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## Vermont Legislative Research Service

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### Public Funding of Elections

This report provides an overview of the current public funding system in Vermont. It compares two general models of public funding systems: *total public* (or *clean*) and *partial* (or *matching*) funding systems. Selected examples of these models are used to show how different states have used these models. This report also covers the use of tax incentives to promote citizen participation in elections. As these programs vary from state-to-state, experts disagree on how to best formulate a public funding model that meets the goals of lawmakers.<sup>1</sup> Consequently, this report provides descriptions of each of the models and outcomes in selected cases without conducting deep case studies of the system in any one jurisdiction.

#### Overview of Public Funding

Campaign finance laws regulate how money is used in elections. These regulations target who contributes money, how much money is contributed, and how much money is spent.<sup>2</sup> Different mechanisms have been devised to use public funds to finance elections at the federal, state, and municipal levels; however, their use has been limited. Common goals of public funding legislation include

- (1) diluting the importance of big money contributors,
- (2) enhancing the strength of small contributions,
- (3) increasing the competitiveness of elections, and
- (4) providing incentives to agree to certain campaign behaviors (i.e. limiting spending and engaging in debates).<sup>3</sup>

While some programs aim to abolish the role of money in elections, scholars indicate that a better approach is to devise systems that manage the flow of money in order to improve the quality and fairness of elections.<sup>4</sup>

U.S. Supreme Court decisions have had a significant impact on public funding systems. *Buckley v. Valeo* (1976)<sup>5</sup> prohibited state laws requiring candidates to run solely with public funds. *Citizens United v. FEC*

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<sup>1</sup> Michael J. Malbin, *Citizen Funding for Elections*, (Campaign Finance Institute, 2015), [http://www.cfinst.org/Press/PReleases/15-11-19/CFI\\_Report\\_Citizen\\_Funding\\_for\\_Elections.aspx](http://www.cfinst.org/Press/PReleases/15-11-19/CFI_Report_Citizen_Funding_for_Elections.aspx).

<sup>2</sup> Anthony Gierzynski, *Saving American Elections*, (Amherst: Cambria Press, 2011), 256.

<sup>3</sup> Gierzynski, *Saving American Elections*, 258.

<sup>4</sup> Gierzynski, *Saving American Elections*, 244.

<sup>5</sup> *Buckley v. Valeo*, 424 U.S. 1 (1976).

(2010)<sup>6</sup> established legal grounding for unlimited corporate funding. *Arizona Free Enterprise Club's Freedom Club PAC v. Bennett* (2011)<sup>7</sup> outlawed "trigger funding," a mechanism which provided a candidate with extra funds in response to higher fundraising levels by their opponent. These rulings have made it harder for states to develop public funding policies. For these models to succeed, candidates must choose to compete in elections increasingly influenced by private money without adequate resources. Nonetheless, jurisdictions have found innovative ways to utilize public funds in elections with varying degrees of success. In all public funding models, political candidates have the option to participate in public funding schemes; depending on the context, this has led to different levels of participation and fundraising success.

### Public Funding for Elections in Vermont

Vermont's public funding system was established in 1997.<sup>8</sup> The system is classified as a total public funding system. Total public funding systems provide candidates with all of the money they need to finance a campaign from the public fund, provided they raise enough money to meet a basic threshold. In Vermont, public funding options are only available in elections for governor and lieutenant governor.<sup>9</sup> A gubernatorial candidate can receive up to \$150,000 in the primary election, and \$450,000 in the general election.<sup>10</sup> A candidate for lieutenant governor can receive \$50,000 in the primary and \$150,000 in the general election.<sup>11</sup> Candidates become ineligible to receive public funding if they:

- (1) Announce their candidacy before February 15th of the general election year,
- (2) Accept outside campaign contributions totaling \$2,000 or more, or
- (3) Are running uncontested.<sup>12</sup>

Vermont Senate bill S.32 seeks to amend Vermont's public finance laws to increase candidate participation. If enacted, it would extend the eligibility period from February 15th of the election year to the full two-year election period. It would also form a study committee to make recommendations based on Vermont's existing public financing options.<sup>13</sup>

Vermont's total public funding system has been underutilized: Since 2000, only four candidates have opted into the public funding program, and only one of these four won their election.<sup>14</sup> One potential explanation is that the current allocations in Vermont's total public funding

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<sup>6</sup> *Citizens United v. Federal Elections Commission*, 588 U.S. 310 (2010).

