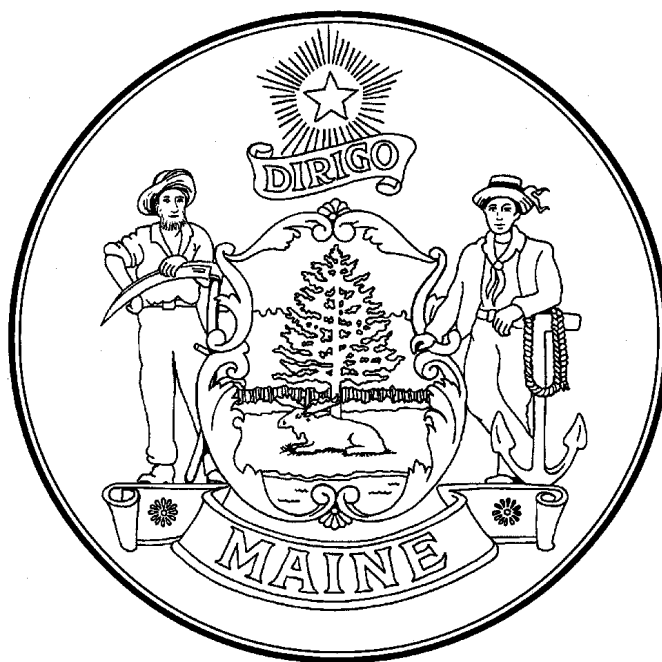


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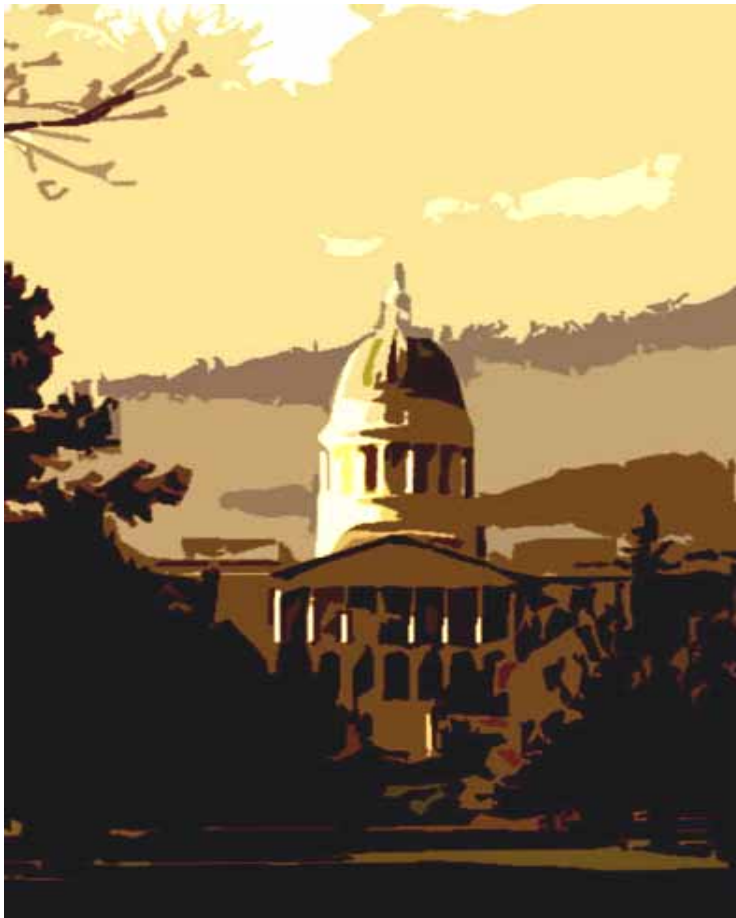
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2007 Study Report

Has Public Funding Improved Maine Elections?



**Maine Commission on Governmental
Ethics and Election Practices**

Maine Commission on Governmental Ethics and Election Practices

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Executive Summary

After being in operation for four election years (2000 – 2006), the Maine Clean Election Act (MCEA) appears to be settling itself into the political landscape of Maine state elections. Particularly for legislative candidates, it has proven itself to be a viable option for candidates who would prefer not to finance their campaigns through private contributions or believe that the MCEA offers other advantages. Given the large changes involved in introducing a system of full public financing, surprisingly few serious administrative problems have developed since its introduction in 2000. Nevertheless, some important policy issues and unintended consequences need to be addressed, and the Commission believes additional statutory changes are necessary to safeguard the public funds spent by candidates.

Effects of Public Financing on Maine Elections

This report to the Joint Standing Committee on Legal and Veterans Affairs describes some of the effects of the Maine Clean Election Act on state elections in Maine. It also notes some positive trends even though it may be difficult to attribute these trends entirely to public financing. Overall, there are several areas in which the MCEA is proving to have a positive influence:

- encouraging first-time candidates to run for political office, including more women candidates;
- allowing more challengers to compete against incumbents in general elections;
- providing more choices to voters because of first-time candidates and a moderate increase in the number of general election candidates;
- providing a more even playing field in legislative races between incumbents and challengers and between winning and losing candidates;
- controlling the growth in spending by legislative candidates;
- sharply reducing total private contributions to legislative candidates; and
- allowing participating candidates to spend more time communicating with voters by eliminating private fundraising.

At the same time, some of the presumed goals of the MCEA have not come to pass. While the MCEA has limited the growth in spending by legislative candidates, overall spending by all sources (including political action committees and political parties) has increased. Candidates are quite critical of the growth in independent expenditures made by political action committees (PACs) and political parties. Also, it is important to remember that public financing cannot be a panacea for all ills of the electoral system. Changing the source of funding for candidates' campaigns will not, by itself, control spending by PACs and political parties, encourage more substantive discussion of issues, or increase voter interest in elections.

Issues of Administration

Independent Expenditures and Matching Funds

Under the MCEA, participating candidates receive an initial payment for each election and may qualify to receive additional matching funds depending on their opponent's fundraising and spending, and the expenditures of independent groups such as PACs and political parties. The payment of matching funds reduces the overall cost of the program by targeting public funds into those legislative districts that are most competitive.

The matching funds portion of the MCEA has presented some administrative challenges for the Commission. One ongoing issue is that the statutory definition of independent expenditure relies on the narrow standard of "express advocacy" for communications distributed to voters more than 21 days before an election. Until the final three-week period, a communication only involves an independent expenditure if it explicitly advocates a vote for or against a candidate (for example, "Vote for Jones" or "Defeat Smith"). Under this definition, a good deal of advertising and literature that obviously is intended to influence an election will not be disclosed in independent expenditure reports. This causes the public to lose out on prompt, detailed reporting of spending by PACs and political parties, and it undermines the MCEA's system of matching funds.

Candidates often raise two other critiques of independent expenditures and matching funds. The first issue is the timing of when independent expenditures are reported. PACs and political parties tend to file independent expenditure reports very close to the general election (often in the last week) with the result that candidates receive matching funds too late to spend them effectively. Also, many legislative candidates have expressed sharp disapproval with the increasing number of campaign mailings paid for by PACs and political parties. In general, the candidates dislike that they have no control over the timing or

content of these mailings. Some express that the mail sent by independent groups is crowding out the literature that the candidates have designed to communicate with voters.

Non-Compliance and Auditing

After four election cycles in which MCEA funding has been available, the Commission has found relatively few instances of wrongdoing in qualifying for public funding or in misuse of public funds. Nevertheless, these are areas that require ongoing review and improvement to protect the public's funds and confidence in the MCEA.

In 2005, the Commission made changes to its official guidelines in a number of areas after asking for public comment: car travel, food, accommodations, equipment, and post-election activities. The Commission has improved its educational efforts by publishing better guidebooks and brochures, and by reorganizing its staff so that during election years three candidate registrars are available to train candidates, answer their questions, and assist the Commission auditor in reviewing campaign finance reports. For the 2006 and 2008 elections, the Legislature approved the use of MCEA funds for two limited-time employees during the election year. These two positions have greatly assisted the Commission in providing services to the 500+ candidates in state and county elections, and have helped avoid problems and improve oversight of public funds spent.

In 2006, the Legislature clarified the records that MCEA candidates must obtain for every expenditure of \$50 or more:

- a vendor invoice or receipt stating the particular goods and services purchased, and
- a record proving that the vendor received payment, such as a canceled check or bank or credit card statement.

In 2006, the Commission embarked on a new program of auditing all gubernatorial candidates who received MCEA funds and 20% of legislative candidates who were publicly funded. For legislative candidates, this primarily involved a request by the Commission auditor for vendor invoices and bank documents. The Commission believes these audits have value in educating candidates on their record-keeping responsibilities and in deterring misuse of funds. In 2006, some of the audits were initiated too close to the general election. In future years, the Commission will time the audits differently to avoid burdening candidates during the last six weeks before the general election.

Following the 2004 elections, the Commission determined that two candidates for the Legislature who were recruited by a pair of self-described political consultants had used MCEA funds for purposes that were not related to their campaigns. These two cases were highly publicized and resulted in the assess-

ment of large penalties and orders to return public funds.

The Commission's review of 2006 candidates has not found any serious misuse of public funds to date. During its routine reviews of campaign finance reports, the Commission requested that a small number of candidates use their personal funds to reimburse their campaigns for purchases that seemed primarily personal in nature rather than campaign-related (e.g., shoes, car maintenance, medical treatment for a dog bite). The candidates who made these expenditures were acting in good faith, and did not realize that the purchases were prohibited by the Commission's expenditure guidelines. They promptly reimbursed their campaigns when requested. The Commission staff also discovered two 2006 legislative candidates who apparently used larger amounts of MCEA payments as short-term loans to cover personal expenses. Even though the candidates have returned these funds to the state, the Commission staff will recommend civil penalties against the candidates because they should not have used MCEA funds for personal expenses.

In 2006, the Commission staff found two examples of campaigns that submitted false information regarding \$5 qualifying contributions. Neither of these candidates received public funds. One case involved a candidate for Governor whose application for MCEA funding included other problems. The second case involved a Senate candidate who apparently faked all of his \$5 qualifying contributions. The Office of the Maine Attorney General initiated criminal prosecution against this candidate.

While any misuse of public funds or fraud is troubling, overall it should be noted that these cases represent just a few of the more than 300 candidates who qualify for MCEA funding each election year. Almost all candidates who participate in the MCEA are conscientious in spending public funds. The Commission believes that with better education of candidates, clearer standards, and the continued cooperation of the legislative caucuses that recruit candidates, the Commission can adequately monitor and prevent problems with its current level of staffing.

Recommendations to the Legislature

In Chapter 11 of this report, the Commission makes a number of recommendations to the Legislature based on the Commission's experience in administering the MCEA program. Most of these recommendations were included in the Commission's bill, L.D. 1854, or in a rule-making conducted in January – April 2007:

- The current definition of "independent expenditure" does not cover communications to voters unless they expressly advocate the election or defeat of a candidate (e.g., "Vote for Jones" or "Defeat Smith"). In 2003, the Legislature expanded the definition of independent expenditure

during the last 21 days before an election. The Commission recommends that this expanded definition should apply in the 60 days before a general election.

- In order to qualify for MCEA funding, candidates for Governor should be required to collect \$15,000 in seed money contributions (small donations of up to \$100 from individuals). The Commission believes this would increase the public's confidence that MCEA funding will only be received by gubernatorial candidates who have demonstrated significant statewide support through the qualification process.
- The Commission recommends that seed money should be permitted only from Maine residents. This is important for gubernatorial candidates as a way to demonstrate support within the state of Maine during the qualification process.
- In the 2006 elections, MCEA candidates for Governor received most of their funds for the general election in the last 25 days before the election. Candidates for Governor should receive a greater initial payment in June of the election year and less in matching funds.
- In order to decrease the potential for fraud or error in the qualification process, individuals making a \$5 qualifying contribution in cash should be required to sign the \$5 money order purchased by the candidate and submitted to the Commission. In 2008, the Commission would like to experiment with accepting \$5 qualifying contributions electronically on the Commission's website.
- The Commission recommends eliminating accelerated reports for privately financed candidates who have not raised or spent more than the initial MCEA payment received by their opponent.
- A MCEA candidate should be prohibited from paying public funds to a family member for campaign services. All services provided to a campaign by the candidate's relatives should be on a volunteer basis.
- The Commission recommends that beginning in the 2010 fiscal year, the annual transfer of \$2 million from the General Fund to the Maine Clean Election Fund should be scheduled for September 1st rather than January 1st. In election years, this would increase the amount of funds available to pay candidates in the two months before a general election.
- The MCEA requires participating candidates to keep receipts from vendors and bank records for all expenditures of \$50 or more. Candidates who wish to be reimbursed with MCEA funds

for car travel are required to keep a mileage log. In its rule-making, the Commission proposes that it be authorized to “disallow” undocumented expenditures. This could require the candidate to repay the amount of the expenditure to the state. Alternatively, the rule change would allow the Commission to assess a penalty for failing to keep required documentation.

- In 2002 and 2003, the Legislature transferred \$6,725,000 from the Maine Clean Election Fund to be used for other purposes with the understanding that it would be returned if needed. For the 2006 elections, the Legislature returned \$3,600,000. To fund the MCEA in the 2010 elections, it is likely that the Commission will need to ask for the remaining \$3,125,000 to be restored.

In addition, the Commission wishes to note three other issues for the Legislature’s consideration. The Commission has not made any recommendations in these areas:

- The Commission has received conflicting arguments about how to regard voter guides and scorecards that rate or score Legislators based on their voting records. Some groups distributing these publications regard them as purely informational and educational. In contrast, some candidates believe that these publications are intended to influence elections and that their costs should be publicly disclosed in PAC and independent expenditure reports. In its early 2007 rule-making, the Commission decided not to adopt a rule regarding this issue. It would welcome clarification by the Legislature on how these publications should be treated.
- In the 2007 session, two Legislators have submitted bills to limit the size of contributions to PACs. Limits on contributions to PACs have been adopted in other states because of a concern about undue influence by campaign contributors.
- In 2006, the Commission was asked for advice about whether assistance provided by employees of political parties and PACs to candidates constitutes a contribution to the candidates assisted. Under current law, if a PAC organized by a legislative caucus pays its employees to provide assistance to legislative candidates, those candidates have received an in-kind contribution from the PAC.

The Commission is grateful to the Legislature for its consideration of these recommendations.

Introduction

History of the Maine Clean Election Act

The Maine Clean Election Act (MCEA) was enacted directly by Maine voters in the 1996 general election. It created a voluntarily program of full public funding for candidates for the Legislature and the office of Governor. The MCEA was promoted by a coalition of advocacy groups operating under the name of Maine Voters for Clean Elections. It was approved by voters by a margin of 320,755 (56.2%) to 250,185 (43.8%), and became Chapter 14 of the Maine State Election Law (21-A M.R.S.A. §1121 to §1128). The program is administered by the Maine Commission on Governmental Ethics and Election Practices.

Public funding programs for candidates running for state and municipal office have been in effect as early as the 1970's in Minnesota, Wisconsin, New York City, Los Angeles, and elsewhere. These programs permit candidates to receive a mix of public financing and private contributions. Also, U.S. presidential elections are financed with public funds. Since 1976, every major party candidate in the presidential elections has been financed with public funds, including Presidents Carter, Reagan, George H.W. Bush, Clinton, and George W. Bush.

The innovation of the MCEA was that participating candidates must rely entirely on public campaign funds. They cannot accept any monetary or in-kind contributions from private sources (even from themselves), other than limited “seed money contributions” of up to \$100 from individuals at the beginning of their campaigns.

Although the objectives of the MCEA are not stated within the law, the following goals often are attributed to the program:

- increasing the competitiveness of elections by providing a viable, alternative system of campaign financing for candidates;
- allowing participating candidates to spend more time communicating with voters;
- decreasing the importance of fundraising in legislative and gubernatorial campaigns;

- reducing the actual and perceived influence of private money in legislative and gubernatorial elections;
- controlling the increase of campaign spending by candidates; and
- allowing average citizens a greater opportunity to be involved in funding candidates' campaigns by making a \$5 contribution to help the candidates qualify for public funding.

How the Maine Clean Election Act Works

Background on the Maine Electoral System

The Maine State Legislature has a total of 186 members. The Maine House of Representatives has 151 members, each with districts of roughly 8,443 residents. There are 35 members of the Maine Senate. Each Senate district has about 36,426 residents. All members of the Maine Legislature serve for a two-year term. Elections are held in even-numbered years, and the terms are not staggered so the entire Legislature is elected every two years. State senators and representatives are subject to term limits of four consecutive terms.

Party Candidates in Maine

Three political parties are entitled to hold primary elections in Maine: the Democratic Party, the Republican Party, and the Green Independent Party. The Green Independent Party first began holding primary elections in 2000.

Maine holds its primary elections on the 2nd Tuesday in June. In order to qualify to be a candidate in a primary election, a candidate must collect a required number of signatures from registered voters in the electoral area the candidate is seeking to represent (Table A).

Table A Required Number of Signatures: Party Candidates		
Office	Minimum	Maximum
Senate	100	150
House	25	40
Governor	2,000	3,000

Candidates must collect and submit the petition signatures between January 1st and March 15th of the election year. The Maine Secretary of State administers candidates' qualification for the ballot.

Maine permits the political parties to replace candidates who have withdrawn after the primary election. So, in the 2006 elections 31 "replacement candidates" were on the general election ballot without qualifying through the petition process. Those replacement candidates are provided an opportunity to qualify for MCEA funding through a one-month qualifying period that begins in July.

Independent Candidates

Individuals who are not enrolled in a political party may run as independent candidates. To qualify, they must collect a required number of signatures as shown on Table B.

Independent candidates must collect the petition signatures between January 1st and May 25th of the election year, and submit them to the Maine Secretary of State by June 2nd.

Table B Required Number of Signatures: Non-Party Candidates		
Office	Minimum	Maximum
Senate	200	300
House	50	80
Governor	4,000	6,000

Qualifying for Public Funding

To qualify for public funding under the MCEA, candidates must collect a minimum number of qualifying contributions from registered voters within the electoral district which the candidate is seeking to represent (Table C). Qualifying contributions must be made in the form of personal checks or cash in the amount of \$5. Once a candidate receives \$5 in cash, he or she must use it to purchase a money order which is submitted to the Commission.

The candidates must collect and submit the contributions to the Commission during the “qualifying period” that applies to them. For legislative candidates who are enrolled in a political party, the

Table C Required Number of \$5 Qualifying Contributions	
Office	Minimum
House	50
Senate	150
Governor	2,500

qualifying period is from January 1st to April 15th of the election year. Gubernatorial candidates in a political party have from November 1st of the year before the election to April 15th of the election year. The qualifying period for candidates who are not enrolled in a political party starts on November 1st or January 1st (depending on the office) and runs until June 2nd of the election year. Before collecting these contributions, candidates must publicly state their intention to qualify for public funding by filing a written declaration with the Commission.

Seed Money Contributions

During the qualifying period, candidates may collect limited private contributions (seed money) to begin their campaigns and to collect the \$5 qualifying contributions. Seed money contributions must be from the personal funds of individuals. There are no restrictions on the residency or political party of the contributors, and many legislative candidates turn to friends and family members for seed money. No seed money contributor may give more than \$100 to a prospective MCEA candidate. Candidates for the

House may collect up to \$500 in seed money contributions; candidates for the Senate may collect up to \$1,500; and candidates for the office of Governor may collect up to \$50,000.

Submitting the Qualifying Contributions

After candidates have collected the qualifying contributions and have asked municipal clerks to verify the voter registration of the contributors, they submit the \$5 checks and money orders to the Commission. The Commission staff reviews the qualifying contributions to verify that the minimum number of valid contributions was submitted. The Commission deposits them into the Maine Clean Election Fund, the account within the Maine state government from which the Commission pays candidates their campaign funds. The qualifying contributions make up about 2.4% of the revenue to the Fund.

Initial Payments under the MCEA

Most legislative candidates qualify as candidates through the petition process and qualify for MCEA funds by April 15th of the election year. They receive their primary election payment about one week after they qualify. The major-

ity of legislative candidates have no opponent in the June primary election, so they receive a small primary election payment. Candidates in contested races

Table D Initial MCEA Payments for the 2006 Primary Election			
	House	Senate	Governor
Unopposed Candidate	\$512	\$1,927	\$200,000
Candidate with Opponent	\$1,504	\$7,746	\$200,000

receive a larger primary payment. Party candidates for the office of Governor receive \$200,000 for the primary election regardless whether they have an opponent (Table D).

Candidates who are in a general election receive a separate payment for the general election about one week after the June primary (Table E). Presently, almost all general election races are contested.

Matching Funds

About half of MCEA candidates qualify to receive matching funds, which are additional funds paid by the state to keep candidates within each race on a level playing field. The purpose

Table E Initial MCEA Payments for the 2006 General Election			
	House	Senate	Governor
Unopposed Candidate	\$1,745	\$8,033	\$400,000
Candidate with Opponent	\$4,362	\$20,082	\$400,000

of matching funds is to prevent MCEA candidates from being outspent by well financed opponents or by independent spenders. Candidates may receive a maximum of matching funds equal to twice the amount of the initial payment.

Distinguishing the Impact of the Maine Clean Election Act from Other Factors

One difficulty in judging the effects of the MCEA is to distinguish those effects from the results of other influences on the electoral system. When reviewing the data included in this report, readers should take into consideration three other factors in addition to the MCEA.

Term Limits

In 1993, Maine voters enacted term limitations under which no member of the Legislature could serve for more than four consecutive terms, or eight years. The limitations first took effect in the 1996 elections, when 30 candidates (26 House and 4 Senate) were prohibited from running for re-election. As a result of term limits, there was a one-year increase in the number of candidates running for the Legislature. Because the 1996 election year was atypical, in Chapter 2 the Commission staff has excluded it from certain calculations as noted.

Redistricting

The decennial census of the federal government impacts legislative districts every ten years. This may result in a small number of incumbents who no longer reside in their “old” district, or occasionally in two incumbents running against each other. Redistricting in Maine (unlike most states) impacts the election districts in the fourth year of the decade (1994, 2004, etc.). Readers should keep in mind that some incumbents were affected by redistricting in the 1994 and 2004 elections.

Contribution Limits

Along with enacting public funding for political campaigns in the 1996 general election, voters also approved very low contribution limits for privately financed candidates. The limits impose a maximum on how much a single contributor may give to a candidate for each election. Prior to the change, the contribution limits were \$1,000 from an individual and \$5,000 from a corporation or a political action committee. The current limits are \$250 per election for county and legislative candidates, and \$500 per election for candidates for Governor for all contributors, except the candidate or the candidate’s spouse. The primary election and the general are counted as separate elections. The contribution limits went into effect on January 1, 1999 and were in place for the 2000 election cycle. These limits have certainly impacted total receipts and spending by privately financed candidates.

How This Study Report Was Compiled

The MCEA requires the Ethics Commission to submit to the Legislature a study report every four years discussing the administration of the MCEA and making recommendations. The data for this report was consolidated in a database in Microsoft Access software, and was derived from a number of sources:

- lists of candidates and vote totals from the Maine Secretary of State;
- financial information from annual and biennial reports published by the Ethics Commission;
- responses provided by legislative candidates to surveys conducted by the Commission after the 2004 and 2006 elections; and
- the Commission's own campaign finance databases for candidates, political action committees, party committees, and independent expenditures.

