STATE OF ARIZONA

Citizens Clean Elections Commission

ANNUAL REPORT

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EXECUTIVE SUMMARY

Commission Activities

Throughout 2001, the Commission reflected on the 2000 election, which was the first year the Clean Elections Act was in effect. Based upon the Commission's experience in the 2000 election and in preparation for the 2002 election, the Commission made the necessary changes to rules, procedures and policies. Specifically, the Commission:

- Drafted and adopted Articles 3, 5, 6 and 7 of the rules,
- Made changes to Articles 1 and 2 of the rules,
- Established a procedure for handling complaints and investigations,
- Developed software to track enforcement matters,
- Proposed legislative changes to the Clean Elections Act,
- Developed procedures for auditing candidate financial reports, and
- Developed procedures for calculating and dispersing matching funds for participating candidates.

Voter Education

The Commission began an ambitious voter education program by introducing Five Dollar Bill. The Five Dollar Bill character was created to promote public awareness of the Act and the two Clean Elections tax credits. Five Dollar Bill made public appearances throughout the state that included parades, schools, radio and television.

Litigation

The Commission's legal staff was occupied with the *Lavis v Bayless* lawsuit. This Maricopa County Superior Court case challenged the constitutionality of the Act's revenue-collecting mechanisms: the $110 annual fee on lobbyists, and the 10 percent surcharge on civil and criminal penalties. On December 19, 2001, the judge ruled that the lobbyist fee imposes an unconstitutional prior restraint on the exercise of free speech under Article 2 § 6 and § 15 of the Arizona Constitution and the First Amendment of the United States Constitution, and ordered that the Commission and the Secretary of State discontinue collecting the fees. The Court, however, upheld the constitutionality of the 10 percent surcharge on criminal and civil penalties.

OVERVIEW

The Citizens Clean Elections Commission met monthly and bi-weekly to conduct business, adopt policies and procedures, promulgate and amend rules and produce multiple publications.

The Commission began an ambitious voter education program by introducing Five Dollar Bill. The Five Dollar Bill character was created through a contract with public relations and advertising firms in order to promote awareness of the Clean Elections Act throughout the state.

Commission staff conducted monthly campaign finance seminars for people interested in running a publicly funded campaign in the 2002 election cycle. These seminars included information on the Clean Elections Act, how to qualify for funding and the updated version of the Campaign Finance Software for 2002 (CFS 2002).

Staff worked closely with the Secretary of State to improve the flow of information between the two offices and to make revisions to the CFS 2002. Staff also spoke to various groups about the requirements of the Act, and represented the State on the national level at the Council of Governmental Ethics Laws (COGEL) conference.

The Clean Elections Act incorporates four major programs: public funding for certified candidates, campaign finance disclosure, voter education and enforcement. The following are highlights of the Commission's accomplishments:

January 2001

- Worked on gaining legislative support for proposed legislative changes
- Revised the 2001-2002 user's handbooks
- Began work on an RFP for marketing/public relations firms to advertise the $5 check-off on income tax forms
- Began drafting new rules for enforcement procedures, standard of conduct for employees and commission, advisory opinions, rulemaking, ex parte communications, and use of funds (Articles 3-7)
- Began drafting amendments to 13 original rules in Articles 1 and 2

February 2001

- Kathleen Detrick, an Independent from Tucson, was appointed as a new commissioner
- Staff continued to monitor and lobby for proposed legislative changes and testified against HB 2016 – Tax Form Check-off, which was defeated
- Worked on the development of a strategic plan, including the mission statement, vision statement, values, objectives and performance measures
- Began work on an RFP for a sponsor for the candidate debates in the 2002 election cycle
- Produced the 2000 Annual Report and distributed it to the Governor and Legislature

- Established the timeline for the 2002 election cycle
- Reviewed responses for the RFP for marketing/public relations firms
- Received completed candidate surveys

March 2001

- Staff continued to monitor and lobby for proposed legislative changes
- Developed and approved changes to Articles 1 and 2 of the rules
- Received an application for certification for a participating candidate for the 2002 election cycle
- Began work on the debate procedures and candidate statement pamphlets
- *Lavis v Bayless* was dismissed by the federal court
- Secured public relations and advertising firms
- Updated the website to include financial and 2002 election information
- Explored the procedure for electronic funds transfer (EFT) for candidate disbursements
- Began work to develop internal software to track enforcement matters
- Developed a database for tracking and collecting unpaid lobbyist fees

April 2001

- Submitted the RFP for the debate sponsors to the State Procurement Office
- Worked with the Secretary of State's Office to make inflationary adjustments to candidate spending limits for the 2002 election cycle
- Continued with the development of rules for standard of conduct for Commissioners and staff (Article 3), rulemaking (Article 5), ex parte communications (Article 6), and audits (Article 7)
- Developed procedures for auditing candidate financial reports
- Hired three firms (L3 Creative, Critical Public Relations, and 3 Flaggs Media) to work on a marketing/public relations campaign to improve public awareness of the Commission and the provisions of the Act

May 2001

- Developed and adopted the application for certification form and the qualifying contribution form
- Developed a strategic plan of action for the Commission and staff
- Hired an Administrative Intern
- Approved and implemented a procedure to enforce the payment of unpaid lobbyist fees
- Approved the development of the "Five Dollar Bill" campaign to increase awareness of the CCEC, the $5 tax check off box and the dollar-for-dollar tax credit

June 2001

- The Public Relations and Education Manager attended a national campaign training seminar in Washington, D.C.

