



Public Financing of Presidential Campaigns: Overview and Analysis

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Summary

The presidential public campaign financing program is funded through “checkoff” designations on individual income tax returns. Choosing to participate (or not) in the checkoff does not affect one’s tax liability or refund. Candidates who choose to participate may receive taxpayer-funded matches of privately raised funds during primary campaigns, and grants during the general-election contest. Public funds also subsidize nominating conventions. The public financing system has remained largely unchanged since the 1970s. However, there is general agreement that, if the program is to be maintained, updates are necessary to provide greater financial resources and higher spending limits to participants.

This report discusses current controversies and arguments for and against public financing of presidential campaigns, legislative history, elements of the program, taxpayer and candidate participation, financial status of the program, current legislation, and analysis of various policy proposals. If Congress chooses to alter the program, consensus will be necessary in what has historically been a particularly complex and contentious area of campaign finance policy.

Four bills introduced in the 110th Congress (H.R. 776, S. 436, H.R. 4294, and S. 2412) would update the program. Those bills, which are substantially similar, would greatly increase the financial resources available to candidates, particularly through “escape hatch” provisions designed to allow candidates to respond to high-spending opponents. That feature does not currently exist. Overall, under the proposed increases, publicly financed candidates could spend as much as \$450 million, compared with approximately \$126 million today (plus approximately \$14 million in exempt fundraising, legal, and accounting costs). Part of the increased benefits to participants would be funded by increasing the checkoff designation from \$3 for individuals to \$10, and from \$6 to \$20 for married couples filing jointly. It is unclear how taxpayers would respond to this change, particularly because the effects of a proposed public education program cannot be predicted. Taxpayer participation in public financing declined the only previous time that Congress increased the checkoff amount, but the higher designation amounts nonetheless substantially raised the balance in the Presidential Election Campaign Fund, at least in the short term.

Finally, two bills (H.R. 72 and H.R. 484) would curtail part or all of the public financing program. These approaches are likely to be attractive to those who believe that public financing is unnecessary, an improper use of taxpayer resources, or both. However, removing the option of public subsidies would leave presidential candidates entirely dependent upon private donations or personal resources. As this report discusses, various options, each with potential strengths and weaknesses, exist for revisiting the presidential public financing system.

This report will be updated as events warrant.

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Current Issues and Arguments in Brief

The principal justification behind presidential public financing has been to reduce the need for private money in politics.¹ Public financing proponents argue that the program has increased competition in presidential elections by permitting those without personal wealth or substantial private fundraising resources to seek the office.² Public financing therefore relieves candidates from at least some of the burdens of time-consuming private fundraising. Finally, public financing is attractive to some because it can encourage candidates to limit their campaign spending in exchange for public subsidies.

Nonetheless, even those who support the presidential public financing program generally agree that it needs to be updated before the 2012 elections.³ Except for increasing the checkoff amount in 1993, Congress has essentially left the program unchanged since its enactment in 1971. Many of the concerns surrounding public financing highlight financial competitiveness among candidates. As this report discusses, publicly financed candidates must adhere to spending limits, unlike their privately financed opponents. Those limits, however, are increasingly regarded as too low to permit effective campaigning. Since 2000, some major candidates have chosen to forgo public financing during the primary campaign.

The 2008 campaign cycle is regarded as perhaps the final one in which the program, as it currently stands, will remain a viable option for the most competitive candidates. As one scholar has noted, “By 2008, it was clear that the public financing system, with its relatively paltry spending limits, was a luxury no serious candidate could afford, at least in the primary season.”⁴ Nonetheless, and despite that sentiment, several candidates chose to participate in public financing during the 2008 election cycle.

The eventual Republican nominee, Senator John McCain, initially applied for public funds in the primary, but later withdrew from the system. Senator McCain will, however, receive public funds for the general election.⁵ The Democratic nominee, Senator Barack Obama, announced in June 2008 that he would not participate in public financing for the general election; he also did not

¹ This report supercedes CRS Report RL32786, *The Presidential Election Campaign Fund and Tax Checkoff: Background and Current Issues*, by now-retired CRS Specialist Joseph E. Cantor. Parts of this report are adapted from the previous report.

² For an overview of arguments in favor of presidential public financing, see, for example, Campaign Finance Institute, Task Force on Financing Presidential Nominations, “So the Voters May Choose ... Reviving the Presidential Matching Fund System,” April 2005, at <http://www.cfinst.org/president/pdf/VotersChoose.pdf>.

³ See, for example, Robert D. Lenhard, “A \$3 Vote for Competitive Elections,” *Washington Post*, March 8, 2008, p. A15; Campaign Legal Center and Democracy 21, “Presidential Public Financing: Repairing the System,” conference report, December 9, 2005, at <http://www.campaignlegalcenter.org/attachments/1614.pdf>; and Democracy 21, “Reform Groups Urge House Members to Co-Sponsor Legislation to Fix Presidential Public Financing System,” press release, February 7, 2007, at http://www.democracy21.org/index.asp?Type=B_PR&SEC={91FCB139-CC82-4DDD-AE4E-3A81E6427C7F}&DE={92F0FA14-AED0-4153-A1F4-28645410CB25}.

⁴ Richard L. Hasen, “Political Equality, the Internet, and Campaign Finance Regulation,” *The Forum*, vol. 6, no. 1, art. 7; at <http://www.bepress.com/forum/vol6/iss1/art7>. This electronic journal is not paginated.

⁵ Letter from Donald F. McGahn, II, chairman, Federal Election Commission, to Senator John McCain, September 5, 2008, at <http://www.fec.gov/press/press2008/McCainLetterCert.pdf>.

accept public funds during the primary.⁶ Senator Obama is the first major-party nominee since the program's 1976 inception to decline public financing for the general election.

Although much of the recent debate over public financing has focused on how to save the system, some suggest that Congress should end the program. For those who oppose presidential public financing, the declining taxpayer participation rate (discussed later in this report) provides evidence that the program lacks public support. Opponents also contend that the program has failed to improve competition.⁷ Some also object in principle to government-funded campaign subsidies, question whether truly competitive candidates need public financing, or both.⁸

Finally, the Federal Election Commission (FEC) was unable to administer parts of the public financing program between January and June 2008.⁹ Due to a Senate stalemate over nominations to the Commission, in January 2008 the agency lost the quorum required to make most policy decisions. That included certifying candidates' eligibility to receive primary matching funds or general-election grants. (Convention grants were certified before the Commission lost its quorum.) The Commission was also unable to consider enforcement actions or advisory-opinion requests related to public financing. On June 24, 2008, however, the Senate confirmed five nominees to the FEC.¹⁰ Those five will join a sixth commissioner who had remained in office. The Commission now stands at full operating strength.

Brief Legislative History

Despite calls for publicly financed presidential campaigns early in the 20th Century, Congress did not actively consider the idea until the 1950s. In 1966, Congress first enacted legislation authorizing taxpayer support for presidential and vice-presidential candidates and political parties. However, legislation enacted the following year essentially terminated the original program before it took effect.¹¹

The current presidential public financing system was established in the 1971 Revenue Act, which permitted individual taxpayers (except nonresident aliens) to designate \$1 (\$2 for married couples filing jointly) to the Presidential Election Campaign Fund (PECF).¹² Amounts in the PECF are diverted from the Treasury's general fund for use by qualified presidential candidates (or party nominating conventions). Although Congress enacted the program in 1971, due to objections

⁶ Shailagh Murray, "Obama Opts Out of Public Financing," *Washington Post* online, June 19, 2008, at http://blog.washingtonpost.com/the-trail/2008/06/19/obama_opts_out_of_public_finan.html?hpid=topnews.

⁷ For an overview of arguments against presidential public financing, see, for example, John Samples, "The Failure of Taxpayer Financing of Presidential Campaigns," in John Samples, ed., *Welfare for Politicians? Taxpayer Financing of Campaigns* (Washington: Cato Institute, 2005), pp. 213-249; and Bradley A. Smith, *Unfree Speech: The Folly of Campaign Finance Reform* (Princeton: Princeton University Press, 2001), pp. 103-105.

⁸ See, for example, John Samples, ed., *Welfare for Politicians?*

⁹ For additional information on the FEC's operating status with and without a quorum, see CRS Report RS22780, *The Federal Election Commission (FEC) With Fewer than Four Members: Overview of Policy Implications*, by R. Sam Garrett.

¹⁰ For additional discussion, see CRS Report RL34324, *Campaign Finance: Legislative Developments and Policy Issues in the 110th Congress*, by R. Sam Garrett.

¹¹ See 80 Stat. 1587 and 81 Stat. 57 respectively.

¹² On the presidential public financing portion of the Revenue Act, see 85 Stat. 573.

from President Richard Nixon, the statute called for a delay in beginning checkoff designations.¹³ Candidates did not begin receiving funds until the 1976 election cycle.

The Federal Election Campaign Act (FECA), enacted in 1971 and amended throughout the 1970s, expanded the scope of the public financing program and set various criteria for participation.¹⁴ In particular, the 1974 FECA amendments extended public financing, originally reserved only for general-election candidates, to presidential primaries and nominating conventions. The 1974 amendments also established the FEC and charged the agency with certifying eligible candidates, authorizing payments from the PEF, and conducting audits related to public financing.

Despite relatively minor changes, the presidential public financing program has essentially remained unchanged since the 1974 FECA amendments.¹⁵ Congress most recently altered the program in 1993, when it tripled the checkoff designation from \$1 to \$3 for individuals and from \$2 to \$6 for married couples filing jointly.¹⁶ The 2002 Bipartisan Campaign Reform Act (BCRA), the most recent major change to the nation's campaign finance laws, did not affect public financing.¹⁷

Buckley v. Valeo¹⁸

The U.S. Supreme Court addressed public financing in its landmark 1976 *Buckley v. Valeo* decision, which considered various constitutional challenges to FECA. The Court upheld spending limits associated with public financing because candidates voluntarily accept the limitations in exchange for receiving taxpayer support. Those who are not publicly financed candidates, however, may spend unlimited amounts, provided that their campaign funds come from lawful sources. Under *Buckley's* reasoning, spending of non-public campaign funds is generally considered protected political speech.

How Public Financing Works

Elements of the Program

The presidential public financing program provides funds for three phases of the campaign: (1) grants to nominating conventions; (2) matching funds for qualified primary candidates; and (3) grants for general-election nominees. Convention funding goes to the Democratic and Republican parties' (or qualifying third parties') convention committees; funding for the primary and general elections goes directly to qualifying candidates' campaigns.¹⁹ Under federal law, convention

¹³ 85 Stat. 574

¹⁴ FECA is 2 U.S.C. § 431 *et seq.* Public financing requirements are discussed later in this report.

¹⁵ P.L. 93-443; 88 Stat. 1263

¹⁶ 26 U.S.C. § 6096(a). On the increase, see P.L. 103-66; 107 Stat. 567-568.

¹⁷ BCRA is P.L. 107-155; 116 Stat. 81. BCRA amended FECA.

