Public Financing of Elections:

Where to Get the Money?

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FOREWORD

The following are excerpts from the full CGS report, *Public Financing of Elections: Where to Get the Money?* (July 2003), which was the first systematic effort to identify new sources of money to fund electoral public campaign financing systems. Based on extensive research and interviews with campaign finance and fiscal experts across the nation, the report identifies over forty creative new sources of financing that state and local governments can use to providing funding for electoral campaigns.

The major challenge to widespread adoption of public financing systems is finding the money to fund them. This has become especially critical as states scramble to face massive new budget deficits. Public officials must now canvass every possible new opportunity to fund new and existing programs. The ideas and suggestions described in this report may help officials preserve existing public financing programs and/or create new ones.

Center for Governmental Studies Chief Executive Officer Tracy Westen wrote this report, with editorial assistance from President Bob Stern and Project Director Paul Ryan. Jeanette Rapp, former Consultant, California Senate Committee on Revenue and Taxation, provided invaluable research assistance. Rebecca Schwaner, Director of Finances and Human Relations, designed and formatted this report.

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CGS has spent over two decades researching public campaign financing laws and issues, drafting model laws and ballot initiatives, advising elected officials and civic organizations on campaign finance laws and issues, testifying as expert witnesses in judicial proceedings, developing innovative new campaign finance remedies and answering requests for strategic assistance.

Copies of the full report may be obtained from the CGS website, www.cgs.org, or from the CGS website, www.PolicyArchive.org.

INTRODUCTION

Public financing systems provide candidates with new and independent sources of funding. Public financing lessens candidate dependence on special interest contributions, allows them to spend more time discussing the issues with voters, increases opportunities for women, candidates of color and political newcomers to run for office, and encourages candidates to accept voluntary limits on their overall spending.

Finding adequate sources of money to fund such systems, however, has become a significant obstacle to expansion of this important political reform. Widespread state budgetary crises, together with political pressures advocating tax cuts, have forced proponents of public campaign financing to identify creative new ways to support their proposals. Without new funding approaches, legislation or ballot initiatives proposing public campaign financing systems will encounter difficulties.

This report offers over 40 new ideas for funding public campaign financing systems. Drawing upon the Center's own experience, as well as conversations with dozens of state and local campaign finance and fiscal experts, the report offers a range of suggestions, including new sources of revenue, reallocations of existing revenues, reductions in tax credits and mandatory in-kind contributions (e.g., free media time).

This report uses the term "public financing" to describe all government approved methods for providing candidates and political parties with additional funding. Under this definition, public financing includes tax credits that encourage individuals to contribute their own money to candidates and repays these individuals in whole or in part by offsets against their state income taxes.

Overview: Federal, state and local governments use a wide variety of methods to fund their public campaign financing systems, including direct appropriations from the general fund, income tax check-offs, tax add-ons, tax credits, levies on criminals, fees on lobbyists and civil fines. Some jurisdictions fund their programs directly (e.g., through appropriations from the general fund). Others use disguised taxpayer payments (e.g., voluntary income tax check-offs that transfer general fund revenues into public campaign financing systems). Still others single out unpopular citizens and impose penalties upon their activities (e.g., additional fines or levies on criminals).

Funding: A critical challenge facing all proponents of public campaign financing systems is identifying adequate and secure sources of revenue to fund them. With budget deficits facing many jurisdictions, proponents need innovative new ways to fund such programs and immunize them, to the greatest extent possible, from subsequent political tampering. The use of funding mechanisms to provide sufficient long term financing, and at the same time win widespread public acceptance, is vitally important.

Finding the money for public financing systems is essentially a political problem, not a financial problem. States could quite easily identify any number of funding sources to pay for public financing systems. Their resistance to doing so is usually based on political calculations—often by incumbents who fear greater competition for their jobs or worry that they will be subjected to ideological attacks ("you are raising everyone's taxes," etc.).

This report seeks to identify revenue sources that can support public campaign financing systems without, at the same time, generating overwhelming political opposition. Some analogous examples of this are instructive. In California, ballot measures have increased cigarette sales taxes to fund health and children's programs, dedicated a half-cent sales tax increase to counties for public safety purposes, and used portions of the vehicle licensee fee to fund local health and welfare programs. In each instance, voters approved tax increases because they were imposed on unpopular sources or used for popular purposes.

New sources of revenue for public campaign financing systems face common difficulties. One difficulty is simply generating enough revenue to fund campaigns adequately. Without this, candidates may reject public campaign financing altogether and continue their dependence on contributions from private sources.

Some proposed reforms can also encounter First Amendment concerns. Taxes or fees on specific speech activities can be challenged as a form of speech abridgement or "viewpoint discrimination." All such proposals, including those discussed in this paper, should be carefully reviewed to ensure compliance with the First Amendment.

Some of the proposed revenue sources in this report have a direct correlation with campaign financing problems (e.g., fees imposed on large campaign contributions or bond measures to support public campaign finance systems). Others are somewhat unrelated (e.g., slot machine taxes). If an unrelated revenue source is adopted via ballot measure, it may encounter "single subject" problems in some states.

In light of widespread budget deficits, the ideas and suggestions described in this report may be "seized" for other purposes by creative state legislators hungry for new sources of revenue. It may not be possible to "quarantine" good new ideas only for use in the public campaign finance arena. On the other hand, when budget crises pass, state legislatures may again increase spending on valued projects. That time will inevitably come again, and when it does, the ideas offered in this report may gain renewed currency.

New Ideas for Funding Public Campaign Financing Systems

CGS has canvassed a wide range of fiscal and campaign finance experts and organizations to explore creative new ideas for sources of public financing revenue. It has also drawn on its own experience and contacts in generating the following list.

New Revenue Sources

The following approaches essentially attempt to create new sources of revenue for public campaign financing programs.

