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The Presidential Election Campaign Fund and Tax Checkoff: Background and Current Issues

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The Presidential Election Campaign Fund and Tax Checkoff: Background and Current Issues

Summary

Since 1976, presidential elections have been financed to some extent through public funds, availability of which is determined by a voluntary tax checkoff. Through July 2005, $1.432 billion has been "checked off," and candidates and parties have received $1.332 billion in this manner. After nearly three decades, presidential election public funding is by no means a universally supported program, as reflected in declining taxpayer checkoffs and periodic calls for the program's abolition. Concerns that structural problems have greatly eroded the system's value have led to recent calls for major amendments to bolster it. Such concerns and continued controversies suggest that the future of presidential public funding is not assured and that Congress may revisit the issue.

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Since 1976, presidential elections have been financed to some extent through public funds, availability of which is determined by a voluntary tax checkoff. Candidates who meet eligibility requirements and agree to voluntary limits on campaign expenditures qualify for matching funds in the primaries. Major party candidates qualify for full subsidies equal to the spending limit in the general election (other candidates may also qualify for funds). Also, political parties may receive funding for their nominating conventions.

Evolution of Current Law

Public funding of presidential elections was first proposed by Representative William Cockran in 1904 and subsequently by President Theodore Roosevelt in 1907, to curb corruption by reducing or eliminating the role of private money in elections. The idea did not generate substantial support until 1956, when bills began regularly to be introduced. The effort culminated in the Presidential Election Campaign Fund Act of 1966 (80 Stat. 1587), authorizing voluntary dollar checkoffs on income tax returns to fund subsidies to the parties for presidential general elections. In 1967, however, 81 Stat. 57 terminated the Fund before it took effect.

The idea reappeared as a floor amendment by Senator John Pastore during Senate consideration of the 1971 Revenue Act. It survived four days of floor debate, strong Republican opposition, and President Nixon's threatened veto (which was avoided by delaying implementation until the 1976 elections). The Revenue Act of 1971 (85 Stat. 573) established today's Presidential Election Campaign Fund (the Fund) — a separate account in the U.S. Treasury to fund general election campaigns of presidential candidates who met the qualifying conditions and who agreed to abide by the national spending limit. Payments were to be made directly to candidates (unlike the 1966 Act), with full grants equal to the spending limit for major party candidates, limited grants to minor party candidates based on prior electoral strength, and post-election payments to new party candidates based on votes in that election. The act set up a voluntary dollar checkoff on federal tax returns ($2 on joint returns), beginning with the 1972 tax year.

The Federal Election Campaign Act (FECA) of 1971 (86 Stat. 3) placed a $50,000 limit on presidential candidate (and family) contributions to his or her own campaign, later imposed as a condition for receiving public funds. Before the general election system took effect, the 1974 FECA Amendments (88 Stat. 1263) extended public funding to primaries and nominating conventions. Arguably a response to

Watergate, that statute made the most sweeping changes ever in federal campaign law. Among its features were the following:

- provided for Fund payments to finance presidential nominating conventions, fully for major parties (i.e., equal to the spending limit of $2 million plus cost-of-living-allowance, or COLA, which in 2004 amounted to $14.9 million) and a lesser amount for minor parties;

- created the Presidential Primary Matching Payment Account in the Fund to defray pre-nomination costs, by matching small donations ($250 or less) by individuals to candidates. Candidates would qualify by raising $100,000 from small individual donations, with at least $5,000 in each of 20 states, and by agreeing to a national primary spending limit ($10 million, plus COLA, which in 2004 came to $37.3 million) and state-by-state limits (the greater of 16¢ times the state's voting age population, or $200,000, plus COLA);

- set the general election spending limit at $20 million, plus COLA (equal to $74.6 million in 2004), and made transfers into the Fund automatic, without requiring congressional appropriations; and

- established the Federal Election Commission (FEC) and charged it with certifying eligibility of candidates, authorizing payments, and conducting audits.

A legal challenge led to the Supreme Court's landmark ruling in *Buckley v. Valeo* [424 U.S. 1 (1976)], upholding public financing and spending limits as a *voluntary* system of benefits and conditions but overturning mandatory limits.

The current presidential system [26 U.S.C.§9001-13, 9031-42] is essentially as it was created by the 1971 and 1974 laws.[1] Under 107 Stat. 312, the checkoff was tripled in value to $3 ($6 on a joint return), prompted by a prospective 1996 Fund shortfall. The law requires pro-rated payment reductions in case of a shortfall, which occurred for the first and only time in the 2000 primaries. Under those circumstances, the FEC paid out only a percentage of matching funds due, until the Fund was replenished by 1999 tax revenues, thus providing candidates with retroactive payments (general election and convention subsidies were not affected).