<sup>7</sup> *Arizona Free Enterprise Club's Freedom Club PAC v. Bennett*, 563 U.S. 721 (2011).

<sup>8</sup> Vermont General Assembly, "Act no. 64: An Act Relating to Public Financing of Election Campaigns, Disclosure Requirements and Limits on Campaign Contributions and Expenditures," 1997, accessed April 24, 2019, <http://www.leg.state.vt.us/DOCS/1998/ACTS/ACT064.HTM>.

<sup>9</sup> 17 V.S.A. § 2983.

<sup>10</sup> 17 V.S.A. § 2985.

<sup>11</sup> 17 V.S.A. § 2985.

<sup>12</sup> 17 V.S.A. § 2983.

<sup>13</sup> Vermont General Assembly, "S. 32: An Act Relating to The Public Financing of Campaigns," 2019, accessed April 12, 2019, <https://legislature.vermont.gov/Documents/2020/Docs/BILLS/H-0126/H-0126%20As%20Introduced.pdf>.

<sup>14</sup> JP Isabelle, Elections Administrator at the Vermont Secretary of State, *Vermont Public Finance Grants: Candidates Who Received Public Financing for Elections 2000-2014*, Emailed pdf to authors.

system are not enough to cover the costs involved in a competitive election. For example, in the 2018 gubernatorial election, the winning candidate, incumbent Governor Phil Scott, spent \$703,301.18 on his campaign.<sup>15</sup> Even for this relatively uncompetitive campaign, this figure is significantly higher than the \$600,000 available for the primary and general elections under the current public finance program. According to a study conducted by followthemoney.org, the average campaign costs for a major party gubernatorial candidate in Vermont between 2001 and 2016 were \$1,192,398.<sup>16</sup> A similar study on legislative elections found that campaign costs in Vermont rose 91 percent between 2011 and 2015.<sup>17</sup> These data suggest that the public funding spending limits set in 1997 are too low for candidates to be able to take advantage of them and compete with privately funded candidates.

### **Types of Public Funding Systems**

The two predominant public funding systems include *total (or clean) public funding* and *partial (or matching) systems*. Public funding programs and the elected offices they are available for vary from state to state. Most public financing states include only some of their existing offices and elections.<sup>18</sup>

#### **Total Public Funding Systems**

Total public funding programs allow candidates to opt-in and use only public funding for their campaigns rather than private funding.<sup>19</sup> Candidates are required to collect small contributions from a certain number of voters to show they have enough public support to be granted public funding for their campaign.<sup>20</sup> Total public funding programs for candidates are currently offered in Arizona, Connecticut, Maine, Vermont and New Mexico.

Table 1 provides an overview of the varying total funding programs in these states. Both Arizona and Connecticut allow candidates for all statewide and legislative offices to voluntarily opt in for total public funding. Maine provides this option for the offices of governor and both houses of the legislature. Vermont's total public funding program is only available for governor and lieutenant governor campaigns and New Mexico only provides it for Public Regulation

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<sup>15</sup> Follow the Money.Org, accessed April 26, 2019, <https://www.followthemoney.org/show-me?f-core=1&c-t-aid=6581281>.

<sup>16</sup> JT Stepleton, *Monetary Competitiveness in Gubernatorial Elections, 2001-2016*, (followthemoney.org, 2018), <https://www.followthemoney.org/research/institute-reports/monetary-competitiveness-in-gubernatorial-elections-2001-2016>.

<sup>17</sup> JT Stepleton, *Monetary Competitiveness in State Legislative Races, 2015 and 2016*, (followthemoney.org, 2017), <https://www.followthemoney.org/research/institute-reports/monetary-competitiveness-in-2015-and-2016-state-legislative-races>

<sup>18</sup> Robert M. Stern, "Public Financing in the States and Municipalities," in *Public Financing in American Elections*, ed. Costas Panagopoulos (Philadelphia: Temple University Press, 2011), 62.

<sup>19</sup> Benjamin T. Brickner, "Clean Elections: Public Financing in Six States," *Eagleton Institute of Politics* <https://www.eagleton.rutgers.edu/research/newjersey/documents/CE-PublicFinancinginSixStates09-08.pdf>.