1. Tax Rates or Surcharges for Millionaires

This option would increase the highest income tax rates (or add a 0.1 percent surcharge) for individuals with gross incomes exceeding $1 million (or $2 million for married taxpayers) and direct the increased revenue to a public campaign finance fund.

Most states impose a progressive individual income tax. California, for example, applies six progressive marginal income tax rates to taxable income, ranging from 1 percent to 9.3 percent. In 2002, the maximum tax rate of 9.3 percent applied to single taxpayers with taxable incomes of $38,291 or more (and married taxpayers with taxable incomes of $76,582 or more). The tax brackets are adjusted annually for inflation. This proposal would impose additional costs on the wealthiest taxpayers and leave all others untouched. In California, for example, a 0.1 percent tax on millionaires would generate about $80 million a year.

2. Criminal and Civil Fines and Civil Filing Fees

This option would increase all criminal and civil fines by 10 percent and deposit the revenue into a public campaign finance fund.

This option is modeled on Arizona's "clean money" public campaign finance program. Arizona raises a portion of the funds for its Clean Elections program through a 10 percent surcharge on all civil and criminal fines and penalties. The Citizens Clean Elections Commission estimates revenues of $5.2 million in 2002 from fines, forfeitures and penalties.

In fiscal year 2002, Massachusetts raised about $5.3 million in speeding ticket surcharges and $1.3 million from Driving Under the Influence (DUI) fines. Massachusetts collects a total of $25.8 million in annual fines for civil motor vehicle violations. Massachusetts State Rep. Ruth Balser (D-Newton) has introduced legislation that would add a 10 percent surcharge onto most criminal and civil fines to pay for public financing of campaigns.

This approach imposes additional costs upon those who have committed a range of various offenses. Critics of this approach express concern that an increase in criminal and civil fines might unfairly impose financial burdens on people of color who, through racial profiling and other discriminatory means, may pay fees and charges out of proportion to their percentage of the population.

3. Punitive Damage Surcharges and Proportional Awards

This option would impose a surcharge (e.g., one percent) on all legal settlements, civil damage or punitive damage awards over $100,000 to state residents.

This option is modeled on a proposal developed by Democracy North Carolina to impose a penalty charge on legal cases involving civil damages or settlements of more than $100,000. Specific numbers can be varied (e.g., the percent surcharge could be increased beyond one percent, or the cutoff threshold of $100,000 could be raised or lowered).

As an alternative, portions of court awarded punitive damage awards could be transferred to a public campaign finance fund.

Some courts have imposed punitive damages against a defendant in civil litigation but not awarded all of the damages to the successful plaintiff. Instead, these courts have required a portion of the punitive damage award to be paid to an independent nonprofit fund. In 2002, for example, an Ohio court awarded $30 million in punitive damages against an insurance company that had denied treatment to a brain cancer victim. It allocated only $10 million to the victim's spouse, however, and directed the remaining $20 million to a cancer research fund.

Eight states have laws requiring plaintiffs to turn over portions of punitive damage awards (typically one-half to three-quarters) to the government. The justification for this division is that, although punitive damages are necessary to impose a significant deterrent on the defendant's conduct, they should not provide a windfall to the plaintiff. Instead, a charitable organization is the appropriate recipient for a large portion of a punitive damage award.

4. Transient Lodging (Occupancy) Taxes

This option would impose a one percent (the amount can vary) tax on transient lodging charges imposed in a state. The tax would apply to lodging costs incurred at hotels, motels, bed and breakfasts and inns.

This option is modeled upon the transient occupancy tax imposed by many cities and by counties in their unincorporated areas. Primarily state visitors, travelers and convention attendees would pay the transient lodging tax. According to the 1999-2000 Cities Annual Financial Transactions Report issued by the California State Controller, the transient lodging tax generated the largest single source of "other" tax revenues for cities, totaling $772.5 million, an increase of 10.63 percent over the prior year.

5. Elimination of Tax

Exemptions, Credits or Deductions

This option would eliminate one or more tax "loopholes" contained in the sales, individual income or corporate income tax laws and direct the increased revenue to a public campaign finance fund.

A tax exemption shields specified people, property, institutions or sources of income or wealth from taxation altogether. A tax credit is an amount subtracted directly from the actual tax owed, usually an income tax. A tax deduction subtracts specific amounts from adjusted gross income to lower the amount upon which tax liability is imposed.

The success of this approach turns on identifying specific tax loopholes which, if eliminated, would (i) generate sufficient revenue to support or partially support a public financing program, (ii) not attack a special interest group which is sufficiently powerful to launch a negative advocacy campaign (e.g., homeowners wishing to keep their mortgage payment exemption) and (iii) mobilize the support of public opinion.

Potential examples are provided by the 2002 Center on Budget and Policy Priorities report, "Closing Common Corporate Income Tax Loopholes Could Raise Additional Revenue for Many States," by Michael Mazerov. The Center identifies three changes in corporate income tax law that could generate increased revenue: enacting a "throwback" rule[1] on income from sales in other states, closing the "passive investment company" loophole[2] and broadening the definition of "business income."[3]

As additional examples, the sales and use tax law of California currently exempts from taxation the sale or use of catalogs, letters, circulars, brochures, and pamphlets consisting substantially of printed advertisements for goods or services. The sales and use tax exemption was intended to make California printers and retailers competitive with out-of-state printers whose services would not be subject to California tax.

6. Changed Definition of Commercial Property "Sales"

This option would change the definition of a "sale" of commercial property, allowing increases in commercial property value to be assessed, and higher taxes collected, more frequently.