All employees of the Commission contributed to this report. Jonathan Wayne and Paul Lavin wrote the report, and Gavin O'Brien and Sandy Thompson were responsible for the data, charts, graphics, and research. Colby College interns Mary Spooner and Brendan O'Keefe provided valuable assistance with the data included in the report.

Future Reports

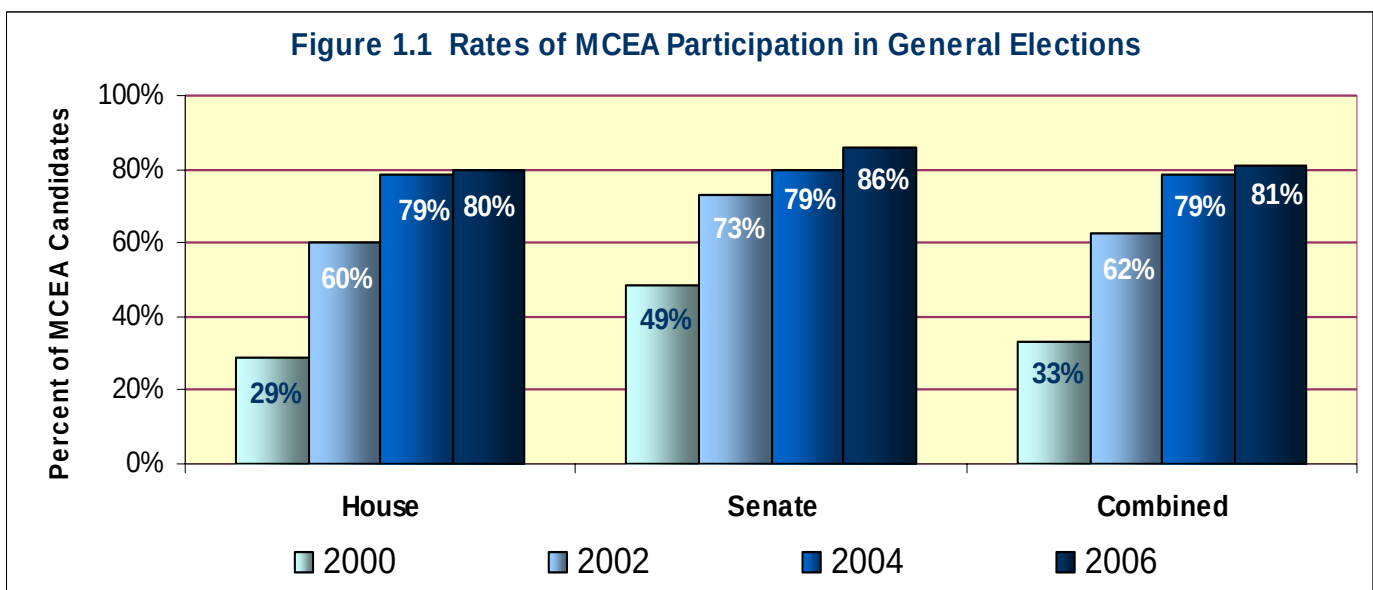
The Commission staff may publish a second version of this report that would focus on questions posed by legislators and advocates in other states regarding public financing. The staff welcomes suggestions on types of information or viewpoints which were not included in this report.

Chapter 1

Participation in the MCEA by Legislative Candidates

Rates of Participation

The Maine Clean Election Act has been growing in acceptance among legislative candidates since it first went into effect in 2000. In its first two years of operation (2000 and 2002), the rate of participation by general election candidates was 33% and 62%, respectively. In the 2006 elections, 81% of general election candidates for the Legislature chose to finance their campaigns through public funds under the MCEA (Figure 1.1).

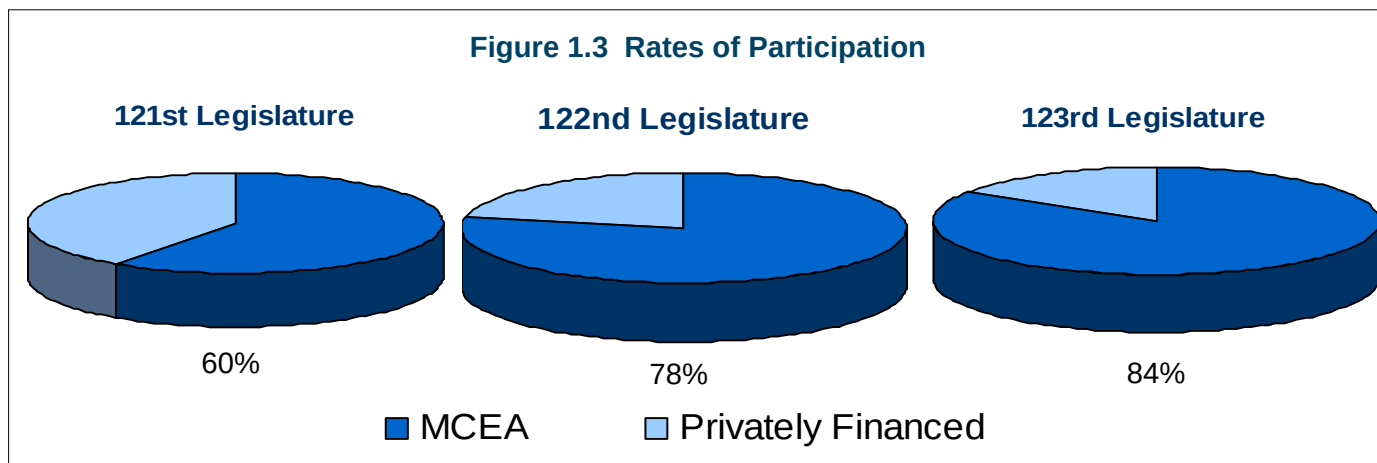
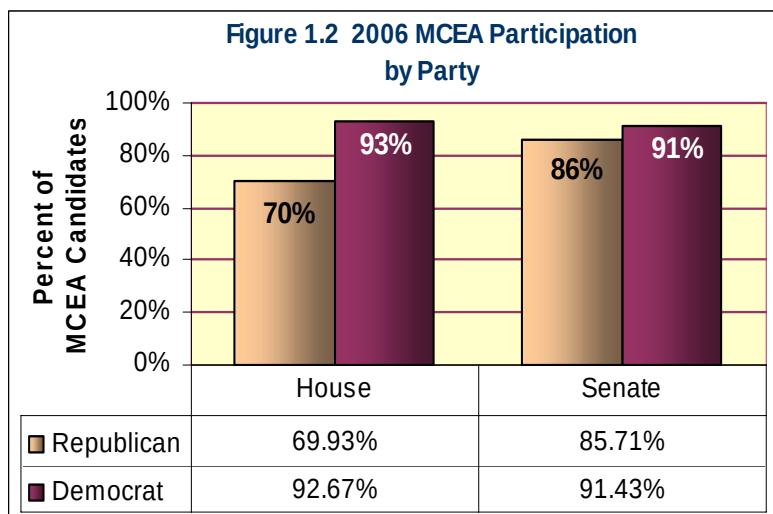


For House candidates, Democrats are participating at a rate that is about 23% higher than Republicans (Figure 1.2, next page). Among candidates running for the State Senate, Democrats and Republicans have been participating in the MCEA in roughly similar numbers. A table with the exact numbers of participants in each party is included in the Appendix.

In addition, Maine has a third “qualified party,” the Green Independent Party, as well as independent

candidates who are not enrolled in any party. In the last two elections, about 20 – 30 legislative candidates have run as Green or independent candidates. In 2004, their rate of participation in the MCEA was 79%, but the rate dropped to 57% in 2006.

The high rate of MCEA participation has resulted in elected Legislatures with a very high degree of participation in the MCEA. Participation by elected Legislators has risen from 60% in the 121st Legislature (elected in 2000) to 84% in the 123rd Legislature (elected in 2006) (Figure 1.3).



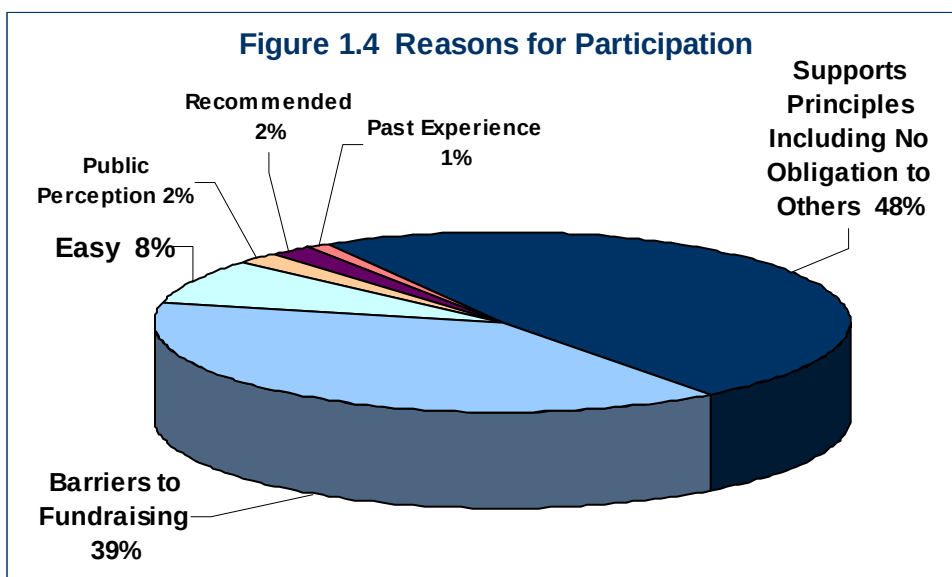
Why Did They Participate?

After the 2004 and 2006 elections, the Commission conducted post-election surveys of all legislative candidates. For the 2006 survey, about one-third of MCEA candidates responded. The survey included questions on why they chose to participate in the MCEA, if they were satisfied with the program, if they would participate again, and if elected would it change the way they conducted legislative business.

The 2006 survey responses show that almost half of MCEA candidates participated because they support the principles of the program (Figure 1.4, next page). The principles mentioned include eliminating a sense of debt or obligation to campaign contributors, focusing on constituents and issues rather than fundraising, and leveling the playing field for candidates.

Forty percent of the respondents stated that impediments to fundraising were among their reasons for participation. These impediments included a limited amount of time to raise contributions, the rural nature of the candidate's district, or a dislike of fundraising.

Of the remaining thirteen percent of respondents, eight percent cited the ease of running as a MCEA candidate, two percent stated that the public would have a positive perception of them, another two percent participated because it was recommended to them, and one percent had previously run as MCEA candidates and wished to do so again (Figure 1.4).



Will Candidates Continue to Participate in the Future?

In the survey, candidates were asked whether they were satisfied with the program and whether they would participate in the MCEA in the future. Overwhelmingly, participating candidates stated that they were satisfied with the MCEA program and would participate again.

Sixty-two percent of the candidates were "very satisfied" with the program and another thirty-six percent were "reasonably satisfied" (Figure 1.5, next page).

Survey responses show that fifty-nine percent of the MCEA respondents will "definitely" participate in the MCEA in future elections and twenty-six

"I like the idea that clean elections are just that and that we are not indebted to anyone."

"Convenient, right principles, fair."

"I believe clean elections have improved Maine's responsiveness to citizens and reduce the influence [of money]."

"There's no way I could raise the campaign funds necessary while residing in this very rural area of Maine. And I don't want to put my hands in the pockets of special interest groups."

"Candidates should always be talking about the issues, not raising money. MCEA makes that possible."

"Easier and fairer."

"...it is the fairest system and I did not have to fundraise."

"This is an excellent system."

"It provided me an opportunity to receive an amount of funding that was enough to run a competitive campaign. I am not sure I would have been able to raise enough funds otherwise."

"Easier for first time candidates."

percent will “very likely” participate (Figure 1.6). When these responses are sorted by gender and experience, a significantly greater number of experienced women candidates said that they would definitely participate in the MCEA in future elections (91%) compared to men (52%) (Figure 1.7). This inclination of women candidates to continue to participate in the MCEA is consistent with the finding that the MCEA was a “very” important factor in women candidates’ decision to run for office. As discussed in the following chapter, Maine has seen a moderate increase in the number of women candidates running for the Legislature since the MCEA went into effect.

Figure 1.5 Overall Satisfaction with MCEA Program

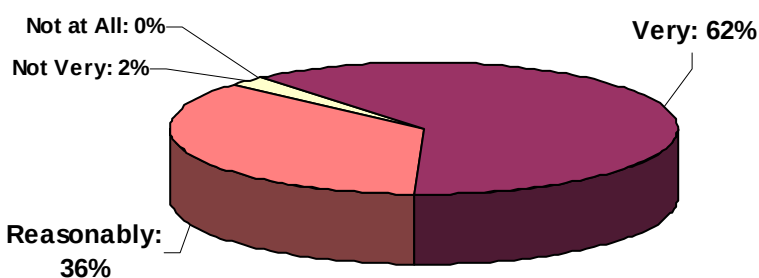


Figure 1.6 Likelihood of Participating in Future Elections

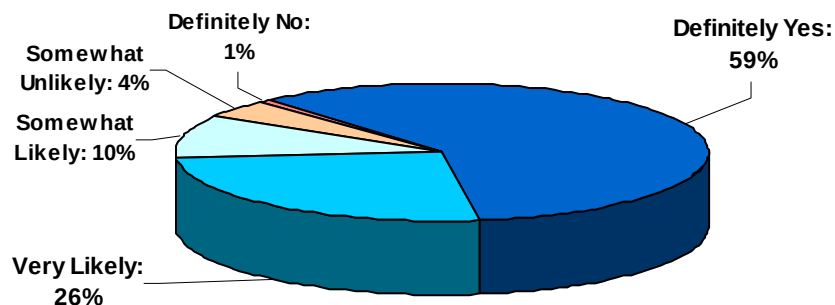
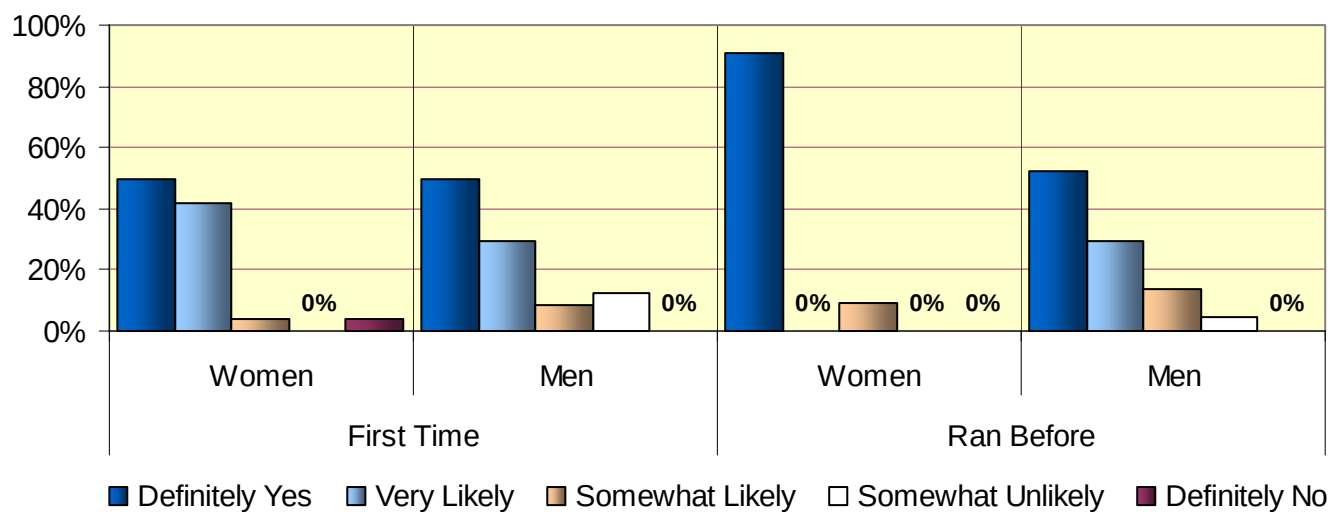


Figure 1.7 Future Participation by Gender and Experience



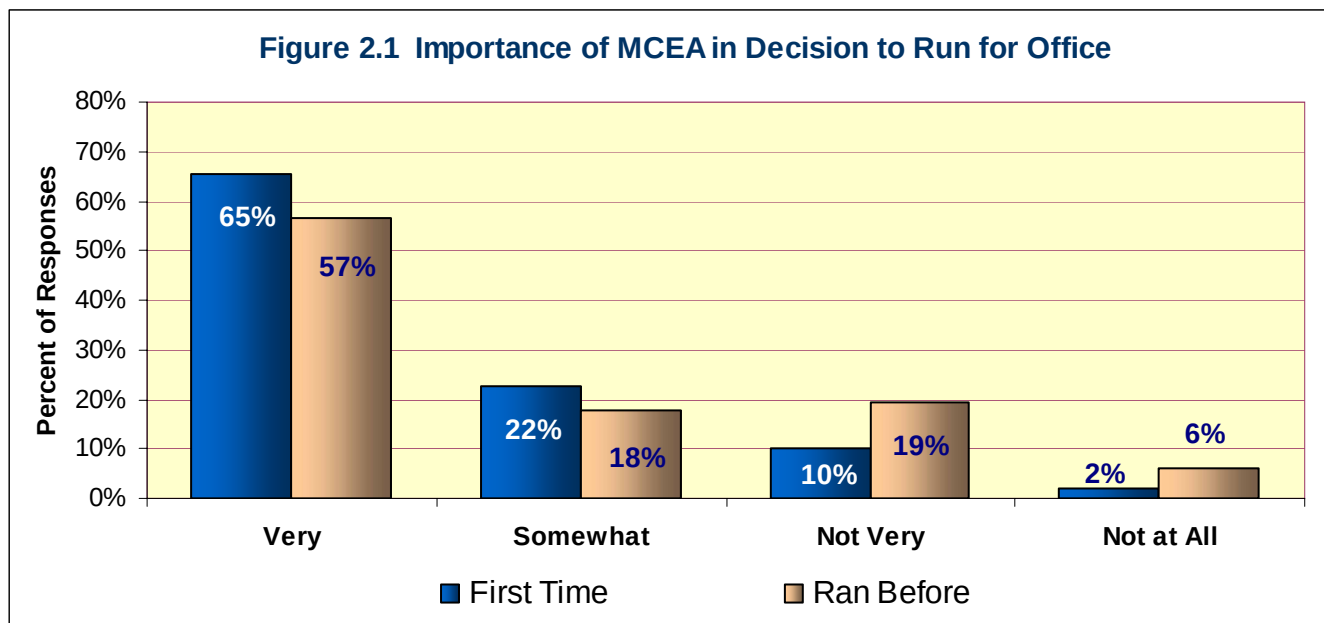
Chapter 2

Encouraging New Candidates and Competition

Importance of the MCEA in Candidates' Decisions to Run

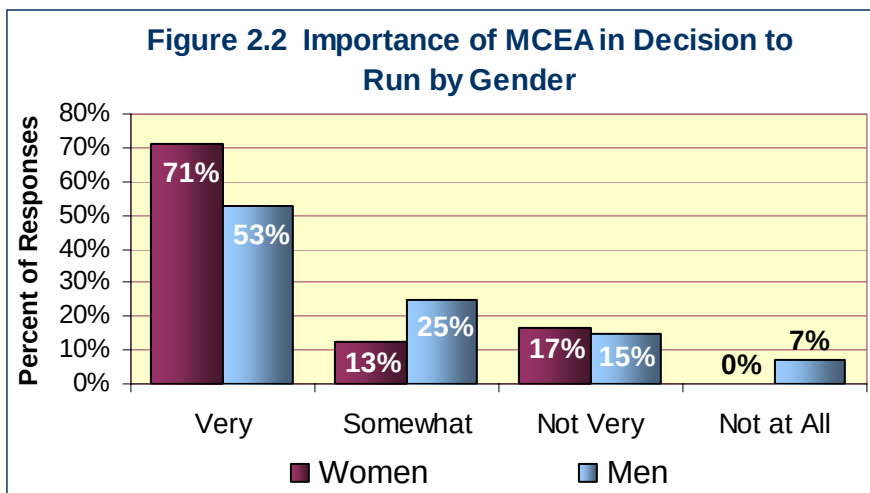
One clear success of the Maine Clean Election Act is that it has encouraged first-time candidates to run for office, including some who otherwise would be discouraged by the prospects of private fundraising. In 2006, the Commission conducted surveys of all legislative candidates, and MCEA candidates were asked: "How important was the availability of the MCEA in making your decision to run for office?" In the 2006 survey, 61% of the candidates who responded said that the MCEA was "very important" in deciding to run for office and 20% said that it was "somewhat important."

For first-time and women candidates, the MCEA was an even more influential factor. For first-time candidates, 87% responded that the MCEA was very or somewhat important in their decision to run (Figure 2.1). Seven out of ten women (71%) stated that the MCEA was very important in their decision to run, and 13% said that it was somewhat important. A total of 78% of male respondents said that the MCEA



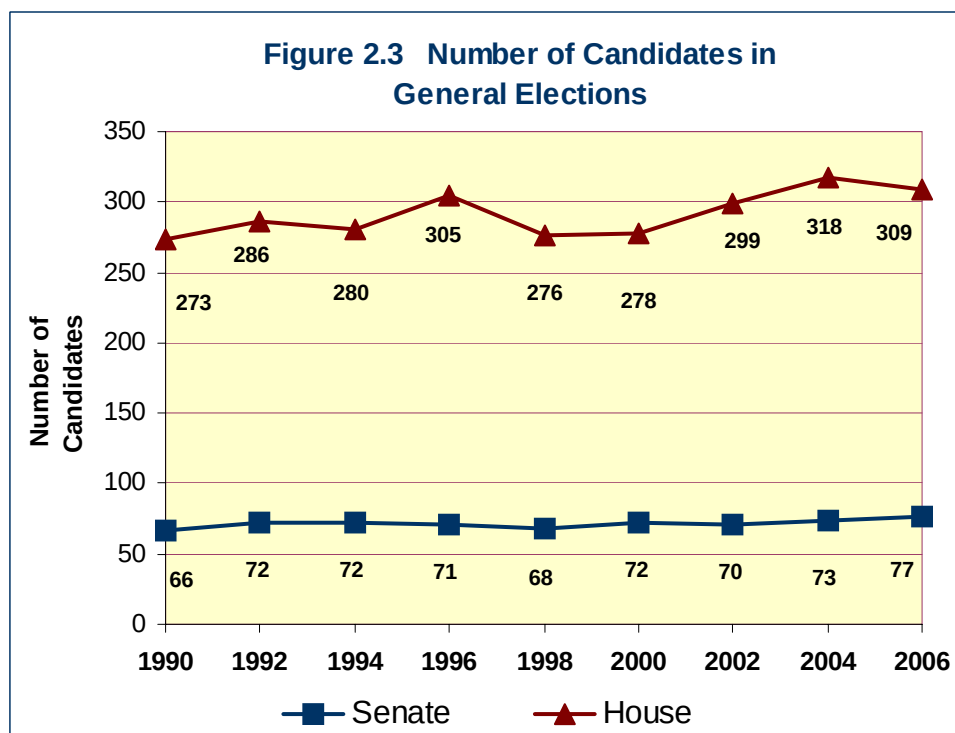
was very or somewhat important in making their decision (Figure 2.2).

The Commission concludes that the MCEA has been an important factor in many candidates' decisions to run for office, particularly for first-time candidates and women.



