimates the cost of Tucson's public financing program as a percentage of the total Tucson city budget and as a per year cost to each registered voter and city resident.

Tucson's public financing program has cost Tucson residents approximately 22¢ per year between 1986 and 2001. The cost of the program per registered voter has been approximately 40¢ over the same period. Program costs constitute a tiny fraction of the total city budget. Between 1986 and 2001, public financing program expenditures were approximately 0.0156%—less than two-hundredths of one percent—of total adopted budgets.

Figure 6

Program Cost in Relationship to Total Budget, Registered Voters & Residents

4 Year Election Cycle	Total Matching Funds Distributed	Total Audit Costs	Audit Costs + Matching Funds Distributed	Total City Budget for Election Cycle[103]	Audit Costs + Matching Funds as a Percent of Total Budget	Cost Per Registered Voter Per Year	Cost Per Resident Per Year[104]
1986-89	$133,104.51	$16,845.00	$149,949.51	$1.8 Billion[105]	0.0081%	19¢[106]	09¢
1990-93	$265,410.24	$19,514.00	$284,924.24	$2.1 Billion[107]	0.0137%	28¢[108]	18¢
1994-97	$397,681.98	$39,340.84	$437,022.82	$2.6 Billion[109]	0.0168%	51¢[110]	27¢
1998-2001	$604,726.62	$42,782.50	$647,509.12	$3.2 Billion[111]	0.0201%	83¢[112]	33¢
Total / Median	**$1,400,923.35**	**$118,482.34**	**$1,519,405.69**	**$9.8 Billion[113]**	**0.0156%**	**40¢**	**22¢**

Program costs have understandably risen as candidate participation has increased. The program cost city residents approximately 33¢ per year in the 1998-2001 election cycle, up from 9¢ in the 1986-89 election cycle. Likewise, the cost per registered voter per year has risen from 19¢ in the 1986-89 election cycle to 83¢ in the 1998-2001 cycle. Nevertheless, Tucson's program costs significantly less per registered voter than comparable programs in New York City and Los Angeles. New York City's program cost $2.64 per registered voter per year in the 1998-2001 election cycle,[114] while Los Angeles' program cost approximately $2.98 per registered voter during the same period.[115] The cost of all of these programs make up a tiny fraction of the jurisdictions' total budgets.

Public funds distributed to candidates, combined with auditing costs, constitute the bulk of the program's cost to Tucson taxpayers. These costs are easily calculated and serve as the basis for our cost analysis. The difficulty of placing a dollar amount on city clerk staff time spent administering the public financing program, however, prevents a definitive calculation of the costs associated with Tucson's public financing program.

Tucson budgets contain a line item for the "elections division" of the city clerk's office. This line item includes the complete cost of administering Tucson elections—most of which would be incurred by the city with or without public financing. When asked how much the public financing program costs to administer, City Clerk Kathleen Detrick responded,

> We don't really know. The reason we don't is because employees who work on campaign financing also work in other areas of elections. We run the whole election. We don't just administer the public funding program. There's too much overlap. I've been asked that question on many occasions and have always given the same answer. We've always felt the program was not that costly to administer—not anywhere near as costly as everybody told us it was going to be.[116]

When the public financing program was adopted in the mid-1980s, Detrick had significant concerns about possible administrative burdens and costs. Detrick admits,

> I thought this was going to be a nightmare. Administratively, it's going to be hard to run it. It's going to be costly. We're going to spend a million dollars giving away money to people. It's going to take an incredible number of people to just run the program and keep on top of it. But that is just not the case! It actually doesn't take a lot of people from an administrative standpoint, in particular because we have an independent auditor.[117]

Detrick declined a request that she provide a ballpark figure for the cost of staff time for administering the program in an election year. Nonetheless, it is unlikely that the cost of any additional staff labor would substantially alter our conclusion that the public financing program costs a tiny fraction of the total city budget.

H. Program Funding Mechanism Proves Stable and Reliable

At a time when public financing programs are being underfunded and repealed throughout the nation, using the excuse of fiscal crisis to justify the repeal, Tucson's program has been fully funded without incident in every year of its operation. This fact is noteworthy because, on it's surface, Tucson's funding mechanism seems prone to the same funding difficulties and budgeting process that has troubled similar programs throughout the nation.[118]

In previous reports, CGS has stressed the importance of a reliable funding mechanism to the success of a public financing program. The City of Los Angeles's funding mechanism—a charter provision allocating $2 million per year into a public financing trust fund, with no discretion given to the city council—has been touted by CGS as a model for other jurisdictions. At the other end of the spectrum lies Suffolk County, New York, which relies on voluntary contributions solicited through property tax bills to (under)fund its program. Suffolk County's funding mechanism has proven woefully inadequate, inspiring the title of the 2002 CGS report *Dead on Arrival?*[119]

Between these two ends of the spectrum lie jurisdictions which rely primarily on the budget process to fund their programs. In the typical budget process, the administrator of the public financing program (city clerk, ethics commission, etc.) estimates the program's budgetary needs for the year. The administrator then submits the estimate to the official whose duty it is to draft a proposed budget for the entire jurisdiction. In New York City and San Francisco, for example, this official is the mayor. In Tucson, this official is the city manager. This official then submits the proposed budget to the city council or board of supervisors for debate, amendment and adoption.

The multi-stage budget process is well-suited to most government expenditures, allowing elected officials to adjust government spending for changes in revenue. Problems often arise, however, when elected officials are asked to fund a program desired by the public but not by the officials themselves—a conflict of interests. Public campaign financing has proven to be one such program in many jurisdictions. Elected officials often consider public financing as unnecessary to their own reelection, but of great value to would-be challengers. Rather than admit this, officeholders typically oppose public financing on other grounds, characterizing it as welfare for politicians that taxpayers simply cannot afford.

The most visible example of this behavior is the recent refusal by the Massachusetts State Legislature to fund the voter-approved state "clean elections" law, which would have provided full public financing to participating candidates. Similarly, the Oakland City Council has refused to fund the city's public financing program in 2003, citing a budget shortfall as its reason.

Tucson's public financing program, by contrast with programs in other jurisdictions, has been fully funded without resistance through the budgetary process. When asked to comment on why program funding has not been an issue in Tucson, City Clerk Kathleen Detrick responded,

> We've never had a problem with the city manager and we've had a number of city managers in Tucson since the program was established. In the past several elections, everyone has participated in the program—everybody who was a serious candidate. So everybody has grown to accept the program. They understand that there is a cost to having the public funding program. Our program has been in existence for so many years, that's it's really become very accepted in Tucson. It's clear that the public supports the program.[120]

Tom Volgy explained, "When you spread the program's cost out over non-election years, you're having such an infinitesimally small impact on the budget that it's just not an issue." Volgy also argued that Tucson's city council has no discretion regarding whether or not to fund the program, claiming that "the charter requires that they fund the system."[121]

The language of the charter, however, seems susceptible to less definitive interpretation. The charter reads, "The mayor and council shall establish an election campaign account in the general fund, into which shall be deposited *such sums as may be appropriated* from time to time in the annual budget."[122] Use of the word "may," as opposed to "shall," leaves wiggle room for a city council that decides not to fund the program.

Regardless of charter language, the city manager, mayor and council have fully funded Tucson's program in every year of its operation. Although it is tempting to recommend that Tucson amend its charter to contain a foolproof funding mechanism similar to the one used in Los Angeles, such a step seems unnecessary at this time.

I. Candidates Are Content With Tucson's Partial Public Financing Program and in No Hurry to Adopt a "Clean Money" System

Tucson is the only local jurisdiction with partial public financing in a state with full public financing ("clean money"). Candidates interviewed for this report are familiar with the state's program, but not in any hurry to adopt a similar program for Tucson elections.