About three-fourths of the states impose a tax on property. When residential property is sold, it is relatively easy to determine when the transaction occurs and to collect greater taxes on its generally increased value (the purchase price). Commercial property sales, however, can be more complicated. When a publicly held company is sold, new management may control the corporation, but its shareholders may remain relatively constant. Publicly held corporations argue that such a sale of the company causes no "taxable event" for property tax purposes, since the ultimate property owners (the shareholders) have not changed.

One proposal would define a change of ownership of commercial property to include a cumulative turnover of at least 50% of the company's stock by multiple owners, instead of the acquisition of over 50% of the company's stock by one owner. In such cases, commercial property would be reevaluated more often, depending on how frequently shareholders in the aggregate turned over their stock. Such a redefinition would allow higher taxes to be collected more frequently.

7. "Split Roll" Property Tax System

This option would create a "split roll" property tax system (i.e., separate tax roles for commercial and residential properties) in those states that do not already have one, then increase the property taxes on commercial properties while leaving tax rates for residential properties unaffected.

In California, for example, Proposition 13 capped property tax rates in 1978 to prevent residential property taxes from rising to a point where owners would be forced from their homes. The property tax cap, however, was also applied to commercial properties, even though higher commercial property taxes would not endanger homeowners. The split roll option would give the state the option to assess property taxes separately on residential and commercial properties, thereby creating a new source of funding for public campaign financing systems.

8. Corporate Tax Surcharge

This option would impose a surcharge on the use of corporate tax incentives in excess of a specified amount.

This option is modeled after a proposal made by the governor of Nebraska in 2002 to impose a 20 percent tax credit surcharge on corporate use of tax credits of more than $500. This approach would not eliminate corporate tax credits. It would merely "tax" their use (or recapture some of the income lost through them).

9. New or Increased Sales Taxes on Discretionary Items

This option would impose increased taxes on discretionary consumer items (e.g., hunting and fishing licenses, indoor tanning, subscription cable television and direct broadcast satellite video services).

Kentucky Governor Paul Patton, for example, has proposed a nine percent tax on Direct Broadcast Satellites (DBS) and a six percent tax on cable television. Ohio Governor Bob Taft has proposed a tax on cable television. These proposals would raise taxes or fees on a carefully identified list of consumer items falling into categories of "discretionary" or "luxury" items.

10. Sales Tax on Advertising

This option would impose a sales and use tax[4] on the sales price of advertising, including billboards, TV and radio, newspaper and electronic media advertising.

Quebec's Broadcast Advertising Tax Act, for example, which was effective until June 3, 1992, imposed a 2 percent tax on the price of airtime for advertisements by radio or television broadcasting stations or cable television systems. The term "sale" included a sale, a conditional sale, an installment sale, an exchange, a lease or any other contract for airtime for the broadcast of an advertisement for a price or any other consideration.

An alternative option would impose a sales and use tax on political advertising only. Although this option might be seen as more relevant to public campaign finance systems, it might also fail to raise sufficient revenues.[5]

11. Sales Tax on Mail Order Purchases and Internet Sales

This option would require state participation in the Streamlined Sales Tax Project to simplify sales and use tax collections and encourage retailers to collect and remit taxes on remote sales. It would tap into increased sales tax revenues generated by participation in the interstate compact.

The Streamlined Sales Tax Project began in 2000 as an effort by states to reduce the burdens of sales tax collection by simplifying and modernizing sales and use tax collection and administration systems for retailers, remote sellers, and states. The expectation is that retailers will come forward and voluntarily collect taxes under the simplified system. In November 2002, representatives of 33 states and the District of Columbia voted to approve a multi-state agreement to establish one uniform system to administer and collect sales taxes.

In addition, current law does not require e-commerce and direct mail companies to collect and remit sales taxes on transactions that occur in jurisdictions where they do not have a physical presence. Under this proposal, states would begin to collect these taxes.

The federal "Internet Tax Freedom Act" imposed a three-year moratorium on new taxes on Internet access and on "multiple or discriminatory" taxes on electronic commerce. The act also established the Advisory Commission on Electronic Commerce to study federal, state, local and international taxation and tariff treatment of transactions using the Internet and other comparable intrastate, interstate and international sales activities.

In 1998, the California Internet Tax Freedom Act placed a three-year prohibition on local taxation of Internet access, bit or bandwidth, and on any discriminatory tax on Online Computer Services or Internet access. Under this proposal, such prohibitions would be repealed and the additional revenues dedicated to public campaign financing systems.

12. "Sin" Taxes on Alcohol, Cigarettes and Gambling

This option would increase existing taxes (sometimes called "sin taxes") on alcohol, cigarettes and gambling and direct the revenues received into a public campaign finance fund.

Many states impose a tax on the sale of alcoholic beverages and cigarettes. California law, for example, imposes tax rates ranging from 20-30 cents per gallon on beer, distilled spirits, wine and hard cider. These alcoholic beverage taxes and fees generated $288.4 million for the state General Fund in 2000-01.

California also imposes a tax of 87 cents on each package of cigarettes and uses the revenues for various state and local purposes (10 cents for the state General Fund, 25 cents for the Cigarette and Tobacco Products Surtax programs, 2 cents for the Breast Cancer Act program and 50 cents for the California Children and Families First Trust Fund program). The cigarette tax generated $126.7 million General Fund and $1 billion special funds in 2000-01. Some states also tax sales of state lottery tickets or winnings, casino gambling and riverboat gaming operations.

“Sin taxes” may be useful for several reasons. First, there is evidence that they discourage the use of the products that are taxed. Higher taxes may thus serve a separate social need, such as reducing onset smoking by individuals under the age of 18. Second, voters have frequently approved increases in these taxes, especially upon tobacco, so that they can have political support.

13. Mineral Severance Taxes

This option would impose mineral severance taxes on mining and extraction of oil and gas or logging in state forests. Other innovative taxes might be considered, such as a “carbon tax” on air pollution or global warming.