More Candidates and More Contested Elections

The MCEA has contributed to a moderate increase in the number of candidates running in general elections for the Legislature. In the years of 1990 through 2000, an average of 349 candidates participated in general elections.¹ In 2004 and 2006, the number of legislative candidates increased to 391 and 386, respectively (Figure 2.3).

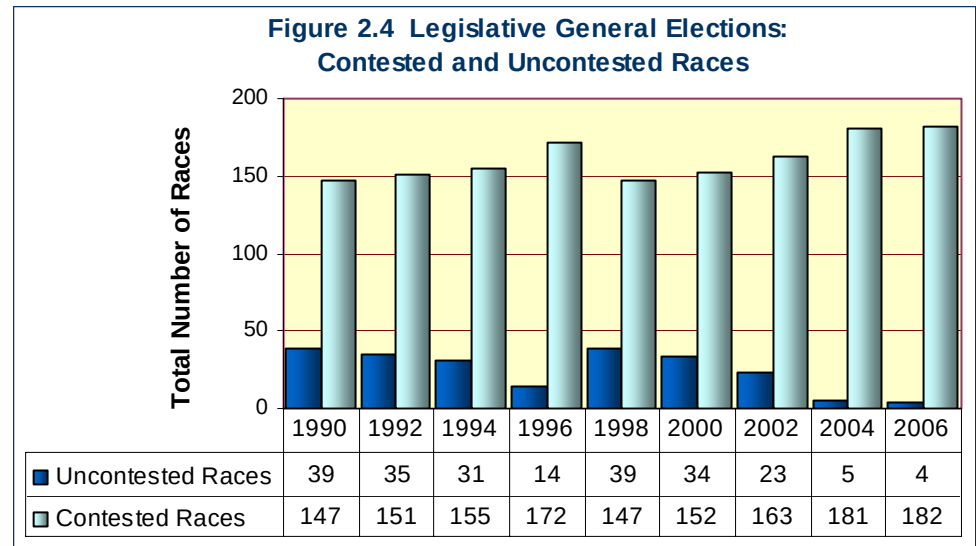


The introduction of roughly 40 candidates in the last two general elections (an 11.45% increase) is noteworthy. Given the survey responses of MCEA candidates that public funding was very or somewhat important in their decision to run, it seems reasonable to conclude that the MCEA has contributed to this increased number of general election candidates.

¹ The Commission staff is omitting from this average the 1996 general election. In that year, there was an uncharacteristic spike in the number of general election candidates which the staff attributes to the first-time effect of term limits.

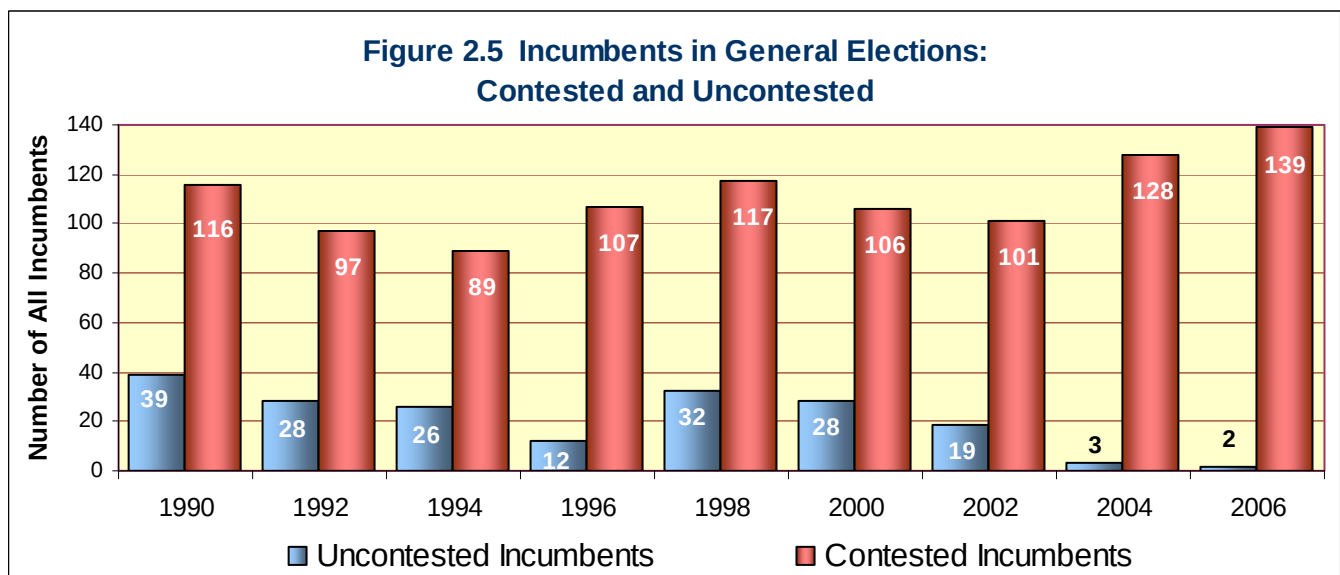
Many of these additional candidates ran in districts in which general elections would otherwise be uncontested. In the years of 1990 – 2000 (excluding 1996), an average of 35.6 of the 186 legislative races (nearly 20%) were uncontested. In 2004 and 2006, the average number of uncontested races decreased to 4.5,

which was 2.4% of the 186 legislative contests (Figure 2.4). Given the importance of the MCEA in candidates' decisions to run, the MCEA is a significant factor in sharply reducing the number of uncontested general elections for legislative office. This means more choices for more voters.



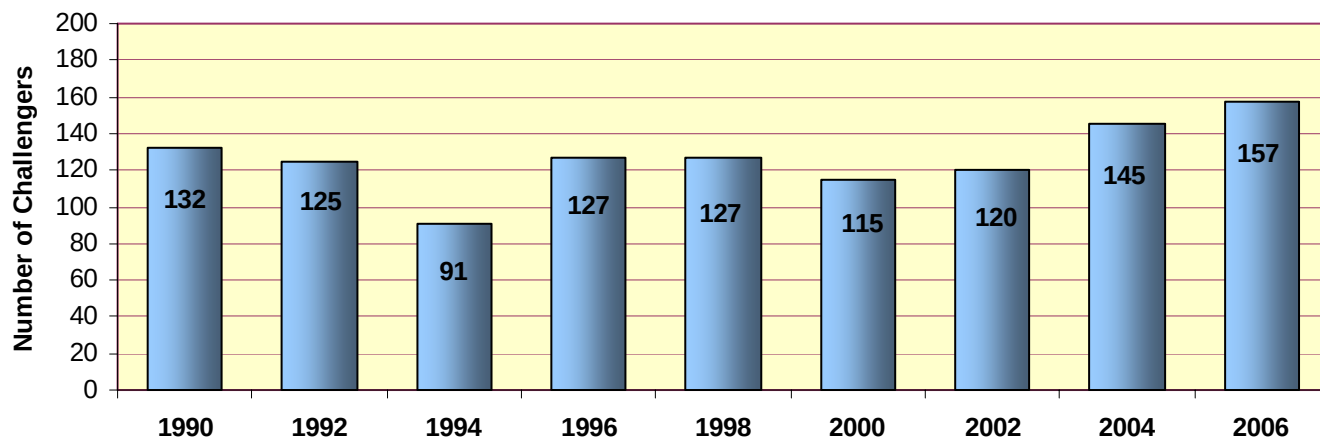
Bringing Out the Challengers

Advocates for greater competition in elections should be pleased at the sharp decrease in incumbents running for re-election without a challenger (Figure 2.5). During the period of 1990 – 2000 (omitting 1996 due to the term limits spike), the average number of incumbents seeking re-election unchallenged in the general election was 30.6 out of a total of 186 legislative districts. In 2004 and 2006, the number of incumbents unopposed in a general election dropped to an average of 2.5 districts. This trend is rein-



forced by the increased number of challengers to incumbents in a primary or general election (Figure 2.6).

Figure 2.6 Challengers in General Elections

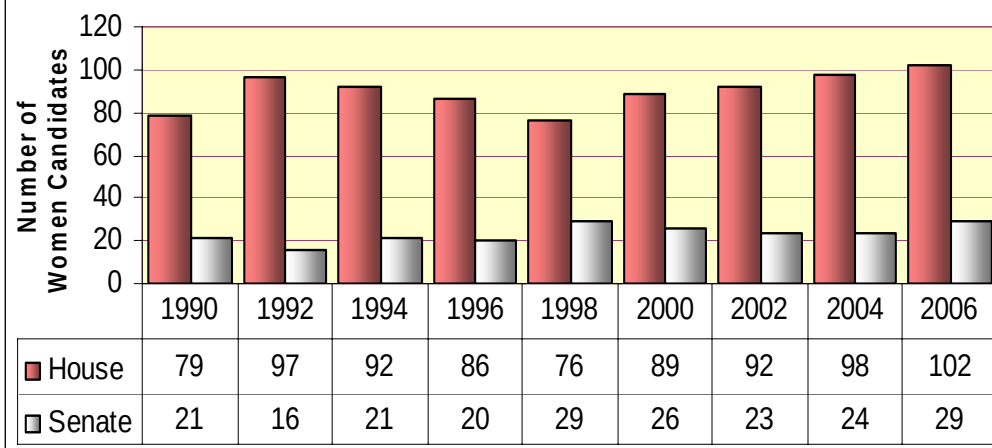


Women Candidates

The MCEA appears to be a contributing factor to the increased number of women running for legislative office (Figure 2.7). The average number of women candidates for the Legislature in the period of 1990 – 2000 was 107.4. In the last two elections, the average number increased to 126.5.

The increase of 19 women candidates in 2004 and 2006 from the pre-MCEA years is a positive trend and represents an increase of nearly 18%. As noted above, women in particular identified the MCEA as very important in their decision to run for office, so the Com-

Figure 2.7 Number of Women Candidates



mission views the MCEA as a contributing factor to the larger number of women candidates running for office. In 2006, nearly one third of all Senate candidates were women and 28% of House candidates were women.

Traditionally, Maine has ranked high in the nation for number of women in state legislatures. After the 2006 general elections, Maine ranked 10th in the nation for the number of women in the Legislature. With women making up 30.6% of the Legislature, Maine is significantly ahead of the national average of 23.5% in this regard.

Why No Sharp Increase in Candidates?

In judging the impact of the Maine Clean Election Act, it is important not to overstate its success in increasing the overall number of legislative candidates. The increase in general election candidates (approximately 40 in 2004 and 2006 compared to previous years), while significant, may not be as great as some reform advocates might have wished for. The Commission and its staff are not well positioned to speculate why greater numbers of candidates have not run, which is the result of subjective decisions by hundreds of prospective candidates about whether or not to run. There are, however, some factors that are probably at work:

- Personal finances. Maine has a part-time, citizen Legislature that serves from January to June in odd-numbered years and January to April in even-numbered years. Compared to the time commitment of service in the Legislature, the compensation is modest. Many people who would like to run simply cannot take time from their paid employment during part of the year in order to serve in the Maine Legislature. This basic fact of legislative service will always limit the number of candidates willing to throw their hat into the ring.
- Pressure to avoid contested primary elections. The number of candidates in contested primary elections (in which two or more candidates are running) has not increased significantly in spite of the MCEA. This may be because of pressure within local political party organizations to avoid contested primaries, which can drain resources early in an election and can hurt the party's nominee in a general election.
- No increase in independent candidates. The MCEA has not produced increases in the number of independent candidates for the Legislature. Given the availability of an accessible public funding alternative, the Commission is unsure why more independent candidates have not decided to run. Apparently, legislative candidates who might otherwise run as independents are deciding not to run or are choosing to run within the three political parties.

Chapter 3

Independence from Campaign Contributors

Some reform advocates argue that the public's confidence in the political system has been shaken by the perception that campaign contributors have greater influence over legislators than regular constituents. Full public funding is seen as a way to maximize the independence of elected officials.

From the opposite point of view, skeptics of public financing question whether the reduction of private money in candidate campaigns has resulted in better legislation or governance. As discussed in Chapter 4, many privately financed Legislators in Maine disagree sharply with the contention that they are influenced by campaign contributors.

For this report, the Commission did not find it practical to attempt an analysis of whether public funding of legislative candidates has changed the nature of legislation or governance in Maine. Such an analysis would be subjective and would exceed the time constraints and research capabilities of the Commission. Nevertheless, the Commission can offer two factual findings to the Legislature relating to the reduction of private contributions to legislative candidates and the effects of campaign contributions as perceived by some Legislators and candidates:

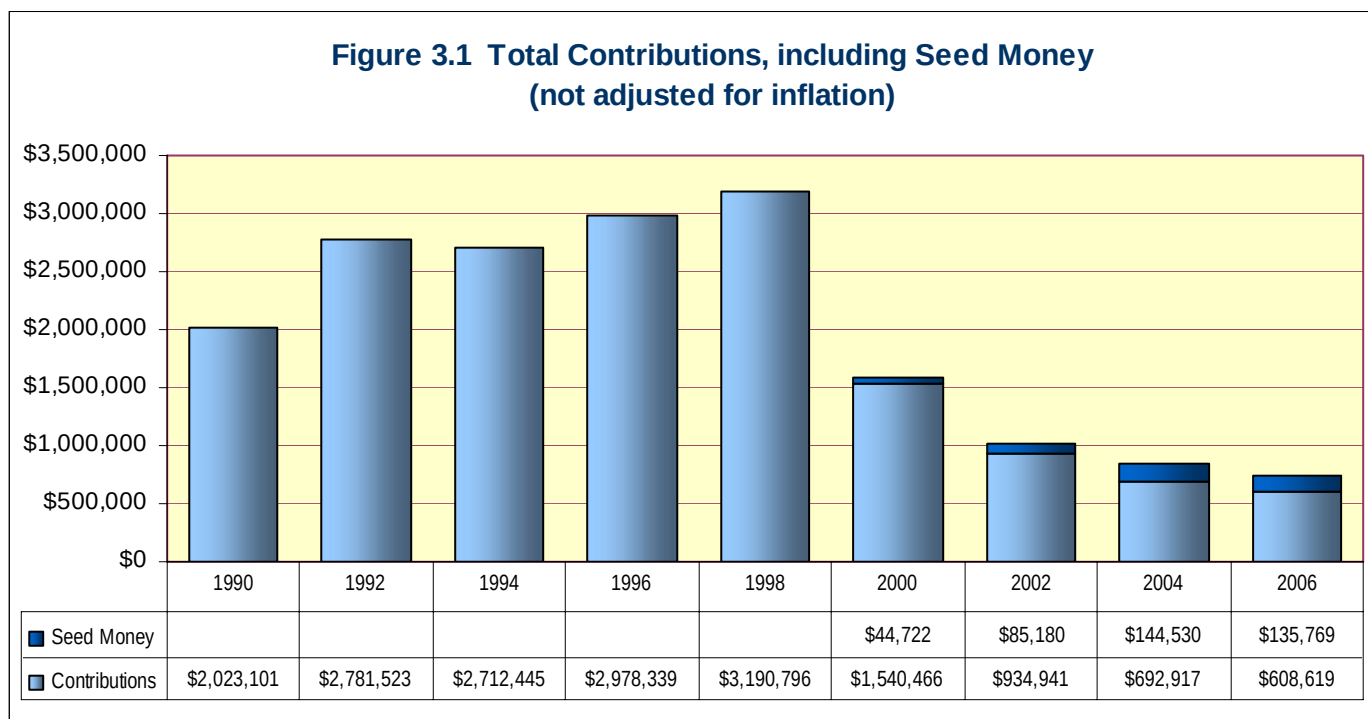
- Because of the Maine Clean Election Act, the total amount of private contributions received by legislative candidates has fallen sharply (by nearly 77%).
- In survey responses given to the Commission, a significant number of candidates and Legislators said they believe campaign contributors have some expectation of access or influence. While some might argue this is more perception than reality, this view was expressed by some Legislators with experience in the State House and cannot be discounted entirely as uninformed concern about the role of money in politics.

Reduction in Total Contributions to Candidates

Figure 3.1 (next page) shows a steep decline in private contributions to legislative candidates beginning

with the introduction of the MCEA in 2000. In 1998, before public financing was available, total contributions to legislative candidates reached its high-water mark of \$3,190,796. In 2006, with 81% of legislative candidates choosing to participate in the MCEA, a total of \$744,388 in private contributions was given to legislative candidates. That is a reduction of 76.7%.

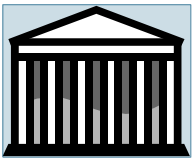
Seed money contributions to MCEA candidates are counted as part of total contributions in Figure 3.1. If seed money is excluded, contributions to legislative candidates in 2006 totaled \$608,619, which represents an 81% reduction from 1998.



There seems to be little room for doubt that the reduction in private contributions is largely due to the fact that 81% of legislative candidates are publicly funded and no longer accept contributions other than seed money. Some portion of the reduction also must be attributed to the contribution limit of \$250 per election which took effect in 2000.

Candidate Perspectives on the Influence of Campaign Contributors

In its 2006 candidate survey, the Commission asked MCEA candidates: “Why did you decide to participate in the Maine Clean Election Act?” As described in Table 3.A, on the next page, responses varied but one-quarter of the candidates specifically said they participated to avoid becoming beholden or obligated to campaign contributors. These candidate responses are listed below with minor editing for clarity and length.



**Table 3.A 2006 Survey Responses:
“Why did you decide to participate in the MCEA?”**

(from experienced Legislators and candidates)		
I believe Clean Elections have improved Maine’s responsiveness to citizens and reduced the influence of lobbyists. I like the statement it makes ... that I am not beholden to lobbying organizations and major donors. Don’t want special interest money. Don’t want to feel beholden to anyone but my constituents. I believe in it as a way to reduce lobbyist influence. Less “corporate” influence.	To put more time in my election, not to be beholden to anyone. I like the idea that Clean Elections are just that and that we are not indebted to anyone. The idea of not being obliged to anyone or any business is gratifying. There’s no way I could raise the campaign funds necessary while residing in this very rural area of Maine. And I don’t want to put my hands in the pockets of special interest groups.	Allowed me to run without being “obligated” to campaign contributors. I like not being beholden to any individual or group. I want to focus on the voters and issues, rather than spending the majority of time raising funds from special interests. It takes politics and special interest groups out of a race. To avoid lobby money, PAC’s and private donations.
(from candidates with no prior campaign experience)		
I did not want to be beholden to anyone. Frees the candidate from any suggestion of influence. So I wouldn’t be beholden to anyone. Precludes trying to “raise funds” & becoming obligated to PAC groups, special interests. If elected there are no monetary IOU’s. I would not want to be tied to any business or organization to fund me.	Expenditures should be controlled – eliminates money – based on 3rd party influence. I like not having to owe donors political favors. I didn’t want somebody’s money to tell me what to do! I refuse to be beholden to anyone or entity outside of my district, county and residents and they alone! Didn’t want to be privately financed or by Big Business. Only have to answer to the taxpayer.	The fact that you don’t have to find large donors, who most likely you would be indebted to. I wanted to run a viable campaign without feeling indebted to special interests. I didn’t want to make deals with groups in order to get money. Because with Clean Elections no corporations own you. You are working for the people. To avoid indebtedness to campaign donors and to eliminate having to spend time raising funds.

Will the MCEA Change the Way Legislators Believe They Will Do Their Job?

In the 2006 survey, MCEA candidates were also asked: “If you were elected, do you think that the Maine Clean Election Act will change the way you do your job as a Legislator?” Twenty-five percent of the can-

didates replied “Yes,” thirty-seven percent responded “No,” and thirty-eight percent selected “Does Not Apply/Unsure.” Some of their explanations are listed below (Table 3.B)..

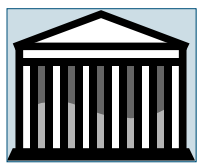


Table 3.B 2006 Survey Responses: “Do you think that the MCEA will change the way you do your job as a Legislator?”

Answered: Yes

From Experienced Legislators:

Won't have to feel beholden to large donors (even if I go against their wishes, there is subtle or not so subtle pressure.

In general, I am not “owing” my leadership anything by virtue of them contributing to my campaign ... gives me more freedom.

Makes me less susceptible to the influence of lobbyists.

No obligation.

Lobbyists are a source of information, not a source of intimidation.

I do not feel pressured to please lobbyists.

I do not get lobbied as heavily as traditional candidates do.

I can be independent.

No special interest involvement.

No lobbyist influence.

Not beholden to anyone.

From Experienced Candidate:

No outside influence.

From First Time Candidates:

No obligation to donors. (first time running)

I do not feel I owe anyone any favors as they say politicians do when PAC's fund them. (first time running)

Answered: No

From Experienced Legislators:

If I accepted donations from anyone or any group I would not give anyone special consideration – nor will I as a CE Legislator.

My actions as a Legislator were always based on my convictions not where my campaign money came from.

When privately funded I didn't accept soft money – so avoided any sense on my part of financial obligation.

I would always strive to be independent of campaign financing influence.

Limiting contributions eliminates potential for gifts that act to lobby.

Whether one is a “traditional” candidate or “clean” candidate should make no difference in how one conducts the people's business.

Those that gave money to previous campaigns did not cause me to vote in favor of their issues.

From Experienced Candidates:

I can't imagine that the small contributions allowed in traditional campaigns actually sway votes

I do not expect to change the way I do my job regardless of funding source.

From Newly Elected Legislator:

Hard to say – I like to think contributors would not have had extra influence had I been non-CEA, but unless you've been there

Conclusion

From 1998 to 2006, total contributions to legislative candidates dropped 77% from \$3,190,796 to \$744,388 (including seed money). It is reasonable to conclude that this reduction is mostly due to the two major reforms enacted by voters in 1996 – the Maine Clean Election Act and limits on contributions to candidates. Candidates and Legislators vary greatly in their opinions on whether campaign contributors seek to use their donations to affect activities within the State House. Whether public financing has reduced campaign contributors' influence over legislative decision-making is outside the scope of this report and may be impossible to determine.

Chapter 4

Views of Privately Financed Candidates

Every election year, dozens of candidates for the Maine Legislature choose not to join the Maine Clean Election Act for a variety of reasons, including:

- some candidates do not approve of public funds being spent on political campaigns;
- on a personal level, some candidates feel that they do not want to burden Maine taxpayers; and
- some candidates believe that the system of private fundraising used in most state elections and in congressional elections produces more qualified elected officials.

Following the 2006 elections, the Commission staff read carefully the survey responses of privately financed candidates. Three general themes came up repeatedly and are discussed in the following sections.

Disapproval of the Name of the Maine Clean Election Act

Some of the most sharply worded comments from privately financed candidates concerned the name of the program: the Maine Clean Election Act. These remarks echo comments heard by the Commission staff in recent years that some privately financed candidates resent any implication that they are “dirty” or influenced by lobbyists or special interests merely because they have funded their campaigns through contributions (Table 4.A, next page).

The name of the MCEA was drafted by the advocates of the 1996 citizen initiative and was approved by Maine voters. While the name of the program was not chosen by the Legislature, it could be amended statutorily. One previous attempt to change the name of the MCEA was not successful (L.D. 243 in the 121st Legislature). Based on the titles of the bills submitted for the 123rd Legislature, another bill proposing to change the name of the MCEA may be considered in 2007, but it has not been printed at the time of this report’s publication.