When asked whether a full public financing program might be preferable to Tucson's matching funds system, Councilman Ibarra replied, "I like the state's version, but there are some adjustments that need to be made before we embrace the state's version."[123] Councilwoman West echoed this sentiment, stating "I think the state has a lot of work to do on their program."[124] Treasurer Tom Linn appreciates the comparative simplicity of Tucson's law, noting, "I think the state law is much more complex. I think the state still has problems with their clean elections law, because no one's really understanding it and people are getting trapped."[125] Mayor Walkup likewise noted that the state's program is "confusing and needs to be overhauled."[126]

Walkup's opponent Tom Volgy finds value in the process of fundraising, explaining,

> You test viability a little bit more on public-private match and you get a little bit more insanity on full public funding. I have never heard of anyone thinking about running for the Tucson city council who felt that the match was too low. Never. And, frankly, you don't have to do 150 coffees in the mayor's race to raise your money. In fact, we'll probably be done with the fundraising portion in about 60 coffees. So, if you have really viable candidates, they ought to be able to raise $82,000 for a mayors race or $41,000 for a council race. I don't think that's really much of a problem. And that includes people who are working people who have low incomes, but can rally large numbers of people to the cause because what they're saying hits a resonant tone in the community.[127]

Volgy stressed that he fully supports the state system of full public financing, although he is happy with Tucson's program for local elections. Volgy concluded his comments on the subject saying, "I'll take either one of them over a non-publicly financed system."[128]

Tucson candidates know their system works well. The fact that these candidates would rather retain Tucson's current system than import the state "clean money" system is a testament to nearly twenty years of hard work invested in building Tucson's program. Arizona residents can only hope that the state program follows in Tucson's footsteps and develops comparable loyalty among state candidates in years to come.

V. Room For Improvement

One of the most appealing attributes of Tucson's public financing program is its simplicity. CGS has recommended several reforms in other jurisdictions which could be made in Tucson, but would run the risk of unnecessary complication. For example, CGS has recommended the adoption of a fundraising blackout period (*i.e.*, prohibition on fundraising in the years preceding an election year) in New York City, and an expansion of the fundraising blackout period in the City of Los Angeles—as a means of reducing the time elected officials spend fundraising. Tucson law contains no restrictions on when candidates may begin fundraising. Nevertheless, Tucson candidates have not historically raised funds in non-election years. For this reason, a fundraising blackout period seems unnecessary in Tucson.

Another example, described in detail above, is Tucson's reliance on the budget process to fund its public financing program. San Francisco likewise relies on the budgeting process to fund its program. As a result of uncertainty of program funding, CGS recommended in its 2002 report *On the Brink of Clean* that San Francisco amend its charter to include a mandatory appropriation to the public financing program, leaving no discretion to the mayor and board of supervisors. Although Tucson relies on a nearly identical funding mechanism, this report contains no recommendation that the funding mechanism be altered in any way.

It is recommended, however, that Tucson continue to monitor the activities of candidates and elected officials, remaining open to the possibility that reforms recommended in other jurisdictions may become necessary in Tucson as well.

A. Rising Independent Expenditures Threaten the Future of Tucson's Public Financing Program

Independent expenditures are on the rise in Tucson and throughout the United States, as wealthy individuals and organizations seek to exert political influence beyond that which is possible under a system of contribution limits.[129] Independent expenditures made their first Tucson appearance in 1997. A September 1997 *Tucson Citizen* editorial, entitled "Council Election: Cash Didn't Win, Sleaze May Have," reported a pair of late "hit" pieces mailed just before election day in an effort to discredit a city council candidate.[130]

Independent expenditures played a more prominent role in 1999, when a single political committee made independent expenditures exceeding $48,000 in support of successful Republican mayoral candidate Bob Walkup. Independent expenditures jumped again in 2001, when two political committees spent a combined total of nearly $125,000 supporting successful Republican council candidates Kathleen Dunbar and Fred

Ronstadt. A third committee reported spending more than $20,000 on consulting and direct mail in 2001, but reported these expenditures as "operating expenses," not as independent expenditures supporting or opposing any particular candidate. Some suspect the expenditures may have been made in support of Democratic Councilman Steve Leal.[131]

<u>Independent Expenditures: A Threat to Public Campaign Financing</u>

Independent expenditures are of particular concern in jurisdictions with public financing programs, such as Tucson, because those candidates who agree to limit their spending are faced by independent expenditure committees without limits. Independent expenditures undermine the spirit of contribution limits by enabling wealthy special interests to exert a level of influence exceeding that which is possible through campaign contributions. Prohibited from giving a $50,000 contribution to a mayoral candidate by Tucson's $350 contribution limit, a special interest group may instead choose to spend $50,000 on a campaign mailer independently of the candidate's campaign.

To date, the U.S. Supreme Court has protected independent expenditures as a form of free speech.[132] Yet such large independent expenditures do, in fact, pose a risk of corruption or the appearance of corruption, a risk recognized by the Court when justifying limits on campaign contributions. Candidates typically know the identities of independent spenders, who may receive the same preferential treatment they would expect had they given a large contribution directly to the candidate. And though candidates would prefer to control their own message, most would welcome the support of large independent expenditures and fear such expenditures made against them.

Independent expenditures pose a distinct threat in the context of publicly financed elections. Tucson candidates who agree to spending limits in exchange for public funds may lack the capacity to respond to independent expenditures attacking them. Furthermore, candidates who voluntarily participate in the city's public financing program expecting the support of large independent expenditures unfairly benefit from a program adopted by voters to eliminate undue political influence.

Many view independent spending as an unfortunate reality that must be addressed if Tucson's public financing program is to remain effective. In the words of Councilman Ibarra,

> Tucson showed great vision by enacting this public financing program, trying to take money out of politics and trying to talk about issues. The independent campaigns put an ugly mud spot on our public financing system because there are no regulations over them. A candidate may say "No problem. I'll sign your campaign financing contract and limit myself to this money." But then you have independent campaigns with no limitations, no rules, no regulations. This is where the ugliness comes into campaigns. The candidate stays on the issues and the independent campaigns are the ones slinging mud.[133]

Ibarra concluded, "Tucson is at a crossroads right now. If Tucson really wants to move forward and be a beacon in the state, the city has to find a way to control the independent campaigns."[134]

Tom Volgy noted the "hypocrisy of somebody taking public money and then encouraging their friends to run independent campaigns at the same time." Volgy cited Tucson's "inability to deal with independent campaigns" as a fundamental threat to the public financing program. "The long-term threat," according to Volgy, "is that you get so much money in that you can't stop it anymore. I think that would just swamp and destroy this system."[135] Councilman Leal lamented, "The biggest problem with campaign finance stuff is that people have learned how to circumvent it with independent campaigns."[136]

Tom Linn, a professional accountant who has served as campaign treasurer for city, county and state candidates, learned the hard way that independent expenditure campaigns can be deceptive, ugly affairs. Linn agreed to be the treasurer of an independent expenditure committee during the last Pima County Board of Supervisors elections. Before Linn agreed to be the committee's treasurer, the committee had already sent out a mail piece alleged to have violated copyright laws. Linn recounted,

> The committee was backed by people who didn't want to be out in front—home developers. I was the only one who's name was in the forefront. The Tucson newspaper couldn't find the chair, so they found the treasurer. They threatened to sue me personally for $150,000 for this violation. It really scared the hell out of me. I had no idea any of this was going on, because the money was already collected and spent before I came into the picture. I was really hung out there. I would never do another independent campaign. I don't think treasurers should be shielded from liability, but the next time someone wants me to do an independent campaign I'll say "No way, go away." I realize they're just hit pieces. They're going to hit and run. My name was all over the newspapers. It was just earth-shattering to me. But that's what happens in politics.[137]

The committee hired an attorney to represent Linn and, at the time of the interview, the lawsuit had not yet been resolved.

A Difference of Opinion

Not everyone is concerned about independent expenditures. Mayor Walkup argued that independent expenditures have not been "an influencing factor in any election." Walkup continued, "If you want to put up a sign or take out an ad in the newspaper saying 'I think Bob's a great guy,' you should be allowed to do that. You and your supporters have every opportunity to do the same thing."[138]

City Clerk Kathleen Detrick wondered aloud, "Is there something inherently wrong with independent expenditures?" Detrick elaborated,

> If it's truly the case that I wish I could give you a thousand dollars; I know I can only give you $350; I'm going to take the rest of it and do something for you and I'm not going to coordinate it with you, then I don't think that's necessarily bad. I don't think it's necessarily circumventing the law if I just really believe so strongly in your candidacy that I want to go do some other things for you. I have great difficulty grappling with this

> whole issue because I can see it from both sides, having listened to candidates and committees.[139]

When asked, "What if I run for council agreeing to the $80,000 spending limit and I'm opposed by $200,000 in independent expenditures?" Detrick responded,

> Maybe that candidate has greater support than you do. If you are such a good candidate, what's to prevent the folks on your side from either, number one, going out and raising enough money to oppose that or, secondly, to go out there and do the grassroots thing. And, actually, sometimes the larger expenditures can backfire.[140]

Detrick explained that many neighborhood groups (*e.g.*, the Greater Neighborhood Association of Tucson, the Northwest Neighborhood Association, the Coalition of Neighborhoods) endorse candidates in Tucson elections. They don't spend a lot of money, according to Detrick, but their endorsements can be very influential among voters. Detrick commented, "You can say that's kind of an independent activity and I would guess that most people would say that that's fine."[141]

Detrick's assumption is likely correct: few would be troubled by a community organization's endorsement of a candidate—and for good reason. A community organization's endorsement is different than a $50,000 independent expenditure campaign. Grassroots community organizing is a political tool available to all people, regardless of wealth. Independent expenditure campaigns, by contrast, are typically fueled by large contributions.