- Adopted a plan to address the potential situation in which the Commission may need legal advice and counsel for a matter that involves the election for Attorney General or any race in which the current Attorney General might decide to run
- The Executive Director attended an Economic Forum in Flagstaff
- Worked with county recorders to gather information to develop a procedure for distributing candidate statements
- Continued work on *Lavis v Bayless,* including stipulating to the facts of the case and establishing a briefing schedule
- Drafted rules regarding express advocacy

July 2001

- Made initial candidate and revenue projections to determine if there would be sufficient monies in the Clean Elections Fund to fund candidates in 2002
- Received and reviewed applications for the Finance/Auditing position
- Commenced with the public relations campaign, which included visiting 16 cities and attending 16 radio interviews, 14 newspaper interviews, 4 television interviews, 10 civic group presentations, 2 chamber of commerce meetings, and 2 tax preparation meetings
- Conducted meetings with vendors to develop software for tax credits, enforcement matters and monitoring campaign finance reports
- Printed new qualifying contribution forms
- Adopted rules Articles 3 through 7

August 2001

- The Executive Director attended the Center for Government Studies electronic campaign finance report conference in Chicago
- Developed four different case scenarios for the potential outcome of candidate campaign funding for the 2002 election cycle
- Filed motions for summary judgment in *Lavis v Bayless*
- Continued with the development of rules regarding express advocacy
- Reviewed a procedure for disseminating candidate statements for the 2002 elections
- Adopted amendments to Article 1 of the rules and sent them to the U.S. Department of Justice for preclearance
- Researched and discussed the procedure for allocating funds to candidates via EFT

September 2001

- Awarded a contract to Tombstone International Communications to sponsor debates for Mine Inspector and Legislative Districts 5 and 8 for the 2002 elections
- Submitted the annual budget and strategic plan to the OSPB and JLBC
- Adopted amendments to substantive policy statements
- Finalized and published the Act, Rules and Policies manual

- Reviewed and considered proposed legislative changes

October 2001

- The Executive Director and Assistant Attorney General made presentations at the "Making Sense of Clean Elections" seminar sponsored by the Arizona Chamber of Commerce
- Hired a Campaign Finance Analyst who will be responsible for monitoring candidate campaign finance reports and calculating matching funds
- Approved the cost and format of the candidate statement pamphlets
- Approved fund projections for 2002 and a revised 4-year revenue projection

November 2001

- Direct mailed brochures to Arizona tax preparers to inform them of the Clean Elections tax credits
- Presented oral arguments on *Lavis v Bayless* in the Maricopa County Superior Court
- Began work to establish a procedure for candidate fund disbursements
- Advertised the dollar-for-dollar tax credit and the $5 tax credit
- The Public Relations and Education Manager attended the annual tax conference in Phoenix

December 2001

- The Commissioners, the Executive Director, the Deputy Director and the Assistant Attorney General attended the COGEL meeting in Lexington, KY
- The Deputy Director attended the annual conference for the Society of Tax Preparers in Phoenix
- Articles 3 through 7 of the rules were given preclearance by the U.S. Department of Justice
- A ruling was handed down in the *Lavis v Bayless* case in which the Commission and the Secretary of State were ordered to stop collecting the $110 annual lobbyist fee
- Adopted the 2002 budget
- Received a presentation from representatives of Arizona State University on their proposal to sponsor numerous candidate debates in 2002
- Adopted a revised debate sponsor application, format and ground rules
- Nominated and approved Commissioner Ruth Jones as the chair of the Commission for 2002
- Reviewed the fund disbursement procedure
- Adopted a policy for candidate resubmission of an application for funding

THE CITIZENS CLEAN ELECTIONS ACT

The Citizens Clean Elections Act, which was passed by voters in the November 1998 General Election, fundamentally changed Arizona's campaign finance laws by establishing a system for publicly funding candidate campaigns. The system is voluntary; candidates may choose to participate in the system or they may choose to raise funds in the traditional manner.

The Governor proclaimed the Act as law on December 10, 1998. On February 16, 1999, the United States Department of Justice precleared the Act, thereby allowing the Act to go into effect. Then, the Citizens Clean Elections Commission was formed.

The following are highlights of the statutory scheme:

1. The Act applies to candidates for legislative and statewide offices.

2. To participate in the public funding system, a candidate must raise a number of $5 qualifying contributions during a defined qualifying period. Contributions may only be made by qualified electors in the candidate's district. Furthermore, contributions from corporations and political action committees are prohibited.

   - For statewide office, the qualifying period runs from August 1 of the year before the election until 75 days before the general election.

   - For legislative office, the qualifying period runs from January 1 of the election year until 75 days before the general election.

   - The minimum number of $5 qualifying contributions candidates must obtain during the qualifying period are as follows:

Legislature	200
Mine Inspector	500
Corporation Commissioner	1,500
Superintendent of Public Instruction	1,500
Treasurer	1,500
Attorney General	2,500
Secretary of State	2,500
Governor	4,000

3. The person soliciting $5 qualifying contributions for a candidate cannot be compensated by the candidate to collect the contributions.
4. Participating candidates must complete the following provisions in order to qualify for funding:

- Candidates must apply for public funding with the Secretary of State within one week after the end of the qualifying period.

- The candidate also must file a list of the persons making qualifying contributions and give the Secretary of State a check for the total amount of the $5 qualifying contributions received, as well as the original signed contributor slips.

5. There are set amounts of public funding for participating candidates. The base amounts are established in statute and adjusted for inflation every two years by the Secretary of State.

   - Candidates who qualify for funding in contested party primary elections may receive an amount equal to the original primary election spending limit. For the 2002 election, the amounts are:

Legislature:	$ 10,790
Mine Inspector:	$ 21,580
Corporation Commissioner:	$ 43,150
Superintendent of Public Instruction:	$ 43,150
Treasurer:	$ 43,150
Attorney General:	$ 86,310
Secretary of State:	$ 86,310
Governor:	$409,950

   - For the general election, those participating candidates who are opposed may receive an amount equal to the original general election spending limit. For the 2002 election, the amounts are:

Legislature:	$ 16,180
Mine Inspector:	$ 32,370
Corporation Commissioner:	$ 64,730
Superintendent of Public Instruction:	$ 64,730
Treasurer:	$ 64,730
Attorney General:	$129,460
Secretary of State:	$129,460
Governor:	$614,930

   - An independent candidate is eligible to receive 70 percent of the sum of the original primary and general election spending limits.
   - A participating candidate who is unopposed is eligible to receive the total of the $5 qualifying contributions he or she collected as the spending limit for that election.