<sup>20</sup> Brian Cruikshank, "Overview of State Laws on Public Financing" Accessed April 12, 2019 <http://www.ncsl.org/research/elections-and-campaigns/public-financing-of-campaigns-overview.aspx>.

Commissioner and Supreme Court Justices. Candidates in each state must receive a certain amount of contributions to meet a basic threshold. Each contribution is capped at a low monetary level to ensure no donor has a disproportionate influence on the candidate. The purpose of these features is to make sure that the candidates have enough public support to be considered a serious candidate and so that fringe candidates with little chance of election aren't able to make use of public funds.<sup>21</sup>

Table 1: State Public Financing Options				
State	Elections	Contributions from a Single Source	No. of Contributors Req. for Qualification	Promise
Arizona <sup>22</sup>	All statewide and legislative offices	\$5	200	No contributions from PACs, labor unions, corporations, or political parties
Connecticut	All statewide and legislative offices	\$5-\$10	From 150 (state representative) to 900 (governor)	No contributions in excess of \$100 from any one source, give any excess contributions to the general fund
Maine	Governor, State, Senate, State House	\$5	60-3,250 individuals	After choosing to participate, candidates cannot receive private contributions
Vermont	Governor, Lieutenant Governor	\$50	750 (lieutenant governor) to 1500 (governor)	Agrees to solicit no donations except qualifying contributors
New Mexico	Public Regulation Commissioner, Supreme Court Justices	\$100	For statewide, need contributions from 1/10 of 1 percent of voters in state, for public regulation, need contributions from 1/10 of 1 percent of voters in the district	

Source: National Conference of State Legislatures, "Chart on State Public Financing Options," Accessed April 12, 2019, <http://www.ncsl.org/Portals/1/Documents/Elections/StatePublicFinancingOptionsChart2015.pdf>.

<sup>21</sup> Benjamin T. Bricknet, "Clean Elections: Public Financing in Six States," 28.

<sup>22</sup> National Conference of State Legislatures "Chart on State Public Financing Options" Accessed April 12, 2019 <http://www.ncsl.org/Portals/1/Documents/Elections/StatePublicFinancingOptionsChart2015.pdf>.

Maine and Arizona’s public funding systems were included in this section because they have had high participation rates in their clean elections programs and there are a wide range of studies conducted on them.<sup>23</sup> Maine and Arizona held their first publicly-funded elections in 2000. In the 2002 elections, the number of elected candidates that used total public financing for their campaigns increased significantly; 59 percent of legislative candidates in Maine and 36 percent of legislative candidates in Arizona used total public financing for their campaigns.<sup>24</sup> In Maine’s 2018 elections, 229 candidates for both the House of Representatives and the State Senate ran through Maine’s Clean Elections Program, about 50 percent of the candidates.<sup>25</sup>

Supporters of total public funding programs argue that the system reduces incumbent advantages and increases competition in elections.<sup>26</sup> However, studies have found mixed results. A 2003 report by the General Accounting Office (GAO) found that the presence of public financing programs in Maine and Arizona had little effect on incumbent victory margins in the 2000 and 2002 senate elections.<sup>27</sup> A 2005 report written by the University of Wisconsin-Madison found that after the 2004 elections in both Maine and Arizona, there were closer races with more candidates challenging incumbents. The report notes that this cannot be entirely attributed to their clean elections programs given the various other factors that may have had an effect.<sup>28</sup>

The Supreme Court’s decision in *Arizona Free Enterprise Club’s Freedom Club PAC v. Bennett (2011)*<sup>29</sup> ruled that “trigger funds” in total public funding models are an infringement on free speech.<sup>30</sup> Trigger funds were designed as a safeguard against privately-funded candidates who could easily out-fund their publicly-funded opponents. Since trigger funds were ruled unconstitutional, total public funding systems have fallen out of favor. Instead, jurisdictions have increasingly implemented partial systems.<sup>31</sup>

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<sup>23</sup> Office of Legislative Research, *Public Financing of Campaigns: Constitutional Issues and Impact*, April 2006, <https://www.cga.ct.gov/2006/rpt/2006-R-0175.htm>.

<sup>24</sup> United States General Accounting Office, *Campaign Finance Reform: Early Experiences of Two States That Offer Full Public Funding for Political Candidates*, May 2003, <https://www.gao.gov/assets/240/238192.pdf>.