¹⁸ 424 U.S. 1 (1976). For additional discussion, see CRS Report RL30669, *Campaign Finance Regulation Under the First Amendment: Buckley v. Valeo and Its Supreme Court Progeny*, by L. Paige Whitaker.

¹⁹ For additional discussion of convention funding, see CRS Report RL34630, *Federal Funding of Presidential Nominating Conventions: Overview and Policy Options*, by R. Sam Garrett and Shawn Reese.

funding receives priority, followed by general election grants and primary matching funds.²⁰ In other words, primary matching funds are distributed only if sufficient amounts remain after first providing convention grants and general-election grants. Prorated amounts may be distributed in the event of shortfalls (insufficient balances in the fund), which have been of increasing concern in recent years.²¹

The Role of Taxpayers

Taxpayers determine how much money is available for presidential public financing through a “checkoff” provision on individual federal tax returns, as shown in **Figure 1** below. Checkoff designations are the only revenue source for the public financing program, even if the Treasury Secretary projects that the fund will become insolvent.²² Under current law, Congress makes no appropriation to the PEFCF.

Figure 1. The Checkoff Designation on IRS Form 1040

The image shows a portion of IRS Form 1040 for the year 2007. The form is titled 'Form 1040 U.S. Individual Income Tax Return 2007'. A red oval highlights the 'Presidential Election Campaign' section at the bottom. This section includes a checkbox for 'Check here if you, or your spouse if filing jointly, want \$3 to go to this fund (see page 12)'. Below this are two checkboxes: 'You' and 'Spouse'. The rest of the form shows fields for name, social security number, and address.

Source: CRS adaptation of IRS form 1040.

Individuals may choose to designate \$3 of their tax liability to the PEFCF, a separate fund maintained by the U.S. Treasury solely to fund publicly financed presidential campaigns and nominating conventions.²³ Married couples filing jointly may designate a total of \$6 to the fund, although, as the figure shows, separate response options are listed for each spouse.²⁴

²⁰ On prioritization of convention funding, see 26 U.S.C. § 9008(a). Duane Pugh, director, congressional affairs, FEC, also provided a telephone consultation on this point, April 10, 2008.

²¹ Prorated funds are distributed under the so-called “shortfall rule,” which requires the Treasury Secretary to “seek to achieve an equitable distribution” among competing members of the same political party. See 26 U.S.C. § 9037(b). Therefore, in the event of a shortfall, those competing for matching funds receive approximately the same amounts. The IRS revisited these provisions in early 2008, when it issued temporary regulations permitting payments as soon as funds become available (rather than on the monthly basis specified in Title 26 of the U.S. Code) in the event of a shortfall. See Department of the Treasury, Internal Revenue Service, “Payments From the Presidential Primary Matching Payment Account,” 73 *Federal Register* 8608, February 14, 2008.

²² See, for example, 26 U.S.C. § 9006(c).

²³ On the PEFCF, see 26 U.S.C. § 9001 et seq.

²⁴ Taxpayers may also contribute to the fund through tax-preparation software, a topic discussed in more detail later in this report.

Although taxpayers may believe that how they answer the checkoff question affects the amount of tax they owe or the refund they receive, “[d]esignating the allowed amount does not affect the amount of an individual’s tax liability or tax refund; it simply directs the Treasury Department to allocate a specific amount from general revenues to the PECF.”²⁵ In short, participating (or not) in the checkoff designation does not affect a taxpayer’s liability or refund. Rather, it allows taxpayers to direct a small portion of the taxes they pay (\$3 for individuals or \$6 for married couples filing jointly) to the PECF instead of the Treasury’s general fund.²⁶

The Role of Federal Agencies

The Treasury Department and the FEC share responsibility for administering presidential public financing, although the FEC is the lead agency shaping program policy. Based on FEC certifications of candidate eligibility, the Treasury Secretary has responsibility for disbursing public funds. The Internal Revenue Service (IRS) administers the checkoff designations through individual tax returns.

Amounts Participants May Receive

Public financing benefits (amounts) are set by statute and vary by type of candidate and phase of the campaign.

- For their *nominating conventions*, each of the two major parties may qualify for grants of \$4 million as adjusted for inflation (approximately \$16.8 million each in 2008).²⁷ Based on their nominee’s performance in the preceding election, *existing* third parties may qualify for lesser amounts, although none has done so for the 2008 election cycle. *New* third parties may receive limited public financing retroactively if they receive at least 5% of the popular vote in the general election, meaning that they are ineligible for funds until after the campaign concludes. (Funds received after the election could be used to pay remaining debts.)²⁸
- For the *general election*, the Democratic and Republican presidential nominees are eligible for \$20 million grants, as adjusted for inflation (approximately \$84.1 million each in 2008).²⁹ Third parties may qualify for lesser amounts.

²⁵ Anthony Corrado, “Public Funding of Presidential Campaigns,” in Anthony Corrado, Thomas E. Mann, Daniel R. Ortiz, and Trevor Potter, eds. *The New Campaign Finance Sourcebook* (Washington: Brookings Institution Press, 2005), p. 182.

²⁶ However, those who pay no taxes would not contribute to the program. See Department of the Treasury, Internal Revenue Service, “Payments From the Presidential Primary Matching Payment Account,” p. 8608, which notes that “individuals whose income tax *liability* for the taxable year is \$3 or more may designate \$3 for the [PECF] on their tax returns.” Emphasis added.

²⁷ *Ibid.*, 26 U.S.C. § 9008(b); 26 U.S.C. § 9008(b)(2). On application procedures, see 11 C.F.R. 9008.3. The 2008 figures were aggregated by the author from \$16,356,000 in Federal Election Commission, “FEC Approves Matching Funds for 2008 Candidates,” press release, at <http://www.fec.gov/press/press2007/20071207cert.shtml> and \$464,760 in an inflation-adjustment figure provided by Wanda Thomas, deputy assistant staff director for public financing, FEC (e-mail correspondence with author, April 9, 2008). Conventions also receive additional federal funding for security.

²⁸ See, for example, 26 U.S.C. § 9004(a)(3).

²⁹ 2 U.S.C. §§ 441a(b)(1); 441a(c). The 2008 amount appears in Federal Election Commission, “FEC Approves Matching Funds for 2008 Candidates.”

- Publicly financed *primary* candidates may spend up to \$42 million in 2008 (plus approximately \$14 million in fundraising, legal, and accounting costs, which are exempt from the base spending limit), but the amount of funds participants receive depends on their ability to secure government matching payments based on private fundraising. Participating candidates' individual contributions of up to \$250 may be matched at a rate of 100% each. For example, a privately raised contribution of \$200 would be matched for \$200, bringing the candidate's total receipt of funds to \$400. On the other hand, contributions of more than \$250 are matched only for the first \$250.³⁰ For example, a contribution of \$1,000 would only be eligible for \$250 in matching funds.³¹ The primary matching fund program, which was designed to magnify small donations, applies only to individual contributions. PAC or party contributions are ineligible for matching payments.

Qualifying for Public Financing

Candidates who wish to receive public funds must meet various qualifying criteria and agree to certain conditions designed to decrease the need for large contributions while also demonstrating the candidates' viability. To qualify for public financing in the primary, candidates must raise at least \$100,000 in specific amounts and across various states. Specifically, candidates must raise at least \$5,000, through individual contributions of no more than \$250 each, in at least 20 states.³²

If they choose to participate, the Democratic and Republican nominees are automatically eligible for public financing in the general election. Nominees of third parties (called "minor parties" in FECA) whose candidates earned at least 5% of the popular vote in the previous general election are eligible for lesser amounts than major-party candidates.³³ However, third-party candidates rarely meet qualifying criteria.

Conditions on Participation

Publicly funded *primary* candidates must adhere to overall and state-specific spending limits. The aggregate limit is approximately \$42 million in 2008 (plus approximately \$14 million in fundraising, legal, and accounting costs, which are exempt from the base spending limit). State-specific limits in 2008 range from \$841,000 in sparsely populated states and territories, to approximately \$18.3 million in California. These amounts are determined by a formula established in FECA (the greater of 16¢ multiplied by the voting-age population (VAP) of the state, or \$200,000, as adjusted for inflation).³⁴ Publicly financed candidates in the *general* election must agree not to raise private funds for their campaigns. In exchange for the taxpayer-

³⁰ The \$250 cap applies to any single contribution or to small contributions from the same individual that aggregate more than \$250. For example, a series of six \$50 contributions (aggregating \$300) would only be matched at \$250.

³¹ The base amount, without the inflation adjustment, is \$10 million. On primary spending limits, see 2 U.S.C. §§ 441a(b)(1); 441a(c).

³² 26 U.S.C. §§ 9033(b)(3); 9033(b)(4).

³³ The 5% threshold appears in the relevant definition applying to "minor parties." See 26 U.S.C. § 9002(7). On eligibility for general-election payments, see 26 U.S.C. §§ 9004(a)(2); 9004(a)(3).

³⁴ The base limit (before the inflation adjustment) is \$10 million. See 2 U.S.C. § 441a(b)(1)(A). For the 2008 limits, see Federal Election Commission, "Presidential Spending Limits for 2008," at http://www.fec.gov/pages/brochures/pubfund_limits_2008.shtml.

funded grant, their spending is limited to approximately \$84.1 million in 2008.³⁵ Finally, all publicly financed campaigns must: agree to various record-keeping requirements, submit to FEC audits, and limit spending from the candidate's personal funds to no more than \$50,000.³⁶

Participation Over Time

Participation in the public financing program can be considered on two fronts: (1) taxpayer participation; and (2) candidate participation in the program. This section discusses both in more detail.

Taxpayer Participation

Taxpayer participation has never been particularly strong. Even at the height of the program's popularity more than a quarter-century ago, less than one-third of taxpayers chose to support presidential public financing. As **Table 1** and **Figure 2** (below) show, checkoff participation reached a high point in 1980, when 28.7% of filers designated funds for the PECF. With minor exceptions, participation has fallen steadily since that time. Fewer than 15% of taxpayers have made public financing designations every calendar year since 1993. Taxpayer participation reached a low of 9.1% in 2005. However, the checkoff rate increased slightly to 10.9% in 2006; this 1.8% change represented the largest one-year increase in the checkoff rate since 1979.³⁷ The "Analysis of Policy Options" section at the end of this report provides additional discussion.

Table 1. Checkoff Designations, 1973-2006

Year ^a	Percentage of Returns Containing Designations	Total Amount Designated (actual dollars in millions)	Total Amount Designated (2007 dollars in millions)
1973	—	\$2.4	\$11.2
1974	—	\$27.6	\$116.0
1975	—	\$31.7	\$122.2
1976	27.5%	\$33.7	\$122.8
1977	28.6%	\$36.6	\$125.2
1978	25.4%	\$39.2	\$124.7
1979	27.4%	\$35.9	\$102.5
1980	28.7%	\$38.8	\$97.6
1981	27.0%	\$41.0	\$93.5
1982	24.2%	\$39.0	\$83.8

³⁵ The base limit (before the inflation adjustment) is \$20 million. See 2 U.S.C. § 441a(b)1(B).