   - In the 2002 election, participating legislative candidates may use $530 of personal monies for their campaigns; candidates for

statewide office may use $1,060 of personal monies for their campaigns.

6. Participating candidates may raise a limited number of private contributions, which are called early contributions, during the exploratory and qualifying periods. The early contributions are limited to $110 per individual contributor. The base amounts are established in statute and adjusted for inflation every two years by the Secretary of State. For the 2002 election, the limits on the amounts that candidates may raise in early contributions are as follows:

Legislature:	$ 2,650
Mine Inspector:	$ 5,310
Corporation Commissioner:	$10,610
Superintendent of Public Instruction:	$10,610
Treasurer:	$10,610
Attorney General:	$21,220
Secretary of State:	$21,220
Governor:	$42,440

7. Participating candidates having debt from a prior election in which they were not publicly funded may accept contributions to retire that debt, subject to the nonparticipating candidate limits and only during the exploratory period.

8. Nonparticipating candidate contribution limits are lowered by 20 percent.

9. Participating candidates are entitled to receive matching funds when an opposing, nonparticipating candidate exceeds the primary or general election spending limits. Matching funds also will be provided to participating candidates when independent expenditures are made on behalf of a nonparticipating or other participating candidate in the race.

10. The Citizens Clean Elections Fund receives its revenues from the following sources:

    - An annual fee of $110 imposed on all registered lobbyists representing 1 or more persons in connection with a commercial or for-profit activity, except public bodies, or a non-profit entity predominately composed of or acting on behalf of a trade association or other grouping of commercial or for-profit entities.

- An additional surcharge of 10 percent imposed on all civil and criminal fines and penalties collected pursuant to A.R.S. § 12-116.01.

- A $5 voluntary contribution per taxpayer who files an Arizona state income tax return and marks an optional check-off box on the first page of the form. A taxpayer who checks this box receives a $5 reduction in tax liability and $5 goes to the Clean Elections Fund.

- A voluntary donation to the Fund by designating the Fund on an income tax return form filed by the individual or business entity, or by making a payment directly to the Fund. Any taxpayer making a donation shall receive a dollar-for-dollar tax credit not to exceed 20 percent of the tax amount on the return or $530 per taxpayer, whichever is higher.

- Qualifying contributions received by participating candidates.

- Civil penalties assessed against violators of the Citizens Clean Elections Act.

11. There are additional campaign finance reporting requirements.

    a. In addition to existing campaign finance reports that all candidates must file, nonparticipating candidates must file "original" and "supplemental" campaign finance reports with the Secretary of State when the candidates make expenditures that exceed 70 percent of the primary election spending limit, or receive contributions, less the expenditures through the primary, that exceed 70 percent of the general election spending limit.

    b. In addition to existing campaign finance reports that all candidates must file, participating candidates must file recap reports at the end of the qualifying, primary and general election periods.

    c. Campaign finance reports must be filed electronically with the Secretary of State, and bank accounts, campaign finance reports and financial records relating to the campaign must be available for public inspection.

    d. Any individual or entity making an independent expenditure on behalf of a candidate must report the expenditure once it exceeds $530 in an election cycle. Each additional independent expenditure totaling $1,000 must be reported as well.

12. There are potential legal consequences for enforcement actions.

    a. Civil penalties

        i. A participating candidate who exceeds the contribution or expenditure limits, shall be assessed a penalty of ten times the excess contribution or expenditure.

        ii. Any candidate that violates the reporting requirements shall be assessed a penalty of $110 per day for legislative candidates and $320 per day for statewide candidates.

        iii. Under some circumstances, the candidate may be disqualified or forced to forfeit office.

        iv. A known violation by a participating candidate will require the candidate to repay from personal funds all monies expended from the candidate campaign account.

    b. Known violations are prosecutable as a Class One Misdemeanor.

13. The Act establishes a 5-member Commission, the Citizens Clean Elections Commission, to implement and enforce the Act.

THE CITIZENS CLEAN ELECTIONS COMMISSION

Authority:

The Citizens Clean Elections Commission was established by the enactment of the Citizens Clean Elections Act, A.R.S., Title 16, Chapter 6, Article 2. In addition to enforcing the provisions of Article 2, the Commission promulgates rules and enforces A.R.S. §§ 16-940 through 16-961.

Function:

The Commission consists of 5 members:

- No more than 2 shall be members of the same political party.
- No more than 2 shall be residents of the same county.
- No one shall be appointed who does not have a party registration that has been continuously recorded for at least 5 years immediately preceding appointment, with the same political party or as an independent.
- Each candidate shall be a qualified elector who has not, in the previous 5 years in this state, been appointed to, elected to or run for any public office, including precinct committeeman, or served as an officer of a political party.
- A member of the Commission shall serve no more than one term and is not eligible for reappointment.
- No Commissioner, during his or her tenure or for 3 years thereafter, shall seek or hold any other public office, serve as an officer of any political committee or employ or be employed as a lobbyist.

The Commissioners are chosen based upon the following criteria:

- Those who are committed to enforcing the Act in an honest, independent and impartial fashion.
- Those who seek to uphold public confidence in the integrity of the electoral system.

Initially, the Commission on Appellate Court Appointments nominated 5 slates each having 3 candidates. Beginning in the year 2000, the Governor and the highest-ranking official holding a statewide office who is not a member of the same political party as the Governor alternate filling such vacancies.

- Governor Jane Dee Hull (R) selected a candidate, L. Gene Lemon (R), from one of the initial slates to serve on the Commission for a term ending January 31, 2004;

- Next, the highest-ranking official holding a statewide office who is not a member of the same political party as the Governor, Attorney General Janet Napolitano (D), selected one candidate, Ruth S. Jones (D), from one of the initial slates to serve on the Commission for a term ending January 31, 2003;

- Next, the second-highest-ranking official holding a statewide office of the same political party as the Governor, Secretary of State Betsey Bayless (R), selected one candidate, Carl Lopez (D), from one of the three remaining initial slates to serve on the Commission for a term ending January 31, 2002;

- The vacancy for the term ending January 31, 2000 was appointed by Governor Hull (R) and filled by David McKay (R), whose term will end January 31, 2005; and

- The vacancy for the term ending January 31, 2001 was appointed by Attorney General Janet Napolitano (D) and filled by Kathleen Detrick (I), whose term will end January 31, 2006.

