

# **The North Carolina Public Campaign Fund**

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## **Status Report to the Joint Legislative Committee on Governmental Operations**

**2011**

**Submitted by the North Carolina State Board of  
Elections**

## Overview of Program

The North Carolina Public Campaign Fund was signed into law on October 10, 2002. Since 2004, candidates for the North Carolina Court of Appeals and the North Carolina Supreme Court have had the opportunity to participate in this public funding program.

The program allows candidates that voluntarily declare their intent to seek certification the ability to receive public funds after they have demonstrated their support by receiving at least the minimum amount and not exceeding the maximum amount of qualifying contributions from at least 350 registered voters in North Carolina. A candidate becoming certified is eligible to receive revenue from the Fund for the General Election if that candidate was successful in the Primary. According to current law, certified candidates receive a general distribution if they are successful in the Primary. An additional revenue source for certified candidates from the Fund has been “matching funds” (formerly named “rescue funds”). Matching funds have been available to certified candidates when disclosure reports shows that “funds in opposition to a certified candidate or in support of an opponent to that candidate” exceed the trigger for matching funds. (NCGS § 163-278.67) On June 27, 2011, the United States Supreme Court determined in *Arizona Free Enterprise Club’s Freedom Club PAC ET AL. v. Bennett, Secretary of State of Arizona, ET AL.*, that the release of matching funds in Arizona’s public funding program “substantially burdens the speech of privately financed candidates and independent expenditure groups without serving a compelling state interest.” Any potential impact of this decision has not yet been legislatively addressed.

In addition to the revenue provided to certified candidates from the Fund, a Voter Guide is published and distributed before the Primary and General Elections. This guide contains an overview of the judicial system and information on all candidates for the North Carolina Court of Appeals and the North Carolina Supreme Court.

## **Fund Status**

Included in this report are charts that illustrate the revenues into the Fund and the candidate payouts from the Fund over the last four elections. As of August 31, 2011, the Fund had a balance of \$6,912,827.31. To date, one candidate for the Supreme Court has filed a Declaration of Intent to participate in the program.

## **Projected Candidate Allocations from the NC Public Campaign Fund for 2012**

### **Introduction**

Presently, there are three seats on the North Carolina Court of Appeals that will be on the ballot for 2012 and one seat on the North Carolina Supreme Court. Projections have been made assuming two scenarios and using allocation amounts from the 2010 election. Scenario One assumes four candidates for each seat and assumes the current law is administered for the 2012 election. Assuming adequate funding, current law provides for the release of matching funds to eligible candidates. In light of the United States Supreme Court decision referenced above, Scenario Two will assume four candidates for each seat and will assume the release of no matching funds.

Additionally, please note that these projections are based on current term expirations. If a vacancy should occur that would put additional seats on the ballot, these projections would need to be adjusted.

## **Scenario One**

This scenario includes the release of matching funds pursuant to existing law.

### **Court of Appeals:**

The following chart provides projections for the three seats on the Court of Appeals. The chart assumes four candidates for each seat. Three of the four candidates will be participating in the Public Financing Program. The fourth candidate will not be participating. Candidates A, B, and C will be the participating candidates and Candidate D will be the non-participating candidate. For purposes of this illustration, candidates B and D will proceed to the General Election. It is important to keep in mind that matching funds are the only funds disbursed from the Fund for the Primary. If no matching funds are needed, no funds will be disbursed from the Fund until and if a certified candidate progresses to the General Election.