³⁶ 26 U.S.C. §§ 9003(a); 9033(a). On the \$50,000 limit, see 26 U.S.C. § 9006(d).

³⁷

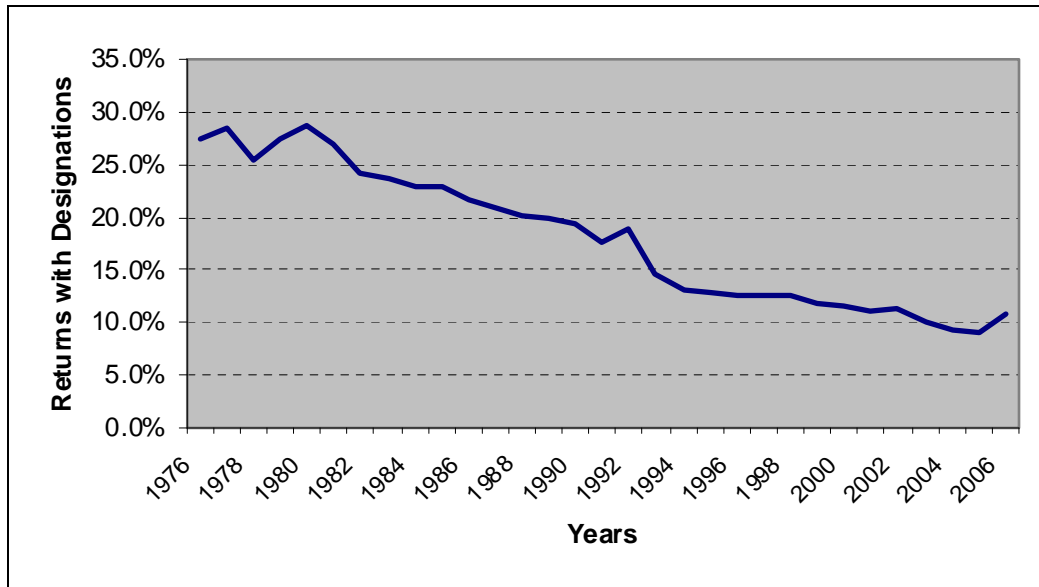
The IRS provided CRS with aggregate tax-year 2006 data, from which CRS calculated a percentage. CRS calculated the percent changes based on the data in **Table 1**.

Year ^a	Percentage of Returns Containing Designations	Total Amount Designated (actual dollars in millions)	Total Amount Designated (2007 dollars in millions)
1983	23.7%	\$35.6	\$74.1
1984	23.0%	\$35.0	\$69.8
1985	23.0%	\$34.7	\$66.9
1986	21.7%	\$35.8	\$67.7
1987	21.0%	\$33.7	\$61.5
1988	20.1%	\$33.0	\$57.8
1989	19.8%	\$32.3	\$54.0
1990	19.5%	\$32.5	\$51.6
1991	17.7%	\$32.3	\$49.1
1992	18.9%	\$29.6	\$43.7
1993 ^b	14.5%	\$27.6	\$39.6
1994	13.0%	\$71.3	\$99.7
1995	12.9%	\$67.9	\$92.4
1996	12.6%	\$66.9	\$88.4
1997	12.5%	\$66.3	\$85.7
1998	12.5%	\$63.3	\$80.5
1999	11.8%	\$61.1	\$76.0
2000	11.5%	\$60.7	\$73.1
2001	11.0%	\$59.3	\$69.4
2002	11.3%	\$62.0	\$71.5
2003	10.1%	\$59.4	\$66.9
2004	9.2%	\$55.7	\$61.1
2005	9.1%	\$53.3	\$56.6
2006	10.9%	\$51.0	\$52.5
Totals	—	\$1486.2	\$2609.4

Source: Data for 1973-2006 calendar-year designations and checkoff amounts appear in Federal Election Commission, “Presidential Matching Fund Income Tax Check-Off Status, brochure, June 2008. The IRS Statistical Information Services office provided CRS with checkoff-percentage data for 2006. CRS calculated all inflation-adjusted dollars.

- a. Refers to calendar year for which funds were designated. Designations occur on tax forms submitted the following year (e.g., 2006 returns were filed in 2007).
- b. As discussed elsewhere in this report, Congress increased the checkoff designation from \$1 to \$3 (\$2 to \$6 for married couples filing jointly) in 1993.

Notes: Some figures in the table differ slightly from source data due to rounding. The FEC source data notes that checkoff participation figures “are not available for the years 1973-1975,” and that some 1973-1976 data cannot be verified. The data are subject to change as additional information becomes available.

Figure 2. Taxpayer Participation in Public Financing, 1976-2006

Source: CRS graph based on IRS data cited in Federal Election Commission, “Presidential Matching Fund Income Tax Check-Off Status,” brochure, May 2007. The IRS Statistical Information Services office provided CRS with aggregate data for 2006, from which CRS calculated a percentage.

Candidate Participation

Almost every major presidential candidate since 1976 has participated in the public financing program. Exceptions were rare until the 2000 election cycle. Democrats and Republicans have participated in the public financing program on a roughly equal basis. Until 2008, every major-party nominee since 1976 had accepted public financing for the general election.

Historically, only a few wealthy, self-financed candidates have declined to participate in public financing.³⁸ Beginning during the 2000 election cycle, however, some major candidates began to opt out of primary matching funds, apparently believing that bypassing required spending limits would be strategically advantageous. That year, George W. Bush participated in public financing during the general election but not during the primary. Then-candidate Bush was the first person elected president without having participated in public financing during both the primary and general phases of the campaign. In 2004, President Bush and Democratic nominee Senator John Kerry both declined public financing during the primary campaign.³⁹ Both accepted public funds for the general-election campaign.

Participation in 2008

The FEC certified eight candidates as being eligible for matching funds in the 2008 primary campaign, as shown in **Table 2** below. The Democratic and Republican parties also received

³⁸ Examples include Ross Perot (1992) and Steve Forbes (1996).

³⁹ Federal Election Commission, “FEC Approves Matching Funds for 2004 Presidential Candidates,” final certifications, press release, April 1, 2005, at <http://www.fec.gov/press/press2005/20050401cert.html>. See also Anthony Corrado, “Public Funding of Presidential Campaigns,” p. 184.

approximately \$16.8 million each in convention grants.⁴⁰ As noted previously, Senator Obama has announced that his campaign will not participate in public financing during the general election; Senator McCain will accept public funds for the general election.

Table 2. Primary Matching Funds Certified by the FEC for the 2008 Election Cycle as of August 31, 2008

Candidate	Amount Certified by FEC
Joseph Biden	\$1,996,349.83
Christopher Dodd	\$1,961,741.71
John Edwards	\$12,882,877.42
Duncan Hunter	\$453,527.32
Dennis Kucinich	\$1,070,521.05
John McCain	\$5,812,197.35*
Ralph Nader	\$753,535.32
Thomas Tancredo	\$2,145,125.50
Total for Those Receiving Funds	\$21,263,678.15*

Source: Individual certifications appear in Federal Election Commission, “FEC Approves Matching Funds for 2008 Candidates,” press release, July 16, 2008, at <http://www.fec.gov/press/press2007/20071207cert.shtml>; Federal Election Commission, “FEC Approves Matching Funds for 2008 Presidential Candidates,” press release, July 16, 2008, at <http://www.fec.gov/press/press2008/20080714matching.shtml>; and in U.S. Treasury Department, Financial Management Service, “Disbursements from the Presidential Election Campaign Fund and Related Payments, P.L. 94-283,” August 31, 2008, provided to CRS by Thomas Santaniello, office of legislative and public affairs, Financial Management Service (e-mail correspondence with author, September 11, 2008). CRS calculated the total amount certified.

Notes: The approximately \$21.3 million total in the table does not include \$5.8 million certified for Senator McCain, who initially applied for primary matching funds but later withdrew from public financing during the primary campaign. The McCain campaign never received primary matching funds. The McCain campaign’s status with respect to the public financing program during the primary is beyond the scope of this report. Candidates who do not appear in the table either did not apply for public funds or did not qualify.

⁴⁰ See Federal Election Commission, “FEC Approves Matching Funds for 2008 Candidates,” press release, December 20, 2007, at <http://www.fec.gov/press/press2007/20071207cert.shtml> for a base certification of \$16,356,000. The FEC also certified an additional payment, to cover inflation, of \$464,760. Information on the inflation adjustment comes from e-mail correspondence between the author and Wanda Thomas, deputy assistant staff director for public financing, FEC, April 9, 2008.

Financial Status of the Presidential Election Campaign Fund

The amount of money in the PECF depends on taxpayer designations and candidate use. As **Table 3** and **Figure 3** below show, and as would be expected, the balance in the fund typically builds during off years and then drops sharply during presidential election years. For the past several years, as taxpayer designations have declined and campaigns have become more expensive, there has been widespread concern that the amount of money available in the fund—and spending limits for participants—were too low to make the program attractive to candidates.

Table 3. Presidential Election Campaign Fund Balances

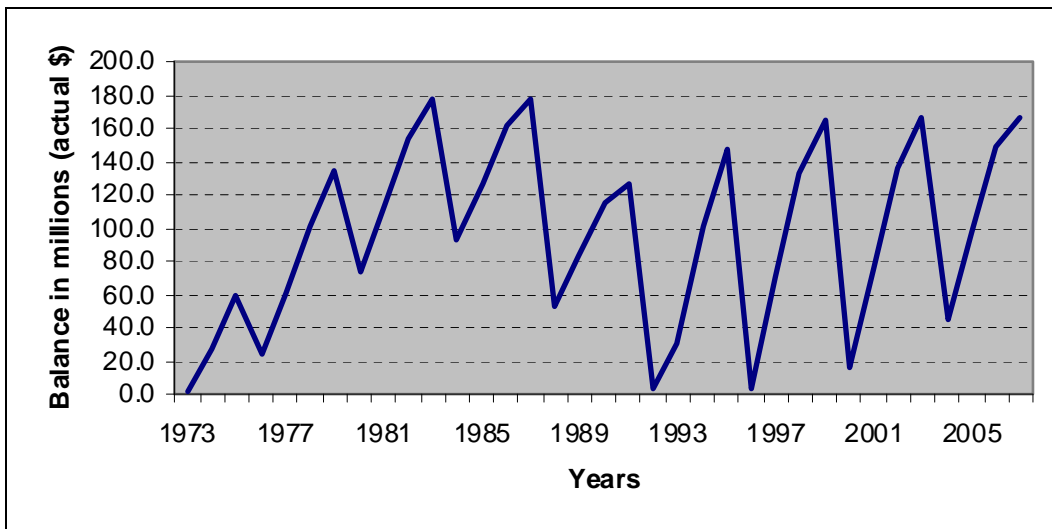
Calendar Year	Fund Balance (actual dollars in millions)	Fund Balance (2007 dollars in millions)
1973	\$2.4	\$11.2
1974	\$27.6	\$116.1
1975	\$59.6	\$229.7
1976	\$23.8	\$86.7
1977	\$60.9	\$208.4
1978	\$100.3	\$319.0
1979	\$135.2	\$386.1
1980	\$73.8	\$185.7
1981	\$114.4	\$260.9
1982	\$153.5	\$329.8
1983	\$177.3	\$369.1
1984	\$92.7	\$185.0
1985	\$125.9	\$242.6
1986	\$161.7	\$305.9
1987	\$177.9	\$324.7
1988	\$52.5	\$92.0
1989	\$82.9	\$138.6
1990	\$115.4	\$183.1
1991	\$127.1	\$193.5
1992	\$4.1	\$6.1
1993	\$30.8	\$44.2
1994	\$101.7	\$142.3
1995	\$146.9	\$199.9
1996	\$3.7	\$4.9
1997	\$69.9	\$90.3

Calendar Year	Fund Balance (actual dollars in millions)	Fund Balance (2007 dollars in millions)
1998	\$133.2	\$169.4
1999	\$165.5	\$206.0
2000	\$16.2	\$19.5
2001	\$75.0	\$87.8
2002	\$137.0	\$157.9
2003	\$167.3	\$188.5
2004	\$45.0	\$49.4
2005	\$98.0	\$104.0
2006	\$144.5	\$153.6
2007	\$166.3	\$166.3

Source: Federal Election Commission, “Presidential Matching Fund Income Tax Check-Off Status,” brochure, May 2007. The FEC provided 2007 data to CRS. CRS calculated all inflation-adjusted dollars.