**Table 4.A 2006 Survey Responses from Privately Financed Candidates:****Disapproval of the name of the Maine Clean Election Act**

Biggest change I would recommend is name change. "Clean" conjures up the antithesis "dirty" when one is privately financed. Should be called "publicly" or "taxpayer" financed vs. "privately" or "traditionally" financed. The name has been

used as a campaign tactic against me twice and I resent the implication.

Change the name – to Public Funding – I resent the insinuation of my being "dirty."

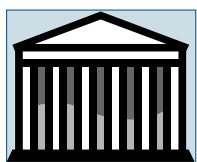
Change the name from "Clean Election system" to "Taxpayer funded election system."

Change the name to Government Funded Candidate.

Burdens on Privately Financed Candidates

Privately financed candidates who have MCEA opponents are required to file three additional "accelerated" financial reports. These reports show the privately financed candidate's total cash receipts and total expenditures as of the 42nd, 21st, and 12th days before the election. In addition, when these candidates' receipts or expenditures for the election exceed 101% of the initial MCEA payment made to their opponents, the privately financed candidates are required to file a 101% Report within 48 hours.

Several privately financed candidates commented that these filing requirements were burdensome on them and advantageous to their MCEA opponents (Table 4.B).

**Table 4.B 2006 Survey Responses from Privately Financed Candidates:****Additional MCEA filing requirements are burdensome**

I think accelerated reporting burdens a privately financed candidate; and actually helps the clean election candidate. Evenly space the reporting periods so that there are not accelerated reports due. Campaign monies are going to be distributed to clean election candidates right after mandatory reporting dates. Let them organize their campaigns accordingly.

There are too many reports and different levels. Get rid of Clean Elections!!

This process is not your fault but it just irks me that as a PFC I had to work so much harder all to save the taxpayers money – it should be reversed!

The MCEA creates time consuming obstacles for the "dirty" candidates who use their own IRA money.

Eliminate all reporting for "dirty" candidates – if we don't use MCEA money why do we have to participate in the "MCEA form derby".

Do not require privately financed candidates to notarize affidavits (re: 101% Report) and file affidavits on line.

Require less filings of accelerated reports.

I believe the Clean Elections people should be required to report expenses on the same timetable. Private people need to know how much is left also – before we decide how to proceed.

In L.D. 1854, the Commission recommends reducing these requirements on privately financed candidates. The Commission's bill proposes that the accelerated reports would only be required if the privately financed candidate exceeded the initial amount paid to the MCEA opponent. If the privately financed candidate's receipts and expenditures never exceeded the opponent's initial payment amount, no accelerated reports would be required. If the recommended changes are enacted, the Commission staff would make additional efforts to educate privately financed candidates with MCEA opponents about filing requirements to decrease the likelihood that they will miss a required report.

Costs vs. Qualifications

A number of privately financed candidates questioned the value of the Maine Clean Election Act, particularly when public funds are distributed to candidates who are perceived as marginal or very unlikely to win (Table 4.C).

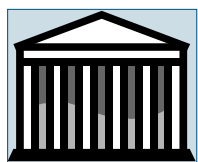


Table 4.C 2006 Survey Responses from Privately Financed Candidates:

MCEA funds marginal candidates

Eliminate it. MCEA is wasteful of public funds. It is a "give away money" program that attracts lazy candidates.

One of my opponents got \$13,800+ and got 226 votes. He did no campaigning beyond advertising with the clean election funds. There should be some qualification to ensure a candidate is serious about running before getting such a large sum of money.

I would be happy to meet with the commission at any time to speak to my concerns or issues. I also have a problem with over 3 million being spent on gubernatorial races, particularly when the candidates had little chance of winning.

In my opinion the general public is not aware of where the "clean campaign" funds truly come from and how much it costs all taxpayers for this program.

In my opinion, MCEA is a bureaucracy that will continue to grow, require more public money and become self serving. It will pay for, protect and assist candidates that will maintain it and obstruct and penalize candidates that oppose it.

The qualifications of the MCEA candidates have remained the same since the law was enacted directly by Maine voters in 1996. The program has proved itself to be very accessible for candidates who are running inside or outside of the structure of a major political party.

The Legislature may wish to consider revisiting the program's original qualification requirements (50 five-dollar contributions for the office of State Representative, 150 for Senator, 2,500 for Governor). Four bills submitted to the 123rd Legislature would make it more difficult for legislative candidates to qualify for

MCEA funding, and six bills would tighten the requirements for candidates for Governor. In L.D. 1854, the Commission recommends that candidates for Governor should be required to collect \$15,000 in seed money contributions of \$100 or less from Maine residents. The Commission proposed this new requirement in order to ensure that only those candidates with a demonstrated threshold of support within the state receive the hundreds of thousands of dollars available to gubernatorial candidates.

The comments and experiences of privately financed candidates are important considerations in maintaining the effectiveness and fairness of the MCEA for all candidates. The Commission has taken their views seriously, particularly regarding reporting requirements and making the program more fiscally accountable.

Chapter 5

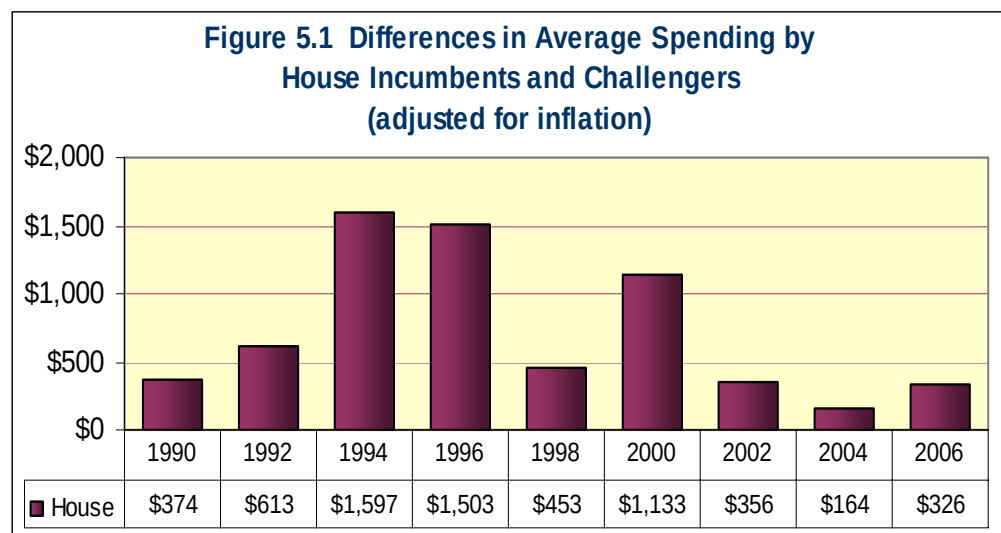
Campaign Spending

A review of average candidate spending in legislative races since 1990 suggests that the Maine Clean Election Act is having an effect in encouraging financially competitive elections. In the last four election years,

- the financial advantage of incumbents over challengers has dwindled;
- the spending gap between winning and losing candidates in the general election has been reduced;
- average spending by privately financed candidates has decreased; and
- average spending by legislative candidates overall has stayed flat or gone down.

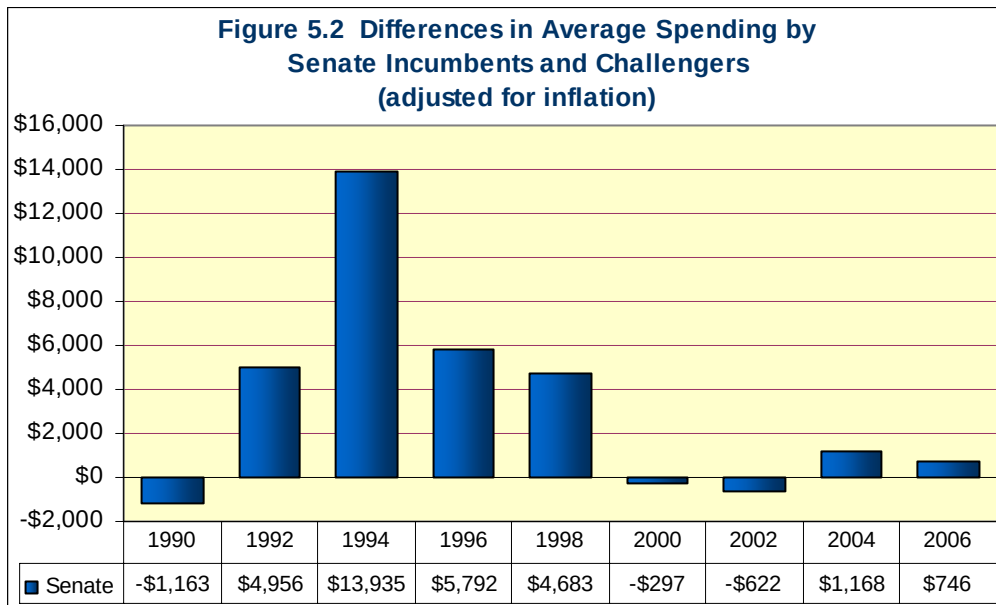
Reducing the Financial Advantages of Incumbents over Challengers

One traditional concern of campaign finance reform advocates is the advantage that incumbent legislators have in raising campaign funds over their challengers. The issue raised is that campaign money flows more freely to candidates who have the electoral advantages of incumbency, and that consequently challengers have a harder time getting their messages out to the public. Some reformers see public funding as an antidote to this perceived problem by provid-



ing challengers with sufficient funding to compete in the political arena.

The Commission's analysis indicates that the spending gap between incumbents and challengers in legislative races has narrowed considerably since the MCEA has been in effect. Figures 5.1 (previous page) and



5.2 were calculated by taking the average spending of incumbent Legislators and subtracting the average spending of challengers. (Challengers were considered to be any candidate running in a legislative district in which an incumbent was running for re-election.) The average spending amounts for incumbents and challengers are included in a table in the Appendix.

Based on the structure of Maine's public financing system, there are strong reasons to believe that a good part of the narrowing of the gap is due to the MCEA. In the last two elections, roughly 80% of legislative candidates in Maine participated in the MCEA. All participating House candidates running in a contested general election received the same initial payment, and the same is true for Senate candidates. This tends to equalize funding between incumbents and challengers. Also, if a MCEA candidate is running against a high-spending opponent, the MCEA candidate will receive additional matching funds. While the MCEA does not guarantee equality between incumbents and challengers, it does ensure that a challenger who qualifies for

Excluding Spending Extremes from Averages

In order to calculate average candidate spending, the Commission excluded candidates whose spending was uncharacteristically high or low. The Commission did not include:

- candidates who lost a primary election or who withdrew after a primary;
- candidates who spent less than \$500 for a House race or \$2,000 for a Senate race; and
- a small number of candidates who spent a very high amount for their legislative race proportionate to other candidates.

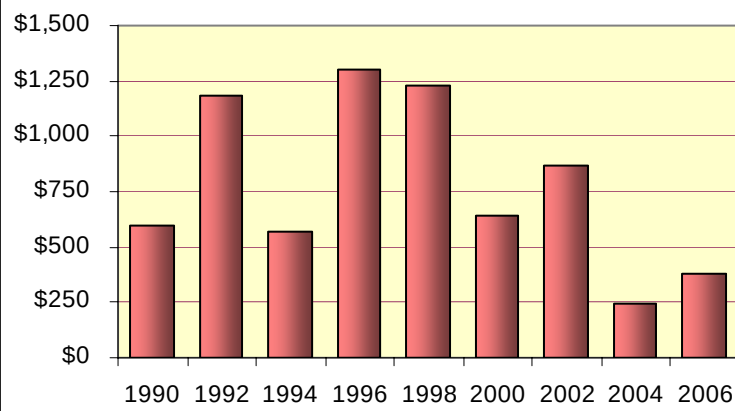
The excluded candidates are listed in the Appendix. Their expenditures have been excluded from the median and mean spending calculations in this chapter, but are included for all other purposes in the report.

public financing can count on an adequate amount of funding to get their message out. This is an important consequence of the MCEA.

Reducing the Spending Gap Between Winners and Losers

Another yardstick to measure the financial competitiveness of elections is to examine the difference in average spending between winning and losing candidates in general election races. The concern raised by reform advocates nationally is that legislative candidates with greater fundraising potential are able to out-communicate their opponents through paid advertising and mailings, so that a candidate's capacity for fundraising can disproportionately influence the outcome of elections. The opposite view is that can-

Figure 5.3 Differences in Average Spending by House Winners and Losers (adjusted for inflation)



Adjusting for Inflation

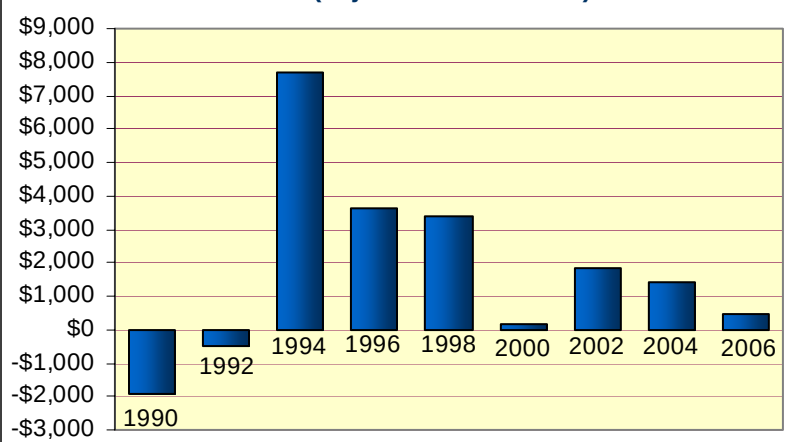
For comparative purposes, the Commission has accounted for inflation when considering average candidate spending, using 2006 as the base year. The Commission used an inflation index from the U.S. Bureau of Labor Statistics. For example, if campaign goods and services cost \$1,000.00 in 1990, those same goods and services would cost \$1,524.46 in 2006. All charts that have been adjusted for inflation are clearly noted.

didates who are able to attract greater amounts of campaign contributions may be the more qualified candidates, so the government should make no effort to equalize spending within a legislative race.

Regardless of differing policy views, the data indicates that since the enactment of the MCEA, the spending gap between successful and unsuccessful candidates in the general election has decreased (Figures 5.3 and 5.4). While the spending differences have varied considerably from year

to year, in House races the gap was in the range of \$500 – \$1,200 for the pre-MCEA years of 1990 – 1998. That difference is a significant financial advantage in a House race, and has narrowed considera-

Figure 5.4 Differences in Average Spending by Senate Winners and Losers (adjusted for inflation)

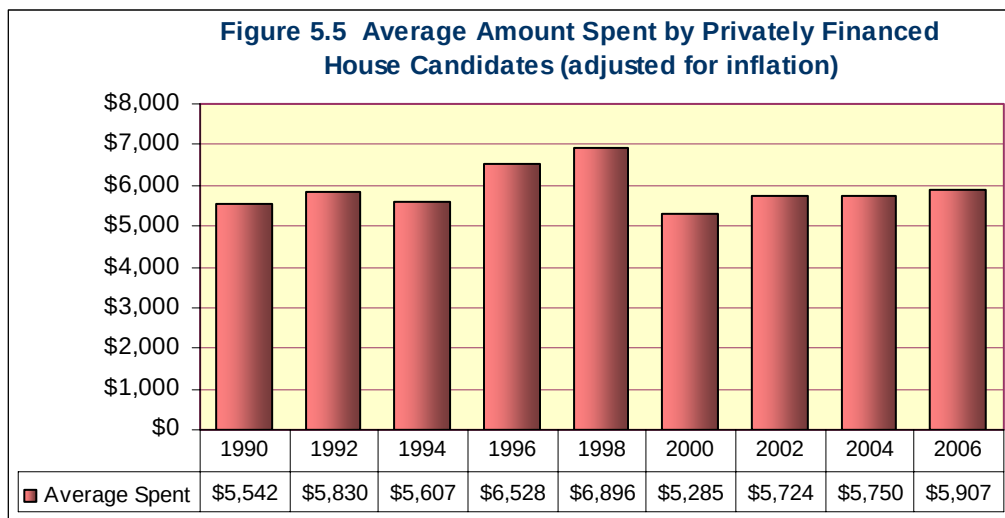


bly in the last two elections. In the Senate, there is an even clearer reduction beginning with the introduction of the MCEA in 2000. In 1990 and 1992, Senate candidates who lost the general election spent more than winners, underscoring that a financial advantage does not single-handedly determine the outcome of an election.

Average Amounts Spent by Privately Financed Candidates

One goal commonly attributed to the MCEA at the time of its passage was to limit the growth of spending by candidate campaigns. By its design, the MCEA tends to control candidate spending in two ways:

- MCEA candidates are allowed to spend only public funds received from the state and limited seed money. The amount of public funds paid to candidates is determined by statute. Voluntary participation in the program thus has the effect of limiting spending.
- The MCEA creates a disincentive for privately financed candidates with a MCEA opponent to outspend the opponent. When their fundraising or spending exceeds the initial payment amount received by the MCEA opponent, the publicly financed opponent begins to receive matching funds.

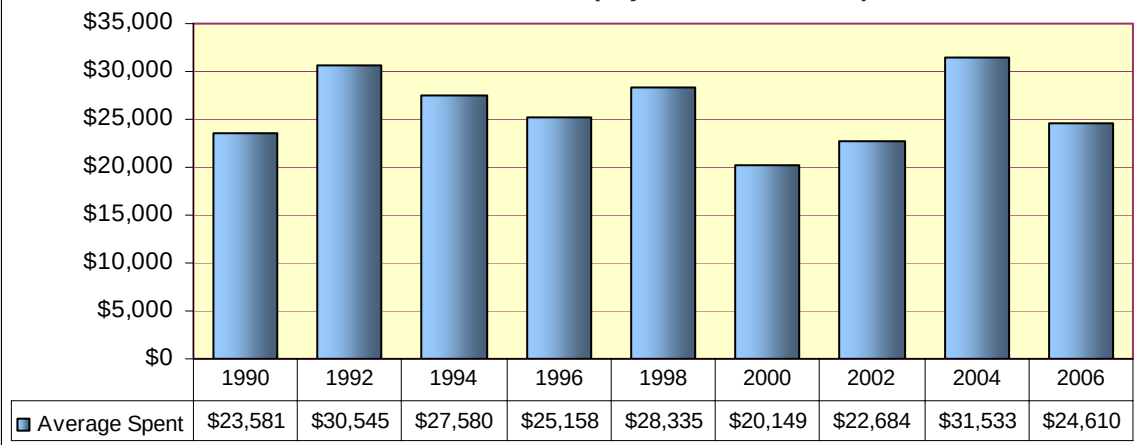


While there has been some fluctuation in the average spending by privately financed candidates, there has been a general reduction since the MCEA was adopted. In the three most recent elections (2002 – 2006), privately financed candidates for the House of Representatives spent, on average, \$5,773.46 when adjusted for inflation (Figure 5.5). This was less than the average amounts spent by privately financed candidates in the two election years preceding the MCEA (\$6,528 and \$6,896).

In the Senate, spending by privately financed candidates has varied considerably. In 2004 (when only 15 Senate candidates in the general election were privately financed), average spending by privately financed candidates increased to \$31,523, even when the campaign of one very high-spending candidate

(John Linnehan) is excluded from the average (Figure 5.6, next page). Nevertheless, there does appear to be a reduction since the introduction of the MCEA.

Figure 5.6 Average Amount Spent by Privately Financed Senate Candidates (adjusted for inflation)

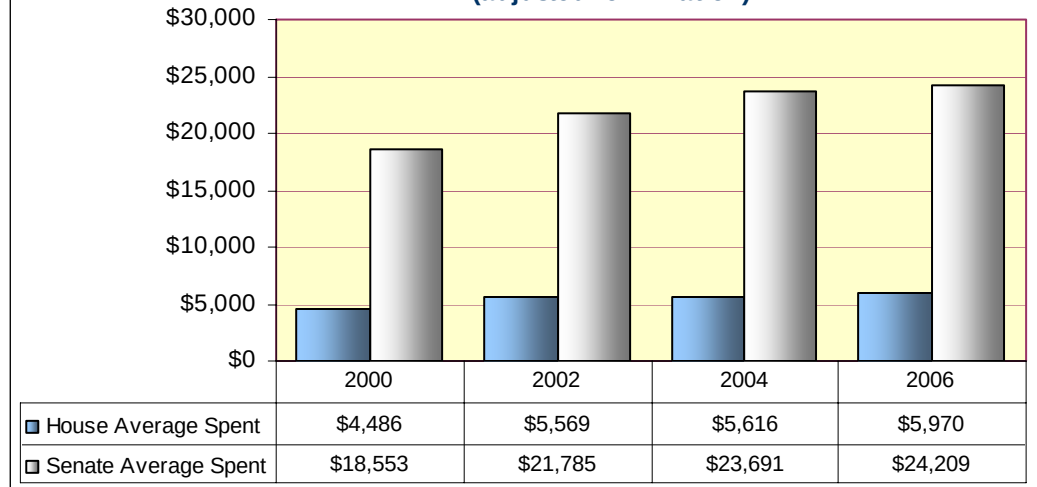


The average amounts spent by traditional Senate candidates in 2000, 2002, and 2006 were lower than in the 1992, 1994, 1996, and 1998 elections.

Average Spending by MCEA Candidates

Average spending by MCEA candidates has

Figure 5.7 Average Spending by MCEA Candidates (adjusted for inflation)



increased at a moderate rate between 2000 and 2006 (Figure 5.7). The Commission staff believes that one contributing factor is the increasing initial payments made to MCEA candidates for the general election (Table 5.A). While inflation has increased by 17% from 2000 to 2006, the initial payments have increased by 34% in the House and 56% in the Senate. The MCEA requires the Commission to recalculate the amounts of initial payments to candidates at least once every four years. By statute, the amount

Table 5.A Initial Payment Amounts for Contested Candidates in the General Election

	2000	2002	2004	2006	% Increase (2000 - 2006)	% Increase in Inflation (2002 - 2006)
House	\$3,252	\$4,255	\$4,032	\$4,362	34%	17%
Senate	\$12,910	\$17,528	\$16,791	\$20,082	56%	17%

of the initial payments received by MCEA candidates is based on average spending by

candidates in the previous two elections. The Commission staff is concerned that with more than 80% of candidates participating in the MCEA and one-half of them receiving matching funds, average candidate spending will continue to rise, thus artificially increasing the initial payment amount. For these reasons, the staff recommends that the initial payment should be based on the Consumer Price Index rather than average spending in previous elections.