<b><i>Court of Appeals seat</i></b>	<b>Participating/Non-Participating Candidate (P/NP)</b>	<b>Matching-Primary</b>	<b>General Distribution</b>	<b>General-Matching</b>
<b>Candidate A</b>	P	\$157,800.00		
<b>Candidate B</b>	P	\$157,800.00	\$164,400.00	\$328,800.00
<b>Candidate C</b>	P	\$157,800.00		
<b>Candidate D</b>	NP	-----		
<b>TOTALS</b>		<b>\$473,400.00</b>	<b>\$164,400.00 or \$328,800.00 (If both certified)</b>	<b>\$328,800.00 *(If both certified \$657,600.00)</b>

**TOTALS PER SEAT:**

- As illustrated above, if one of the winning Primary candidates was not certified, the most that could be expended from the Fund would be \$651,000.00. This assumes matching funds released to the certified candidate for both the Primary and the General Election. If no matching funds are triggered for the Primary Election, then the most that would be allocated would be \$493,200.00.
- If both candidates proceeding to the General Election were certified and both received the maximum amount of matching funds for both the Primary and the General Elections, the total allocation for the seat would be \$1,302,000.00. In actuality, this is worst case scenario for depleting the Fund but it should be noted that matching funds have never been triggered for any candidate in the Primary since the creation of the Fund.
- Assuming both candidates are certified and no matching funds are triggered for the Primary Election, then the most that would be allocated would be \$986,400.00.

**Grand Total (All three seats):**

- If each seat has one certified candidate and one non-participating candidate with maximum matching funds being allocated in both the Primary and the General Elections: \$1,953,000.00. (Without matching funds in the Primary \$1,479,600.00.)
- Assuming worst case scenario with each seat having two certified candidates with both candidates receiving maximum matching funds in both the Primary and the General: \$3,906,000.00. (Without matching funds in the Primary \$2,959,200.00)

### **Supreme Court:**

The following chart provides projections for one seat on the North Carolina Supreme Court. Therefore, only two candidates will be on the ballot for the General Election.

The chart anticipates four candidates filing for the seat. Candidates A, B, and C will be participating in the Program and Candidate D will not be participating in the Program. For purposes of this illustration, the chart will assume Candidates A and D proceed to the General Election. As stated earlier, matching funds are the only funds available for the Primary. If no matching funds are needed, no funds will be disbursed from the Fund for the Primary.

<b><i>Supreme Court Seat</i></b>	<b>Participating /Non-Participating Candidate</b>	<b>Matching-Primary</b>	<b>General Distribution</b>	<b>Matching-General</b>
<b>Candidate A</b>	P	\$164,640.00	\$240,100.00	\$480,200.00
<b>Candidate B</b>	P	\$164,640.00		
<b>Candidate C</b>	P	\$164,640.00		
<b>Candidate D</b>	NP	-----		
<b>TOTALS</b>		<b>\$493,920.00</b>	<b>\$240,100.00 or \$480,200.00</b>	<b>\$480,200.00 (If both certified, \$960,400.00)</b>

#### **Grand total:**

- As illustrated above, assuming one certified candidate and one non-participating candidate with maximum matching funds for the certified candidate in the Primary and General Elections:  
\$884,940.00. (Without matching funds in the Primary \$720,300.00.)

- Assuming two certified candidates proceed to the General Election with both certified candidates receiving maximum matching funds in the Primary and the General Elections: \$1,769,880.00. (Without matching funds in the Primary \$1,440,600.00)

**GRAND TOTALS INCLUDING ALL FOUR SEATS:**

	<b>Court of Appeals</b>	<b>Supreme Court</b>	<b>TOTALS</b>
<i>One certified/ One non-participating max. matching Primary and General</i>	<b>\$1,953,000.00</b>	<b>\$884,940.00</b>	<b>\$2,837,940.00</b>
<i>Two certified candidates with max. matching Primary and General</i>	<b>\$3,906,000.00</b>	<b>\$1,769,880.00</b>	<b>\$5,675,880.00</b>
<i>One certified/ One non-participating with no matching in Primary</i>	<b>\$1,479,600.00</b>	<b>\$720,300.00</b>	<b>\$2,199,900.00</b>
<i>Two certified candidates with no matching in Primary</i>	<b>\$2,959,200.00</b>	<b>\$1,440,600.00</b>	<b>\$4,399,800.00</b>

## **Scenario Two**

This scenario does not include the release of any matching funds.