Note: Figures in the table are rounded.

Figure 3. Presidential Election Campaign Fund Balances, 1973-2007



Source: CRS graph based on IRS data cited in Federal Election Commission, “Presidential Matching Fund Income Tax Check-Off Status,” brochure, May 2007.

In an effort to avoid a projected shortfall in the PECF, in 1993 Congress increased the checkoff amount from \$1 (or \$2 for married couples filing jointly) to \$3 (or \$6). That change took effect for 1993 tax returns. Increasing the checkoff amount did infuse additional money into the PECF, but the fund has nonetheless struggled with shortfalls for primary matching funds. Additional discussion appears below.

Although fund balances have been sufficient to pay the convention grants and general-election grants, shortfalls in primary matching funds occurred in 1996 and 2000.⁴¹ A shortfall also occurred briefly in 2004, but major shortfalls were avoided, as eventual nominees George W. Bush and John Kerry, among others, declined to participate in public financing during the primary.⁴²

Shortfalls and Potential Shortfalls During the 2008 Cycle

The balance in the PECF appears to be sufficient to cover current obligations, but the fact that one candidate has chosen not to accept the general-election grant provides the fund with substantially more money than it would have otherwise. Even with sufficient resources to cover current obligations, shortfalls occurred previously during the 2008 cycle. Additional discussion appears below.

In December 2007, the FEC projected that the approximately \$166.2 million balance in the PECF (as of November 30, 2007) would be insufficient to permit matching payments scheduled to begin in January 2008.⁴³ By the spring of 2008, however, the PECF had accumulated a sufficient balance to permit matching fund payments. Although the FEC was unable to certify matching funds between January and June 2008, the Commission certified an additional \$7.4 million in primary matching funds in July 2008.

According to Treasury Department data, as of September 11, 2008, the PECF balance was approximately \$107.1 million.⁴⁴ That amount is more than sufficient to cover remaining PECF obligations for the 2008 election cycle (apparently now limited to relatively small primary matching-fund payments). If, however, both major candidates had accepted public funds for the general election, the amount available in the PECF would have declined substantially.⁴⁵ In particular, the additional \$84.1 million general-election grant would bring the available PECF balance to approximately \$23.0 million. Therefore, if candidates had more fully participated in the public financing program, or if they did so under the current structure in 2012, the PECF balance may have been, or may be, insufficient to meet the fund's obligations. These circumstances suggest that if the presidential public financing program is not altered before 2012—and if candidates choose to participate in the program during the primary and the general, and assuming that taxpayer designations remain near current levels—shortfalls could be a continuing challenge.

⁴¹ For additional discussion, see Anthony Corrado, "Public Funding of Presidential Campaigns," pp. 183-184.

⁴² Federal Election Commission, "FEC Approves Matching Funds for 2004 Presidential Candidates." See also Anthony Corrado, "Public Funding of Presidential Campaigns," p. 184. Information on the brief 2004 shortfall (which occurred between February and March of 2004) was provided by Wanda Thomas, deputy assistant staff director for public financing, FEC (e-mail correspondence with author, May 21, 2008). When shortfalls occur, candidates sometimes use certifications of their eligibility for public financing to secure private bank loans, which are subsequently repaid with public funds.

⁴³ Federal Election Commission, "FEC Approves Matching Funds for 2004 Presidential Candidates."

⁴⁴ This figure was provided by the Treasury Department's Financial Management Service staff via Thomas Santaniello, office of legislative and public affairs, Financial Management Service (e-mail correspondence with author September 11, 2008).

⁴⁵ Specifically, another general-election grant of approximately \$84.1 million would have to be reserved before matching payments could be made.

Recent Congressional Activity

Recent attempts to revisit presidential public financing date to at least the 102nd Congress (1991-1992). As is noted elsewhere in this report, the most recent significant change to the program occurred in 1993, when Congress increased the checkoff amount. Since that time, various attempts to curtail or bolster the program have been introduced in both chambers, but none has been successful.

110th Congress Legislation

Four bills introduced in the 110th Congress would essentially maintain the current structure of the public financing system, but with some substantial financial changes. Two other bills would end all or part of the system. The following discussion provides additional details.

Bills that Would Curtail Public Financing

Although most recent attention to the public financing program has focused on maintaining the system, some Members of Congress and others wish to curtail or end presidential public financing. In the 110th Congress H.R. 72 (Bartlett) would end subsidies for nominating conventions. H.R. 484 (Doolittle) would end the public funding system entirely. In addition, under a unanimous consent agreement regulating floor consideration of the FY2008 Financial Services and General Government (FSGG) appropriations bill (H.R. 2829, Serrano), Representative Neugebauer could have offered amendments limiting collection or certification of public financing funds.⁴⁶ However, the Legislative Information System and *Congressional Record* show no sign of those amendments being offered on the floor. Implications of these and other approaches are discussed later in this report.

The Presidential Funding Act of 2007 (H.R. 776, S. 436, H.R. 4294, and S. 2412)

The Presidential Funding Act of 2007 was introduced at two different points in each chamber: initially in January 2007 and again in December 2007. The December 2007 versions of the bills include slight changes to the original legislation and, in some cases, have different sponsors or original co-sponsors.⁴⁷ **Appendix** at the end of this report provides a detailed comparison of the bills' major provisions versus the status quo. **Table 4**, which follows the bill summaries below, provides an overview of total spending possibilities for publicly financed candidates under the status quo versus the four versions of the Presidential Funding Act of 2007.

The additional funds and higher spending limits the four bills would provide are perhaps the most notable aspect of the legislation. In particular, participants would be eligible for base amounts and

⁴⁶ See Honorable José Serrano, "Providing for Further Consideration of H.R. 2829, Financial Services and General Government Appropriations Act, 2008." Remarks in the House. *Congressional Record*, daily edition, vol. 153 (June 27, 2007), p. H7296.

⁴⁷ For a discussion of the reintroduction of the Senate bill, see Senator Russell Feingold, remarks in the Senate, *Congressional Record*, daily edition, vol. 153 (December 5, 2007), pp. S14790-S14797. A statement from Senator Susan Collins, a co-sponsor, appears on p. S14797. H.R. 776 was introduced by Representatives Meehan and Shays. H.R. 4294 was introduced by Representative Price of North Carolina. Senator Feingold introduced S. 436 and S. 2412.

additional installments (called “escape hatch” funds, also known as “rescue funds”) based on *non-participating* opponents’ spending or fundraising. Overall, a publicly financed candidate could spend as much as \$450 million under the proposed changes to the program, if the candidate participated in public financing in the primary and general phases of the campaign and if all escape-hatch options were exhausted. Under that scenario, the primary spending limit would be \$250 million; the general spending limit would be \$200 million.

With respect to *primary elections*, all four bills would:

- raise the base spending limit from approximately \$42 million for the entire primary (currently) to \$150 million (of which \$100 million could be spent before April 1 of an election year);
- make up to an additional \$100 million (two \$50 million installments) in “escape hatch” funds available if non-participating opponents raise or spend more than 120% of the participant spending limits (“escape hatch” funds do not currently exist);
- eliminate current state-by-state spending limits.

In all four bills, major changes to the primary matching fund program would:

- lower the threshold for federal matching of eligible contributions from \$250 (currently) to \$200;
- increase the percentage at which those contributions are matched from 100% (currently) to 400% before March 31 of an election year; candidates still in the race after March 31 would be eligible for an additional 100% match, raising the total match amount to 500%.

Benefits and spending limits in the *general election* would also be revised. Major proposed revisions in all four bills would:

- raise the base funding allocation from approximately \$84.1 million (in 2008) to \$100 million;
- make up to an additional \$100 million in “escape hatch” funds available if non-participating opponents raise or spend more than 120% of the participant spending limits (“escape hatch” funds do not currently exist);
- make the Friday before Labor Day the uniform release date for general-election funds (currently based on nomination date).

Limits on *coordinated party expenditures*—purchases political parties may make on behalf of candidate campaigns—would also be altered.⁴⁸ Major revisions in all four bills would:

- raise the coordinated party expenditure limit from approximately \$19 million (currently) to \$50 million (two \$25 million installments, one before and one after the nomination);

⁴⁸ On coordinated party expenditures, see CRS Report RS22644, *Coordinated Party Expenditures in Federal Elections: An Overview*, by R. Sam Garrett and L. Paige Whitaker.

- permit unlimited coordinated party expenditures (currently prohibited) if non-participating opponents raise or spend more than 120% of the participant spending limits.

Other major provisions in all four bills include:

- changing the threshold to qualify for public financing in the primary by requiring candidates to raise \$25,000 in amounts of \$200 or less in at least 20 states (compared with \$5,000 in amounts of \$250 or less in at least 20 states currently);
- requiring candidates who choose to participate in public financing to do so in both the primary and general elections (candidates may currently participate in either or both phases);
- increasing the checkoff amount on individual tax returns to \$10 for individuals and \$20 for married couples filing jointly (currently \$3 and \$6 respectively);
- requiring the Treasury Secretary to issue regulations to prohibit tax-preparation software from automatically accepting or declining participation in public financing;
- authorizing the FEC to undertake a public education campaign about presidential public financing (with up to \$10 million from public financing funds);
- permitting appropriation of funds, to be repaid with interest, to cover public financing obligations for the first election after enactment.