The average contribution to committees making independent expenditures in 1999 and 2001 was $498.50. However, contributions from families and businesses, when aggregated, far exceed this average. For example, contributors with the last name Click gave $8,700 to committees supporting Republican candidates in 1999 and 2001. Likewise, the Diamond family contributed $7,500 to the same committees during the same period. The Estes family gave $7,200.

Is it problematic when a small number of wealthy people are able to more effectively express their policy preferences to elected officials by making large independent expenditures? Detrick responded, "The trouble is, how do you craft legislation to address that. Every time we have an attempt to address that particular concern, we wind up getting something that's very difficult to interpret."[142] Tom Volgy was unfazed by Detrick's reservations, reasoning,

> Administrators are always scared to death of every new initiative because they can't figure out the process of most smoothly administering it. Of course that is why we pay administrators substantial amounts of dollars—so that they can come up with the answers to administering these things. And ultimately the court can judge whether or not it is happening well. The very act of moving on independent expenditure campaigns is utterly critical and these are just very small side issues.[143]

Despite her reservations about attempts to regulate independent expenditures, Detrick is clearly troubled by political party independent expenditures. The Arizona Republican Party, for example, made more than $38,000 in contributions to an independent expenditure committee supporting Republicans Kathleen Dunbar and Fred Ronstadt in 2001. Detrick commented,

> We had a political party do an independent expenditure, which I had never encountered before, but which is allowable under Arizona law. It bothered me greatly that a party was doing an independent expenditure to support party candidates. Truly, to me, it didn't seem independent. When you have philosophically the same party ideals, how can that be independent?[144]

More Independent Spending on the Horizon

Regardless of whether or not independent expenditures are perceived as a problem, most candidates and political observers expect significant independent spending in Tucson's 2003 elections. City Clerk Kathleen Detrick commented, "I expect to encounter a lot of independent expenditures this year, because we have such contested races."[145] Councilmember Carol West likewise predicted that independent expenditures would play a role in the 2003 mayoral contest, but did not foresee independent spending in her own race.[146] When asked whether he expects his supporters to mount an independent expenditure campaign in 2003, Mayor Walkup responded,

> I have no idea. I know there was an independent expenditure campaign supporting me in 1999, but I have no idea what the total amount was or, ultimately, where the money went. I can tell you that I saw some TV spots that were done by the independent campaign. But I have no idea how much money was raised or how much campaigning they really did. But I am left with the impression that it wasn't very much.[147]

As noted above, public disclosure records show that Walkup's supporters spent nearly $50,000 in 1999. Walkup's 2003 opponent, Tom Volgy, anticipates increased independent spending in support of Walkup in the November 2003 general election. Volgy predicts, "I am sure Bob's friends are going to raise $200,000 to $300,000 to try to beat me, in addition to Bob's money."[148]

Addressing the Problem

A variety of options exist to address the impact of independent expenditures on publicly financed elections. Several individuals interviewed for this report advocate a monetary per committee limit on independent expenditures made in a campaign. However, the U.S. Supreme Court ruled in 1976 that such limits violate the First Amendment rights of independent spenders.[149] Nevertheless, councilmembers Ibarra and Leal advocate just such a limit and would welcome the opportunity to bring a test case back to the Supreme Court with the hope that the Court would overturn its earlier decision.[150] Ibarra commented, "I would like to be part of that city council that tests that portion of the law."[151]

Several campaign finance reform options less likely to result in lawsuits should also be considered by the City of Tucson. The best solution to unequal speech is more balanced speech. Tucson should amend its campaign finance laws to: (1) require last minute independent expenditures to be reported within 24 hours and (2) lift spending limits and increase public funding to candidates facing large independent expenditures. Such reforms would be consistent with clearly established constitutional law.

Recommendation 1: Require Last-Minute Independent Expenditures To Be Reported Within 24 Hours

Current Arizona state law requires committees making independent expenditures to influence Tucson elections to report such expenditures to the city clerk at specified times, depending on when the expenditure is made. Independent expenditure committees often make their expenditures in the two weeks prior to an election, in order to have the greatest impact on voters and also to avoid public scrutiny that might accompany the expenditures.

Under current law, a committee making an independent expenditure during the nineteen days preceding a Tucson election is not required to report that expenditure until 30 days after the election.[152] Independent expenditures made in the nineteen days preceding Tucson's September 9 primary, for example, did not have to be reported to the city clerk until October 9. Independent expenditures made in the nineteen days preceding Tucson's upcoming November 4 general election will not be reported to the city clerk until December 4. Voters are exposed to independent expenditure advertisements intended to sway their votes prior to the election, but they are unable to learn who paid for the advertisements until well after election day.

Informed voting decisions depend on full and timely campaign finance disclosure. Journalists, candidates and the general public should have access to detailed campaign finance date for independent expenditure committees when it matters most—before the election. Tucson should require any committee that makes independent expenditures exceeding $1,000 to influence a Tucson election during the nineteen days preceding an election to report such expenditures to the city clerk within twenty-four hours.

Rapid reporting of late independent expenditures is required by at least nineteen states, including California.[153] As a result of California law, late independent expenditures of $1,000 or more made to influence publicly-financed elections in Los Angeles, San Francisco and Long Beach are disclosed to the public within twenty-four hours. Independent expenditure disclosure requirements are clearly constitutional. Even Councilman Fred Ronstadt, who opposes contribution and spending limits on First Amendment grounds, also believes that candidates and committees should be responsible for "instantaneous disclosure."[154]

Recommendation 2: Adopt a Trigger Provision Lifting Spending Limits and Increasing Public Funding to Candidates Facing Large Independent Expenditures

The regulation of independent expenditures in the context of publicly financed elections is at the cutting edge of campaign finance reform policy. Of the 10 local government jurisdictions in the United States with public financing programs, only four have provisions dealing with independent expenditures.[155] In these four jurisdictions, independent expenditures exceeding a specified threshold cause the spending limits to be eliminated for all publicly-financed candidates running in the same race.

Tucson should adopt a similar "trigger" provision, but should improve on the trigger provisions of these jurisdictions in two important aspects. First, rather than eliminating the spending limit for *all* publicly-financed candidates in the race (regardless of whether or not the candidate benefited from the independent expenditure), Tucson should eliminate the spending limit only for the candidates who do not benefit from the independent expenditures. Second, Tucson should provide additional public matching funds to candidates when their opponent benefits from large independent expenditures.

This proposed trigger would enable a candidate who has voluntarily agreed to limit his or her campaign spending to respond to large independent expenditures either opposing them or supporting their opponent. Adopting such a trigger would require Tucson to:

- Devise a mechanism to determine which candidate actually benefits from an independent expenditure;
- Establish an independent expenditure threshold which, when exceeded, triggers the additional funds and lifted spending limit; and
- Determine the amount of additional funds a candidate should receive.

Determining Which Candidate Benefits From an Independent Expenditure

The most significant challenge to implementing an independent expenditure trigger involves determining whether an independent expenditure was actually to a particular candidate's benefit. This finding would be necessary to determine whether the spending limit should be lifted for the other candidates and those candidates given additional public funds.

Most independent expenditures will clearly benefit one or more specific candidates. Independent spenders are typically attempting to exert political influence beyond the constraints of candidate contribution limits. Consequently, most independent spenders sincerely attempt to assist the candidacies of their preferred candidate and their intentions are no secret.

It is possible, however, that an unpopular group might make an independent expenditure attempting to benefit a candidate but, in fact, harming the candidate. A group of real estate developers, for example, might make an independent expenditure urging voters to elect council candidate "X." Candidate X may cringe at this well-intended endorsement by the developers, while candidate X's opponents and the media seize the opportunity to brand candidate X as the "pro-development" candidate.

How should the city determine which candidate benefited from the real estate developers' independent expenditure? Should opponents of candidate X have their spending limits lifted and become eligible for additional public funds? The answer is simple.

