

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

GREEN PARTY OF CONNECTICUT, <i>et al.</i>	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
JEFFREY GARFIELD, <i>et al.</i> ,	:	CASE NO. 3:06-cv-1030 (SRU)
	:	(Consolidated with 06-cv-1360)
Defendants,	:	
	:	
AUDREY BLONDIN, <i>et al.</i> ,	:	
	:	
Intervenor-Defendants.	:	

**MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANTS'**  
**MOTION FOR SUMMARY JUDGMENT**

Mark J. Lopez  
Lewis, Clifton & Nikolaidis, P.C.  
275 Seventh Avenue, Suite 2300  
New York, New York 10001-6708  
Tel: (212) 419-1512  
mlopez@lcnlaw.com

David J. McGuire  
American Civil Liberties Union of  
Connecticut Foundation  
32 Grand Street  
Hartford, Connecticut 06106  
Tel: (860) 247-9823  
dmcguire@acluct.org

Josh Hsu  
American Civil Liberties Union Foundation  
125 Broad Street, 18th floor  
New York City, NY 10004  
Tel: (212) 519-7896  
jhsu@aclu.org

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## I. INTRODUCTION

This case challenges the constitutionality of the Citizens' Election Program ("CEP") – Conn. Gen. Stat. §§ 9-700–718, 9-750–751 – a comprehensive public financing scheme enacted in 2005 and amended in 2006 by the Connecticut General Assembly. Beginning in 2008, the CEP will provide public financing for participating candidates who seek election to the General Assembly. *Id.* § 9-702(a). In 2010, public financing will be available to candidates for statewide offices. *Id.* The plaintiffs are the Green Party of Connecticut ("Green Party"), the Libertarian Party of Connecticut ("Libertarian Party"), and S. Michael DeRosa ("DeRosa"), a Green Party candidate for state senate in 2008.

Plaintiffs have moved for summary judgment on Counts I, II, and III of the Amended Complaint. Counts II and III were previously dismissed by the Court. *See Order granting in part and denying in part Motion to Dismiss; granting in part and denying in part Motion for Judgment on the Pleadings.* (Entered: 03/20/2008) (Doc. No. 211). Plaintiffs have filed a motion seeking reconsideration of the dismissed claims in light of the decision in *Davis v. Federal Election Comm'n.*, 128 S.Ct. 2759 (June 26, 2008). *Davis* casts substantial doubt on the legitimacy of the Citizens' Election Program and provides ample grounds to sustain plaintiffs' facial and as-applied claims that the statute violates the First and Fourteenth Amendments. Plaintiffs submit that they are entitled to summary judgment on all claims and that there are no disputed material facts that would preclude the requested relief at this time.

Defendants have cross-moved for summary judgment on Count I only. The motion should be denied because the defendants have not established that they are entitled to judgment as a matter of law under *Buckley v. Valeo*, 424 U.S. 1 (1976) or any other controlling precedent. They have not even provided a good explanation why this Court should abandon its careful



analysis in its decision denying the motion to dismiss. At base, the defendants' motion requires the Court to ignore the legislative history and other publicly available information about the impact of the CEP on the electoral opportunities of candidates. The CEP was enacted with the goal of increasing the electoral opportunities of major party candidates by providing them with the resources and incentive to compete. At the time of its adoption it was understood by the SEEC and the intervening organizations that minor party candidates would not only be effectively excluded from the program, but would gain no corresponding advantage because of the matching fund and organizational expenditure provisions. The defendants now present a different version of the facts that sharply contrasts with the public record and plaintiffs' evidence. At the very least, therefore, the defendants' motion should be denied because defendants have failed to meet their evidentiary burden establishing that there are no disputed material facts.

## **II. FACTUAL STATEMENT**

Both plaintiffs and defendants have submitted extensive factual evidence in support of their respective motions for summary judgment. Plaintiffs incorporate by reference all facts set forth in Memorandum of Law in Support of Plaintiffs' Motion for Summary Judgment. *See* Pl. Mem. at 2-51 (Dkt. No. 232, filed July 10, 2008) ("Pl. Mem."). In response to defendants' motion, plaintiffs offer a rebuttal to key factual assertions made by defendants. As set forth in Plaintiffs' Local Rule 56(a)(2) Statement, many of the material facts upon which defendants rely are disputed.

**A. The Legislative History Does Not Support Defendants' Contention That The Discriminatory Treatment of Minor Party And Petitioning Candidates Is Necessary To Preserve The Public Fisc**

Beginning with the Campaign Finance Working Group's discussions, it is apparent that the legislators were never truly concerned with minor party candidates exploiting the public financing system and raiding the public fisc. The idea of treating minor party and petitioning candidates differently was never discussed -- not once during the regular legislative session or during the Working Group meetings. (Garfield Decl. I Exs. 6-10, 18-26; Garfield Decl. II Exs. 1-3). Nor was it contemplated by the original public financing bills proposed by the House (HB 6670) and the Senate (SB 61). (Garfield Decl. I Exs. 4-5).

Defendants' assertion that the CEP's differential qualifying criteria are necessary to preserve the public fisc is belied by the legislative history, and is difficult to view as anything other than a post hoc justification for discriminating against minor party and petitioning candidates. For instance, the Working Group heard testimony from members of the General Assembly as well as representatives from the Maine and Arizona Clean Elections systems. Not one person expressed genuine concern that minor party candidates would exploit the public financing system. Senator LeBeau mentioned that while there might theoretically be some concern with fringe candidates, he was not particularly concerned with them because these fears had not materialized in any way with either the Maine or Arizona public financing systems. (Garfield Decl. II Ex. 2, at 11-12) (commenting about concerns with fringe and off-the-wall candidates, but stating that "Arizona and Maine did not have this happen, that we did not hear of this happening," and that "...given the track record in Arizona and Maine, that has not happened."). Barbara Lubin, Executive Director of the Arizona Clean Elections Institute, also

testified before the Working Group and effectively stated that off-the-wall candidates could be “weeded out pretty easily.” (Garfield Decl. I Ex. 19, at 28).

Indeed, defendants’ own witness, State Senator Peter Mills of Maine, confirmed that third party candidacies on the state legislative level have never posed a threat to the public fisc under Maine’s public financing system. (Mills Depo. at 48-50, attached as Pl. Ex. 48) (In the 2006 election cycle, 265 state representative candidates qualified for public financing and only 9 were third party or unaffiliated candidates; 70 state senate candidates qualified for public financing and only 4 were third party or unaffiliated candidates). Attached to his declaration is a Study Report on the Maine Clean Election Act (“MCEA”) which concludes that the availability of public funding has not resulted in “fringe” candidates in legislative elections and has not had any discernible impact on the public fisc. *See* Decl. of Peter Mills, Ex. 1, 2007 Study Report of the Maine Commission on Governmental Ethics and Election Practices on the Maine Clean Elections Act (“Maine Report”) at 87. This is true even though Maine’s public financing system does not discriminate against minor party and petitioning candidates, and has exceedingly modest qualifying criteria. *See* Me. Rev. Stat. tit. 21-A § 1125(3) (to qualify for public financing, a state senate candidate need only collect \$750 in five-dollar contributions and a state representative candidate need only collect \$250 in five-dollar contributions).<sup>1</sup>

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<sup>1</sup> In 2007, Maine did, however, raise its qualifying criteria for gubernatorial elections from \$12,500 in five-dollar contributions to \$16,250 in five-dollar contributions because of the perception that it was too easy for gubernatorial candidates to qualify for public financing. (Mills Depo. at 23-24, Ex. 48). This minor adjustment was made, despite the fact that only four gubernatorial candidates actually qualified for public financing, including two minor party candidates. (Mills Decl. ¶ 15). Senator Mills ran for governor in 2006 and also qualified for public financing, but lost during the Republican primary. (Mills Decl. ¶ 15). Even at the original level of \$12,500 in five-dollar contributions, Senator Mills described the process as “[o]ne of the more challenging things” he had done in his life. (Mills Depo. at 60, Ex. 48).

In any event, unlike in Connecticut, Maine still did not impose discriminatory qualifying criteria towards its minor party and independent candidates, even after it decided that the qualifying criteria for governor were too easy to satisfy. Rather, the change from \$12,500 in five-dollar contributions to \$16,250 five-dollar contributions applied across the board to major and minor/independent candidates alike. Moreover, it was a modest increase, and it was only made to the governor’s office, and was not extended to legislative candidates.

Moreover, the seriousness of the State's concern about the public fisc is undermined by another aspect of the Working Group's deliberations. For example, the Working Group noted that the average cost for a Senate race was roughly \$47,000-50,000, and that the average cost of a House race was about \$14,000-15,000. (Garfield Decl. II Ex. 2 at 86). Despite these statistics, the bill that was ultimately proposed based on the Working Group's recommendations set the general election grant for the Senate at \$85,000, and the general election grant for the House at \$25,000. *See* 2005 Conn. Acts 05-5 § 6 (Spec. Sess.).

On December 7, 2005, Governor Rell signed the bill into law during a special legislative session. 2005 Conn. Acts 05-5 (Spec. Sess.). The final legislation contained provisions that made it much more difficult for minor party and independent candidates to participate in the state's public financing program. *Id.* In short, the CEP provided full funding to major party candidates on terms that deny the same benefits to minor and petitioning party candidates. Conn. Gen. Stat. §§ 9-705(c)(1), (c)(2), (g)(1), (g)(2). Upon the bill's passage, the SEEC and the good government groups advocating for public financing in Connecticut began a lobbying effort to ease the qualifying criteria for minor party and independent candidates and to close certain loopholes in the legislation. (Jeffrey Garfield Statement to GAE, Pl. Ex. 5; Clean Up Connecticut Campaign Press Releases, Pl. Ex. 7 & Pl. Ex. 8; Testimony of Suzanne Novak to GAE, Pl. Ex. 9 & Pl. Ex.10).

After the legislation was passed, the Government Administration and Elections ("GAE") Committee held a hearing on March 13, 2006 to discuss concerns with the legislation. (Garfield Decl. II Ex. 4). In a statement to the GAE, Mr. Garfield testified that the CEP was constitutionally suspect based on his review of *Buckley v. Valeo*. He "urge[d] [] in the strongest terms possible" that the statute be amended to relax the qualifying criteria for minor and

independent party candidates and to close loopholes in the expenditure limits that frustrated the purposes of the CEP. (Garfield Statement to GAE, Pl. Ex. 5 at 1-2). Suzanne Novak from the Brennan Center also testified, and stated that under *Buckley*, a court could find that the CEP's treatment of minor party and independent candidates was unconstitutional. (Novak Testimony, Pl. Ex. 9 at 6; *see also* Brennan Center Letter Memorandum to SEEC, Pl. Ex. 11 at 8). Both Connecticut Common Cause and the Connecticut Citizen's Action Group advocated for similar changes. (Clean Up Connecticut Campaign Press Releases, Pl. Ex. 7 & Pl. Ex. 8).<sup>2</sup> The changes being sought after by the SEEC, the Brennan Center, and the good government groups were all contained in HB 5610, which would have eased the burden on minor party and independent candidates, and closed loopholes in the CEP that benefited major parties.<sup>3</sup>

At the hearing, certain legislators attempted to justify the CEP's discriminatory treatment of minor party and independent candidates. However, the legislators expressed that their actual concern was not with third party candidacies *per se*, but with major parties potentially manipulating the public financing system *against each other*. Representative McCluskey stated, for instance, that "in other states it has been the case that they've [major parties] used third parties as a way to destabilize one of the other major parties. And that's something that we in the General Assembly have to be cognizant of as well." (Garfield Decl. II Ex. 4 at 123).

Representative O'Brien stated that "it's really, to be blunt, not so much a minor party, a genuine minor party that's the concern, but people who are active in the opposing major party

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<sup>2</sup> For a more comprehensive treatment of the legislative history of the CEP, including the testimony of Suzanne Novak and Jeffrey Garfield, *see* Pl. Mem. at 4-13.

<sup>3</sup> The actual proposed legislation would have relaxed the eligibility requirements for minor and petitioning party candidates by lowering the percentage requirements from 10/15/20% to 3/4/5%. (Summary of Revisions, Ex. 6 at 2). So, minor party candidates could qualify for a 1/3 grant by obtaining 3% of the total votes cast for the same office in the preceding election or submitting a petition with signatures of at least 3% of the qualified electors in the state or district. *Id.* Petitioning candidates would be required to gather signatures from 3% of qualified voters in the district. *Id.* A 2/3 grant would correspond with a 4% requirement. *Id.* And a full grant would correspond with a 5% requirement. *Id.*

using the system to create a fictional minor party running against the opposing major party candidate to strip off votes with full public financing.” (*Id.* at 128). In short, the representatives of the General Assembly made clear that their real concern was not that the system would be abused by minor party or petitioning candidates, but rather, that the major parties would abuse the system to their advantage. Nevertheless, instead of enacting measures to prevent major parties from gaming the system, the legislators – all of which were members of major parties – decided to make it more difficult for minor party and petitioning candidates to participate in the CEP.

Despite the testimony of Garfield and the Brennan Center, the legislature did not adopt HB 5610 or make any meaningful changes to ease the burden on minor party and petitioning candidates; nor did it close the loopholes that gave major parties an advantage. Rather, the General Assembly passed a bill in May 2006 that – contrary to defendants’ assertions – did not provide any practical relief to minor party and petitioning candidates.

First, the CEP was amended to allow non-major party candidates who have already qualified for a partial grant to raise private funds up to the full grant amount. Conn. Gen. Stat. § 9-702(c). This provision does nothing to relax the qualify criteria. Defendants’ nevertheless contend that the amendment will enhance the ability of minor party and petitioning candidates to compete against major party candidates. The facts do not support this contention. Participating candidates are hobbled by \$100 contribution limits that are significantly less than the generally applicable contribution limits. *Id.* Limits this low will prevent minor party and petitioning candidates from amassing the resources necessary to compete effectively, or to make up the difference between their grant and the full grants paid to major party candidates. (Pl. Mem. at 11-12; Weicker Decl. ¶ 23, Pl. Ex. A-2).

Second, the CEP was amended to allow non-major party candidates who have already qualified for a partial grant to receive a post-election supplemental grant if they receive a greater percentage of the popular vote in the general election than the percentage used (or the percentage of signatures gathered) to calculate the candidate's initial campaign grant. Conn. Gen. Stat. § 9-705(c)(3). This provision also fails to relax the qualifying criteria. Again, the defendants contend that this provision will ameliorate the burden on non-major party candidates. This is doubtful since eligibility is limited to candidates who qualified for public financing prior to the election. The contention is also suspect considering how patently restrictive the criteria for post-election grants are. (Pl. Mem. at 10-11). To qualify for a post-election grant a candidate must incur a "spending deficit" as defined by the statute. The normal way to do that is to borrow from a lending institution or make a loan to the campaign yourself. Both of these alternatives are effectively prohibited. Participating candidates are limited to borrowing \$1,000 from financial institutions to finance their campaigns, Conn. Gen. Stat. § 9-710(a), and are not permitted to accept loans in any amount from any other source, Decl. Ruling 2007-01, Citizens' Election Program: Loans and Candidate's Personal Funds (Pl. Ex. 12 at 2). Candidates also cannot loan money to their own campaigns except for a very limited amount that is allowed at the outset of the campaign. Conn. Gen. Stat. § 9-710(c). There are also significant restrictions prohibiting candidates from using CEP grants to collateralize debt or gain credit. (SEEC 2008 CEP Regulations, § 9-706-2(b)(16), Pl. Ex. 13; *see also* Rotman Depo. at 128-30, Pl. Ex. 14).

Finally, the 2006 amendments placed some limits on the amount of organizational expenditures that legislative leadership PACs could spend on behalf of a state senate campaign to \$10,000 and on behalf of a state house race to \$3,500. Conn. Gen. Stat. § 9-718. The defendants claim again that this was done to address the constitutional concerns raised by the original



legislation. The record fails to support this contention as well. Under the amended organizational expenditure provisions, PACs can still undertake thousands of dollars in, what are in effect, coordinated expenditures on behalf of the candidate. *Id.* Each Party is allowed three leadership/caucus committees in the Senate, which can spend up to \$10,000 each on behalf of its candidate, *id.* § 9-605(e)(2), (3), and in the House, each Party is also allowed three leadership/caucus committees, which can spend up to \$3,500 each on behalf of its candidate, *id.* § 9-718. In addition, the state central committee and town committees can coordinate campaign expenditures with the candidate under this provision. *Id.* Money that was previously contributed directly to candidates will now flow to legislative and caucus committees and into party coffers. The inevitability of this is documented in the Study Report on the MCEA attached to Sen. Mills declaration. *See* Decl. of Peter Mills, Ex. 1, Maine Report, at 41-48, 65-71.

In addition, the legislature specifically failed to amend the organizational expenditure provision with respect to statewide candidates. As a result, the Republican and Democratic State Central Committees can continue to spend hundreds of thousands of dollars in coordinated expenditures. The resources of these committees are augmented by the national Republican or Democratic committees, which have a fee-sharing agreement with the state committees. (Jepsen Depo. at 30-31, Pl. Ex. 20). In addition, the state's 169 Republican or Democratic town committees can pay for additional campaign costs. (*Id.* at 44-50). As Mr. Garfield noted in his March 13, 2006 testimony, the organizational expenditure loophole is particularly harmful to minor party and independent candidates because those candidates do not have that type of organizational support:



The disparate treatment of minor and petitioning parties under PA 05-5 is further exacerbated by the organization expenditure loophole which allows legislative caucus and leadership PACs to spend unlimited amounts towards the support of participating candidates, and minor and petitioning candidates do not have a caucus in the General Assembly.

(Garfield Statement, Pl. Ex. 5 at 2).

In sum, none of the amendments to the CEP addressed the fundamental issue of the legislation's discriminatory qualifying criteria for minor party and petitioning candidates, nor did the amendments actually close the loopholes that benefited major parties.

**B. Defendants Exaggerate The Strength Of Major Party Candidates In Comparison To Minor Party Candidates**

To justify the statutory preference given to major party candidates under the CEP, the defendants give a misleading impression that the two major political parties in Connecticut stand in a relative competitive balance. The record shows just the opposite. Connecticut is, in effect, a party-dominant state. The weaker major party has effectively abandoned scores of legislative districts. In 2006, the winning major party candidate was either unopposed by another major party candidate or won by at least 20% of the vote in 72% of Senate elections and 83% of House elections. *See* Office of the Secretary of the State, Election Results for State Representative, Nov. 7, 2006, *available at*, <http://www.sots.ct.gov/sots/cwp/view.asp?a=3188&q=392566> (last visited August 26, 2008) (61 of 151 races included only one major party candidate, and 65 of the other races won by a major party candidate by at least 20% of vote); Office of the Secretary of the State, Election Results for State Senate, Nov. 7, 2006, *available at*, <http://www.sots.ct.gov/sots/cwp/view.asp?a=3188&q=392586> (last visited August 26, 2008) (9 of 36 races included only one major party candidate, and 17 other races won by a major party candidate by at least 20% of vote).

The defendants set forth statistics showing that the losing major party legislative candidates from 1998 through 2006 averaged 34.6% of the vote, and often garnered over 20% of the vote. (Def. Mem. at 22, 24). This data refutes, rather than supports, the defendants' contention that major party candidates are presumptively competitive. The defendants' own expert describes elections with losing margins this large as uncompetitive and considers them "safe" districts. (Green Supplemental Report, Pl. Ex. 21 at 1). Despite this testimony, the defendants nevertheless maintain that an uncompetitive major party candidate is presumptively stronger than a non-major party candidate and fully capable of winning at least 20% of the vote. Even by that exceedingly low measure, in 2006, 43% of the legislative districts involved a winning candidate who was unopposed by another major party candidate or was opposed by a major party candidate who received less than 20% of the vote. *Green Party of Connecticut v. Garfield*, 537 F. Supp. 2d 359, 380 (2008).<sup>4</sup>

The defendants also exaggerate the party enrollment statistics of the major parties. For instance, they assert that Democrats make up 62% of all affiliated voters, while the Republicans make up 37% of all affiliated voters. (Def. Mem. at 22). This is an incomplete portrayal of the Connecticut electorate. Defendants fail to point out that the majority of registered voters are actually *unaffiliated* with any party. See Party Enrollment Statistics, available at: [http://www.sots.ct.gov/sots/lib/sots/2007\\_Registration\\_and\\_Enrollment\\_Statistics.pdf](http://www.sots.ct.gov/sots/lib/sots/2007_Registration_and_Enrollment_Statistics.pdf) (statistics as of October 30, 2007). The statistics show that 44% of registered voters or 902,224 voters are actually unaffiliated. *Id.* Taking into account all enrolled voters, Democrats actually make up

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<sup>4</sup> In total, 81 of 187 (43%) legislative elections in 2006 were uncompetitive by any objective standard. For state representative, 61 of the 151 (40%) races included only one major party candidate. Election Results for State Representative. On the state senate side, nine of the 36 (25%) races included only one major party candidate. Election Results for State Senate. In addition, many major party candidates faced only token opposition from their major party competitors. Six races for state representative and five for state senate were taken by a major party candidate who captured at least 80% of the vote, even when facing another major party candidate. *Id.*

only 35% of enrolled voters, while Republicans make up a mere 21% of all enrolled voters. *Id.* In fact, Republicans represent less than 20% of the registered voters in 16 Senate districts and 71 House districts. (OLR Report: Party-Dominant Districts in Connecticut, May 17, 2008, Garfield Decl. II Ex. 17). There are only 4 senate districts where the Republican registration exceeds 30%, the highest being the being in the 36th District, which is an outlier with 39%. On the House side, there are only 20 districts where the Republican registration exceeds 30%. *Id.* Thus, a more accurate portrayal of the voter enrollment statistics shows that most voters in Connecticut are independent or unaffiliated.

In addition, the general trend since the early 1980s has been a steady decrease in Democratic and Republican enrolled voters, and a steady increase in unaffiliated voters. *See* Party Enrollment in Connecticut, *available at*: <http://www.sots.ct.gov/sots/LIB/sots/ElectionServices/ElectionResults/statistics/enrolhst.pdf> (last visited July 30, 2008). For example, since 1982, Democratic enrollment has decreased from 40.2% to 35% of enrolled voters; Republican enrollment has decreased from 26.5% to 21% of enrolled voters; and unaffiliated voters have increased from 33.3% to 44% of the electorate. *Id.* If any trend exists, it is that voters are becoming less wedded to the two major parties.

In a final attempt to show the superior position of major party candidates, the defendants compare the fundraising of major party candidates to minor party and petitioning candidates. (Def. Mem. at 25). Minor parties by definition cannot raise as much money. None of this is in dispute. The superior fundraising ability of major party candidates relative to non-major party candidates does not establish that they could raise the amount of money to compete in elections that they have previously either abandoned or fared poorly in. The evidence shows just the opposite. Major party candidates in previously uncompetitive elections will, in effect, receive

generous subsidies that are in most cases significantly more than the amount of money previously spent on those elections. The evidence shows that most major party candidates have not been able to raise money at the CEP grant levels. The evidence is most compelling in party dominant districts and other safe districts where individual and total spending will increase dramatically. *See* Tables 1-4.<sup>5</sup> In the 2008 senate elections, the grants under the CEP will exceed 2006 individual candidate receipts by \$50,000 to \$125,000 for at least 22 candidates. *See* Table 1. On the House side, the grants will exceed 2006 receipts by \$10,000-\$50,000 for at least 128 candidates. *See* Table 2. The dramatic effect on Connecticut elections can also be measured by the amount of overall increased funding in legislative districts. In 75% of the Senate districts and in 65% of the House districts, funding will increase on average by \$119,000 and \$34,000 respectively. *See* Tables 3 & 4.<sup>6</sup> These grants do not even take into consideration supplemental payments under the matching fund provision of the law. It is too late in the day to disavow one of the stated goals of the CEP – which is to provide candidates who did not previously have the financial ability to compete with the resources to level the playing field. (SEEC CEP Program Overview, Pl. Ex. 46 at 1).

### **C. Impact Of CEP On Minor Party And Petitioning Candidates**

#### **1. Increase Competition Among Major Party Candidates**

Notwithstanding defendants' claim to the contrary, the generous CEP grants are causing major party candidates to participate in elections where they previously have not in the past. For example, five senate races that were previously contested by only one major party in 2006 will

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<sup>5</sup> Tables 1-4 were prepared by a research associate under the supervision of undersigned council. *See* Declaration of Alex Nikolaidis ¶ 1. For quick reference, tables 1-8 are attached to this memorandum in the annex. They are color-coded tables that present the data in easy to read format.

<sup>6</sup> In the minority of districts where total expenditures will decrease as a result of the CEP, the decline will be much less substantial. The average in the Senate will be \$33,000 and the average in the House will be \$20,000. *See* Tables 3 & 4. These totals do not take into consideration the possibility that the CEP grants will be adjusted upward in the event a candidate draws a minor party opponent or receives a supplemental grant.

now be contested by both major parties in 2008. *See* Declaration of Alex Nikolaidis ¶ 7 and Table 5. Thirty-two state house races previously contested by one major party in 2006 will now be contested by both major parties in 2008. *See* Decl. of A. Nikolaidis ¶ 8 and Table 6.

Defendants attempt to minimize the significance of this evidence by arguing that there are several districts in which the reverse occurs; that is, districts that previously had two major party candidates in 2006 but will have just one major party candidate in 2008. (Foster Decl. ¶ 14). On the senate side, there are three districts in which this occurs; on the House side, 25 districts. (*Id.*). According to defendants, the statistics net out to just two more Senate races and six more House races where there is increased competition amongst the major party candidates.

Defendants' assert that there is no correlation between the availability of public funding and candidate behavior. That argument is contradicted by the record. A candidate's decision to challenge a long-term incumbent in a historically party dominant district is not some random act. Public financing was adopted with the goal of increasing competition by providing candidates with the resources to bring primary and general election challenges to entrenched incumbents. (SEEC CEP Program Overview, Pl. Ex. 46 at 1). For instance, in each of the five newly contested elections in the Senate this cycle, the seat has generally been a safe seat for the incumbent for many cycles. *See* Decl. of A. Nikolaidis ¶ 7 and Table 5. The incumbent has previously run unopposed or faced a poorly-funded challenger in almost all of elections going back to the 2000 election cycle. *Id.* The CEP changes the dynamics in these elections.<sup>7</sup>

In the 32 elections for state representative that were uncontested in 2006 and are newly contested this cycle, only a handful of them have truly been competitive over the last 4 election

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<sup>7</sup> Conversely, the evidence indicates that the availability of public financing was not a decisive factor in at least two of the three newly uncontested Senate districts this cycle. In the past, these districts have been competitive, and the major opposition party candidate has been able to raise significant sums of money. *See* Decl. of A. Nikolaidis ¶ 7 and Table 5. In the third district, public financing did not provide a sufficient incentive to attract a candidate to challenge the long-term incumbent. *Id.*

cycles. In 22 of the districts, the winning candidate ran unopposed at least twice since the 2000 legislative elections. In most cases, the winning candidate wins by landslide margins. In 2004 only one of the losing major party candidates received 40% of the vote in these newly contested elections. *See* Decl. of A. Nikolaidis ¶ 7 and Table 6. Just as in the Senate elections, the House districts that have been abandoned this cycle by a major party have in the past been generally more competitive, and candidates have been better financed. *Id.*

The increase in major party competition has also translated into an increase in major party primaries. (Press Release, State Elections Enforcement Commission Sees Increase In The Number Of Primaries Since 2006 And Awards Final Primary Election Grants (July 24, 2008), attached as Pl. Ex. 49). There will be four senate primaries in 2008. (*Id.*) The largest number of senate primaries since 1996 was two, and there were no primaries in 2006. *See* Office of Secretary of State, Election Results and Related Data, Primary Results, *available at*: [http://www.sots.ct.gov/sots/cwp/view.asp?a=3179&Q=392194&SOTSNav\\_GID=1846](http://www.sots.ct.gov/sots/cwp/view.asp?a=3179&Q=392194&SOTSNav_GID=1846) (last visited August 28, 2008). In 2008, there are sixteen primaries for the House of Representatives. This is almost a two-fold increase in the number of primaries for state legislative office from 2006. (SEEC Press Release about Primaries, Pl. Ex. 49).

The defendants' claim that the CEP will not effect competition is not believable. Indeed, prominently posted on the SEEC website is an August 6, 2008 *New York Times Editorial*, titled "*Cleaning Up Connecticut.*" The editorial commends the State for adopting a public financing that will most likely increase competition the same way it did under the system adopted in Maine. (Attached as Pl. Ex. 53). A cursory review of Exhibit 1 to the Declaration of Senator Peter Mills shows how dramatically public financing increased competition in Maine. During the period 1990-2000 (prior to the adoption of the MCEA), the average number of incumbents

seeking re-election without a challenger was 30.6 out of 186 legislative districts. In 2004 and 2006, the number of unopposed incumbents dropped to an average of 2.5 districts. The trend is reinforced by the number of challengers to incumbents in a primary. *See* Decl. of Peter Mills, Ex. 1, Maine Report at 18-19.

Moreover, existing evidence shows the trend of increased major party competition already occurring in special elections. On January 15, 2008, a special election was held for the state senate seat in the 32nd District vacated by Senator Lou C. DeLuca, Republican. This was a “safe” Republican district that was easily held by the Republican candidate in the special election by a margin of 20 points. Election Results for State Senate 2006. Prior to the special election the Democrats had run a candidate in the district only once in the four elections since 2000. *Id.*; Election Results for State Senate, 2004, 2002, 2000, *available at*, [http://www.sots.ct.gov/sots/cwp/view.asp?a=3179&Q=392194&SOTSTNav\\_GID=1846](http://www.sots.ct.gov/sots/cwp/view.asp?a=3179&Q=392194&SOTSTNav_GID=1846) (last visited September 3, 2008). That occurred in 2002, when the Democratic candidate lost by almost 30 points. *See* Election Results for State Senate 2002. Although the district is not competitive, the Democratic and Republican candidates each received a public financing grant of \$63,750. This was despite the fact that the last time a Democrat ran, she raised only \$12,198. *See* Follow the Money, 2002 Statistics for Patricia L. Reilly, *available at*, <http://www.followthemoney.org/database/StateGlance/candidate.phtml?c=16174> (last visited September 3, 2008).