Although the four bills are substantially similar, major provisions *differ* on how or whether to:

- repeal the existing prioritization of convention funding over candidate funding;
- restrict fundraising or spending money that is not regulated under federal campaign finance law (i.e., “soft money”) for nominating conventions;
- amend bundling disclosure required of presidential campaigns;
- require offset provisions to fund increased public financing benefits.

Table 4. Summary of Spending Limits Under Status Quo and H.R. 776, S. 436, H.R. 4294, and S. 2412, 110th Congress

	Primary Elections		General Elections		Total Candidate Spending (Primary + General)		Coordinated Party Expenditures	
	Base	Escape Hatch	Base	Escape Hatch	Base	Escape Hatch	Base	Escape Hatch
Status Quo	Approximately \$42 million ^a in 2008	—	Approximately \$84.1 million in 2008	—	Approximately \$126 million in 2008 ^b	—	Approximately \$19 million in 2008	—
H.R. 776, S. 436, H.R. 4294, S. 2412 http://www.congress.gov/cgi-bin/bdquery/z?d110:S.2412 :	\$150 million total (\$100 million limit before April 1)	Up to \$100 million (up to two \$50 million installments based on opponent fundraising/spending)	\$100 million	Up to \$100 million	\$250 million	Up to \$200 million	\$50 million (\$25 million between April 1 and nomination; \$25 million after nomination)	Unlimited between April 1 (or date of triggering escape hatch) and nomination (or withdrawal)

Source: CRS analysis of bill texts, current law, and regulations.

Note: The table reflects current or proposed amounts, not future adjustments for inflation. The table also assumes that amounts available in the fund could support maximum permissible spending, and that candidates would remain in the race after April 1 of the election year, which would trigger additional spending limits. The table refers to major-party candidates only. Minor-party candidates would receive lesser amounts as specified in current law or proposed bills.

- a. In addition to a base amount of approximately \$42 million, participants may spend approximately \$8 million on fundraising costs and approximately \$6 million on legal and accounting costs.
- b. Assumes participation in public financing during both the primary and general campaigns, as H.R. 776, S. 436, H.R. 4294, and S. 2412 would require.

Analysis of Policy Options for Maintaining Public Financing

Various policy options exist for updating the public financing system. Some of those options are contained in current legislation. Others discussed below present alternatives for addressing concerns surrounding presidential public financing, but are not components of current legislation. The following sections discuss possibilities for increasing the amount of money available in the PECF and options for increasing the program's attractiveness to candidates. Taxpayer participation is also discussed. None of the policy options discussed in this report and elsewhere are likely to be considered in isolation, as the public financing program has always contained a combination of benefits and requirements.

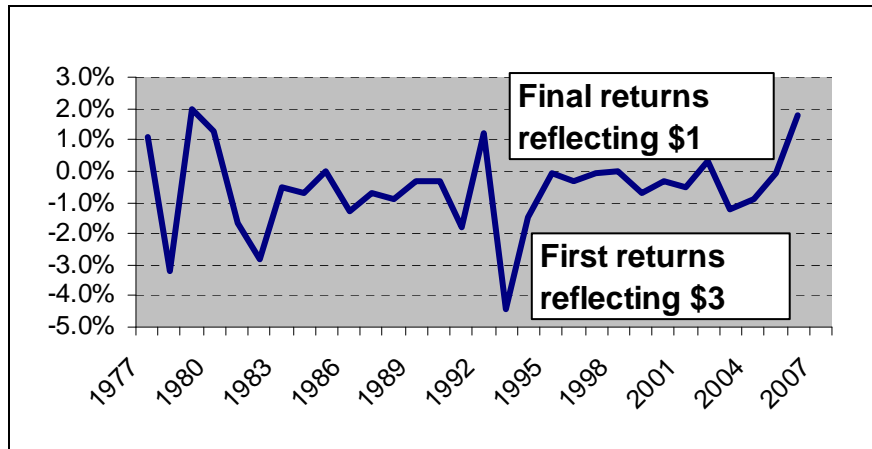
Providing the Presidential Election Campaign Fund With More Money

As noted previously, the chief concern surrounding presidential public financing is the amount of money available to candidates. Shortfalls in recent elections have delayed matching-fund payments during primaries—a critical time for candidates to establish their viability and recognition among the electorate. General-election subsidies are also a concern, although generally not viewed as pressing as primary funds. Regardless of the phase of the election, a higher balance in the PECF could facilitate higher spending by candidates, provided that Congress raised spending limits.

Increasing the Checkoff Amount

The four bills introduced in the 110th Congress that would maintain public financing (H.R. 776, S. 436, H.R. 4294, and S. 2412) would all increase the checkoff amount (from \$3 for individuals to \$10, or from \$6 to \$20 for married couples filing jointly). Although it is unclear precisely how an increased checkoff amount would affect the PECF, the one previous increase in the checkoff amount did not result in greater taxpayer participation in public financing. Rather, the checkoff rate fell by almost one-quarter (23.3%), from 18.9% in 1992 to 14.5% in 1993. As **Figure 4** (below) shows, that 4.4 percentage-point decline was the largest calendar-year change in taxpayer participation in the program's history. Participation stabilized beginning in 1994.

Figure 4. Annual (Calendar Year) Percentage Change in Checkoff Designations



Source: CRS calculations of annual percentage change based on IRS data cited in Federal Election Commission, "Presidential Matching Fund Income Tax Check-Off Status," brochure, May 2007.

However, even with the decline in participation, increasing the checkoff amount did substantially bolster the fund balance (as shown in **Table 3** and **Figure 3**). The fund balance grew from approximately \$4.1 million in 1992 (the final year of the \$1 checkoff) to more than \$30.8 million in 1993 (the first year of the \$3 checkoff). Decreases in the fund balance are to be expected during election years (when most disbursements are made, thereby depleting much of the balance). However, the percent increase in the fund balance between 1992 and 1993 was far more than in the increase in the post-election years that preceded the checkoff increase (1977, 1981, 1985, and 1989). The median percent increase in the fund balance between those years and those that preceded them was 56.5%, compared with an increase of more than 650% between 1992 and 1993.⁴⁹ Even with that infusion of funds, and as is typical, the fund balance decreased sharply during the 1996 election cycle.

Overall, the 1993 change suggests that, if taxpayers respond as they did when Congress last raised the checkoff amount, the participation rate will fall if Congress raises the amount again. As noted elsewhere in this report, in 2006, 10.9% of taxpayers made designations. Although the 2007 checkoff percentage is not yet available, a decline from the 2006 rate commensurate with the 4.4-point percentage drop in 1993 suggests that fewer than 10% of taxpayers (6.5%) would make designations to the PECF if the checkoff amount is increased. However, the designations that do occur, because of the higher dollar amounts, could nonetheless increase the amount of money in the PECF. It should also be noted that the proposed public education campaign could either encourage or discourage participation.

Changing the Qualifying Requirements to Limit Candidate Access to Funds

Rather than providing more money to the PECF, or in addition to doing so, Congress could choose to make it more difficult for candidates to qualify for public financing. The four bills introduced in the 110th Congress that propose maintaining the system (H.R. 776, S. 436, H.R. 4294, and S. 2412) would require a five-fold increase in fundraising to qualify for matching

⁴⁹ CRS calculated annual percentage change rates based on the FEC data cited in **Table 1**.

funds. Currently, to qualify for matching funds, candidates must raise at least \$5,000 (in contributions of \$250 or less) in 20 states, for a total of \$100,000. By contrast, H.R. 776, S. 436, H.R. 4294, and S. 2412 would require candidates to raise at least \$500,000 to qualify for matching funds. The 20-state threshold would be maintained, although the matching-fund amount would decrease from \$250 to \$200.

Those requirements would make it harder for some, but not most, candidates who have recently met the primary qualifying criteria to do so again. As shown in **Table 2** above, the FEC certified only two candidates (Duncan Hunter and Dennis Kucinich) for matching funds in amounts less than \$500,000 in 2007. In the entire 2004 cycle, only one candidate (Alfred C. Sharpton) was certified for less than \$500,000.⁵⁰ This suggests that increasing the qualifying threshold to \$500,000 would not have had a great effect on the number of publicly financed candidates during the current and immediate past presidential election cycles, assuming that those candidates could meet the higher state-by-state fundraising thresholds (\$25,000 instead of \$5,000). Raising the qualifying threshold to \$500,000 also would not prevent any candidates from receiving public funds, if those candidates were able to meet the qualifying criteria. (Indeed, candidates who could meet the new criteria would receive more matching funds than they do currently.) However, increasing the qualifying threshold could preserve some money in the PEFCF, at least until candidates met the new criteria (assuming they could do so).

Of course, Congress could consider other options to increase qualifying criteria beyond those envisioned in the current system or the legislation introduced in the 110th Congress. This assumes, however, that Congress wishes to limit the number of candidates who may receive public funds (to preserve money in the fund or for other reasons).

Reconsidering Funding Priorities

As noted previously, public funds are currently disbursed in the following priority: (1) convention grants; (2) general-election grants; and (3) primary matching funds. Prioritization of the convention grants has been criticized recently because these events are heavily subsidized by local host committees.⁵¹ Some observers have contended that conventions also benefit from “soft money” (funds not regulated under FECA) that is otherwise banned in federal elections.⁵²

If Congress believes that funding candidates should be the top priority in the public financing program, de-prioritizing convention funding could be an attractive option. Two of the bills introduced in the 110th Congress (S. 436 and S. 2412) would remove the convention-priority language from current law. Doing so could help avoid future shortfalls in primary matching funds by preserving money in the PEFCF that would currently go to conventions first. Nonetheless,

⁵⁰ Federal Election Commission, “FEC Approves Matching Funds for 2004 Presidential Candidates.”

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For an overview, see Anthony Corrado, “Public Funding of Presidential Campaigns,” pp. 190-193.

⁵² As noted previously, for additional discussion of convention financing, see CRS Report RL34630, *Federal Funding of Presidential Nominating Conventions: Overview and Policy Options*, by R. Sam Garrett and Shawn Reese. See also Steve Weissman and Ruth Hassan, “The \$100 Million Exemption: Soft Money and the 2004 National Party Conventions,” Campaign Finance Institute, July 2004, at http://www.cfinst.org/books_reports/pdf/full_partyconventions.pdf; and Campaign Finance Institute, “Inside Fundraising for the 2008 Party Conventions: Party Surrogates Gather Soft Money While Federal Regulators Turn a Blind Eye,” n.d. [released June 2008], at http://www.cfinst.org/books_reports/conventions/2008Conventions_Rpt1.pdf.

shortfalls might then shift to general-election grants or convention grants (unless they were eliminated entirely).

More generally, Congress could also consider eliminating one or more segments of the public financing program. For example, if Congress felt that convention funding were no longer necessary, these subsidies could be eliminated entirely. However, those concerned about the influence of private money, particularly soft money, in convention financing could object to conventions that are completely dependent upon private funds. In addition, given recent concerns about the viability of primary public financing, Congress could choose to eliminate matching funds and shift remaining amounts to the general election, convention grants, or both. These options could facilitate maintaining public financing in some form, and even bolster remaining portions of the program, without allocating new funds.

