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**Submission of Democracy Watch
to the Ontario Standing Committee on General Government regarding
*Bill 201, An Act to amend the Election Finances Act and the Taxation Act, 2007***

Presented by Duff Conacher, Co-founder of Democracy Watch, Chairperson of the Money in Politics Coalition, and Visiting Professor at the University of Ottawa
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Democracy Watch and the [Money in Politics Coalition](#) (made up of 50 groups with a total of more than three million members), welcome this opportunity to participate in the policy-making process concerning Bill 201, which changes Ontario's provincial political finance system, and finally follows up on the Ontario Liberals' [2003 election promise](#) to make democratic changes to the system.

Democracy Watch and the Money in Politics Coalition approve of the referral of Bill 201 to the Committee after first reading, and hope that the Committee will make several changes to the bill to ensure it actually democratizes Ontario's provincial political finance system.

Joined by almost 10,000 Ontarians who have [signed a petition](#), Democracy Watch and the Money in Politics Coalition approve of some of Bill 201's proposed political finance reforms, as follows (and as listed in the [Ontario government's news release](#)):

1. a ban on donations and loan guarantees by corporations, unions and other organizations;
2. limits on political party and third party advertising spending leading up to an election, and during an election campaign period, and;
3. registration requirements and limits on donations to nomination race candidates and political party leadership race candidates.

However, Bill 201 has several serious flaws and gaps that must be closed in order to actually democratize Ontario's provincial political finance system. The same changes should be made to the province-wide municipal law to fully democratize the political finance system at that level as well (taking into account that political parties do not exist at the municipal level).

The changes that need to be made to democratize Bill 201 are as follows:

1. The limit on annual donations by individuals to each party must be lowered to \$100 annually (as in Quebec – with an additional \$100 combined total allowed to be donated to each party’s riding associations (and during an election year, to each party’s election candidates), and donations must be routed through the election watchdog agency (as in Quebec).

To be democratic, a political finance system must uphold the fundamental democratic principle of one person, one vote. [Bill 201 violates this principle because it allows individuals to donate amounts that the large majority of voters cannot afford to donate:](#) \$1,550 annually to each political party and \$1,550 to each party’s constituency association (with a maximum of \$3,100 to all of each party’s constituency associations), and during an election year an additional \$1,550 annually to a party’s election candidate (with a maximum of \$3,100 to all of a party’s candidates).

This means one person could donate a total of \$4,650 annually to each party and its riding associations in-between elections, and during an election year could donate a total of \$7,750 to each party, its riding associations and its candidates. If one person wanted to ensure that two leading parties, either of which may win the election, knew that they supported them, they could donate \$15,500 total to those two parties during an election year.

According to Statistics Canada, the [average post-tax income of individuals in Ontario in 2012](#) was \$35,000 to \$40,000. As a result, the donation limits proposed in Bill 201 are clearly much higher than an average Ontario voter can afford (unless the government believes that average-income Ontarians should, as a top priority, and disregarding basic housing, food, clothing etc. needs, spend a significant portion of their income on political donations).

Even if the Liberals agree to decrease those totals by approximately 50% and claim they have compromised enough, the system will still be far from democratized as the limits will still be much, much more than an average Ontario voter can afford (at \$2,325 annually, and \$3,875 during an election year), and therefore will still allow wealthy individuals to use money as an undemocratic way to influence parties and politicians, again in violation of the one person, one vote principle.

To give one example from the federal level, in 2014 individual donations were limited to \$1,200 to each party (and another \$1,200 combined total to each party’s riding associations). Total donations in 2014 (the most recent year for which full data is available) to the federal Liberal Party only (not including donations to its riding associations) were \$15,063,142 from a total of 77,064 donors. Of that amount, only 2,937 individuals (3.8% of total) donated more than \$1,100 each (up to the then-limit annually of \$1,200), for a total of \$3,493,227 (23.1% of the total donated to the Party).