The results of the special election in the 32nd Senate district also support this trend. In October 2007, a special election was held to fill the House seat in Connecticut’s 113th district, formerly occupied by the late Richard Belden, Republican. Representative Belden spent just under \$2,000 to win re-election in 2006 against a Working Families Party (“WFP”) candidate.



(Richard Belden 2006 Financial Disclosure, Pl. Ex. 23). That seat is considered “safe” Republican and was easily held by the Republican candidate in the special election by a margin of almost 30 points. Election Results for State Representatives 2006. Yet the election drew a Democratic candidate who qualified for public financing, and received a grant that does not reflect his electoral support or financial strength. The WFP chose not to run a candidate. In sum, all of the evidence indicates that the CEP has increased competition, particularly amongst the major parties.

The increase in major party competition will harm minor party and petitioning candidates. To be sure, in the last four elections, only 33 minor party or petitioning candidates have received over 10% of the vote in state legislative elections. (Minor and Petitioning Party Candidates for Legislative Office Receiving Over 10% of the Vote in the 2000, 2002, 2004, 2006 Legislative Elections, Pl. Ex. 24; *see generally* Office of the Secretary of State, Election Results and Related Data, *available at*, [http://www.sots.ct.gov/sots/cwp/view.asp?a=3179&Q=392194&SOTSNV\\_GID=1846](http://www.sots.ct.gov/sots/cwp/view.asp?a=3179&Q=392194&SOTSNV_GID=1846) (last visited August 1, 2008)). Of the 33 elections in which the minor party or petitioning candidate received over 10% of the vote, 29 of those races involved elections that included only one major party candidate. (*Id.*).

## **2. CEP Provides Increased Funding For Major Party Candidates**

The CEP will dramatically increase the funding and resources of major party candidates over and above what they have previously been able to raise. (2004 Legislative Expenditures, Pl. Ex. 18, median candidate expenditures in 2004 – House: \$14,588.64; Senate \$61,948.76; OLR Research Report, Campaign Expenditures and Contributions in Connecticut 2000-2004, Aug. 2, 2005, Pl. Ex. 19). The increases will be most dramatic in districts where the candidate ran unopposed or was opposed by a poorly financed opponent. This can be easily confirmed by



comparing 2006 receipts with projected 2008 CEP grants. *See* Tables 1-4 attached hereto. In state senate elections, 37 candidates will receive grants that are at least \$20,000 more than the money they raised in 2006. The impact of the funding will be most significant for the 22 candidates who will receive grants that are at least \$50,000 more than they raised in 2006. *See* Table 1. Only one of those 22 candidates raised more than \$50,000 in 2006. *Id.*

In elections for state representative, 128 candidates will receive grants that are \$10,000 or more than the amount that the candidate raised in 2006. *See* Table 2. Only four of those 128 candidates raised more than \$15,000 in 2006. *Id.* The impact of the funding will be the greatest for the 69 candidates who will receive grants that are at least \$20,000 more than they raised in 2006. The candidates who stand to benefit the greatest are the ones who are running in previously uncontested elections or in elections where the candidate raised almost nothing.<sup>8</sup>

The defendants rely on a handful of high spending elections in an attempt to show that that the grants are in line with past expenditures. Their analysis is misleading for the following reasons. First, it fails to fully account for actual candidate expenditures under the CEP. The base grants are supplemented by qualifying contributions, which significantly increases the amount of money that a candidate is permitted to spend. The qualifying contributions represent approximately 20% of the base grant amount for legislative candidates and are not offset against the grant amount. The base grants are also supplemented by primary grants and by the matching fund payments which could treble the already generous grants.

Second, the defendants' analysis fails to show how public financing will change the dynamics of elections in Connecticut by significantly subsidizing challengers in historically safe districts and in primary contests. This is where the impact of the CEP will be most pronounced

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<sup>8</sup> Only 59 candidates for state representative will receive grants that are \$10,000 less than the amount they raised in 2006. *Id.* Of the second group, 28 candidates are running unopposed by a major party candidate and the fact that they are receiving less money than they raised in 2006 will have no impact on the election. *Id.*

by providing major party candidates with the resources to run expensive campaigns in previously abandoned or marginal districts. Perversely, the CEP will have the ancillary effect of increasing spending as a whole in previously safe districts. Incumbent legislators who might have raised relatively little money because they were unopposed or faced only minor party opposition are now going to be funded at levels that correspond to the most competitive elections.<sup>9</sup>

### **3. The Negative Impact Of The CEP On Minor Party And Petitioning Candidates Is Not Offset By Their Limited Ability To Participate**

Defendants suggest that minor party and petitioning candidates will be able to qualify for public funding with relative ease and will therefore benefit under the CEP. (Def. Mem. at 39-44). The legislative history, the testimony of plaintiffs' witnesses, and the evidence of minor party participation to date all contradict this suggestion. The legislative history by itself provides ample grounds to dismiss the defendants' account of the facts. The director of the SEEC and representatives from the intervening organizations are all on record urging the legislature to relax the qualifying criteria.

After the bill signing ceremony, the Governor asked Jeffrey Garfield, Executive Director of the SEEC, to study the legislation and make recommendations for its improvement. (Garfield Statement to GAE, Pl. Ex. 5 at 1). In a statement to the Joint Committee on Government Administration and Elections, Mr. Garfield "urge[d] [] in the strongest terms possible" that the statute be amended to relax the qualifying criteria for minor and independent party candidates and to close loopholes in the expenditure limits that frustrated the purposes of the CEP. (*Id.*).

In addressing the CEP's treatment of minor and petitioning party candidates, Mr. Garfield identified the very same constitutional issues that plaintiffs have raised in this case:

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<sup>9</sup> The CEP grants will also significantly inflate the financial strength of candidates seeking state-wide office by hundreds of thousands of dollars. See Pl. Mem. at 17-18, Table 1.

The Commission is also very concerned about the treatment of minor party and petitioning candidates for purposes of qualifying for public financing. The legislation creates standards for their participation that are so high that it is very unlikely that these candidates would qualify for any public grants. After reviewing the constitutional jurisprudence concerning the treatment of minor party and petitioning candidates, we feel that a safe harbor is attained with a 5% standard that could be satisfied either with 5% of total votes cast for the office at the preceding election, or a 5% additional petition signature requirement for such candidates. If either 5% standard were attained by the minor party candidate, a full grant would be provided on the same basis as a major party candidate, so long as they also attain the requisite qualifying contributions in the same manner as the major party candidate. Although Maine treats such candidates the same as major party candidates for purposes of eligibility for public financing and Arizona actually provides larger grants to qualifying independent candidates than major party candidates, it is not required by our courts that the legislature treat all candidates the same for this purpose. Our recommendation is based upon consideration of the Buckley case as well as the US Supreme Court decisions regarding ballot access requirements for petitioning candidates.

(*Id.* at 2).

Connecticut Common Cause and CCAG also lined up behind HB 5610. As part of a coalition of organizations called the "Clean Up Connecticut Campaign," Connecticut Common Cause and CCAG organized a major public relations and lobbying effort to reduce the minor party restrictions and to close the expenditure loopholes in the law. (Clean Up Connecticut Campaign Press Releases, Pl. Ex. 7 & Pl. Ex. 8). With respect to the CEP's requirements for minor party and petitioning candidates, the Clean Up Connecticut Campaign proposed that the statute be amended to address the following concerns:

- The thresholds for minor and petitioning candidates to qualify be lowered and equalized. The coalition recommends that the state allow those candidates to raise the qualifying thresholds in the same manner and amount of major party candidates and if either the minor/petitioning candidate received 3 percent of the total votes cast for the same office in the preceding election or they obtained petition signature equivalent to 3 percent of the registered voters, the candidate would receive 1/3 of the grant. If the minor/petitioning candidate received 4 percent of the total votes cast, or obtained that amount in petition signatures, allow them to receive 2/3 the grant. If the candidate receives 5 percent of total votes cast in [the] preceding election or gathered the equivalent 5 percent of petition signatures, they would receive the full grant.

- Allow minor party and petitioning candidates to raise funds up to the spending limits for major party candidates. If a candidate receives 1/3 of the grant, they should be permitted to raise private contributions up [to a] level set by the spending limit.
- Public funding be provide[d] for minor party primaries.

(Clean Up Connecticut Campaign Press Release, Pl. Ex. 7 at 5-6).

The defendants cannot simply ignore this evidence, yet there is no mention of it in their briefs. Instead they rely on the testimony of their allies in this litigation – the Working Families Party of Connecticut – to support their claim that the qualifying criteria are not a significant barrier to participation. This assertion is not only contradicted by the testimony of Commissioner Garfield and the intervening organizations, but the evidence shows just the opposite. In 2006, for example, there were 21 minor party and petitioning candidates running for the Senate and 83 minor party and petitioning candidates running for the House (including cross-endorsements).<sup>10</sup> Election Results for State House and Senate in 2006. At this juncture, only two WFP candidates have filed an affidavit of intent to participate. (Participating and Nonparticipating Candidates, *available at*: <http://www.ct.gov/seec/cwp/view.asp?a=2861&Q=401806&PM=1> (last visited Aug. 10, 2008) (Cicero Booker and Deborah Noble of the Working Families Party). Neither member has qualified for a CEP grant yet. (*Id.*). Michael DeRosa, who is running as a Green Party candidate in the 1st Senate District, has also filed an intent to participate.

Finally, the defendants go to great lengths to establish how modest the qualifying criteria are. To support this contention, the defendants rely on empirical data and testimony from their lay and expert witnesses. This evidence should be viewed with skepticism. It is contradicted by the testimony of the defendants before the legislature. It is also belied by the evidence showing

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<sup>10</sup> We use the number of minor party candidates from 2006 as opposed to 2008 because minor party candidates are not required to declare their candidacies with the state until September 2008, so there is not yet an accurate accounting of how many minor party candidates are running in the 2008 election cycle.

how few – if any – non-major party candidates have qualified for public funding in the 2008 cycle. At base, the defendants fail to accurately describe the burdens involved for a minor party or petitioning candidate to qualify for a grant under the CEP. Plaintiffs have described that burden in clear and substantial detail. *See* Pl. Mem. at 22-42. There is no purpose served by repeating that lengthy dissertation of the facts, especially since the defendants' evidence does not materially contradict plaintiffs' version of the evidence. Plaintiffs therefore limit their response to those areas of the defendants that is most misleading.

a. Prior Vote Bar

The defendants assert that the prior vote total requirement is a reasonable threshold that will make public financing available to large numbers of minor party candidates. A non-major party candidate must demonstrate that a member from its party received at least 20% of the vote in that office in the previous election to receive the same grant as his major party opponent. One-third funding is available based on a 10% prior vote total. Conn. Gen. Stat. §§ 9-705(c)(1), (g)(1). Defendants assert that minor party candidates are eligible for funding in 14 legislative races in the 2008 elections. (Def. Mem. at 39). What defendants neglect to mention is that an almost equal number of minor and petitioning candidates for state representative received more than 5% and less than 10% of the vote. *See* Election Results for State Representative and State Senate, 2006. The defendants' argument is also misleading when placed in the context of other election cycles, which show that the 10% bar excludes the vast majority of non-major party candidates from participating in the CEP. Specifically, in the three legislative election cycles covering the period 2000-2004, 166 candidates represented a minor party or ran as a petitioning candidate. Only 21 received more than 10% of the vote. (OLR Research Report, Past Performance of Petitioning and Minor Party Candidates in Connecticut, March 9, 2006, Pl. Ex.

30).<sup>11</sup> Thirty-nine others, however, received between 5% and 9.99% of the vote. *Id.* The General Assembly crafted the 10% requirement (as opposed to the 5% approved in *Buckley*) with the knowledge that it would exclude a significant number of well-supported minor party candidates.

b. Burden Of Petitioning

Minor party candidates who are barred from CEP eligibility under the prior vote threshold may attempt to qualify for public financing through the same manner as petitioning candidates, *i.e.*, by gathering signatures. Conn. Gen. Stat. §§ 9-705(c)(2), (g)(2). Minor party candidates are thus treated as new party candidates even though they may have a proven record of support in the district. A minor party candidate who received 9.9% of the vote in the previous election must qualify in the same manner as a candidate who has never run for office and who must petition to even get on the ballot. Defendants do not explain why it is necessary to treat minor party candidates and petitioning party candidates the same when minor party candidates have already established their *bona fides*. Moreover, defendants fail to give a full account of the actual burden of the petitioning requirement, including the actual number of signatures required, the costs of completing such a requirement, and the difficulties of attaining signatures both on a statewide and district level. For a fuller account of the petitioning requirement, *see* Pl. Mem. at 27-37.

The chart provided by defendants gives a misleading account of the number of signatures that are actually required. (Def. Mem. at 40). The data from 2006 is not entirely representative of voter turnout. In Presidential election years, the turnout is significantly greater. Compared to

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<sup>11</sup> The OLR Report states that there were 168 candidates with 22 receiving more than 10% of the vote. The table actually indicates that only 166 independent candidates ran, *Garfield*, 537 F. Supp. 2d at 379 n.26, and only 21 – not 22 – received more than 10% of the vote.

2006, 33% more voters participated in the House elections and 30% more voters participated in the Senate elections in 2004. *See* Decl. of A. Nikolaidis ¶ 9 and Table 8. The chart is also misleading because it reports only the number valid signatures that are required. The relevant measure is the number of raw signatures needed. The defendants own petitioning expert has stated that a candidate would actually want to collect twice as many raw signatures to provide an acceptable cushion for signatures that are disqualified by town clerks as invalid. (Hubschman Depo. at 45-47, Pl. Ex. 32; *see also* Weicker Decl. ¶ 15, Pl. Ex. A-2; DeRosa Decl. ¶ 21, Pl. Ex. A-1; Ferrucci Decl. ¶ 9, Pl. Ex. A-4; Thornton Decl. ¶ 12, Pl. Ex. A-3). A petitioner's signatures are routinely disqualified for various reasons, including the signatures being illegible, the signatures being duplicates, the signer not being a registered voter, etc. (DeRosa Decl. ¶ 21, Pl. Ex. A-1; Ferrucci Decl. ¶ 9, (Pl. Ex. A-4). The chart does not account for any of this.

Contrary to defendants' assertions (Def. Mem. at 41-42), plaintiffs and their witnesses do not believe that they could realistically achieve the extraordinary signature thresholds that the CEP imposes on petitioning candidates for certain offices. (Weicker Decl. ¶ 15, Pl. Ex. A-2; DeRosa Decl. ¶ 21, Pl. Ex. A-1; Thornton Decl. ¶¶ 11-12, Pl. Ex. A-3) (candidates could not realistically gather the hundreds of thousands of signatures required for eligibility for public funding under the CEP for statewide office). Obviously, there are certain districts where the signature thresholds are not as high. However, defendants fail to provide a proper account of how burdensome the process is, even in these smaller districts. (DeRosa Decl. ¶ 34, Pl. Ex. A-1) (satisfying petitioning requirement at the district level may be more difficult than meeting the requirement for statewide office). The testimony from the Working Families Party director about the two candidates that have supposedly collected the required signatures so far is plainly the exception. (Jon Green Aff. ¶¶ 22-23). The WFP ran 70 legislative candidates in 2006. 2006



Election Results. Moreover, the signatures of the two WFP candidates have not yet been verified, and, those candidates have not yet raised the required amount of money in qualifying contributions. (Jon Green Aff. ¶¶ 22-23).

The defendants further fail to fully address the CEP's petitioning requirements for statewide office for minor party candidates. These requirements wildly exceed anything that the Green Party, Libertarian Party, WFP, or any other non-major party candidate has ever come close to achieving. For example, to qualify for a full grant, a gubernatorial candidate would have to submit more than 200,000 *valid* signatures, and as many as 400,000 with the cushion. (Weicker Decl. ¶ 15, Pl. Ex. A-2; DeRosa Decl. ¶ 21, Pl. Ex. A-1; Ferrucci Decl. ¶ 9, Pl. Ex. A-4). Governor Weicker testified that even his campaign could not possibly meet this requirement, particularly if he was required to comply with the CEP's \$100 contribution limit and \$250,000 spending limit. (Weicker Decl. ¶¶ 15-16, 19, Pl. Ex. A-2). For traditional minor party candidates, the petition requirement is a non-starter for all practical purposes. It represents hundreds of thousands more signatures than the number of signatures the Green and Libertarian Parties collected to qualify its candidates for the ballot in 2006. Just to qualify for the ballot, the minor parties deployed scores of volunteers and spent thousand of dollars. (Ferrucci Decl. ¶¶ 11, 13, Pl. Ex. A-4; Thornton Decl. ¶¶ 6-7, Pl. Ex. A-3; DeRosa Decl. ¶ 28, Pl. Ex. A-1; Rule Decl. ¶ 5, Pl. Ex. A-5). As plaintiffs' expert, Richard Winger, has noted, "[i]n the entire history of the United States, no independent candidate has ever successfully met a petition requirement greater than 134,781 signatures." (Winger Decl. ¶ 21, Pl. Ex. A-6).

Although defendants' expert, Harold Hubschman, believes that it is feasible for minor party and petitioning candidates to fulfill the CEP's signature requirements for full public funding, his testimony is contradicted by the testimony of plaintiffs' witnesses. (Weicker Decl. ¶



15, Pl. Ex. A-2; DeRosa Decl. ¶ 21, Pl. Ex. A-1; Thornton Decl. ¶¶ 11-12, Pl. Ex. A-3). Mr. Hubschman is the president of SpoonWorks, a Massachusetts firm that specializes in qualifying candidates for the ballot for a fee. He provides an unrealistic portrayal of the petitioning process. Statewide petition drives for ballot access, for instance, cannot be completed by relying solely on volunteers. Paid petitioners or organizers are needed to augment the process. (Thornton Decl. ¶ 14, Pl. Ex. A-3; DeRosa Decl. ¶ 38, Pl. Ex. A-1). Traditional minor party candidates do not have hundreds of volunteers or the resources to hire a professional services firm like Mr. Hubschman's. Under the CEP, the number of needed signatures to qualify for even a partial grant is at least 100,000 more than the 7,500 needed to qualify for the ballot. Even at the district level the needed signatures as a percentage are closer to the number needed to qualify for the statewide ballot. The evidence shows that qualifying for the ballot every year is a substantial burden on minor party candidates. (*See* Pl. Mem. at 34-37; Ferrucci Decl. ¶ 9, Pl. Ex. A-4; DeRosa Decl. ¶¶ 16-25, Pl. Ex. A-1).

Mr. Hubschman has never completed a petition drive for a minor party candidate.<sup>12</sup> (Hubschman Depo. at 44, Pl. Ex. 32). Thus, he is not privy to some of the unique burdens that minor party candidates encounter. (DeRosa Decl. ¶ 27, Pl. Ex. A-1; Thornton Decl. ¶ 10, Pl. Ex. A-3). For instance, it is typically more difficult for minor party candidates to gather signatures because some people consider them to be out of the mainstream. (*Id.*). Furthermore, minor party candidates are not always given access to the same venues to collect signatures that are open to major party candidates. (DeRosa Decl. ¶ 30, Pl. Ex. A-1). These are all burdens that minor party candidates face – and which Mr. Hubschman has not experienced because he has never completed a petition drive for a minor party candidate.

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<sup>12</sup> Mr. Hubschman has also only completed statewide petition drives, and has not completed a petition drive for local legislative or municipal candidates. (Hubschman Depo. at 78, Pl. Ex. 32). As plaintiffs have detailed, petitioning on the district level can be more difficult than at the statewide level. (Pl. Mem. at 34-37).

There is additional reason to be skeptical of the testimony of Mr. Hubschman. His firm is paid \$4 per signature and is not lacking for business. (Hubschman Depo. at 47-48, 79-82, 89, Pl. Ex. 32) (for a fuller account, *see* Pl. Mem. at 29-31). This is *prima facie* evidence of what the market demands for experienced petitioners. His one experience in Connecticut was on behalf of Senator Lieberman in 2006. The Senator's campaign paid Mr. Hubschman's firm \$60,000 to collect 7,500 valid signatures. Minor parties like the Green Party and the Libertarian Party cannot afford to pay these sums of money. (DeRosa Decl. ¶ 38, Pl. Ex. A-1). Mr. Hubschman's testimony under these circumstances is simply not credible. The evidence more accurately shows that petitioning is an expensive and resource intensive process.

c. Burden Of Collecting Qualifying Contributions

Even if a non-major party candidate could qualify based on prior vote totals or by petition, he would still have to meet the substantial burden of collecting the required amount of money in qualifying contributions. Conn. Gen. Stat. § 9-704(a). The defendants assert that any "reasonably effective candidate" will be able to satisfy this requirement with ease. (Zimmerman Aff. ¶ 18). This may be true for major party candidates, but it is assuredly not the case for minor party candidates. For major party candidates the qualifying contribution requirement is a mere formality because they can tap into the party's organizational apparatus to reach proven contributors. (Jepsen Depo., Pl. Ex. 20 at 85-88; Weicker Decl. ¶ 14, Pl. Ex. A-2). Minor party candidates do not have the benefit of a broad level of statewide or district support. They must take a different and more difficult route that would require them to identify hundreds and thousands of new contributors. For minor party candidates the hurdle is substantially higher and requires a much greater effort. (Weicker Decl. ¶¶ 16-17, Pl. Ex. A-2; DeRosa Decl. ¶ 40, Pl. Ex. A-1; Thornton Decl. ¶ 18, Pl. Ex. A-3). Even then they would only be eligible for partial grants.

Unlike major party candidates, independent and minor party candidates depend on a consolidated base of larger contributors. (Weicker Decl ¶ 17, Pl. Ex. A-2; DeRosa Decl. ¶ 39, Pl. Ex. A-1). For example, Cliff Thornton of the Green Party raised \$27,000 from less than 90 individual contributors. (Thornton Decl. ¶¶ 8, 19, Pl. Ex. A-3). Only about \$1,700 of the \$27,000 that he raised came from contributions of \$100 or less. (*Id.*). Moreover, he received several large individual contributions, including a couple for \$1,000, one for \$2,000, and another one for \$2,500. (*Id.* ¶ 8). Even Lowell Weicker, who won the governorship as an independent candidate in 1990, depended on large contributions that typically ranged between \$500 and \$1000. (Weicker Decl ¶ 18, Pl. Ex. A-2). Although he received many contributions below \$100 throughout the course of his campaign, the great majority of the 2.7 million dollars he raised came in contributions well in excess of that amount. (*Id.*). In short, it is a fact that minor party and petitioning candidates are disproportionately burdened by the \$100 limit because of their reliance on larger donors. Simply because they cannot raise the required amounts in small donations does not make them frivolous candidates.

**D. Defendants' Discussion Of The Strength Of The Green And Libertarian Parties Is Not Supported By The Record**

There is no dispute that the Green and Libertarian Parties are not major parties, and have not had the success of major parties. Defendants nevertheless spend ten pages disparaging the Green and Libertarian Parties as fringe groups that have no supporters, have no semblance of an organization, and lack strategy in selecting candidates. (Def. Mem. at 27-37). The fact remains, however, that both the Green Party and the Libertarian Party have established themselves as a presence in both Connecticut and national politics. Moreover, the defendants exclusive focus on the Green and Libertarian Parties obfuscates the broader appeal of non-major party candidates in Connecticut. Both Senator Lieberman and Governor Weicker were elected to state-wide office

as independents. *See* Pl. Mem. at 26-27. The defendants' efforts to marginalize minor party candidates are also inconsistent with their more generous assessment of the WFP.

Since its establishment in 1996, the Green Party of Connecticut has had dozens of candidates run for federal, state, and legislative office. In 2000, Ralph Nader led the national ticket when he ran for the presidency. He was able to secure 2,716,200 votes, or 3% of the vote. (DeRosa Decl. ¶ 11, Pl. Ex. A-1). Since 2000, the Party has also had 5 candidates run for the U.S. House of Representatives, and one candidate run for U.S. Senate. On the statewide races, the Green Party of Connecticut qualified its first full slate of candidates in 2006. The slate included: Cliff Thornton for Governor, Jean de Smet for Lieutenant Governor, Nancy Burton for Attorney General, Michael DeRosa for Secretary of State, David Bue for State Treasurer, and Colin Bennett for State Comptroller. Plaintiff Michael DeRosa received 17,851 votes, or approximately 1.7% of the vote for Secretary of State – qualifying him for ballot access in the 2010 statewide election. (*Id.*).

On the legislative level, the Green Party has had candidates run for both state house and state senate in every election year since 2000. In 2000, the Party had two candidates run for state senate and four candidates run for state house. In 2002, the Party had three candidates run for state senate and three candidates run for state house. In 2004, the Party had five candidates run for state senate and two candidates run for state house. In 2006, the Party had three candidates run for state senate and one candidate run for state house. (*Id.*). In 2008, the Green Party will run three candidates for state senate and three candidates for state house. *See* Green Party of Connecticut 2008 Election News, *available at*: <http://www.ctgreens.org/2008candidates.shtml> (last visited August 27, 2008).

Since 2000, several of its candidates have received between 10% and 20% of the vote in legislative elections. (*Id.*). In 2000, Michael DeRosa received 10.73% of the vote for State Senate in the First District; Thomas Ethier received 11.84% of the vote for State House in the 65th District; and Paul Bassler received 10.81% of the vote for State House in the 142nd District. (OLR Research Report, Past Performance of Petitioning and Minor Party Candidates in Connecticut, March 9, 2006, Pl. Ex. 30). In 2002, John Battista received 30.86% of the vote for State House in the 67th District and Simone Mason received 18.35% of the vote for State House in the 91st District. (*Id.*). In 2004, Michael DeRosa received 11.36% of the vote for State Senate in the First District; Joyce Chen received 27.28% of the vote for State House in the 93rd District; and Nancy Burton received 17.9% of the vote for State House in the 135th District. (*Id.*). And in 2006, Nancy Burton received 11.72% of the vote for State House in the 135th District. (*Id.*).

Second, the Green Party has also achieved some success at the local levels. In 2007, Allan Brison was elected Alderman in New Haven; Jean de Smet was elected First Selectman in Windham; Erik Eisenberg was elected Constable in New Canaan; Hector Lopez was reelected as Constable in New Canaan; and Leif Smith was elected Constable in Redding. (Green Party of Connecticut Election History, Pl. Ex. 31). In 2001, Joyce Chen was elected Alderman in New Haven, and reelected for that position in 2003. (*Id.*). Elizabeth Horton Sheff was elected to the City Council of Hartford in 1999, and reelected for that position in 2001 and 2003. (*Id.*). There have been others as well. (*Id.*). Although success has been modest, the Green Party of Connecticut is far from a party that runs frivolous candidacies – as defendants would have this Court believe.<sup>13</sup>

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<sup>13</sup> While plaintiffs do not feel compelled to respond to all of defendants' attacks on the Green Party's credibility, plaintiffs will respond to the following: First, defendants attempt to disparage the Green Party as a

With respect to the Libertarian Party, it has also had numerous candidates run for federal, state, and legislative office. In 2000, Harry Browne ran for U.S. President, Wildey Moore ran for U.S. Senate, and Daniel Gislao ran for U.S. House of Representatives, 4th Congressional District. In addition, there were three candidates for state senate and twelve candidates for state house. (Rule Decl. ¶ 4, Pl. Ex. A-5). In 2002, Darlene Nicholas ran for Secretary of State, Ken Mosher for State Treasurer, and Leonard Rasch for State Comptroller. There were also two candidates that ran for state house. (*Id.*). In 2004, Michael Badnarik ran for U.S. President, and Leonard Rasch for U.S. Senate. There was also one candidate for state senate, and four candidates for state house. (*Id.*). And in 2006, Philip Maymin ran for U.S. House of Representatives, 4th Congressional District. For the statewide offices, Ken Mosher ran for Secretary of State, Steven Edelman ran for State Treasurer, and Richard Connelly, Jr. ran for State Comptroller. In addition, there were two candidates for state house. (*Id.*). Former congressman Robert (“Bob”) Barr has been nominated as the Party’s Presidential candidate in 2008 and the Party is in the process of trying to qualify him for the ballot. (*Id.* ¶ 5). At this juncture, the Party is also running one candidate for state house and one candidate for state senate for the 2008 legislative elections. (*Id.* ¶ 6).

The Libertarian Party has also had candidates receive over 10% of the vote. In 2000, Michael Costanza received 26.08% of the vote for State House in the 43rd District, and William Rood received 15.85% of the vote for State House in the 49th District. (Past Performance of Petitioning and Minor Party Candidates in Connecticut, March 9, 2006, Pl. Ex. 30). Moreover,

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disorganized party with “chronic absenteeism” at party meetings. (Def. Mem. at 29). Contrary to their assertions, the Green Party has consistently had state central committee and executive committee meetings since 2001. The minutes of all of their meetings are publicly available. See Minutes of State Central Committee Meetings, available at: <http://www.ctgreens.org/minutesindex.shtml> (last visited June 30, 2008). Second, defendants point out that Michael DeRosa raised only \$573 for his state senate campaign. (Def. Mem. at 32). This is misleading, as defendants fail to state that in his 2000 state senate campaign, he raised approximately \$5,500, and in his 2002 state senate campaign, he raised approximately \$4,600. (DeRosa Decl. ¶ 45, Pl. Ex. A-1).

few people who follow politics are unaware of the Libertarian Party's well established philosophy of individualism and limited government. *See* Libertarian Party of Connecticut, available at, <http://www.lpct.org/> (last visited July 30, 2008). Defendants' portrayal of the Green and Libertarian Parties of Connecticut as fringe parties is simply at odds with the gains these parties have made at the local and state levels of government.