Arizona law currently requires committees making independent expenditures to list the name of the candidate whose election or defeat was advocated by the expenditure. Arizona law also requires that committees making independent expenditures certify, under penalty of perjury, that an independent expenditure was not made in coordination with a candidate.[156] Tucson should extend this "penalty of perjury" provision to include the committee's naming of the candidate whose election or defeat was advocated by the expenditure.

This disclosure would create a presumption rebuttable only by a finding of fraud in a court of law. The city clerk's determination of which candidate benefited from an independent expenditure would, consequently, depend solely on the intent of the spender, not on the perception of a candidate or the presumed impact of the expenditure on voters.

In the example above, candidate X would be deemed the beneficiary of independent spending by the real estate developers absent a court finding of fraud. This outcome might seem harsh at first blush. Nonetheless, the proposed method for determining which candidate benefits from an independent expenditure is the most objective test available. A test dependent on the perception of a candidate or the presumed impact of an expenditure on voters would be unworkable. Furthermore, instances of an independent spender harming the campaign of its preferred candidate are exceedingly rare.

Some have argued that Machiavellian campaign strategists would go a step further—gaming the proposed trigger provision. Rather than make independent expenditures supporting their preferred candidate (which would result in lifted spending limits and additional public funds for their preferred candidate's opponent), the Machiavellian strategist could make an independent expenditure allegedly "supporting" the candidate he or she actually opposes and, as a result, release the preferred candidate from the spending limit and qualify the preferred candidate for additional public funds.

Imagine, for example, the same real estate developers involving themselves in a race between a "pro-business" candidate and an "environmentalist" candidate. Rather than spending money in support of their preferred pro-business candidate, the real estate developers might mail a campaign piece stating "Tucson's real estate developers urge you to vote for [the environmentalist candidate's name]" to all the members of Tucson largest environmental organization.

When asked to comment on this potential abuse of the proposed independent expenditure trigger, Tom Volgy replied, "I think that's too clever by half. That's not real life. I think when we come up with all kinds of weird hypotheticals, then all we're really doing is destroying an opportunity to deal with a really critical problem."[157]

Trigger Thresholds

In addition to developing a procedure for determining which candidate benefited from an independent expenditure, the city would need to determine the amount at which independent spending becomes significant enough to warrant eliminating the spending limit and providing candidates with additional public funds.

In San Francisco, for example, if a committee or committees in the aggregate make independent expenditures supporting or opposing a board of supervisors candidate that exceed the applicable spending limit ($75,000 in a general election / $20,000 in a runoff), the spending limit is eliminated for all other candidates running in the same race.[158]

In Oakland, by contrast, independent expenditures by a single committee exceeding $15,000 in a district city council race or $70,000 in a citywide race trigger the elimination of spending limits for all candidates in the race.[159]

The variation of independent expenditure trigger thresholds in San Francisco and Oakland is indicative of the range of options available to Tucson. Because CGS recommends that Tucson maintain spending limits for candidates who benefit from independent spending, Tucson's trigger threshold should be based on total independent spending supporting or opposing an individual candidate, rather than total independent expenditures supporting or opposing all candidates combined.

Tucson should set its independent expenditure trigger threshold at 50% of the applicable spending limit. In other words, when total independent expenditures benefiting a single candidate exceed 50% of the applicable spending limit, the non-benefiting candidate's spending limit should be increased and the non-benefiting candidate should receive additional public funds. Once established by law, the thresholds can and should be amended if proven to be too high or low.

Increased Spending Limits

When total independent expenditures benefiting a single candidate have exceeded the specified threshold, spending limits should be raised for all participating candidates in the same race not benefiting from the independent expenditures. The new spending limit should equal the standard spending limit plus the dollar value of the independent expenditures.

Additional Public Financing

Finally, Tucson must determine how much additional public financing a candidate opposed by large independent expenditures should receive. The best approach would be for candidates to receive one additional dollar in public matching funds for every dollar already matched, up to the dollar amount of the independent expenditures. Total public funds received by a candidate, however, should not exceed *twice* the applicable spending limit for the office.

The combination of improved disclosure, increased spending limits and additional public financing for candidates facing large independent expenditures will maintain the integrity of Tucson's public financing program by promoting voter education and enabling candidates to compete effectively despite significant independent spending on their opponents' behalf.

B. Campaign Finance Information is Difficult to Obtain

Arizona and Tucson campaign finance disclosure laws require candidates to file reports with the city clerk detailing contributions received and expenditures made by every candidate and political committee active in Tucson elections. Voters, members of the news media and research organizations like CGS should have easy access to this information—but they do not. Instead, the information is stored away in filing cabinets. To access the information, an interested individual has two options. One option is going to city hall, sorting through hundreds of pages of paper filings and then paying 10¢ per page for any document copies desired. The second option (the only option for people who do not live in Tucson) is to ask, plead and beg the already-busy city clerk staff to compile data and fax or mail it.

In researching this report, for example, CGS was unable to obtain candidate expenditure data for the 1991 and 2001 Tucson elections. Thorough analysis of candidate spending was impossible due to this unavailability of data. The city clerk staff had previously compiled summary contribution and expenditure data for other election years and was more than willing to share it, but was too busy preparing for the September 2003 primary election to compile the missing data. The data CGS did receive from the city clerk was on paper. In order to analyze the data, it was first necessary to key the data into a computer database. For this reason, an analysis of campaign contribution amounts and sources was too time and labor intensive to be undertaken.

Recommendation 3: Tucson Should Implement an Electronic Campaign Finance Filing and Disclosure System

The time is ripe for Tucson to implement a system of electronic campaign finance filing and disclosure. Prior to the advent of computers, a paper filing system was the best available option for data storage. Today, computerized systems in New York City, Los Angeles, San Francisco and most states around the nation make campaign finance data available to the public through a searchable internet Web site. At least 46 state and local jurisdictions, including the State of Arizona, have electronic filing and/or disclosure systems.

Electronic filing and disclosure systems directly remedy the fundamental inefficiency in paper filing systems. In a paper filing system such as Tucson's, candidates manage their campaigns using computers. Candidates key every contribution and expenditure into a computer program provided to them by the city . Candidates then print this electronic data onto paper and submit the paper filing to the city clerk. Tucson taxpayers then pay city clerk staff to, once again, key select data into an electronic database for the purpose of monitoring candidate campaign finance activities and enforcing campaign finance laws.

In an electronic filing and disclosure system, by comparison, contribution and expenditure data is digitized only once—by the candidate. The candidate then submits the data to the city's filing officer. The data is immediately posted to a searchable internet database that is accessible to the public using the jurisdiction's Web site. The data is also available in a database format to government administrators and public policy researchers for quick and easy analysis. Using such systems, determining the average size of campaign contributions in the 2001 elections, or over a series of years, takes only a few clicks of a mouse. Without an electronic filing and disclosure system, such analysis is extremely laborious and rarely is done.

When asked whether she advocates the development of an internet disclosure system, City Clerk Kathleen Detrick noted that a lack of resources has prevented her from creating such a system but, "If we could get it online, it would probably save us staff cost because then we wouldn't be spending so much time selling copies of contribution and expenditure reports."[160]

Tucson already provides candidates with software to track their own campaign finance activities and compile the reports compiled by law. Candidates and treasurers report that the existing software works well and has been improved dramatically over time. Tucson is half-way to effective and efficient campaign finance disclosure. Tucson should join other leading public financing programs around the nation in making campaign finance data easily accessible to the public via the Internet.

C. Three-Year Durational Residency Requirement is Unnecessarily Restrictive

Tucson law requires a candidate for mayor or council to have been a resident and "duly qualified elector" in the city for at least three years immediately prior to becoming a candidate.[161] Tucson law also requires that, in order to be eligible for public financing, a candidate "must meet the requirements of the City Charter."[162] This provision has been interpreted by the city clerk as requiring three-year city residency to be eligible for public financing.