Average Spending by Legislative Candidates Overall

When the spending of privately financed and MCEA legislative candidates is considered as a whole, the data shows that the MCEA is reducing average campaign spending overall. Even after inflation is taken

Figure 5.8 Median Amount Spent by House Candidates (adjusted for inflation)

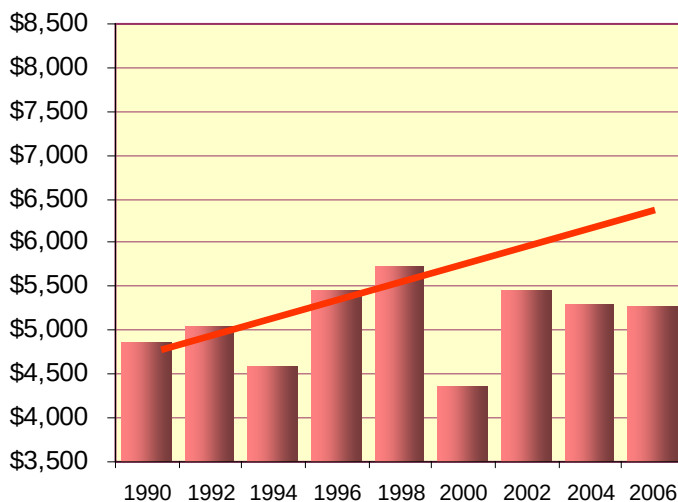


Figure 5.9 Mean Amount Spent by House Candidates (adjusted for inflation)

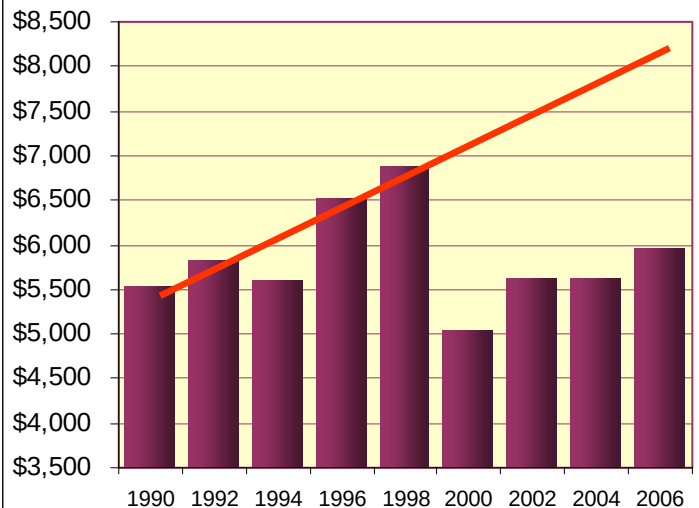


Figure 5.10 Median Amount Spent by Senate Candidates (adjusted for inflation)

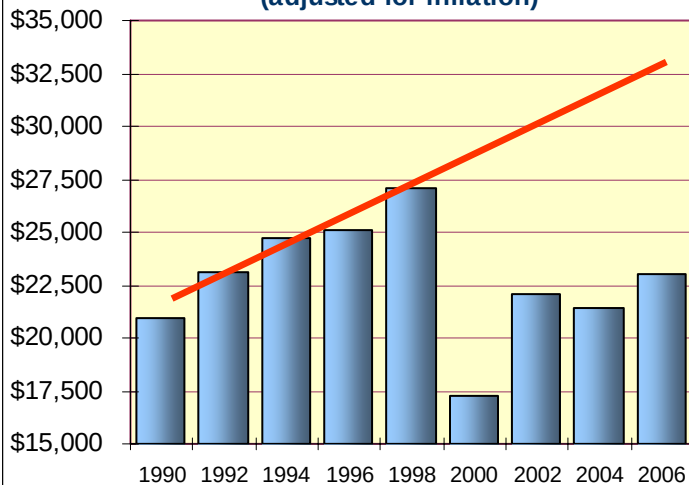
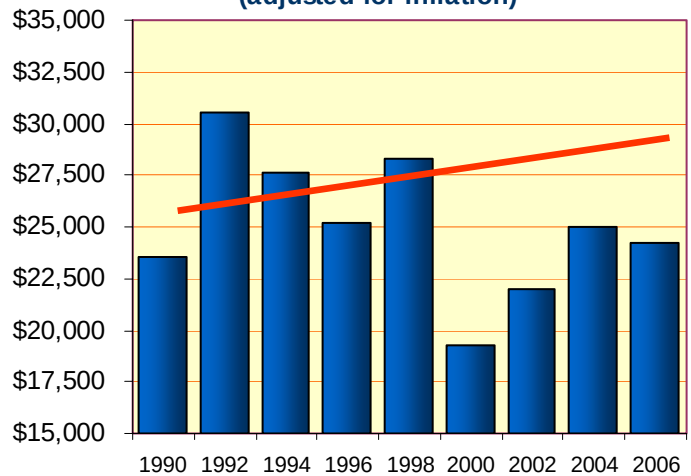


Figure 5.11 Mean Amount Spent by Senate Candidates (adjusted for inflation)

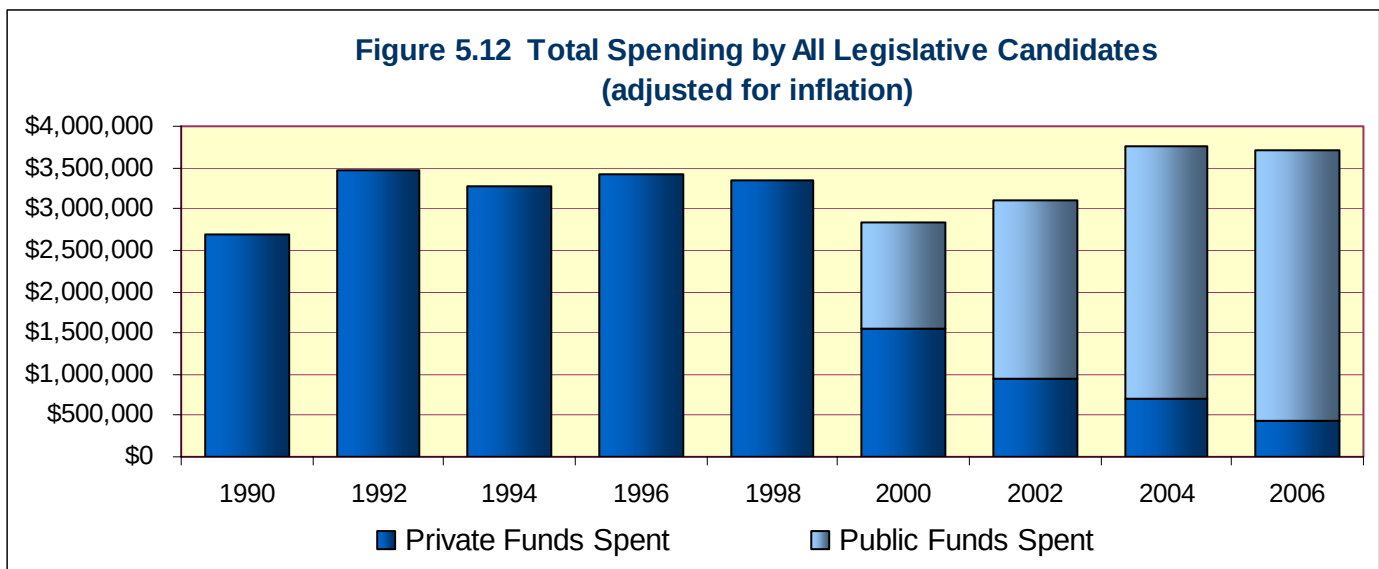


into account, spending by House and Senate candidates was increasing at moderate to rapid rates during the pre-MCEA years of 1990 – 1998 when all legislative campaigns were privately financed. The charts on the previous page show trend lines indicating what median and mean legislative campaign spending could have been during 2000 – 2006 if Maine voters had not enacted the MCEA (Figures 5.8 through 5.11, previous page).

These charts show that after the MCEA was in effect (beginning in 2000), the median and mean spending amounts for legislative campaigns overall were significantly lower than the amounts projected without the MCEA. They were also less than median and average amounts spent in 1996 and 1998 – the final two years before the introduction of the MCEA. This data strongly suggests that the MCEA has had an effect in limiting average candidate spending.

Total Amounts Spent by Candidates

Total spending by legislative candidates dropped in 2000, the first year of the MCEA. In 2002 and 2004, total spending increased, and in 2006, total spending decreased slightly (Figure 5.12). These changes in total spending in the last three election years coincide with an increasing number of candidates in the



2002 and 2004 general elections and a decreasing number in 2006.

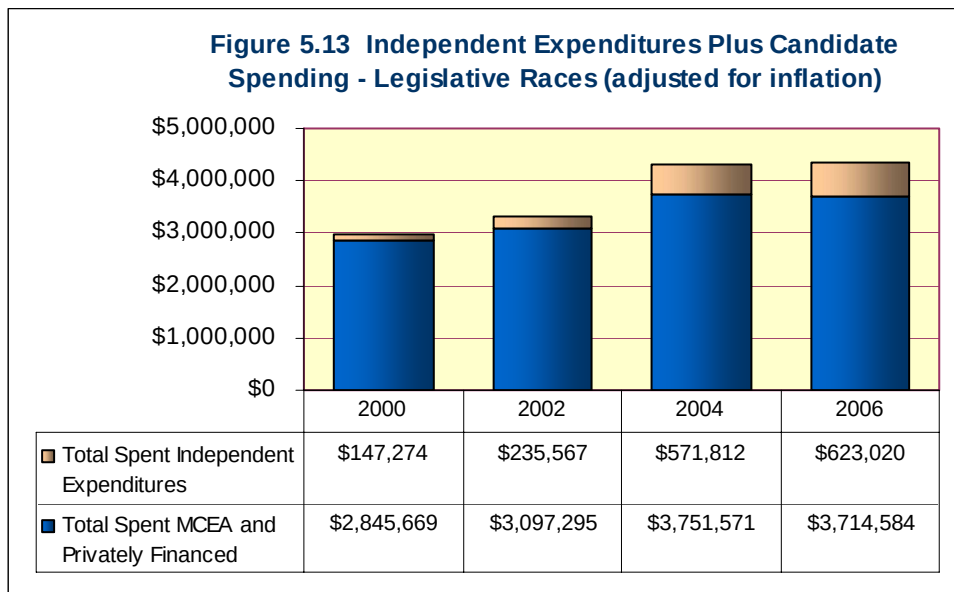
Candidate Spending Plus Independent Expenditures

When independent expenditures are added to candidate spending, the resulting total campaign spending increased in 2002 and 2004 and decreased minimally in 2006 (Figure 5.13, next page).

Candidate and Independent Expenditures

The amount spent in independent expenditures in legislative races, while growing, is still relatively small compared to the amount spent by candidates (Figure 5.13).

Independent expenditures, however, include only some communications to voters and make up only a small portion of money spent by candidate PACs and political parties. Many expenditures of candidate PACs and political parties are for purposes other than communicating with voters, such as transfers to other committees, staff, research, and overhead.



Chapter 6

Spending By PACs and Political Parties

In 1996, Maine voters enacted low contribution limits and a voluntary system of public financing for legislative and gubernatorial races. One undisputed goal of this legislation was to reduce the role of private money in state elections. Since these reforms, two trends have emerged:

- The total of private contributions made directly to candidates has decreased sharply (see Figure 3.1 in Chapter 3).
- Reported independent expenditures by political action committees (PACs) and political parties in state candidate races have increased. This is especially true of PACs organized by legislative leaders and caucuses. Some of the overall increase is due to improved reporting requirements for independent expenditures that the Legislature enacted in 2003.

Some observers are troubled by the increase in independent spending by PACs and party committees. When responding to the Commission's surveys in 2004 and 2006, many legislative candidates expressed frustration with the volume of independent expenditures made in their races. As more mailers and advertising are paid for by independent groups, legislative candidates have come to believe that they have less influence over how the candidates and issues are defined in their races. They are frustrated that they lack control over the timing and content of these third-party communications, and they dislike that matching funds are triggered to their opponents as a result.

Other objections come from those who are concerned about reducing the role of private money in candidate elections. They argue that increased PAC and party spending is directly at odds with the goals expressed by Maine voters in adopting public funding and contribution limits. Some raise the concern that PACs controlled by legislative leaders, in particular, should not be collecting large contributions because of the potential for undue influence by contributors.

Total Spending by Political Action Committees

The past four election cycles have seen an increase in the total spending by PACs that are organized to influence candidate elections in Maine (Table 6.A). (PACs organized to influence ballot questions are not included in these totals.)

PACs spend some of their money on independent expenditures (communications to voters such as advertising and literature), but they spend even more funds on expenses that are not directly related to specific candidates (e.g., staff, research, consultants, transfers of money to other PACs, supplies, and overhead expenses). Some of the increased spending in 2002 and 2006 was due to the races for Governor in those years. In 2006, for example, the PACs organized by the national Republican and Democratic Governors Associations were the first and third highest spending candidate PACs, and they spent a combined total of \$1,253,866.52 in the Governor's race.

PACs Organized by Legislators and Caucuses

Ten of the top 20 highest spending candidate PACs were formed and directed by the legislative caucuses or by individual legislative leaders (Table 6.B). PACs organized by groups representing sectors of the Maine economy (e.g., the trucking industry, hospitals, banks, and realtors) spend substantially less.

Table 6.A Total Spending by Candidate PACs

1998	\$2,058,359.46
2000	\$2,488,860.03
2002	\$3,532,109.49
2004	\$2,603,414.82
2006	\$4,787,366.73

Table 6.B Top 20 Candidate PACs by Spending in 2006

	2006 Receipts	2006 Expenditures
Republican Governors Association Maine PAC	\$717,887.77	\$715,866.52
House Republican Fund	\$606,685.91	\$594,007.43
Democratic Governors Association – Maine	\$538,001.00	\$538,000.00
Maine Senate Republican Victory Fund	\$458,801.93	\$456,185.73
Senate Democratic Campaign Committee	\$460,667.66	\$455,268.81
House Democratic Campaign Committee	\$411,434.24	\$382,707.24
Majority 101	\$162,558.81	\$147,857.76
Maine State Employees Association – PASER	\$125,546.73	\$122,283.36
Leadership for Maine's Future	\$140,146.65	\$105,360.31
Maine Truck PAC	\$90,195.82	\$88,899.89
Maine Prosperity PAC	\$96,780.51	\$82,271.58
Time for Change	\$78,168.53	\$78,138.73
Maine Association of Realtors PAC	\$201,247.56	\$70,335.97
Cummings 2006	\$67,752.21	\$63,082.99
Pingree Leadership Fund	\$61,450.71	\$58,253.92
Friends of Maine Hospitals	\$60,535.22	\$48,693.71
Edmonds For Leadership	\$49,822.78	\$41,767.49
Maine State College Republican Organization	\$42,399.53	\$39,700.91
MAINE BANKPAC-STATE	\$42,700.57	\$38,081.66
Business Minded Democrats	\$44,914.93	\$37,183.82

PACs Controlled by MCEA Candidates

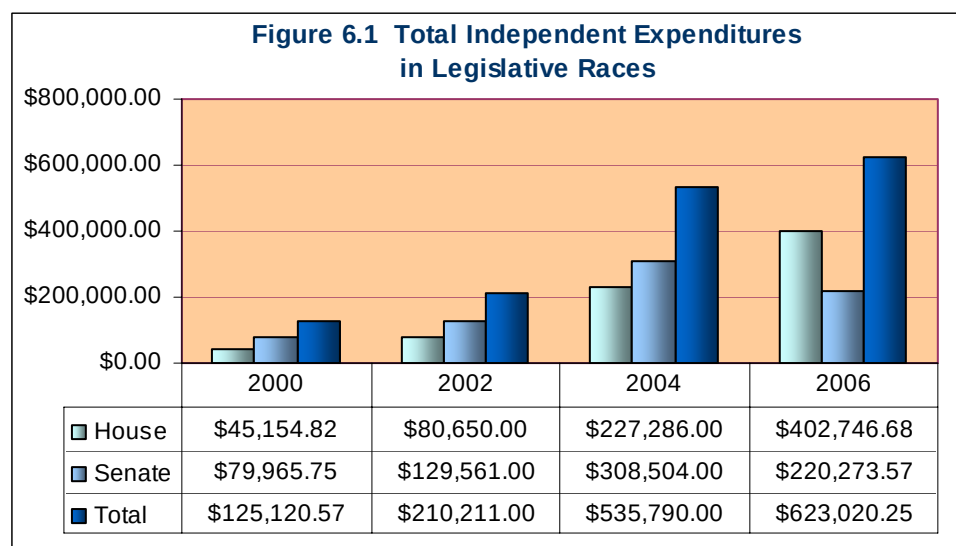
Under the MCEA, publicly funded candidates may not raise money for their own campaigns, but they are permitted to raise private contributions for other purposes such as a PAC controlled by their legislative caucus or a PAC that they have personally organized for a race for legislative leadership. The practice of MCEA candidates raising money for PACs – particularly a PAC controlled by a single Legislator – continues to be a contentious issue. Critics argue that it is inconsistent with the pledge taken by MCEA candidates not to solicit private contributions. Three bills have been introduced in the 123rd Legislature to address the issue (Legislative Documents 106, 396, and 636). The approaches taken by these bills include: prohibiting MCEA candidates from private fundraising for any PAC involved in candidate elections; requiring candidates to return MCEA funds they have received if they raise comparable amounts for PACs; and providing public funding for leadership races so that a MCEA candidate does not have to accept contributions from private sources for this purpose. The Commission has not made any recommendations in this area and is hopeful that the Legislature will address the issue in the 2007 session.

Increases in Independent Expenditures

Independent expenditures are payments made for communications to voters by groups that act independently of candidates and their campaigns. In Maine, almost all independent expenditures are made by PACs and the political parties. The expenditure must be reported to the Commission within one day if more than \$250 is spent per candidate. Most often, independent expenditures are for literature, print or broadcast advertising, or automated telephone calls. Almost all independent expenditures are made in support of the candidates mentioned in the communications, but they can also be made in opposition to the candidates.

Total Independent Expenditures

Independent spending in legislative races has increased steadily since 2000 (Figure 6.1). The Commission has no records of independent expenditures prior to the 2000 elections. Independent expenditures were nearly two-



thirds higher in 2002 than in 2000, and nearly one and a half times higher in 2004 than they were in 2002. In 2006, independent expenditures in House races continued to rise, but spending in Senate races decreased.

While the increases have been quite sharp, they are explained in large part to a 2003 expansion of the definition of independent expenditure. So, a mailer mentioning a candidate that was sent by a political party one week before the 2002 general election might not have qualified as an independent expenditure, whereas it would have in 2004 or 2006. In 2002, neither the Maine Republican Party or Maine Democratic Party reported any independent expenditures in legislative races. In 2004, they reported total independent expenditures of \$148,998 and \$68,183 respectively.

Numbers of Candidates Affected

The number of legislative candidates impacted by independent expenditures and the actual number of reports filed in each general election have also increased considerably (Figures 6.2 and 6.3).

Figure 6.2 Number of Candidates Impacted by Independent Expenditures

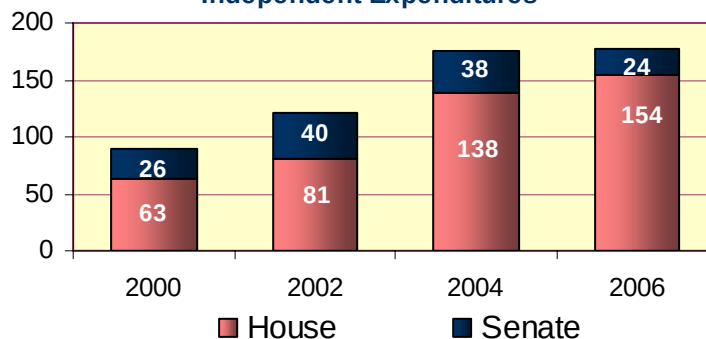


Figure 6.3 Number of Independent Expenditure Reports

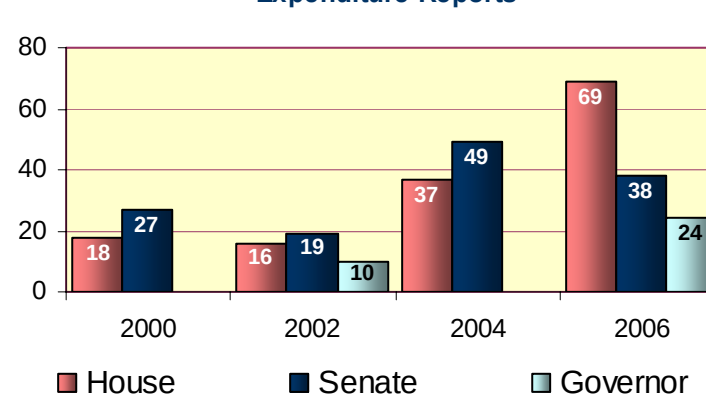
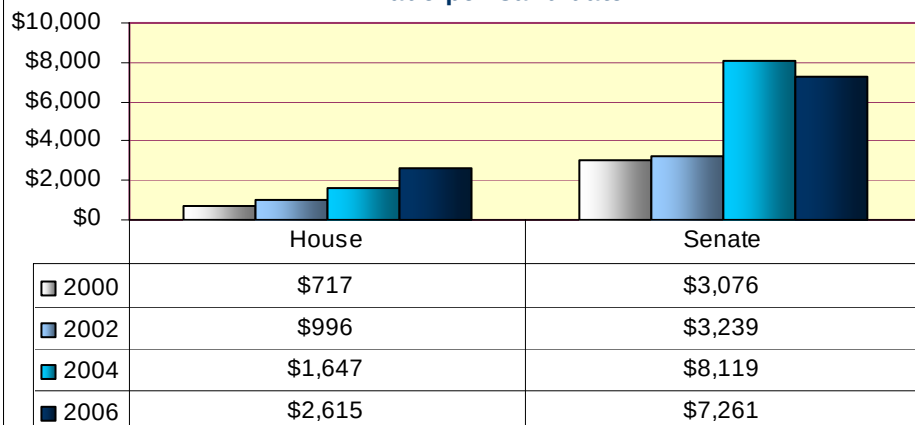