**E. Nonmajor Party Candidates Do Not Gain By Staying Outside The CEP**

Defendants assert that the CEP potentially benefits non-major party candidates who do not participate. (Def. Mem. at 46). The record does not support this assertion. If anything, the legislative history supports the opposite conclusion. The legislature went to great lengths to protect major party candidates from effective challenge by candidates. Unlike in *Buckley*, the public grants here are significantly greater than private money, so that public financing acts as a subsidy rather than a substitute. Moreover, the expenditure limits that supposedly apply to participating candidates are not strictly binding and therefore there is no real countervailing burden – and thus no benefit to remaining outside the public financing system.<sup>14</sup> Candidates are released from the expenditure limits and paid supplemental grants based on the first dollar in excess expenditures by non-participating candidates or based on the value of independent expenditures that target the participating candidate. *See* Conn. Gen. Stat. §§ 9-713, 9-714. The funding disparity between major and non-major parties will inevitably increase as a result of these provisions. Minor party candidates are effectively bystanders as their already modest resources are further diluted by the public money flowing to their opponents.

The advantage minor parties supposedly have is also minimized by significant loopholes in the statute that allow major party candidates to raise and spend unlimited amounts of money through the organizational expenditure provision of the CEP and through exploratory

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<sup>14</sup> For a more expansive discussion on the circumvention of the expenditure limits, *see* Pl. Mem. at 42-49.



committees. (*See* Pl. Mem. at 46-49). The potential of these provisions to disadvantage minor party candidates and to undermine the purposes of the CEP is clear and equivocal. The case was made to the legislature by the SEEC and the intervening organizations. According to Commissioner Garfield:

The disparate treatment of minor and petitioning parties under PA 05-5 is further exacerbated by the organization expenditure loophole which allows legislative caucus and leadership PACs to spend unlimited amounts towards the support of participating candidates, and minor and petitioning candidates do not have a caucus in the General Assembly. In summary, one of the primary goals of public financing is to increase electoral competition, and these provisions work in contravention of that goal.

(Garfield Statement, Pl. Ex. 5 at 2).

The defendants cannot ignore or disavow this testimony. Nor do they provide any explanation why minor parties are somehow less disadvantaged under the 2006 amendments, despite the fact that the actual loopholes that defendants sought to amend were not closed.

Finally, the effect of the CEP is to create two classes of candidates – the participating major party candidates, and the non-participating minor party and petitioning candidates. Those who are participating are the “clean election” candidates while those who are unable to are not “clean.” Thus, the very fact of non-participating creates a stigma that minor party or petitioning candidates are beholden to special interests.

### **III. LEGAL ARGUMENT**

#### **A. Defendants’ Motion for Summary Judgment Should Be Denied**

Summary judgment is appropriate only if there are no genuine issues of material fact such that the party making the motion is “entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c); *see also* *Peck v. Public Service Mut. Ins. Co.*, 326 F.3d 330, 337 (2d Cir. 2003). This standard applies equally to cases, like this one, in which both sides have moved for summary



judgment. *See Morales v. Quintel Entertainment, Inc.*, 249 F.3d 115, 121 (2d Cir. 2001). As a result, when parties have filed cross-motions for summary judgment, the court “must evaluate each party’s motion on its own merits, taking care in each instance to draw all reasonable inferences against the party whose motion is under consideration.” *Hotel Employees & Rest. Employees Union, Local 100 v. City of New York Dep’t of Parks & Recreation*, 311 F.3d 534, 543 (2d Cir. 2002) (quoting *Heublein, Inc. v. United States*, 996 F.2d 1455, 1461 (2d Cir. 1993)).

Although there are no disputed material facts that preclude summary judgment in favor of plaintiffs, given the patently unconstitutional burden that the CEP has placed on the political opportunity of minor party and independent candidates, the same cannot be said of the facts defendants rely upon in their motion.<sup>15</sup> Many of the facts that defendants rely upon are materially disputed. Plaintiffs have established clear factual disputes relating to (1) the impact of the CEP on the political opportunities of major and non-major party candidates, and (2) the legitimacy and substance of the State’s asserted justification for applying different and more difficult qualifying criteria to non-major party candidates. Based on these sharp factual disputes, defendants are not entitled to summary judgment. Even if defendants have satisfied their factual burden, they are also not entitled to judgment as a matter of law. The CEP is not properly tailored and does not advance any legitimate – much less compelling – governmental interests.

**B. The CEP Is Subject To Strict Scrutiny Because It Unfairly And Unnecessarily Burdens The Political Opportunities Of Non-Major Party Candidates And Distorts The Electoral Playing Field Further In Favor Of Major Party Candidates**

The governing constitutional standard set forth by the defendants is erroneous. This case is controlled by the Supreme Court’s campaign finance jurisprudence – not by the ballot access

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<sup>15</sup> The contention by one party that there are no issues of material fact sufficient to prevent the entry of judgment in its favor does not bar that party from asserting that there are issues of material fact sufficient to prevent the entry of judgment as a matter of law against it. *See Heublein*, 996 F.2d at 1461 (citing *Schwabenbauer v. Board of Educ. of Olean*, 667 F.2d 305, 313-314 (2d Cir. 1981)).

and election law cases relied upon by the defendants. As recognized by all the parties to this litigation during the motion to dismiss, *Buckley* is the controlling precedent. *Buckley* stands for the unremarkable proposition that public financing cannot be deployed in the service of the major political parties if the effect is to decrease the relative electoral and financial position of non-major party candidates. The State can have no justifiable purpose in further increasing the advantages enjoyed by the major parties by granting them what, in effect, is a significant subsidy. Any doubt about this controlling First Amendment principle was settled when the Court decided *Davis*, 128 S.Ct., last term. That case reaffirms in the strongest possible terms the main concern expressed in *Buckley* – specifically, that campaign finance regulations cannot have the effect of increasing the speech or election related opportunities of candidates if the regulations work to decrease the opportunities for other candidates. *Id.* at 2773-74 (rejecting argument that a candidate’s speech may be restricted in order to “level electoral opportunities” of other candidates).<sup>16</sup>

The CEP imposes a negative restraint on the speech of non-major party candidates by significantly increasing the resources of their major party opponents on terms that deny the same benefit to minor party and independent candidates. The resulting financial disparity impedes the ability of non-major party candidates to be heard no less than a direct restraint on speech. The careful balance of benefits and burdens that was present in *Buckley* is absent here. All the benefits under the CEP flow exclusively to major party candidates without the countervailing

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<sup>16</sup> In *Davis*, the Court struck down a provision of the McCain-Feingold campaign-finance law aimed at leveling the playing field for opponents of wealthy candidates who decide to finance their own campaigns. The so-called “Millionaire’s Amendment” ruled on in *Davis* requires self-financing candidates to declare their intention to spend more than \$350,000 of their own funds, and then to report when they cross that line. Opponents of the self-financed candidates are then allowed to raise money from individuals at a contribution limit that is three times that of the original contribution limit (\$6,900 as opposed to the usual maximum of \$2,300), among other benefits. To the majority, the law imposed an “unprecedented penalty,” 128 S.Ct. at 2771, and a “substantial burden” on the self-financed candidates, *id.* at 2772.

burden of binding expenditure limits. Non-major party candidates gain no corresponding advantage from being denied the funding. The effect is to decidedly tilt the playing field to the advantage of major party candidates only. *Buckley* and the Supreme Court's campaign finance jurisprudence provide ample authority to invalidate the CEP because it burdens the speech of one group of speakers. *See Davis*, 128 S.Ct. at 2774 (striking down legislation that applied higher contribution limits for "non-self financing candidates" but imposing lower contribution limit for self-financed "millionaire" because of the "substantial burden" it imposed "on the exercise of First Amendment Right[s]..."); *First Nat'l Bank of Boston v. Bellotti*, 435 U.S. 765, 784-85 (1978) (speaker-based restriction on campaign speech).

It is too late in the day for the defendants to credibly argue that the more deferential balancing test applied in the election law and ballot access cases is the controlling analysis. *See Anderson v. Celebrezze*, 460 U.S. 780 (1983); *Burdick v. Takushi*, 504 U.S. 428 (1992). Those cases were not cited by the defendants in the earlier proceedings and none of the post-*Buckley* campaign finance or public financing cases apply that standard. *See, e.g., Davis*, 128 S.Ct.; *Federal Election Comm'n v. Wisconsin Right to Life*, 127 S.Ct. 2652, 2664 (2007) ("WRTL"); *Daggett v. Comm'n on Governmental Ethics & Election Practices*, 205 F.3d 445, 466-68 (1st Cir. 2000); *Rosenstiel v. Rodriguez*, 101 F.3d 1544, 1553-57 (8th Cir. 1996). It is only now, after the Court rejected the argument that *Buckley* required dismissal of plaintiffs' claim, that the defendants have changed course. *Garfield*, 537 F. Supp. 2d at 379. The defendants have provided no explanation why the limiting First Amendment principles discussed in *Buckley* are no longer the relevant benchmark.

To be sure the *Anderson-Burdick* line of cases involves election regulations and is necessarily governed by a more deferential standard. As the Court explained:

Each provision of a[n] [election] code, “whether it governs the registration and qualifications of voters, the selection and eligibility of candidates, or the voting process itself, inevitably affects – at least to some degree – the individual’s right to vote and his right to associate with others for political ends.” *Anderson v. Celebrezze*, 460 U.S. 780, 788 (1983). Consequently, to subject every voting regulation to strict scrutiny and to require that the regulation be narrowly tailored to advance a compelling state interest, as petitioner suggests, would tie the hands of States seeking to assure that elections are operated equitably and efficiently.

*Burdick*, 504 U.S. at 433.

The election law cases cited by the defendants involve the voting process. Campaign finance regulations are evaluated under a different standard because they represent direct restraints on speech. *Buckley*, 424 U. S. at 19 (“A restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached.”). Laws that have the effect of restricting electoral speech are presumptively invalid and rarely upheld. *WRTL*, 127 S.Ct. at 2664. It makes no difference whether the restriction is a direct restraint or results from a statutory scheme that increases the relative ability of your opponent to speak. *See Davis*, 128 S.Ct. (striking down legislation that increases relative ability of non-self financing candidates to speak by allowing them to raise money using higher contribution limits). The First Amendment prohibits the government from altering the electoral opportunities of candidates in the service of other objectives. *Id.*

The issue for this Court to decide, then, is whether the CEP imposes a burden on plaintiffs’ speech by distorting their relative ability to be heard, or by “unfairly or unnecessarily burden[ing] the political opportunity” of minor party or independent candidates. *Buckley*, 424 U.S. at 95-96. If the Court answers that question affirmatively, the CEP must withstand the “exacting scrutiny” or strict scrutiny that applies to restrictions on campaign-related speech. *See*

*Buckley*, 424 U.S. at 15, 44-45; *WRTL*, 127 S.Ct. at 2664 (“Because [the Act] burdens political speech, it is subject to strict scrutiny. Statutes that burden political speech are subject to strict scrutiny and the burden is on the government to demonstrate a compelling interest which is narrowly tailored to achieve that interest. *See Davis*, 128 S.Ct. at 2772.”)<sup>17</sup>

**1. The Record Contradicts Defendants’ Contention That the CEP Will Not Enhance the Electoral Opportunities of Major Party Candidates**

The defendants make the incredible argument that the CEP will not result in any distorting effects that will increase the electoral opportunities of major party candidates and change the dynamics of elections. At bottom, the defendants repeat the argument made in their motion to dismiss that non-major parties are no worse off under the CEP than they were prior to the adoption of the CEP. That is patently untrue. Beginning with the 2008 legislative election cycle, the record already establishes that minor party candidates will be competing in a more difficult environment against more and better financed candidates as a direct result of the ease with which major party candidates can qualify for public financing. *See Factual Statement*, Section II.C. The defendants attempt to cast doubt on this assertion by manipulating the facts, but the record shows that the CEP has incentivized scores of major party candidates to participate in previously uncontested elections in party dominant and other previously safe districts. The CEP will also significantly increase expenditures in elections that were previously uncontested or where the winning candidate faced only token opposition. These represent the majority of elections in Connecticut. The amount of public money that will flow into these

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<sup>17</sup> Even if the Court were to apply the *Anderson-Burdick* balancing test, defendants would fare no better. The evidence shows that the CEP’s qualifying criteria imposes a severe burden on the electoral opportunities of minor party candidates, *see Factual Statement* Section II.C, and thus strict scrutiny would still apply. *See Burdick*, 504 U.S. at 434 (where an individual’s First Amendment rights are subjected to severe restrictions, the regulation must be “narrowly drawn to advance a state interest of compelling importance”) (citation omitted). But even if the Court applies a more deferential standard, defendants would still lose because it is unlikely that this law would survive rational basis review. *See Garfield*, 537 F. Sup. 2d at 390 n.66.

previously low-dollar campaigns is staggering and will dilute the modest efforts and resources of the non-major party candidates who previously targeted those elections. *Id.*

The defendants ignore this evidence and rely instead on high-dollar campaigns to show that the grant amounts are in line with past expenditures, but those elections are not representative and they are not the elections where public financing distorts the playing field. The record also shows that major party candidates will be the primary beneficiaries of the grants, despite the defendants' contention that the differential qualifying criteria can be easily satisfied by non-major party candidates. The defendant's evidence on this last point must be taken with a grain of salt, given their testimony before the legislature that the qualifying criteria will effectively shut out minor party candidates. (Garfield Statement to GAE, Pl. Ex. 5 at 2). At this juncture, no non-major party candidate has qualified for a grant and only two have filed a declaration of intent. *See* List of Participating and Nonparticipating Candidates, *available at*: <http://www.ct.gov/seec/cwp/view.asp?a=2861&Q=401806&PM=1> (last visited Aug. 10, 2008).

The facts are not helpful to the defendants. The CEP was designed with the goal of removing what the defendants perceived as the distorting and unhealthy effects of private financing and to provide a level playing field that would encourage competition from candidates without the resources to compete effectively. *See* A Guide for 2008 General Assembly Candidates Participating in the Citizens' Election Program at 2, *available at*: [http://www.ct.gov/seec/lib/seec/CEP\\_GUIDE\\_JUNE\\_2008\\_-\\_FINAL.pdf](http://www.ct.gov/seec/lib/seec/CEP_GUIDE_JUNE_2008_-_FINAL.pdf) (last visited August 27, 2008) (goals include "[a]llowing candidates to compete without reliance on special interest money," "curtail[ing] excessive spending and creat[ing] a more level playing field among candidates," and "[e]ncouraging competition in the electoral process"). To accomplish these goals and to encourage participation, the legislature made public financing available to major

party candidates on very generous terms. It is disingenuous for the defendants to now maintain that the CEP will have no effect on elections or on the political opportunities of candidates. The CEP may not change electoral outcomes, but it will definitely change the dynamics of elections in Connecticut by providing major party candidates with increased resources and political opportunities, while denying non-major party candidates the same.

In the defendants' view, so long as non-major party candidates remain free to raise private funds, there is no First Amendment violation from a system of benefits that subsidizes only major party candidates. That argument proves too much. A benefit given to one group of preferred candidates is necessarily a disadvantage to the candidates denied the benefit. *Davis*, 128 S.Ct. at 2774 (discriminatory contribution limits imposed "substantial burden" on candidate). Under the defendants' formulation, it would be acceptable to fund only incumbents so long as challengers could raise private money. It would also be acceptable to defendants if matching funds were also available to incumbents to protect them from candidates who might have the resources to mount an effective challenge. In the defendants' world, the First Amendment prohibits only direct restraints on speech. It is possible to read *Buckley* as allowing this type of financing system, but that would be a misreading of the decision. It is one thing to make public financing available as a proxy for what the market would produce; it is quite a different matter to subsidize the activities of the candidates in a way that distorts market conditions. It is not the function of government to alter the electoral opportunities of candidates in the service of other objectives. *See Davis*, 128 S.Ct. at 2773-74.



a. The Statutory Preference Given To Major Party Candidates Under The CEP's Qualifying Criteria Will Increase Their Electoral Opportunities And Change The Dynamics Of Elections In Connecticut

The ease with which major party candidates can qualify for public financing will increase their political opportunities. Under the CEP, Democratic and Republican candidates are given a permanent statutory preference for funding in all state elections based solely on their party's results in the prior gubernatorial race. *See* Conn. Gen. Stat. § 9-372(5). Major party candidates who are seeking or have secured their party's nominations can qualify for public funding if they raise the required amount of money in qualifying contributions. According to the former Chairman of the State Democratic Party, this requirement is a mere formality given the ability of major party candidates to tap into the party apparatus. (Jepsen Depo., Pl. Ex. 20 at 84-85).

While major party candidates are presumptively eligible for full public funding in every legislative and statewide election, minor and petitioning party candidates are held to a different standard that requires them to qualify on an office-by-office basis. The major political parties have been given this advantage even though their actual level of support in many elections, particularly for the General Assembly, may be less than the qualifying thresholds established for their minor party counterparts. By this measure alone, 43% of major party candidates would fail to qualify for full public funding based on prior vote totals. *Garfield*, 537 F. Supp. 2d at 380. In 2006, for example, 61 of the 151 (40%) races for state representative included only one major party candidate. Election Results for State Representative. On the state senate side, nine of the 36 (25%) races included only one major party candidate. Election Results for State Senate. In addition, many major party candidates faced only token opposition from their major party competitors. Six races for state representative and five for state senate were won by a major



party candidate who captured at least 80% of the vote, even when facing another major party candidate.<sup>18</sup> *Id.*

The results in those largely abandoned districts tell only part of the story. The overwhelming majority of elections in Connecticut is not competitive and not considered “in-play” each cycle. According to the defendants’ expert, a 20% margin of victory is considered an electoral landslide. (Green Supplemental Report, Pl. Ex. 21 at 1) (defining a “safe district” as one in which a candidate wins a district by getting at least 60% of the vote, *i.e.*, by a 60/40 split). In 2006, 72% of Senate elections and 83% of House elections involved a winning major party candidate who was either unopposed by another major party candidate, or who won by at least 20% of the vote. *See* Election Results for State Representative (61 of 151 races included only one major party candidate, and 65 of the other races won by a major party candidate by at least 20% of vote); Election Results for State Senate (9 of 36 races included only one major party candidate, and 17 other races won by a major party candidate by at least 20% of vote).

The defendants do not contest this data. Instead, they argue that the CEP will not have a meaningful effect on candidate behavior and that the relative positions of the parties will remain unchanged. In an attempt to create a material dispute over the impact of the CEP on candidate behavior, the defendants beat a hasty retreat from their widely publicized description of the laudatory goals of the CEP. The CEP was adopted with the goal of reducing the influence of special interest money and wealth by providing candidates with the resources to compete on “a more level playing field.” (SEEC CEP Program Overview, Pl. Ex. 46 at 1). The primary beneficiaries of the program are the major party candidates who did not previously have the resources to compete in previously non-competitive districts.

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<sup>18</sup> In total, 81 of 187 (43%) General Assembly races in 2006 were uncompetitive by any objective standard.

It is not credible for the defendants to now argue that the CEP will not materially increase the electoral opportunities of major party candidates – especially because the defendants own facts belie this assertion. There will be dozens of newly contested elections in the 2008 legislative elections. (Foster Decl. ¶ 14) (Thirty-one state house races previously contested by one major party in 2006 will now be contested by both major parties in 2008; five senate races that were previously contested by only one major party in 2006 will now be contested by both major parties in 2008). The final tally on the number of candidates who will participate in the CEP is not complete, but the SEEC projects an almost 80% participation rate. (SEEC Report on CEP's Projected Levels of Candidate Participation 2008, Pl. Ex. 41 at 12-13). At this juncture only a handful of candidates have opted out, and none in the senate elections. (List of Participating and Nonparticipating Candidates, Pl. Ex. 42). The final numbers will be available in late September, 40 days prior to the election.<sup>19</sup>

The defendants argue that the number of newly contested elections in the 2008 legislative cycle is offset by the number of newly uncontested elections. They are mixing apples and oranges. In the Senate, for instance, the five newly contested elections all occur in districts previously dominated by one of the major parties. *See* Decl. of A. Nikolaidis ¶ 7 and Table 5. The availability of public funding will level the playing field in terms of the resources available to the two major party candidates and clearly provided a powerful incentive. By contrast, two of the three newly uncontested elections occur in districts that are historically competitive and adequately financed. *Id.* The decision not to contest those elections has nothing to do with the availability of public financing. For instance, in the 16th Senate District the two candidates

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<sup>19</sup> In addition, the CEP has already led to a two-fold increase in the number of primaries in 2006. (Press Release, State Elections Enforcement Commission Sees Increase In The Number Of Primaries Since 2006, Pl. Ex. 49).

raised a combined \$380,000 in 2006. *Id.* This year the Republican incumbent is running unopposed. Whatever factors led the Democrats to abandon the district this cycle, it was not for the lack of the ability to raise money or to qualify for the CEP.

The defendants' attempt to minimize the significance of the CEP on candidate behavior is misleading for an additional reason. A review of the 2006 election results shows that less than a third (28%) of senate districts is considered in-play. In the other districts, the dominant political party has a clear advantage and its candidate has either run unopposed or has defeated his underfunded opponent by landslide margins.<sup>20</sup> (Green Supplemental Report, Pl. Ex. 21 at 1) (landslide where a candidate wins by more than 20%). It is precisely in these elections that public financing will have its greatest impact by providing candidates with the resources to compete in these previously uncompetitive elections.

The situation on the House side is more fluid. There is greater turnover from year to year because campaigns are less expensive and there are fewer barriers to entry. The effect of the CEP on candidate behavior is nevertheless just as pronounced. Of the 32 newly contested elections, the overwhelming majority occur in districts that have been abandoned by one party or have generally not been competitive over the last four election cycles. *See* Decl. of A. Nikolaidis ¶ 8 and Table 6. In almost all of these districts, the losing candidates failed to raise the type of money needed to run a competitive campaign. *Id.* Public financing will create a more level playing field by providing those candidates with the resources to compete.

The decision to contest an election that has not been "in play" for years is not some random act. Conversely, the fact that there are a significant number of newly uncontested elections only shows that public financing was not the deciding factor in those districts. In this

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<sup>20</sup> In 2006, 72% of Senate elections and 83% of House elections the winning major party candidate was either unopposed by another major party candidate or won by at least 20% of the vote.

respect, the defendants are correct that other factors come into play in deciding which elections to contest, but in the 32 newly contested House and five newly contested Senate elections, there is no basis to conclude that funding was not a factor when one major party consistently had difficulty finding the candidates and resources necessary to compete in those elections in the past. *See* Factual Statement, Section II.C.<sup>21</sup>

The defendants make the additional argument that even in party dominant Democratic districts, Republican Party strength is much greater than non-major party strength. They attribute this advantage to party infrastructure and organizational capacity. From this premise, they argue that the legislature was justified in granting major parties a statutory preference under the CEP. The defendants may be correct about the relative strength of the major parties, but that does not mean that the two major parties maintain a competitive balance or are equally electable. Party registration numbers and election results clearly show just the opposite. (OLR Research Report, Elections – Party-Dominant Districts, June 17, 2008, attached as Pl. Ex. 50). In 2006, for instance, there were 9 senate elections in party dominant Democratic districts. Four were uncontested. In three others, the Republican candidate received 15% of the vote or less. In the remaining two, the Republican received a paltry 23% and 28% of the vote. *Id.* The House numbers in party dominant districts are comparable. The Republicans either did not run a candidate or its candidate received less than 20% of the vote in 28 of the 46 party dominant Democratic districts. *Id.* In the remaining others, the Republican candidate rarely broke through the 30% vote total. These results reinforce the fact that 70%-80% of the elections in Connecticut

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<sup>21</sup> The defendants' reliance on newly *uncontested* elections to disprove the correlation between the CEP and candidate behavior is flawed. These elections have historically been more competitive than the elections that are newly contested this cycle. *See* Decl. of A. Nikolaidis ¶¶ 7, 8 and Tables 5 & 6. The losing candidates are generally more competitive and raise more money than the losing candidates in the newly contested elections. *Id.*

are not competitive. The justification for adopting a financing system based on the assumption that they are is therefore dubious.

Party registration numbers are even less helpful to the defendant's argument. Thirty-three percent of Senate districts and 38% of House districts are considered party dominant districts under the CEP's definition, meaning that one of the two major parties has a 20% registration advantage over the other. (OLR Report: Party-Dominant Districts in Connecticut, May 17, 2008, Garfield Decl. II Ex. 17). These numbers are actually a little misleading. The Democratic advantage is much greater. In 66% of the Senate districts and 64% of the House districts the Democrats have at least a 10% registration advantage. *Id.* Republicans barely comprise 20% of the state's registered voters. They represent less than 20% of the registered voters in 16 Senate districts and 71 House districts. There are only 4 Senate districts where the Republican registration exceeds 30%, the highest being the being in the 36th district which is an outlier with 39%. On the House side, there are only 20 districts where the Republican registration exceeds 30%. *Id.*

While Republicans have shown that they are capable of winning elections despite the dominance of the Democratic Party in Connecticut, they have proven to be consistently unelectable in many legislative districts where they have either abandoned the district or are regularly defeated by landslide margins. With the exception of the office of Governor, Republican candidates have also consistently lost by landslide margins in recent statewide elections. *See* Election Results for Connecticut State Officers (With the exception of the office of Governor, the Democratic candidates for Secretary of State, Treasurer, Comptroller and Attorney General all won by margins greater than 2:1 in 2006). While the State could legitimately adopt a public financing system that does not require candidates to qualify on a

district-by-district basis (which is the practice under the other public financing systems), it cannot arbitrarily impose this burden on non-major party candidates. All the reasons cited by the defendants for holding non-major party candidates to a more difficult standard apply equally to uncompetitive major party candidates. *See Garfield*, 537 F. Supp. 2d at 381 (“Defendants have suggested no good reason why the legislature sought to protect the public fisc from hopeless minor party candidacies, on the one hand, while spending significant sums of money on hopeless major party candidacies, on the other.”). The State can have no legitimate interest in leveling the playing field as between major party candidates only. *See Davis*, 128 S.Ct. 2759.

Based on the elections results in Connecticut in recent election cycles, major party candidates are entitled to no greater presumption of legitimacy than minor party candidates – especially in the 43% of districts that they have effectively abandoned. These are the districts targeted by minor party and independent candidates and the ones in which they have received their highest vote totals. In 2006, 11 of the 12 minor and petitioning party candidates that received at least 10% of the vote competed against only one major party candidate. *See Election Results for State Representative and State Senate, 2006*. There were 13 other races in which minor and petitioning party candidates received between 5% and 9.9% of the vote, and in 11 of them only one major party candidate competed. *Id.* Thus, in 85% of the districts in which minor and petitioning party candidates demonstrated a “modicum of support,” they benefited from a lack of major party competition. Thus, the CEP works to enhance the status of major party candidates in areas where they have not made any historical showing of support and in areas where minor and petitioning party candidates have made their greatest strides. *See Bang v. Chase*, 442 F. Supp. 758, 768 (D. Minn. 1977), *aff’d Bang v. Noreen*, 436 U.S. 941 (1978)

(“Under this distribution scheme, a party with state-wide plurality can unfairly disadvantage its opponents in those districts where it enjoys little district support.”).<sup>22</sup>

In the 2008 legislative cycle, a second major party candidate has entered the contest in 16 of the 22 elections that were targeted by minor party or independent candidates in 2006. *See* Decl of A. Nikolaidis ¶ 9 and Table 7. In addition, if you consider all the elections in which a non-major party candidate ran for legislative office in 2006, the record shows that they will be competing in a more competitive environment against better financed candidates. *See* Factual Statement, Section II.C. This Court stated the obvious when it wrote that the CEP, in effect, “compels a competitive two-party race between major party candidates in which the government finances, at exceedingly generous levels, major party candidates’ efforts to communicate their views and policies to the electorate. Minor party candidates will be crowded out of those races, and the CEP will snuff out the gains that minor parties have made.” *Garfield*, 537 F. Supp. 2d at 377.

Although the defendants are correct that this may not occur in every district that minor party candidates have targeted in the past, it does not alter the fact that the CEP provides a powerful inducement for major party candidates to compete in elections that they previously avoided. For instance, Michael DeRosa is running for election in the 1st Senate District. He has previously run and received as much as 11.4% of the vote. (DeRosa Decl. ¶ 13, Pl. Ex. A-1). The district is a party dominant Democratic district in which the Republicans have fielded a candidate only once since 2000. The 2008 election has not only drawn a Republican candidate, but also an opponent in the Democratic primary. (2008 State Senate Candidate List, Pl. Ex. 51;

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<sup>22</sup> *Bang* involved a Minnesota statutory scheme that subsidized parties in proportion to their statewide vote totals; the funds, however, were disbursed *equally* to all candidates of a given party, regardless of their level of party support in their own district. The three-judge court found no rational basis for this scheme and deemed it unconstitutional. 442 F. Supp. at 768. The decision was summarily affirmed by the Supreme Court. *Bang v. Noreen*, 436 U.S. 941 (1978).



List of Participating and Nonparticipating Candidates, Pl. Ex. 42). The two special elections held since the CEP was implemented suggest that elections will follow this pattern in the future. *See* Factual Statement, Section II.A.2., *supra* at pp. 20-22.

The defendants' final argument in defense of the statutory preference given major party candidates is, perhaps, their most cynical. They assert, in effect, that minor parties exist only at the margins and are so disorganized in Connecticut that the statutory preference given to major party candidates could not possibly further diminish the standing of minor parties in the State. According to the defendants, minor parties are so inferior that any arguable discrimination that results from the operation of the CEP is fully justified. That position is fundamentally at odds with the primary values underlying the First Amendment. *See Buckley*, 424 U.S. at 293 (warning against "enshrin[ing] the Republican and Democratic Parties in a permanently preferred position") (Rehnquist, J., dissenting); *Anderson v. Celebrezze*, 460 U.S. at 794 (the "primary values protected by the First Amendment – 'a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open' – are served when election campaigns are not monopolized by the existing political parties.") (*quoting New York Times Co., v. Sullivan*, 376 U.S. 254, 270 (1964)); *see also Davis*, 128 S.Ct. at 2773-74 (explicitly disapproving legislation that seeks to alter the "electoral opportunities" of candidates).