Other Revenue Sources

Current law requires that support for the program be limited to checkoff designations specified at \$3 or \$6. Congress might also consider allowing taxpayers to contribute to the PECF in ways beyond the checkoff mechanism. Currently, taxpayers are not permitted to determine *how much* they wish to designate toward the presidential public financing program. Rather, they may only indicate *whether* they wish to designate the fixed amount displayed on the 1040 form. Instead, Congress could permit additional taxpayer donations to the fund, allow taxpayers to specify a designation amount, or expand the number of designation choices.⁵³ If taxpayers chose to make larger contributions than the \$3 amount, revenues in the fund could increase. They could also decrease if taxpayers chose to make smaller designations than the current \$3 rate.

Congressional Appropriations

Congress has structured the public financing program such that checkoff designations have been solely responsible for the fund's resources. If it chose to do so, however, Congress could appropriate some or all funds necessary to cover public financing needs. All four bills introduced in the 110th Congress that propose to maintain the program would permit appropriations to cover increased benefits for the first election after the new law's enactment. The PECF, however, would have to repay those amounts, with interest, to the Treasury.⁵⁴

Congressional appropriations could have the advantage of supplementing or replacing declining checkoff designations. If regular and sufficient appropriations could be secured, the financial stability of the public financing program might also be more predictable than is the case today. However, some Members could find appropriations objectionable. Appropriations are also subject to being reduced or eliminated. In short, the PECF does not currently benefit from appropriations, but it also is not dependent upon the annual appropriations process.

⁵³ Caps would be necessary, however, to prevent taxpayers from designating their entire tax liability for the PECF.

⁵⁴ Both Treasury funds and PECF funds are generated by tax revenues, meaning that one form of public funds would be used to repay another.

Making Public Financing More Attractive to Candidates

If candidates are to be convinced to accept public financing, they must be persuaded that the program's benefits outweigh its constraints. This calculation often depends on opponents' behavior, particularly whether they, too, are expected to accept public financing. When two opposing candidates choose to participate, even low spending limits or benefits are likely to be sufficient because both sides are equipped with the same financial resources and face the same constraints. If, on the other hand, candidates believe that they can fare better outside the system—or that their opponents are likely to opt out—participation is less likely. Those scenarios seem to have discouraged participation during the primaries in recent elections.

The additional benefits to candidates (and associated increases in spending limits) proposed in H.R. 776, S. 436, H.R. 4294, and S. 2412 would dramatically increase publicly financed candidates' resources. As **Table 4** shows, in 2008, the maximum a publicly financed candidate could spend under the current system is approximately \$126 million (plus about \$14 million in legal, fundraising, and accounting fees).⁵⁵ Under the four 110th Congress bills that would maintain the system, maximum candidate spending could increase to as much as \$450 million if facing an opponent who had opted out of public financing and with maximum escape-hatch funding.

Additional funds provided through the escape hatch could be particularly attractive to candidates and could dissuade candidates from opting out of public financing unless they expect to privately raise funds that exceed the higher escape-hatch amounts. Potentially unlimited coordinated party expenditures (currently limited to about \$19 million) are also likely to be attractive to candidates. Increased matching-fund amounts (and spending limits) could also be attractive to primary candidates who choose to participate in public financing. Under the four bills that would maintain the system, primary candidates would see small contributions matched not at the current 100% rate, but at 400%. Those who remained in the primary race beyond March 31 of the election year would receive an additional 100% match, for a total match of 500% of the donor's original contribution (up to \$200). Under that structure, a contribution of just \$200, if matching at the full rate, could facilitate a \$1,000 benefit to the candidate after a 500% match.

The proposed matching-fund changes arguably democratize presidential campaigns by placing renewed emphasis on small donors (perhaps even more so than now, as the maximum matched contribution would be \$200 rather than \$250).⁵⁶ The extra 100% match is apparently designed to provide additional money to publicly financed candidates between the end of the primaries and the nominating convention. Some publicly financed candidates have struggled financially in the past between the end of primaries and conventions because general-election grants are not released until after the candidate is nominated.

It is also possible that offering the additional 100% match to candidates who remain in the race after March 31 might prolong the nomination contest. Even if the contest were essentially decided before March 31, candidates who have no hope of winning the nomination might choose to

⁵⁵ This assumes candidates participate in public financing during both the primary and general elections.

⁵⁶ Some preliminary evidence suggests that small donors are already enjoying renewed clout, particularly in light of some candidates' successful Internet fundraising during the 2008 cycle. See, for example, Campaign Finance Institute, "April Presidential Reports: Small Donations Continue to Fuel Democrats; McCain Has His Best Month; Clinton's Debts Rise to \$19.5 Million," press release, May 22, 2008, at <http://www.cfinst.org/pr/prRelease.aspx?ReleaseID=191>; and Richard L. Hasen, "Political Equality, the Internet, and Campaign Finance Regulation," *The Forum*, vol. 6, no. 1, art. 7; at <http://www.bepress.com/forum/vol6/iss1/art7>

remain in the race until after March 31 to receive the additional matching payment to retire campaign debts. Candidates may currently receive matching funds well after the primary (or even the general election) to retire debts, but there is no additional match.

Finally, public financing cannot control for all spending or fundraising that occurs in campaigns. Whether during the primary or general campaigns, candidates may be dissuaded from participating if they fear inadequate resources to respond not only to opponents, but also to opposing political action committees (PACs), 527 organizations, and other outside groups, some of which are arguably not regulated by campaign finance law.⁵⁷ In the absence of a constitutional amendment restricting the political speech of these and other organizations, curtailing campaign spending—except voluntarily—is unlikely.

To summarize, increased benefits and spending limits are likely to be attractive to candidates, especially if both opponents participate. Even if candidate spending and resources are equal, however, publicly financed candidates could continue to face opposition spending from outside groups. Nonetheless, the proposed benefits and higher spending limits would provide publicly financed candidates with more resources than they would receive today.

Taxpayer Awareness of, and Participation in, Public Financing

There is little current information about how well taxpayers understand the public financing program.⁵⁸ FEC focus groups conducted nationwide in 1989 found that “citizens may not know why the public funding program was implemented or how it works. The [FEC research] also revealed, however, that taxpayers would like to know more.”⁵⁹ In response, the FEC conducted an educational campaign in 1991 and 1992 that featured public-service announcements and media appearances by commissioners.⁶⁰ Taxpayer participation has nonetheless generally declined, especially in 1993 when Congress increased the checkoff designation amount.

In opinion polling, support for public financing (at various levels) fluctuates with question wording.⁶¹ Although respondents tend to favor limiting the influence of private money in politics, they often react negatively to references to taxpayer funds or government support for campaigns. It is possible, therefore, that Americans support an alternative to *private* campaign financing as we know it, but nonetheless object to subsidizing campaigns through tax dollars, even though the checkoff designation does not change one’s tax liability. Without updated research on how

⁵⁷ On 527 organizations, see CRS Report RS22895, *527 Groups and Campaign Activity: Analysis Under Campaign Finance and Tax Laws*, by L. Paige Whitaker and Erika Lunder. See also CRS Report RS21716, *Political Organizations Under Section 527 of the Internal Revenue Code*, by Erika Lunder. For an overview of 501(c) organizations, see CRS Report RL33377, *Tax-Exempt Organizations: Political Activity Restrictions and Disclosure Requirements*, by Erika Lunder.

⁵⁸ See, for example, Campaign Legal Center and Democracy 21, *Presidential Public Financing: Repairing the System*, conference report, December 9, 2005, at <http://www.campaignlegalcenter.org/attachments/1614.pdf>, p. 9. A CRS search of scholarly literature also confirmed the point.

⁵⁹ Federal Election Commission, *Report on the Presidential Public Funding Program* (FEC: April 1993), p. 75. An HTML version of the report is available at <http://www.fec.gov/info/pfund.htm>.

⁶⁰ *Ibid.* See Appendix 5 of that report for scripts of the public-service announcements.

⁶¹ See, for example, CRS Report RL33814, *Public Financing of Congressional Campaigns: Overview and Analysis*, by R. Sam Garrett; and Stephen R. Weissman and Ruth A. Hassan, “Public Opinion Polls Concerning Public Financing of Federal Elections 1972-2000: A Critical Analysis and Proposed Future Directions” (Washington: Campaign Finance Institute, 2005), pp. 2-3, at http://www.cfinst.org/president/pdf/PublicFunding_Surveys.pdf.

Americans feel about public financing and the checkoff, it is unclear whether the low participation rate is due to a lack of knowledge, objection to the program, or other factors. It is also unclear whether more taxpayers could be persuaded to make checkoff designations, and if so, how. The public education campaign proposed in the four 110th Congress bills that would maintain the system, however, could address these and other questions.

Issues Regarding Tax-Preparation Software

One possible explanation for the low checkoff rate is the popularity of tax-preparation software. Some such software has been criticized for setting “no” as a default response to the checkoff question.⁶² All four 110th Congress bills that would retain public financing would require the Secretary of the Treasury to issue regulations requiring that tax-preparation software not automatically accept or decline public financing designations. It is unclear what effects this requirement could have on the checkoff rate, although voluntary changes in the past appear to have had little effect.

In November 2005, H&R Block and Intuit, major vendors of tax-preparation software, reportedly agreed to requests from then-FEC commissioners Michael Toner and Scott Thomas and the Campaign Finance Institute to revise some software to not automatically select “yes” or “no” options in response to checkoff question, and to revise instructions to more accurately reflect IRS descriptions of the program.⁶³

IRS data do not clearly address the effects of those changes, but the changes appear to have had little, if any, effect on the overall checkoff rate. As **Table 1** and **Figure 2** above show, the checkoff rate fell slightly in 2005 compared with 2004 (from 9.2% to 9.1% respectively), but rose to 10.9% in 2006. It is possible that the increase between 2005 and 2006 was a result of the software changes, but it is impossible to know for certain with currently available data. IRS data do not isolate returns filed with particular commercial software, nor do they contain information about taxpayer knowledge or intent with respect to commercial software.

Analysis of Policy Options for Curtailing or Eliminating Public Financing

For those who are either philosophically opposed to public financing or who view the system as unnecessary, curtailing or repealing public financing could be desirable. In the 110th Congress, two bills would do so. H.R. 72 would repeal public financing for nominating conventions. H.R. 484 would repeal public financing entirely.⁶⁴ Whether Congress chose to pursue those approaches or others, repealing or curtailing public financing could be a straightforward matter of time-

⁶² For additional discussion, see Campaign Finance Institute, “Leading Tax Software Firms Alter Their Presidential Fund Check Off Questions to Promote Fair, Informed Choices,” press release, November 10, 2005, at <http://www.cfinst.org/pr/prRelease.aspx?ReleaseID=6>.

⁶³ Ibid.