The city clerk's interpretation of the law was challenged in court by 1997 council candidate Demitri Downing. Downing had resided in Tucson for less than three years. Despite the charter requirement that candidates be three-year residents, Downing filed nomination papers and appeared on the ballot because no one challenged his candidacy. Downing also collected the requisite number of ten dollar contributions to qualify for public matching funds. Downing submitted a request for public financing, but his request was denied by City Clerk Kathleen Detrick on the ground that Downing did not meet the charter's durational residency requirement.[163]

The trial court determined that a candidate's appearance on the ballot was sufficient to meet the city charter's public funding eligibility requirements and ordered the city clerk to disburse matching funds to Downing. A state court of appeals reversed the trial court, ruling that the city clerk may deny public funding to candidates who do not meet the charter's durational residency requirement for candidacy, even if the candidate appears on the ballot. Senior Assistant City Attorney Dennis McLaughlin explained the situation as follows,

> We really have no way to stop candidates, if their papers are facially valid, from getting on the ballot. So when it comes to matching funds, it's important that we have the power and the rights to inquire to inquire about people as far as their qualifications. The concept that you don't have a fundamental right to money just because you're on the ballot is critical to the credibility of the program.[164]

The city's interpretation of the charter was reasonable under the circumstances. The language of the charter clearly lends itself to the city clerk's interpretation and the clerk's job is to implement, not make laws. Nevertheless, the charter's three-year residency requirement for candidacy is unnecessarily restrictive. The charter requirement that a candidate for council reside in a ward for one year prior to running for that ward's council seat is, likewise, unnecessarily restrictive.

Tucson residents should be encouraged to serve their community by running for and holding public office, regardless of how long they have lived in the city or ward—so long as they are residents of the city and ward when the run for and hold office. Furthermore, voters should be trusted to choose among candidates according to their own criteria, rather than having the candidate field narrowed by the durational residency requirement.

Recommendation 4: Eliminate Three-Year Durational Residency Requirement

Tucson should eliminate its three-year residency requirement for city candidates. Instead, Tucson should require that a candidate for city office be a qualified elector under state and local law, as well as a resident of the city (and council ward, in the case of a council candidate), at the time the candidate files nomination papers—as is currently required by state law.[165]

D. Spending Limits Need Adjustment

In order to be eligible for public matching funds, a candidate must agree to spending limits. Unlike most local jurisdictions with public finding programs, which have separate spending limits for primary and general elections, Tucson's charter establishes a single spending limit for the primary and general elections combined. Tucson's 2003 spending limit for mayoral candidates is $142,271 (64¢ per voter) and $71,135 (32¢ per voter) for city council candidates. No more than 75% of the total spending limit, however, may be spent through the day of the primary election.

Most candidates interviewed for this report believe Tucson's spending limits have worked well to prevent skyrocketing campaign spending. Tom Volgy, for example, commented,

> I think the caps give you a guarantee that, if you run for office, you can't be spent into oblivion—with incumbents outspending challengers ten to one, twelve to one, fifteen to one. The prospect of that is a gigantic deterrent effect to any quality candidate. So even if you can't raise all of the money under the cap, but you can raise half of it, you know that the worst that can happen is you get outspent two to one.[166]

When asked whether the amounts of Tucson's spending limits are reasonable, candidate responses varied. Most candidates interviewed are comfortable with the current amounts, while some believe the limits are either too high or too low. Many candidates do, however, take issue with the fact that council limits are half the amount of mayoral limits despite the fact that both run in citywide general elections. Furthermore, several candidates and officeholders dislike the use of a single spending for the entire election cycle, rather than separate spending limits for separate primary and general elections.

Spending Limit Amounts

Asked if the mayoral spending limit is high enough, Mayor Walkup replied, "Sure, absolutely. You can do everything you need to do to run a campaign for that amount of money. I think for a city this large, I ran a very good campaign and am currently running a good campaign on exactly what I have."[167] Walkup's 2003 opponent, Tom Volgy responded,

> A real campaign is doable under the limit. It makes the life of a campaigner hard, but no one said this was easy. We are in the midst of doing 150 coffees, on top of all the other grassroots stuff I am doing. It is very hard. I actually have a real job. This is an act of passion for me. I am not a professional politician. This means I am doing fourteen hour days, seven days a week. Of course, if we had more money, then it would be less extensive a toll. But that's OK. In some ways, this is the ultimate about democracy—making that commitment and going out to the public and showing yourself, warts and all.[168]

Councilman Leal reinforced the fact that running a campaign under the current limits is possible but not easy, noting, "You can run a reasonable campaign if you know what you are doing."[169] First time candidate Lianda Ludwig commented that the spending limit "seems like an adequate amount."[170] Councilman Ronstadt likewise believes the spending limits are reasonable.[171] Councilman Ibarra, by contrast, believes the spending limits are too high, explaining,

> I think I share a different view than my colleagues. I think the limit should be a lot less. Considering the fact that there is such high poverty and the working class families are barely getting by in our city, I would like to see the limit dropped in half or maybe a little bit above half, so that there's not so much emphasis on raising money and there's more emphasis on talking about issues. If we are going to make any adjustments, it has to be down.[172]

Pima County Republican Party Executive Director Ed Parker feels quite differently than Ibarra, instead advocating an increase in the spending limit to $1.50 per voter, reasoning, "If you want to get a mailer out to everybody who is a registered voter and do any other kind of advertising such as signs or billboards or TV or radio, you need more than $164,000."[173]

<u>Single Spending Limit Applies to the Primary and General Elections Combined</u>

Under Tucson's public financing law, a single spending limit applies to the entire election cycle, regardless of whether or not a candidate is forced to run in a party primary (although a candidate may only spend 75% of the spending limit through the day of the primary). Most jurisdictions with public financing laws, by contrast, utilize a "per election" spending limit, with the party primary and general election considered two separate elections.

New York City Council candidates running in 2003 under the city's public financing program, for example, must abide by a per election spending limit of $150,000. A candidate forced to run in a party primary and a general election may spend a total of $300,000 during the election year. A New York City Council candidate who is not forced to run in a party primary is limited to $150,000 in election year campaign expenditures for the general election.

Tucson's combined primary and general election spending limit gives an unfair advantage to candidates who face no primary opposition. Councilman Steve Leal explained,

> One of the problems is that in a primary you can spend three-quarters of your budget. It doesn't leave you very much for the general, in particular if the other political party is double teaming you. If it is a phony Democrat up against you in the primary, with the Republican Party using him to force you to spend your money, and you have a Republican with no primary challenger who has all of his spending limit left—you are hurting in the general election. I have often wondered if that 75%-25% split is really sensible.[174]

A candidate running for Tucson's city council in 2003 who faced a primary election opponent could spend $53,351 in the primary election, out of a total spending limit of $71,135. Such a candidate would be allowed only $17,784 in general election expenditures and could face an opponent who had no primary election opposition and, consequently, would be allowed $71,135 in general election expenditures. The ability of one publicly-financed candidate to outspend another publicly-financed candidate $71,135 to $17,784 in the general election should be cause for concern.

Council Citywide Spending Limit 50% of Mayoral Citywide Limit

Most candidates and officeholders interviewed for this report noted that, while council and mayoral candidates both run in citywide general elections, the council spending limit is half the size of the mayoral limit. A mayoral candidate without primary election opposition may spend $142,271 in the citywide general election. Meanwhile, a city council candidate engaged in a highly competitive primary election may enter the citywide general election with $17,784 to spend campaigning to the same number of voters.

Councilwoman West was asked whether the council limit should be half of the mayoral limit, to which she replied, "I am not sure it's fair. The limits should not be exactly the same, because the council primary is run in the ward—but it would seem to me that the council limit ought to be increased somewhat."[175]

Tom Volgy believes the amount of spending available to general election council candidates is "probably way too low." Volgy noted that council candidates run citywide in the general election and that the city is more populous than a federal Congressional district. Volgy suggested that the council spending limit should perhaps be increased to two-thirds of the mayor's limit.[176]

Councilman Ibarra was likewise troubled that the mayoral spending limit is 50% higher than the council limit, despite the fact that they both run citywide in the general election. Ibarra believes the mayoral spending limit should be no more than 25% greater than the council limit.[177]

Councilman Leal dislikes both the election cycle spending limit, which potentially leaves candidates with only 25% of the spending limit for the general election, and also the requirement that council candidates run citywide general election campaigns under a spending limit half the size of the mayoral limit. With regard to the ability of council candidates to spend 75% of their spending limit in a ward-based primary, leaving them only 25% to spend in a citywide general election, Leal commented, "You would think it ought to be the other way around. If you had any kind of a limit at all it should be 25% in the primary and 75% in the general."[178] If the spending limits were to be adjusted to correct these problems, Leal would rather see the mayoral limit reduced than the council limit increased.

In summary, the structure of Tucson's spending limits creates two distinct, but related problems. First, Tucson's use of a single spending limit for the entire election cycle—primary and general elections combined—puts some candidates at a spending disadvantage in the general election. Second, Tucson's establishment of a city council spending limit half the size of the mayoral limit, when both council and mayoral candidates run citywide in the general election, seems difficult to justify.