The state of Utah, for example, imposes a severance tax on the mining or extraction of metalliferous minerals equal to 2.6 percent of the taxable value of all metals or minerals sold or otherwise disposed of. An annual exemption upon the first $50,000 in gross value of the mineral is allowed for each mine.

“Metalliferous minerals" include any ore, metal, or other substance containing specified substances, including aluminum, arsenic, barium, boron, cadmium, calcium, chromium, cobalt, columbium, copper, gold, iridium, iron, lead, lithium, manganese, mercury, nickel, platinum, rare earth metals, selenium, silicon, silver, sodium, tin, titanium, tungsten, uranium, zinc or zirconium.

The state of Kansas imposes a mineral severance tax based on the value of oil and natural gas removed from the ground. The severance tax on natural gas raised an estimated $48.1 million in the 1998 fiscal year. The oil tax raised an estimated $14.5 million.

14. Vehicle License Plate Fees

This option would require the state to issue specialized license plates to support “Political Reform” or “Clean Money” and deposit the revenues collected from the sale of the license plates into a public campaign finance fund.

A number of states collect special fees for the sale of personalized license plates. The state of Virginia, for example, offers approximately 180 special plates. These plates promote colleges and universities, branches of the military, and special interest organizations such as conservationists, professional organizations and hobbyists.

California authorizes the sale of thirteen specialized license plates. Generally, a minimum of 7,500 applications for a specialized license plate must be received before the Department of Motor Vehicles will issue the specialized plate.

15. Fees or Surcharges on Bids for State Contracts

This option would impose an additional fee on bids for state contracts and deposit the revenues received into a campaign finance fund. Each contractor could pay a fee for submitting a bid on a state or local contract. A flat fee could be imposed on each bid, or a sliding scale could be used to assess a fee based on the value of the bid, or a fee could be imposed after the contract is awarded based on a percentage of the contract's value.

All states enter a wide array of contracts for the provision of goods or services. More and more of these contracts are "sole source" contracts and not put out for competitive bid. Given the potential conflict of interest inherent in sole source contracts and the periodic questions raised or scandals caused by the practice (e.g., the Oracle software contract in California), a fee or surcharge imposed upon sole source or all contracts might be appropriate. Even a small fee could generate significant sums to support public campaign financing.

16. Fees or Surcharges on Regulated Industries

This option would impose a small fee or surcharge on revenues generated by regulated industries in a state and place those revenues in a public campaign finance fund.

New Mexico, for example, recently approved a new "clean money" public financing law for candidates to the five-seat state Public Regulatory Commission (PRC). The program is funded by assessments on industries regulated by the PRC. Additional inspection and supervision fees on carriers, utilities and other industries, as well as additional fees on insurance premiums, support the $300,000 clean money fund.

In addition, New Mexico State Senator Dede Feldman recently introduced a bill (Senate Bill 222, first 2003 legislative session), which would impose an additional six thousands of one percent surcharge on the revenues of carriers. Even if carriers transfer these costs to ratepayers, the amounts per individual ratepayer would be extraordinarily small. In the aggregate, however, the revenues might be sufficient to fund a public financing program.

New Mexico's experience suggests that canvassing the list of regulatory fees paid by businesses within a state might be a fruitful inquiry for new funding sources. If supplemental fees are kept low, industry opposition might be lessened.

17. Tax Amnesty Programs

This option would implement a tax amnesty period. States could collect unpaid and overdue taxes, without taxpayers paying late filing penalties, and place the additional revenues into a public campaign finance fund.

A November 2002 report by the Federation of Tax Administrators indicates that 40 states, plus the District of Columbia, offered tax amnesty programs between 1982 and 2002. For example, the state of California offered a tax amnesty program in 1984 for the Sales and Use and Personal Income Tax laws. The program waived penalties and criminal sanctions for non-reporting or underreporting of tax liabilities. The FTA report indicates California's tax amnesty program generated $154 million in personal income tax payments and $43 million in state and local sales tax payments.

This approach has considerable appeal. It is limited, however, by the fact that it can be tried relatively infrequently. For this reason, it might be more appropriate for creating a "trust fund" out of which public financing programs might be financed in whole or in part.

18. Voluntary Attorney Fees or Corporate Contributions

This option would allow attorneys to contribute a voluntary fee to the public campaign finance fund.

This option is modeled on the North Carolina public campaign finance program for election of Supreme Court and Court of Appeal justices. Attorneys are required to pay a $50 fee to the State Bar to renew their licenses. Attorneys are also given the option of paying a voluntary $50 fee to the public campaign finance fund. This option might be supplemented by allowing corporations to pay, in addition to required corporate filing fees, a voluntary fee to the public campaign finance fund.

Although such voluntary programs typically do not generate sufficient funds to support public campaign financing programs, particularly in larger states where funding costs are higher, they might be useful as a partial or supplemental source of funding in smaller states. In addition, they may allow attorneys and corporations to say they "gave at the office" when approached for money by candidates, and this might provide them with an extra incentive to contribute.

19. Public Campaign Finance Bonds

This option would require the state to issue Public Campaign Finance Bonds, subject to voter approval, to fund the Public Campaign Finance Fund.

Although bonds are generally issued to build or support long-term capital facilities, such as buildings or stadiums, there is precedent for the use of bonds in supporting an operating program. During World War II, Americans supported the war effort by purchasing Liberty bonds. Sold by the U.S. government, the "war bonds" raised money for the war and helped bond purchasers feel they were doing their part for the war effort.

Public Campaign Finance bonds, if approved by the voters, would be supported by the full faith and credit of the state general fund. The state general fund would bear all costs of redemption and interest payments.