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[1] Changes include increasing the checkoff's prominence on tax forms and disallowing party designations [87 Stat. 130, 1973]; ending matching funds if candidates get less than 10% of the vote in two successive primaries (restoring it if they get at least 20% in a later primary) [90 Stat. 475, 1976 FECA Amendments]; raising the convention subsidy base to $3 million + COLA [93 Stat. 1339, 1979 FECA Amendments] and to $4 million + COLA [98 Stat. 394, 1984].

The Tax Checkoff

The checkoff that funds the system first appeared on 1972 tax returns, allowing a designation of $1 ($2 on joint returns) to the Presidential Election Campaign Fund; those amounts were later tripled as of the 1993 returns. Through July 2005, $1.432 billion has been "checked off." While the concept of a $1 checkoff was to build presidential campaign financing on a mass base of small donors, the extent of taxpayer participation has likely proved disappointing to proponents. Whether for lack of support, or misunderstanding that checkoffs do not increase one's tax bill, participation rates have been low and generally declining — from a high of 28.7% on 1980 returns to a low of 9.2% on 2004 returns. The remainder of taxpayers have checked "no" or left the box blank, which has a "no" effect.

Table 1 provides data on the tax checkoff which funds the presidential public funding system.

Table 1. Financial Status of Tax Checkoff and the Presidential Election Campaign Fund: 1973-2005

(dollar amounts in millions)

	Tax checkoff designations		Presidential Election Campaign	
Year [a]	**Amount**	**% of returns [b]**	**Disbursements**	**Balance [c]**
1973	$2.4	—	$0.000	$2.4
1974	27.6	—	0.000	27.6
1975	31.7	—	2.591	59.6
1976	33.7	—	69.468	23.8
1977	36.6	27.5%	.521	60.9
1978	39.2	28.6%	.006	100.3
1979	35.9	25.4%	1.050	135.2
1980	38.8	27.4%	101.427	73.8
1981	41.0	28.7%	.630	114.4
1982	39.0	27.0%	.001	153.5
1983	35.6	24.2%	11.786	177.3
1984	35.0	23.7%	120.150	92.7
1985	34.7	23.0%	1.618	125.9
1986	35.8	23.0%	.006	161.7
1987	33.7	21.7%	17.784	177.9
1988	33.0	21.0%	158.561	52.5
1989	32.3	20.1%	1.843	82.9
1990	32.5	19.8%	.002	115.4
1991	32.3	19.5%	21.200	127.1
1992	29.6	17.7%	153.191	4.1
1993	27.6	18.9%	1.048	30.8
1994	71.3	14.5%	.568	101.7
1995	67.9	13.0%	24.541	146.9
1996	66.9	12.9%	210.395	3.7
1997	66.3	12.6%	1.325	69.9
1998	63.3	12.5%	0.000	133.2
1999	61.1	11.8%	28.9	165.5
2000	60.7	11.5%	210.0	16.2
2001	59.3	11.0%	.610	75.0
2002	62.0	11.3%	000.0	137.0
2003	59.4	10.1%	29.2	167.3
2004	55.7	9.2%	178.0	45.0
2005	50.2	N.A.	000.3	94.8

Source: Department of the Treasury and Internal Revenue Service data, as compiled by the FEC in a 2005 data sheet.

a. Calendar year when funds were received or paid out; checkoff data, however, correspond to the tax year, and are not calculated until the processing of returns in following calendar year.

b. % of returns designating $1 or $2 (later $3 or $6), reflecting returns for that tax year but processed in next calendar year.

c. Year-end balances not easily reconciled with other data, due to repayments after audits.

The Campaign Fund in Operation

In eight elections, from 1976 to 2004, $1.332 billion was distributed: $342.2 million to 92 primary candidates, $151.9 million for 16 major party and one minor party nominating conventions, and $838.3 million to 16 major party nominees and three independents or minor party candidates in general elections. Of the total, $646.2 million went to Democrats (54 primary candidates, eight general election tickets, and eight party conventions); $627.3 million to Republicans (29 primary candidates, eight general election tickets, and eight party conventions); and $59.0 million to minor party/independent candidates and parties (nine in primaries, three in general elections, and one nominating convention).