<sup>25</sup> Maine Ethics Commission: *Campaign Finance 2018*, Accessed April 12, 2019, <https://mainecampaignfinance.com/index.html#/explore/candidate>.

<sup>26</sup> Costas Panagopoulos “Leveling the Playing Field” in *Public Financing in American Elections*, ed. Costas Panagopoulos (Philadelphia: Temple University Press, 2011), 177.

<sup>27</sup> United States General Accounting Office, *Campaign Finance Reform*.

<sup>28</sup> Kenneth Mayer, Timothy Werner, Amanda Williams, “Do Public Funding Programs Enhance Electoral Competition?” Paper presented at the Fourth Annual Conference on State Politics and Policy Laboratories of Democracy April 30- May 1, 2004. [https://www.researchgate.net/profile/Timothy\\_Werner2/publication/228810940\\_Do\\_Public\\_Funding\\_Programs\\_Enhance\\_Electoral\\_Competition/links/547c87930cf2cfe203c09c88.pdf](https://www.researchgate.net/profile/Timothy_Werner2/publication/228810940_Do_Public_Funding_Programs_Enhance_Electoral_Competition/links/547c87930cf2cfe203c09c88.pdf).

<sup>29</sup> *Arizona Free Enterprise Freedom Club PAC v. Bennett*, 564 U.S. 721 (2011).

<sup>30</sup> “Arizona Free Enterprise Club Freedom Club PAC v. Bennett,” Oyez, accessed April 12, 2019 <https://www.oyez.org/cases/2010/10-238>.

<sup>31</sup> Malbin, *Citizen Funding for Elections*.

## Partial Systems

Partial funding models are the second common mechanism of public funding. These are systems in which some, but not all of the money a candidate raises, comes from the public. Partial system designs vary greatly from state-to-state. The following section discusses two types of partial systems: matching systems and partial grant systems.

**Matching Systems:** Matching systems are particularly popular in situations where the goal is to increase the influence of small donors. Under this system, candidates raise money through private contributions, which are then matched with public dollars.<sup>32</sup> In the late 1980s, New York City offered 1:1 matching for the first \$1,000 donated to a candidate; since then, however, the city has incrementally increased the proportion matched by public funds while decreasing the monetary ceiling. This was done in an effort to increase the impact of smaller donors. By 2009, the city offered a 6:1 match for the first \$175 donated to a candidate.<sup>33</sup>

Figures 1-3 come from a Campaign Finance Institute report which analyzed the impact of multiple-matching systems on the strength of small donors in New York City in 2014. The report used New York as an example of how multiple-matching systems can increase the participation, and thus the impact, of small donors.

**Partial Grant Systems:** Partial grant systems provide funds to boost candidates' fundraising, but they cover only a fraction of the costs of a campaign. Once candidates qualify for partial grant funding, they receive a lump-sum grant of a predetermined amount.<sup>34</sup>

Hawaii is an example of a partial grant system. In 2014, Hawaii's system allowed gubernatorial candidates to receive 10 percent of the expenditure limit of \$1,597,208 in public funds. To qualify, a candidate must raise \$100,000 during the primary to be awarded the matching funds during the general election. Then, the candidate may raise (and be matched with) an additional \$59,721 during the general election.<sup>35</sup> Therefore, in 2014, under this model, the Hawaii Campaign Election Fund could have granted up to \$159,208 per candidate. This would have happened under a situation in which participating candidates raised the maximum amount in qualifying contributions. Candidates using partial grant funding in Hawaii have ran successful campaigns—in the 2014 gubernatorial election, for example, candidate David Ige used partial grant funding to unseat incumbent Governor Neil Abercrombie.

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<sup>32</sup> Stern, "Public Financing in the States and Municipalities," 63.

<sup>33</sup> Malbin, *Citizen Funding for Elections*.

<sup>34</sup> Malbin, *Citizen Funding for Elections*.