Bonds are typically used by the state to finance capital outlay projects and the acquisition of land. Capital outlays include projects to construct or renovate buildings and other infrastructure. Bonds allow the state to acquire expensive assets that it could not afford on a "pay-as-you-go" basis. The state borrows money from investors and then repays the borrowed money (principal), plus interest, over a period of years. Recognizing that the costs of paying off the bonds are shared with future taxpayers, bonds are typically used for long-lived assets, rather than ongoing operating costs.

The state issues general obligation (GO) bonds, revenue bonds, and lease-payment (lease-revenue) bonds. When people talk about what bonds to place on the ballot, they usually refer to GO bonds (non-self-liquidating). The state debt is the amount of money (the outstanding principal) the state still owes bond investors. Debt service is the annual amount the state pays to the bond investors and includes principal and interest.[6] For example, in the proposed budget for 2003-04, the governor of California estimates expenditures of $1.9 billion for debt service payments to holders of General Obligation bonds and commercial paper.

20. Slot Machine Taxes

This option would impose a tax on the sale of slot machines to a lottery organization (e.g., an Indian Tribe), or on the revenues generated by the use of the slot machines. (There may be special jurisdictional problems involved in imposing this tax on Indian Tribes, which are often exempt from various forms of state and federal regulation.)

A December 22, 2002, *Sacramento Bee* article by Steve Wiegand on Indian gaming in California indicates that the 20-year compacts negotiated by the governor some years ago allow certain specified issues to be “reopened” in 2003. Under federal law, states cannot tax tribes, but under various “compacts,” certain tribes have agreed to pay the state 7.5 percent of their net revenues. When an opportunity for negotiation arises—for example, when tribes want more slot machines, and the state wants more revenue—this may be an appropriate moment for negotiation.

21. Refundable Deposits on Containers

This option would impose a refundable deposit on aluminum, glass, plastic and cardboard beverage containers purchased in the state. Excess revenues from deposits that were not redeemed would be directed to the public campaign finance fund.

Various states have enacted beverage container recycling programs. For example, the California Department of Conservation administers the California Beverage Container Recycling and Litter Reduction Act enacted in 1986. The primary goal of the recycling program is to achieve and maintain high recycling rates for each beverage container type included in the program. Consumers pay a refundable deposit when they purchase beverages in specified containers from a retailer and are reimbursed when they redeem the container at a recycling center.

The Department of Conservation reports Californians bought more than 17.5 billion carbonated and non-carbonated drinks in aluminum, glass, plastic and bi-metal containers last year. More than 10.5 billion of those containers were recycled; however, 7 billion were not returned, and that money could be used for public financing programs.

As an alternative, states could dedicate unclaimed existing container deposits to a public campaign finance fund. About eleven states require customers to place a deposit on containers. A significant portion of this money is never reclaimed.

Delaware, for example, requires a 5-cent deposit on bottles of beer and carbonated beverages of 64 ounces or less. A 2002 Delaware study reported that only 29.5 percent of roughly 40.5 million plastic soda bottles were redeemed and about 36.5 percent of beer bottles were returned. In California, Hawaii, Massachusetts and Michigan, businesses surrender unclaimed deposits to the state. In Delaware and six other states, the money is left with bottlers and distributors.

22. New or Enhanced State Lottery Revenues

This option would create a new state lottery and direct specific lottery revenues into a public campaign finance fund.

Various states operate state lotteries. For example, the Virginia State Lottery operates several instant-win scratch-off games, as well as popular number games. More than half of the money raised from ticket sales is paid out in prizes; about 35 percent goes to the state's general fund earmarked for public education. Unclaimed prize money, about $7 million a year, is used specifically to build or renovate schools. The Virginia State Lottery has collected more than $4 billion for the state.

Alternatively, states with existing lotteries could be required to add new games or features. The revenue from those additional could be directed to a public campaign finance fund.

23. "Jock Taxes"

This option would impose (or increase) a "jock tax" or income tax on visiting professional athletes who may live elsewhere but play professionally in the tax imposing state.

Approximately 20 states now impose such taxes, typically aimed at athletes who live in other states with no state income tax or a very low income tax rates. Alex Rodriguez, for example, lives in Texas, which has no state income tax. Wisconsin requires Rodriguez to pay about $9,000 in "jock taxes" in order to play a few innings of exhibition baseball. Critics, however, argue that the "jock tax" can affect lower income individuals (trainers, scouts), exclude other professionals who work in multiple states (attorneys, doctors, corporate executives) and may create larger administrative burdens (multiple state filings).

24. Sales of Surplus Property

This option would authorize the sale of surplus state land and property and direct the proceeds to the public campaign finance fund.

This option is based on the Oregon Cultural Trust model. The Oregon Cultural Trust is funded through three mechanisms, one of which is the conversion of surplus state-owned assets. The enabling legislation requires a specified portion of proceeds from the sale of real property to be transferred to the trust.

In the state of Utah, the mission of the Division of Surplus Property is to manage a consolidated state and federal surplus property program that allows state agencies and units of local government to expeditiously dispose of and acquire surplus property.

In the state of North Carolina, the State Surplus Property Agency acts as the medium through which transfer or sale of all surplus property among state agencies, universities and other state institutions is administered. This is done by sealed bid, negotiated sale or public auction.

25. Taxpayer-Funded Tax Add-On Programs

This option would allow taxpayers voluntarily to designate an additional amount on their state tax return to be placed into a public campaign finance fund. This proposal in essence is a method for taxpayers to make voluntary contributions through their annual tax returns.

It is useful to distinguish between what in this report are referred to as "tax add-ons" and "tax check-offs." A "tax add-on" is a voluntary contribution from a taxpayer to a specified recipient that increases the taxpayer's actual tax bill. These generally are politically acceptable but may not raise sufficient amounts to fund a public financing program. A "tax check-off" allows a taxpayer to allocate a portion of existing state revenues to a designated fund. This option does not raise a taxpayer's taxes.