Recommendation 5: Create Separate Primary and General Election Spending Limits

Tucson should level the campaign playing field for all candidates running in general elections by creating separate primary and general election spending limits. For the sake of simplicity, Tucson should establish a per election spending limit applicable to primary and general elections as separate elections.

The actual amounts of the mayoral and council per election limits could be determined by dividing the current election cycle limits in two. For example, the current mayoral election cycle limit of 64¢ per voter could be divided into a per election limit of 32¢ per voter. Likewise, the current council election cycle limit of 32¢ per voter could be divided into a per election limit of 16¢ per voter. Doing so would eliminate the current 75%-25% division of the total spending limit understandably criticized by Councilman Leal.

This method of dividing existing limits by two would not, however, address the disparity between mayoral and council candidate spending in citywide general elections. Mayoral candidates would still be permitted to spend twice as much as council candidates campaigning to the same number of voters. For this reason, Tucson should consider either reducing the mayoral spending limit or increasing the council general election spending limit.

CGS was unable to obtain complete candidate expenditure records from the Tucson City Clerk, in order to determine the frequency with which council and mayoral candidates have reached the spending limits in recent elections. The city council should provide the city clerk with sufficient resources to conduct such research. Based on this research, the elected officials and people of Tucson will be better informed to decide whether mayoral spending limits should be reduced or city council general election spending limits increased.

E. Mid-Campaign Adjustment of Spending Limits and Public Funding Levels Complicates Campaigns

Tucson's charter establishes voluntary spending limits based on the number of registered voters in the city (64¢ per voter for mayoral candidates, 32¢ per voter for council candidates). The city clerk has historically published "preliminary" spending limits based on voter registration in June of the year preceding the election year. The city clerk then calculates the "final" spending limits based on voter registration in June of the election year, publishing the final spending limits in late July of the election year.

Candidates learned on July 30, 2003—less than six weeks before the primary election—that the final spending limits for the 2003 election cycle were substantially lower than the preliminary spending limits calculated one year earlier. The preliminary spending limit for mayoral candidates was $164, 517, while the final limit dropped to $142,271. Likewise, the preliminary spending limit for council candidates was $82,258, while the final limit dropped to $71,135.

<u>Recommendation 6</u>: Spending Limits Should Be Established Prior to the Election Year

Tucson should establish final spending limits during the year preceding an election year. Tucson candidates are permitted by the charter to apply for public matching funds as early as January 1 of the election year. Consequently, candidates typically develop and implement strategies for campaign fundraising and spending early in the election year. Candidates often plan campaign expenditures months in advance. A change in the spending limit six weeks before the primary election unfairly forces candidates to redesign campaign strategies at the last minute. The candidate uncertainty created by a last-minute adjustment of the spending limits carries no discernable benefit for Tucson voters and should be eliminated.

F. Staggered Elections Confuse Voters

Tucson's system of electing city council members is unique and works reasonably well, but should be simplified to reduce voter confusion and increase voter turnout. Candidates for city council run in a partisan primary election in one of six wards. The winners of the ward-based primaries then run citywide in the general election. Tucson elections are staggered every two years. In 2003, for example, voters will elect the mayor and council representatives from wards one, two and four. In 2005, voters will elect council representative from wards three, five and six.

Voter turnout statistics from 1983 through 2001 show lower levels of voter participation in non-mayoral election years. The median voter turnout in mayoral general elections was 41.21% during this period. The median voter turnout in non-mayoral general elections, by comparison, was 27.14%.

Lower voter turnout in non-mayoral election years may be exacerbated by voter confusion stemming from Tucson's system of staggered elections. In non-mayoral election years, only voters living in council wards three, five and six are permitted to vote in the ward-based primary election. The general election for ward three, five and six council representatives is, however, open to all registered voters in the city—even those who were not permitted to vote in the ward-based primary. It is these voters who may not be aware of their right to vote in the general election.

<u>Recommendation 7</u>: Elections for Mayor and All Council Members Should Be Held at the Same Time

Tucson should simplify its electoral system by electing the mayor and all six council members at the same time. A consolidated election would likely improve voter participation in wards three, five and six and would also save the city more than a million dollars that it spends to administer the off-year election. The winners of the city's ward three, six and five council elections in 2005 should serve two-year terms. The city should then hold an election for mayor and all six council seats in 2007.

G. Tucson Public Education Resources Are Not Fully Utilized

One often overlooked but effective type of public campaign financing is the provision of non-cash resources to candidates. Many jurisdictions around the country allow candidates to submit candidate statements for inclusion in voter information pamphlets sent to all registered voters immediately prior to an election. Candidate statements in voter information pamphlets are sometimes linked to voluntary compliance with spending limits. New York City not only produces printed voter guides containing statements from candidates agreeing to spending limits, but also posts an electronic version of the voter guide on the Campaign Finance Board Web site. But some jurisdictions allow all candidates to place statements in a voter information pamphlet, with no connection to spending limits or other campaign finance restrictions. Tucson produces sample ballots containing summaries of all ballot measures, but does not include candidate information.

Likewise, an increasing number of local jurisdictions around the nation are utilizing public and government cable access television systems as voter education tools. Candidates are allowed to video tape short statements discussing their qualifications for the office sought. These statements are then distributed over cable access TV, free of charge for the candidate. Tucson is home to both a government cable access system, *Tucson 12*, as well as a public cable access system, *Access Tucson*, which could be used for such voter education purposes.

<u>Recommendation 8</u>: Tucson Should Include Candidate Statements of Qualifications With the Ballot Measure Summaries and Sample Ballots Sent to Voters

Tucson should offer candidates who agree to abide by spending limits the opportunity to submit a personal statement for inclusion with the sample ballot and ballot measure summaries mailed to every registered Tucson voter before a city election. This voter information guide, containing candidate and ballot measure information, as well as a sample ballot and other basic voting information, will compliment the city's public matching funds program by educating voters and providing yet another voter-contact resource to candidates who participate in the public financing program.

Recommendation 9: Tucson Should Videotape and Distribute Candidate Statements Over the City's Public and Government Cable Access TV Systems

Tucson should offer candidates who agree to abide by spending limits the opportunity to videotape a statement for distribution on *Tucson 12*, the city's government cable access TV system. The City of Tucson should also negotiate an arrangement with *Access Tucson*, Tucson's independent non-profit public cable access TV system, for the distribution of these candidate statements.

CGS recently launched its "Video Voter" project (www.videovoter.org) to help cities use their governmental and public access cable TV channels and studios to produce and distribute candidate videos directly into voters' homes, where they will be recorded by digital video recorders (DVRs) such as TiVo and Replay, and thus made available for playback on demand. CGS will soon publish a "best practices primer" and video describing this approach and featuring examples of successful Video Voter techniques from cities across the nation.

VI. Conclusion

The most important lesson to be gleaned from Tucson's experience implementing public financing is that patience is necessary. Advocates of public campaign financing sometimes desire immediate results, while public financing's naysayers often pronounce program failure after a single election. The implementation of a public financing program, like most far-reaching public policy reforms, requires years and years of experience before a fair evaluation can be made. The success of Tucson's public financing program serves as strong evidence that given sufficient time, financial resources and support from the public, administrative agencies and candidates, a public financing program can take root and bloom. Tucson's public financing program has blossomed into a model for small-and medium-sized cities throughout the nation.