The Commission holds regular meetings, which are open to the public, and annually elects its chair and reports its activities to the Governor, the Legislature and the public.

COMMISSIONER BIOGRAPHIES

Chairman Leslie "Gene" Lemon – Republican – Maricopa County

Governor Jane Dee Hull appointed Phoenix resident L. Gene Lemon to the Citizens Clean Elections Commission in 1999 for a term that will expire in 2004. Mr. Lemon served as chair of the Commission for calendar years 1999, 2000 and 2001. Mr. Lemon received his bachelor's and law degrees from the University of Illinois. He retired as vice president-administration from VIAD Corp. (formerly Dial Corp. and Greyhound Corp.), where he also spent 27 years (1972-1999) as assistant general counsel and general counsel. From 1964-1969 Mr. Lemon was senior attorney for Armour and Co. From 1964-1969 he served as assistant general counsel to the American Farm Bureau Federation and affiliated companies.

Mr. Lemon has served on numerous boards, including board of directors (1992-1997) and chairman of the audit committee (1993-1995) for FINOVA Group Inc.; board of directors (1995-1997) for the Food & Drug Law Institute; board of directors (1989-1995) for the Phoenix Chamber of Commerce; board of directors (1985-1998) and chairman of the board (1993-1995) for the Phoenix Children's Hospital; board of trustees (1985-1998) and president (1990-1992) for the Phoenix Art Museum; and grand president (1974-1976) and currently legal counsel for Alpha Gamma Rho Fraternity. Mr. Lemon currently serves on the board of directors of the American Arbitration Association; the National Conference of Commissioners of Uniform State Laws; and the board of visitors for the University of California-Davis School of Medicine. Mr. Lemon is a member of the American Bar Association; the Association of General Counsel; Arizona State Bar; Maricopa County Bar Association; International Bar Association; Arizona Club; City Square Racquet Club; and Paradise Valley Country Club.

Ruth S. Jones – Democrat – Maricopa County

Attorney General Janet Napolitano appointed Scottsdale resident Ruth Jones to the Citizens Clean Elections Commission in 1999 for a term that will expire in 2003. Ms. Jones was elected by the Commission to serve as the chair in 2002. Ms. Jones holds a bachelor's degree from Indiana State University and a doctorate in political science from Georgetown University. Ms. Jones has been with Arizona State University since 1981 and currently serves as professor of political science and executive assistant to the university president for university programs. Her extensive teaching and research in the fields of electronic campaign finance, American politics and interest groups are reflected in her many publications, including books, journal articles and papers, as well as national conference presentations. Her research specialty is state-level campaign finance.

Ms. Jones has served as chair for the Political Organizations and Parties section of the American Political Science Association and as a steering committee member of the Council on Governmental Ethics Laws (COGEL). Her community work includes service as a board member of Girls Ranch of Arizona and Neighborhood Partners,

Inc. She has received numerous awards and recognition for her teaching and research activities and has held many leadership roles in regional and national professional associations.

Carl E. Lopez – Democrat – Pima County

Secretary of State Betsey Bayless appointed Tucson resident Carl Lopez to the Citizens Clean Elections Commission in 1999 for a term that will expire in 2002. Mr. Lopez received a bachelor's degree and master's degree in educational administration from the University of Arizona. He served as principal and developer of Luz Academy of Tucson charter school (1997-1998); principal of Academia Cotopaxi in Quito, Ecuador (1984-1986); administrator, principal and teacher for the Tucson Unified School District (1953-1983); and in the U.S. Army (1950-1953). Currently, he is retired.

Mr. Lopez has a history of volunteering, including a lifelong involvement in the Tucson community. He has been president of the Pima County Sports Hall of Fame since 1995, as well as Arizona state director of training for economic security, investments, telephone fraud and diversities for the American Association of Retired Persons (AARP). He was a consultant and trainer of trainers in employment and retirement planning for the AARP (1985-1995); co-chairperson for the committee for recruitment, registration and training of volunteers for the National Senior Olympics in Tucson (1997); and a member of the committee for the celebration of the birthday of Tucson, Los Descendientes del Presidio de Tucson (1995).

David G. McKay – Republican – Coconino County

Governor Jane Dee Hull appointed Flagstaff resident Dave McKay to the Citizens Clean Elections Commission in 2000 for a term that will expire in 2005. Mr. McKay received his bachelor's and master's degrees from Northern Arizona University. He retired after 35 years with the Flagstaff Unified School District, where he served as principal of Thomas Knoles Elementary School (1987-1998); principal of Christensen Elementary School (1982-1987); assistant principal of Christensen and Killip Elementary Schools (1976-1982); title III coordinator for Flagstaff Public Schools (1973-1976); assistant principal for Mt. Elden Elementary School (Killip) (1968-1973); guidance counselor for Flagstaff Elementary Schools (1966-1968); and science teacher for Flagstaff Junior High School (1963-1966). Mr. McKay founded Big Brothers of Flagstaff in 1968 and has served as executive director since. He also has served as a member of the Arizona School Administrators (1982-1997) and currently is a member of the investigative interview committee for the State Dental Board.

Kathleen S. Detrick – Independent – Pima County

Attorney General Janet Napolitano appointed Tucson resident Kathleen Detrick to the Citizens Clean Elections Commission in 2001 for a term that will expire in 2006. Ms. Detrick has served as the city clerk and campaign finance administrator for the City of Tucson, Arizona since 1991. The city clerk is a charter officer appointed by the

mayor and council for a two-year term of office. The campaign finance administrator serves at the will of the mayor and council.