This option is modeled on tax add-on programs offered in various states. A March 2001 Federation of Tax Administrators Article on State Check-off Programs reveals 179 such programs in 41 states and the District of Columbia. The article indicates that most such programs involve donations from taxpayer funds or taxpayer liabilities. States with their own tax programs generally offer a number of options—permitting contributions to more than one charitable or social program.

Tax add-on programs have the advantage of being voluntary and not mandating increased taxes. Their principal disadvantage, however, is their voluntary nature. Very few individuals voluntarily contribute money to tax add-on programs.

26. Temporary Tax Extensions

This option would extend temporary taxes (e.g., sales and use tax, individual income tax or corporate income tax) enacted to balance a recent state budget and then deposit the revenues into a public campaign finance fund.

Due to the recent economic downturn, many states are facing potential budget shortfalls of significant proportions. It is reasonable to anticipate that budget cuts, loans and new taxes will be needed to balance many state budgets for 2003-04. It is also reasonable to expect that many of the tax increases will be temporary in nature, scheduled to sunset once state revenue receipts begin to increase again.

27. "Democracy Endowment"

During the 2000 presidential election, candidate Al Gore proposed the creation of a "Democracy Endowment" to fund political candidates. Under this proposal, designed to operate like a university endowment, individuals and businesses would receive a 100% tax deduction for contributions to the endowment. Gore projected that over seven years a $7.1 billion fund could be created. Thereafter, interest on the fund would pay for candidate campaigns. A similar Endowment might be created at the state level. Additional sources of funding listed in this report (e.g., from specialized license plate fees, surcharges on civil fines, etc.) could be added to provide support for the Endowment.

28. "Patriot Credit Card" and Campaign Vouchers

Professor Bruce Ackerman of Yale has proposed that registered voters be issued a red-white-and-blue "Patriot" credit card for use in specific elections (for president, senator, mayor, city council, etc.). The credit card might be credited with a $10 balance for a specific election. Candidates would first qualify for receipt of Patriot card funds by raising a specified number of signatures. Once they had qualified, they would seek to persuade voters to transfer some or all of their Patriot card balance to the candidate's account. Cash and other forms of money would be prohibited.

Similar proposals have suggested that all voters be issued "vouchers" which can be contributed to candidates and used to purchase campaign services. Voters would allocate their vouchers according to their own personal preferences.

29. Larger Campaign Contributions With a Percentage of the Increase for Public Financing

This option would allow a state to adopt two contributions limits. The first and lower limit (e.g., $200 per contributor) would apply to all contributions. The second and higher limit (e.g., $500 or $1,000 per contributor) would only apply to candidates who voluntarily agreed to remit a percentage of the larger contribution (e.g., 25 to 40 percent) to the public campaign finance fund.

This option is modeled on a proposal developed by Democracy North Carolina to adjust contribution limits down and allow candidates and political parties to receive larger contributions only if a portion (1/3 to 40 percent) of the contribution is deposited into the campaign finance fund. (Example: Reduce the contribution limit to $1,000, but allow contributions of $4,000 so long as $1,000 is forwarded into the Public Campaign Finance Trust Fund.) Note: This proposal may raise potential First Amendment issues (an argument might be made that this is a "tax on speech").

Dedication or Reallocation of Existing State Revenues

The following proposals essentially seek to reallocate existing state revenues for new public campaign financing purposes.

30. General Fund Appropriations

This option would appropriate an amount of existing state General Fund revenues to the public campaign finance fund annually, subject to a voter-approved statute or constitutional amendment reallocating those funds.

This option would simply draw on the state's general fund to support a public campaign finance program. It would, however, immunize this dedication of state revenues from other uses during economic downturns.

An example exists in California, where the legislature and governor agreed to dedicate a specified portion of annual general fund revenues to infrastructure. ACA 11, approved in the 2002-03 budget agreement and scheduled to appear on the March 2004 ballot, would transfer one percent of general fund revenues to the California Twenty-First Century Infrastructure Investment Fund. The General Fund transfers would increase annually until reaching a maximum of 3 percent of General Fund revenues. Other jurisdictions, such as New York City, directly fund their public campaign financing system by drawing on the city's general fund.

31. Refunds for Political Contributions

This option would refund to a taxpayer up to $50 for a contribution of up to $50 to any candidate or political party.

This option is based on the Minnesota model refund program. Minnesota has implemented a Political Contribution Refund Program under which individuals who donate up to $50 to candidates or political parties who agree to expenditure limits can receive a direct refund from the state of up to $50 per year per contributor (see www.cfboard.state.mn.us). This differs from a tax credit where the state refunds the contribution immediately instead of annually.

32. Free Candidate Statements in Government Published Voters Guides

This option would require state or local governments to publish free candidate statements in ballot pamphlets or other official voter information materials, including Web-based voters guides.

Many state and local governments already distribute free ballot pamphlets to all registered voters. These contain pro and con arguments from ballot measure committees and, in some instances, statements from candidates. In some cases, these statements are provided free; in others, the individual or organization making the statement must pay for the costs of inclusion.

This proposal would require state or local governments to allow candidate statements to place free statements in ballot pamphlets or online voter guides. This might be viewed as a dedicated form of public financing, since it provides candidates and ballot measure committees with a government subsidized form of communication. Because it earmarks money for direct voter communication instead of placing that money directly in the candidates' pockets, it may potentially garner stronger public support.

33. Candidate Media Vouchers

A more ambitious proposal would be to require state or local governments to provide candidates (perhaps limited initially to statewide races) with "vouchers," which they could use to purchase radio, television or newspaper advertising time.