Figure 6.4 Average Independent Expenditures Made per Candidate



Average Amounts Spent per Candidate

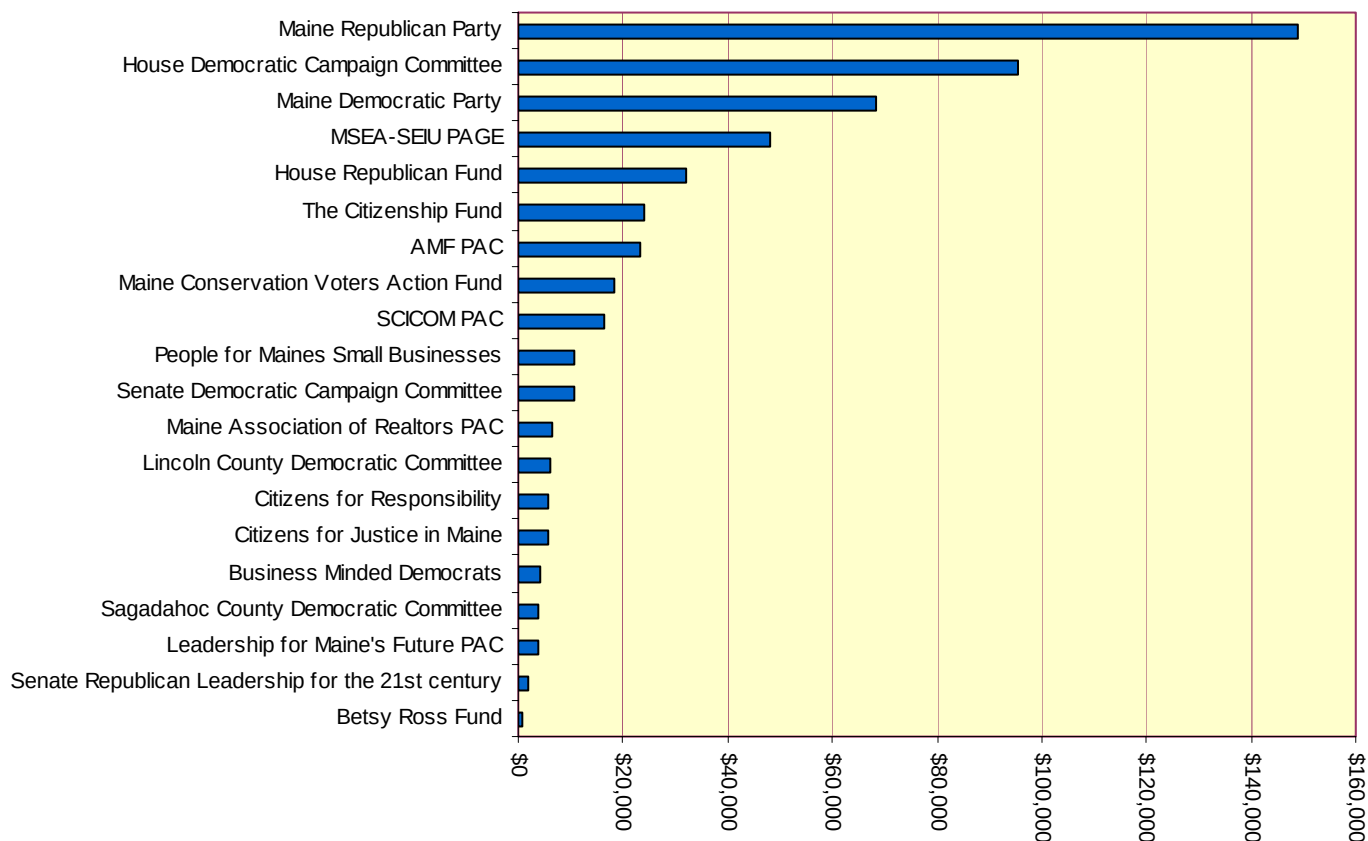
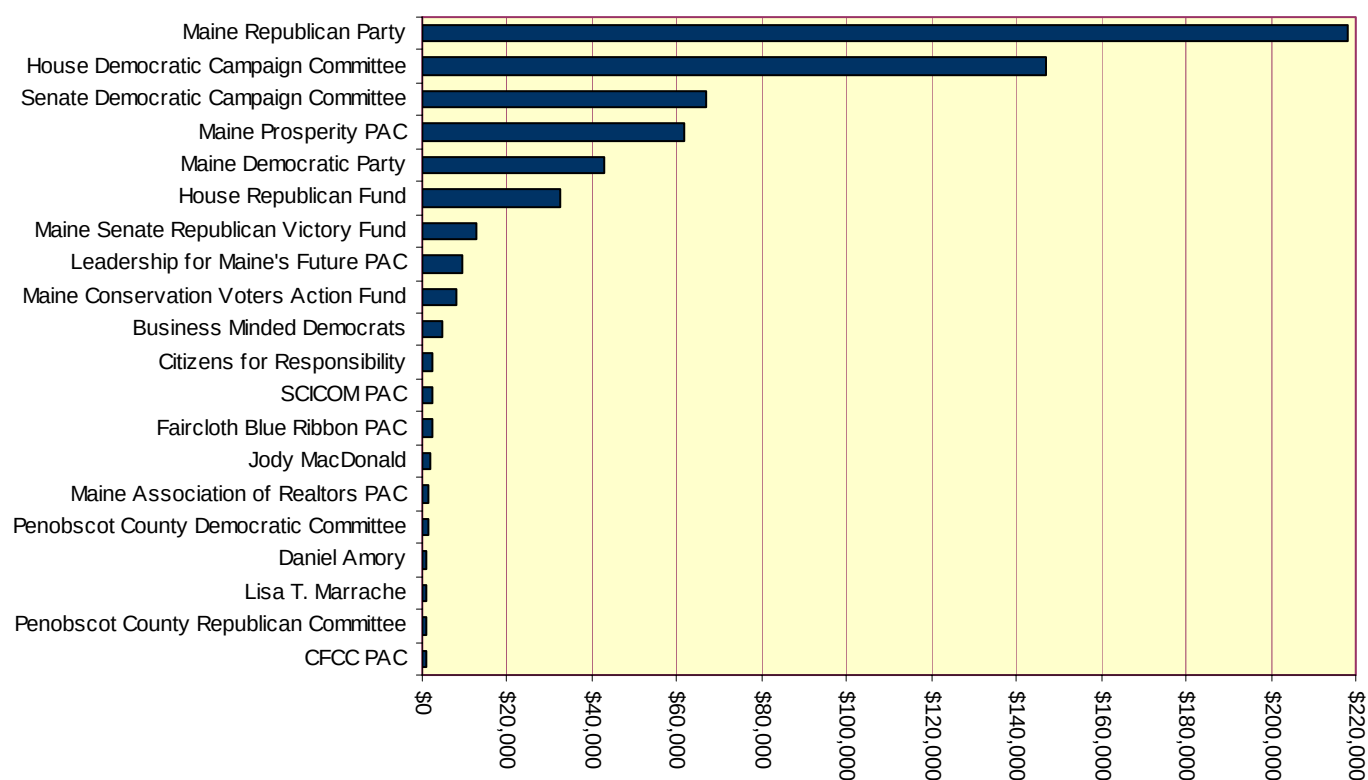
In 2006, independent expenditures were made to support or oppose about one-half of all House candidates in the general election (154 of 309) and about one-third of all Senate candidates (24 of 77). In 2006, the average amount spent per

candidate was \$2,615 for the 154 House candidates affected by independent expenditures and \$7,261 for the 24 Senate candidates (Figure 6.4, previous page). (To avoid skewing this average, the Commission excluded the independent expenditures totaling \$53,282 made in support of 2006 Senate candidate Brian Rines.) In the races in which independent expenditures were made, the spending by PACs and parties was quite significant relative to the amount spent by the candidates. The average independent expenditure per House candidate (\$2,615) was 44% of the average amount spent by House candidates (\$5,959), and the average independent expenditure per Senate candidate (\$7,261) was 30% of the average amount spent by Senate candidates (\$24,243). A table showing total independent expenditures per candidate in 2006 is included in the Appendix.

Candidates Affected Broken Down by Party

From 2000 to 2004, reported independent expenditures in the races for the House favored Democratic candidates over Republicans by considerable margins. In 2006, that trend was reversed with a quadrupling of reported independent expenditures in favor of Republican candidates compared to 2004 (Table 6.C). Reported independent expenditures for Democratic House candidates decreased slightly in 2006. Notably, independent expenditures in support of Senate candidates decreased in 2006 from the previous election year – both for Democratic and Republican candidates.

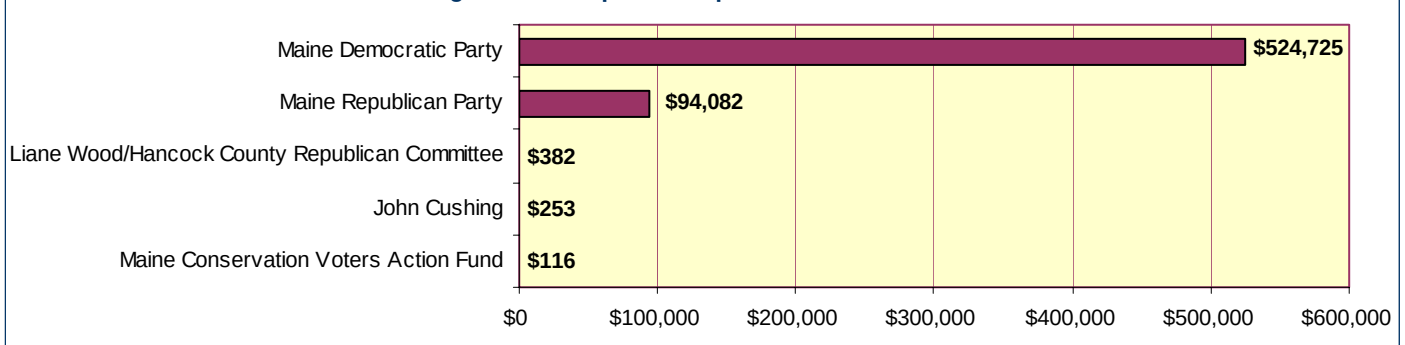
Table 6.C Total Independent Expenditures by Party of Candidate Supported						
Office	Party	2000	2002	2004	2006	Grand Total
House	Democratic	\$36,733	\$52,123	\$168,183	\$162,699	\$419,738
	Green Independent	\$0	\$285	\$0	\$3,748	\$4,033
	Republican	\$6,883	\$24,542	\$55,914	\$232,810	\$320,149
House Total		\$43,616	\$76,950	\$224,097	\$399,257	\$743,920
Senate	Democratic	\$76,497	\$28,734	\$128,390	\$112,536	\$346,158
	Republican	\$3,468	\$77,775	\$174,391	\$102,387	\$358,022
Senate Total		\$79,966	\$106,509	\$302,781	\$214,924	\$704,179
Grand Total		\$123,582	\$183,459	\$526,878	\$614,181	\$1,448,099

Figure 6.5 Top 20 Independent Spenders in 2004 Legislative Races**Figure 6.6 Top 20 Independent Spenders in 2006 Legislative Races**

Top Spenders

Most of the top spenders in the 2004 and 2006 legislative races were the two major political parties and the PACs organized by legislative caucuses and leaders, as shown in the bar charts in Figures 6.5 and 6.6 on the opposite page. A table showing the exact totals for the 2006 top spenders is included in the Appendix.

Figure 6.7 Independent Spenders in 2006 Gubernatorial Race



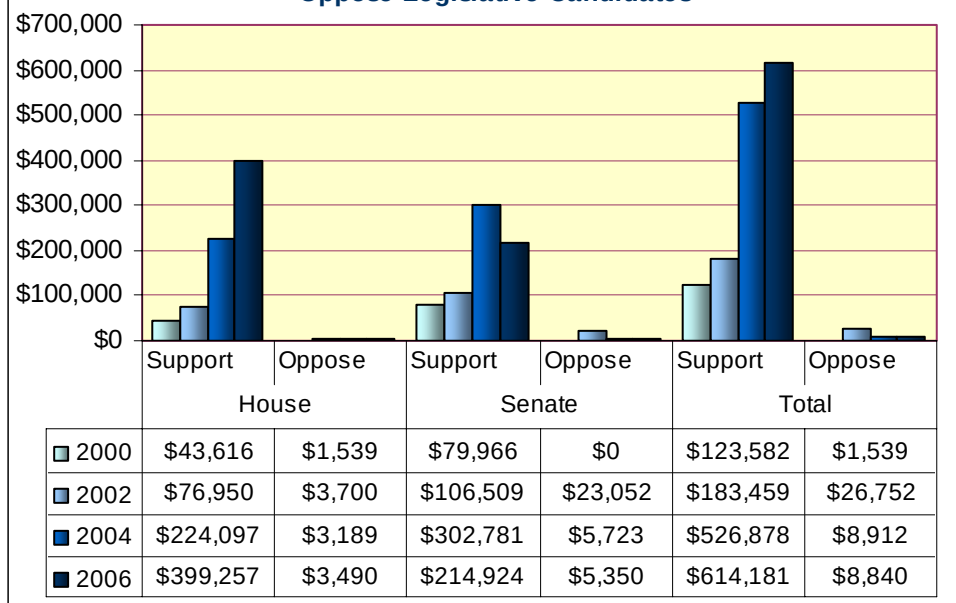
In 2006, only five filers reported making independent expenditures in the race for Governor (Figure 6.7). Chapter 7 includes a more detailed discussion of independent expenditures in the gubernatorial election. As noted there, more than \$1.2 million was spent on television advertising in the Governor's race that was not included in independent expenditure reports because of the narrow definition of independent expenditure.

Most Spending Supports Candidates

In Maine, most independent expenditures are made in support of candidates – rather than in opposition. Many would view this as a positive feature of Maine politics (Figure 6.8).

In the last four election cycles, the only two large-scale expenditures in opposition to candidates were made by a

Figure 6.8 Independent Expenditures to Support and Oppose Legislative Candidates



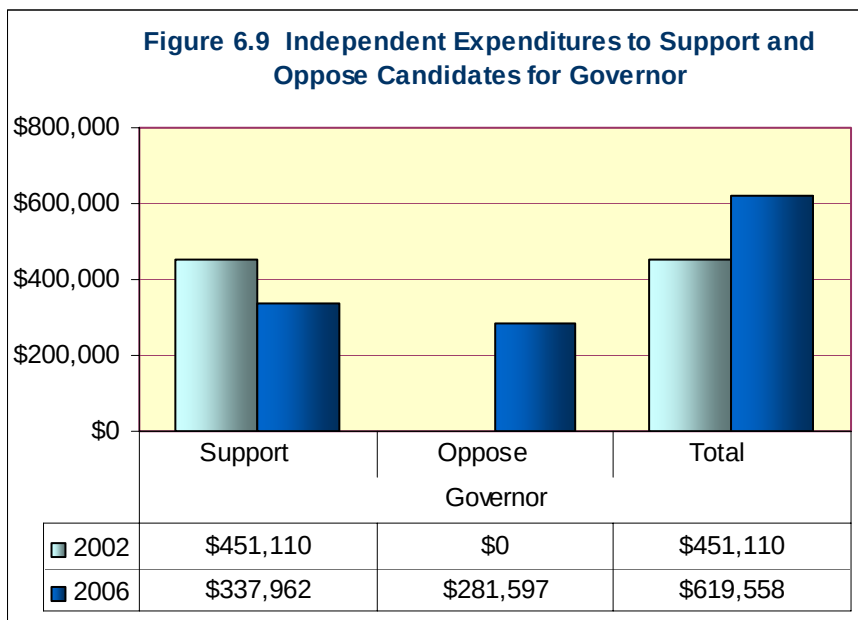
PAC in 2002 against a group of Democratic Senate candidates and by the Maine Democratic Party in 2006 against Republican gubernatorial nominee Chandler Woodcock (Figures 6.8, previous page, and 6.9).

Reasons for Increased Spending by PACs and Political Parties

It is difficult to speculate about the reasons behind the increased spending by independent groups

such as PACs and party committees in candidate elections. One factor may be the lack of restrictions in the Election Law on contributions to PACs and political parties, on one hand, and the severe restrictions on contributions to candidates, on the other. In Maine – unlike most other states – a contributor can give an unlimited amount to a PAC or party committee, but cannot make any contributions to a MCEA candidate and may give at most \$250 or \$500 per election to a privately financed candidate. It is reasonable to conclude that some amount of money that formerly was contributed to candidates now is contributed to PACs and party committees.

Looking at the suppliers of political funds (contributors) is only half of the explanation, however. Another part of the story is the demand for political funds by the recipients, *i.e.*, the perceived need by PACs and party committees to collect and spend greater amounts on communications to voters, staff, etc. It is outside the scope of this report, however, for the Commission to draw conclusions about the strategic motivations for of PACs and political parties to increase their financial activities in recent years.



Chapter 7

Gubernatorial Elections

Since the MCEA has been in operation, Maine has held elections for Governor in 2002 and 2006. In 2002, only one candidate qualified for public financing in the primary election and only one candidate qualified in the general election. In 2006, the MCEA had its first major performance in a race for Governor with 3 candidates in the primary election and 3 candidates in the general election who qualified for public funding.

The Commission's overall assessment of the MCEA in the 2006 gubernatorial election is that it succeeded as a viable public funding alternative for four candidates, but that the program can be improved. The MCEA provided sufficient funding for two Republican Legislators to compete in the Republican primary election and for a two-term Republican State Senator to challenge an incumbent Democratic Governor in the general election. The program also provided financing for two non-major party candidates who captured a combined total of 31.1% of the general election vote and who likely could not have run comparable campaigns through private fundraising. All four candidates qualified fairly for MCEA funding, and the Commission has found no serious misuse of the MCEA funds to date.

Cost vs. Benefits of the Gubernatorial Program

Legislators and commentators understandably have expressed concern over the total cost of MCEA payments to candidates for Governor. In the 2006 elections, payments to gubernatorial candidates totaled about \$3.6 million. Because gubernatorial elections occur half as frequently as legislative elections, that cost to date is roughly one-third of the total payments to all candidates.

While cost is an important issue, a central objective of the MCEA is preserving or improving the public's confidence in the executive branch. Advocates for public financing nationally point out that governors and mayors have an even greater potential than legislators to reward campaign contributors with access or other favors which can have a considerable effect on government policy and performance. At the federal level, every elected U.S. President since Jimmy Carter has received public campaign financing.

The cost of the gubernatorial portion of the MCEA – when compared to other important governmental needs – obviously is an important concern which the Legislature will have to grapple with. No one knows how many candidates for Governor will qualify for MCEA funding in future election years, particularly because the Legislature may raise the eligibility requirements in 2007. If future participation is similar to 2006, the current revenues to the Maine Clean Election Fund (the annual transfer of \$2 million from the General Fund, the taxpayer checkoff, and smaller sources of income) will not keep pace with the demand by candidates for the Legislature and Governor. To address this problem in the long term, it will be necessary to alter the revenue (*e.g.*, increase the annual transfer from the General Fund, or find an alternative source of revenue) or to decrease the total payments to candidates. For example, voluntarily or at the direction of the Legislature, the Commission could change its current practice of advancing matching funds to legislative candidates that they are not authorized to spend.

The approach of the Commission in this report is to recommend policy changes that will make the MCEA function as well as possible, but not to make a judgment about the worthiness of the overall program relative to its cost. Because the law was enacted directly by Maine voters, the Commission believes that any decision to change or eliminate a fundamental component of the MCEA program should be made by the Legislature or the voters, not the Commission.

2006 Participants in the Maine Clean Election Act

In 2006, four candidates for Governor qualified for public funding under the MCEA:

- Hon. Chandler E. Woodcock, a former schoolteacher and two-term State Senator who was the nominee of the Republican Party;
- Hon. S. Peter Mills, an attorney and veteran Republican Legislator who was not successful in the Republican primary;
- Pat LaMarche, a radio talk show host, vice-presidential candidate, and Green Party nominee; and
- Hon. Barbara E. Merrill, an attorney, lobbyist, and one-term member of the Maine House of Representatives who ran as an independent.

All four candidates made comments to the Commission for inclusion in this report about their experience as MCEA candidates. Their comments appear later in this chapter.

Two serious candidates for Governor ran privately financed campaigns and chose not to qualify for public funding:

2007 Report on the Maine Clean Election Act

- the Democratic incumbent Governor, John Elias Baldacci, who was re-elected to a second term in the 2006 general election; and
- former U.S. Representative and State Representative David Emery, who ran against Chandler Woodcock and Peter Mills in the Republican primary election.

Independent candidate Philip Morris Napier did not try to qualify for public funding. His campaign received 3,108 votes, and its entire financial activity consisted of limited in-kind contributions from the candidate.

Six other individuals expressed interest in qualifying as independent candidates for Governor and in qualifying for MCEA funding: Alex Hammer, John T. Jenkins, David John Jones, John M. Michael, Bobby Mills, and Nancy Oden. Of these six, only David Jones and John Michael qualified for the ballot, and neither of them qualified for public funding. Mr. Jones reported to the Commission that he collected 2,300 qualifying contributions, but he did not submit them to the Commission. Mr. Michael submitted qualifying contributions, but the Commission staff found that he had not qualified for public funding in accordance with the MCEA and Commission rules. The Commission's consideration of his application for public funding is discussed in Chapter 10.

2006 Republican Primary Election

The 2006 Republican primary election for Governor was a hotly contested three-way race between Chandler Woodcock, Peter Mills, and David Emery. For the primary election, Senators Woodcock and Mills spent about \$200,000 in MCEA funds and \$24,324 and \$50,000 in seed money, respectively. No independent expenditures were made in the Republican primary election, and neither candidate received any matching funds. David Emery's post-primary report showed that he raised \$177,408 in private contributions for his campaign. As publicly financed candidates, both Senator Woodcock and Mills had a financial advantage over Mr. Emery in the primary election (Table 7.A).

Table 7.A Finances of Candidates in 2006 Republican Primary Election for Governor	Woodcock (MCEA)		Mills (MCEA)		Emery (Privately Financed)	
	Receipts	Expendi- tures	Receipts	Expendi- tures	Receipts	Expendi- tures
Campaign Finance Report						
January Semiannual	\$12,445	\$5,389	\$39,345	\$31,003	\$30,717	\$7,530
42-Day Pre-Primary	\$224,324	\$43,817	\$250,000	\$90,280	\$96,145	\$92,584
6-Day Pre-Primary	\$224,324	\$207,971	\$250,000	\$227,089	\$159,222	\$143,857
42-Day Post-Primary	\$624,745	\$248,442	\$250,046	\$250,046	\$177,408	\$174,340

After winning the primary election, Sen. Woodcock received a general election payment of \$400,000 on June 14, 2006 which was reflected in his 42-Day Post-Primary report. The outcome of the vote is shown in Table 7.B.

Table 7.B Vote Totals in 2006 Republican Primary Election	Votes Received	Percent
Chandler Woodcock	27,025	38.6%
Peter Mills	24,631	35.1%
David Emery	18,388	26.3%

2006 General Election

The 2006 general election involved a privately financed incumbent Governor, John Elias Baldacci, who was challenged by three candidates publicly funded through the MCEA. The candidates' September, October, and December 2006 financial reports showed the following total receipts and expenditures for the entire campaign (Table 7.C).

All three publicly funded candidates received an initial payment of \$400,000 for the general election in June 2006, and even more in matching funds. The Woodcock campaign received a greater amount of matching funds than Merrill and LaMarche, because of \$252,283 in independent expenditures made

Table 7.C 2006 Gubernatorial Receipts & Expenditures (cumulative for the election cycle)								
Report	Baldacci (privately financed)		LaMarche (MCEA)		Merrill (MCEA)		Woodcock (MCEA)	
	Receipts	Expenditures	Receipts	Expenditures	Receipts	Expenditures	Receipts	Expenditures
42-Day Pre-General	\$993,095	\$910,131	\$614,022	\$482,591	\$409,930	\$161,302	\$624,745	\$581,432
6-Day Pre-General	\$1,257,124	\$1,207,032	\$984,423	\$910,874	\$783,542	\$620,190	\$1,125,312	\$986,623
42-Day Post-General	\$1,309,223	\$1,303,049	\$1,129,924	\$1,126,129	\$930,690	\$900,624	\$1,337,172	\$1,322,273

against him by the Maine Democratic Party. Barbara Merrill's campaign received fewer MCEA funds overall because she did not receive a \$200,000 payment for the primary election.

More money was spent on television advertising than any other category of expenditure (Table 7.D).

Table 7.D Spending on Television Advertising				
	Baldacci	LaMarche	Merrill	Woodcock
Total Spent on TV Ads	\$254,250	\$530,000	\$608,024	\$673,268
Total Spent in the 2006 Election	\$1,303,049	\$1,126,129	\$900,624	\$1,322,273
Percent Spent on TV Ads	20%	47%	68%	51%

Timing of Maine Clean Election Act Payments

Woodcock, LaMarche, and Merrill received more than 50% of their general election funds after October 12 – in the last 25 days before the general election (Table 7.E and Table 7.G on next page). Indeed, Chandler Woodcock received 63% of his general election funds after October 12.