Ms. Detrick has been employed by the Tucson City Clerk's office since 1971. In 1981 Ms. Detrick was appointed chief deputy city clerk and served as the city elections director from 1981 until her appointment as city clerk in 1991. The City of Tucson has the only other public campaign-funding program in the State of Arizona and has been used as a model by other jurisdictions interested in implementing a similar program. Ms. Detrick was a member of the team that developed the Tucson public campaign-funding program and has been part of the administration of the program since its approval by electorate in 1985.

COMMISSION MISSION, VISION AND VALUES

Mission Statement

To fairly, faithfully and fully implement and administer the Arizona Citizens Clean Elections Act.

Vision Statement

Through the successful implementation of the Arizona Citizens Clean Elections Act, the Commission seeks to improve the integrity of Arizona state government and promote public confidence in the Arizona political process.

Values

Candidate and Campaign Committees: Our first priority is to provide excellent customer service to the participating candidates and their campaign committees who choose to follow the provisions of the Clean Elections Act. We will provide excellent customer service to the nonparticipating candidates and their campaign committees who must comply with the provisions of the Act.

Service: We will provide timely and accurate information to customers, stakeholders and members of the public who make inquiries.

Integrity: We will be committed to the highest standards of ethical behavior.

Quality: We will ensure that all work is completed to the highest standards of excellence.

Teamwork: We will work together to accomplish the mission of the Commission.

Continuous Process Improvement: We will strive to develop efficient and effective processes that are necessary to accomplish the mission.

SUMMARY OF COMMISSION ACTIVITIES

Meetings

The Citizens Clean Elections Commission held 19 regular open meetings.

Publications

The Citizens Clean Elections Commission issued the following publications:

- Annual Report for 2000
- Citizens Clean Elections User's Handbook (revised as necessary)
- Citizens Clean Elections Act, Rules and Policies Manual (revised as necessary)
- Five Dollar Bill's Guide to Clean Elections brochure
- Five Dollar Bill's Guide to Two Simple Tax Credits brochure
- Citizens Clean Elections Commission, 2001-2002 Election Cycle: Arizona's Alternative System of Campaign Public Finance for Statewide and Legislative Offices brochures

Voter Education

In January of 2001, an RFP was released for marketing/public relations firms to perform voter education activities pursuant to the Act. A contract was awarded to Critical Public Relations (CPR), a public relations firm, L3 Creative, an advertising/marketing firm, and 3 Flaggs Media, a media buying firm. The response to the RFP from CPR, L3 Creative and 3 Flaggs Media envisioned the creation of a campaign that focused on a mascot named "Five Dollar Bill." Five Dollar Bill is the statesman-like personification of the financial embodiment the Act: $5 qualifying contributions for candidates and $5 reduction of tax liability for Arizona taxpayers.

In the summer of 2001, the Public Relations and Education Manager and CPR toured the state meeting with various media representatives to discuss the Act, dispel any myths concerning the Act, and educate interested parties about the Act. This grassroots outreach program helped to set the stage for the introduction of Five Dollar Bill.

On October 6, 2001, a rousing parade was held in Cottonwood, Arizona, kicking off the Five Dollar Bill campaign. The parade included various town citizens, groups, a marching band, two Commissioners and Five Dollar Bill. At the conclusion of the parade, a picnic was held that included entertainment, a chili cook off and a special award presented by the Mayor of Cottonwood to Five Dollar Bill.
Five Dollar Bill has made appearances at numerous schools and other functions. The end of 2001 saw Five Dollar Bill appear on a float at the APS Electric Light Parade in Phoenix. Five Dollar Bill also has his own website (www.fivedollarbillaz.com). This website includes information on the Act, the tax credits and, most recently, a series of web videos to help participating candidates through the Clean Elections process.

Staff Training and Outreach

The Commission Staff:

- Performed 5 campaign finance seminars for candidates interested in running a publicly funded campaign. These seminars included information on the Clean Elections Act and how to qualify for funding.

- Attended a public financing workshop hosted by the Brennan Center for Justice

- Attended Election Officer Certification classes

- Attended a national campaign training seminar in Washington, D.C.

- Attended the Economic Forum in Flagstaff where Clean Elections was a major topic

- Appeared on the television talk show "Think Twice" broadcast from Prescott

- Attended an electronic campaign finance report filing conference in Chicago

- Participated in training classes/seminars to attain and maintain a quality of job performance that meets the needs of the state, the Commission and the individual employee

- Presented at the "Making Sense of Clean Elections" seminar, sponsored by the Arizona Chamber of Commerce

- Appeared on KAET's "Horizon" television program

- Provided a booth at the Arizona State Fair, which included an appearance by Five Dollar Bill

- Attended the Council on Governmental Ethics Laws (COGEL) conference in Lexington, Kentucky

Website (http://www.ccec.state.az.us) or (http://www.azcleanelections.com)

The Commission maintains a site on the Internet that provides many client services, including the following:

- Electronic posting of Commission meeting notices, minutes and findings
- Electronic versions of many Commission publications and forms

- Commission financial data, including 2002 revenue projections, sources of revenue, and monthly statement of operations
- Information for both participating and nonparticipating candidates, including timelines and expenditure limits
- Information on tax credits and the $5 check-off box on income tax forms
- Links to the State of Arizona, Secretary of State, Kids Voting, and Five Dollar Bill websites
- Commission and staff contact information and automatic e-mail access
- Biographies of current Commission members
- Frequently Asked Questions
- Press releases
- Substantive Policy Statements
- Proposed Legislative changes
- Proposed rules for public comment
- Citizens Clean Elections Act Handbook

Enforcement

The Commission concentrated on developing policies and procedures for monitoring campaign finance reports, and handling complaints and investigations. Additionally, the Commission developed a computer database to track enforcement efforts. The Commission hired a Campaign Finance Analyst in October 2001 who is responsible for all enforcement duties.

Summary of Complaints

The Commission received no complaints against candidates or political committees in 2001.