A similar approach has been proposed at the federal level. On October 16, 2002, U.S. Senators McCain, Feingold and Durbin introduced S. 3124, the "Political Campaign Broadcast Activity Improvements Act." The Act would raise $750 million in funding from a one percent spectrum usage fee on total broadcast licensee gross revenues. It would use those revenues to pay for broadcast time "vouchers," which would be distributed by the political parties to deserving candidates and redeemed by them in exchange for broadcast commercial time.

A similar approach at the state and local levels would provide candidates with free opportunities to acquire broadcast advertising time. Note, however, that because the federal government has preempted non-federal governments from regulating broadcasting, state and local governments cannot require broadcast stations to provide candidates with free or reduced rate airtime. At best, they can fund free air-time vouchers redeemable by candidates. State regulation of cable television systems has not been federally preempted, however, and these systems might be treated differently (see below).

Similarly, government owned public radio and television stations, and local public, educational and governmental (PEG) access cable television channels, might be required to offer candidates free opportunities to present short statements of their views and positions to the public (see Section D below).

34. State Funded Tax Check-Off Programs

This option would allow taxpayers, by checking a box on their state income tax return, to allocate a portion of state funds to a public campaign finance fund or a political party of their choice.

This option is modeled after federal law, which allows federal taxpayers to direct $3 in federal funds to the presidential election fund. Designation of the $3 amount does not affect the amount of tax paid or the refund received by the taxpayer.
Unlike "tax add-on programs," which allow taxpayers voluntarily to increase their own tax payments and earmark the resulting revenues for specific funds, tax check-off programs do not raise taxes. Instead, they allow taxpayers to allocate other state funds for specific purposes. Twenty-two states have political campaign check-off or add-on programs (15 are check-offs and 7 are add-ons).

According to a March 2001 Federation of Tax Administrators Article on state check-off programs, federal and most state political campaign check-off programs transfer payments for public financing systems directly from government funds. Contributions in 2000 ranged from $1.18 million in Michigan to $1,660 in New Mexico.

In Utah, a tax filer whose tax liability is $2 or more ($4 for a joint filer) may designate $2 to be distributed to the campaign fund of a political party selected by the filer. One-half of the contribution is distributed to the selected political party's state organization, and one-half is distributed to the selected party's organization in the donor's county. In 2000, $114,100 was donated to seven Utah political parties.

35. Reverse Tax Check-Off

This option would automatically allocate $1 in state funds per taxpayer to the public campaign finance fund, unless the taxpayer elects to opt out of the program.

This option is modeled on legislation proposed in North Carolina in 2002. The legislation provided that $1 of each taxpayer's tax payment would be contributed to the public financing fund unless the taxpayer checked a box on the tax form to opt out of the program. North Carolina estimated revenues of $4 to $5 million annually.

65. Candidate Qualifying Contributions

This option would provide that qualifying contributions collected by candidates must be deposited in the public campaign finance fund.

This option is modeled on the Maine Clean Election Fund program, which requires that candidates for the House collect 50 individual contributions of $5. Candidates for the Senate must collect 150 contributions of $5. Candidates for governor must collect 2,500 individual contributions of $5. These qualifying contributions must be deposited into the Clean Election Fund.

The amounts of money collected from this approach may not be large. In smaller states, however, particularly when combined with other sources of revenue, this proposal might assist in supporting the overall public financing program.

37. Penalties for Public Campaign Finance Law Violations

This option requires that civil penalties collected for violations of the public campaign finance law be deposited into a public campaign finance fund.

This option is modeled on the Arizona Citizens Clean Elections Act, which requires that civil penalties for violations of the act be deposited into the Clean Elections Fund.

Tax Credits

A tax credit is an amount subtracted directly from the actual tax owed, usually an income tax. A tax credit—e.g., a 100% tax credit for contributions up to $100—embodies a decision by the state to forego receiving specific tax revenues (in this case $100) in exchange for some benefit (in this case, simulating private contributions to candidates). If a state decides to make up the lost revenue through some other revenue source (e.g., an increase in sales taxes), then a tax credit is really a disguised form of (indirect) public financing.

Political tax credits have certain advantages. First, they allow each taxpayer to decide where to direct his or her contribution. This avoids the argument that public financing might fund candidates with whom the taxpayer might disagree. Second, they may encourage candidates to seek out small contributions and simultaneously engage contributors more directly in candidates' campaigns. Third, tax credits have the political advantage of not appearing to be a "tax" (Republicans, in particular, have supported the concept of tax credits generally).

Political tax credits also have certain disadvantages. First, they only benefit individuals who pay taxes. Second, they only benefit individuals who are financially able to make contributions. Even a 100% tax credit (in which a contribution of $100 would save the taxpayer $100 on his or her tax return) may not attract low income taxpayers, because they may not be able to afford to wait the many months before they benefit from a tax credit (when they file their tax return). Third, tax credits may be an inefficient way of generating candidate revenue, because they provide a windfall to taxpayers who are already making candidate contributions. Finally, tax credits may be accused of being a "hidden form of public financing," for they involve a clear drain on the public treasury.

38. Tax Credit for Contributions to Candidates

This option would provide taxpayers with a political tax credit for contributions to candidates.

This tax credit could vary in amount. For example, it could consist of a 50 percent tax credit (a $100 contribution would decrease a taxpayers tax bill by $50), a 100 percent tax credit (in which case the taxpayer could make a free campaign contribution), or even a 150% tax credit (in which case the taxpayer would actually make money on his or her contribution). Some of these options are described more specifically below.

A political tax credit could also be encumbered with valuable conditions. For example, taxpayers might only receive a tax credit if they made a contribution to a candidate who accepted expenditure ceilings. Or taxpayers might only qualify if they made a contribution (to a candidate in their own electoral district).

39. 100% Tax Credit

This option would reimburse a taxpayer for the entire amount of his or her contribution.

Arizona provides taxpayers with a 100 percent tax credit on certain contributions. Citizens may receive a dollar-for-dollar credit on their state tax return up to $500 or 20 percent of their state income tax, whichever is greater.