Viewed as a whole, the CEP will change the dynamics of elections in Connecticut by increasing the electoral opportunities and resources of major party candidates. This will inevitably allow them to dominate the debate and push minor party candidates further off the stage. As discussed more fully in ensuing sections, the First and Fourteenth Amendment prohibits the state from slanting the playing field in a way that distorts the relative positions and political opportunities of candidates. *See Garfield*, 537 F. Supp. 2d at 379 (the legislature "had



no obligation to pass a law that levels the playing field, but the legislature is not free to pass a law that further slants the playing field”).

b. The CEP Subsidizes The Speech Of Major Party Candidates By Significantly Increasing Their Resources And Will Change The Dynamics Of Elections In Connecticut

Major party candidates will benefit from what are, in effect, rich financial subsidies under the CEP. In the vast majority of cases, the grant amounts significantly exceed past expenditures and will provide candidates in previously uncompetitive elections with the resources to run full throttle campaigns. *See* Tables 1-4 attached hereto. In these districts, in particular, the amounts of money involved are staggering. More than 20 Senate candidates are going to receive grants that are \$50,000 to \$125,000 more than what they raised in 2006. *Id.* Overall, more than 40 major party senate candidates will receive grants that equal or exceed the amount of money raised in the last election cycle. *Id.* Major party candidates are also eligible for substantial grants if they draw a primary opponent.<sup>23</sup> The across-the-board increased funding will change the dynamics in these previously uncompetitive elections. *Garfield*, 537 F. Supp. 2d at 377 (“By conferring a communications benefit and compelling highly competitive two-party races in one-party-dominant districts, the CEP changes the dynamic of many state legislative races in a way that further marginalizes minor parties.”).

*Buckley* did not endorse this type of public financing system. That decision is premised on several important considerations that are not present under the CEP. First, the Court described the “disadvantage” to minor party candidates as minimal because it was limited to “denial of the enhancement of opportunity to communicate with the electorate . . .,” 424 U.S. at 95, and because they had failed to make a showing that the system categorically reduced the

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<sup>23</sup> In 2008, 34 of the 42 candidates who participated in the August 12th primaries received public financing grants ranging from \$75,000 in the Senate to \$25,000 in the House. (SEEC Press Release re: Primaries, Pl. Ex. 49).

strength of their parties. *Id.* at 98-99. Second, any advantage garnered by major party candidates was offset by a “countervailing denial” – expenditure limits. *Id.* at 95. In fact, the Court viewed public financing as no real advantage to major party candidates because public funding served as a *substitute* for private contributions and minor party candidates were freed to out-raise and out-spend their opponents through private contributions. *Id.* at 99. In sum, public financing achieved a rough proportionality between the benefits and burdens that did not affect the “relative strengths” of the parties – it maintained the *status quo*. That is decidedly not the case under the CEP.<sup>24</sup>

In contrast to the public financing system in *Buckley*, the grant amounts are not a rough substitute for what the candidates could have raised privately. 424 U.S. at 95, n.129. The CEP provides subsidies to candidates that far exceed the amount of money candidates have raised privately. The CEP is premised on the express goal of increasing the electoral opportunities of candidates by providing them with the wherewithal to compete in primaries and in previously uncompetitive general elections. See A Guide for 2008 General Assembly Candidates Participating in the Citizens’ Election Program at 2, *available at*: [http://www.ct.gov/seec/lib/seec/CEP\\_GUIDE\\_JUNE\\_2008\\_-\\_FINAL.pdf](http://www.ct.gov/seec/lib/seec/CEP_GUIDE_JUNE_2008_-_FINAL.pdf) (last visited August 27, 2008). The primary beneficiaries will be major party candidates because of the ease with which they can qualify for full grants. Minor party candidates will be competing in a more competitive and difficult environment that impede their already modest efforts to be heard.

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<sup>24</sup> *Davis* makes explicit what was implicit in *Buckley* – that increasing the ability of one group of candidates to compete imposes a substantial burden on First Amendment rights of the group of candidate denied the benefit. The decision rejects the argument that the government can have any legitimate justification for altering the “electoral opportunities” of candidates. 128 S.Ct. at 2773 (Warning against governmental interference with the political process and stating that “it is a dangerous business for Congress to use the election laws to influence voters’ choices”).

The defendants argue that the grants are in line with average past expenditures and do not increase the advantages of major party candidates. That argument is misleading for several reasons. First, the defendants limit their analysis to a comparison of the base grant amounts with past expenditures, but fail to mention the potential for several supplemental grants. The more relevant analysis is to compare past expenditures with the total grant amounts that a candidate might receive under the CEP. For instance, a candidate for state senate who draws an opponent in the primary would be eligible to receive up to \$35,000 and an additional \$85,000 if he draws an opponent in the general election. Supplemental grants triggered by excess expenditures or independent expenditures could treble these amounts. The grant amounts are supplemented by the ability to spend the qualifying contributions and any money raised through exploratory committees. The grants are also augmented by the ability to coordinate tens of thousands of dollars in expenditure with party and legislative PACs.

Second, the defendants' reliance on average past expenditures is misleading because expenditures in the handful of competitive elections significantly inflate the average spending in the overwhelming majority of elections. The more representative measure is median candidate expenditures, which tend to be less influenced by the outliers. (2004 Legislative Expenditures, Pl. Ex. 18, median candidate expenditures in 2004 – House: \$14,588.64; Senate \$61,948.76; OLR Research Report, Campaign Expenditures and Contributions in Connecticut 2000-2004, Aug. 2, 2005, Pl. Ex. 19). The evidence shows that most major party candidates have not been able to raise money at the CEP grant levels. The evidence is most compelling in party dominant districts and other safe districts where individual and total spending will increase dramatically. In the Senate, the total spending will increase in 25 districts. *See* Table 3. The increase will be more than \$100,000 in 15 districts. *Id.* Conversely, total spending will decline by over \$100,000

in only three districts. *Id.* Total spending will increase in 98 of the 151 House districts. *See* Table 4. The impact will be most significant in the 65 districts where total expenditures will increase by a minimum of \$20,000. *Id.*<sup>25</sup> Moreover, none of these projections take into consideration supplemental grants under the matching fund provisions or other sources of private money that a candidate can tap into under the organizational expenditure and exploratory committee loopholes.

The defendants disagree with plaintiffs' description of the grant amounts as a subsidy. They prefer the characterization given in *Buckley* that public financing is a rough "substitute" for private financing that leaves the relative positions of the parties unchanged. (Def. Mem. at 64-67). That characterization would be accurate if the facts in this case supported the defendants' premise, but they do not. In the majority of cases, public financing will significantly inflate the amount of money available to candidates for statewide and legislative office and will inevitably distort the relative strengths and positions of the parties. *Garfield*, 537 F. Supp. 2d at 377. There is no other conclusion to be drawn from the record.

Once the Court recognizes the CEP for what it actually is – a subsidy for major party candidates, the case law is clear that the CEP is unconstitutional. *Garfield*, 537 F. Supp. 2d at 379 ("It is also well established that individuals generally do not have a First Amendment right to government-subsidized speech. But when the government endeavors to enter that fray and, as alleged in this case, subsidize the expression of one set of political parties' views to the exclusion of other political parties, it must do so in a way that does not alter the status quo to unfairly and unnecessarily burden the political opportunity of disfavored minor parties.") (citations omitted); *see also Greenberg v. Bolger*, 497 F. Supp. 756, 778 (E.D.N.Y. 1980) (invalidating postal

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<sup>25</sup> In only 18 districts will the total expenditures decline by \$20,000 or more. This is primarily because these candidates are running unopposed this cycle and do not receive a full grant. *See* Table 4.

subsidy given exclusively to major parties and stating: “To suggest that the benefit granted the major parties is acceptable because it only creates a relative impediment to ‘new’ parties ignores the reality that in a competitive intellectual environment assistance to one competitor is necessarily a relative burden to the other.”); *McKenna v. Reilly*, 419 F. Supp. 1179, 1187 (D.R.I. 1976) (allocating check-off moneys to endorsed candidates but not to unendorsed candidates “works an invidious discrimination against nonendorsed candidates in violation of the equal protection clause.”).

A three-judge court reached the same conclusion as this Court in a case involving valuable benefits given exclusively to major parties. *Socialist Workers Party v. Rockefeller*, 314 F. Supp. 984 (S.D.N.Y. 1970) (three-judge court), *summarily aff'd*, 400 U.S. 806 (1970). There, the court struck down a statute that required lists of registered voters to be sent free of charge to parties that earned more than 50,000 votes in the last gubernatorial election. *Id.* at 995. The court noted that “[t]he State is not required to provide such lists free of charge, but when it does so it may not provide them only for the large political parties and deny them to those parties which can least afford to purchase them.” *Id.* at 996.

The law that was invalidated in *Socialist Workers Party* was re-enacted in “all material, unlawful respects” and again struck down on equal protection grounds in *Schulz v. Williams*, 44 F.3d 48, 60 (2d Cir.1994) (“The reasons why the courts found the provision invalid in 1970 remain true today and apparently require repeating: It is clear that the effect of these provisions ... is to deny independent or minority parties ... an equal opportunity to win the votes of the electorate. The State has shown no compelling state interest nor even a justifiable purpose for granting what, in effect, is a significant subsidy only to those parties which have least need therefore. .... The State is not required to provide such lists free of charge, but when it does so it

may not provide them only for the large political parties and deny them to those parties which can least afford to purchase them.”); *see also Green Party of Michigan v. Land*, 541 F. Supp. 2d 912 (E.D. Mich. 2008) (striking down a statute that only allowed major political parties to have access to information regarding the party preference of the state’s voters); *Libertarian Party of Indiana v. Marion County Bd. of Voter Registration*, 778 F. Supp. 1458 (S.D. Ind. 1991) (striking down a statute that provided voter registration lists only to the major parties).<sup>26</sup>

In short, the State might decline to fund candidates altogether, but once it has decided to fund some candidates it must do so on terms that are non-discriminatory. The same limiting First Amendment principle is applicable to the CEP. To the extent the CEP “changes the dynamic” of elections, the State has strayed from its obligation to remain strictly neutral and has arrogated to itself the decision over the qualification of candidates. In the service of leveling the playing field between major party candidates, the CEP is going to make more money available to more major party candidates and will only further slant the playing field in their favor. *See Garfield*, 537 F. Supp. 2d at 378-79; *see also Buckley*, 424 U.S. at 251 (noting the “grave risks in legislation, enacted by incumbents of the major political parties, which distinctly disadvantages minor parties or independent candidates”) (Burger, C.J., dissenting); *Davis*, 128 S.Ct. at 2774 (“...it is a dangerous business for Congress to use the election laws to influence the voters’ choices.”); *Bellotti*, 435 U.S. at 792, n.31 (The “[g]overnment is forbidden to assume the task of ultimate judgment, lest the people lose their ability to govern themselves”).

c. The Supplemental Grants Provisions And The Significant Loopholes In The Expenditure Limits Will Increase The Financial Advantage Of Major Party Candidates

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<sup>26</sup> Although *Davis* did not involve public financing, the decision reinforces the holding in all of these subsidy cases. *Davis* rejects the argument that the state can have a legitimate interest in adjusting the relative ability of candidates to compete. 128 S.Ct. at 2774.

This might be a closer case if the benefits to major party candidates under the CEP were limited to the advantage conferred by the base grants. That is not the case here. The already generous grants are augmented by supplemental grants and significant loopholes in the expenditure limits that will allow major party candidates to continue to tap into private funds. The legislature designed a program that is as close to a “heads we win, tails you lose” proposition as can be contrived.

(i) The Supplemental Grant Provisions

Quite apart from the substantial primary and general election grants discussed above, the General Assembly has also provided for supplemental grants for both the primary and general elections. *See* Conn. Gen. Stat. §§ 9-713, 9-714. The excess expenditure provision will inevitably increase spending and will ensure that major party candidates are completely protected against any corresponding disadvantage that might arise from their agreement to be bound by expenditure limits. In the rare event that a candidate considering participating in the CEP is opposed by a candidate with unlimited resources, the candidate has the option of opting out.

Section 9-713 releases participating candidates from the limits they voluntarily accept in a situation where a nonparticipating candidate spends more money than provided by the primary or the general election grant. These supplemental payments only serve to increase the financial disparity between participating major party candidates and minor party candidates in circumstances where matching funds are triggered by the spending of a major party candidate who opts out of the CEP. By leveling the playing field between two major party candidates, the CEP actually increases the spending disadvantage faced by minor party candidates.

Minor party candidates are essentially bystanders in this attempt to level the playing field between major party candidates. The grants are exclusively in the service of major party



candidates, and work against the candidates who are unable to qualify for public financing. The major party slugfest will inevitably further marginalize the ability of minor party candidates to be heard. *See Garfield*, 537 F. Supp. 2d at 377. This provision will not only undermine the state's interest in decreasing expenditures, but it also has the dangerous potential to alter electoral outcomes. *See Davis, supra*; (Weicker Decl. ¶ 21, Pl. Ex. A-2).

The matching fund provisions generally serve to diminish the significance of the expenditure limits for participating candidates. This is fatal under *Buckley*, where disparate treatment of the parties was explicitly justified by the corresponding burden of spending limits imposed on candidates who received funding. *Buckley*, 424 U.S. at 98-99. Candidates who were unable to qualify remained free to raise unlimited amounts of money and, therefore, to outspend their participating opponents. *Id.* In this case, the system of benefits and burdens is skewed. Excess expenditures merely trigger more money for the participating opponent.

This type of release mechanism is called into question by *Davis*. 128 S.Ct. at 2772 (“But the choice involved in *Buckley* was quite different from the choice imposed by § 319(a). In *Buckley*, a candidate, by forgoing public financing, could retain the unfettered right to make unlimited personal expenditures. Here, § 319(a) does not provide any way in which a candidate can exercise that right without abridgment.”). The excess expenditure provision alters the “electoral opportunities” of the competing candidates by ensuring that major party candidates suffer no countervailing disadvantage from their decision to be bound by expenditure limits. *Id.* at 2773-74. The excess expenditure provision plainly increases the advantage of the candidate who benefits from it – to say nothing of the “unprecedented” burden on the speech of the candidate denied the benefit. *Id.* at 2774.<sup>27</sup>

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<sup>27</sup> It should be equally clear after *Davis* that a candidate cannot be forced to make the impermissible choice of limiting his expenditures or financing the speech of his opponent. 128 S.Ct. at 2772. Some minor party



Moreover, it is important to emphasize that while the excess expenditure provision is colloquially referred to as a “matching fund” provision, the description is not strictly accurate – and is in fact somewhat misleading. Supplemental grants are triggered if an opponent spends a single dollar in excess of the applicable expenditure limit. Conn. Gen. Stat. § 9-713(a)-(f). The supplemental payment is 25% of the base grant. *Id.* Additional grants equal to this amount are paid thereafter each time the opponent spends one dollar in excess of 125%, 150%, and 175% of the applicable expenditure limit. *Id.* The payments are capped at 200% of the grant amount. *Id.* § 9-713(g). By way of example, in a state senate race, a privately-financed candidate who exceeds the applicable expenditure limit (\$100,000) by a single dollar will trigger an additional grant equivalent to \$21,500 (25% of \$85,000) to his publicly-financed opponent.

Supplemental grants are also triggered under a lesser known, but more invidious provision that uniquely takes aim at non-major party candidates. In elections where the only opponent is a single major party candidate (which are the elections targeted by minor party candidates), the grants to the major party candidates are significantly increased if a minor party candidate enters the race and raises or spends more than \$5,000 in House elections, or \$15,000 in Senate elections. Conn. Gen. Stat. § 9-705(j)(4). In a Senate election, for instance, the grant amount to the major party opponent is increased from \$51,000 to \$85,000. In House elections, the grant is increased from \$15,000 to \$25,000. It makes no difference whether the minor party candidate qualified for public funding or not. This provision will discourage nonparticipating minor party candidates from spending up to the limit. (DeRosa Decl. ¶ 54, Pl. Ex. A-1).

Finally, supplemental grants are also triggered by independent expenditures made with the intent to promote the defeat of a participating candidate. This provision – together with the

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candidates will inevitably face this choice. (DeRosa Decl. ¶ 54, Pl. Ex. A-1). This is a separate ground to invalidate the excess expenditure provision.

excess expenditure provision – could treble the amount of the base grant. This provision has been given a broad construction by the SEEC and is intended to counteract the effects of negative advertising. Here again, *Davis* casts doubt on the legitimacy of this provision. 128 S.Ct. 2759; *see also Day v. Holahan*, 34 F.3d 1356, 1359-60 (8th Cir. 1994) (striking down identical provision). This provision not only increases the advantage of major party candidates, but it also constitutes a separate burden on plaintiffs who must either forgo expenditures or make them with the knowledge that they will trigger more resources for major party candidates.

As this Court observed, under this provision, the publicly-funded candidate's party, or other individuals, can make virtually unlimited independent expenditures that directly advocate the defeat of the two challengers, as long as those expenditures are not coordinated by the Republican candidate or his campaign. Here again, because of the government-funded and government-induced major-party "slugfest," the Green Party candidate's modest efforts to communicate with the electorate are further marginalized. *See Garfield*, 537 F. Supp. 2d at 377.

#### (ii) The Loopholes

The subsidies are also augmented by significant loopholes in the law that allow major party candidates to continue to raise and spend thousands of dollars in private funding by establishing an exploratory committee or by taking advantage of the organizational expenditure provision under the CEP. The SEEC and intervening organizations understood all too well how these loopholes in the statute would allow major party candidates to have it both ways by giving them the means to easily circumvent the expenditure limits. (Garfield Statement, Pl. Ex. 5 at 2; Clean Up Connecticut Campaign Press Release, Pl. Ex. 7 at 2; Memorandum from Beth Rotman to Karen Hobert Flynn & Andy Sauer re: CEP and Exploratory Committees, Pl. Ex. 15). The defendants also understood the potential these provisions held for undermining the CEP's goal of

eliminating the influence of special interest money. *Id.* Defendants' claim that these provisions do not increase the advantage of major party candidates is therefore contradicted by testimony from their own witnesses. In fact, their submissions in this case also belie the assertion that these loopholes do not benefit major party candidates. *See* Decl. of Peter Mills, Ex. 1, Maine Report, at 41-48, 65-71 (describing increase in overall spending in elections attributable to Party and Leadership PAC expenditures and describing how matching funds paid to candidates have increased based on independent expenditures).

**2. The Record Contradicts The Defendants' Contention That The CEP Will Increase The Political Opportunities Of Non-Major Party Candidates**

Defendants argue that they are entitled to summary judgment because the CEP will actually increase the electoral opportunities of non-major party candidates. That argument is not supported by the facts or the law. First, candidates who fail to qualify for public financing gain no corresponding advantage because the expenditure limits on participating candidates are not binding and can be easily circumvented by acknowledged loopholes in the program. Second, the qualifying criteria will effectively exclude the overwhelming number of non-major party candidates. In a sharp departure from *Buckley*, moreover, candidates who are unable to meet the qualifying criteria prior to the general election are not eligible for post-election funding even if they receive 10% of the vote or more in the general election. Minor party candidates are also ineligible for primary grants, in contrast to the system upheld in *Buckley*. Third, the CEP is designed to maintain the financial advantage of major party candidates. Thus, even in the rare case where a minor party candidate does qualify for a partial grant, the CEP makes it practically impossible for the qualified minor party candidate to close the funding gap.

**a. Candidates Who Fail to Qualify for Public Financing Gain no Corresponding Advantage**

Any advantage theoretically gained by failing to qualify for public financing is lost because the expenditure limits are not binding and because they can be easily circumvented by loopholes in the law that allow candidates to raise and spend private money. This Court has already expressed concern about how the matching grant provisions might affect the electoral opportunities of minor party candidates by trebling the already generous base grant amounts. *See Garfield*, 537 F. Supp. 2d at 377.

The defendants provide no response to the concerns expressed by the Court about the distorting effects of the matching grant provisions. The point is arguably moot in light of the decision in *Davis* last term. The decision casts substantial doubt on the legitimacy of this type of funding mechanism not only because of the advantage it gives the group of preferred candidates, but because it imposes and “unprecedented penalty,” 128 S.Ct. at 2771, and a “substantial burden” on the candidate denied the benefit, *id.* at 2772. After *Davis*, the argument that minor party candidates “gain” by being denied public funding is no longer available to the defendants. The “advantage” that minor party candidates supposedly derive from being excluded from the system because they can theoretically raise money without limit is blunted by the supplemental grant provisions. This aspect of the CEP provides the explicit basis to distinguish the public financing system upheld *Buckley*. *See Davis*, 128 S.Ct. at 2772 (“But the choice involved in *Buckley* was quite different from the choice imposed by § 319(a). In *Buckley*, a candidate, by forgoing public financing, could retain the unfettered right to make unlimited personal expenditures. Here, § 319(a) does not provide any way in which a candidate can exercise that right without abridgment.”).<sup>28</sup>

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<sup>28</sup> The defendants’ argument describing the relative benefits to minor party candidates of being excluded from the CEP is too cynical to be taken seriously. The defendants would have this court ignore the legislative history. Following the adoption of the CEP, the SEEC and intervening organizations returned to the legislature seeking

b. The CEP Will Not Increase The Political Opportunities Of Non-Major Party Candidates Because The Discriminatory Qualifying Criteria Will Effectively Shut Them Out Of The Program

Non-major party candidates can qualify only if they meet substantial prior vote total requirements or if they satisfy onerous and prohibitively expensive petitioning requirements. They must also raise thousands of dollars in qualifying contributions under restrictions that require the type of broad based constituency and proven fundraising apparatus that only major party candidates benefit from. The qualifying criteria, individually or together, will effectively preclude nearly all participation by non-major party candidates. *See* Factual Statement, Section II.C.3. The defendants nevertheless try to re-characterize the additional requirements placed on minor party candidates by claiming that the CEP is actually providing *additional means* for minor party candidates to qualify for public funding. (Def. Mem. at 74). It is unclear whether defendants are making a serious assertion. Defendants' attempt to couch the more burdensome requirements placed on minor party candidates as if it were a benefit to minor party candidates is simply not credible. *See Garfield*, 537 F. Supp. 2d at 375 ("It is immediately apparent from the face of the statute itself that the CEP's qualifying criteria make it substantially more difficult for minor party candidates to receive public funds than major party candidates.").

Leaving defendants' mischaracterizations aside, one need only look to the defendants' testimony before the legislature to see that even defendants themselves believed the qualifying

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amendments that would relax the qualifying criteria and that would close perceived loopholes in the statute that allowed major party candidates to continue to raise and spend private money. (Garfield Statement to GAE, Pl. Ex. 5; Clean Up Connecticut Campaign Press Releases, Pl. Ex. 7 & Pl. Ex. 8; Testimony of Suzanne Novak to GAE, Pl. Ex. 9 & Pl. Ex. 10). Candidates can augment their already generous grants by taking advantage of organizational expenditures or by raising money through exploratory committees. The defendants' argument that minor party candidates will suddenly benefit from being able to raise more money must be understood in the context of these loopholes. There is no reason to believe that major party candidates will cease to be the primary beneficiaries of special interest money. This is especially true given what we know about the growth of independent expenditures in federal and state elections. *See McConnell v. Fed. Election Comm'n*, 540 U.S. 93 (2003) (upholding ban on "electioneering communications" by special interest groups based on record showing that they were used to circumvent limits on corporate expenditures); *see also* Decl. of Peter Mills, Ex. 1, Maine Report, at 41-48, 65-71.

criteria imposed on minor party candidates were too burdensome. (Garfield Statement, Pl. Ex. 5 at 1-2; Clean Up Connecticut Campaign Press Release, Pl. Ex. 7 at 5-6; Testimony of Suzanne Novak to GAE, Pl. Ex. 9 & Pl. Ex.10). Although the defendants go on for pages trying to establish that the qualifying criteria are relatively modest and can be easily satisfied, they have cited to almost nothing in the record to suggest that non-major party candidates are in fact benefiting from the CEP. At this juncture, not a single non-major party candidate has qualified for public financing in 2008. (Participating and Nonparticipating Candidates, *available at*: <http://www.ct.gov/seec/cwp/view.asp?a=2861&Q=401806&PM=1> (last visited Aug. 26, 2008)).

The defendants go to great lengths to draw the Court into a dispute over plaintiffs' claim that the prior vote total and petitioning requirements will effectively limit the participation of non-major party candidates in the CEP. The Court need not resolve this dispute in order to deny the defendants' motion. As this Court noted in its opinion denying the motion to dismiss, the issue in this case is limited to whether the legislature was justified in giving major party candidates a statutory preference under the CEP while imposing an additional burden on non-major party candidates – however modest the defendants describe it. As this Court stated, “[t]he size of the ten-fifteen-twenty percent stepped thresholds is not as problematic *as the fact that the thresholds apply only to minor party candidates in the first instance.*” *Garfield*, 537 F. Supp. 2d at 381 (emphasis added). Moreover, to the extent the Court does scrutinize the level of the thresholds, the imposition of a requirement more than double the one upheld in *Buckley* is deserving of less, not more, deference. *Id.* at 380 (“I do hold, however, that because the percentages the legislature has chosen are significantly higher than the threshold upheld in *Buckley*, they are entitled to less deference.”).

If there are any material facts pertaining to the qualifying criteria that arguably need to be resolved, they are limited to the defendants' factual assertion that any viable candidate will be able to satisfy the qualifying contribution requirement. (Def. Mem. at 44). That assertion is not supported by the record. Dozens of major party candidates with no chance of winning have already raised the qualifying contributions. The point that major party candidates will be able to raise the qualifying contributions is not in dispute. For major party candidates, the requirement is a mere formality. (Jepsen Depo., Pl. Ex. 20 at 84-85). The disputed factual issue is whether the qualifying contribution requirement will effectively limit participation by most – if not all – non-major party candidates. To the extent the defendants have offered any evidence on this issue at all, plaintiffs' version of the facts draws a sharp factual dispute. *See* Factual Statement, Section II.C.3.c.; Pl. Mem. at 37-42. The qualifying contribution requirement is an equal or even greater barrier to participation than the prior vote total and petitioning requirements. *Id.*

Finally, any disputed facts over the qualifying contribution requirement may very well not involve a material dispute at all. As discussed more fully in the next section, major party candidates qualify for full funding if they raise the required amount of money in qualifying contributions. Minor party candidates, however, are only eligible for partial grants in most cases. Plaintiffs are not aware of any public financing system that denies minor party candidates equal funding after they have satisfied the requirement of raising qualifying contributions. The systems in Maine and Arizona certainly do not take that approach. *See* Me. Rev. Stat. tit. 21-A, § 1121 *et seq.*; Ariz. Rev. Stat. § 16-901, *et seq.*

- c. The CEP Is Designed To Maintain The Financial Advantage Of Major Party Candidates By Making It Exceedingly Difficult For Qualified Minor Party Candidates To Close The Funding Gap



The benefits to major party candidates under the CEP are enhanced by several other provisions of the statute that have the effect of maintaining their advantage over non-major party candidates. Although the defendants are seeking summary judgment, they give relatively short shrift to these discriminatory aspects of the CEP. Unlike in *Buckley* for instance, the injury suffered as a result of failing to qualify cannot be remedied by a strong showing in the polls. Minor and petitioning party candidates who do not qualify for pre-election grants cannot obtain any public funding following the election. Conn. Gen. Stat. §§ 9-705(c)(3), (g)(3). In *Buckley*, the Supreme Court highlighted the fact that minor and new party candidates could qualify for post-election funding, which meant, as a result, that the “claimed discrimination [was] not total.” 424 U.S. at 102. In this case, the discrimination is complete. The CEP’s funding scheme embodies the concerns articulated by Chief Justice Burger in his dissent in *Buckley*: “the present system could preclude or severely hamper access to funds before a given election by a group or an individual who might, at the time of the election, reflect the views of a major segment or even a majority of the electorate.” *Id.* at 251 (Burger, C.J., dissenting).

In addition, major party candidates who draw a primary opponent can qualify for primary grants. The primary grants provide a strong incentive to challenge even the strongest incumbent. The competitive advantage created by making primary grants available to major party candidates while denying them to minor party candidates was understood by the legislature. In fact, the original House and Senate bills provided primary grants to all candidates seeking their party’s nomination. (SB 61, Ex. 1 at 16-17; HB 6670, Ex. 2 at 14-17). Following the adoption of the CEP, the General Assembly was urged by the intervening organizations in this case to make primary funding available to all qualified candidates on equal terms. (Clean Up Connecticut Campaign Press Release, Pl. Ex. 7 at 6). Primary campaigns offer candidates



exposure that translates to the general election for the nominee. (DeRosa Decl. ¶ 53, Pl. Ex. A-1; Brennan Center Memo., Pl. Ex. 11 at 10).

The CEP provides major party candidates with the resources to get their message out during the primary period while denying the same to minor party candidates. The fact that minor party candidates are not compelled by state law to conduct official primaries is not the issue. The issue is whether it is appropriate to increase the relative financial strength of major party candidates with primary grants. Under the system for financing presidential primaries, all candidates seeking their party's nomination can qualify for matching funds. Numerous minor party candidates have received federal matching funds under FECA – including Ralph Nader who secured the Green Party nomination for the presidency in 2004. (*Matching Money for Nader*, N.Y. Times, May 29, 2004, Pl. Ex. 43; Nader 2004 Certification Seeking Public Financing as Third Party Nominee, Pl. Ex. 44).

The final discriminatory aspect of the CEP involves the disparity in the funding provided for qualified candidates. Major party candidates who satisfy the financial threshold qualify for public funding for both the primary and general elections. Minor and petitioning party candidates must satisfy the same financial threshold, but are awarded grants based on a different formula that pays them less. *Buckley* did not contemplate this type of disparity. For instance, a major party candidate for state senate who raises the required \$15,000 in qualifying contributions is eligible for \$120,000 in primary and general election funding. An eligible minor or petitioning party candidate must raise the same amount in the same way, but may only receive 33% of the \$85,000 general election base grant, or \$25,757. The reduced payout is significant to minor and petitioning party candidates because they face greater obstacles to meeting the petitioning requirements and raising the qualifying contributions. In effect, any advantage they

gain from a partial grant is more than offset by the expense of qualifying. Unlike their major party counterparts, they receive no return on their investment. (DeRosa Decl. ¶ 41, Pl. Ex. A-1).