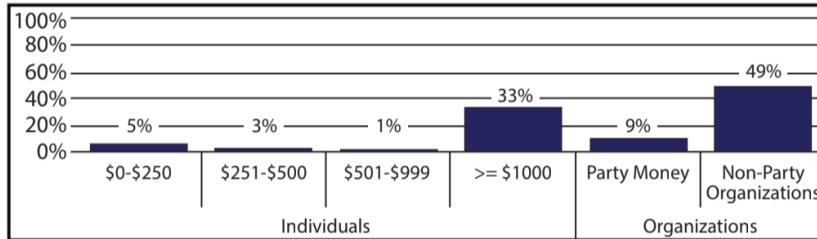
<sup>35</sup> National Conference of State Legislatures, "Public Financing of Campaigns Overview," Accessed April 12, 2019, <http://www.ncsl.org/research/elections-and-campaigns/public-financing-of-campaigns-overview.aspx>.

**FIGURES 1-3: POTENTIAL IMPACT OF PUBLIC MATCHING FUNDS:  
NEW YORK AS AN EXAMPLE**

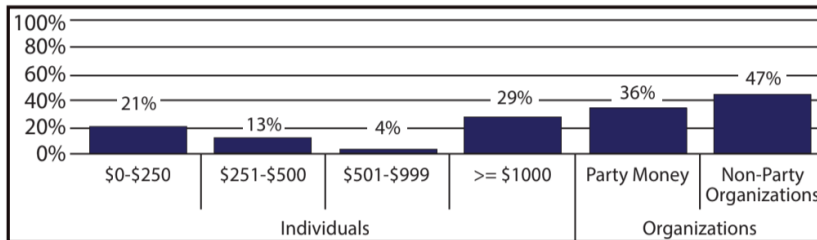
**BASED ON THE ACTUAL DONORS TO LEGISLATIVE AND GUBERNATORIAL CANDIDATES, 2014**

Bars for individuals are based on each donor's aggregated contributions to a candidate

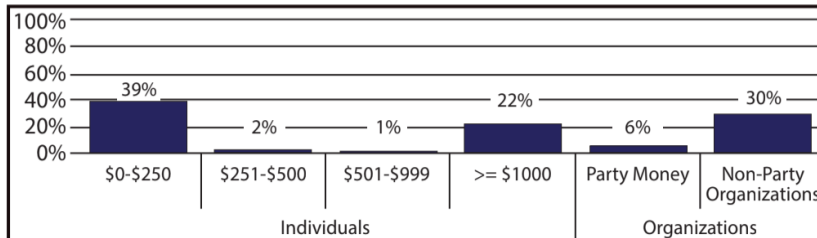
**Figure 1. Sources of Candidates' Funds from the Following Donors -- Actual**



**Figure 2. What If ... 4:1 Match for First \$250. Same Donors. No other changes.**



**Figure 3. What If ... 4:1 Match for First \$250, Same % Adults Give as Median State (1.6%). New donors give \$50. No other changes.**



**Figure 1: Potential Impact of Public Matching Funds**

Source: Michael J. Malbin, *Citizen Funding for Elections*, (Campaign Finance Institute, 2015), [http://www.cfinst.org/Press/PReleases/15-11-19/CFI Report Citizen Funding for Elections.aspx](http://www.cfinst.org/Press/PReleases/15-11-19/CFI%20Report%20Citizen%20Funding%20for%20Elections.aspx).

**Hybrid Systems:** Hybrid models use a mix of lump-sum and matching systems. Maryland's gubernatorial and lieutenant gubernatorial races, Michigan's gubernatorial races, and U.S. presidential races provide matching in primary elections and grants in general elections. In mayoral races in New Haven, Connecticut, participants who qualify receive an initial grant, then they receive a 2:1 match on the first \$25 of each contribution.<sup>36</sup>

<sup>36</sup> Malbin, *Citizen Funding for Elections*.



Hybrid systems can also include the use of taxes and rebates. Taxes and rebates are tools used to incentivize donors and/or candidates to participate in public funding schemes. Table 2 provides a description of the six states that offer tax credits or rebates to donors. Of those six, Oregon and Minnesota have seen the highest participation rates by donors and taxpayers.<sup>37</sup>