Also of the total amount donated to the Liberals in 2014, only 3,913 individuals (5.07% of the total) donated from \$500 to \$1,100 each, for a total of \$2,802,998 (18.6% of the total donated to the Party).

It is very likely that the same donation pattern will happen in Ontario – 9% of donors donating more than 40% of the total amount donated or an even more undemocratic ratio – unless the donation limit is lowered to a level that an average voter can afford.

The high donation limits in Bill 201 will, as Quebec's and Toronto's experiences show clearly, also facilitate and obscure ongoing large donations from businesses and unions, funneled through their executives and their family members.

Even if funneling donations is illegal (as it was and is in Quebec), the donors will just claim they were not forced by their company or union to make the donation, and no one will be able to prove otherwise.

Corporate and union donations were banned in Toronto elections in 2009, but a 2016 analysis by the [Toronto Star](#) found that big business and other special interest group executives and their families continue to give large amounts to city councillors.

And few have been charged in Quebec's corruption scandal even though an [Elections Quebec audit found \\$12.8 million in likely illegally funneled donations](#) from 2006-2011 because, again, the donors have claimed that they made the decision to donate on their own.

Bill 201 also allows nomination race and election candidates to donate \$5,000 to their own campaign, and party leadership candidates to donate \$25,000 to their own campaign. Candidates should not be allowed to donate more than anyone else to their campaign as it gives an advantage to wealthy candidates, again in violation of the key democratic principle of one person, one vote.

To stop the undemocratic and unethical influence of wealthy interests, in 2013 Quebec [lowered its individual donation limit to \\$100 annually to each party](#), with an additional \$100 allowed to be donated to an independent candidate), and required donations to be verified by Elections Quebec before being transferred to parties and candidates (in order to prevent illegal, false funneling of donations by a business or other organization through its executives or employees).

The same democratic and ethical changes must be made to Bill 201 – anything less will be an undemocratic charade.

2. Loans to political parties, riding associations and candidates must be prohibited above the donation limit of \$100, except from a public fund (with loans limited to the average annual amount of donations received during the previous two years)

If unlimited loans are allowed, then donation limits become meaningless.

As well, although Canada's big banks are mainly federally regulated, they also own investment banks whose activities are regulated by the Ontario government. Credit unions are provincially regulated. If loans are allowed, even at market rates, it will allow

these financial institutions to give parties and candidates the favour of granting them a loan. These loans thereby create a conflict of interest for the parties and politicians.

Loans are usually used by parties and candidates during election periods. They are allowed based on the assumption that a specific level of funding is needed to run a successful election campaign (more than the parties can raise in between elections). This is far from a proven need – there is no specific level of funding that determines electoral success. If loans were eliminated then the election campaigns of parties and candidates would all just operate at a lower level of funding.

Compared to traditional communications, the much lower costs of communicating with voters of email communications, robocalls, and social media (including social media advertising) mean that parties and candidates can very likely operate successfully without election campaign loans (if they actually have support of voters).

However, if the position of Ontario political parties is that loans must be allowed because they are needed to cover extra costs during election campaigns, then loans must come from a public fund to prevent the conflict of interest created by loans from individuals or financial institutions (or other corporations).

As well, neither a party nor a candidate should be allowed to use a loan to close the financial gap from not having as much support from voters as another party or candidate. Loans from the public fund must be limited to the average annual amount of donations received during the previous two years.

3. All donations and gifts of money, property, services and volunteer labour given to any party, riding association, politician, nomination race, election or party leadership candidate must be disclosed, including the identity of the donor's employer, and board and executive affiliations (and the identity of organizers of any fundraising event)

All donations and gifts must be required to be disclosed or secrecy loopholes will very likely be exploited by those wanting to influence parties and politicians by giving off-the-record donations and gifts.

The largest loophole is for volunteer labour. Donations of volunteer labour should be required to be tracked and disclosed, including the identity of the donor's employer, and board and executive affiliations, to ensure businesses, unions and other organizations do not attempt to thwart the ban on monetary donations by "volunteering" their employees to parties and politicians.