### **Court of Appeals:**

The following chart provides projections for the three seats on the Court of Appeals. Since the general distribution is only released to certified candidates that will appear on the general election ballot, the maximum candidate allocation for each seat would be the release of the general distribution to two candidates for each seat. Using the distribution amounts from the 2010 election, the chart below provides the projected allocations if both candidates proceeding to the General Election are certified. Unlike Scenario One, it is not necessary to contemplate the various allocations that could result from the status of certified and non-certified candidates because there would only be one distribution.

<i>Court of Appeals</i>	<b>Seat One</b>	<b>Seat Two</b>	<b>Seat Three</b>	<b>Grand Total for three seats</b>
	\$328,800.00	\$328,800.00	\$328,800.00	
<b>TOTALS</b>	\$328,800.00	\$328,800.00	\$328,800.00	<b>\$986,400.00</b>

### **Supreme Court:**

Since there is only one seat on the Supreme Court on the ballot in 2012, the maximum candidate allocation for the seat would be the release of the general distribution to two candidates. The chart below provides the projected allocations. This projection assumes both candidates are certified. Therefore, the maximum candidate allocation would be \$480,200.00.



<b>Supreme Court</b>	<b>Candidate One</b>	<b>Candidate Two</b>	<b>Total</b>
	\$240,100.00	\$240,100.00	<b>\$480,200.00</b>

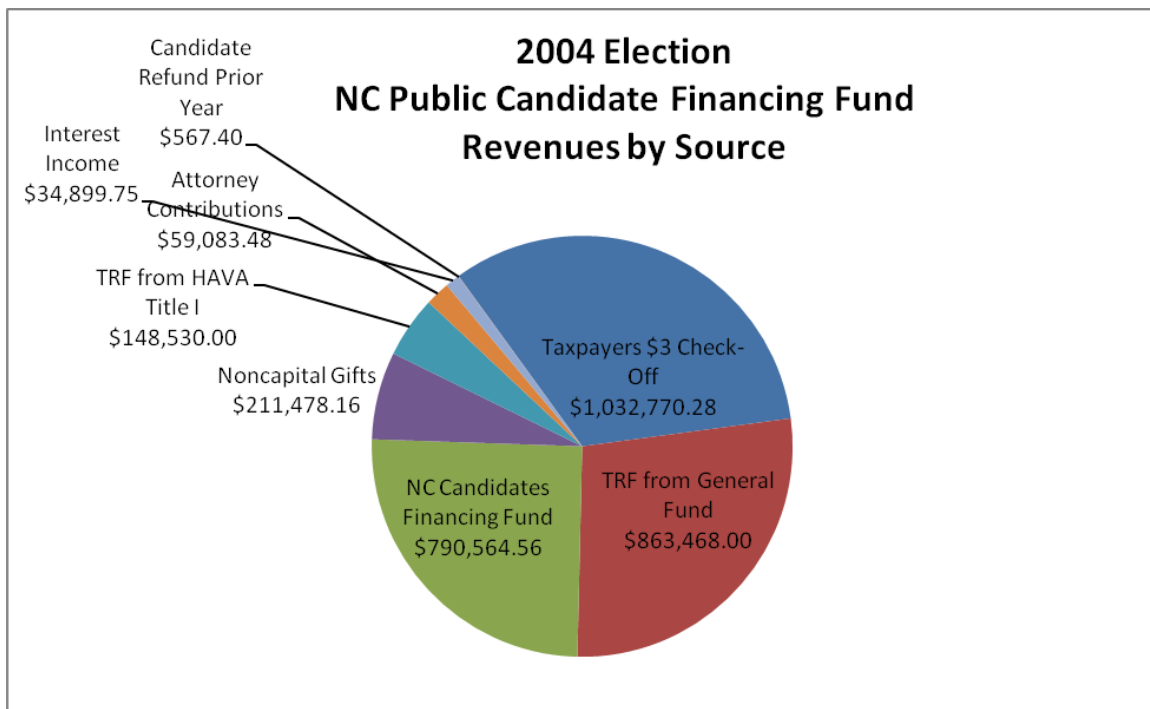
#### GRAND TOTALS INCLUDING ALL FOUR SEATS:

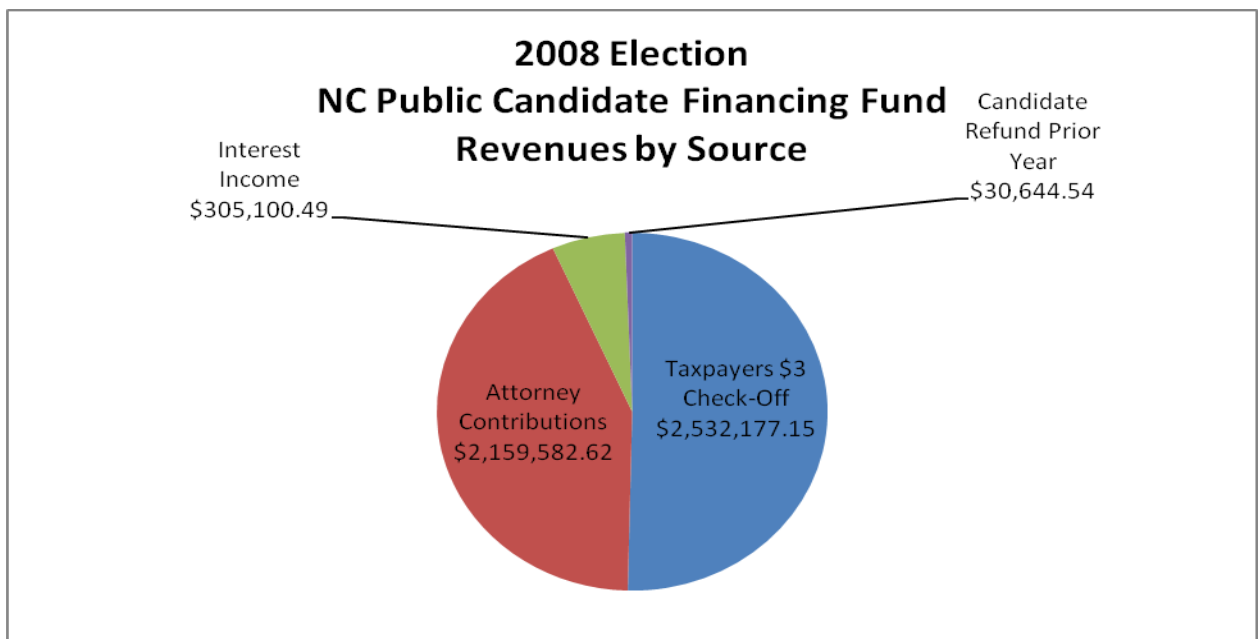
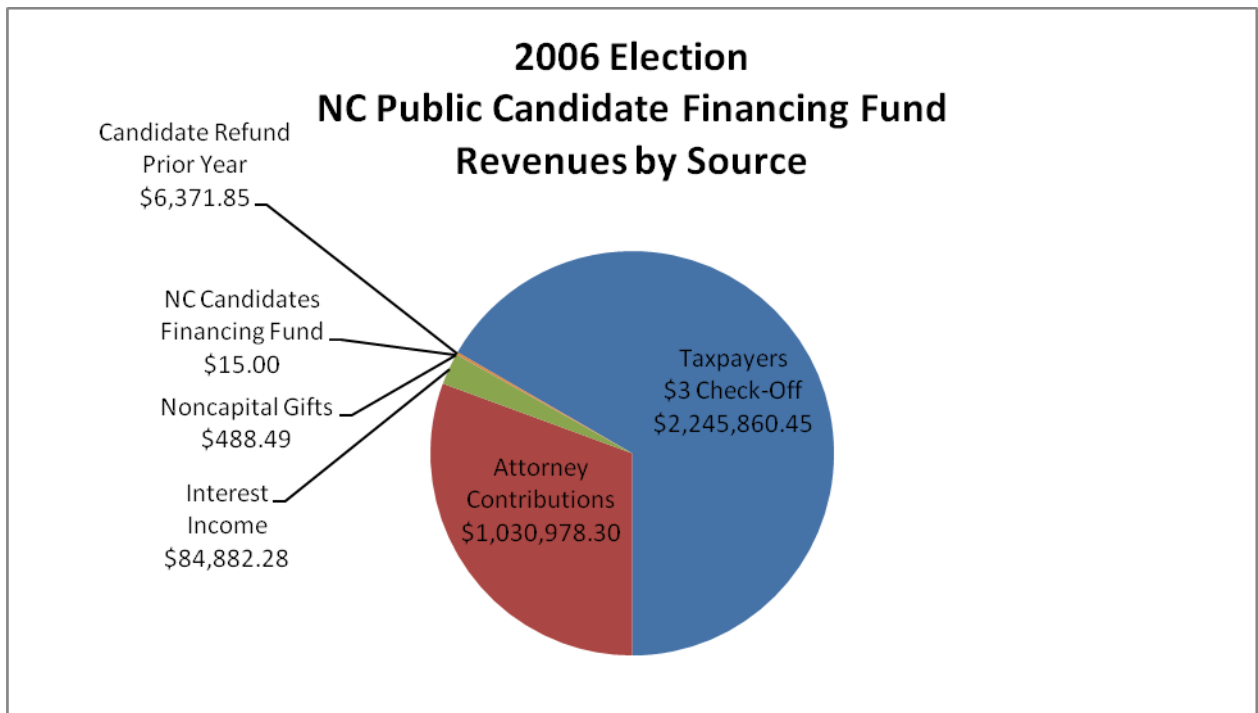
	<b>Court of Appeals</b>	<b>Supreme Court</b>	<b>TOTALS</b>
<b>TOTAL</b>	<b>\$986,400.00</b>	<b>\$480,200.00</b>	<b>\$1,466,600.00</b>