The grant disparities are not ameliorated by the so called “catch-up” provisions that were later added to the law. Conn. Gen. Stat. § 9-702(c). First, although candidates who qualify for partial grants are allowed to continue to raise private funds up to the full grant amounts paid to their major party opponents, they are hobbled by the contribution limits that apply to CEP candidates. Those limits are capped at \$100. It is completely unrealistic to think that a candidate could make up the \$2 million difference in small-dollar contributions, especially in the narrow window of time following the primary. (Weicker Decl. ¶¶ 23, 26, Pl. Ex. A-2; DeRosa Decl. ¶ 51, Pl. Ex. A-1); *see also Randall, supra* (\$200 contribution limit handicaps candidates). A more sensible approach would be to allow candidates’ to make up the difference under the limits that apply to privately financed candidates. (Weicker Decl. ¶ 23, Pl. Ex. A-2). That is the approach under FECA which allows minor party candidates who qualified for proportion funding based on their vote total in the last election to continue to raise contributions under the general limits applicable to individuals and groups. *Buckley*, 424 U.S. at 88-89.

Second, although candidates who qualify for a partial grant are entitled to a post-election grant if they receive more than 20% of the vote, the supplemental grant is limited to the circumstances where the candidate’s campaign shows an actual deficit. This is an unrealistic standard because candidates are not allowed to incur a deficit by lending money to their campaigns or borrowing from a financial institution or from elsewhere. In the closing stages of a campaign, this is how campaigns are financed. Under the federal system which provides post-election grants, candidates who lend money to their own campaigns or borrowed from financial institutions can repay those loans with any money they receive in post-election grants. *Buckley*,

424 U.S. at 102. Federal candidates can also borrow from any other sources – including their party committees – subject to the understanding that those loans are treated as contributions. (*Id.*). Under the CEP borrowing is limited to only \$1,000 from a financial institution. Conn. Gen. Stat. § 9-710(a). Moreover, under the CEP's implementing rules, candidates are even prohibited from having goods or services extended to them on credit based on the possibility of receiving a post-election grant. (SEEC 2008 CEP Regulations, § 9-706-2(b)(16), Pl. Ex. 13).

**C. The CEP Is Not Narrowly Tailored To Serve A Compelling State Interest**

Discriminatory public financing systems, no less than discriminatory contribution limits, violate the First Amendment unless the government can establish that the resulting burden on the First Amendment rights of the disadvantaged candidate is narrowly tailored to advance a compelling state interest. *See Buckley*, 424 U.S. at 44-45; *Davis*, 128 S.Ct. at 2772; *WRTL*, 127 S. Ct. at 2664. The defendants cannot meet this burden because the CEP needlessly increases the competitive advantage of major party candidates, while non-major party candidates suffer a corresponding decrease in their electoral opportunities. As this Court knows from its analysis of *Buckley* and its extensive canvass of the public financing systems adopted by other states, Connecticut could easily have adopted a public financing system that does not so unnecessarily burden the rights of minor party and independent candidates by so overtly increasing the competitive advantage of major party candidates. *Garfield*, 537 F. Supp. 2d at 381-90 (comparing CEP with the public financing systems from various other states).

It is settled law that public financing serves important governmental interests. To further those interests, the State can adopt non-discriminatory qualifying criteria that recognize the difference between major and non-major party candidates. What the State is prohibited from doing is providing direct subsidies to major parties if doing so distorts the relative positions of

the parties denied the benefit. *Garfield*, 537 F. Supp. 2d at 379 (“It is also well established that individuals generally do not have a First Amendment right to government-subsidized speech.”) (citations omitted).

The defendants do not provide a plausible explanation for why this Court should abandon its determination that the CEP is not narrowly tailored. *Id.* at 380-90. They merely repeat the argument that under *Buckley*, the State’s interests in preserving the public fisc and avoiding “unrestrained factionalism” fully justify the differential treatment of major and non-major parties under the CEP. These interests are arguably legitimate to justify some special burdens on minor parties under *Buckley* and in other contexts, but the CEP discriminates against non-major party candidates in numerous ways that the system under consideration in *Buckley* did not. The statutory preference given to major parties distorts their relative strength by presumptively qualifying them in legislative districts where they are not competitive. *See Bang v. Chase*, 442 F. Supp. at 768. The base and supplemental grants give major party candidates an unfair competitive advantage by artificially inflating their resources. In many elections the base grants alone are tens of thousands of dollars more than what was previously spent, particularly in historically uncompetitive or safe districts. Moreover, unlike in *Buckley*, major party candidates suffer no countervailing disadvantage by agreeing to expenditure limits. The expenditure limits are not strictly binding, and the grants can be trebled by the matching fund provisions. The grants are further augmented by the organizational expenditure and exploratory loopholes.

Conversely, non-major party candidates gain no corresponding advantage under the CEP by the limited ability to qualify or from failing to qualify. First, unlike in *Buckley*, non-major party candidates who fail to qualify at the outset cannot qualify for a post-election grant based on a strong showing. Second, candidates who qualify for a partial grant cannot realistically close

the fundraising gap because they are hobbled by the \$100 contribution limits and by restrictions on deficit spending. Third, the supplemental grant provisions all impose a “substantial burden” on plaintiffs’ First Amendment rights, to the extent their spending triggers additional funds for their opponents or in the event supplemental grants are triggered by other candidates or independent expenditures. *See Davis*, 128 S.Ct. at 2771-72 (the trigger provisions only exaggerate the disparities by imposing an “unprecedented penalty” on their speech). The provision will further dilute the already modest resources of those candidates who can afford it least. Neither *Buckley* nor any other public financing case that we are aware of considered a public financing system that so thoroughly stacks the deck in favor of major party candidates.

What the defendants fail to acknowledge is that the CEP’s qualifying and grant distribution terms are discriminatory not because the program terms treat the parties differently, but because the program terms have the effect of “slant[ing] the playing field.” *Garfield*, 537 F. Supp. 2d at 378-79. As this Court well understood, this was decidedly not the case in *Buckley*. *Id.* The fact is, however, that the defending parties in this case are on record stating that the program terms could and should be amended to avoid the objection that they needlessly burden the rights of non-major party candidates. The amendments they proposed for relaxing the qualifying criteria provides compelling evidence that there are, in fact, less restrictive ways to further the state’s interests without unnecessarily burdening the rights of non-major party candidates.

At this point in the litigation, there is very little doubt that the state’s interest in this case could have been served by less restrictive means. Its asserted interest in protecting the public fisc from hopeless candidacies was not even considered by the legislature. Even if it was a consideration, the States’ interest could have been accomplished by adopting program terms that

were modeled after the public financing programs in Maine and Arizona. These were the programs that were originally under consideration by the legislature and by the Campaign Finance Working Group, which took testimony from representatives in those states, and from the good government groups that have intervened in this case. (SB 61, Pl. Ex. 1 at 16-18; HB 6670, Pl. Ex. 2 at 14-18; Campaign Finance Working Group Report, Pl. Ex. 3). There was no evidence that participation by minor party candidates threatened the financial integrity of the systems in Maine and Arizona. *See* Factual Statement, Section II.A. The record provides no explanation for why the legislature decided on the most draconian approach towards minor party candidates. The legislature settled on a public financing system whose criteria for participation exceed the stringent eligibility criteria that govern the financing of Presidential elections and which were upheld in *Buckley*.

In addition, there is no reason to apply the thresholds only to minor party candidates in light of the fact that the majority of Connecticut's elections are uncontested or not competitive. In party dominant districts, "major party candidates have proven to be just as capable of running hopeless candidacies or no candidacies at all, as minor party candidates." *Garfield*, 537 F. Supp. 2d at 381. Thus, there is no reason why the state should grant a statutory preference to all major party candidates that allows them to receive full public funding, while requiring all minor party and petitioning candidates to satisfy additional qualifying criteria for just partial public funding. Indeed, the state's public fisc is much more likely to be raided by hopeless major party candidacies than hopeless minor party candidacies. This is especially when you consider the impact of the matching fund provisions. *See* Decl. of Peter Mills, Ex. 1, Maine Report, at 41-48, 65-71.

Finally, this Court's comprehensive analysis of the public financing systems enacted by other states proves that there are clearly less restrictive alternatives that do not entail the needless discrimination against minor party and independent candidates that Connecticut has chosen to impose. *Id.* at 381-390. As this Court noted, "[a]lmost all other state public funding laws, except for the CEP, are party-neutral, and the few that are not do not impose qualifying criteria that are even remotely similar to the CEP's qualifying criteria. It thus appears more than possible to weed out hopeless candidacies and avoid a doomsday raid on the public fisc through party-neutral qualifying criteria, or at least without the proxy that the Connecticut legislature has chosen." *Id.* at 390.

**D. The Court Should Sustain A Facial Challenge Against The CEP**

**1. Plaintiffs' Claims Are Supported By The Record And Are Not Speculative**

In a supplemental memorandum filed by the Connecticut Attorney General's Office, defendants assert that a "pre-enforcement facial challenge" is not appropriate because it is too speculative at this time to assess whether the CEP will burden the political opportunity of minor party and petitioning candidates. Defendants' characterization of this lawsuit as a pre-enforcement challenge is inaccurate. The CEP is currently in effect for the 2008 election cycle, and is already altering the electoral playing field to the benefit of major party candidates by increasing their available resources. As of August 27, 2008, 253 candidates have filed a declaration of intent to participate. *See* Participating and Nonparticipating Candidates, *available at*: <http://www.ct.gov/seec/cwp/view.asp?a=2861&Q=401806&PM=1> (last visited August 28, 2008).

In addition, the CEP has already resulted in a two-fold increase in the number of primaries in legislative districts with 34 of 42 major party candidates receiving public funding.



(Press Release, State Elections Enforcement Commission Sees Increase In The Number Of Primaries Since 2006, Pl. Ex. 49).

Moreover, notwithstanding defendants' assertions to the contrary, the record shows that the CEP has caused numerous major party candidates to participate in previously uncontested elections in party dominant and other previously safe districts. There is also no question that the CEP will significantly increase expenditures in elections that were previously uncontested or where the winning candidate faced only token opposition. These represent the majority of elections in Connecticut. The amount of public money that will flow into these previously low-dollar major party campaigns is staggering and will dilute the modest efforts and resources of the non-major party candidates who previously targeted those elections. In legislative elections, the vast majority of major party candidates will receive subsidies that significantly exceed the amount of money they have raised in the past. In statewide elections, the subsidies are hundreds of thousands of dollars in excess of what these candidates have previously raised.

By contrast, the electoral opportunities of non-major party candidates are significantly harmed by the CEP in countless ways. First, the overwhelming majority of minor party candidates will be shut out of the CEP by the discriminatory qualifying criteria. Second, unlike in *Buckley*, minor party candidates who are unable to qualify prior to the general election are not eligible for post-election funding even if they received 10% of the vote or more in the general election. Third, minor party candidates are completely ineligible for primary funding. Fourth, the rare minor party candidate that actually qualifies for public funding is at a decided disadvantage because he is required to satisfy far more onerous qualifying criteria, but nevertheless receives only a fraction of the grant disbursed to his major party opponent. Fifth, the CEP is designed to maintain the financial advantage of major party candidates by making it

exceedingly difficult for qualified minor party candidates to close the funding gap. Lastly, but most importantly, those minor party candidates who are shut out of the program gain no corresponding advantage by being outside the system. The expenditure limits on major party participating candidates are not binding and can be easily circumvented by acknowledged loopholes in the program.

In short, the distorting effects of the CEP on the electoral opportunities of minor parties flow directly from the operation of the CEP. The harm to plaintiffs is real, substantial, immediate, and ongoing. As shown above, there is nothing speculative about this conclusion. The CEP was adopted with the express goal of increasing the electoral opportunities of major party candidates by providing them with the resources to compete in legislative districts that were previously abandoned or where candidates did not have the resources to mount an effective campaign. *See Garfield*, 537 F. Supp. 2d at 377 (the CEP “compels a competitive two-party race between major party candidates in which the government finances, at exceedingly generous levels, major party candidates’ efforts to communicate their views and policies to the electorate. Minor party candidates will be crowded out of those races, and the CEP will snuff out the gains that minor parties have made.”).

The impact of the CEP on the fortunes of minor party candidates is not conjecture. Indeed, the legislature fully understood the implications of the CEP for non-major party candidates. There is testimony from the Director of the SEEC and from representatives of the intervening organizations raising concerns about the impact of the CEP on minor party candidates and questioning the constitutionality of the statute. Nonetheless, the efforts of these individuals to amend the CEP to relax the qualifying criteria and to close the organizational

expenditure loopholes were largely ignored by the legislature. *See* Factual Statement, Section II.A.

Nothing in *Buckley* or the Supreme Court cases cited by defendants prohibits this Court from deciding the case at this juncture. The Court has routinely struck down campaign finance laws that restrict speech or have the potential to restrict speech on facial grounds. *See Randall v. Sorrell*, 548 U.S. 230 (2006) (facially striking down a state law imposing excessively low contribution limits using evidence amassed prior to law taking effect); *Davis*, 128 S.Ct. 2759 (June 26, 2008) (facially striking down a law permitting non-self-financed candidates to raise money under a higher contribution limit than self-financed candidates even though law did not impact plaintiff as his opponent did not raise money under the higher contribution limits).

To be sure, *Buckley* rejected a facial challenge to the public financing system for Presidential elections. The decision, however, was premised on the failure of plaintiffs to carry their burden of establishing that the system was discriminatory. The differential qualifying criteria for non-major parties was justified in *Buckley* because there was no evidence in the record that federal funds would enable any candidate to purchase scarce communication resources thereby effectively reducing the relative freedom of speech of a non-subsidized candidate. *See Buckley*, 424 U.S. at 95 n.129 (“As a practical matter . . . (the Campaign Fund Act) does not enhance the major parties’ ability to campaign; it substitutes public funding for what the parties would raise privately and additionally imposes an expenditure limit.”). That is decidedly not the case here. The CEP discriminates in numerous ways that the system in *Buckley* did not.

Unlike in *Buckley* where there was no empirical data about the practical effect of the public financing system on candidates, there is no lack of data here. Viewed as a whole, the CEP

distorts the relative positions of the parties by increasing the already substantial advantages major party candidates have over non-major party candidates. *See Garfield*, 537 F. Supp. 2d at 379 (the legislature “had no obligation to pass a law that levels the playing field, but the legislature is not free to pass a law that further slants the playing field”). At base, defendants reject the legal argument that increasing the advantage of major party candidates works a harm to minor party candidates. Their view, however, represents a basic misunderstanding of how politics works: a benefit given to one group of candidates and denied to another group necessarily disadvantages the group denied the benefit. *See Davis*, 128 S.Ct. 2759 (June 26, 2008) (striking down legislation because it allowed non-self financing candidates the benefit of raising money under higher contribution limits than self-financed “millionaire” candidates).<sup>29</sup>

When the Court brought the parties together April 9, 2008 to hear argument on how to proceed following its denial on the motion to dismiss, defendants argued that it was premature to decide this case because plaintiffs’ claims depended on what might occur in future election cycles. They basically asserted the same argument they assert here – that plaintiffs’ claims are speculative. The Court disagreed that anything would be gained by postponing the proceedings or delaying its decision. The Court recognized that delay in consideration of this case until the next election cycle – or the next – would not add anything material to the record. The public record in this case already provides ample evidence to show that the law will have a discriminatory and harmful impact on the political opportunity of minor party and petitioning

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<sup>29</sup> On the issue of “harm,” defendants assert that “the Supreme Court has recognized just one type of harm as judicially cognizable in a minor party’s equal protection challenge to a public financing system: a reduction in the party’s strength ‘below that attained without any public financing.’” Def. Mem. at 2 (citing *Buckley*, 424 U.S. at 98-99). Defendants then proceed to take a cramped view of this statement by continuously arguing that the CEP is constitutional so long as it does not, in effect, push minor party or petitioning candidates further away from the starting line. This, however, cannot be the only manner in which a minor party or petitioning candidate may be harmed. Following the analogy above, if the CEP gives a boost to major party candidates, and pushes them closer towards the finish line, then this will, of course, make minor party and petitioning candidates worse off as well.

candidates. Permitting the law to remain on the books would only continue to harm these individuals.

## 2. The Relevant Case Law Supports A Facial Challenge Against The CEP

The two most relevant cases – both of which defendants ignore – are *Davis v. Federal Election Comm'n*, 128 S.Ct. 2759 (June 26, 2008) and *Randall v. Sorrell*, 548 U.S. Both of these cases sustained facial challenges against campaign finance laws. In *Davis*, the Court struck down the “Millionaire’s Amendment,” a law that allowed non-self financing candidates to raise money under higher contribution limits, while imposing lower contribution limits on self-financed “millionaires” because of the “substantial burden” that the law imposed on the self-financed candidates’ First Amendment Rights. 128 S.Ct. at 2774. The Court struck down the statute on a facial challenge, despite the fact that Davis’ opponent did not actually take advantage of the higher contribution limits. *Id.* at 2767 (“Davis’ opponent adhered to normal contribution limits”). The Court did not require that plaintiff’s First Amendment rights actually be burdened, nor did it require plaintiff to gather more evidence that his First Amendment rights had in fact been burdened before assessing the facial constitutionality of the statute.

Similarly, in *Randall*, the Court struck down a Vermont law setting strict contribution limits on how much citizens of Vermont could give to a political campaign. The law was challenged “[s]oon after” it passed, 548 U.S. at 240, and the Supreme Court struck down the contribution limits on its face by relying primarily on publicly available record evidence that was amassed *prior* to the enforcement of the contribution limits, *id.* at 250-62. For example, the Court compared Vermont’s contribution limits to those of other states, *id.* at 250-52; calculated how much less prior campaigns would have raised based on the new contribution limits, *id.* at 254-55; and explained how the low contribution limits *threatened* to harm a candidate’s right to

associate in a political party based solely on its interpretation of how the statute would work, *id.* at 256-59. The Court nevertheless sustained a facial challenge without any consideration of whether it was premature. Not once did the Court feel compelled to “wait and see” whether the low contribution limits in fact harmed the plaintiffs.

In support of their argument against facial challenges, defendants cite to *Washington State Grange v. Washington State Republican Party*, 128 S.Ct. 1184 (March 18, 2008), and *Crawford v. Marion County Election Board*, 128 S.Ct. 1610 (April 28, 2008). These decisions are inapposite and do not remotely support the defendants’ argument.

In *Washington State Grange*, the issue was whether the state’s primary system infringed the associational rights of political parties. Specifically, Washington’s primary system allows candidates to state their preference for a particular political party on the ballot, despite the candidate being unaffiliated with the party. 128 S.Ct. at 1189. The plaintiffs – certain political parties – argued that voters would assume that the candidate was associated with the political party based on the candidate’s party preference designation on the ballot. *Id.* at 1193. According to the political party plaintiffs, this infringed on their right of association. However, because plaintiffs’ alleged harm in that case depended on voter confusion, the Court held that a facial challenge was not appropriate because the state might be able to design a ballot that was free of voter confusion. *Id.* at 1193-94. The Court therefore had to wait because it could not decide whether there would be voter confusion without seeing what the actual ballot would look like. Contrary to *Washington State Grange*, the existing evidence in this case already demonstrates that minor party and petitioning candidates are being harmed. Waiting for an election cycle to run would only serve to further harm their political opportunities.

In *Crawford*, the Court confronted the issue of whether a state law requiring government-issued photo identification from citizens voting in-person placed an unconstitutional burden on a person's right to vote. The Court held that there was insufficient evidence that the law actually burdened voters. 128 S.Ct. at 1623. First, none of the plaintiffs alleged that they had been turned away from voting or that they did not possess a valid ID. Additionally, a significant consideration in the Court's conclusion was the ability to cast a provisional ballot that would count, so long as the voter provided an appropriate affidavit to the clerk within 10 days of the election. *Id.* at 1614. The law also had other provisions that alleviated whatever alleged burden there may have been. For example, the state was providing government-issued licenses without a fee. *Id.* at 1614, 1620-21. With the question of whether a voter was actually burdened still lingering, the Court could not sustain a facial challenge to the law. Here, as discussed above, the existing evidence already shows that the political opportunities of minor party candidates are being burdened.

Finally, both *Washington State Grange* and *Crawford* are inapplicable for an even more fundamental reason. Unlike the laws at issue in *Washington State Grange* and *Crawford*, the CEP discriminates against minor party and petitioning candidates on its face. The plain language of the CEP statute sets forth different and more burdensome qualifying criteria for minor party and petitioning candidates. Conn. Gen. Stat. §§ 9-705(c)(1), (c)(2), (g)(1), (g)(2). The statute also plainly provides for an inferior funding scheme to minor party and petitioning candidates. *Id.* In stark contrast, both *Washington State Grange* and *Crawford* involved even-handed regulations that applied equally to all individuals alike. Thus, whether or not the law actually had a discriminatory impact on a certain subset of individuals depended on how the law would be implemented. For example, in *Crawford*, the Court specifically made mention of the fact that



it was “evaluating a neutral, nondiscriminatory regulation of voting procedure” in that case. 128 S.Ct. at 1623. In *Washington State Grange*, the Court stated that “*On its face*, I-872 does not impose any severe burden on respondents’ associational rights.” 128 S.Ct. at 1195 (emphasis added). Here, the CEP statute discriminates against minor party and petitioning candidates by its very terms, and it does not require that a court wait around to see how the statute is implemented to determine whether a class of individuals is being harmed.

In sum, none of the cases cited by defendants prohibits this Court from sustaining a constitutional challenge to the CEP on its face. Defendants’ “wait and see” approach perpetuates the real, substantial, and ongoing harm against plaintiffs, and the Court should reject that approach.

### **3. The Court Can Also Strike Down The CEP As-Applied To Plaintiffs**

In a footnote, defendants argue that the Court should assess this case as a purely facial challenge because plaintiffs have not filed an affidavit of intent to participate, and because the CEP has not yet been applied in a manner that affects plaintiffs. (Def. Mem. at 8, n.3). Although defendants try to re-characterize plaintiffs’ challenge to the CEP as a purely facial one, the complaint proves that this is an incorrect characterization. (Am. Complaint ¶¶ 53-55). The political party and candidate plaintiffs have alleged and shown that this law would burden their political opportunity on an as-applied basis by distorting the electoral playing field. Defendants’ suggestion that plaintiffs somehow need to file a notice of intent to participate in the CEP in order for an as-applied challenge to be valid is incorrect. Rather, this goes to the issue of standing, and this Court has already held that plaintiffs have standing to challenge the law. *See Garfield*, 537 F. Supp. 2d at 365-67. On a more fundamental level, the CEP will harm plaintiffs

regardless of whether or not plaintiffs attempt to participate in the CEP. Thus, it makes no difference whether plaintiffs file an affidavit or even attempt to qualify.<sup>30</sup>

In the event that this Court decides against sustaining a facial challenge, there is more than sufficient evidence for it to hold that the CEP is unconstitutional as-applied to plaintiffs in this case.

### CONCLUSION

For all the foregoing reasons, plaintiffs request that the Court deny defendants' motion for summary judgment on Counts I.

Dated: September 5, 2008

Respectfully submitted,

/s/ Mark J. Lopez

Mark J. Lopez  
Lewis, Clifton & Nikolaidis, P.C.  
275 Seventh Avenue, Suite 2300  
New York, New York 10001-6708  
Tel: (212) 419-1512  
mlopez@lcnlaw.com

Josh Hsu  
American Civil Liberties Union Foundation  
125 Broad Street, 18th floor  
New York City, NY 10004  
Tel: (212) 519-7896  
jhsu@aclu.org

David J. McGuire  
American Civil Liberties Union of  
Connecticut Foundation  
32 Grand Street  
Hartford, Connecticut 06106  
Tel: (860) 247-9823  
dmcguire@acluct.org

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<sup>30</sup> At least one of the plaintiffs, Michael DeRosa, has filed an affidavit of intent to participate. He has done this despite his belief that he could not meet the qualifying criteria and that he would be hobbled by the \$100 contribution limits that apply to participating candidates. More fundamentally, defendants misunderstand the full extent of plaintiffs' claims. Most minor party candidates are not seeking to participate because they do not believe they can meet the qualifying criteria. The Libertarian candidates object to the program not because they cannot qualify but because it alters the playing field.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 5th day of September, 2008, a copy of the foregoing *Plaintiffs' Opposition to Defendants' Motion for Summary Judgment* was filed electronically. Notice of this filing will be sent by electronic mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Mark J. Lopez

Mark J. Lopez

*Counsel for Plaintiffs*

# ANNEX

# TABLE 1

**Table 1** Comparison of 2006 Senate Candidate Receipts with Projected 2008 CEP Grants

<i>District</i>	<i>2008 Candidate</i> <sup>1, 2, 3</sup>	<i>CEP Grant</i> <sup>4, 5, 6</sup>	<i>Primary Adjustment</i>	<i>Total CEP Grant</i>	<i>2006 Candidate</i>	<i>2006 Receipts</i> <sup>7, 8</sup>	<i>Increase in 2008 Expenditures Attributable to CEP Grant</i> <sup>9, 10</sup>
1	Fonfara, John W. (INC)*	\$85,000.00	\$75,000.00	\$160,000.00	Fonfara, John W.	\$36,586.00	\$123,414.00
24	Perkins, Duane E.*	\$85,000.00	\$35,000.00	\$120,000.00	Did Not Run	\$0.00	\$120,000.00
1	Ruhe, Barbara J.*	\$85,000.00	\$0.00	\$85,000.00	Did Not Run	\$0.00	\$85,000.00
2	Airey-Wilson, Veronica*	\$85,000.00	\$0.00	\$85,000.00	Hanif, Asim A	\$0.00	\$85,000.00
13	Lenox, Tim*	\$85,000.00	\$0.00	\$85,000.00	Dixon, Tod O.	\$0.00	\$85,000.00
23	Johnson, Milton*	\$85,000.00	\$0.00	\$85,000.00	Blackwell, Jerry	\$0.00	\$85,000.00
28	Goldberg, Martin A.*	\$85,000.00	\$0.00	\$85,000.00	Did Not Run	\$0.00	\$85,000.00
32	McCarthy, John*	\$85,000.00	\$0.00	\$85,000.00	Did Not Run	\$0.00	\$85,000.00
35	Vinkels, Valdis	\$85,000.00	\$0.00	\$85,000.00	Did Not Run	\$0.00	\$85,000.00
10	Papantones, Melissa	\$85,000.00	\$0.00	\$85,000.00	Papantones, Melissa	\$500.00	\$84,500.00
29	Carboni, Harry*	\$85,000.00	\$0.00	\$85,000.00	Lyon, David R.	\$1,791.00	\$83,209.00
30	Renzullo, Michael J.*	\$85,000.00	\$0.00	\$85,000.00	Brennan, Matthew F.	\$2,020.00	\$82,980.00
23	Gomes, Edwin A. (INC)*	\$85,000.00	\$0.00	\$85,000.00	Gomes, Edwin A.	\$2,700.00	\$82,300.00
5	Merritt, Joseph*	\$85,000.00	\$0.00	\$85,000.00	Ryder, Kimberly E.	\$4,845.00	\$80,155.00
17	Moscato, Leo	\$85,000.00	\$0.00	\$85,000.00	Itshaky, Boaz	\$7,119.00	\$77,881.00
33	Pacileo III, Vincent A.	\$85,000.00	\$0.00	\$85,000.00	Nucifora, Salvatore	\$9,088.00	\$75,912.00
1	Vargas, Ed*	\$0.00	\$75,000.00	\$75,000.00	Did Not Run	\$0.00	\$75,000.00
35	Guglielmo, Tony (INC)	\$85,000.00	\$0.00	\$85,000.00	Guglielmo, Tony	\$10,860.00	\$74,140.00
8	Witkos, Kevin D.*	\$85,000.00	\$35,000.00	\$120,000.00	Berry, Steve	\$55,844.00	\$64,156.00
4	Blackwell, David H.*	\$85,000.00	\$0.00	\$85,000.00	Beckett III, Stewart	\$23,438.00	\$61,562.00
28	McKinney, John P. (INC)*	\$85,000.00	\$0.00	\$85,000.00	McKinney, John P.	\$27,410.00	\$57,590.00
2	Coleman, Eric D. (INC)*	\$85,000.00	\$0.00	\$85,000.00	Coleman, Eric D.	\$29,035.00	\$55,965.00

<sup>1</sup> Incumbent candidates marked with (INC).<sup>2</sup> Candidates are listed in descending order of increase in 2008 permissible expenditures to easily identify the candidates receiving the greatest subsidy over 2006 receipts.<sup>3</sup> Candidates who are listed as participating in the CEP are marked with \*.<sup>4</sup> Candidates who lost in the August 12, 2008 primary elections are not shown as receiving a general election grant.<sup>5</sup> These grants show only district 15's major party candidate receiving a 60% grant due to non-major party opposition. Seven other districts may receive an increased grant if a non-major party candidate runs.<sup>6</sup> In preparing this document, it is recognized that not all candidates will participate in the CEP. These tables must be read with that understanding.<sup>7</sup> Expenditures unavailable in accessible form. Receipt data compiled from the National Institute on Money in State Politics website located at [http://www.followthemoney.org/database/StateGlance/state\\_candidates.phtml?s=CT&y=2006&f=S](http://www.followthemoney.org/database/StateGlance/state_candidates.phtml?s=CT&y=2006&f=S).<sup>8</sup> In previously uncontested general or primary elections, the new candidates' 2006 receipts are listed as \$0.00.<sup>9</sup> Is not adjusted for \$15,000 qualifying contribution that will be available in addition to grant.<sup>10</sup> Does not include supplemental grants available under the matching fund provisions of the CEP.