4. The base amount of annual per-vote public funding given to parties (based on each vote received during the last election) should be lowered from \$2.26 to \$1 per vote, with a portion required to be shared with riding associations

Bill 201 proposes establishing annual per-vote public funding of \$2.26 per vote. Some commentators argue against the per-vote subsidy – even though it most closely upholds the key democratic principle of one-person, one-vote – by making the absurd claim that it forces voters to give money to parties they don't support. Actually, the \$1-2 amount comes from the taxes everyone pays and goes only to the party each person supports (and only if they vote).

Per-vote funding also somewhat corrects the imbalance in public funding given to parties because of the fact that the current voting system and other subsidies shift a lot of taxpayer money in undemocratic directions. Usually the ruling party obtains a higher percentage of politicians in the legislature than they deserve based on the percentage of voters that support them, and each of those politicians receives a substantial annual public subsidy that they can use for, essentially, an ongoing campaign through their constituency office up to the next election.

As well, people who make donations receive tax deductions, which is another form of public subsidy that especially helps wealthy interests that can afford large donations. Per-vote funding is a much more democratic system than allowing large donations and subsidizing them with tax deductions.

However, while per-vote funding is democratic and based on the fundamental principle of one person, one vote, it should not be as high as proposed in Bill 201. No party should receive more than one-half of its annual funding from it to ensure the parties can't unjustifiably prosper by baiting voters with false promises to boost their support during an election, and then break those promises while continuing to receive the annual per-vote public funding right through to the next election.

As a result, the annual per-vote funding subsidy should be decreased to \$1 per vote. This will force parties to stay in touch with voter concerns in between elections if they want to attract their ongoing support, and donations.

5. Annual public funding should be given to parties matching the first \$100,000-\$200,000 raised (as in Quebec)

As democratic, and in some ways more democratic, than per-vote funding is matching public funding. Bill 201 should be amended to [establish the same annual public funding matching system as Quebec](#) (\$2.50 for the first \$20,000 raised annually by each party, and \$1 for the first \$200,000 raised annually).

In Quebec since 2013, with the \$100 annual donation limit, and annual per-vote and matching public funding, Elections Quebec has [analyzed the results](#) and found that the parties are still adequately funded.

6. Public funding should be given candidates matching the first \$10-20,000 raised

One gap in Quebec's world-leading system is that party candidates and independent candidates only receive matching public funding for the first \$800 raised annually. This is too low an amount and gives each party too much power over its candidates in terms of deciding whether to transfer the public money the party receives to its candidates to support their campaigns.

The system is even more discriminatory against independent candidates as they cannot benefit from a transfer from a party's headquarters.

Candidates should receive significant matching funding on a sliding scale similar to the Quebec system for parties -- \$2.50 for first \$10,000 raised, then \$1 for next \$10,000 raised. This system will ensure candidates with popular support who are supported by people with lower incomes will have more equal funding compared to candidates who are supported by people who can all afford to give the maximum donation.

7. The changes to the *Government Advertising Act* that weakened the Auditor General's powers to restrict government advertising that favours the ruling party should be repealed and the original powers restored

As the Auditor General warned, the changes to the *Government Advertising Act* made in June 2015 [now allow the government to use the public's money to advertise in ways that help the ruling party](#), and that are not in the public interest. The Auditor General's powers to prohibit such advertising should be restored to ensure the government does not use the public's money to advertise in the ruling party's interest, especially given that Bill 201 restricts advertising by third party interest groups and individuals leading up to and during an election campaign period.

The *Government Advertising Act* was a model for the world when it was enacted in 2004 – it should be restored to its model form.

8. Elections Ontario and the Ontario Integrity Commissioner should be required to conduct annual random audits to ensure all the rules are being followed by everyone

The rules in any law are only nice words on paper unless they are properly enforced. As Quebec's experience shows clearly, regular random audits are needed to ensure that everyone is following the rules, and so Ontario's two key enforcement agencies for donations and ethics should be required to conduct annual random audits.