Notes

[1] Interview with Steve Leal, Tucson city councilmember ward 5, May 14, 2003.
[2] The campaign financing charter amendment was listed on the Nov. 5, 1985 ballot as Proposition 105. The margin of victory given in the text of this report is based on total votes cast on Proposition 105, not on total ballots cast. The official canvass of total ballots cast was as follows: 30,996 "yes" votes (49.55%), 28,243 "no" votes (45.15%), 66 overvotes (0.11%) and 3,247 undervotes (5.19%).
[3] Telephone interview with Tom Volgy, 2003 Tucson mayoral candidate, May 23, 2003. Volgy has taught political science at the University of Arizona since 1972, is a former Tucson mayor (1987-1991) and a former city councilmember (1977-1987).
[4] *Id.*
[5] *Id.*
[6] *Id.*
[7] Although members of the Tucson Unified School District Governing Board are elected, the board is a creation of state law and school board elections are administered by Pima County. Candidates for the school board are not eligible to participate in Tucson's public financing program.
[8] Tucson, Ariz., Charter Ch. XVI, Subchapter B § 1 (2003).
[9] *Id.* at § 5(c).
[10] *Id.* at § 4(c).
[11] Tucson, Ariz., Charter Ch. XVI § 5 (2003).
[12] Tucson, Ariz., Charter Ch. XVI, Subchapter B § 4(a) (2003).
[13] Tucson City Clerk Mem., *Final Expenditure Limitations—Public Matching Funds* (July 30, 2003).
[14] Tucson, Ariz., Charter Ch. XVI, Subchapter B § 3 (2003).
[15] *Id.* at § 5.
[16] *Id.* at § 4.
[17] The U.S. Supreme Court has ruled that mandatory limits may not be placed on the amount of personal funds a candidate may spend on his or her election campaign. *See* Buckley v. Valeo, 424 U.S. 1, 57 (1976) (*per curiam*). For this reason, Tucson's limit on candidate use of personal funds applies only to candidates participating in the public financing program. Tucson, Ariz., Charter Ch. XVI, Subchapter B § 2 (2003).
[18] Tucson City Clerk Mem., *Final Expenditure Limitations—Public Matching Funds* (July 30, 2003).
[19] Tucson, Ariz., Charter Ch. XVI, Subchapter B § 6 (2003).
[20] The various contribution limits established by Arizona state law are adjusted biennially for changes in the consumer price index. ARIZ. REV. STAT. § 16-905(J) (2002). Consequently, the limits referenced in this report are slightly higher than those specified by statutory sections cited. The limits were most recently adjusted in January 2003. For a complete list of the state's adjusted contribution limits, *see* Arizona Secretary of State Jan Brewer, *2003-2004 Election Cycle Campaign Contribution Limits* (visited Apr. 22, 2003) <http://www.sos.state.az.us/election/2004/Info/Campaign_Contribution_Limits_2004.htm>.
[21] Tucson City Manager Mem., *Elections—Campaign Finance Administration* 1 (Sept. 26, 1988).
[22] ARIZ. REV. STAT. §§ 16-905(A)(1) and (2) (2002). The statutory limit of $300 has been adjusted by the Secretary of State for an increase in the cost of living.
[23] *Id.* at §§ 16-905(I) and 16-905(A)(3). The statute does not use the term "Super PAC." The Secretary of State's Web site does, however, refer to these broad-based political committees as "Super PACs."
[24] *Id.* at § 16-905(D).
[25] *Id.* at § 16-905(C).
[26] *Id.* at § 16-905(E).
[27] *Id.* at § 16-906.
[28] *Id.* at § 16-905(H).
[29] *Id.* at § 16-905(F)(1).
[30] Tucson, Ariz., Charter Ch. XVI, Subchapter A § 2 (2003).
[31] Tucson, Ariz., Charter Ch. XVI, Subchapter B § 8 (2003).
[32] *Id.* at § 9.
[33] For detailed information on the City of Los Angeles' public campaign financing program, including candidate participation statistics, *see* Center for Governmental Studies, *Eleven Years of Reform: Campaign Financing in the City of Los Angeles* (2001) <http://www.cgs.org>. Likewise, for detailed information on New York City's public campaign financing program, including candidate participation statistics, *see*

Center for Governmental Studies, *A Statute of Liberty: How New York City's Campaign Finance Law is Changing the Face of Local Elections* (2003) <http://www.cgs.org>.

[34] "Serious" is defined as a candidate who spent at least $5,000. Campaign finance data is not yet available for candidates in the 2003 elections, so the 2003 elections have been excluded from our "serious" candidate analysis.

[35] Scott Stewart filed as a candidate in council ward one, but withdrew from the race on August 9, 1995 and was not included in this figure.

[36] Dan Copeland filed as a candidate in council ward three, but withdrew from the race on August 8, 1997 and was not included in this figure.

[37] Emily Machala filed as a candidate for mayor, but withdrew from the race on August 6, 1999 and was not included in this figure. Likewise, Paul Wallace filed as a candidate in council ward four, but withdrew from the race on August 8, 1999 and was not included in this figure.

[38] Summarized candidate contribution and expenditure data was not available from the City Clerk, making it impossible to determine participation by serious candidates for this election.

[39] *Id.*

[40] *Id.*

[41] While campaign finance data for the 2003 elections is not yet available, it is certain that all "serious" candidates are likewise program participants because all candidates are program participants.

[42] In 1978, the City of Seattle became the first local jurisdiction in the United States to enact a public financing program. Seattle's program was invalidated, however, by a statewide ballot measure in 1992.

[43] Interview with Kathleen Detrick, Tucson city clerk, May 13, 2003.

[44] Interview with Lianda Ludwig, 2003 Tucson city council candidate ward 2, May 14, 2003.

[45] Interview with Bob Walkup, Tucson mayor, May 14, 2003.

[46] Telephone interview with Tom Volgy, *supra* note 3.

[47] Tucson, Ariz., Charter Ch. XVI, Subchapter B § 4 (2003).

[48] "Serious" is defined as a candidate who spent at least $5,000.

[49] Summarized candidate contribution and expenditure data was not available from the City Clerk, making it impossible to determine participation by serious candidates for this election.

[50] *Id.*

[51] *Id.*

[52] Interview with Kathleen Detrick, *supra* note 43.

[53] Interview with Jose Ibarra, Tucson city councilmember ward 1, May 13, 2003.

[54] Interview with Steve Leal, *supra* note 1.

[55] Interview with Bob Walkup, *supra* note 45.

[56] Interview with Lianda Ludwig, *supra* note 44.

[57] Interview with Tom Linn, professional accountant and treasurer for council candidate Mike Jenkins, May 14, 2003.

[58] Telephone interview with Tom Volgy, *supra* note 3.

[59] Roger Sedlmayer rejected the public financing program in 1987 but won the race for city council in ward 4. George Miller rejected the public financing program in 1989 but won the race for city council in ward 3. Interestingly, both of these individuals chose to participate in the public financing program for their successful 1991 campaigns for city office.

[60] Telephone interview with Fred Ronstadt, Tucson city councilmember ward 6, Feb. 12, 2002.

[61] *Id.*

[62] Interview with Ed Parker, executive director of the Pima County Republican Party, May 12, 2003.

[63] Interview with Jose Ibarra, *supra* note 53.

[64] Interview with Steve Leal, *supra* note 1.

[65] Interview with Kathleen Detrick, *supra* note 43.

[66] Interview with Carol West, Tucson city councilmember ward 2, May 14, 2003.

[67] Interview with Lianda Ludwig, *supra* note 44.

[68] Telephone interview with Tom Volgy, *supra* note 3.

[69] Interview with Bob Walkup, *supra* note 45.

[70] Interview with Carol West, *supra* note 66.

[71] Telephone interview with Tom Volgy, *supra* note 3.

[72] Interview with Steve Leal, *supra* note 1.

[73] Interview with Tom Linn, *supra* note 57.
[74] Interview with Jose Ibarra, *supra* note 53.
[75] Interview with Kathleen Detrick, *supra* note 43.
[76] *Id*.
[77] *Id*.
[78] Interview with Tom Linn, *supra* note 57.
[79] Center for Governmental Studies, *Eleven Years of Reform: Campaign Financing in the City of Los Angeles* 28 (2001) <http://www.cgs.org>.
[80] Interview with Bob Walkup, *supra* note 45.
[81] Telephone interview with Tom Volgy, *supra* note 3.
[82] Interview with Carol West, *supra* note 66.
[83] Interview with Lianda Ludwig, *supra* note 44.
[84] Interview with Jose Ibarra, *supra* note 53.
[85] Telephone interview with Tom Volgy, *supra* note 3.
[86] Interview with Steve Leal, *supra* note 1.
[87] Interview with Jose Ibarra, *supra* note 53.
[88] Interview with Bob Walkup, *supra* note 45.
[89] Interview with Kathleen Detrick, *supra* note 43.
[90] Interview with Ed Parker, *supra* note 62.
[91] Arizona law allows political committees that received contributions of $10 or more from at least 500 individuals within a single year to apply to Secretary of State for certification as a "Super PAC." State law allows such "Super PACs" to contribute up to $1,800 to candidates for local office. ARIZ. REV. STAT. §§ 16-905(I) and 16-905(A)(3).
[92] ARIZ. REV. STAT. §§ 16-905(A)(1) and (2). The statutory limit of $300 has been adjusted by the Secretary of State for an increase in the cost of living.
[93] Interview with Kathleen Detrick, *supra* note 43.
[94] Interview with Jose Ibarra, *supra* note 53.
[95] Ideally, candidate campaign finance records would be analyzed to determine precisely what the median contribution amount is. Unfortunately, Tucson does not make detailed campaign finance data available to the public for analysis. This issue is addressed by this report's recommendation that Tucson disclose all campaign finance information electronically via the city Web site.
[96] Interview with Jose Ibarra, *supra* note 53.
[97] Interview with Bob Walkup, *supra* note 45.
[98] Interview with Carol West, *supra* note 66.
[99] Interview with Lianda Ludwig, *supra* note 44.
[100] Interview with Ed Parker, *supra* note 62.
[101] Interview with Carol West, *supra* note 66.
[102] Telephone interview with Tom Volgy, *supra* note 3.
[103] Tucson's fiscal year runs July 1 through June 30. These calculations include fiscal year 1987 (beginning July 1, 1986) through fiscal year 2002 (ending June 30, 2003).
[104] The 1990 census count (405,390) was used to calculate the cost per resident for election cycles from 1986 through 1987, while the 2000 census count (486,699) was used to calculate the cost per resident for the 1998-2001 election cycle. U.S. Census Bureau data can be found on the Census Bureau's Web site (http://factfinder.census.gov).
[105] Actual amount: $1,844,821,460.
[106] Based on 1989 voter registration of 201,524, from the Tucson City Clerk's *General Election Final Cumulative Report*.
[107] Actual amount: $2,081,581,490.
[108] Based on 1993 voter registration of 251,124, from the Tucson City Clerk's *General Election Final Cumulative Report*.
[109] Actual amount: $2,595,743,040.
[110] Based on 1997 voter registration of 214,452, from the Tucson City Clerk's *General Election Final Cumulative Report*.
[111] Actual amount: $3,228,219,970.

