

**COMMISSION TO STUDY THE FEASIBILITY OF PUBLIC FUNDING OF  
STATE ELECTION CAMPAIGNS—Chapter 55, Laws of 2008**

**Minutes of Commission Meeting  
September 05, 2008**

A meeting of the Commission to Study the Feasibility of Public Funding of State Election Campaigns, established by Chapter 55 of the Laws of 2008, was held in Room 104 of the Legislative Office Building, Concord, New Hampshire, on September 05, 2008, at 10:30 a.m., according to notice.

Commission Chair Brad Cook opened the meeting at 10:35 and reviewed the agenda. All Commission members were present, except for Commissioner Rubens who arrived shortly after the meeting began.

1. Minutes. On motion, the Commission unanimously approved the minutes of the August 15, 2008, organizational meeting.
  
2. Website update. Commissioner Comstock-Gay stated that his office would be able to host the Commission's website and could have the site up about 10 days after being given the go-ahead. He distributed an outline of the kinds of information that could be on the website. Resources posted on the site would have their author and/or source identified. The major issue on which he sought guidance was comments. He identified four options for comments:
  - a. no comments;
  - b. comments viewable only by members of the Commission;
  - c. comments posted on site after review by a moderator; and
  - d. comments posted on site after review, with "threads" enabled.

After discussion, all agreed that comments submitted to the Commission would be reviewed by a moderator and then posted, and that threads would not be enabled. Commissioner Comstock-Gay was authorized to start the process at his office. Mr. Comstock-Gay's office will supply the initial moderation.

3. Framework options. Commissioner Rauh and two of his associates, Dan Weeks and Rob Werner, made a presentation to the Commission covering the following topics: (a) how much is "enough" for an unknown candidate to run a viable campaign; (b) how a candidate qualifies for public funding; (c) the wisdom of establishing a commission to administer the program; (d) the possibility of establishing a test or pilot program; and (e) how to deal with the complexities of independent and third-party candidates.
  - a. Mr. Weeks distributed and discussed research regarding how much money a previously unknown candidate needs to run a credible campaign. He stated that as long as a candidate has enough to have a "fair fight," a candidate does not need enough money

to match the spending of a higher-spending opponent. Much of the research is from congressional races and Mr. Weeks' conclusion is that the amount is about \$1 million.

Commission members and Mr. Weeks discussed the need for a "kicker" of additional money to be provided to candidates who are running against big spenders. Mr. Weeks asserted that the research doesn't support the need for such a kicker, but that the political realities are that politicians like their existence and that helps people opt in to the system. He cautioned, however, that a court in Arizona had just declared that state's "kicker" provision unconstitutional under the U.S. Supreme Court's recent *Davis* decision.

Commission members discussed the advantages of incumbency and whether more money in the public financing system would bring in better candidates. Mr. Weeks said he had not analyzed whether objectively better-qualified challengers are able to raise and spend more money, and get more votes. He said the data could be analyzed in that way. Commissioner Rauh suggested that the number considered to be "enough" should be set high enough to attract the participation of more qualified candidates.

Mr. Weeks identified three factors that make campaign finance analysis difficult. First, campaign media consultants are paid commissions on advertising that they place, incentivizing them to run expensive electronic ads. Second, incumbents often use what is sometimes called the "wealth primary," to raise funds early with the intention of deterring challengers. Third, the costs of advertising have risen dramatically.

Commission members and Mr. Weeks then discussed factoring in variable costs in different districts. Mr. Weeks stated that many systems set a number for each district using a percentage of the amounts spent by winning candidates in that district in previous elections.

b. Mr. Weeks described the two dominant methods for qualifying candidates for public funding. Under "clean money" systems, like Arizona, Connecticut, and Maine, candidates collect small contributions (\$5) from a certain number of donors, and then receive all of their money from the public financing system. Under "matching" systems, like New York City's and that being proposed at the federal level by ACR for the Durbin-Specter Senate bill and the Larson-Jones House bill, small contributions (up to \$100) are matched out of the public system at a ratio of 3 or 4 dollars for every dollar collected from contributors. In both systems, the contributions must come from constituents. Mr. Weeks believes the matching system is superior.

Mr. Weeks said that the advantages of the matching system over clean money system are that a matching system has a candidate "earning" more of the public money through demonstrated popularity and, by the same token, discouraging fringe candidates who, under clean money systems, can get full public grants but have no hope of competing.

Commission members discussed aspects and details of how the two systems worked in practice, and the possibility of having a few large "bundlers" obtain essentially all of what a candidate would need to get the full complement of public money. Mr. Weeks

stated that bundling could happen under either system, but that it would be easier under a clean money system as the qualifying contributions are typically so small.

c. Mr. Werner explained why they believe a commission should be established to oversee the public financing system. The commission would not be an enforcement body under the executive branch, but would instead be under the legislature.

d. Commissioner Rauh stated that a test or pilot project could be a good idea, applying the system to only a subset of races.

e. There was a brief discussion of the complexities introduced by independent candidates, those who are not affiliated with a recognized party. Such candidates do not have primary elections and get their places on the ballot by obtaining the signatures of a certain number of registered voters. Counsel to the House of Representatives, David Frydman, reminded the Commission that the state constitution gives all citizens of the state an equal right to be elected. Chair Cook observed that a subcommittee might be required to look at this issue.

Following a brief discussion of the recent decision striking down the “kicker” provision of the Arizona law, the Commission recessed for lunch at 12:10 p.m.

At 12:45 p.m., the Commission reconvened.

4. Propriety of using private funds as a source for a public financing system.

Commission members discussed and agreed that moneys collected by the state through taxes, fees, surcharges, voluntary check-offs, and similar programs are not “private” as the term is used in this context. The issue really is whether corporations, foundations, and wealthy individuals are appropriate sources for the system.

There was also general agreement that there is probably no long-term private or foundation source of money, but that such funds would be welcome and could help establish a test or pilot program.

Commissioner Rubens suggested that perhaps a trigger could be put in place, so that the system would become operative when a certain amount was in the fund.

There was a discussion of the decision from the late 1990s that declared unconstitutional the state’s ban on corporate contributions. Commissioner Walton asked whether anyone had determined how much corporations are contributing to political campaigns in the state today.

5. How to determine how much money needs to be in the fund. Chair Cook suggested that the Commission try to get a handle on how much would be needed to fund a clean money system like that proposed in SB 447 from the 2000 legislative session, and the type of matching system outlined by Commissioner Rauh and Mr. Weeks.

The Commission discussed getting actual expenditure information from all of the last three Governor, Executive Council, and State Senate elections, using official receipt and expenditure reports filed with the Secretary of State's office, and supplementing that information by inviting experts in the state to come to the next Commission meeting. One piece of information to get from the experts is an estimate of how much it costs candidates to raise funds.

The Commission also asked for information about how Maine and Arizona determine how much is enough for the candidates there who opt for public funding.

Mr. Weeks and Mr. Werner agreed to work with Cathy Silber, Pam Smarling, and others to obtain the requested information for the next Commission meeting on September 19.

6. Next meeting. On September 19, the Commission hopes to have data to review, to be able to discuss actual expenditure requirements with experts, and to consider possible sources of funds, perhaps with the assistance of a group like the New Hampshire Center for Public Policy Studies.

The Commission adjourned at 2:00 p.m.

Respectfully submitted by **Commissioner Martin Honigberg, Secretary, pro tem.**