**Table 1** Comparison of 2006 Senate Candidate Receipts with Projected 2008 CEP Grants

<i>District</i>	<i>2008 Candidate</i>	<i>CEP Grant</i>	<i>Primary Adjustment</i>	<i>Total CEP Grant</i>	<i>2006 Candidate</i>	<i>2006 Receipts</i>	<i>Increase in 2008 Expenditures Attributable to CEP Grant</i>
30	Roraback, Andrew (INC)*	\$85,000.00	\$0.00	\$85,000.00	Roraback, Andrew	\$35,276.00	\$49,724.00
8	House, Arthur H. *	\$85,000.00	\$0.00	\$85,000.00	Herlihy, Thomas J.	\$37,673.00	\$47,327.00
26	Hartwell, John*	\$85,000.00	\$0.00	\$85,000.00	Freedman, Judith G.	\$42,214.00	\$42,786.00
36	Diamond, Mark*	\$85,000.00	\$0.00	\$85,000.00	Farricker, Frank A.	\$46,488.00	\$38,512.00
17	Crisco, Joe (INC) *	\$85,000.00	\$0.00	\$85,000.00	Crisco, Joe	\$47,965.00	\$37,035.00
4	Handley, Mary Ann (INC) *	\$85,000.00	\$0.00	\$85,000.00	Handley, Mary Ann	\$49,767.00	\$35,233.00
8	Wertheimer, Moira*	\$0.00	\$35,000.00	\$35,000.00	Did Not Run	\$0.00	\$35,000.00
22	Moore, Marilyn*	\$0.00	\$35,000.00	\$35,000.00	Did Not Run	\$0.00	\$35,000.00
24	Tierney, Terry L. *	\$0.00	\$35,000.00	\$35,000.00	Did Not Run	\$0.00	\$35,000.00
32	Kane, Robert J. *	\$85,000.00	\$0.00	\$85,000.00	DeLuca, Louis C.	\$51,976.00	\$33,024.00
20	Simones, Thomas C. *	\$85,000.00	\$0.00	\$85,000.00	Oliveira, Christopher F.	\$52,196.00	\$32,804.00
12	Suerth, Ryan*	\$85,000.00	\$0.00	\$85,000.00	Hannan, Gregg M.	\$54,017.00	\$30,983.00
24	McLachlan, Michael A. *	\$85,000.00	\$0.00	\$85,000.00	Cappiello, David J.	\$59,683.00	\$25,317.00
13	Gaffey, Thomas P. (INC) *	\$85,000.00	\$0.00	\$85,000.00	Gaffey, Thomas P.	\$62,795.00	\$22,205.00
29	Williams Jr., Donald E. (INC) *	\$85,000.00	\$0.00	\$85,000.00	Williams Jr., Donald E.	\$63,840.00	\$21,160.00
31	Geladino, Jospheh*	\$85,000.00	\$0.00	\$85,000.00	Bobroske, Beverly R.	\$65,387.00	\$19,613.00
7	Kissel, John A. (INC)	\$85,000.00	\$0.00	\$85,000.00	Kissel, John A.	\$66,990.00	\$18,010.00
10	Harp, Toni N. (INC)	\$85,000.00	\$0.00	\$85,000.00	Harp, Toni N.	\$67,184.00	\$17,816.00
33	Daily, Eileen M. (INC)	\$85,000.00	\$0.00	\$85,000.00	Daily, Eileen M.	\$70,683.00	\$14,317.00
20	Stillman, Andrea L. (INC) *	\$85,000.00	\$0.00	\$85,000.00	Stillman, Andrea L.	\$71,937.00	\$13,063.00
25	Papadakos, Steve*	\$85,000.00	\$0.00	\$85,000.00	Wilms, Friedrich	\$82,011.00	\$2,989.00
	<b>Total 2008 Candidates</b>	<b>43</b>				<b>Average Increase</b>	<b>\$55,829.81</b>
15	Hartley, Joan V. (INC)	\$51,000.00	\$0.00	\$51,000.00	Hartley, Joan V.	\$51,301.00	-\$301.00
31	Colapietro, Thomas A. (INC) *	\$85,000.00	\$0.00	\$85,000.00	Colapietro, Thomas A.	\$85,604.00	-\$604.00
36	Frantz, L. Scott	\$85,000.00	\$0.00	\$85,000.00	Nickerson, William H.	\$89,915.00	-\$4,915.00
21	Andersen, Janice*	\$85,000.00	\$0.00	\$85,000.00	Jones, Christopher	\$91,571.00	-\$6,571.00
14	Slossberg, Gayle (INC) *	\$85,000.00	\$0.00	\$85,000.00	Slossberg, Gayle	\$94,195.00	-\$9,195.00
27	Pierre-Louis, Fred	\$85,000.00	\$0.00	\$85,000.00	Giordano, Rick	\$97,181.00	-\$12,181.00
6	Defronzo, Donald J. (INC) *	\$25,500.00	\$0.00	\$25,500.00	Defronzo, Donald J.	\$39,783.00	-\$14,283.00
26	Boucher, Toni*	\$85,000.00	\$0.00	\$85,000.00	Schiavone, Greg Rebecca	\$100,721.00	-\$15,721.00
11	Looney, Martin M. (INC)	\$25,500.00	\$0.00	\$25,500.00	Looney, Martin M.	\$43,030.00	-\$17,530.00



**Table 1** Comparison of 2006 Senate Candidate Receipts with Projected 2008 CEP Grants

<i>District</i>	<i>2008 Candidate</i>	<i>CEP Grant</i>	<i>Primary Adjustment</i>	<i>Total CEP Grant</i>	<i>2006 Candidate</i>	<i>2006 Receipts</i>	<i>Increase in 2008 Expenditures Attributable to CEP Grant</i>
19	Prague, Edith G. (INC)	\$25,500.00	\$0.00	\$25,500.00	Prague, Edith G.	\$44,757.00	-\$19,257.00
25	Duff, Bob (INC) *	\$85,000.00	\$0.00	\$85,000.00	Duff, Bob	\$110,073.00	-\$25,073.00
7	Colli, George*	\$85,000.00	\$0.00	\$85,000.00	Kiner, William A.	\$111,765.00	-\$26,765.00
3	LeBeau, Gary D. (INC)	\$25,500.00	\$0.00	\$25,500.00	LeBeau, Gary D.	\$53,905.00	-\$28,405.00
14	Marino, Vincent*	\$85,000.00	\$0.00	\$85,000.00	Lisman, Barbara L.	\$115,028.00	-\$30,028.00
22	Musto, Anthony J. *	\$85,000.00	\$35,000.00	\$120,000.00	Finch, Bill	\$150,593.00	-\$30,593.00
5	Harris, Jonathan A. (INC) *	\$85,000.00	\$0.00	\$85,000.00	Harris, Jonathan A.	\$119,801.00	-\$34,801.00
12	Meyer, Edward D. (INC) *	\$85,000.00	\$0.00	\$85,000.00	Meyer, Edward D.	\$120,332.00	-\$35,332.00
18	Hatfield, Anne P. *	\$85,000.00	\$0.00	\$85,000.00	Winkler, Lenny T.	\$135,063.00	-\$50,063.00
9	Capenera, Ralph*	\$85,000.00	\$0.00	\$85,000.00	Capenera, Ralph	\$152,289.00	-\$67,289.00
22	Russo, Robert D. *	\$85,000.00	\$0.00	\$85,000.00	Russo, Robert D.	\$156,930.00	-\$71,930.00
34	Fasano, Leonard A. (INC) *	\$25,500.00	\$0.00	\$25,500.00	Fasano, Leonard A.	\$100,595.00	-\$75,095.00
18	Maynard, Andrew M. (INC) *	\$85,000.00	\$0.00	\$85,000.00	Maynard, Andrew M.	\$167,986.00	-\$82,986.00
9	Doyle, Paul R. (INC) *	\$85,000.00	\$0.00	\$85,000.00	Doyle, Paul R.	\$174,168.00	-\$89,168.00
27	McDonald, Andrew J. (INC) *	\$85,000.00	\$0.00	\$85,000.00	McDonald, Andrew J.	\$174,619.00	-\$89,619.00
21	Debicella, Dan (INC) *	\$85,000.00	\$0.00	\$85,000.00	Debicella, Dan	\$198,629.00	-\$113,629.00
16	Caligiuri, Sam S. F. (INC) *	\$25,500.00	\$0.00	\$25,500.00	Caligiuri, Sam S. F.	\$229,294.00	-\$203,794.00
	<b>Total 2008 Candidates</b>	<b>26</b>				<b>Average Decrease</b>	<b>-\$44,428.00</b>
	<b>Totals</b>	<b>\$5,134,000.00</b>	<b>\$360,000.00</b>	<b>\$5,494,000.00</b>		<b>\$4,248,446.00</b>	<b>\$1,245,554.00</b>

# TABLE 2

**Table 2** Comparison of 2006 House Candidate Receipts with Projected 2008 CEP Grants

<i>District</i>	<i>Candidate</i> <sup>1, 2, 3</sup>	<i>CEP Grant</i> <sup>4, 5, 6</sup>	<i>Primary Adjustment</i>	<i>Total CEP Grant</i>	<i>2006 Candidate</i>	<i>2006 Receipts</i> <sup>7, 8</sup>	<i>Increase in 2008 Expenditures Attributable to CEP Grant</i> <sup>9, 10</sup>
129	Keeley Jr., Robert T. (INC)*	\$25,000.00	\$25,000.00	\$50,000.00	Keeley Jr., Robert T.	\$0.00	\$50,000.00
126	Caruso, Christopher L. (INC)*	\$25,000.00	\$25,000.00	\$50,000.00	Caruso, Christopher L.	\$3,050.00	\$46,950.00
130	Santiago, Ezequiel*	\$25,000.00	\$25,000.00	\$50,000.00	Reinoso, Felipe	\$9,380.00	\$40,620.00
128	Martinez, Lydia N.*	\$25,000.00	\$25,000.00	\$50,000.00	Martinez, Lydia N.	\$10,205.00	\$39,795.00
9	Thompson, Clifton E.*	\$25,000.00	\$10,000.00	\$35,000.00	Moura, Daniel	\$2,575.00	\$32,425.00
49	Johnson, Susan*	\$25,000.00	\$25,000.00	\$50,000.00	Carboni, Harry	\$22,039.00	\$27,961.00
4	McCauley, J. Stan*	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$24,999.99
5	Giles, Abraham*	\$0.00	\$25,000.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
6	Sierra, Carmen I.*	\$0.00	\$25,000.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
15	Jubrey, Aaron	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
17	Eisenlohr, Brett*	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
20	Thompson, Chad A.	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
22	Saunders, Scott*	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
23	Baker, Eileen D.*	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
24	Wright, Alphonse	\$25,000.00	\$0.00	\$25,000.00	Wright, Alphonse	\$0.00	\$25,000.00
25	Krajewski, Barbara	\$25,000.00	\$0.00	\$25,000.00	Paonessa, Nicholas	\$0.00	\$25,000.00
26	Paonessa, Nicolas	\$25,000.00	\$0.00	\$25,000.00	Mangiafico, Emanuele	\$0.00	\$25,000.00
27	Pappa, Mark*	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
29	Gibeling, Howard	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
39	Catala, Jason*	\$25,000.00	\$0.00	\$25,000.00	Catala, Jason	\$0.00	\$25,000.00
43	Kluberdanz, Brian*	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00

<sup>1</sup> Incumbent candidates marked with (INC).<sup>2</sup> Candidates are listed in descending order of increase in 2008 permissible expenditures to easily identify the candidates receiving the greatest subsidy over 2006 receipts.<sup>3</sup> Candidates who are listed as participating in the CEP (as of August 28, 2008) are marked with \*.<sup>4</sup> Candidates who lost in the August 12, 2008 primary elections are not shown as receiving a general election grant.<sup>5</sup> These grants show no major party candidates receiving a 60% grant due to non-major party opposition. Several districts may receive an increased grant if a non-major party candidate runs.<sup>6</sup> In preparing this document, it is recognized that not all candidates will participate in the CEP. These tables must be read with that understanding.<sup>7</sup> Expenditures unavailable in accessible form. Receipt data compiled from the National Institute on Money in State Politics website located at [http://www.followthemoney.org/database/StateGlance/state\\_candidates.phtml?s=CT&y=2006&f=H](http://www.followthemoney.org/database/StateGlance/state_candidates.phtml?s=CT&y=2006&f=H).<sup>8</sup> In previously uncontested general or primary elections, the new candidates' 2006 receipts are listed as \$0.00.<sup>9</sup> Is not adjusted for \$15,000 qualifying contribution that will be available in addition to grant.<sup>10</sup> Does not include supplemental grants available under the matching fund provisions of the CEP.

**Table 2** Comparison of 2006 House Candidate Receipts with Projected 2008 CEP Grants

<i>District</i>	<i>Candidate</i>	<i>CEP Grant</i>	<i>Primary Adjustment</i>	<i>Total CEP Grant</i>	<i>2006 Candidate</i>	<i>2006 Receipts</i>	<i>Increase in 2008 Expenditures Attributable to CEP Grant</i>
45	Berdick, Ed	\$25,000.00	\$0.00	\$25,000.00	LaChapelle, Bob	\$0.00	\$25,000.00
49	White, Thomas W.	\$0.00	\$25,000.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
52	Avery, Arlene*	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
57	Davis, Christopher*	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
60	Royston, Michael	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
62	Hornish, Anne*	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
66	Creed, Nick*	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
71	Ferucci III, Stephen R.	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
73	Harris, William R.	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
76	Arcuri, Joseph*	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
78	Denski, Jacqui D.*	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
84	Moller, Joseph T.	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
85	Vitali, Michael T.*	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
92	Ortiz, Paul	\$25,000.00	\$0.00	\$25,000.00	Elser, Richter	\$0.00	\$25,000.00
94	Blango, Charles A.*	\$0.00	\$25,000.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
105	Conroy, Theresa W.*	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
106	Lyddy, Christopher Brennan*	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
107	Stevenson, David*	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
108	Burnett, Ryan	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
111	Masters, Di*	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
112	Mount, Michele C.*	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
118	Seltzer, Nanci A.*	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
119	Liddy, Kevin G.*	\$25,000.00	\$0.00	\$25,000.00	Liddy, Kevin G.	\$0.00	\$25,000.00
122	Jansen, Cheryl	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
124	Young, Cecil	\$25,000.00	\$0.00	\$25,000.00	Clark, Vallorie L.	\$0.00	\$25,000.00
126	Silva, Carlos	\$0.00	\$25,000.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
127	Pavia, John N.	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
128	Marquez, Ramona	\$25,000.00	\$0.00	\$25,000.00	Marquez, Ramona	\$0.00	\$25,000.00
129	Young, Phillip	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
129	Grogins, Auden C.*	\$0.00	\$25,000.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
130	Rivera Jr., Jose A.*	\$0.00	\$25,000.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
130	Salcedo, Sylvester L.*	\$0.00	\$25,000.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
130	Gonzalez, Joel	\$25,000.00	\$0.00	\$25,000.00	Deshotel, Elizabeth	\$0.00	\$25,000.00

**Table 2** Comparison of 2006 House Candidate Receipts with Projected 2008 CEP Grants

<i>District</i>	<i>Candidate</i>	<i>CEP Grant</i>	<i>Primary Adjustment</i>	<i>Total CEP Grant</i>	<i>2006 Candidate</i>	<i>2006 Receipts</i>	<i>Increase in 2008 Expenditures Attributable to CEP Grant</i>
143	Reeves, Peggy*	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
145	Blau, Fritz	\$25,000.00	\$0.00	\$25,000.00	Did Not Run	\$0.00	\$25,000.00
82	Allen, Floresia V.*	\$25,000.00	\$0.00	\$25,000.00	Mnich, Mark R.	\$60.00	\$24,940.00
114	Garofalo, Marc J.*	\$25,000.00	\$0.00	\$25,000.00	Mizzoni, Suzanne	\$455.00	\$24,545.00
15	McMahon, Faith (INC)	\$25,000.00	\$0.00	\$25,000.00	McMahon, Faith	\$815.00	\$24,185.00
81	Banici, Dan*	\$25,000.00	\$0.00	\$25,000.00	Cianci Jr., Richard M.	\$2,287.00	\$22,713.00
124	Clemons Jr., Charles (INC)*	\$25,000.00	\$0.00	\$25,000.00	Clemons Jr., Charles	\$2,610.00	\$22,390.00
85	Mushinsky, Mary M. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Mushinsky, Mary M.	\$2,912.00	\$22,088.00
49	Lein, Daniel M.*	\$25,000.00	\$0.00	\$25,000.00	Lein, Daniel M.	\$3,066.00	\$21,934.00
72	Rhodes Jr., Benjamin F.	\$25,000.00	\$0.00	\$25,000.00	Parker, Rodney W.	\$3,191.00	\$21,809.00
63	Rigby, John B.	\$25,000.00	\$0.00	\$25,000.00	Simone, Juliana H.	\$3,598.00	\$21,402.00
145	Miller, Patricia Billie*	\$25,000.00	\$0.00	\$25,000.00	Truglia, Christel H.	\$3,903.00	\$21,097.00
83	Scarpati, Kevin	\$25,000.00	\$0.00	\$25,000.00	Martin, David J.	\$4,439.00	\$20,561.00
106	Rodgers, William L. F.*	\$25,000.00	\$0.00	\$25,000.00	Wasserman, Julie B.	\$4,475.00	\$20,525.00
44	Flexer, Mae*	\$25,000.00	\$0.00	\$25,000.00	Gladding, Donald F.	\$4,741.00	\$20,259.00
148	Pia Jr., Charles	\$25,000.00	\$0.00	\$25,000.00	Antonacci, Ralph A.	\$5,050.00	\$19,950.00
59	Ballard, William J.	\$25,000.00	\$0.00	\$25,000.00	Woods, Charles E.	\$5,074.00	\$19,926.00
126	Minutolo, Joseph	\$25,000.00	\$0.00	\$25,000.00	Grace, Linda A.	\$5,330.00	\$19,670.00
66	Miner, Craig A. (INC)	\$25,000.00	\$0.00	\$25,000.00	Miner, Craig A.	\$5,355.00	\$19,645.00
143	Bruschi, Susan A.*	\$25,000.00	\$0.00	\$25,000.00	Boucher, Toni	\$5,365.00	\$19,635.00
58	Lavelli-Hozempa, Susan*	\$25,000.00	\$0.00	\$25,000.00	Lavelli-Hozempa, Susan	\$5,497.00	\$19,503.00
17	LeGeyt, Timothy*	\$25,000.00	\$10,000.00	\$35,000.00	Witkos, Kevin D.	\$15,730.00	\$19,270.00
94	Winfield, Gary A.*	\$7,500.00	\$25,000.00	\$32,500.00	Dyson, William R.	\$13,527.00	\$18,973.00
32	Adamsons, Scott*	\$25,000.00	\$0.00	\$25,000.00	Terry Jr., Stanley A.	\$6,380.00	\$18,620.00
33	Johnson, Catherine M.*	\$25,000.00	\$0.00	\$25,000.00	Kennedy, Ryan	\$6,416.00	\$18,584.00
57	Graziani, Ted (INC)*	\$25,000.00	\$0.00	\$25,000.00	Graziani, Ted	\$6,811.00	\$18,189.00
5	Kirkley-Bey, Marie Lopez (INC)*	\$7,500.00	\$25,000.00	\$32,500.00	Kirkley-Bey, Marie Lopez	\$14,496.00	\$18,004.00
122	Miller, Lawrence G. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Miller, Lawrence G.	\$7,050.00	\$17,950.00
107	Scribner, David A. (INC)	\$25,000.00	\$0.00	\$25,000.00	Scribner, David A.	\$7,325.00	\$17,675.00
137	Wink, Ellen Gamer*	\$25,000.00	\$0.00	\$25,000.00	Wink, Ellen Gamer	\$8,500.00	\$16,500.00
110	Palanzo, Roger A.*	\$25,000.00	\$0.00	\$25,000.00	Basso, Pauline Repko	\$8,625.00	\$16,375.00
103	Esty, Elizabeth*	\$25,000.00	\$0.00	\$25,000.00	Brewer, Dr. Phil	\$8,753.00	\$16,247.00

**Table 2** Comparison of 2006 House Candidate Receipts with Projected 2008 CEP Grants

<i>District</i>	<i>Candidate</i>	<i>CEP Grant</i>	<i>Primary Adjustment</i>	<i>Total CEP Grant</i>	<i>2006 Candidate</i>	<i>2006 Receipts</i>	<i>Increase in 2008 Expenditures Attributable to CEP Grant</i>
26	Tercyak, Peter (INC)*	\$25,000.00	\$0.00	\$25,000.00	Tercyak, Peter	\$8,766.00	\$16,234.00
39	Hewett, Ernest (INC)	\$25,000.00	\$0.00	\$25,000.00	Hewett, Ernest	\$8,880.00	\$16,120.00
62	Ferrari, Richard F. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Ferrari, Richard F.	\$9,405.00	\$15,595.00
24	O'Brien, Tim (INC)*	\$25,000.00	\$0.00	\$25,000.00	O'Brien, Tim	\$9,429.00	\$15,571.00
112	Hovey, Debralee (INC)*	\$25,000.00	\$0.00	\$25,000.00	Hovey, Debralee	\$9,898.00	\$15,102.00
108	Carson, Mary Ann (INC)*	\$25,000.00	\$0.00	\$25,000.00	Carson, Mary Ann	\$9,915.00	\$15,085.00
44	Kwansy, Angeline	\$25,000.00	\$0.00	\$25,000.00	Caron, Michael	\$10,245.00	\$14,755.00
121	Backer, Terry (INC)*	\$7,500.00	\$25,000.00	\$32,500.00	Backer, Terry	\$17,870.00	\$14,630.00
75	Aldarondo, David (INC)*	\$25,000.00	\$0.00	\$25,000.00	Aldarondo, David	\$10,382.00	\$14,618.00
36	Stuck, Nelson	\$25,000.00	\$0.00	\$25,000.00	Nichols, Neil C.	\$10,511.00	\$14,489.00
76	Piscopo, John (INC)*	\$25,000.00	\$0.00	\$25,000.00	Piscopo, John	\$10,790.00	\$14,210.00
13	Pelletier, Cheri Ann*	\$25,000.00	\$0.00	\$25,000.00	Holmes, Susan M.	\$10,809.00	\$14,191.00
136	Cohen, Nitzzy*	\$25,000.00	\$0.00	\$25,000.00	Harris, Bill	\$10,918.00	\$14,082.00
83	Abercrombie, Catherine F. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Abercrombie, Catherine F.	\$10,940.00	\$14,060.00
123	Bochet, Cheryl	\$25,000.00	\$0.00	\$25,000.00	Bochet, Cheryl	\$11,038.00	\$13,962.00
52	Bacchiochi, Penny (INC)	\$25,000.00	\$0.00	\$25,000.00	Bacchiochi, Penny	\$11,250.00	\$13,750.00
6	Robles, Hector Luis*	\$7,500.00	\$25,000.00	\$32,500.00	Feltman, Art	\$18,775.00	\$13,725.00
81	Zalaski, Bruce Zeke (INC)	\$25,000.00	\$0.00	\$25,000.00	Zalaski, Bruce Zeke	\$11,410.00	\$13,590.00
18	Knox, Thomas I.	\$25,000.00	\$0.00	\$25,000.00	Aron, Judy	\$11,792.00	\$13,208.00
65	Cook, Michelle	\$25,000.00	\$0.00	\$25,000.00	Cavagnero, Paul E.	\$11,794.00	\$13,206.00
79	Nicastro Sr., Frank N. (INC)	\$25,000.00	\$0.00	\$25,000.00	Nicastro Sr., Frank N.	\$11,829.00	\$13,171.00
79	Jerome Sr., Derek R.	\$25,000.00	\$0.00	\$25,000.00	Raymond III, Henry J.	\$12,181.00	\$12,819.00
45	Mikutel, Steven (INC)	\$25,000.00	\$0.00	\$25,000.00	Mikutel, Steven	\$12,200.00	\$12,800.00
105	Koskelowski, Brian F.	\$25,000.00	\$0.00	\$25,000.00	Greene, Len	\$12,555.00	\$12,445.00
87	Kivela, Veronica H.	\$25,000.00	\$0.00	\$25,000.00	Hannon, Laurie-Jean	\$12,660.00	\$12,340.00
100	Lesser, Matthew	\$25,000.00	\$0.00	\$25,000.00	Kasper, Hope P.	\$12,740.00	\$12,260.00
13	Thompson, John W. (INC)	\$25,000.00	\$0.00	\$25,000.00	Thompson, John W.	\$13,737.00	\$11,263.00
75	Velez, Lisa	\$25,000.00	\$0.00	\$25,000.00	Velez, Lisa	\$13,813.00	\$11,187.00
23	Giuliano, Marilyn (INC)	\$25,000.00	\$0.00	\$25,000.00	Giuliano, Marilyn	\$14,150.00	\$10,850.00
22	Boukus, Elizabeth (INC)	\$25,000.00	\$0.00	\$25,000.00	Boukus, Elizabeth	\$14,192.00	\$10,808.00
138	Melillo, William R.	\$25,000.00	\$0.00	\$25,000.00	Gallo, Bernard P.	\$14,807.00	\$10,193.00
43	Urban, Diana S. (INC)	\$25,000.00	\$0.00	\$25,000.00	Urban, Diana S.	\$14,875.00	\$10,125.00

**Table 2** Comparison of 2006 House Candidate Receipts with Projected 2008 CEP Grants

<i>District</i>	<i>Candidate</i>	<i>CEP Grant</i>	<i>Primary Adjustment</i>	<i>Total CEP Grant</i>	<i>2006 Candidate</i>	<i>2006 Receipts</i>	<i>Increase in 2008 Expenditures Attributable to CEP Grant</i>
58	Tallaria, Kathy (INC)	\$25,000.00	\$0.00	\$25,000.00	Tallaria, Kathy	\$14,955.00	\$10,045.00
9	Crockett, Michael W.*	\$0.00	\$10,000.00	\$10,000.00	Did Not Run	\$0.00	\$10,000.00
9	Brenner, Denis A.*	\$0.00	\$10,000.00	\$10,000.00	Did Not Run	\$0.00	\$10,000.00
9	Hachey, Joseph S.*	\$0.00	\$10,000.00	\$10,000.00	Did Not Run	\$0.00	\$10,000.00
17	Harrison, Tom*	\$0.00	\$10,000.00	\$10,000.00	Did Not Run	\$0.00	\$10,000.00
74	Carlascio, Jason A.	\$0.00	\$10,000.00	\$10,000.00	Did Not Run	\$0.00	\$10,000.00
80	Houghtaling, Karen A.*	\$0.00	\$10,000.00	\$10,000.00	Did Not Run	\$0.00	\$10,000.00
101	Tracy, Gina Russell*	\$0.00	\$10,000.00	\$10,000.00	Did Not Run	\$0.00	\$10,000.00
72	Butler, Larry B. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Butler, Larry B.	\$15,350.00	\$9,650.00
71	D'Amelio, Anthony J. (INC)*	\$25,000.00	\$0.00	\$25,000.00	D'Amelio, Anthony J.	\$15,945.00	\$9,055.00
67	Chapin, Clark J. (INC)	\$7,500.00	\$0.00	\$7,500.00	Chapin, Clark J.	\$0.00	\$7,500.00
40	Moukawasher, Edward E. (INC)	\$7,500.00	\$0.00	\$7,500.00	Moukawasher, Edward E.	\$650.00	\$6,850.00
27	Nafis, Sandra H. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Nafis, Sandra H.	\$18,465.00	\$6,535.00
1	Green, Kenneth P. (INC)	\$7,500.00	\$0.00	\$7,500.00	Green, Kenneth P.	\$1,200.00	\$6,300.00
141	Wood, Terrie E.	\$7,500.00	\$0.00	\$7,500.00	Ryan, John J.	\$1,200.00	\$6,300.00
51	Johnson, Shawn T. (INC)	\$7,500.00	\$0.00	\$7,500.00	Johnson, Shawn T.	\$1,300.00	\$6,200.00
137	Perone, Chris (INC)*	\$25,000.00	\$0.00	\$25,000.00	Perone, Chris	\$19,078.00	\$5,922.00
99	Musco, Lori*	\$25,000.00	\$0.00	\$25,000.00	McCann, Daniel J.	\$19,126.00	\$5,874.00
84	Donovan, Christopher G. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Donovan, Christopher G.	\$19,225.00	\$5,775.00
25	Geragosian, John C. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Geragosian, John C.	\$19,375.00	\$5,625.00
113	Perillo, Jason D.*	\$7,500.00	\$0.00	\$7,500.00	Belden, Richard O.	\$1,910.00	\$5,590.00
134	Hwang, Tony*	\$25,000.00	\$0.00	\$25,000.00	Stone, John	\$19,445.00	\$5,555.00
125	Heterington, John W. (INC)	\$7,500.00	\$0.00	\$7,500.00	Heterington, John W.	\$2,144.00	\$5,356.00
28	Morin, Russell A. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Morin, Russell A.	\$20,189.00	\$4,811.00
20	McCluskey, David D. (INC)*	\$25,000.00	\$0.00	\$25,000.00	McCluskey, David D.	\$20,195.00	\$4,805.00
36	Spallone, James Field (INC)*	\$25,000.00	\$0.00	\$25,000.00	Spallone, James Field	\$20,574.00	\$4,426.00
31	Kehoe, Thomas J. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Kehoe, Thomas J.	\$20,577.00	\$4,423.00
8	Ackert, Timothy J.*	\$25,000.00	\$0.00	\$25,000.00	Ackert, Timothy J.	\$20,964.00	\$4,036.00
135	Stripp, John E. (INC)*	\$7,500.00	\$0.00	\$7,500.00	Stripp, John E.	\$3,800.00	\$3,700.00
148	Leone, Carlo (INC)	\$25,000.00	\$0.00	\$25,000.00	Leone, Carlo	\$21,403.00	\$3,597.00
63	Wilber, George M. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Wilber, George M.	\$21,489.00	\$3,511.00