While the rate of taxpayer acceptance has been low, candidate acceptance has generally been high, at least up until the 2000 elections. Of some 82 presidential candidates generally considered as "serious" (based on media standards, name recognition, etc.) from 1976 to 2004, only eight — John Connally (1980), Ross Perot (1992), Steve Forbes (1996), Forbes and George W. Bush (2000), and Howard Dean, John Kerry, and Bush (2004) — did not participate in the primary matching fund system.[2] All major party nominees have accepted the public funding in the general election, however, including those who did not opt for matching funds in the primaries (Bush in 2000 and Bush and Kerry in 2004).

Those who have participated have done so because of the obvious advantages in easier access to funds and, in a larger sense, a general acceptance of the public funding system in the political community and the media. Many of these participating candidates, in fact, were philosophically opposed to public financing of elections and checked "no" on their own tax forms. The non-participants, however, had adequate access to campaign money and were unwilling to abide by the act's concomitant spending limits, generally for fear that doing so might prove to be an electoral disadvantage to them.

Table 2 provides data on the amounts of money paid out from the Presidential Election Campaign Fund from the 1976 to the 2004 elections.

[2] The label "serious" (i.e., having a reasonable chance to win) is generally a media-driven standard, applied to major party candidates who have been in some way in the public eye, or to those whose name recognition or financial resources bestows electoral credibility.

Table 2. Public Subsidies in Presidential Elections: 1976-2004

(dollar amounts in millions; totals may not add up due to rounding)

	Democrat		Republican		Other		Total	
1976								
Primary (no.)	$14.7	(13)	$9.0	(2)	—		$23.7	(15)
Conventions	2.0		1.6				3.6	
General	21.8		21.8				43.6	
Total	38.5		32.4				**$70.9**	
1980								
Primary (no.)	$10.5	(4)	$19.1	(6)	—		$29.6	(10)
Conventions	3.7		4.4		—		8.1	
General	29.4		29.2		$4.2 (NU)	(1)	62.8	
Total	43.6		52.7		$4.2		**$100.5**	
1984								
Primary (no.)	$25.7	(9)	$9.7	(1)	$.2 (C)	(1)	$35.6	(11)
Conventions	8.1		7.8		—		15.9	
General	40.2		40.1		—		80.3	
Total	74.0		57.6		$.2		**$131.8**	
1988								
Primary (no.)	$30.4	(8)	$35.0	(6)	$.9 (NA)	(1)	$66.3	(15)
Conventions	9.2		9.2		—		18.4	
General	45.8		46.0		—		91.8	
Total	85.4		90.2		$.9		**$176.5**	
1992								
Primary (no.)	$23.3	(8)	$15.5	(2)	$2.0(NA) .4 (NL)	(2)	$41.2	(12)
Conventions	11.0		11.0		—		22.1	
General	55.1		55.0		—		110.1	
Total	89.4		81.5		2.4		**$173.3**	
1996								
Primary (no.)	$13.9	(2)	$42.4	(8)	$.5 (NL)	(1)	$56.7	(11)
Conventions	12.2		12.4		—		24.5	
General	61.8		61.8		29.1 (Ref.)		152.7	
Total	87.9		116.6		29.6		**$234.0**	
2000								
Primary (no.)	$29.3	(3)	$25.7	(4)	$.7 (NL) .7 (G) 4.3 (Ref.)	(3)	$60.7	(10)
Conventions	13.5		13.5		2.5 (Ref.)		29.5	
General	67.6		67.6		12.6 (Ref.)		147.8	
Total	110.4		106.8		20.8		**$238.0**	
2004								
Primary (no.)	$27.5	(7)	—		$.9 (I)	(1)	$28.4	(8)
Conventions	14.9		$14.9		—		29.8	
General	74.6		74.6		—		149.2	
Total	117.0		89.5		.9		**$207.4**	

Source: FEC, Report on the Presidential Public Funding Program, 1993, pp. 139-143; updated FEC data.

no.: number of candidates.

Party Key: D-Democratic, R-Republican, NU-National Unity, C-Citizens, NA-National Alliance, NL-National Law, Ref-Reform Party, I - Independent.

Evaluating the Merits of the System

After nearly three decades, presidential election public funding is by no means a universally supported program, as reflected in declining taxpayer checkoffs, attempts in the 102nd and 104th Congresses to end the system, and decisions by major candidates to forgo public funding in the 2000 and 2004 elections. While supporters say that the system has curbed campaign spending and reliance on private resources, opponents point to the large amounts of private funds spent in unregulated ways, thus undermining the spending limits — a prime reason for giving public funds.