[112] Based on 2001 voter registration of 193,969, from the Tucson City Clerk's *General Election Summary Report*.
[113] Actual amount: $9,750,365,960.
[114] Center for Governmental Studies, *A Statute of Liberty: How New York City's Campaign Finance Law is Changing the Face of Local Elections* 30 (2003) <http://www.cgs.org>.
[115] Center for Governmental Studies, *Eleven Years of Reform: Campaign Financing in the City of Los Angeles* 53 (2001) <http://www.cgs.org>.
[116] Interview with Kathleen Detrick, *supra* note 43.
[117] Interview with Kathleen Detrick, *supra* note 43.
[118] Tucson's program also received small, but consistent amounts of funding from a water bill round-up option until it was eliminated last year. Funds generated by the water bill round-up were redirected by the city council to an open-space fund. There was no resistance to this change because the funds generated by the round-up were an insignificant portion of total program funding.
[119] Center for Governmental Studies, *Dead on Arrival? Breathing Life Into Suffolk County's New Campaign Finance Reforms* 15 (2002) <http://www.cgs.org>.
[120] Interview with Kathleen Detrick, *supra* note 43.
[121] Telephone interview with Tom Volgy, *supra* note 3.
[122] Tucson, Ariz., Charter Ch. XVI, Subchapter B § 6 (2003).
[123] Interview with Jose Ibarra, *supra* note 53.
[124] Interview with Carol West, *supra* note 66.
[125] Interview with Tom Linn, *supra* note 57.
[126] Interview with Bob Walkup, *supra* note 45.
[127] Telephone interview with Tom Volgy, *supra* note 3.
[128] Telephone interview with Tom Volgy, *supra* note 3.
[129] An "independent expenditure" is an expenditure by a person or organization directly advocating the election or defeat of a candidate which is in no way coordinated with a candidate's campaign. An example of an independent expenditure might be a glossy 5" x 8 ½" mail piece sent by a businessman to all registered voters in Tucson urging these voters to elect a particular candidate or group of candidates.
[130] Editorial, *Our Opinion: Council Election: Cash Didn't Win, Sleaze May Have*, Tucson Citizen, Sept. 18, 1997. CGS was unable to obtain campaign finance reports regarding these expenditure from the city clerk. The editorial emphasizes the independence of the mail pieces, noting, "There is no indication that the sleaze was tied to any of the other candidates."
[131] "Tusconans for Excellence in Government" reported spending more than $20,000 in "operating expenses." Tucson city clerk staff believed the expenditures may have been made in support of Democratic Councilman Steve Leal. Leal defeated challenger Jesse Lugo in the party primary by nearly twenty percentage points, but faced no Republican opposition in the general election.
[132] Buckley v. Valeo, 424 U.S. 1, 45 (1976) (*per curiam*).
[133] Interview with Jose Ibarra, *supra* note 53.
[134] *Id.*
[135] Telephone interview with Tom Volgy, *supra* note 3.
[136] Interview with Steve Leal, *supra* note 1.
[137] Interview with Tom Linn, *supra* note 57.
[138] Interview with Bob Walkup, *supra* note 45.
[139] Interview with Kathleen Detrick, *supra* note 43.
[140] *Id.*
[141] *Id.*
[142] *Id.*
[143] Telephone interview with Tom Volgy, *supra* note 3.
[144] Interview with Kathleen Detrick, *supra* note 43.
[145] *Id.*
[146] Interview with Carol West, *supra* note 66.
[147] Interview with Bob Walkup, *supra* note 45.
[148] Telephone interview with Tom Volgy, *supra* note 3.
[149] Buckley v. Valeo, 424 U.S. 1, 45 (1976) (*per curiam*).
[150] Interview with Jose Ibarra, *supra* note 53. Interview with Steve Leal, *supra* note 1.

[151] Interview with Jose Ibarra, *supra* note 53.
[152] ARIZ. REV. STAT. § 16-913(B)(3).
[153] Rapid reporting of late independent expenditures is required by the states of California, Colorado, Georgia, Hawaii, Idaho, Louisiana, Maine, Michigan, Nebraska, New Hampshire, New Jersey, Oklahoma, Oregon, Pennsylvania, Rhode Island, Texas, Washington, West Virginia, and Wisconsin.
[154] Telephone interview with Fred Ronstadt, *supra* note 60.
[155] The cities of Austin, Los Angeles, Oakland and San Francisco currently enforce trigger provisions that eliminate spending limits when independent expenditures exceed specified thresholds. *See* Center for Governmental Studies, *Public Financing Laws in Local Jurisdictions* (Chart) (2003) <http://www.cgs.org>.
[156] ARIZ. REV. STAT. § 16-915(F) (2002).
[157] Telephone interview with Tom Volgy, *supra* note 3.
[158] San Francisco, Cal., Campaign and Governmental Conduct Code § 1.146(a) (2002).
[159] Oakland, Cal., Municipal Code § 3.12.220 (2002).
[160] Interview with Kathleen Detrick, *supra* note 43.
[161] Tucson, Ariz., Charter Ch. XVI § 5 (2003).
[162] Tucson, Ariz., Charter Ch. XVI, Subchapter B § 4(a) (2003).
[163] C.T. Revere, *Appeal Court Rules Downing Not Due Matching Funds*, Tucson Citizen, Sept. 13, 1997.
[164] *Id*.
[165] ARIZ. REV. STAT. § 16-311 (2002).
[166] Telephone interview with Tom Volgy, *supra* note 3.
[167] Interview with Bob Walkup, *supra* note 45.
[168] Telephone interview with Tom Volgy, *supra* note 3.
[169] Interview with Steve Leal, *supra* note 1.
[170] Interview with Lianda Ludwig, *supra* note 44.
[171] Telephone interview with Fred Ronstadt, *supra* note 60.
[172] Interview with Jose Ibarra, *supra* note 53.
[173] Interview with Ed Parker, *supra* note 62.
[174] Interview with Steve Leal, *supra* note 1.
[175] Interview with Carol West, *supra* note 66.
[176] Telephone interview with Tom Volgy, *supra* note 3.
[177] Interview with Jose Ibarra, *supra* note 53.
[178] Interview with Steve Leal, *supra* note 1.

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The California Channel: *A New Public Affairs Television Network for the State,* Tracy Westen and Beth Givens (1989)

Update to the New Gold Rush, California Commission on Campaign Financing (1987)

The New Gold Rush: *Financing California's Legislative Campaigns,* California Commission on Campaign Financing (1985)

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- *Provide additional public funds to candidates facing large independent expenditures*
- *Improve disclosure of independent expenditures made in the weeks before an election*
- *Implement electronic campaign finance reporting and disclosure*
- *Include candidate statements of qualifications in the sample ballots*
- *Consolidate elections for all council wards into a single election year*
- *Allow candidates to tape and distribute free video statements over the city's public and government cable access systems*

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