Table 7.E Timing of General Election Payments for 2006 Gubernatorial Candidates			
	Merrill	Woodcock	LaMarche
Payments on or before 10/12/06	\$406,040.02 (44%)	\$405,883.37 (37%)	\$404,221.75 (44%)
Payments after 10/12/06	\$509,692.05 (56%)	\$697,844.75 (63%)	\$510,939.92 (56%)
General Election Total	\$915,732.07	\$1,103,728.12	\$915,161.67

Because a large portion of their funds were received so late, the candidates were less able to make the advertising choices available to privately financed candidates who are able to schedule fundraisers and have more control over their finances. In their comments to the Commission, both the Woodcock and Merrill campaigns expressed concern at not having sufficient funds to run television advertisements in early October or September – either to define the public image of their candidates or (in Woodcock's case) to respond to negative advertising by the other major party.

In total, *legislative* candidates in 2006 received a relatively high portion (72%) of their general election funds in June of the election year (Table 7.F). These candidates knew in June 2006 that they could rely on these funds, so they could plan on how to spend them effectively for advertising, mailings, and other purposes. In contrast, the 2006 MCEA *gubernatorial* candidates received a much smaller portion (41%) of their general election funds in June.

Table 7.F Timing of General Election Payments for 2006 Legislative Candidates		
	Amount	% of Total
Initial payments in June 2006	\$2,169,798.00	72%
<u>All</u> payments on or before 10/12/06	\$2,459,821.17	82%
Payments after 10/12/06	\$539,793.48	18%
General Election Total	\$2,999,614.65	

Table 7.G MCEA Payments to 2006 Gubernatorial Candidates				
Type	Date	Merrill	Woodcock	LaMarche
Primary Payment	4/12/06		\$199,999.46	
	4/26/06			\$199,993.35
General Payment	6/9/06	\$400,000.00		
	6/14/06		\$400,000.00	\$400,000.00
General Matching Funds	9/29/06	\$6,040.02	\$5,883.37	\$4,221.75
	10/10/06	\$253.06		\$253.06
	10/13/06	\$35,001.55	\$37,133.87	\$35,001.55
	10/16/06	\$7,211.44	\$7,211.44	\$7,211.44
	10/17/06			\$198,319.90
	10/18/06	\$198,319.90	\$198,319.90	
	10/24/06	\$70,905.69	\$189,688.74	\$70,905.69
	10/25/06	\$8,329.32	\$16,434.32	\$8,329.32
	10/26/06	\$46,158.61	\$45,776.27	\$46,158.61
	10/28/06	\$78,744.59	\$161,330.31	\$78,744.59
	10/31/06	\$25,751.94	\$24,574.53	\$25,751.94
	11/1/06		\$12,275.37	\$1,247.87
	11/3/06	\$39,015.95		\$39,015.95
	11/4/06		\$5,100.00	
Total for General		\$915,732.07	\$1,103,728.12	\$915,161.67
Grand Total		\$915,732.07	\$1,303,727.58	\$1,115,155.02

The Commission believes the timing of payments to candidates for Governor detracts from the viability of the MCEA as an alternative source of campaign financing. The Commission recommends increasing the amount of the June initial payment to \$600,000, and decreasing the maximum amount of matching funds to \$600,000. This 50-50 split would allow MCEA candidates for Governor to better plan their general election advertising and to purchase ads in early October or September, if desired. Also, it would deter privately financed candidates from using strategies to keep their general election expenditures artificially low in the early months of the campaign to delay the distribution of matching funds to MCEA candidates.

This proposal would maintain the overall maximum amount of MCEA funds for the general election (\$1.2 million). It seems unlikely that increasing the initial payment to \$600,000 would increase the cost of the MCEA program. Under current law, MCEA candidates for Governor in future elections will likely receive an initial payment of \$400,000 plus significantly more than \$200,000 in matching funds. (The 2006 candidates for Governor received the \$400,000 initial payment plus \$515,162 – \$703,728 in matching funds.) Under current law, matching funds to candidates for Governor are likely to exceed \$200,000 because of two factors:

- The two major parties and their national affiliates have demonstrated a willingness to spend very large amounts for television advertising to influence the race for Governor. As discussed in the next section, the Maine Democratic Party paid more than \$1.1 million to a single firm for television commercials in the Governor's race, and the national Republican Governors Association spent \$447,765 on a television advertising campaign in support of Chandler Woodcock.
- The 2002 and 2006 campaigns of John Baldacci and the 2002 campaign of Republican nominee Peter Cianchette demonstrate that a privately financed candidate for Governor has the potential to raise in excess of \$1 million even with the \$500 contribution limit.

So, the Commission's proposal to make an initial payment of \$600,000 likely will not increase the amount of funds paid to candidates for Governor and would provide them with greater certainty in planning their campaigns.

Role of Independent Expenditures

The candidates for Governor were by no means the only players with significant financial activity in the gubernatorial race. A total of \$619,558.37 in independent expenditures was made in the election for Governor, as reflected in reports submitted to the Commission. Independent expenditures are communications to voters (e.g., advertising or mailings) paid for by PACs, party committees, and others independ-

ently of candidates. They must be disclosed publicly on detailed written reports submitted to the Commission usually within 24 hours of the expenditure. Almost all of this spending was made by the two major political parties in Maine (Table 7.H). Of the \$619,558.37 total, 55% was spent on television advertising.

Table 7.H Total Independent Expenditures in the 2006 Election for Governor	
Maine Democratic Party	\$524,725.31
Maine Republican Party	\$94,081.52
Hancock County Republican Committee	\$382.34
John Cushing	\$253.06
Maine Conservation Voters Action Fund (MCVAF)	\$116.14
Total	\$619,558.37

The major part of the independent expenditures was *in support* of the two major party candidates, Baldacci and Woodcock, but a substantial amount was spent in opposition to the candidates (Table 7.I below). No independent expenditures were made for or against Barbara Merrill or Pat LaMarche.

Table 7.I Total Independent Expenditures to Support or Oppose 2006 Gubernatorial Candidates					
	Supporting Baldacci	Supporting Woodcock	Opposing Baldacci	Opposing Woodcock	Total
Maine Democratic Party	\$272,442	\$0	\$0	\$252,283	\$524,725
Maine Republican Party	\$0	\$64,768	\$29,314	\$0	\$94,082
Hancock Cty. Rep. Cmte.	\$0	\$382	\$0	\$0	\$382
John Cushing	\$0	\$253	\$0	\$0	\$253
MCVAF	\$116	\$0	\$0	\$0	\$116
Total	\$272,558	\$65,403	\$29,314	\$252,283	\$619,558

Other Spending by PACs and Political Parties

Unfortunately, in the 2006 race for Governor the independent expenditure reports show only a small portion of the real costs of communications to voters that were paid for by PACs and party committees. That is because the definition of independent expenditure depends on the narrow standard of express advocacy until the last 21 days before the general election. For communications to voters that ran more than 21 days before the 2006 general election, the costs were required to be reported as independent expenditures only if the communication explicitly urged the election or defeat of a candidate (e.g., "Vote Joe Smith on election day!").

As a result, the independent expenditure reports filed in the 2006 Governor's election included only a small portion of the television advertising purchased. The limitations of the express advocacy standard

are illustrated by a quick look at the large television purchases made by the Republican Governors Association (RGA) and the Maine Democratic Party. It should be understood that these organizations acted completely within the boundaries of Maine campaign finance law, and were dutifully performing their role in promoting the election of their candidates. Nevertheless, together they exemplify that the independent expenditure definition fails to cover what most Mainers would view as spending by independent groups to influence candidate elections.

The RGA is a national organization which is organized, in part, to elect Republican gubernatorial candidates. It formed a PAC in Maine that reported the financial activity found on Table 7.J.

Table 7.J 2006 Finances of the RGA Maine PAC	
Contributions received	\$714,500.00
Expenditures - TV advertising	- \$447,765.75
Expenditures - polling and research	- \$63,000.00
Expenditures - radio ads	- \$1,713.00
Contribution to Maine Rep. Party	- \$200,000.00
Cash Balance	\$2,021.25

The RGA spent \$447,765.75 on a television advertising campaign. Based on comments made to the Commission regarding these ads, most television viewers probably believed the RGA's ads were intended to support of Republican nominee Chandler Woodcock. Indeed, to some the ads looked completely indistinguishable from advertising that the candidate might have purchased on his own behalf. The Commission concluded that the RGA was not required to report its advertising costs as independent expenditures because the advertisements did not expressly advocate the election of Sen. Woodcock. As a result, the entire \$447,765.75 in television services purchased by the RGA was not included in independent expenditure reports.

The Maine Democratic Party paid more than \$1.1 million to a Washington, D.C. firm for television ads in support of Governor Baldacci. Only 29% of these expenditures were included in independent expenditure reports (Table 7.K). The reason is that many of the ads avoided expressly advocating for the re-election of Governor Baldacci.

Table 7.K Maine Democratic Party Payments to Main Street Communications	
Total Party Expenditures for TV Advertising	\$1,152,856.98
Reported as Independent Expenditures	\$339,544.64
TV Costs Not in Independent Expenditure Reports	\$813,312.34

Between the RGA and the Maine Democratic Party's payments to Main Street Communications, only 21% of their payments for television advertising were reflected in independent expenditure reports. That is troubling for two reasons. The first is the lack of timely, full disclosure of expenditures made to influence elections. Many Mainers would immediately identify the RGA and Democratic Party advertisements as intended to influence the election. They deserve the prompt, detailed disclosure that comes

with independent expenditure reporting. While expenditures for non-express advocacy communications are included in campaign finance reports filed by PACs or party committees, the reporting is not as detailed and certainly not as timely.

Secondly, the Maine Clean Election Act's system of matching funds is based on the reporting of independent expenditures. Candidates participating in the MCEA have come to expect that if a PAC or party committee spends money to defeat them by sponsoring communications to voters, the law entitles them to matching funds with which to respond. This becomes an empty promise when a large portion of communications to voters is not included in independent expenditure reports. For that reason, the Commission recommends expanding the definition of independent expenditures during a period of 60 days before the general election. This proposal is discussed in Chapter 11.

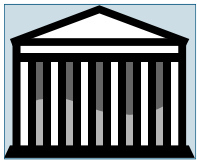
Auditing of MCEA Candidates for Governor

In 2006, the Commission approved a proposal by staff that it should audit all MCEA candidates for Governor and 20% of legislative candidates who received MCEA funds. Those audits are underway at the time of the printing of this report. The audits examine candidates' financial activities – seed money contributions and expenditures – to verify the accuracy and completeness of financial reports submitted by the campaigns during the primary and general elections.

The transactions subject to audit are those recorded in the candidate's accounting records and reported to the Commission. With respect to seed money contributions, the audit's purpose is to verify compliance with the standards established under the MCEA. For campaign expenditures, the auditors seek to determine if materials and services purchased and paid for (1) were properly approved by the candidate or his/her authorized representative; (2) were adequately documented as evidenced by original vendor invoices and canceled checks or other acceptable disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules, including that the funds were spent on campaign related goods and services.

Statements of 2006 Candidates for Governor

For the purposes of this report, the Commission staff contacted the campaigns of all four candidates for Governor who received MCEA funding. They were asked for comments about how the MCEA functioned in the 2006 race for Governor. Their statements are found in Tables 7.L through 7.O.



**Table 7.L 2006 Gubernatorial Candidate Pat LaMarche:
Comments on MCEA Program**

The process for qualifying for the Maine Clean Election Act as a candidate for Governor worked in 2006. People who believe qualifying is too easy haven't tried it. It's a bear of a task. The Legislature shouldn't increase the number of qualifying contributions for candidates for Governor or require them to collect a minimum amount of seed money. It is untrue to the spirit of the MCEA, which is that ordinary people should be able to run for office. All that seed money minimums illustrate is whether the candidate has supporters who have cash – and cash becomes an objective in campaigning again, instead of growing support. Collecting qualifying contributions is the right way to prove support. All you need is volunteers. The LaMarche campaign had approximately 311 people collecting qualifying contributions.

Also, all candidates for office should have the same amount of time with which to collect their contributions. Unenrolled candidates should not have more time to qualify.

The larger number of candidates for Governor in 2006 was good for democracy. Public funding opens the door for a greater exchange of ideas. If an incumbent has to spar with only one opponent, fewer issues are discussed. If there are more candidates, the voters are more engaged and more invested in the outcome.

Few if any gubernatorial elections in Maine have had a larger voter turnout than 2006. Public financing helps turn around apathy.

We were incensed and amazed by so much money being spent in support of candidates from outside sources – in the case of the incumbent, who was upfront about accepting private contributions, the question was merely one of when express advocacy began. In the case of the clean elections candidate with outside contributors advocating, it was appalling and made a lie of 'leveling the playing field' as well our pledge to 'take no special interest money, PAC money, corporate money, or contribution greater than \$100.' If a candidate takes Maine Clean Election Act funds, that is a promise not to take private contributions. That candidate should not allow a political action committee to spend \$300,000 – or any amount – on his behalf.

Justice would be served if the independent expenditure period for the general election started with the primary, although we could accept 60 days before the general election. In our opinion, any 2006 advertising about the gubernatorial candidates was advocating for their election.

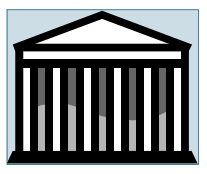
The Ethics Commission should be larger. Although it is a volunteer board, it makes very important decisions. It should reflect the demographics of the state, with two De-

mocrats, two Republicans, and three other members. The largest 'constituency' in Maine is unenrolled, yet the power goes to the minority parties.

This was the first campaign in which I was involved, where I could simply carry on discourse with the public. I could go to a house party and leave saying "it's good to meet you" – because I didn't have to make a fundraising pitch. It was very liberating to the discourse. I felt like someone took my fiscal master away and gave me the luxury of time to meet with voters and research their needs: to develop solutions rather than fundraising gimmicks.

There is no praise adequate for the Maine Clean Election Act. It was designed to allow for equality of dialogue and has shown a bright light on the discussion and debate of our political system. It has the power to break the grip of the status quo.

The whole potential for a robust debate and true democracy is instilled in the MCEA. If you look at donors to both parties – they are the same. How exciting to give the leaders back to the people to select, not special interests. I couldn't think of a better investment in our state than public utilities, roads, bridges, and honest politicians.



**Table 7.M 2006 Gubernatorial Candidate Barbara Merrill:
Comments on MCEA Program**

The timing of the Maine Clean Election Act payments was a significant factor for the Merrill campaign. The initial payment of \$400,000 released in June of the election year is not enough to give Maine people an opportunity to know about a candidate for Governor. We could not get our message out early in the campaign. Even though the campaign skimmed on everything else, we did not have a significant advertising budget until the last 2 ½ weeks before the election when we received matching funds. It would be important for a candidate for Governor to receive a larger initial payment.

The Merrill campaign started receiving matching funds after absentee voting had begun. More and more Mainers are voting early through absentee ballots. One of the good things about the current law is that during the three weeks before election day, matching funds are triggered to other candidates if a candidate is pictured or named in advertising. That should start three weeks before absentee voting begins, which would be around Labor Day.

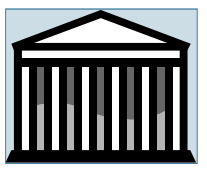
The party organizations and legislative caucuses are encour-

aging their candidates to be publicly funded, and are raising and spending huge amounts to influence elections. This gaming of the system is undermining the purpose of the MCEA and is reducing public respect for the law. Any party organization or legislative caucus that is spending money on advertising for candidates is doing it to influence elections. The Election Law should look on the spending of party organizations and caucuses differently. Unless the caucus and party spending is matched with MCEA funds, the candidates are not running on an even playing field. Some of the negative advertising by the parties is the least enriching of the public debate.

The illusion that there is no collusion between the campaigns for Governor and political parties is a legal fiction. Spending by the campaigns and the Democratic or Republican parties can be choreographed by advisors helping both organizations. The Baldacci campaign could wait on political advertising because the Democratic Party ran ads early. It's very difficult for the Commission to prevent collusion because it is difficult to prove.

Qualifying for Maine Clean Election Act funds as a candidate for Governor is already very hard. It is even harder for an independent candidate to collect qualifying contributions because they do not have a political party that the contributors can identify with. We gathered the contributions by having the candidate or her friends personally asking voters. Requiring contributions from both congressional districts would be a good way to show that the candidate has statewide support.

The Legislature should think about qualifying for MCEA funding as an alternative means of getting on the ballot. Collecting petition signatures and qualifying contributions are duplicative requirements, because they both show that the candidate has a threshold of public support. If a candidate qualifies for public funding, they should not have to petition to get their name on the ballot.



**Table 7.N 2006 Gubernatorial Candidate Peter Mills:
Comments on MCEA Program**

The Maine Clean Election Act has been broadly accepted for House and Senate candidates, and has worked well. It has greatly helped the parties recruit good, qualified people for the Legislature who are reluctant to raise contributions. It is still uncertain whether the MCEA will work effectively and affordably in elections for Governor.

Public financing made it possible for me to be a candidate for Governor in 2006. I participated in the MCEA because I did not believe I could raise enough funds for the general election with the contribution limit of \$500. Although I thought I could raise enough to compete in the primary election, I doubted that I could match the fundraising machine of an incumbent governor.

The MCEA has not taken money out of politics, but the pathway is different. So, the impact of the money is less. An organization with \$5,000 to spend on legislative elections can no longer give it directly to candidates (except through an independent expenditure). Now, it gives the funds to a PAC that is controlled by a few members of leadership. Most contributors will give to the

PACs of both political parties. That gets away from the appearance of vote-bargaining that was inherent in the old system of fundraising.

Public financing frees candidates to campaign, not raise money. Once I received the primary election payment, it felt like getting the money-monkey off my back. It also forces candidates to live within a fixed budget and places a high premium on volunteers.

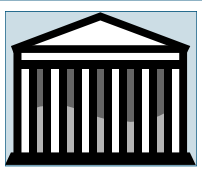
The system of qualifying as a candidate for Governor is a nightmare. Collecting the \$5 checks and verifying the contributors' voter registration was a horrible rat-race that involved enormous amounts of travel. It is more a test of a candidate's organization than his support in the state.

I am loathe to suggest that the number of qualifying contributions be raised above 2,500. Instead, I have written a bill that would allow individuals to give qualifying contributions between \$5 and \$40, but require the candidates to collect at least \$25,000. The bill would let the candidates keep the contributions with half the amount collected counting against the

amount distributed from Clean Election funds. If a candidate for Governor has to obtain at least 2,500 contributions that average \$10 or more, it will be harder to qualify for public funding.

I favor giving candidates for Governor \$600,000 for the general election, and reducing matching funds to a similar amount. I also favor giving the incumbent in any race a reduced public award. Vermont is considering a bill that awards incumbents only 90% of the amount given to non-incumbent candidates.

I also favor giving candidates the opportunity to make use of the Clean Elections "shield" while raising the initial grant through conventional contributions. For example, a House candidate might agree to raise and spend no more than the initial amount, say \$6,000, but would be entitled to matching funds if the opponent benefited from any spending in excess of that.



**Table 7.0 2006 Gubernatorial Candidate Chandler Woodcock:
Comments on MCEA Program**

The Woodcock campaign believes the Maine Clean Election Act works well, and it's a positive system. The timing of the payments detracts from the effectiveness of the program, however. The campaign received about \$1.1 million for the 2006 general election. In June, the Commission made the general election payment of \$400,000, but the campaign did not receive any of the \$700,000 in matching funds until October. If more money had been available earlier, the public funds could have been used more effectively and efficiently. We could have gotten our message out and responded to ads about our candidate by making small advertising buys in September and early October.

The campaign supports the proposal to increase the initial distribution for candidates for Governor. That could certainly make a difference in encouraging candidates to participate in the future. Under the current system, a participating candidate's ability to advertise is at the mercy of how the other candidates run their campaigns.

It is already difficult to qualify for the Maine Clean Election Act as a campaign for Governor. Some of the proposals to make it more difficult would require campaigns to hire paid staff to qualify. That might not be beneficial. Also, all candidates, including independents, should have the same window to qualify.

The campaign believes extending the 21-day period for independent expenditures to 60 days would be helpful. Also, the Commission should look at the schedule for accelerated reports by privately financed candidates.

The Woodcock campaign has no regrets about participating in the Maine Clean Election Act. It is well administered by the Commission, and the staff is timely in their responses and objective in their administration of the program.

2002 General Election

In 2002, the general election for the office of Governor consisted of outgoing member of U.S. Congress John E. Baldacci (Democrat), State Senator Peter E. Cianchette (Republican), Jonathan K. Carter (Green Independent), and former State Representative John M. Michael (independent). Candidates Carter and Michael collected qualifying contributions in order to apply for public financing, but only Mr. Carter was successful in qualifying.

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Jonathan Carter received a total of \$902,602 in public funds for the 2002 elections, which permitted him to run a campaign that was financially competitive with his Democratic and Republican opponents (Table 7.P). John Michael spent a total of \$8,078 for the entire campaign.

Table 7.P Cumulative Spending by 2002 Gubernatorial Candidates			
	Baldacci (D)	Carter (G)	Cianchette (R)
4/30/2002 (42-day pre-primary)	\$290,593.68	\$0	\$260,797.34
6/5/2002 (6-day pre-primary)	\$680,570.45	\$35,014.18	\$431,008.51
7/23/2002 (42-day post-primary)	\$812,920.79	\$101,621.81	\$549,580.78
9/24/2002 (42-day pre-general)	\$1,057,005.92	\$773,823.68	\$796,581.14
10/30/2002 (6-day pre-general)	\$1,375,389.81	\$884,638.81	\$1,143,339.74
12/17/2002 (42-day post-general)	\$1,584,380.10	\$902,612.49	\$1,260,601.81
FINAL	\$1,624,063.25	\$902,612.49	\$1,418,202.97

Jonathan Carter benefited by receiving \$559,829 in matching funds relative early (on August 29, 2002) based on the total amount of obligations and expenditures reported by Peter Cianchette for the general

Table 7.Q Vote Totals in 2002 General Election		
John E. Baldacci (D)	238,179	47.1%
Jonathan K. Carter (G)	46,903	9.3%
Peter E. Cianchette (R)	209,496	41.5%
John M. Michael (I)	10,612	2.1%
Total	505,190	100%

election. Soon afterward, he received the maximum amount of matching funds. As a result, independent expenditures did not trigger matching funds in the 2002 general election race for governor.

Table 7.Q shows the general election vote totals for the 2002 gubernatorial candidates.

2002 Republican Primary Election

In the 2002 elections, in addition to Jonathan Carter, one other gubernatorial candidate qualified for public financing: State Senator James D. Libby who lost to Peter Cianchette in the Republican primary election. Mr. Libby spent \$314,260 for his campaign (including some seed money), and won 33% of the vote.

Recommendations for the MCEA Gubernatorial Program

In Chapter 11, the Commission makes recommendations to the Legislature concerning the Maine Clean Election Act. Most of these recommendations were included in L.D. 1854, which the Commission sub-

mitted to the Legislature on February 5, 2007. Three of the recommendations have particular relevance for the gubernatorial portion of the MCEA.

Qualifications for Gubernatorial Candidates

The Commission recommends that gubernatorial candidates be required to collect at least \$15,000 in seed money contributions to qualify for MCEA funding. This would help ensure that public funds are paid only to candidates who have demonstrated a significant level of support in the state. Since candidates for Governor may receive up to \$1.2 million in taxpayer funds for the general election, public funds should not be paid to candidates who have little chance of winning or who are only running to promote a single political view or to criticize an opponent.