Underlying most evaluations are sharply opposing views of public funding, a schism little changed from the start. Supporters see it as a democratic, egalitarian system, offering the best chance to reduce the corrosive effects of money on the political process and renew public confidence in it. Opponents see it as a waste of tax money, which artificially skews the results and forces taxpayers to fund candidates whom they oppose.

Assessments of public funding are also linked with those of the accompanying expenditure limits, in light of the 1976 *Buckley* ruling that only *voluntary* limits are permissible (such as those agreed to in conjunction with receipt of public benefits). While there are distinct reasons to favor public funding per se, perhaps its greatest appeal has become its inducement to candidate acceptance of spending limits. (Opinion surveys invariably register strong support for limits, but generally show only modest support for public funding.)

While candidate-controlled spending (subject to limits) has been suppressed from pre-1976 levels, other forms of spending to benefit candidates have emerged which have increasingly served to circumvent the limits. Even in the "fully-funded" general election, additional spending by parties and groups has undermined the intent of overall limits (most notably through party soft money, issue advocacy messages, and activities by groups operating under Section 527 of the Internal Revenue Code). Critics view this as an inherent obstacle to efforts to limit spending; supporters see it as a problem that can and should be corrected to protect the integrity of the system.

Few would argue that the system has freed candidates from dependence on private money, but to the extent that large amounts of public funds have been available, money's perceived influence may have declined. Moreover, what many see as the burden and distraction of fundraising has been lessened, particularly for major party nominees. It is also true, however, that soft money has allowed the wealthy again to make very large donations, through the parties up until 2002 and most recently through 527 organizations, raising comparable issues to those raised by the former system.

While it is undeniable that the system forces taxpayers in effect to fund candidates they may find repugnant, the prediction that public funding would spur fringe candidacies has largely not been realized. Counting Lyndon LaRouche (who ran as a Democrat from 1980 to 2004) and 11 minor party candidates who qualified for funding as "fringe" candidates, and adding the $12.6 million in subsidies paid to the Reform Party for its 2000 convention, the $64.2 million they received is only 4.8% of all public funding since 1976.

Public funding supporters argue that it has helped unknown candidates rise through the ranks, even to the point of nomination and election. In three of the six elections from 1976 to 2004 in which an incumbent was seeking reelection, a challenger (historically underfunded) has defeated an incumbent President.

In terms of the relative support and acceptance of public funding, the reviews are decidedly mixed. Support has been strong among candidates (at least until 2000), the political community, the media, citizens' groups, and various outside panels studying the political process. But mass public acceptance has not developed. Low checkoff rates mirror the fairly consistent opposition in opinion polls to public financing per se, although support generally rises when the question is posed as public funding *with* limits on spending and interest groups.

Public funding opponents note that it has not stemmed the decline in confidence in the political system registered in opinion polls of the past 30 years. Supporters say that such data argue for further reforms in the system, and even its extension to congressional races. They also insist that one must consider how much worse the presidential system might be today were it not for public funding (especially given the limits on contributions without mandatory spending limits). Critics do not disagree that presidential elections are cleaner today than before 1976, but insist that FECA's disclosure provisions and funding source limits are far more important factors than public funding.

Recent Developments. In the past two years, concerns about the efficacy of the presidential public finance system have led a number of observers who generally support the system to offer critiques of its operation and suggestions for remedies. Declaring that "there is a crisis in the public funding system for presidential candidates," the non-partisan Campaign Finance Institute created a Blue Ribbon Task Force in January 2003 to study and make recommendations regarding the presidential nominating system. "To put the point simply,"said Michael J. Malbin, the Institute's Executive Director, "the system is broken. It will force some very tough choices for candidates, and for the public, before this year is over."[3]

Indicative of the recent rethinking of the system's value was the decision by major candidates in the two most recent elections to forgo public financing. In 2000, George W. Bush became the first person elected since 1976 without having participated fully in the public finance system; he participated in it during the general election that year but not the primaries. The decision by President Bush not to participate in the system during the 2004 primaries, a choice mirrored by two leading Democratic contenders — Governor Dean and Senator Kerry — was perhaps the clearest signal yet that problems in the system's operation had seriously eroded the appeal, and hence the value, of the presidential public funding system.

Among the commonly cited problems in the system's operation are the following:

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[3] Campaign Finance Institute, *Blue Ribbon Task Force to Hold Public Hearing on Presidential Nomination Financing,* Press release, Jan. 27, 2003.