Staff Review of Campaign Finance Reports

Staff reviewed the 2000 campaign finance reports of participating candidates to determine if any candidates were required to return to the Commission unused campaign funds, as specified in A.R.S. § 16-953. Upon review of the campaign finance reports submitted by candidates to the Secretary of State, staff determined that three candidates potentially had unspent campaign funds that needed to be returned to the Clean Elections Fund. Staff contacted two of the three candidates and both took corrective action to comply with the law. Staff was unable to locate the third candidate and is carrying the matter forward into 2002.

Complaint and Enforcement Procedure

Enlisting the help of a computer program consultant, the Commission developed a unique complaint tracking database program to manage and track all complaints through the complaint and investigation process. The Commission also developed

a step-by-step procedural guide to serve as a reference for staff during the complaint and enforcement process.

PROJECTED FUNDING FOR PARTICIPATING CANDIDATES

Pursuant to A.R.S. § 16-954(D), "at least once per year, the Commission shall project the amount of monies that the Fund will collect over the next four years and the time such monies shall become available." On October 23, 2001, the Commission adopted the following revenue projections:

	2002	2003	2004	2005
Fines, Forfeitures & Penalties	$5,248,500	$5,510,900	$5,786,400	$6,075,700
Other Revenue (Donations)	2,625,000	2,690,625	2,757,900	2,826,800
Other Revenue (Candidate Qualifying Contributions)	560,000	-0-	275,000	-0-
Return of Lobbyist Filing Fees, plus interest[1]	(351,000)	-0-	-0-	-0-
Total Revenues	$8,082,500	$8,201,525	$8,819,300	$8,902,500

[1]Lobbyist filing fees are removed by *Lavis v Bayless*. Assumes all fees collected in 2000 and 2001 are returned with simple interest.

Pursuant to A.R.S. § 16-954 (E), "at least once per year, the Commission shall project the amount of citizen funding for which all candidates will have qualified pursuant to (Article 2, Citizens Clean Elections Act) for the following calendar year." On October 23, 2001, the Commission adopted the following participation projections:

2002 Primary

- 305 total candidates
- 206 participating candidates
- $5,998,530 initial disbursements
- $3,851,580 equalization disbursements

2002 General

- 197 total candidates
- 124 participating candidates
- $4,158,630 initial disbursements
- $3,592,410 equalization disbursements

The grand total of projected candidate disbursements for the 2002 election cycle is $17,601,150. Utilizing a fund balance from previous years, the Commission has predicted that the monies in the Fund will be sufficient to fund all participating candidates in the 2002 election cycle.

Should the amount in the Fund designated for candidate campaigns be depleted in 2002 during the election cycle, the Commission may take immediate action. A.R.S. § 16-954 (F) states:

If the commission cannot provide participating candidates with all monies specified under sections 16-951 and 16-952, as decreased by any announcement pursuant to subsection E of this section, then the commission shall allocate any reductions in payments proportionately among candidates entitled to monies and shall declare an emergency. Upon declaration of an emergency, a participating candidate may accept private contributions to bring the total monies received by the candidate from the fund and from such private contributions up to the adjusted spending limits, as decreased by any announcement made pursuant to subsection E of this section.

Further, the Commission adopted a substantive policy statement to clarify that if an emergency is declared, participating candidates may collect private contributions up to the limits applicable to nonparticipating candidates.

LOBBYIST FEE

An annual fee in the amount of $110, which is collected by the Secretary of State and deposited into the Citizens Clean Elections Fund, has been imposed on all registered lobbyists representing 1 or more persons in connection with a commercial or for-profit activity except public bodies, or a nonprofit entity predominately composed of or acting on behalf of a trade association or other grouping of commercial or for-profit entities.

In 2001, the Secretary of State notified registered lobbyists that they were obligated to pay the $110 fee, unless exempt.

- 767 paid the fee
- 439 filed an exemption statement
- 668 neither paid the fee nor filed an exemption statement

The Commission took enforcement action against those lobbyists who did not pay the fee in 1999, 2000 and 2001. This enforcement action resulted in:

333 filing an exemption statement and
117 paying the fee
for calendar year 1999;

360 filing an exemption statement and
140 paying the fee
for calendar year 2000; and

204 filing an exemption statement and
164 paying the fee
for calendar year 2001.

LITIGATION

Federal Court Case: *Lavis v. Bayless*

This federal district court case challenges the Citizens Clean Elections Act revenue sources under the free speech and equal protection guarantees of the First and Fourteenth Amendments of the U.S. Constitution. The Act's revenue-collecting mechanisms include the 10 percent surcharge on all civil and criminal fines and penalties, and fees imposed on lobbyists. The plaintiffs assert that the surcharges constitute compelled speech and that the lobbyist fees constitute viewpoint discrimination, a prior restraint on speech, and violate equal protection. This case was dismissed in March due to a lack of federal jurisdiction, pursuant to the Federal Tax Injunction Act.

Maricopa County Superior Court Case: *Lavis v. Bayless*

This Maricopa County Superior Court case challenges the Citizens Clean Elections Act revenue sources under the free speech and equal protection guarantees of the First and Fourteenth Amendments of the U.S. Constitution and Article 2 § 6 and § 15 of the Arizona Constitution. The Act's revenue-collecting mechanisms include the 10 percent surcharge on all civil and criminal fines and penalties, and fees imposed on lobbyists. The plaintiffs assert that the surcharges constitute compelled speech and that the lobbyist fees constitute viewpoint discrimination, a prior restraint on speech, and violate equal protection.

Oral arguments were presented at the Maricopa County Superior Court on November 20, 2001. On December 19, 2001, Judge Colleen McNally held that the lobbyist fees impose an unconstitutional prior restraint on the exercise of free speech under Article 2 § 6 and § 15 of the Arizona Constitution and the First Amendment of the U.S. Constitution, and ordered that the Commission stop collecting the fees. The Court, however, found no evidence that the lobbyist fees promote viewpoint discrimination or violate equal protection. The Court also held that the Clean Elections Act does not compel speech to support a specific viewpoint or ideology. As a result, the Commission and the Secretary of State will discontinue collecting the $110 annual lobbyist fee.