**Table 2** Comparison of 2006 House Candidate Receipts with Projected 2008 CEP Grants

<i>District</i>	<i>Candidate</i>	<i>CEP Grant</i>	<i>Primary Adjustment</i>	<i>Total CEP Grant</i>	<i>2006 Candidate</i>	<i>2006 Receipts</i>	<i>Increase in 2008 Expenditures Attributable to CEP Grant</i>
95	Candelaria, Juan (INC)	\$7,500.00	\$0.00	\$7,500.00	Candelaria, Juan	\$4,515.00	\$2,985.00
88	Sharkey, Brendan (INC)	\$7,500.00	\$0.00	\$7,500.00	Sharkey, Brendan	\$4,680.00	\$2,820.00
59	Jarmoc, Karen (INC)	\$25,000.00	\$0.00	\$25,000.00	Jarmoc, Karen	\$22,396.00	\$2,604.00
47	Coutu, Christopher D.*	\$25,000.00	\$0.00	\$25,000.00	Crooks, John D.	\$22,637.00	\$2,363.00
151	Camillo, Fred*	\$25,000.00	\$0.00	\$25,000.00	Powers, Claudia	\$22,704.00	\$2,296.00
77	Wright, Cristopher A.*	\$25,000.00	\$0.00	\$25,000.00	Michele, Roger B.	\$23,094.00	\$1,906.00
28	Cusano, John*	\$25,000.00	\$0.00	\$25,000.00	Hemmann, Donna H.	\$23,583.00	\$1,417.00
41	Wright, Elissa T. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Wright, Elissa T.	\$23,672.00	\$1,328.00
32	O'Rourke, Jim (INC)*	\$25,000.00	\$0.00	\$25,000.00	O'Rourke, Jim	\$23,758.00	\$1,242.00
50	Alberts, Mike (INC)*	\$25,000.00	\$0.00	\$25,000.00	Alberts, Mike	\$23,876.00	\$1,124.00
93	Edmonds-Walker, Toni (INC)*	\$7,500.00	\$0.00	\$7,500.00	Edmonds-Walker, Toni	\$6,500.00	\$1,000.00
14	Hale, Kathy*	\$25,000.00	\$0.00	\$25,000.00	Hale, Kathy	\$24,922.00	\$78.00
	<b>Total 2008 Candidates</b>	<b>161</b>				<b>Average Increase</b>	<b>\$17,105.36</b>
136	Mioli, Joseph (INC)*	\$25,000.00	\$0.00	\$25,000.00	Mioli, Joseph	\$25,155.00	-\$155.00
47	Malone, Jack (INC)*	\$25,000.00	\$0.00	\$25,000.00	Malone, Jack	\$25,192.00	-\$192.00
127	Hennessy, John F. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Hennessy, John F.	\$25,208.00	-\$208.00
8	Lewis, Joan A. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Lewis, Joan A.	\$25,236.00	-\$236.00
65	Ruwet, Anne L. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Ruwet, Anne L.	\$25,252.00	-\$252.00
69	O'Neill, Arthur J. (INC)	\$7,500.00	\$0.00	\$7,500.00	O'Neill, Arthur J.	\$7,825.00	-\$325.00
128	Ayala Jr., Andres (INC)*	\$0.00	\$25,000.00	\$25,000.00	Ayala Jr., Andres	\$25,420.00	-\$420.00
54	Merrill, Denise (INC)	\$7,500.00	\$0.00	\$7,500.00	Merrill, Denise	\$8,094.00	-\$594.00
91	Villano, Peter F. (INC)*	\$7,500.00	\$0.00	\$7,500.00	Villano, Peter F.	\$8,465.00	-\$965.00
78	Hamzy, William A. (INC)	\$25,000.00	\$0.00	\$25,000.00	Hamzy, William A.	\$26,297.00	-\$1,297.00
7	McCrory, Douglas (INC)*	\$7,500.00	\$0.00	\$7,500.00	McCrory, Douglas	\$8,875.00	-\$1,375.00
151	Krumeich, Edward T.*	\$25,000.00	\$0.00	\$25,000.00	Krumeich, Edward T.	\$26,575.00	-\$1,575.00
117	Williams, Stephanie A.*	\$25,000.00	\$0.00	\$25,000.00	Czajkowski, Laurence P.	\$26,744.00	-\$1,744.00
77	Fitzgerald, Jill*	\$25,000.00	\$0.00	\$25,000.00	Burns, Ron	\$26,816.00	-\$1,816.00
97	Megna, Robert W. (INC)	\$7,500.00	\$0.00	\$7,500.00	Megna, Robert W.	\$9,594.00	-\$2,094.00
34	Bauer, David*	\$25,000.00	\$0.00	\$25,000.00	Devine, Bill	\$27,303.00	-\$2,303.00
117	Davis, Paul (INC)*	\$25,000.00	\$0.00	\$25,000.00	Davis, Paul	\$27,997.00	-\$2,997.00
123	Rowe, T. R. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Rowe, T. R.	\$28,160.00	-\$3,160.00

**Table 2** Comparison of 2006 House Candidate Receipts with Projected 2008 CEP Grants

<i>District</i>	<i>Candidate</i>	<i>CEP Grant</i>	<i>Primary Adjustment</i>	<i>Total CEP Grant</i>	<i>2006 Candidate</i>	<i>2006 Receipts</i>	<i>Increase in 2008 Expenditures Attributable to CEP Grant</i>
99	Lawlor, Mike (INC)*	\$25,000.00	\$0.00	\$25,000.00	Lawlor, Mike	\$28,525.00	-\$3,525.00
19	McGrath, Thomas*	\$25,000.00	\$0.00	\$25,000.00	Carpenter, Barbara	\$28,649.00	-\$3,649.00
33	Serra, Joseph C. (INC)	\$25,000.00	\$0.00	\$25,000.00	Serra, Joseph C.	\$29,010.00	-\$4,010.00
87	Fontana, Stephen A. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Fontana, Stephen A.	\$29,168.00	-\$4,168.00
110	Godfrey, Robert D. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Godfrey, Robert D.	\$29,230.00	-\$4,230.00
102	Reed, Lonnie*	\$7,500.00	\$0.00	\$7,500.00	Panaroni Jr., Peter J.	\$11,870.00	-\$4,370.00
100	Kalinowski, Raymond C. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Kalinowski, Raymond C.	\$29,573.00	-\$4,573.00
119	Roy, Richard F. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Roy, Richard F.	\$30,789.00	-\$5,789.00
150	Gibbons, Lile R. (INC)	\$7,500.00	\$0.00	\$7,500.00	Gibbons, Lile R.	\$13,600.00	-\$6,100.00
98	Wilditz, Patricia M. (INC)*	\$7,500.00	\$0.00	\$7,500.00	Wilditz, Patricia M.	\$13,806.00	-\$6,306.00
132	Bowley, Ralph*	\$25,000.00	\$0.00	\$25,000.00	Desanctis, Chris	\$31,328.00	-\$6,328.00
34	Hamm, Gail K. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Hamm, Gail K.	\$31,331.00	-\$6,331.00
16	Schofeld, Linda (INC)	\$25,000.00	\$0.00	\$25,000.00	Schofeld, Linda	\$32,101.00	-\$7,101.00
131	Labriola, David K. (INC)*	\$7,500.00	\$0.00	\$7,500.00	Labriola, David K.	\$14,900.00	-\$7,400.00
53	Hurlburt, Bryan (INC)*	\$25,000.00	\$0.00	\$25,000.00	Hurlburt, Bryan	\$32,478.00	-\$7,478.00
14	Aman, Bill (INC)*	\$25,000.00	\$0.00	\$25,000.00	Aman, Bill	\$32,748.00	-\$7,748.00
37	Jutila, Edwin J. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Jutila, Edwin J.	\$33,067.00	-\$8,067.00
18	Fleischmanm, Andrew M. (INC)	\$25,000.00	\$0.00	\$25,000.00	Fleischmanm, Andrew M.	\$33,493.00	-\$8,493.00
133	Fawcett, Kim (INC)*	\$25,000.00	\$0.00	\$25,000.00	Fawcett, Kim	\$33,687.00	-\$8,687.00
111	Frey, John H. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Frey, John H.	\$33,740.00	-\$8,740.00
11	Larson, Timothy D.	\$7,500.00	\$0.00	\$7,500.00	Christ, Michael A.	\$16,530.00	-\$9,030.00
10	Genga, Henry J. (INC)*	\$7,500.00	\$0.00	\$7,500.00	Genga, Henry J.	\$16,600.00	-\$9,100.00
41	Peruzotti, Deborah*	\$25,000.00	\$0.00	\$25,000.00	Bond, Heather Sherman	\$34,160.00	-\$9,160.00
89	Nardello, Vickie Orsini (INC)*	\$25,000.00	\$0.00	\$25,000.00	Nardello, Vickie Orsini	\$34,265.00	-\$9,265.00
82	Altobello, Emil (INC)	\$25,000.00	\$0.00	\$25,000.00	Altobello, Emil	\$34,835.00	-\$9,835.00
132	Drew, Thomas J. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Drew, Thomas J.	\$34,864.00	-\$9,864.00
92	Dillon, Patricia A. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Dillon, Patricia A.	\$35,365.00	-\$10,365.00
53	Arute, Robert*	\$25,000.00	\$0.00	\$25,000.00	Eastwood, Susan C.	\$35,523.00	-\$10,523.00
101	Stevens, Jeanne*	\$25,000.00	\$0.00	\$25,000.00	Kokoruda, Noreen	\$35,758.00	-\$10,758.00
96	Staples, Cameron C. (INC)	\$7,500.00	\$0.00	\$7,500.00	Staples, Cameron C.	\$18,453.00	-\$10,953.00
109	Farah, Ted*	\$25,000.00	\$0.00	\$25,000.00	Farah, Ted	\$36,167.00	-\$11,167.00

**Table 2** Comparison of 2006 House Candidate Receipts with Projected 2008 CEP Grants

<i>District</i>	<i>Candidate</i>	<i>CEP Grant</i>	<i>Primary Adjustment</i>	<i>Total CEP Grant</i>	<i>2006 Candidate</i>	<i>2006 Receipts</i>	<i>Increase in 2008 Expenditures Attributable to CEP Grant</i>
116	Esposito Jr., Louis P. (INC)	\$7,500.00	\$0.00	\$7,500.00	Esposito Jr., Louis P.	\$18,875.00	-\$11,375.00
138	Giegler, Janice R. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Giegler, Janice R.	\$36,408.00	-\$11,408.00
114	Klarides, Themis (INC)*	\$25,000.00	\$0.00	\$25,000.00	Klarides, Themis	\$36,901.00	-\$11,901.00
42	Reynolds, Tom (INC)	\$7,500.00	\$0.00	\$7,500.00	Reynolds, Tom	\$19,423.00	-\$11,923.00
80	Mazurek, John (INC)*	\$7,500.00	\$10,000.00	\$17,500.00	Mazurek, John	\$30,308.00	-\$12,808.00
31	Cavanaugh, Kurt P.*	\$25,000.00	\$0.00	\$25,000.00	Karp, Susan	\$37,828.00	-\$12,828.00
103	Adinolfi, Al (INC)*	\$25,000.00	\$0.00	\$25,000.00	Adinolfi, Al	\$37,844.00	-\$12,844.00
70	DelGobbo, Kevin M. (INC)	\$7,500.00	\$0.00	\$7,500.00	DelGobbo, Kevin M.	\$20,445.00	-\$12,945.00
109	Taborsak, Joseph (INC)*	\$25,000.00	\$0.00	\$25,000.00	Taborsak, Joseph	\$38,093.00	-\$13,093.00
120	Potter, Scott*	\$25,000.00	\$0.00	\$25,000.00	Mooney, David	\$38,312.00	-\$13,312.00
140	Morris, Bruce V. (INC)*	\$7,500.00	\$0.00	\$7,500.00	Morris, Bruce V.	\$21,018.00	-\$13,518.00
29	Guerrera, Antonio (INC)*	\$25,000.00	\$0.00	\$25,000.00	Guerrera, Antonio	\$38,608.00	-\$13,608.00
133	Parks, Amanda	\$25,000.00	\$0.00	\$25,000.00	Parks, Amanda	\$38,912.00	-\$13,912.00
104	Gentile, Linda Menna (INC)*	\$7,500.00	\$0.00	\$7,500.00	Gentile, Linda Menna	\$21,639.00	-\$14,139.00
134	Christiano, Tom F. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Christiano, Tom F.	\$39,290.00	-\$14,290.00
9	Rojas, Jason*	\$25,000.00	\$10,000.00	\$35,000.00	Stone, Christopher R.	\$49,377.00	-\$14,377.00
38	Ritter, Elizabeth B. (INC)	\$7,500.00	\$0.00	\$7,500.00	Ritter, Elizabeth B.	\$21,925.00	-\$14,425.00
68	Williams, Sean (INC)	\$7,500.00	\$0.00	\$7,500.00	Williams, Sean	\$21,930.00	-\$14,430.00
2	O'Brien, Melanie P.*	\$25,000.00	\$0.00	\$25,000.00	Gallagher, Phil	\$39,448.00	-\$14,448.00
115	Dargan, Stephen D. (INC)	\$7,500.00	\$0.00	\$7,500.00	Dargan, Stephen D.	\$21,983.00	-\$14,483.00
46	Olson, Melissa (INC)*	\$7,500.00	\$0.00	\$7,500.00	Olson, Melissa	\$22,040.00	-\$14,540.00
56	Janowski, Claire L. (INC)*	\$7,500.00	\$0.00	\$7,500.00	Janowski, Claire L.	\$22,090.00	-\$14,590.00
101	Heinrich, Deborah W. (INC)*	\$25,000.00	\$10,000.00	\$35,000.00	Heinrich, Deborah W.	\$49,617.00	-\$14,617.00
139	Ryan, Kevin (INC)	\$7,500.00	\$0.00	\$7,500.00	Ryan, Kevin	\$22,687.00	-\$15,187.00
120	Harkins, John A. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Harkins, John A.	\$40,353.00	-\$15,353.00
146	Fox III, Gerald M. (INC)	\$7,500.00	\$0.00	\$7,500.00	Fox III, Gerald M.	\$23,159.00	-\$15,659.00
50	Vogt, Sherri*	\$25,000.00	\$0.00	\$25,000.00	Vogt, Sherri	\$40,946.00	-\$15,946.00
55	Sawyer, Pamela Z. (INC)*	\$7,500.00	\$0.00	\$7,500.00	Sawyer, Pamela Z.	\$24,480.00	-\$16,980.00
48	Orange, Linda A. (INC)*	\$7,500.00	\$0.00	\$7,500.00	Orange, Linda A.	\$25,640.00	-\$18,140.00
61	Life, Lauren K.*	\$25,000.00	\$0.00	\$25,000.00	Fahrback, Ruth	\$44,075.00	-\$19,075.00
16	Heagney, Robert	\$25,000.00	\$0.00	\$25,000.00	Heagney, Robert	\$44,252.00	-\$19,252.00
37	Ellis, Gergory*	\$25,000.00	\$0.00	\$25,000.00	Formica, Paul M.	\$45,852.00	-\$20,852.00
86	Candelora, Vincent J.	\$7,500.00	\$0.00	\$7,500.00	Candelora, Vincent J.	\$28,371.00	-\$20,871.00

**Table 2** Comparison of 2006 House Candidate Receipts with Projected 2008 CEP Grants

<i>District</i>	<i>Candidate</i>	<i>CEP Grant</i>	<i>Primary Adjustment</i>	<i>Total CEP Grant</i>	<i>2006 Candidate</i>	<i>2006 Receipts</i>	<i>Increase in 2008 Expenditures Attributable to CEP Grant</i>
90	Fritz, Mary G. (INC)*	\$7,500.00	\$0.00	\$7,500.00	Fritz, Mary G.	\$28,590.00	-\$21,090.00
21	Giannaros, Demetrios (INC)*	\$7,500.00	\$0.00	\$7,500.00	Giannaros, Demetrios	\$29,055.00	-\$21,555.00
61	Conway Jr., Matthew K.	\$25,000.00	\$0.00	\$25,000.00	Donnelly, Derek E.	\$46,966.00	-\$21,966.00
73	Berger, Jeffrey J. (INC)	\$25,000.00	\$0.00	\$25,000.00	Berger, Jeffrey J.	\$47,025.00	-\$22,025.00
60	Sayers, Peggy (INC)*	\$25,000.00	\$0.00	\$25,000.00	Sayers, Peggy	\$47,120.00	-\$22,120.00
2	Bartlett, Jason W. (INC)*	\$25,000.00	\$0.00	\$25,000.00	Bartlett, Jason W.	\$47,682.00	-\$22,682.00
35	O'Connor, Brian J. (INC)	\$7,500.00	\$0.00	\$7,500.00	O'Connor, Brian J.	\$30,374.00	-\$22,874.00
149	Floren, Livvy R. (INC)	\$7,500.00	\$0.00	\$7,500.00	Floren, Livvy R.	\$31,065.00	-\$23,565.00
4	Roldan, Kevin (INC)*	\$25,000.00	\$0.00	\$25,000.00	Roldan, Kevin	\$50,745.00	-\$25,745.00
89	Atkins, Martin A.	\$25,000.00	\$0.00	\$25,000.00	White, Tim	\$50,871.00	-\$25,871.00
12	Barry, Ryan P. (INC)*	\$7,500.00	\$0.00	\$7,500.00	Barry, Ryan P.	\$33,470.00	-\$25,970.00
3	Gonzalez, Minnie (INC)	\$7,500.00	\$0.00	\$7,500.00	Gonzalez, Minnie	\$35,705.00	-\$28,205.00
144	Shapiro, James A. (INC)	\$7,500.00	\$0.00	\$7,500.00	Shapiro, James A.	\$36,324.00	-\$28,824.00
74	Noujaim, Selim G. (INC)*	\$7,500.00	\$10,000.00	\$17,500.00	Noujaim, Selim G.	\$48,857.00	-\$31,357.00
19	Bye, Beth (INC)*	\$25,000.00	\$0.00	\$25,000.00	Bye, Beth	\$56,358.00	-\$31,358.00
147	Puff, Claudia	\$25,000.00	\$0.00	\$25,000.00	Sherer, Donald B.	\$63,352.00	-\$38,352.00
64	Willis, Roberta B. (INC)*	\$7,500.00	\$0.00	\$7,500.00	Willis, Roberta B.	\$46,683.00	-\$39,183.00
30	Aresimowicz, Joe (INC)	\$7,500.00	\$0.00	\$7,500.00	Aresimowicz, Joe	\$53,086.00	-\$45,586.00
118	Lambert, Barbara L.*	\$25,000.00	\$0.00	\$25,000.00	Amann, James A.	\$82,627.00	-\$57,627.00
142	Cafero Jr., Lawrence F. (INC)*	\$7,500.00	\$0.00	\$7,500.00	Cafero Jr., Lawrence F.	\$69,470.00	-\$61,970.00
147	Tong, William (INC)	\$25,000.00	\$0.00	\$25,000.00	Tong, William	\$90,060.00	-\$65,060.00
	<b>Total 2008 Candidates</b>	<b>103</b>				<b>Average Decrease</b>	<b>-\$13,834.32</b>
	<b>Totals</b>	<b>\$5,255,000.00</b>	<b>\$580,000.00</b>	<b>\$5,835,000.00</b>		<b>\$4,505,972.00</b>	<b>\$1,329,028.00</b>

# TABLE 3

**Table 3** District by District Comparison of Total 2006 Senate Campaign Receipts with Projected 2008 CEP Grants

<i>District</i> <sup>1</sup>	<i>CEP Grants + Qualifying Contributions</i> <sup>2, 3, 4, 5</sup>	<i>Primary Adjustments</i>	<i>Total Permissible Expenditure Limit</i>	<i>Total 2006 Receipts</i> <sup>6</sup>	<i>Net Increase in 2008 Permissible Expenditure Limit Under CEP</i> <sup>7</sup>	<i>Non-Major Party Participated in 2006</i> <sup>8</sup>	<i>Party Dominant</i> <sup>9</sup>
1	\$215,000.00	\$150,000.00	\$365,000.00	\$36,586.00	\$328,414.00	√	√
24	\$215,000.00	\$70,000.00	\$285,000.00	\$59,683.00	\$225,317.00		
23	\$200,000.00	\$0.00	\$200,000.00	\$2,700.00	\$197,300.00		√
8	\$215,000.00	\$70,000.00	\$285,000.00	\$93,517.00	\$191,483.00		
35	\$200,000.00	\$0.00	\$200,000.00	\$10,860.00	\$189,140.00		
28	\$200,000.00	\$0.00	\$200,000.00	\$27,410.00	\$172,590.00		
2	\$200,000.00	\$0.00	\$200,000.00	\$29,035.00	\$170,965.00		√
30	\$200,000.00	\$0.00	\$200,000.00	\$37,296.00	\$162,704.00		
32	\$200,000.00	\$0.00	\$200,000.00	\$51,976.00	\$148,024.00	√	
17	\$200,000.00	\$0.00	\$200,000.00	\$55,084.00	\$144,916.00		√
13	\$200,000.00	\$0.00	\$200,000.00	\$62,795.00	\$137,205.00		
29	\$200,000.00	\$0.00	\$200,000.00	\$65,631.00	\$134,369.00		
10	\$200,000.00	\$0.00	\$200,000.00	\$67,684.00	\$132,316.00		√
4	\$200,000.00	\$0.00	\$200,000.00	\$73,205.00	\$126,795.00		
33	\$200,000.00	\$0.00	\$200,000.00	\$79,771.00	\$120,229.00	√	
20	\$200,000.00	\$0.00	\$200,000.00	\$124,133.00	\$75,867.00		
5	\$200,000.00	\$0.00	\$200,000.00	\$124,646.00	\$75,354.00		√
36	\$200,000.00	\$0.00	\$200,000.00	\$136,403.00	\$63,597.00	√	
26	\$200,000.00	\$0.00	\$200,000.00	\$142,935.00	\$57,065.00		
31	\$200,000.00	\$0.00	\$200,000.00	\$150,991.00	\$49,009.00		√
12	\$200,000.00	\$0.00	\$200,000.00	\$174,349.00	\$25,651.00		

<sup>1</sup> Districts listed in descending order of net increase in 2008 permissible expenditures to easily identify the districts that will receive the greatest increase in funding.

<sup>2</sup> Qualifying contributions of candidates who lost the August 12, 2008 primary are included.

<sup>3</sup> In districts where a primary was held, the totals reflect the fact that only one candidate per party will receive the full grant.

<sup>4</sup> These grants show only district 15's major party candidate receiving a 60% grant due to non-major party opposition. Seven other districts may receive an increased grant if a non-major party candidate runs.

<sup>5</sup> In preparing this document, it is recognized that not all candidates will participate in the CEP. These tables must be read with that understanding.

<sup>6</sup> Expenditures unavailable in accessible form. Receipt data compiled from the National Institute on Money in State Politics website located at [http://www.followthemoney.org/database/StateGlance/state\\_candidates.phtml?s=CT&y=2006&f=S](http://www.followthemoney.org/database/StateGlance/state_candidates.phtml?s=CT&y=2006&f=S).

<sup>7</sup> Does not include supplemental grants under the matching fund provisions of the CEP.

<sup>8</sup> Taken from the Connecticut Secretary of State's official website located at <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392586>.

<sup>9</sup> According to OLR Research Report 2008-R-0297 Party Dominant Districts in Connecticut located at <http://www.cga.ct.gov/2008/rpt/2008-R-0297.htm>.

**Table 3** District by District Comparison of Total 2006 Senate Campaign Receipts with Projected 2008 CEP Grants

<i>District</i>	<i>CEP Grants + Qualifying Contributions</i>	<i>Primary Adjustments</i>	<i>Total Permissible Expenditure Limit</i>	<i>Total 2006 Receipts</i>	<i>Net Increase in 2008 Permissible Expenditure Limit Under CEP</i>	<i>Non-Major Party Participated in 2006</i>	<i>Party Dominant</i>
7	\$200,000.00	\$0.00	\$200,000.00	\$178,755.00	\$21,245.00		
15	\$66,000.00	\$0.00	\$66,000.00	\$51,301.00	\$14,699.00	√	√
25	\$200,000.00	\$0.00	\$200,000.00	\$192,084.00	\$7,916.00		
6	\$40,500.00	\$0.00	\$40,500.00	\$39,783.00	\$717.00		√
	<b>Total Districts</b>	<b>25</b>		<b>Average Net Increase</b>	<b>\$118,915.48</b>		
11	\$40,500.00	\$0.00	\$40,500.00	\$43,030.00	-\$2,530.00		√
14	\$200,000.00	\$0.00	\$200,000.00	\$209,223.00	-\$9,223.00		
3	\$40,500.00	\$0.00	\$40,500.00	\$59,123.00	-\$18,623.00		√
22	\$215,000.00	\$70,000.00	\$285,000.00	\$307,523.00	-\$22,523.00		
19	\$40,500.00	\$0.00	\$40,500.00	\$69,846.00	-\$29,346.00		
34	\$40,500.00	\$0.00	\$40,500.00	\$100,595.00	-\$60,095.00		
27	\$200,000.00	\$0.00	\$200,000.00	\$271,800.00	-\$71,800.00		
21	\$200,000.00	\$0.00	\$200,000.00	\$290,200.00	-\$90,200.00		
18	\$200,000.00	\$0.00	\$200,000.00	\$303,049.00	-\$103,049.00		
9	\$200,000.00	\$0.00	\$200,000.00	\$326,457.00	-\$126,457.00	√	√
16	\$40,500.00	\$0.00	\$40,500.00	\$381,147.00	-\$340,647.00		
	<b>Total Districts</b>	<b>11</b>		<b>Average Net Decrease</b>	<b>-\$79,499.36</b>		
<b>Totals</b>	<b>\$6,169,000.00</b>	<b>\$360,000.00</b>	<b>\$6,529,000.00</b>	<b>\$4,430,606.00</b>	<b>\$2,098,394.00</b>		

# TABLE 4



**Table 4** District by District Comparison of Total 2006 House Campaign Receipts with Projected 2008 CEP Grants

<i>District</i> <sup>1</sup>	<i>CEP Grants + Qualifying Contributions</i> <sup>2, 3, 4, 5</sup>	<i>Primary Adjustments</i>	<i>Total Permissible Expenditure Limit</i>	<i>Total 2006 Receipts</i> <sup>6</sup>	<i>Net Increase in 2008 Permissible Expenditure Limit Under CEP</i> <sup>7</sup>	<i>Non-Major Party Participated in 2006</i> <sup>8</sup>	<i>Party Dominant</i> <sup>9</sup>
129	\$65,000.00	\$50,000.00	\$115,000.00	\$0.00	\$115,000.00		√
126	\$65,000.00	\$50,000.00	\$115,000.00	\$8,380.00	\$106,620.00		√
130	\$65,000.00	\$50,000.00	\$115,000.00	\$9,380.00	\$105,620.00		√
49	\$65,000.00	\$50,000.00	\$115,000.00	\$25,105.00	\$89,895.00	√	√
128	\$65,000.00	\$50,000.00	\$115,000.00	\$35,625.00	\$79,375.00		√
9	\$75,000.00	\$50,000.00	\$125,000.00	\$51,952.00	\$73,048.00	√	
17	\$65,000.00	\$20,000.00	\$85,000.00	\$15,730.00	\$69,270.00		
15	\$60,000.00	\$0.00	\$60,000.00	\$815.00	\$59,185.00	√	√
124	\$60,000.00	\$0.00	\$60,000.00	\$2,610.00	\$57,390.00		√
85	\$60,000.00	\$0.00	\$60,000.00	\$2,912.00	\$57,088.00	√	
145	\$60,000.00	\$0.00	\$60,000.00	\$3,903.00	\$56,097.00		√
106	\$60,000.00	\$0.00	\$60,000.00	\$4,475.00	\$55,525.00	√	
66	\$60,000.00	\$0.00	\$60,000.00	\$5,355.00	\$54,645.00	√	
143	\$60,000.00	\$0.00	\$60,000.00	\$5,365.00	\$54,635.00		
94	\$17,500.00	\$50,000.00	\$67,500.00	\$13,527.00	\$53,973.00		√
57	\$60,000.00	\$0.00	\$60,000.00	\$6,811.00	\$53,189.00	√	
5	\$17,500.00	\$50,000.00	\$67,500.00	\$14,496.00	\$53,004.00	√	√
122	\$60,000.00	\$0.00	\$60,000.00	\$7,050.00	\$52,950.00		
107	\$60,000.00	\$0.00	\$60,000.00	\$7,325.00	\$52,675.00		
26	\$60,000.00	\$0.00	\$60,000.00	\$8,766.00	\$51,234.00		√
39	\$60,000.00	\$0.00	\$60,000.00	\$8,800.00	\$51,200.00		√
62	\$60,000.00	\$0.00	\$60,000.00	\$9,405.00	\$50,595.00	√	
24	\$60,000.00	\$0.00	\$60,000.00	\$9,429.00	\$50,571.00	√	√

<sup>1</sup> Districts listed in descending order of net increase in 2008 permissible expenditures to easily identify the districts that will receive the greatest increase in funding.<sup>2</sup> Qualifying contributions of candidates who lost the August 12, 2008 primary are included.<sup>3</sup> In districts where a primary was held, the totals reflect the fact that only one candidate per party will receive the full grant.<sup>4</sup> These grants show no major party candidates receiving a 60% grant due to non-major party opposition. Several districts may receive an increased grant if a non-major party candidate runs.<sup>5</sup> In preparing this document, it is recognized that not all candidates will participate in the CEP. These tables must be read with that understanding.<sup>6</sup> Expenditures unavailable in accessible form. Receipt data compiled from the National Institute on Money in State Politics website located at [http://www.followthemoney.org/database/StateGlance/state\\_candidates.phtml?s=CT&y=2006&f=S](http://www.followthemoney.org/database/StateGlance/state_candidates.phtml?s=CT&y=2006&f=S).<sup>7</sup> Does not include supplemental grants under the matching fund provisions of the CEP.<sup>8</sup> Taken from the Connecticut Secretary of State's official website located at <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392586>.<sup>9</sup> According to OLR Research Report 2008-R-0297 Party Dominant Districts in Connecticut located at <http://www.cga.ct.gov/2008/rpt/2008-R-0297.htm>.