- *Potential shortfalls in the fund* — The past few elections have seen shortfalls in available public funds to distribute in a timely way to presidential primary candidates. While the problems were resolved as additional checkoff designations made more money available, recent elections have been clouded by concerns over insufficient matching funds to meet certified candidate submissions.

- *Increased need for early money* — The notable trend toward front-loading of presidential primaries has caused more candidates to campaign in earnest well in advance of the election year. The current system does not permit candidate payments from the Fund prior to January 1 of the election year.

- *Spending limits that do not meet realities of campaigns today* — The nationwide spending limit in the pre-nomination phase is half that applicable to the general election, although the latter period essentially comprises two to three months, while the former may involve well over a year of actual campaigning. Furthermore, the state limits, based on population, do not take into account the disproportionate influence which early primary and caucus states (like Iowa and New Hampshire) have in the pre-nomination phase.

- *Insufficient public funds to meet candidates' needs* — Current rules allow contributions of $250 or less to be matched for primary candidates. While this accounted for one-fourth of the $1,000 a contributor used to be able to give, it is only one-eighth of the $2,000 a contributor may now give, since enactment of the Bipartisan Campaign Reform Act of 2002 (BCRA). In addition, under BCRA's prohibition of national parties' raising and spending soft money, a candidate who has gained acceptance as the party's presumptive nominee in the early spring and who has spent the maximum allowed under the limits will not be able to count on the party to continue activity on his or her behalf until the nominating convention.

In 2003, two FEC Commissioners, Scott Thomas (D) and Michael Toner (R), made recommendations (apart from the full Commission) for improving the system's functioning. They recommended: doubling the nationwide primary limit, which would thus double the total amount of public funds a candidate may receive; doubling the amount that may be matched, to $500; abolishing the state spending limits (this has long been one of the annual legislative recommendations made by the full FEC); increasing the eligibility standard for candidates (currently a candidate may qualify under the threshold set in the 1970s, i.e., raising at least $100,000 in 20 states, with at least $5,000 from each); and raising the value of the checkoff from $3 to $5.[4] To these proposals was added an additional one by Fred Wertheimer, of

[4] Michael E. Toner, "Congress Should Overhaul Presidential Funding System,." *Roll Call*, Oct. 16, 2003, p. 10.

Democracy 21, to allow distribution of public funds before January 1 of the election year to reflect the reality of a front-loaded primary calendar.[5]

On September 22, 2003, the Campaign Finance Institute's Task Force on Financing Presidential Nominations issued its report, in which the bipartisan panel made suggestions for bolstering the public funding system. Concluding that "the current system for financing presidential nominating campaigns is in serious jeopardy," the unanimous report stated:

> The Task Force rejected a "do-nothing" approach out of hand. If the system is not worth returning to its proper functions, the public funds may as well go back to the Treasury. The Task Force did seriously think about whether the public funding ought to continue at all. After reviewing the evidence, it concluded that losing the system would be a loss for democracy. The system has helped to support competition, restrain spending and enhance the value of small contributions. And it has done all of this at a reasonable cost to taxpayers.[6]

Among its recommendations were doubling the primary spending limit to the same level as in the general election, allowing the first $100 of an individual contribution to be matched with public funds at a three-to-one ratio, and increasing the current tax checkoff to $5 for individuals and $10 for joint filers.[7]

Although most of the recent commentaries and analyses have favored making changes in the system to shore it up, some observers have taken a sharply different approach to the desired solution. Declaring that "the presidential public funding system has failed and should be killed by Congress," a November 2003 analysis by the Cato Institute concluded:

> Presidential public financing has failed to meet its goals. The presidential program has neither increased trust in government nor spurred electoral competition in the primaries or the general elections. By reducing the rigors of fundraising, the system has denied the electorate important information about presidential candidates and given the major political parties significant subsidies at taxpayer expense. The American taxpayer has rejected the presidential program, as reflected by the lack of interest in the checkoff program. By 2008, about half as many Americans as currently give private donations to candidates or parties will participate in the presidential public financing system.[8]

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[5] Fred Wertheimer, "Just Whose Presidency Is This?," *Washington Post*, Jan. 15, 2003, p. A19.

[6] Campaign Finance Institute, *Participation, Competition, Engagement: How to Revive and Improve Public Funding for Presidential Nomination Politics*, report of the Campaign Finance Institute Task Force on Presidential Nomination Financing, (Washington: 2003), Executive Summary, p. xi.

[7] Ibid., p. xii-xix.