The Court also upheld the constitutionality of the 10 percent surcharge, and held that the Clean Elections Act does not compel speech to support a particular viewpoint or ideology. The Commission will, therefore, continue to collect these assessments.

RECOMMENDATIONS FOR CHANGES TO THE LAW

Reporting Requirements

The Commission recommends that the Legislature amend the reporting requirements for nonparticipating candidates in A.R.S. § 16-941(B)(2) to commence the reporting at the beginning of the qualifying period; to limit the reporting to only those nonparticipating candidates who are opposed in the primary or may be opposed in the general election by a participating candidate; and to require a report to be filed by nonparticipating candidates based on expenditures made, rather than contributions received.

Matching Funds

The Commission recommends that the Legislature amend the procedure for calculating matching funds for participating candidates in A.R.S. § 16-952(B) by changing the criteria to expenditures made by the nonparticipating candidate rather than the amount of contributions received by the nonparticipating candidate.

Certification as a Participating Candidate

The Commission recommends that the Legislature give the Commission more authority to regulate candidates certified as participating. The recommended amendments to A.R.S. § 16-947 authorize the Commission to decertify, assess civil penalties, withhold funding, or order repayment of funds from a certified candidate who violates any provision of the Act.

Qualifying Period

The Commission recommends that the Legislature change the ending date of the qualifying period to 90 days before the primary election, or 45 days after the close of the legislative session, but no later than July 31st of the election year. A.R.S. § 16-961(B)(3).

Impose Controls on Candidate Accounts

The Commission recommends that the Legislature amend A.R.S. § 16-948 to restrict the use of Clean Elections funds to campaign purposes, and to require the return of funds not used for campaign purposes.

Candidate Statements

The Commission recommends that the Legislature change A.R.S. § 16-956(A) to authorize the Commission to assemble, publish and disseminate a single candidate statement guide to every household with a registered voter prior to the primary election.

STAFF DUTIES

Executive Director

Facilitates achievement of the Commission's goals and objectives. Directs agency operations, supervises staff, advises and supports the commission, and oversees and monitors the implementation of the Commission policies and procedures, publications and forms. Advises the Commission on potential and pending issues and provides and establishes efficient and effective mechanisms of communication among various stakeholders of the Act. Oversees and monitors the implementation of Commission policies and procedures. Sets agenda and prepares materials for Commission meetings. Serves as the Commission's representative to the Legislative and Executive Branches. Educates and assists candidates in compliance with reporting requirements, limits, and prohibitions, and assists candidates in participating and obtaining public funding. Writes rules and policies for Commission approval.

Deputy Director

Serves as advisor to the Executive Director and assists in management of the operations for the agency. Drafts budget and oversees all day-to-day operations of the agency. Supervises and manages all of the financial operations for the agency. Develops, implements and oversees the agency strategic plan and manages the operational aspect of the plan for results. Develops personnel performance evaluations for staff. Manages the agency's compliance programs and information resources. Provides operational planning and management for the Commission's information technology resources. Performs systems analysis of all Commission programs and functions to determine appropriate uses of technology to further Commission goals. Provides application design, specification, project management and user training and support for the campaign finance software. Provides management with guidance in design of Commission website and high-level programming for interactive applications delivered on the web. Provides assistance to candidates and other interested parties.

Executive Assistant

Manages human resource procedures and systems requirements. Serves as agency liaison to candidates and other state agencies. Develops, maintains, and manages database applications to support administration of all Commission programs and activities. Provides technical service, assistance and training to Commission staff. Assists the Executive Director in the development of operating policies and procedures; assists in long-range organization planning; conducts special studies; recommends changes to correct operating deficiencies; recommends improvements to the provision of services to the public; prepares administrative directives; provides assistance and guidance as requested; represents the Executive Director at meetings involving personnel, government officials, political candidates and public leaders;

prepares a variety of administrative reports; supervises personnel; assists Executive Director in executing the Citizens Clean Elections Act.

Public Relations and Education Manager

Responsible for the development, creation and distribution of the Candidate Statements pamphlet to every household with a registered voter. Provides advice and guidance to debate sponsors, Commission staff and candidates for candidate debates. Manages all aspects of publicity, marketing and educational publications for the Commission, including advertising the Commission activities for debates, candidate statements pamphlet, and tax donations in newspapers, on radio, and other media. Provides educational seminars to candidate committees and community groups. Works with elected officials, community leaders, large and small employers, political parties, media and other state and local officials to enhance the understanding of the Act. Provides assistance with the development and promulgation of rules and regulations that allow the Commission to achieve the purposes of the Act.

Campaign Finance Analyst

Monitors and reviews both participating and nonparticipating candidate campaign finance reports. Calculates matching funds for participating candidates based on nonparticipating candidate campaign finance reports. Maintains contact with campaign treasurers and Secretary of State Elections staff. Responsible for all aspects of the candidate complaint process, including investigation and analysis; making recommendations to the Executive Director regarding the statute or rule violation; and tracking each complaint on the complaint tracking database program. Determines one-party dominant legislative districts. Tracks independent expenditures.

Fiscal Services Manager

Reviews, monitors and controls amounts expended from the budget to assure that expenditures do not exceed funds available; reports problems to Executive Director; and reads and analyzes budget requests, gathers data, confers with agency personnel, and makes budget recommendations. Serves as the primary liaison between the Commission and the General Accounting Office, vendors and other subcontractors for the proper functioning of all financial systems and transactions. Develops standard operating procedures for all financial procedures relating to Commission activity. Gathers and compiles data and writes detailed reports summarizing financial transactions and status of accounts for a given period; allocates funds to agency programs, including voter education, administration and enforcement; and composes directives and procedures as these relate to financial activities of the agency.