⁶⁴ See section 5 of H.R. 484; the rest of the bill would repeal various other campaign finance regulations. Also, as noted previously, amendments to the FY2008 FSGG bill proposed by Representative Neugebauer, which could have curtailed the program, would have been permitted. However, there is no record that they were offered on the floor.

limiting or striking the relevant sections of law, as opposed to considering various options and amending relevant law to change the program.

The preceding section on reconsidering funding priorities explains that repealing convention funding could preserve remaining amounts for primary matching funds and general-election grants. This option could also provide a financial boost to the PECF overall without allocating additional funds to the program. In 2008, convention grants account for approximately \$33.6 million of the PECF's obligations. That same amount, if not obligated for conventions, could reduce the threat of shortfalls for matching funds or, if necessary in the future, general-election grants. On the other hand, those concerned about the role of private funds in convention financing could object to repealing public funds.

H.R. 484 would terminate the PECF entirely and return the remaining balance to the Treasury. For those who object to public financing, repealing the program could provide tens of millions of dollars annually for other purposes. (As of 2006, almost \$1.5 billion had been designated for the PECF, as shown in **Table 1**.) Repealing the program would also remove taxpayer funding from presidential elections, a role that some lawmakers and others believe private contributions should fulfill. On the other hand, repealing public financing completely would leave presidential candidates entirely beholden either to self-financing or to private contributions. Even strong candidates may have difficulty raising enough funds to be competitive or may be uncomfortable with the notion that their candidacies are beholden to donors.

For those who believe that candidates should be able to financially support their own campaigns or garner private contributions to do so, ending public financing would likely be acceptable. However, for those who believe that private contributions or personal wealth should not automatically include or exclude otherwise qualified presidential candidates, public financing remains an important resource. In addition, if public financing and its required spending limits were no longer options, the pace of private campaign fundraising, and unlimited spending, are likely to increase, as candidates are constantly on guard for the next election and potentially high-spending opponents.

Concluding Comments

Warnings about the public financing system's demise are not unique to the 2008 election cycle. Even at its peak, the taxpayer-participation rate has never exceeded 29%. Although fund balances were sufficient to meet candidate needs throughout the late-1970s and 1980s, by the early 1990s the system began to show signs of strain. Tripling the checkoff amount in 1993 provided a significant financial boost, although checkoff designations have generally continued to decline. Even with the larger checkoff amount, shortfalls have occurred at least briefly during the primary matching-funds phase of the program since the 1996 election cycle. Overall, almost from the beginning, the program has faced obstacles, even as most presidential candidates have participated in public financing.

The 2008 campaign cycle has, however, shown evidence of unique challenges to the system. Although several candidates chose to participate in public financing during the primaries, those candidates who continued to actively pursue their parties' nominations into the spring and summer of 2008 chose to opt out of primary public financing. Some candidates have, in just a few months (or less), raised more through private contributions than the entire primary spending limit for publicly financed candidates. In June 2008, Senator Obama, the presumptive Democratic

nominee, announced that he would not participate in public financing during the general election. As noted previously, media reports suggest that Senator McCain will accept public funds for the general election.

In addition, throughout the cycle, candidates from both major parties have raised record amounts through private fundraising. Between January 2007 and April 2008, presidential candidates reportedly raised almost \$1 billion.⁶⁵ Historically, the public financing program provided access (or at least faster access) to more money than all but wealthy, self-financed candidates could raise privately. That proposition now appears questionable, at least for some candidates.

Some major candidates could still choose to participate in public financing, but the threat of major candidates *not* participating is likely to make the current program less viable in the future, as candidates will potentially feel increasingly compelled to forgo the system to be competitive. The current system also does not provide additional resources to counter spending from outside groups, such as PACs and 527 organizations. For some observers, these challenges and a possible resurgence in small donors suggest that public financing is unnecessary and should either be allowed to fade away or should be repealed outright. Others, however, contend that the program has provided vital assistance to high-quality candidates who are nonetheless unable to raise large sums of private contributions, or who choose not to do so.

The four bills introduced in the 110th Congress that would maintain the program concentrate on increasing benefits to, and spending limits for, participating candidates. These measures are likely to make the program more attractive to potential participants. They will certainly provide more financial resources than are currently available to publicly financed candidates. However, in the absence of a constitutional amendment granting Congress the power to cap campaign spending or require participation in public financing, even the most ambitious reforms cannot guarantee that participants will not be outspent by non-participating opponents or outside interests.

Any policy choice that maintains the public financing system with expanded benefits is likely to be expensive. On the other hand, proponents argue that the increased cost is a worthy investment in presidential campaigns. The Congressional Budget Office (CBO) has not issued cost estimates for the four 110th Congress bills that would maintain the system, although Senator Feingold has stated that “[t]he total cost of the changes to the system, based on data from the 2004 elections, is projected to be around \$365 million over the four-year election cycle.”⁶⁶ In the Senate bills, some of those expenses would be covered by proposed offsets to certain federal programs. Additional checkoff designations could also offset additional costs. Precise costs would depend on funding sources, program elements, and candidate participation.

⁶⁵ Campaign Finance Institute, “Presidential Candidates Fundraising Activity January 1, 2007 through April 30, 2008,” at http://www.cfinst.org/president/pdf/Pres08_M5_Table2.pdf.

⁶⁶ Senator Russell Feingold, remarks in the Senate, *Congressional Record*, daily edition, vol. 153 (December 5, 2007), p. S14791.

If Congress chooses to maintain presidential public financing, it could be useful to consider what goals that system should pursue and how. The existing model of the checkoff designations appears to be either poorly understood by the taxpayers, unpopular with the taxpayers, or both. If that model is to be maintained, a commitment to educational outreach, and perhaps basic research about public opinion of, and knowledge about, presidential public financing could be useful. Perhaps more fundamentally, if Congress chooses to reform the program, doing so will require consensus among lawmakers about one of the most complex and contentious areas of campaign finance policy.

Appendix. Major Provisions of Bills Proposing to Maintain the Presidential Public Financing Program, 110th Congress

Table A-1. Major Provisions of Bills Proposing to Maintain the Presidential Public Financing Program, 110th Congress

Status Quo	H.R. 776 (Meehan-Shays)	S. 436 (Feingold)	H.R. 4294 (Price, NC)	S. 2412 (Feingold)	
Short title					
—	“Presidential Funding Act of 2007” [Sec. 1]	Same as H.R. 776 [Sec. 1]	Same as H.R. 776, S. 436 [Sec. 1]	Same as H.R. 776, S. 436, H.R. 4294 [Sec. 1]	
Date introduced					
—	01/31/2007	01/30/2007	12/05/2007	12/05/2007	
Committee referral					
—	House Administration; Ways and Means [Sec. 1]	Finance [Sec. 1]	House Administration; Ways and Means [Sec. 1]	Finance [Sec. 1]	
PRIMARY ELECTIONS PROVISIONS					
Summary of funding available to participating candidates during primaries (major-party candidates)					
Funding based on government match of private contributions; benefit not pre-determined, but maximum spending limit (federal and private funds) is approximately \$56 million in 2008 (including exemptions for fundraising, accounting, and legal costs above a \$42 million base limit) [see details below]	Funding based on government match of private contributions, total spending permitted would be \$150 million, as adjusted for inflation; additional payments for excessive spending by non-participating opponents; fundraising costs would be included in base spending limit [see details below]	Same as H.R. 776 [see details below]		Same as H.R. 776, S. 436 [see details below]	Same as H.R. 776, S. 436, H.R. 4294 [see details below]
Amounts and percentages determining matching funds during primaries					
Matches for individual contributions up to \$250 at a rate of 100% [26 U.S.C. § 9034(a)]	Presidential Primary Matching Payment Account would match contributions up to \$200 at a rate of 400% of the contribution for those received <i>before</i> March 31 of the election year; for candidates still in the race <i>after</i> March 31, contributions received before and after March 31 would receive an additional 100% match (for a total match of 500%) [Sec. 2]	Same as H.R. 776 [Sec. 2]		Same as H.R. 776, S. 436 [Sec. 2]	Same as H.R. 776, S. 436, H.R. 4294 [Sec. 2]

Status Quo	H.R. 776 (Meehan-Shays)	S. 436 (Feingold)	H.R. 4294 (Price, NC)	S. 2412 (Feingold)
Primary expenditure limits				
<p>Limited to the \$10 million plus state-by-state limits; both limits are adjusted annually with inflation</p> <p>[2 U.S.C. §§ 441a(b)(1); 441a(c)]</p> <p>2008 base limit is approximately \$42 million; additional amounts of approximately \$8 million and \$6 million are permitted to offset fundraising and legal/accounting costs, respectively</p>	<p>Would limit primary spending to \$100 million before April 1 of an election year (with future inflation adjustments);</p> <p>Would limit total primary spending to \$150 million (with future inflation adjustments);</p> <p>Would repeal state-by-state limits [Sec. 4]</p>	<p>Same as H.R. 776 [Sec. 4]</p>	<p>Same as H.R. 776, S. 436 [Sec. 4]</p>	<p>Same as H.R. 776, S. 436, H.R. 4294 [Sec. 4]</p>
Availability of “escape hatch” (“rescue funds”) in primaries				
—	<p>Participants facing non-participating opponents who raise or spend more than 120% of various participant spending thresholds (see below) would receive additional funds equal to the amount of each contribution (up to \$200) received by the non-participant; additional matching payments would be based on contributions received by non-participant six months before the first primary in any state [Sec. 5]</p>	<p>Substantially similar to H.R. 776; additional matching payments would be based on contributions received by non-participant during the calendar year preceding the election year [Sec. 5]</p>	<p>Substantially similar to S. 436; same as H.R. 776 [Sec. 5]</p>	<p>Substantially similar to H.R. 776, H.R. 4294; same as S. 436 [Sec. 5]</p>
Trigger for eligibility for “escape hatch” payments in primaries				
—	<p>If a non-participating primary opponent receives contributions in the amount of, or spends more than, 120% of:</p> <p>\$100 million pre-April 1 limit (120% = \$120 million); or</p> <p>\$150 million limit for the entire primary period (120% = \$180 million);</p> <p>\$200 million in initial escape-hatch installment of \$50 million plus \$150 million base (120% = \$240 million);</p> <p>Additional FEC reporting required when escape hatch is triggered [Sec. 5]</p>	<p>Same as H.R. 776 [Sec. 5]</p>	<p>Same as H.R. 776, S. 436 [Sec. 5]</p>	<p>Same as H.R. 776, S. 436, H.R. 4294 [Sec. 5]</p>