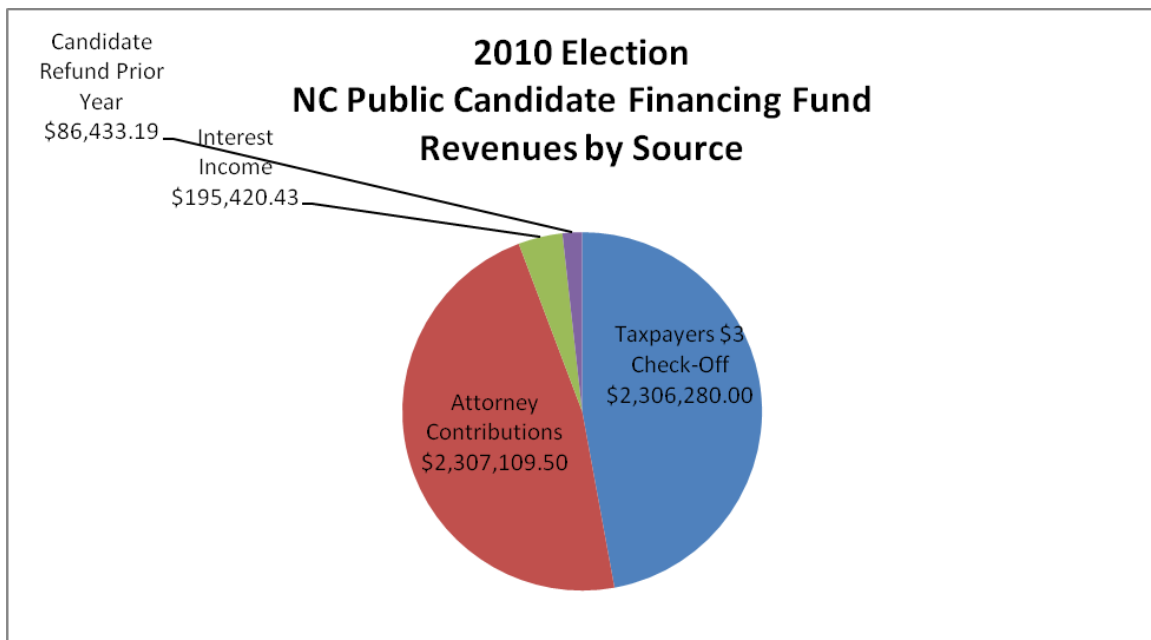
## Fund Revenue Sources and Payouts

### Revenues

The following four charts illustrate the sources of revenue for the Fund over the last four elections.

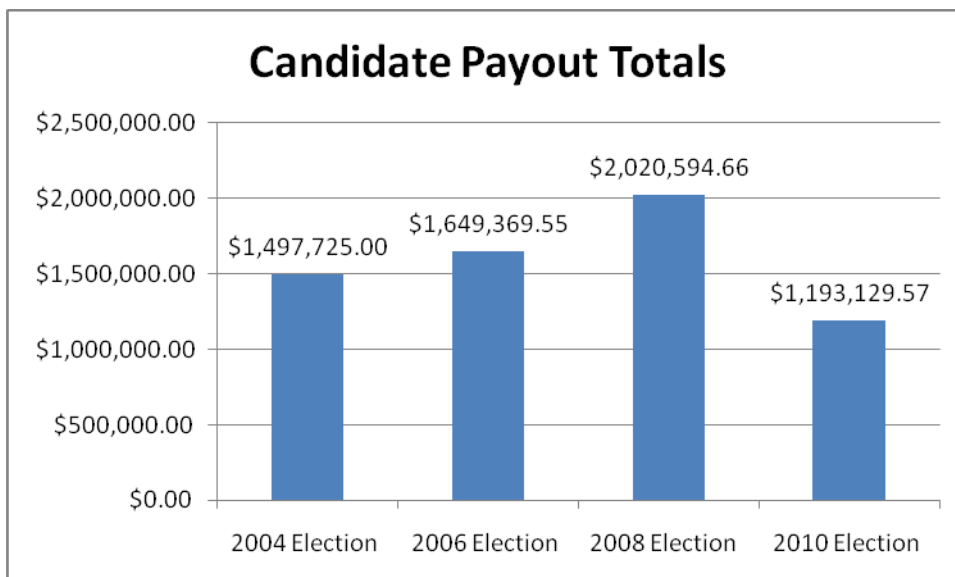






## Candidate Payouts

The following graph provides the total candidate payouts over the last four elections.



The graph below provides a detailed accounting of the payouts shown above to illustrate the number of candidates receiving funding and the amounts of general distributions and rescue/matching funds disbursed.

<b>Election Year</b>	<b># of Certified Candidates</b>	<b>General Candidate Distributions</b>	<b>Rescue/Matching Fund Distributions</b>	<b># Receiving Rescue/Matching Funds</b>	<b>Total Candidate Payouts</b>
<b>2004</b>	12	\$1,497,725.00	\$0.00	0	<b>\$1,497,725.00</b>
<b>2006</b>	8	\$1,494,350.00	\$155,019.55	1	<b>\$1,649,369.55</b>
<b>2008</b>	11	\$1,907,250.00	\$113,344.66	10	<b>\$2,020,594.66</b>
<b>2010</b>	8	\$1,146,020.00	\$47,109.57	7	<b>\$1,193,129.57</b>