Administrative Counsel

Responsible for professional legal work of considerable difficulty involving new and often large election and campaign finance matters, precedent setting research and case presentation. Renders opinions on legal issues legislative amendments and rules that may have consequences that affect the direction of agency policy. Investigates written complaints and drafts conciliation agreements and findings for Commission consideration. Coordinates investigations and settlements of potential violations of the Act. Refers and monitors cases for enforcement such as civil penalties.

Administrative Assistant III

Provides administrative assistance for the Executive Director. Provides support in the preparation and execution of bi-weekly Commission meetings. Produces letters, memos, reports and publications. Administers updates and modifications to the CCEC website.

Administrative Assistant II

Provides administrative support to the Deputy Director and to other personnel as needed. Drafts letters, memos, agendas, faxes, and answers telephones. Schedules project and client meetings on and off-site, and contacts attendees to determine availability and to confirm meetings. Photocopies and distributes memos, correspondence and routine mailings. Prepares documents for mailing, opens and distributes mail, and oversees mail meter.

FINANCIAL INFORMATION

Cap(s) on Expenditures

The law prescribes certain caps on expenditures from the Citizens Clean Elections fund. A.R.S. § 16-949 (A) states that the Commission shall not spend more than five dollars times the number of Arizona resident personal income tax returns filed during the previous calendar year on all costs incurred under the law during a particular calendar year.

In calendar year 2000, there were 1,998,782 personal income tax returns filed with the Arizona Department of Revenue. This number was the sum of all forms 140, 140X, 140PY, 140NPR, 140A and 140EZ filed in calendar year 2000. Therefore, the cap on total expenditures for calendar year 2001 from the Citizens Clean Elections fund was $9,993,910.

There is also a cap on expenditures for administration and enforcement activities. A.R.S. § 16-949 (B) states that the Commission may use up to ten percent of the cap for reasonable and necessary expenditures for administration and enforcement. An amount of $999,391 was the cap for reasonable and necessary expenditures for administration and enforcement in calendar year 2001. The commission spent $587,203, or 5.9 percent of the amount specified in § 16-949 (A).

Additionally, there is an amount that must be spent for voter education. A.R.S. § 16-949 (C) states that the Commission shall apply ten percent of the amount specified for reasonable and necessary expenses associated with voter education. The commission spent $938,721, or 9.4 percent of the amount specified in § 16-949 (A).

Sources of Revenue
for the Citizens Clean Elections Fund
AFIS Fund Number 2425
for Calendar Year 2001
Unaudited

REVENUES	
Revenue Sub-Category	AMOUNT
SALES & CHARGES FOR SERVICES, GOODS & CAPITAL ASSETS [1]	
Title Certificate Fees	$124,400
SUBTOTAL FOR SALES & CHARGES FOR SERVICES, GOODS & CAPITAL ASSETS	$124,400
FINES, FORFEITURES & PENALTIES [2]	
Court Assessments	$5,588,581
SUBTOTAL FINES, FORFEITURES & PENALTIES	$5,588,581
OTHER REVENUE [3]	
Unrestricted Donations	$2,424,851
Restricted Donations	$29,178
Other Miscellaneous	$117
SUBTOTAL OTHER REVENUE	$2,454,146
TOTAL REVENUES	$8,167,127

Uses of Expenditures
from the Citizens Clean Elections Fund

[1] Includes all lobbyist fees. Lobbyist fees were coded in AFIS to Comptroller Object 4319 - Title Certificate Fees.

[2] Includes all of the ten percent surcharges imposed on all civil and criminal fines and penalties.

[3] Includes all other revenues. Unrestricted donations include all $5 voluntary contributions and other donations to the fund. "Restricted donations" and "other miscellaneous" include other donations to the fund.

AFIS Fund Number 2425
for Calendar Year 2001
Unaudited

EXPENDITURES	Administrative and Enforcement	Voter Education	Campaign Funds	Total
Personal Services [4]	$287,983	$148,578	$0	$436,560
Employee-Related Expenditures	$52,939	$26,893	$0	$79,833
Professional & Outside Services	$114,575	$588,641	$0	$703,217
Travel In-State	$5,780	$6,194	$0	$11,974
Travel Out-of-State	$5,373	$978	$0	$6,352
Aid to Individuals and Organizations [5]	$0	$0	$7,187	$7,187
Other Operating Expenditures	$116,669	$162,283	$0	$278,952
Capital Equipment	$0	$0	$0	$0
Non-Capital Equipment	$2,718	$5,152	$0	$7,871
Operating Transfers Out [6]	$1,164	$0	$0	$1,164
TOTAL EXPENDITURES	$587,203	$938,721	$7,187	$1,518,736

[4] Includes funding for 9.0 full-time equivalents (FTE) and $210 per Commissioner per meeting. Also includes a repayment of expenditures in January 2001 originally charged to State Fiscal Year 2000 that should have been charged to State Fiscal Year 2001.

[5] Includes unspent campaign funds returned to the fund as of December 31, 2001.

[6] Transfer made to the Office of Administrative Hearings for a hearing held in calendar year 2000.

Summary of Sources and Uses of Revenues and Expenditures for the Citizens Clean Elections Fund AFIS Fund Number 2425 for Calendar Year 2001 Unaudited

Beginning Fund Balance (January 1, 2001)			$5,668,425
REVENUES			
Title Certificate Fees	$124,400		
Court Assessments	$5,588,581		
Unrestricted Donations	$2,424,851		
Restricted Donations	$29,178		
Other Miscellaneous	$117		
TOTAL REVENUES		$8,167,127	
EXPENDITURES			
Administrative and Enforcement	($587,203)		
Voter Education	($938,721)		
Campaign Funds	$7,187		
TOTAL EXPENDITURES		($1,518,736)	
Adjustment to AFIS [7]		$44,942	
Ending Fund Balance (January 1, 2002)			$12,361,758

[7] The Commission operates on a calendar year basis and the state accounting system operates on a state fiscal year basis (July 1 to June 30). The adjustment reflects a repayment of expenditures in January 2001 originally charged to State Fiscal Year 2000 that should have been charged to State Fiscal Year 2001.