Status Quo	H.R. 776 (Meehan-Shays)	S. 436 (Feingold)	H.R. 4294 (Price, NC)	S. 2412 (Feingold)	
Increased spending limits for “escape hatch” in primaries					
—	Additional \$50 million for exceeding either pre-April 1 limit of \$100 million or \$150 million total primary limit (total permissible spending in latter case = \$200 million); Additional \$50 million above escape-hatch installment if opponent fundraising or spending exceeds 120% of \$200 million during primary (120% = \$240 million by <i>opponent</i> ; total <i>participant</i> spending limit = \$250 million) [Sec. 5]		Same as H.R. 776 [Sec. 5]	Same as H.R. 776, S. 436 [Sec. 5]	Same as H.R. 776, S. 436, H.R. 4294 [Sec. 5]
Revised state-level fundraising threshold for primary-funding eligibility					
Candidates must raise at least \$5,000 in amounts of \$250 or less from residents of at least 20 states [26 U.S.C. §§ 9033(b)(3); 9033(b)(4)]	Candidates must raise at least \$25,000 in amounts of \$200 or less from residents of at least 20 states [Sec. 2]		Same as H.R. 776 [Sec. 2]	Same as H.R. 776, S. 436 [Sec. 2]	Same as H.R. 776, S. 436, H.R. 4294 [Sec. 2]
Matching-fund time period					
Begins at the start of the general-election calendar year [26 U.S.C. § 9032(6)]	Would begin six months before the first primary is held in any state during the general-election year [Sec. 2]		Same as H.R. 776 [Sec. 2]	Same as H.R. 776, S. 436 [Sec. 2]	Same as H.R. 776, S. 436, H.R. 4294 [Sec. 2]
Connection between participation in public financing in the primary and general elections					
Candidates may choose to participate in public financing during the primary, general, both, or neither	Would require candidates who receive primary matching funds to accept public financing in the general election; Candidates must have received public funds in the primary to receive public funds in the general [Secs. 2-3]		Same as H.R. 776 [Secs. 2-3]	Same as H.R. 776, S. 436 [Secs. 2-3]	Same as H.R. 776, S. 436, H.R. 4294 [Secs. 2-3]
GENERAL ELECTIONS PROVISIONS					
Summary of funding available to participating candidates during general elections (major-party candidates)					
Grants to each party’s nominee; 2008 amount is approximately \$84.1 million	Base grant would be \$100 million, indexed for inflation; additional \$100 million could be provided depending on opponent spending [Sec. 4]		Same as H.R. 776 [Sec. 4]	Same as H.R. 776, S. 436 [Sec. 4]	Same as H.R. 776, S. 436, H.R. 4294 [Sec. 4]

Status Quo	H.R. 776 (Meehan-Shays)	S. 436 (Feingold)	H.R. 4294 (Price, NC)	S. 2412 (Feingold)	
Revised general-election expenditure limits					
Limited to \$20 million, as adjusted for inflation; [2 U.S.C. §§ 441a(b)(1); 441a(c)] 2008 limit is approximately \$84.1 million	Would limit participants' general-election spending to \$100 million (with future inflation adjustments); other spending would be permitted in response to certain opponent spending or fundraising (see below) [Sec. 4]	Same as H.R. 776 [Sec. 4]		Same as H.R. 776, S. 436 [Sec. 4]	Same as H.R. 776, S. 436, H.R. 4294 [Sec. 4]
Availability of "escape hatch" in general elections					
—	Participants facing non-participating opponents would receive additional funds equal to 100% of the general-election expenditure limitation (\$100 million; total general-election spending could be \$200 million); separate provision is specified for minor-party candidates [Sec. 5]	Same as H.R. 776 [Sec. 5]		Same as H.R. 776, S. 436 [Sec. 5]	Same as H.R. 776, S. 436, H.R. 4294 [Sec. 5]
Trigger for eligibility for "escape hatch" payments in general elections					
—	If a non-opponent receives contributions in the amount of, or spends more than, 120% of the combined primary and general spending limits (\$150 million and \$100 million respectively; 120% of the \$250 million aggregate limit = \$300 million); Excessive fundraising or spending by nonparticipants would have to be reported to the FEC within 24 hours [Sec. 5]	Same as H.R. 776 [Sec. 5]		Same as H.R. 776, S. 436 [Sec. 5]	Same as H.R. 776, S. 436, H.R. 4294 [Sec. 5]
Increased spending limits for "escape hatch" in general elections					
—	Spending limits would be increased commensurate with additional public funds received by participating candidate [Sec. 5]	Same as H.R. 776 [Sec. 5]		Same as H.R. 776, S. 436 [Sec. 5]	Same as H.R. 776, S. 436, H.R. 4294 [Sec. 5]
Release date for general-election funding					
No more than 10 days after a candidate receives party nomination and meets other eligibility criteria [26 U.S.C. §§ 9005; 9006]	The Friday before Labor Day of the election year, regardless of when the candidate received the party's nomination [Sec. 6]	Same as H.R. 776 [Sec. 6]		Same as H.R. 776, S. 436 [Sec. 6]	Same as H.R. 776, S. 436, H.R. 4294 [Sec. 5]

Status Quo	H.R. 776 (Meehan-Shays)	S. 436 (Feingold)	H.R. 4294 (Price, NC)	S. 2412 (Feingold)
COORDINATED PARTY EXPENDITURE LIMITS				
Set by formula based on voting-age-population (VAP); adjusted for inflation [2 U.S.C. §§ 441 a(d)(2); 441 a(c)] 2008 limit is approximately \$19.2 million in 2008	Would increase coordinated party expenditure limit to \$25 million on behalf of candidates between April 1 of election year and candidate receipt of nomination; additional \$25 million in coordinated party spending permitted after candidate receives nomination (with future inflation adjustments) [Sec. 4]	Same as H.R. 776 [Sec. 4]	Same as H.R. 776, S. 436 [Sec. 4]	Same as H.R. 776, S. 436, H.R. 4294 [Sec. 4]
Additional coordinated party spending permitted for those facing high-spending opponents (“escape hatch”)				
—	Would lift coordinated party expenditure limit entirely between April 1 of election year (or date on which escape hatch is triggered) and time of nomination (or until opponent withdraws) if nonparticipating primary opponent receives contributions in the amount of, or spends more than, 120% of the \$150 million overall primary spending limit (120% = \$180 million) [Sec. 4]	Same as H.R. 776 [Sec. 4]	Same as H.R. 776, S. 436 [Sec. 4]	Same as H.R. 776, S. 436, H.R. 4294 [Sec. 4]
TAX “CHECKOFF” PROVISIONS				
Amount on federal tax returns				
\$3 for individuals; \$6 for married couples filing jointly; amounts <i>not</i> indexed for inflation [26 U.S.C. § 6096(a)]	\$10 for individuals; \$20 for married couples filing jointly; future indexing for inflation [Sec. 7]	Same as H.R. 776 [Sec. 7]	Same as H.R. 776, S. 436 [Sec. 7]	Same as H.R. 776, S. 436, H.R. 4294 [Sec. 7]
Automatic checkoff responses in tax-preparation software				
—	Would require Treasury Secretary to promulgate regulations to ensure that software does not automatically accept or decline public-financing designations [Sec. 7]	Same as H.R. 776 [Sec. 7]	Same as H.R. 776, S. 436 [Sec. 7]	Same as H.R. 776, S. 436, H.R. 4294 [Sec. 7]
MISCELLANEOUS PROVISIONS				
Insufficient funds to cover public financing obligations				
Available funds are prorated on a roughly equal basis, as determined	Would permit Treasury Secretary, in determining	Same as H.R. 776 [Sec. 8]	Same as H.R. 776, S. 436 [Sec. 8]	Same as H.R. 776,

Status Quo	H.R. 776 (Meehan-Shays)	S. 436 (Feingold)	H.R. 4294 (Price, NC)	S. 2412 (Feingold)
by the Treasury Secretary; Other public money may not be diverted to the fund to cover shortfalls [26 U.S.C. § 9006(c)]	whether a shortfall exists, to estimate deposits that will be made during the election year; Would authorize appropriations for the fund during the first presidential election held after the act takes effect; the public financing fund would have to repay appropriated amounts, plus interest, to the Treasury's general fund [Sec. 8]			S. 436, H.R. 4294 [Sec. 8]
Provisions related to convention financing				
"Soft money" fundraising permitted in certain circumstances	Would prohibit federal candidates or their "agents" from raising or spending soft money on conventions; spending from government sources is permissible [Sec. 9]	Would prohibit federal candidates or their "agents" from raising or spending soft money on conventions; spending from government sources not mentioned [Sec. 10]	Substantially similar to S. 436; certain fundraising exceptions for Members, Senators, Delegate, or Resident Commissioner from the home state [or territory] in which the convention is held [Sec. 9]	Same as S. 436 [Sec. 9]
Convention financing receives priority over primary and general funding [26 U.S.C. § 9008(a)]	—	Would repeal prioritization of convention funding [Sec. 9]	—	Same as S. 436 [Sec. 11]
Bundling disclosure				
Campaign committees must report to the FEC the name, address, occupation and employer of those making two or more bundled contributions aggregating at least \$15,000 (with future indexing) during a six-month period [2 U.S.C. § 434(l)]	Would amend FECA to require presidential campaign committees to report to the FEC the name, address, occupation and employer of those making at least \$10,000 in bundled contributions, and aggregate amounts of bundled contributions made by those donors [Sec. 10]	Same as H.R. 776 [Sec. 11]	Would amend FECA and HLOGA ^{aa} to require political committees, including presidential committees, to report to the FEC the name, address, occupation and employer of those making two or more bundled contributions aggregating at least \$15,000 [\$50,000 for authorized presidential committees] (with future indexing) during specified six-month periods; reporting would have to specify bundled contributions for the reporting period and an aggregate amount for the entire four-year campaign cycle; contributions from spouses excluded [Sec. 10]	Same as H.R. 4294 [Sec. 10]
Treatment of fundraising costs as expenditures				
Exempts certain fundraising costs from the definition of campaign	Would repeal the exemption for presidential	Same as H.R. 776	Same as H.R. 776, S. 436 [Sec. 4]	Same as H.R. 776, S.

Status Quo	H.R. 776 (Meehan-Shays)	S. 436 (Feingold)	H.R. 4294 (Price, NC)	S. 2412 (Feingold)
“expenditures” [2 U.S.C. § 431 (9)(B)(vi)]	campaigns [Sec. 4]		[Sec. 4]	436, H.R. 4294 [Sec. 4]
Public education regarding public-financing program				
—	Would direct the FEC to conduct a public education program about public financing; permits the FEC to spend up to \$10 million from the public financing fund on public education during a four-year presidential election cycle [Sec. 7]		Same as H.R. 776 [Sec. 7]	Same as H.R. 776, S. 436 [Sec. 7]
Effective date				
—	Elections occurring after January 1, 2009 [Sec. 11]		Same as H.R. 776 [Sec. 13]	Same as H.R. 776, S. 436 [Sec. 11]
Offset				
—	—	Would cap taxpayer subsidies for promotion of agricultural products by \$100 million to offset additional public campaign financing costs [Sec. 12]	—	Would permit various fees or royalties related to oil, mining, gas, or grazing permits or claims [Sec. 12]

Source: CRS analysis of bill texts provided via the Legislative Information System (LIS).

- a. “HLOGA” refers to the Honest Leadership and Open Government Act of 2007; P.L. 110-81; 121 Stat. 735.

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