Alaska for many years provided taxpayers with a 150% reimbursement on their $100 contributions. A $100 candidate contribution generated a $100 tax credit plus a $50 rebate from the state based on the state's plentiful receipt of oil tax revenues. (This program has since been discontinued.)

In Ohio, any contributor who pays state income tax can receive a 100 percent refundable tax credit for contributions—up to $50 for a single filer and $100 for joint filers—to state candidates. If contributors contribute $50 or less, they receive it all back. If they contribute more, they get the first $50 or $100 back.

40. 50% Tax Credit

This option would provide a tax credit equal to 50 percent of a political contribution, not to exceed $50 for single tax returns and $100 for joint returns.

This option is modeled on tax credit programs currently operating in several states, including Ohio, Oregon and Virginia. Oregon donors can receive a tax credit limited to $50 for a single filer and $100 for joint filers for contributions to candidates, political action committees and major political parties. The credit may not exceed the filer's tax liability. In Virginia, the tax credit is equal to 50 percent of a political contribution made to candidates for state and local offices, not to exceed $25 for single filers and $50 for joint filers. The Virginia credit is limited to contributions for a primary, special, or general election held in the year in which the contribution is made.

41. Corporate Tax Credit for Political Contributions

This option provides a tax credit for corporate contributions to a political party or candidate in an election.

This option is modeled after a tax credit available to corporations in British Columbia that make specified political contributions. The tax credit is equal to the lesser of (1) the total of 75 percent of contributions up to $100, fifty percent of contributions between $100 and $550 and thirty-three and one-third percent of contributions in excess of $550, or (2) $500.

This option may not be helpful in the majority of states, since they do not allow corporate contributions at all. Concerns may be raised that this will encourage corporate contributions in states that do permit them (although this concern may be lessened in states with low corporate contribution limits).

42. Tax Credit for Combinations of Contributions: The Oregon Trust Fund Model

This option would provide a 100 percent tax credit to taxpayers who make one voluntary contribution to a political campaign or political candidate *and* a contribution of equal or greater value to the Public Campaign Finance Trust Fund.

This option is based on the Oregon Cultural Trust model. The state of Oregon offers a tax credit to taxpayers who have made a charitable contribution to a nonprofit cultural organization and a charitable contribution to the Oregon Cultural Trust. Such taxpayers are eligible for a tax credit equal to 100 percent of the contribution to the nonprofit cultural organization or the Oregon Cultural Trust, whichever is less. The maximum tax credit is $500 for individuals, $1,000 for joint filers and $2,500 for corporate taxpayers. Taxpayers may also be eligible to claim a deduction for their charitable contributions.

The Oregon Cultural Trust is funded through three mechanisms: the sale of "surplus" state property, the sale of specialized license plates and taxpayer contributions. The ultimate goal of the trust is a $200 million endowment. The trust broadly defines "arts" and "cultural activities," thereby increasing its appeal and its constituencies.

The Oregon Cultural Trust estimates revenues to the Oregon Cultural Trust of $2 million (and state revenue losses in an equal amount) for 2002. It should be noted that this is not an annualized revenue forecast. Contributions to the Oregon Cultural Trust were authorized only for the month of December in 2002.

Government Mandated or Permitted In-Kind Contributions

Interesting remedies may also be found in government-mandated in-kind private contributions. These might be viewed as tantamount to state mandated public financing but without cost to the taxpayers. Some of the costs would be born by private companies.

43. Cable Television Time Set-Aside

This option would provide candidates and ballot measure committees with free time on cable television "access channels" to present their views to the public.

Federal law allows local franchising authorities (typically cities, but in some cases counties or even the state itself) to require cable television companies to set aside channel capacity for speech originated and controlled by members of the public, educational institutions or local governments ("PEG access channels"). Some cities already provide candidates with free access to PEG access channels during elections. Others allow candidates to videotape statements on a range of issues for transmission over city mandated access channels.

Local cable television franchising authorities (typically cities) have the power to make local public, educational and/or governmental access channels available for free candidate statements. In addition, since states can control the rules and regulations by which cities franchise and regulate local cable television systems, state law could require cities to make their local access channels available for this purpose.[7]

44. Billboard Space Set-Aside

This option would require billboard companies to make available a certain number of billboards (e.g., 5% of their total space) without charge to candidates, on a first-come, first-served basis, during the last month before an election.

This requirement might normally pose First Amendment issues, since it would compel billboard companies to present messages without control over their content. Cf. *Wooley v. Maynard*, 430 U.S. 705 (1977) (state cannot compel drivers to display state imposed message on their automobile license plates). On the other hand, such a requirement could be justified on one of two grounds.

First, a jurisdiction could offer billboard companies a state tax credit or other benefit in exchange for voluntarily providing candidates with free billboard space.

Second, and perhaps more interestingly, a jurisdiction could first propose to ban all billboards in the state (states have the power to control land use and aesthetics and presumably could implement such a ban so long as it was not content related), and then offer to permit their continued use, provided that billboard companies offered candidates some measure of free space. Such a condition placed on the use of billboards might parallel the imposition of the fairness doctrine and other public interest obligations placed on broadcasters. See, e.g., *Red Lion Broadcasting v. FCC*, 295 U.S. 367 (1969).

State and local governments might also require billboard companies to publicize the existence of voter registration opportunities or printed voter information material.

CONCLUSION

Public financing of electoral campaigns holds enormous promise for improving the quality and integrity of American political campaigns. By developing innovative new sources of funding or support for these public campaign finance systems, the public interest reform community can generate greater levels of support for public financing as an approach, create solid, stable and substantial new sums of money to support public financing systems, and ultimately expedite the wider adoption of public financing systems across federal, state and local jurisdictions.