[8] John Samples, *The Failures of Taxpayer Financing of Presidential Campaigns,* Policy Analysis no. 500, (Washington: Cato Institute, Nov. 23, 2003), pp. 1-2.

Congressional Response and Activity

Several attempts were made in recent Congresses to repeal presidential public funding entirely. In the 102nd Congress, an amendment by Senator Mitch McConnell was rejected by a 38-60 vote; a motion by Representative Joseph McDade failed in the House in a 180-232 vote; and an amendment by Senator Phil Gramm was tabled by 62-31.[9] Two repeal attempts in the 104th Congress met with affirmative Senate votes for retention: a 56-44 vote to restore the system targeted for elimination in the Republican FY1995 budget;[10] and a sense of the Senate resolution passed by voice vote to drop such a proposal in the GOP's FY1996 budget plan.[11] While there have been no major efforts or legislative votes to repeal the public funding system since the 104th Congress, bills have been regularly introduced in succeeding Congresses to repeal either the entire system or just the subsidies for nominating conventions.[12]

In the 108th Congress, the sponsors of the Bipartisan Campaign Reform Act of 2002 introduced legislation to bolster the public funding system, along the lines of recommendations of the Campaign Finance Institute's task force. The bills — S. 1913 (McCain-Feingold) and H.R. 3617 (Shays-Meehan) — included provisions to:

- increase the public funds match of the first $250 of an individual's contribution to a primary candidate from 1:1 to 4:1;
- eliminate state-by-state primary spending limits and increase the overall primary limit from approximately $45 million to $75 million, indexed for inflation;
- increase the qualifying threshold so that a candidate must raise $15,000 (rather than $5,000) in each of 20 states;
- require a candidate to commit to accepting public financing for the general election in order to receive public funds in the primaries, and to accepting public funds in the primaries in order to be eligible in the general election;
- move the starting date for payment of public funds to primary candidates from January 1 of the election year to July 1 of the previous year;
- double the spending limit for a participating candidate (to $150 million) if opposed by a non-participating candidate who exceeds the primary spending limit by one-third (no additional public funds, however);
- set the spending limit for participating general election candidates at $75 million, approximately its current level, indexed for inflation;

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[9] *Congressional Record*, vol.137, May 22,1991, p.11961; vol. 137, Oct. 29,1991, pp. 28823-28824; vol. 138, Sept. 25, 1992, pp. 27802-27803.

[10] *Congressional Record*, vol. 141, May 24, 1995. p. 14244.

[11] *Congressional Record*, vol. 142, May 23, 1996, p. 12349.

[12] For example, bills to abolish entire system: H.R. 3525 (Doolittle), 108th Congress; H.R. 151 (Petri), H.R. 191 (Stump), H.R. 1444 (Doolittle), 107th Congress. Bills to abolish convention subsidies: H.R. 45 (Bartlett, MD),109th Congress; H.R. 344 (Bartlett, MD), 108th Congress; H.R. 27 (Bartlett, MD), 107th Congress.

- double the public funds available to a participant in the general election system (to $150 million, indexed for inflation) if a non-participating opponent raises or spends more than one-third above the combined primary and general election spending limits;
- double the limit for coordinated spending by a national party on behalf of its presidential candidate from approximately $15 million to $30 million, indexed for inflation;
- double the checkoff amount on the tax form to fund the public financing system, from $3 to $6 for individuals and from $6 to $12 for married couples;
- require the Secretary of the Treasury to issue regulations to ensure that electronic software used in preparation or filing of tax returns does not automatically accept or decline a checkoff to the Fund; and
- authorize the FEC to spend up to $10 million from the Fund during a four-year period on public education about the Fund.

The legislation is expected to be reintroduced in the 109th Congress.

Three bills have been introduced thus far in the 109th Congress to address the presidential public funding system. H.R. 45 (Bartlett) would end subsidies for nominating conventions, while H.R. 3960 (Neugebauer) would end the public funding system in its entirety. The third bill — H.R. 850 (Hoyer-Ney) — would establish a uniform date for release of payments for general election candidates. That bill was inspired by the 2004 situation in which Democratic nominee John Kerry had to stretch his public funds over a period that was four weeks longer than for Republican nominee George W. Bush, because of the timing of their respective conventions.

Conclusion

There is widespread agreement that the public funding system is not functioning well and predictions that Congress will revisit this issue. Whether the system has achieved enough of the objectives set out when it was first enacted and warrants retention, in some amended fashion, or whether it has failed to accomplish its original goals sufficiently to warrant the cost to the taxpayers is the fundamental question facing Congress.