**Table 4** District by District Comparison of Total 2006 House Campaign Receipts with Projected 2008 CEP Grants

<i>District</i>	<i>CEP Grants + Qualifying Contributions</i>	<i>Primary Adjustments</i>	<i>Total Permissible Expenditure Limit</i>	<i>Total 2006 Receipts</i>	<i>Net Increase in 2008 Permissible Expenditure Limit Under CEP</i>	<i>Non-Major Party Participated in 2006</i>	<i>Party Dominant</i>
112	\$60,000.00	\$0.00	\$60,000.00	\$9,898.00	\$50,102.00		
108	\$60,000.00	\$0.00	\$60,000.00	\$9,915.00	\$50,085.00		
76	\$60,000.00	\$0.00	\$60,000.00	\$10,790.00	\$49,210.00	√	
52	\$60,000.00	\$0.00	\$60,000.00	\$11,250.00	\$48,750.00		
105	\$60,000.00	\$0.00	\$60,000.00	\$12,555.00	\$47,445.00		
81	\$60,000.00	\$0.00	\$60,000.00	\$13,697.00	\$46,303.00	√	
23	\$60,000.00	\$0.00	\$60,000.00	\$14,150.00	\$45,850.00	√	
22	\$60,000.00	\$0.00	\$60,000.00	\$14,192.00	\$45,808.00	√	√
43	\$60,000.00	\$0.00	\$60,000.00	\$14,875.00	\$45,125.00		
44	\$60,000.00	\$0.00	\$60,000.00	\$14,986.00	\$45,014.00		
83	\$60,000.00	\$0.00	\$60,000.00	\$15,379.00	\$44,621.00		
71	\$60,000.00	\$0.00	\$60,000.00	\$15,945.00	\$44,055.00	√	
27	\$60,000.00	\$0.00	\$60,000.00	\$18,465.00	\$41,535.00		√
84	\$60,000.00	\$0.00	\$60,000.00	\$19,225.00	\$40,775.00		√
25	\$60,000.00	\$0.00	\$60,000.00	\$19,375.00	\$40,625.00		√
20	\$60,000.00	\$0.00	\$60,000.00	\$20,195.00	\$39,805.00		√
58	\$60,000.00	\$0.00	\$60,000.00	\$20,452.00	\$39,548.00		√
72	\$60,000.00	\$0.00	\$60,000.00	\$23,436.00	\$51,200.00	√	√
75	\$60,000.00	\$0.00	\$60,000.00	\$24,195.00	\$50,595.00		√
13	\$60,000.00	\$0.00	\$60,000.00	\$24,546.00	\$50,571.00		√
63	\$60,000.00	\$0.00	\$60,000.00	\$25,087.00	\$50,102.00		
78	\$60,000.00	\$0.00	\$60,000.00	\$26,297.00	\$50,085.00	√	
148	\$60,000.00	\$0.00	\$60,000.00	\$26,453.00	\$49,210.00		√
59	\$60,000.00	\$0.00	\$60,000.00	\$27,470.00	\$48,750.00	√	
137	\$60,000.00	\$0.00	\$60,000.00	\$27,578.00	\$32,422.00		
32	\$60,000.00	\$0.00	\$60,000.00	\$30,138.00	\$29,862.00		
119	\$60,000.00	\$0.00	\$60,000.00	\$30,789.00	\$29,211.00		
36	\$60,000.00	\$0.00	\$60,000.00	\$31,085.00	\$28,915.00		
111	\$60,000.00	\$0.00	\$60,000.00	\$33,740.00	\$26,260.00		
82	\$60,000.00	\$0.00	\$60,000.00	\$34,895.00	\$25,105.00	√	
92	\$60,000.00	\$0.00	\$60,000.00	\$35,365.00	\$24,635.00		√
33	\$60,000.00	\$0.00	\$60,000.00	\$35,426.00	\$24,574.00		√

**Table 4** District by District Comparison of Total 2006 House Campaign Receipts with Projected 2008 CEP Grants

District	CEP Grants + Qualifying Contributions	Primary Adjustments	Total Permissible Expenditure Limit	Total 2006 Receipts	Net Increase in 2008 Permissible Expenditure Limit Under CEP	Non-Major Party Participated in 2006	Party Dominant
136	\$60,000.00	\$0.00	\$60,000.00	\$36,073.00	\$23,927.00		
65	\$60,000.00	\$0.00	\$60,000.00	\$37,046.00	\$22,954.00		
114	\$60,000.00	\$0.00	\$60,000.00	\$37,356.00	\$22,644.00		
110	\$60,000.00	\$0.00	\$60,000.00	\$37,855.00	\$22,145.00		√
29	\$60,000.00	\$0.00	\$60,000.00	\$38,608.00	\$21,392.00	√	√
123	\$60,000.00	\$0.00	\$60,000.00	\$39,198.00	\$20,802.00		
79	\$60,000.00	\$0.00	\$60,000.00	\$41,284.00	\$18,716.00		√
87	\$60,000.00	\$0.00	\$60,000.00	\$41,828.00	\$18,172.00		
100	\$60,000.00	\$0.00	\$60,000.00	\$42,313.00	\$17,687.00		
28	\$60,000.00	\$0.00	\$60,000.00	\$43,772.00	\$16,228.00		
18	\$60,000.00	\$0.00	\$60,000.00	\$45,285.00	\$14,715.00		√
8	\$60,000.00	\$0.00	\$60,000.00	\$46,200.00	\$13,800.00		
103	\$60,000.00	\$0.00	\$60,000.00	\$46,597.00	\$13,403.00	√	
73	\$60,000.00	\$0.00	\$60,000.00	\$47,025.00	\$12,975.00	√	√
60	\$60,000.00	\$0.00	\$60,000.00	\$47,120.00	\$12,880.00		√
67	\$12,500.00	\$0.00	\$12,500.00	\$0.00	\$12,500.00		
99	\$60,000.00	\$0.00	\$60,000.00	\$47,651.00	\$12,349.00		√
47	\$60,000.00	\$0.00	\$60,000.00	\$47,829.00	\$12,171.00		
40	\$12,500.00	\$0.00	\$12,500.00	\$650.00	\$11,850.00		
1	\$12,500.00	\$0.00	\$12,500.00	\$1,200.00	\$11,300.00		√
141	\$12,500.00	\$0.00	\$12,500.00	\$1,200.00	\$11,300.00		√
51	\$12,500.00	\$0.00	\$12,500.00	\$1,300.00	\$11,200.00		
151	\$60,000.00	\$0.00	\$60,000.00	\$49,279.00	\$10,721.00		
113	\$12,500.00	\$0.00	\$12,500.00	\$1,910.00	\$10,590.00	√	
125	\$12,500.00	\$0.00	\$12,500.00	\$2,144.00	\$10,356.00		√
77	\$60,000.00	\$0.00	\$60,000.00	\$49,910.00	\$10,090.00		√
138	\$60,000.00	\$0.00	\$60,000.00	\$50,215.00	\$9,785.00		
135	\$12,500.00	\$0.00	\$12,500.00	\$3,800.00	\$8,700.00		
95	\$12,500.00	\$0.00	\$12,500.00	\$4,515.00	\$7,985.00		√
88	\$12,500.00	\$0.00	\$12,500.00	\$4,680.00	\$7,820.00		√
93	\$12,500.00	\$0.00	\$12,500.00	\$6,500.00	\$6,000.00		√
69	\$12,500.00	\$0.00	\$12,500.00	\$7,825.00	\$4,675.00	√	
54	\$12,500.00	\$0.00	\$12,500.00	\$8,094.00	\$4,406.00		√

**Table 4** District by District Comparison of Total 2006 House Campaign Receipts with Projected 2008 CEP Grants

District	CEP Grants + Qualifying Contributions	Primary Adjustments	Total Permissible Expenditure Limit	Total 2006 Receipts	Net Increase in 2008 Permissible Expenditure Limit Under CEP	Non-Major Party Participated in 2006	Party Dominant
91	\$12,500.00	\$0.00	\$12,500.00	\$8,465.00	\$4,035.00		√
7	\$12,500.00	\$0.00	\$12,500.00	\$8,875.00	\$3,625.00		√
14	\$60,000.00	\$0.00	\$60,000.00	\$57,670.00	\$2,330.00		
127	\$60,000.00	\$0.00	\$60,000.00	\$57,877.00	\$2,123.00		√
31	\$60,000.00	\$0.00	\$60,000.00	\$58,405.00	\$1,595.00		
34	\$60,000.00	\$0.00	\$60,000.00	\$58,634.00	\$1,366.00		
134	\$60,000.00	\$0.00	\$60,000.00	\$58,735.00	\$1,265.00		
<b>Total 2008 Districts</b>	<b>98</b>			<b>Average Net Increase</b>	<b>\$34,145.84</b>		
101	\$65,000.00	\$20,000.00	\$85,000.00	\$85,375.00	-\$375.00		
150	\$12,500.00	\$0.00	\$12,500.00	\$13,600.00	-\$1,100.00		
98	\$12,500.00	\$0.00	\$12,500.00	\$13,806.00	-\$1,306.00		
41	\$60,000.00	\$0.00	\$60,000.00	\$61,503.00	-\$1,503.00		
131	\$12,500.00	\$0.00	\$12,500.00	\$14,900.00	-\$2,400.00	√	
11	\$12,500.00	\$0.00	\$12,500.00	\$16,530.00	-\$4,030.00		√
50	\$60,000.00	\$0.00	\$60,000.00	\$64,822.00	-\$4,822.00		
97	\$12,500.00	\$0.00	\$12,500.00	\$17,323.00	-\$4,823.00		√
10	\$12,500.00	\$0.00	\$12,500.00	\$17,700.00	-\$5,200.00		√
96	\$12,500.00	\$0.00	\$12,500.00	\$18,453.00	-\$5,953.00		√
132	\$60,000.00	\$0.00	\$60,000.00	\$66,192.00	-\$6,192.00		
116	\$12,500.00	\$0.00	\$12,500.00	\$18,875.00	-\$6,375.00	√	√
42	\$12,500.00	\$0.00	\$12,500.00	\$19,423.00	-\$6,923.00		
80	\$17,500.00	\$20,000.00	\$37,500.00	\$45,262.00	-\$7,762.00	√	
4	\$60,000.00	\$0.00	\$60,000.00	\$69,430.00	-\$9,430.00		√
68	\$12,500.00	\$0.00	\$12,500.00	\$21,930.00	-\$9,430.00		
46	\$12,500.00	\$0.00	\$12,500.00	\$22,040.00	-\$9,540.00		√
70	\$12,500.00	\$0.00	\$12,500.00	\$22,247.00	-\$9,747.00	√	
146	\$12,500.00	\$0.00	\$12,500.00	\$23,159.00	-\$10,659.00	√	
115	\$12,500.00	\$0.00	\$12,500.00	\$23,208.00	-\$10,708.00		√
74	\$17,500.00	\$20,000.00	\$37,500.00	\$48,857.00	-\$11,357.00	√	√
56	\$12,500.00	\$0.00	\$12,500.00	\$24,882.00	-\$12,382.00		
133	\$60,000.00	\$0.00	\$60,000.00	\$72,599.00	-\$12,599.00		
53	\$60,000.00	\$0.00	\$60,000.00	\$72,955.00	-\$12,955.00		

**Table 4** District by District Comparison of Total 2006 House Campaign Receipts with Projected 2008 CEP Grants

District	CEP Grants + Qualifying Contributions	Primary Adjustments	Total Permissible Expenditure Limit	Total 2006 Receipts	Net Increase in 2008 Permissible Expenditure Limit Under CEP	Non-Major Party Participated in 2006	Party Dominant
48	\$12,500.00	\$0.00	\$12,500.00	\$25,640.00	-\$13,140.00		
109	\$60,000.00	\$0.00	\$60,000.00	\$74,260.00	-\$14,260.00		
38	\$12,500.00	\$0.00	\$12,500.00	\$27,592.00	-\$15,092.00		
16	\$60,000.00	\$0.00	\$60,000.00	\$76,353.00	-\$16,353.00	√	
139	\$12,500.00	\$0.00	\$12,500.00	\$29,517.00	-\$17,017.00		
90	\$12,500.00	\$0.00	\$12,500.00	\$30,910.00	-\$18,410.00		
120	\$60,000.00	\$0.00	\$60,000.00	\$78,665.00	-\$18,665.00		
35	\$12,500.00	\$0.00	\$12,500.00	\$31,224.00	-\$18,724.00		
37	\$60,000.00	\$0.00	\$60,000.00	\$78,919.00	-\$18,919.00		
149	\$12,500.00	\$0.00	\$12,500.00	\$31,605.00	-\$19,105.00		
55	\$12,500.00	\$0.00	\$12,500.00	\$32,307.00	-\$19,807.00		
140	\$12,500.00	\$0.00	\$12,500.00	\$32,858.00	-\$20,358.00	√	√
118	\$60,000.00	\$0.00	\$60,000.00	\$82,627.00	-\$22,627.00		
12	\$12,500.00	\$0.00	\$12,500.00	\$35,457.00	-\$22,957.00		√
117	\$30,000.00	\$0.00	\$30,000.00	\$54,741.00	-\$24,741.00		
19	\$60,000.00	\$0.00	\$60,000.00	\$85,017.00	-\$25,017.00		
21	\$12,500.00	\$0.00	\$12,500.00	\$38,210.00	-\$25,710.00		
2	\$60,000.00	\$0.00	\$60,000.00	\$87,130.00	-\$27,130.00		
144	\$12,500.00	\$0.00	\$12,500.00	\$40,834.00	-\$28,334.00		
102	\$12,500.00	\$0.00	\$12,500.00	\$41,874.00	-\$29,374.00		
61	\$60,000.00	\$0.00	\$60,000.00	\$91,041.00	-\$31,041.00		
89	\$60,000.00	\$0.00	\$60,000.00	\$91,425.00	-\$31,425.00		
86	\$12,500.00	\$0.00	\$12,500.00	\$48,718.00	-\$36,218.00		
3	\$12,500.00	\$0.00	\$12,500.00	\$52,065.00	-\$39,565.00		√
104	\$12,500.00	\$0.00	\$12,500.00	\$54,625.00	-\$42,125.00		√
64	\$12,500.00	\$0.00	\$12,500.00	\$57,060.00	-\$44,560.00		
30	\$12,500.00	\$0.00	\$12,500.00	\$87,680.00	-\$75,180.00		
142	\$12,500.00	\$0.00	\$12,500.00	\$95,305.00	-\$82,805.00		
147	\$60,000.00	\$0.00	\$60,000.00	\$153,412.00	-\$93,412.00		
<b>Total 2008 Districts</b>	<b>53</b>			<b>Average Net Decrease</b>	<b>\$19,993.25</b>		
<b>Totals</b>	<b>\$6,490,000.00</b>	<b>\$330,000.00</b>	<b>\$6,820,000.00</b>	<b>\$4,743,784.00</b>	<b>\$2,184,213.00</b>		

# TABLE 5

**Table 5** Electoral History of Newly Contested and Newly Uncontested Senate Districts in 2008\*

<b>Newly Contested 2008 Senate Districts</b>								
District	2006		2004		2002		2000	
	Loser's Vote Percentage <sup>1, 2</sup>	Loser's Receipts <sup>3, 4</sup>	Loser's Vote Percentage	Loser's Receipts	Loser's Vote Percentage	Loser's Receipts	Loser's Vote Percentage	Loser's Receipts
1	0.00%	\$0.00	0.00%	\$0.00	29.13%	\$1,636.00	0.00%	\$0.00
24	0.00%	\$0.00	34.62%	\$1,700.00	0.00%	\$0.00	0.00%	\$0.00
28	0.00%	\$0.00	34.82%	\$1,215.00	0.00%	\$0.00	35.71%	\$2,057.00
32	0.00%	\$0.00	0.00%	\$0.00	35.60%	\$12,198.00	0.00%	\$0.00
35	0.00%	\$0.00	32.82%	\$10,289.00	45.43%	\$45,459.00	0.00%	\$0.00

<b>Newly Uncontested 2008 Senate Districts</b>								
District	2006		2004		2002		2000	
	Loser's Vote Percentage	Loser's Receipts	Loser's Vote Percentage	Loser's Receipts	Loser's Vote Percentage	Loser's Receipts	Loser's Vote Percentage	Loser's Receipts
3	28.17%	\$5,218.00	33.31%	\$1,603.00	41.22%	\$29,043.00	39.70%	\$28,462.00
16	45.16%	\$151,853.00	40.06%	\$6,892.00	37.39%	\$98,435.00	46.25%	\$47,297.00
19	30.38%	\$25,089.00	37.61%	\$79,294.00	45.95%	\$96,527.00	28.63%	\$12,851.00

\* Only includes losing major party candidates.

<sup>1</sup> Listed as a percentage of the total vote. Data taken from the Connecticut Secretary of State's official website located at [http://www.ct.gov/sots/cwp/view.asp?a=3179&Q=392194&SOTSNav\\_GID=1846](http://www.ct.gov/sots/cwp/view.asp?a=3179&Q=392194&SOTSNav_GID=1846).

<sup>2</sup> Uncontested elections are listed as 0.00%.

<sup>3</sup> Expenditures unavailable in accessible form. Receipt data compiled from the National Institute on Money in State Politics website located at <http://www.followthemoney.org>.

<sup>4</sup> In uncontested elections, the loser's receipts are listed as \$0.00.

# TABLE 6



**Table 6** Electoral History of Newly Contested and Newly Uncontested House Districts \*

<b>Newly Contested 2008 House Districts</b>								
District	2006		2004		2002		2000	
	Loser's Vote Percentage <sup>1, 2</sup>	Loser's Receipts <sup>3, 4</sup>	Loser's Vote Percentage	Loser's Receipts	Loser's Vote Percentage	Loser's Receipts	Loser's Vote Percentage	Loser's Receipts
4	0.00%	\$0.00	14.18%	\$0.00	12.06%	\$0.00	0.00%	\$0.00
15	0.00%	\$0.00	24.57%	\$0.00	28.94%	\$2,630.00	0.00%	\$0.00
17	0.00%	\$0.00	39.58%	\$18,700.00	49.80%	\$28,105.00	40.33%	\$6,375.00
20	0.00%	\$0.00	28.40%	\$1,177.00	48.65%	\$28,171.00	34.23%	\$26,259.00
22	0.00%	\$0.00	22.66%	\$0.00	25.58%	\$2,664.00	0.00%	\$0.00
23	0.00%	\$0.00	35.52%	\$7,045.00	43.49%	\$16,960.00	23.01%	\$2,142.00
27	0.00%	\$0.00	0.00%	\$0.00	24.99%	\$0.00	23.24%	\$4,201.00
29	0.00%	\$0.00	35.26%	\$18,852.00	49.16%	\$17,950.00	31.62%	\$200.00
43	0.00%	\$0.00	0.00%	\$0.00	0.00%	\$0.00	36.80%	\$17,355.00
52	0.00%	\$0.00	31.93%	\$25,120.00	40.59%	\$46,353.00	48.07%	\$0.00
57	0.00%	\$0.00	0.00%	\$0.00	0.00%	\$0.00	0.00%	\$0.00
60	0.00%	\$0.00	34.32%	\$4,559.00	38.09%	\$5,835.00	37.79%	\$10,651.00
62	0.00%	\$0.00	0.00%	\$0.00	0.00%	\$0.00	0.00%	\$0.00
66	0.00%	\$0.00	40.02%	\$11,960.00	0.00%	\$0.00	39.08%	\$7,875.00
71	0.00%	\$0.00	0.00%	\$0.00	30.41%	\$4,850.00	42.04%	\$8,153.00
73	0.00%	\$0.00	0.00%	\$0.00	37.68%	\$5,480.00	39.26%	\$39,735.00
76	0.00%	\$0.00	30.19%	\$1,450.00	30.36%	\$3,710.00	32.20%	\$3,695.00
78	0.00%	\$0.00	0.00%	\$0.00	0.00%	\$0.00	0.00%	\$0.00
84	0.00%	\$0.00	0.00%	\$0.00	24.65%	\$958.00	23.85%	\$2,663.00
85	0.00%	\$0.00	0.00%	\$0.00	0.00%	\$0.00	42.71%	\$39,607.00
105	0.00%	\$0.00	38.00%	\$11,095.00	35.33%	\$0.00	41.06%	\$6,887.00
106	0.00%	\$0.00	0.00%	\$0.00	0.00%	\$0.00	0.00%	\$0.00
107	0.00%	\$0.00	0.00%	\$0.00	0.00%	\$0.00	36.90%	\$4,959.00
108	0.00%	\$0.00	0.00%	\$0.00	0.00%	\$0.00	27.88%	\$672.00
111	0.00%	\$0.00	33.66%	\$11,499.00	0.00%	\$0.00	0.00%	\$0.00
112	0.00%	\$0.00	34.76%	\$7,006.00	0.00%	\$0.00	37.45%	\$0.00

\* Only includes losing major party candidates.

<sup>1</sup> Listed as a percentage of the total vote. Data taken from the Connecticut Secretary of State's official website located at [http://www.ct.gov/sots/cwp/view.asp?a=3179&Q=392194&SOTNav\\_GID=1846](http://www.ct.gov/sots/cwp/view.asp?a=3179&Q=392194&SOTNav_GID=1846).

<sup>2</sup> Uncontested elections are listed as 0.00%.

<sup>3</sup> Expenditures unavailable in accessible form. Receipt data compiled from the National Institute on Money in State Politics website located at <http://www.followthemoney.org>.

<sup>4</sup> In uncontested elections, the loser's receipts are listed as \$0.00.

**Table 6** Electoral History of Newly Contested and Newly Uncontested House Districts

<b><i>Newly Contested 2008 House Districts</i></b>								
District	2006		2004		2002		2000	
	Loser's Vote Percentage	Loser's Receipts	Loser's Vote Percentage	Loser's Receipts	Loser's Vote Percentage	Loser's Receipts	Loser's Vote Percentage	Loser's Receipts
118	0.00%	\$0.00	0.00%	\$0.00	0.00%	\$0.00	38.08%	\$12,466.00
122	0.00%	\$0.00	0.00%	\$0.00	43.36%	\$9,757.00	0.00%	\$0.00
127	0.00%	\$0.00	35.25%	\$6,211.00	22.97%	\$0.00	26.62%	\$0.00
129	0.00%	\$0.00	23.90%	\$0.00	42.09%	\$17,465.00	24.42%	\$675.00
143	0.00%	\$0.00	38.50%	\$12,867.00	0.00%	\$0.00	0.00%	\$0.00
145	0.00%	\$0.00	0.00%	\$0.00	0.00%	\$0.00	24.63%	\$4,361.00
<b><i>Newly Uncontested 2008 House Districts</i></b>								
District	2006		2004		2002		2000	
	Loser's Vote Percentage	Loser's Receipts	Loser's Vote Percentage	Loser's Receipts	Loser's Vote Percentage	Loser's Receipts	Loser's Vote Percentage	Loser's Receipts
7	6.52%	\$0.00	0.00%	\$0.00	7.76%	\$0.00	0.00%	\$0.00
10	24.43%	\$1,100.00	23.75%	\$0.00	27.52%	\$2,345.00	25.30%	\$2,621.00
11	26.38%	\$0.00	28.50%	\$1,425.00	38.05%	\$7,226.00	31.94%	\$7,719.00
13	34.54%	\$10,809.00	27.85%	\$0.00	40.45%	\$15,007.00	35.18%	\$9,922.00
30	37.71%	\$34,594.00	45.29%	\$24,500.00	48.09%	\$22,394.00	44.50%	\$14,533.00
35	30.03%	\$850.00	0.00%	\$0.00	44.86%	\$38,629.00	45.16%	\$24,036.00
38	31.31%	\$5,667.00	45.21%	\$30,764.00	31.37%	\$4,551.00	30.59%	\$5,066.00
44	35.34%	\$4,741.00	44.81%	\$6,204.00	42.23%	\$2,125.00	0.00%	\$0.00
55	35.27%	\$7,827.00	29.07%	\$2,285.00	0.00%	\$0.00	0.00%	\$0.00
56	23.25%	\$2,792.00	32.01%	\$7,916.00	41.48%	\$16,494.00	43.69%	\$20,485.00
64	32.33%	\$10,377.00	40.29%	\$28,461.00	44.34%	\$25,143.00	47.19%	\$26,189.00
65	49.52%	\$11,794.00	47.45%	\$21,114.00	49.99%	\$14,769.00	40.83%	\$3,031.00
70	24.91%	\$1,802.00	0.00%	\$0.00	18.94%	\$2,169.00	30.07%	\$7,342.00
80	30.76%	\$14,954.00	36.67%	\$2,879.00	45.15%	\$54,153.00	0.00%	\$0.00
86	49.16%	\$20,347.00	43.02%	\$6,439.00	0.00%	\$0.00	0.00%	\$0.00
90	31.17%	\$2,320.00	0.00%	\$0.00	0.00%	\$0.00	33.26%	\$8,486.00
97	26.62%	\$7,729.00	0.00%	\$0.00	0.00%	\$0.00	46.82%	\$65,106.00
102	36.30%	\$30,004.00	0.00%	\$0.00	32.06%	\$5,183.00	38.77%	\$25,772.00
104	43.37%	\$32,986.00	47.91%	\$28,016.00	27.33%	\$0.00	24.08%	\$2,310.00
115	22.62%	\$1,225.00	0.00%	\$0.00	0.00%	\$0.00	22.26%	\$0.00
116	14.64%	\$0.00	0.00%	\$0.00	0.00%	\$0.00	26.08%	\$4,020.00

**Table 6** Electoral History of Newly Contested and Newly Uncontested House Districts

<b><i>Newly Uncontested 2008 House Districts</i></b>								
District	2006		2004		2002		2000	
	Loser's Vote Percentage	Loser's Receipts	Loser's Vote Percentage	Loser's Receipts	Loser's Vote Percentage	Loser's Receipts	Loser's Vote Percentage	Loser's Receipts
121	23.62%	\$1,685.00	24.89%	\$0.00	40.11%	\$20,126.00	23.70%	\$1,185.00
139	35.09%	\$6,830.00	36.07%	\$11,671.00	42.86%	\$5,690.00	0.00%	\$0.00
140	27.81%	\$10,470.00	25.25%	\$5,358.00	33.86%	\$7,686.00	24.00%	\$400.00
142	45.59%	\$25,835.00	0.00%	\$0.00	34.58%	\$3,523.00	0.00%	\$0.00

# TABLE 7

**Table 7** Permissible Expenditure Limit in 2008 in Districts Targeted by Non-Major Party Candidates in 2006\*

<i>Senate</i>				
<i>District</i>	<i>Total 2008 Permissible Expenditure Limit <sup>1</sup></i>	<i>Total 2006 Receipts <sup>2</sup></i>	<i>Net Increase in Permissible Expenditure Limit <sup>3</sup></i>	<i>Newly Contested in 2008 <sup>4</sup></i>
1	\$365,000.00	\$36,586.00	\$328,414.00	√
32	\$200,000.00	\$51,976.00	\$148,024.00	√
15	\$66,000.00	\$51,301.00	\$14,699.00	

<i>House</i>				
<i>District</i>	<i>Total 2008 Permissible Expenditure Limit <sup>5</sup></i>	<i>Total 2006 Receipts <sup>6</sup></i>	<i>Net Increase in Permissible Expenditure Limit <sup>7</sup></i>	<i>Newly Contested in 2008 <sup>8</sup></i>
15	\$60,000.00	\$815.00	\$59,185.00	√
85	\$60,000.00	\$2,912.00	\$57,088.00	√
106	\$60,000.00	\$4,475.00	\$55,525.00	√
66	\$60,000.00	\$5,355.00	\$54,645.00	√
57	\$60,000.00	\$6,811.00	\$53,189.00	√
62	\$60,000.00	\$9,405.00	\$50,595.00	√
76	\$60,000.00	\$10,790.00	\$49,210.00	√
23	\$60,000.00	\$14,150.00	\$45,850.00	√
22	\$60,000.00	\$14,192.00	\$45,808.00	√
5	\$60,000.00	\$14,496.00	\$45,504.00	√
71	\$60,000.00	\$15,945.00	\$44,055.00	√
78	\$60,000.00	\$26,297.00	\$33,703.00	√
29	\$60,000.00	\$38,608.00	\$21,392.00	√
73	\$60,000.00	\$47,025.00	\$12,975.00	√

\* Districts where only one major party candidate ran in 2006. Does not include cross endorsements.

<sup>1</sup> See Table 3 for notes on how this information was compiled.

<sup>2</sup> See Table 3 for notes on how this information was compiled.

<sup>3</sup> See Table 3 for notes on how this information was compiled.

<sup>4</sup> Based on the candidate lists at the Connecticut Secretary of State's official website located at <http://www.statementofvotesots.ct.gov/StatementOfVote/WebModules/ReportsLink/CandOfficeTitle.aspx>.

<sup>5</sup> See Table 4 for notes on how this information was compiled.

<sup>6</sup> See Table 4 for notes on how this information was compiled.

<sup>7</sup> See Table 4 for notes on how this information was compiled.

<sup>8</sup> Based on the candidate lists at the Connecticut Secretary of State's official website located at <http://www.statementofvotesots.ct.gov/StatementOfVote/WebModules/ReportsLink/CandOfficeTitle.aspx>.

**Table 7** Permissible Expenditure Limit in 2008 in Districts Targeted by Non-Major Party Candidates in 2006

<i>House</i>				
<i>District</i>	<i>Total 2008 Permissible Expenditure Limit</i>	<i>Total 2006 Receipts</i>	<i>Net Increase in Permissible Expenditure Limit</i>	<i>Newly Contested in 2008</i>
113	\$12,500.00	\$1,910.00	\$10,590.00	
69	\$12,500.00	\$7,825.00	\$4,675.00	
131	\$12,500.00	\$14,900.00	-\$2,400.00	
146	\$12,500.00	\$23,159.00	-\$10,659.00	
74	\$17,500.00	\$48,857.00	-\$31,357.00	

# TABLE 8

**Table 8** Petition Signature Requirements Based on 2004 Voter Turnout

<b>State Senate Districts</b>				
	<i>Votes in 2004 <sup>1</sup></i>	<i>10%</i>	<i>15%</i>	<i>20%</i>
Lowest Turnout	18,042 (District 1)	1,804	2,706	3,608
Highest Turnout	51,314 (District 26)	5,131	7,697	10,263
Average Turnout	35,371	3,537	5,306	7,074
<b>State Representative Districts</b>				
	<i>Votes in 2004 <sup>2</sup></i>	<i>10%</i>	<i>15%</i>	<i>20%</i>
Lowest Turnout	2,785 (District 4)	279	418	557
Highest Turnout	13,302 (District 111)	1,330	1,995	2,660
Average Turnout	8,435	844	1,265	1,687

<sup>1</sup> Compiled from the Connecticut Secretary of State's official website located at <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392560>.

<sup>2</sup> Compiled from the Connecticut Secretary of State's official website located at <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392548>.