Jurisdiction	Description	Year First Enacted
Arkansas	\$50 tax <b>credit</b> (\$100 for joint returns) for contributions to candidates, political parties and PACs.	1996
Minnesota	\$50 per year cash <b>rebate</b> (not through the tax system) for contributions to candidates who agree to spending limits and/or to political parties. In existence since 1992, the program was suspended in 2009 and reinstated in 2013.	1992
Montana	\$100 per year itemized tax <b>deduction</b> (\$200 for joint returns) for contributions to candidates or parties. To use this or any other itemized deduction, a filer has to have a sufficient amount in all itemized deductions combined.	1979
Ohio	\$50 tax <b>credit</b> (\$100 for joint filers) for contributions to candidates.	1995
Oregon	\$50 tax <b>credit</b> (\$100 for joint returns) for contributions to candidates, parties, or PACs. The credit may not exceed the tax liability of the taxpayer. It may not be claimed by individuals with more than \$100,000 in adjusted gross income (\$200,000 for joint returns).	1969
Virginia	Income tax <b>credit</b> equal to 50% of the amount contributed to a local or state candidate. Maximum credit \$25 (\$50 for joint returns).	2000

Table 2: Rebates and Tax Incentives

Source: Malbin, Michael J. “Citizen Funding for Elections,” *Campaign Finance Institute*, [http://www.cfinst.org/Press/PReleases/15-11-19/CFI\\_Report\\_Citizen\\_Funding\\_for\\_Elections.aspx](http://www.cfinst.org/Press/PReleases/15-11-19/CFI_Report_Citizen_Funding_for_Elections.aspx)

Partial public funding systems have increased in popularity since the Supreme Court’s decision in *Arizona Free Enterprise Club v. Bennett (2011)*<sup>38</sup> that disallowed “trigger funds” in total public funding models.<sup>39</sup> Although Seattle, Washington stands out as a novel program (established in 2015) that uses vouchers as opposed to matching or partial grants, the effectiveness of this system remains to be seen. Matching and partial grant systems have been the most popular partial public funding systems, with some candidates utilizing them to win office.

**Prospects for Partial Funding in Vermont:** A 2012 study conducted by the Campaign Finance Institute found that Vermont had the highest donor participation rate among states with qualifying public funding programs.<sup>40</sup> According to the study, in 2010, 5.86 percent of the voting

<sup>37</sup> Malbin, *Citizen Funding for Elections*.

<sup>38</sup> *Arizona Free Enterprise Clubs Freedom Club PAC v. Bennett*, 564 U.S. 721 (2011).

<sup>39</sup> Malbin, *Citizen Funding for Elections*.

<sup>40</sup> Michael J. Malbin, *Vermont and Rhode Island Had the Highest Percentages of Adults Contributing in 2010 and 2006 State Elections; New York, Utah, California and Florida the Lowest*, (Campaign Finance Institute, 2012),



age population donated to the gubernatorial election, which is approximately three times the national median.<sup>41</sup> These data show that a high percentage of Vermonters have been willing to participate in statewide elections. As exemplified in the case of New York City, matching systems can increase the impact of small donors. Vermont's relatively high contribution rates therefore provide a unique opportunity for matching systems to succeed in statewide races.

### Conclusion

Public funding programs have the potential to reduce the importance of big money in elections while enhancing the significance of small donor contributions. Good programs allow lesser-known candidates to run and be competitive.<sup>42</sup> Scholarly research on public funding shows mixed results. Some research backs claims that public funding increases the competitiveness of elections. However, some public funding programs, including Vermont's, are rarely utilized due to insufficient spending limits.

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This report was completed on April 26, 2019, by Katherine Cutler, Zach Handelman, and Sebastian Wu under the supervision of VLRS Research Assistant Eric Tucker and VLRS Director, Professor Anthony "Jack" Gierzynski in response to a request from Representative John Gannon (D-Windham-6).

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[http://cfinst.org/press/releases/12-12-20/VT\\_and\\_RI\\_Had\\_the\\_Highest\\_Percentages\\_of\\_Adults\\_Contributing\\_in\\_2010\\_and\\_2006\\_State\\_Elections\\_NY\\_UT\\_CA\\_and\\_FL\\_the\\_Lowest.aspx](http://cfinst.org/press/releases/12-12-20/VT_and_RI_Had_the_Highest_Percentages_of_Adults_Contributing_in_2010_and_2006_State_Elections_NY_UT_CA_and_FL_the_Lowest.aspx)

<sup>41</sup> Malbin, *Vermont and Rhode Island Had the Highest Percentages of Adults Contributing in 2010 and 2006 State Elections; New York, Utah, California and Florida the Lowest*.

<sup>42</sup> Gierzynski, *Saving American Elections*, 258.