Increase the 21-Day Independent Expenditure Period to 60 Days

In 2003, the Legislature expanded the definition of ‘independent expenditure’ in the last 21 days before an election. Advertisements and mailings distributed to voters during this period are presumed to involve an independent expenditure if a candidate is named or depicted in the communication and if there is a Maine Clean Election Act candidate in the race. The Commission recommends increasing this time period before the general election to 60 days. This would cover a much greater share of communications to voters that are obviously made for the purpose of influencing the election.

Increasing the Initial Payment

The Commission recommends increasing the initial payment for the general election for gubernatorial candidates from \$400,000 to \$600,000, so that candidates can plan for the expenditure of these funds during the summer of the election year rather than waiting until mid- to late October to find out if they will be available.

Chapter 8

Independent Expenditures and Matching Funds

One of the more complex administrative features of the Maine Clean Election Act is the payment of matching funds based on independent expenditures by third-parties such as PACs and political parties. The Commission pays matching funds based on a comparison of the receipts and expenditures of candidates in the same race. If a MCEA candidate's receipts are less than the receipts or expenditures, whichever is greater, of an opposing candidate, the MCEA candidate receives additional funds to match the opponent's fundraising or spending. For the purpose of calculating matching funds, independent expenditures in support of a candidate count toward the candidate's total, and independent expenditures opposing a candidate reduce the candidate's total. So, if a PAC or party committee spends \$1,000 in favor of a candidate, that candidate's total goes up and, all things being equal, other MCEA candidates in the race would receive \$1,000 in matching funds.

The matching funds feature of the MCEA has some clear benefits. First, matching funds are designed to allow a candidate to respond to any independent expenditures made against the candidate or in favor of the opponent. This eliminates the disadvantage a MCEA candidate may experience in the face of the fundraising power of an opponent or the political advertising paid for by independent groups. Second, because many MCEA candidates are able to run their campaigns with only the initial payment, almost half of MCEA candidates never receive any matching funds. This keeps the overall cost of the program lower by directing public funds into competitive races.

Many candidates do receive matching funds as the program was designed and are able to spend the additional campaign money effectively. Nevertheless, as discussed below some candidates do not receive matching funds because independent spenders

- use the narrow definition of “express advocacy” to avoid making independent expenditures; and
- time their expenditures so close to the election that opposing MCEA candidates cannot make effective use of matching funds.

Definition of Independent Expenditure

The “Express Advocacy” Standard

When independent groups such as the political parties and political action committees spend money on certain communications to voters (e.g., advertisements and literature) supporting or opposing candidates, they must file independent expenditure reports that provide nearly immediate disclosure of the expenditures made and the candidates supported or opposed. The statutory definition of independent expenditure, however, presents an ongoing challenge which the Commission recommends that the Legislature address before the next election cycle.

Prior to 2003, the definition of independent expenditure under Maine law covered only those communications that expressly advocate the election or defeat of a candidate through such language as “Vote Smith” or “Defeat Jones.” Many candidates, newspaper commentators, and campaign reform advocates criticize the express advocacy standard because it fails to capture speech that is clearly intended to influence the election but does not use the “magic words” of express advocacy. For example, the following messages in an advertisement would not be considered express advocacy because they avoid the “magic words” urging the election or defeat of a candidate:

“As a schoolteacher, Shirley Townsend knows how important education is for Maine’s children. As the president of her church council, she has a demonstrated record of service and leadership. Shirley Townsend – she has the values that Maine government needs.”

“Bill Jones has been picking the pockets of Elm City taxpayers as a town councilor for 12 years. Don’t let him keep doing it in Augusta.”

PACs and political parties find it very easy to construct effective and creative political advertising or literature by combining visual elements and language without crossing the line into express advocacy. For that reason, in a 2003 decision, the U.S. Supreme Court characterized the express advocacy standard as “functionally meaningless.”

Many PACs, political parties, and advocacy groups like the express advocacy standard because it offers them a very clear boundary line between speech that will require them to file a financial report with the Commission and speech that will not. By avoiding expressly advocating for the election or defeat of a candidate, these groups can easily get their messages out about candidates without having to file independent expenditure reports or triggering matching funds to a candidate that they do not support.

2003 Change in Maine Law

In 2003, the Legislature recognized that the express advocacy definition was too narrow in the final

weeks before an election, because it did not include words and phrases obviously intended to influence the election. To remedy this, the Legislature created a rebuttable presumption during the last 21 days before an election. During that period, if there is a MCEA candidate in the race, any communication which names or depicts a clearly identified candidate will be presumed to be an independent expenditure. Groups distributing communications mentioning candidates during these three weeks may attempt to rebut the presumption by filing a written statement that the communications were not intended to influence the election. For example, if a candidate's name appeared in an advertisement in a community newspaper because he was a local business owner or minister, the business or church paying for the ad could argue that the communication was not intended to influence the election. The Commission must then make a determination whether the expenditure was made to influence the election. Relatively few groups have attempted to rebut the presumption.

Continuing Dissatisfaction with the Express Advocacy Standard

In 2006, several legislative candidates requested matching funds because political parties or PACs had paid for literature which supported their opponents and mailed it to voters in their districts. In some cases, the literature looked indistinguishable from literature that might have been mailed by the opponent. Some examples are included in the Appendix. The Commission found that the literature did not qualify as independent expenditures under the current definition, because it was distributed to voters before the 21-day presumption period and did not expressly advocate for the candidates' opponents. Consequently, the costs of this literature were never disclosed in detail, and the Commission did not award matching funds to the candidates.

These requests by legislative candidates brought into sharp relief how narrow the express advocacy standard is and the ineffectiveness of the 21-day period. The very same literature would have triggered matching funds if it had been mailed to voters in the final 21 days before the election.

Express Advocacy in the 2006 Race for Governor

The limitations of the express advocacy standard also became obvious in a high-profile controversy before the Commission in the 2006 race for Governor. The Commission received requests by the Pat LaMarche (Green Independent) and John Baldacci (Democratic) campaigns that television advertisements paid for by the Republican Governors Association (RGA) should be viewed as independent expenditures because they had no reasonable meaning other than to urge the election of Republican candidate Chandler Woodcock. The RGA and the Woodcock campaign argued that if the Commission interpreted the RGA ads as express advocacy, then television advertisements by the Maine Democratic Party should be viewed as expressly advocating the election of Democratic Governor Baldacci or the defeat of Chandler Woodcock.

The Commission took note of the narrow definition of express advocacy as understood in the federal courts, and determined that none of the ads constituted express advocacy. The express advocacy standard and the Commission's decision were heavily criticized by newspaper editorials and other commentators as being too narrow and defeating one purpose of the Maine Clean Election Act of putting candidates on equal footing. The full editorials are included in the Appendix.

Although the controversy largely focused on pro-candidate advertising, the shortcomings of the express advocacy standard are even more alarming when applied to so-called negative advertising. Many candidates believe the most important function of matching funds is to allow candidates the opportunity to respond to negative advertising or mail distributed by PACs and party committees. In 2006, the Maine Democratic Party spent a considerable amount on advertising that portrayed the Republican gubernatorial candidate Chandler Woodcock as someone whose social and policy views would lead the state backwards. Because these ads avoided express advocacy, the Woodcock campaign did not receive the matching funds that the MCEA seems to promise and the public received inadequate disclosure of the costs of these ads.

Commission Proposal

In response to the requests by candidates for a common sense recognition of politically motivated ads, and the public criticism of the current law, the Commission recommends that the 21-day presumption period should be increased to 60 days before the general election. The Commission does not see the need to amend the 21-day period before the primary election. This would provide more prompt and more detailed financial reporting of costs that were obviously incurred to influence elections, and it would improve the administration of the MCEA. This recommendation is discussed in Chapter 11 of this report and included in the Commission's bill, L.D. 1854.

Clean Elections undermined by major parties

"No matter how much legal hair-splitting the candidates, their representatives and their parties throw at us, the ads aired by the Republican Governors' Association and the Maine Democratic Party ... are about trashing their opponents and electing one of those guys governor of Maine. Plain and Simple. And that means that the intent of the state's landmark Clean Elections law is being cynically undermined

[T]he definition of an issue ad is so broad it's ludicrous. As long as ... the ad doesn't expressly say 'Baldacci for Governor' or 'Vote for Baldacci' they're free to say 'John Baldacci is the finest governor in Maine history,' or 'Woodcock is an idiot' As for Woodcock, the Republican Governors' Association has similarly gone all out — within the huge loopholes offered to them by the issue ad definition — to advocate for their candidate's campaign."

Kennebec Journal, October 1, 2006

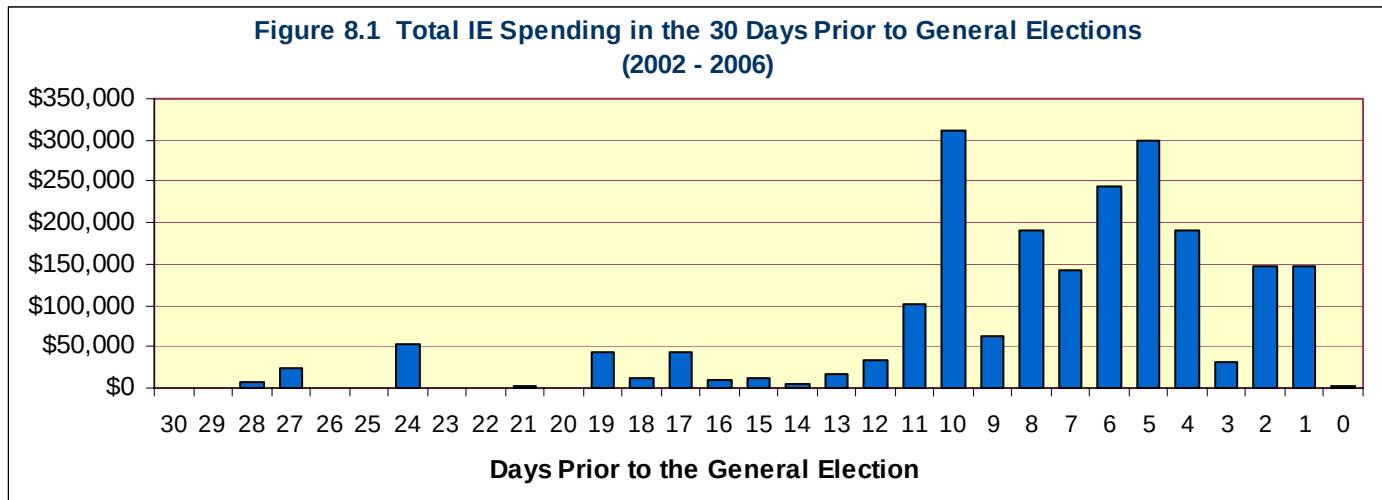
Woodcock ad: Just this side of legal doesn't cut it

"Last week, the Republican Governors' Association, through their Maine political action committee, paid to air a television commercial featuring state Sen. Chandler Woodcock, who is running for Governor. ... Would the Republican Governors' Association spend an estimated \$200,000 to run this ad if Chandler Woodcock weren't running for governor? Of course not. ... It's entirely possible that clever lawyers advising the Republicans have figured out a way to skirt the restrictions of the law. ... Perhaps the fact that the ad carefully avoids using words explicitly associated with the campaign for governor will keep it just this side of legal. But barely legal seems an incredibly poor foundation for any candidate or any campaign for governor. Maine deserves better."

Portland Press Herald, September 7, 2006

Last-Minute Independent Expenditures

Another widespread complaint by candidates is that PACs and party committees report independent expenditures very close to the general election (often in the final two weeks) so that candidates receive matching funds too late to use them effectively (Figure 8.1).

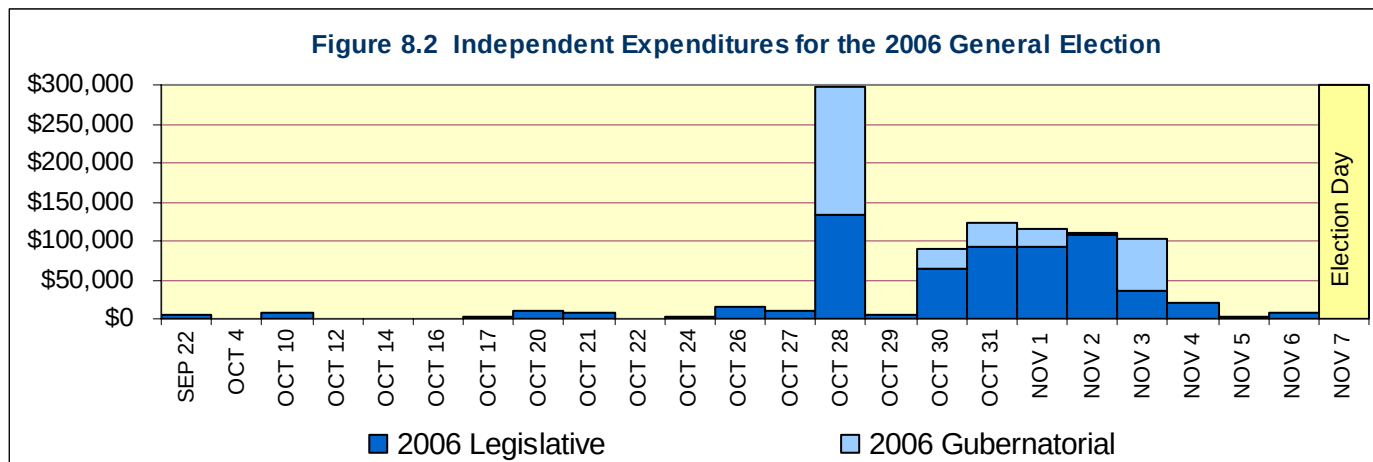


In 2005 and 2006, the Commission took several steps to respond to the problem:

- The Commission amended its rules to clarify that an independent expenditure is made when the spender enters into an obligation with a vendor to purchase advertising or literature, not when the vendor is paid.
- In enforcement actions following the 2004 and 2006 elections, the Commission found that two PACs and one party committee were late in filing independent expenditure reports based on when they entered into an obligation with their vendors.
- The Commission added one more schedule for independent expenditure reports that are filed in the final seven days before the election. This schedule (B-IE-3) was intended to provide more information about when the spender first entered into an obligation with the vendor, so that the Commission and opponents could verify whether the report was filed within 24 hours of making the expenditure.
- The Commission tried to educate PACs and party committees about the independent expenditure reporting requirement by distributing new educational materials and meeting with the political parties to discuss the amended requirements.

On the whole, the staff believes these efforts in 2005 and 2006 moderately improved the filing of independent expenditure reports. In 2006, the largest amount reported (\$133,271) was on October 28th, the

tenth day before the general election (Figure 8.2). In 2004, the busiest filing day for independent expenditures was on the fifth day before general election, on which \$178,377 was reported spent.



Nevertheless, in 2006 independent expenditure reports continued to be filed relatively close to the general election. The Commission will continue to monitor the problem, and does not have any recommendations to make this year.

Candidates' Disapproval of Independent Expenditures

Finally, many legislative candidates responding to the Commission's 2006 survey expressed sharp disapproval of the increasing use of independent expenditures by PACs and party committees. As described in Chapter 6, total independent expenditures continued to rise in 2006. These expenditures are most often made by the two major political parties in Maine, and by the PACs controlled by the party caucuses within the Legislature. Perhaps surprisingly, many candidates are most frustrated with independent expenditures that are made to benefit them.

The primary source of frustration for legislative candidates is that they do not know when the independent spenders will distribute the literature and advertisements within their districts, and they have no input on the content of the communications. Candidates are sensitive to how they, their opponents, and their policy views are characterized, and some are displeased if independent spenders, however well-intentioned, "get it wrong" when describing candidates in the race.

Second, the candidates' frustration may be heightened because busy voters sometimes do not distinguish between mailers designed by independent groups and literature designed by the candidates themselves. If a candidate objects to the content of a PAC- or party-sponsored flyer, it can be especially an-

noying and potentially damaging to have voters attribute the off-note campaign message to the candidate.

Third, many candidates also are bothered by the financial impact of independent expenditures. If a PAC or party makes an independent expenditure in support of the candidate, in many cases the candidate's MCEA opponent will receive matching funds with which to get their message out.

Almost two-thirds of the candidates who responded to the 2006 survey identified matching funds and independent expenditures as areas in the law in need of change. Twenty-eight percent (28%) of the respondents suggested that independent expenditures be prohibited and/or matching funds be eliminated entirely. Another thirty-four percent (34%) wanted to have spending limits imposed on independent expenditures or to create black-out periods for independent expenditures (e.g., within one week of the election). Other suggestions included extending the existing 21-day rebuttable presumption period and requiring third-parties to file an "intent to spend" report.

The Commission recognizes that candidates' views are not monolithic. Even if they did not express the view in response to the 2006 surveys, it is likely that some candidates were grateful for the literature or advertising in their districts paid for by PACs and party committees. Nevertheless, readers of the candidate responses, taken as a whole, could not avoid hearing a loud and clear message from a large number of candidates that their political parties and caucus PACs should stay out of their election races as far as advertising and literature is concerned. The Commission staff believes that candidate frustration with independent expenditures are at the root of bills introduced into the 2007 legislative session that would limit contributions to PACs or that would attempt to limit independent expenditures. The Commission urges the Legislature to take these views seriously.

Chapter 9

Cost and Funding for the Program

Total Payments to Candidates

Total payments of Maine Clean Election Act funds to candidates have increased during each year in which the MCEA has been in operation (Table 9.A).

Table 9.A Total Payments to Candidates					
Election Year	2000	2002	2004	2006	Total
Legislative	\$964,467	\$2,089,538	\$2,799,617	\$3,348,469	\$9,202,091
Governor		\$1,216,669		\$3,534,615	\$4,751,284
Total	\$964,467	\$3,306,207	\$2,799,617	\$6,883,084	\$13,953,375

The growth in total payments has resulted from a few factors:

- As shown in Table 5.A, the initial payment amounts for legislative candidates have increased since 2000. Also, in 2003 the Legislature increased the amount of the initial payments for candidates for Governor.
- The number of legislative candidates participating in the MCEA has grown every election year (Figure 1.1). In 2006, four candidates for Governor participated in the MCEA, including one candidate for the primary election only.
- More candidates have received matching funds in greater amounts (Table 9.D).

A breakdown of total legislative payments provides a glimpse of when MCEA candidates received their campaign funds during the 2006 election cycle (Figure 9.1 and Table 9.B, next page). On average, 2006 candidates for the Legislature received only about 10% of their campaign funds before the primary elec-

tion. This reflects that most primary elections for the Legislature are uncontested, and candidates without a primary opponent receive small amounts for the primary. Only a handful of candidates receive matching funds for the primary election. About 72% of the funds paid to legislative candidates were in the form of initial payments for the general election, which were usually received in June of the election year. About 18% of total funds were paid as matching

funds for the general election, which were paid mostly in October 2006. In spite of some candidates' frustration with receiving matching funds too close to election day, it should be noted that on average they only make up 18% of payments made to legislative candidates.

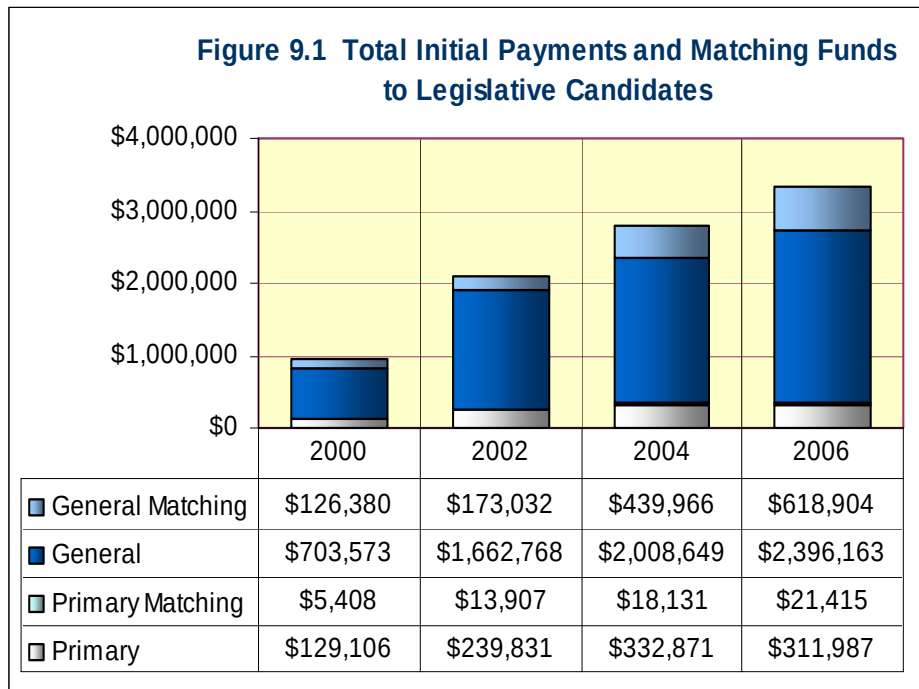


Table 9.B Totals Paid to Legislative Candidates by Type of Payment

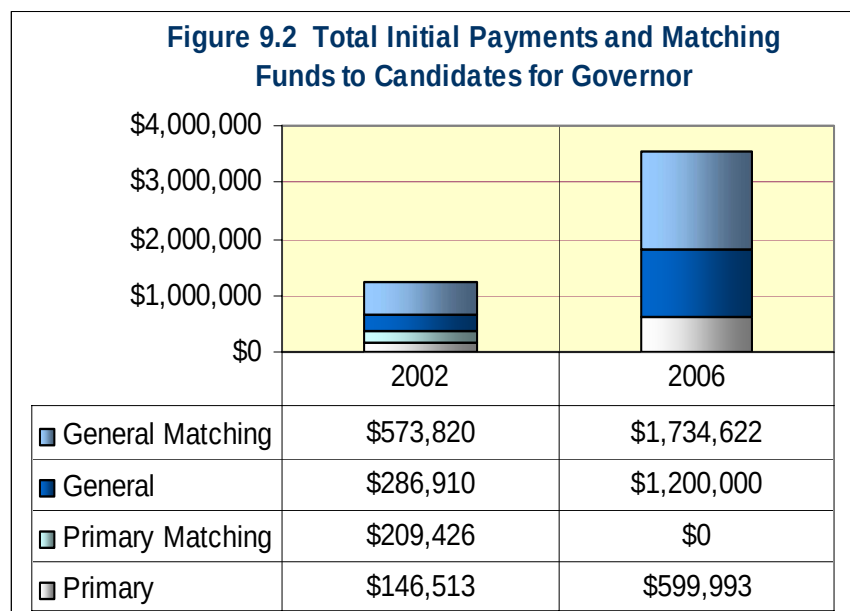
	2000	2002	2004	2006
Primary Election Initial Payments	\$129,106	\$239,831	\$332,871	\$311,987
Primary Matching Funds	\$5,408	\$13,907	\$18,131	\$21,415
Total for Primary Election	\$134,514	\$253,738	\$351,002	\$333,402
General Election Initial Payments	\$703,573	\$1,662,768	\$2,008,649	\$2,396,163
General Election Matching Funds	\$126,380	\$173,032	\$439,966	\$618,904
Total for General Election	\$829,953	\$1,835,800	\$2,448,615	\$3,015,067
Total Funds Paid	\$964,467	\$2,089,538	\$2,799,617	\$3,348,469

Breakdown of Payments to Candidates for Governor

Table 9.C and Figure 9.2 show the breakdown of payments to candidates for Governor who qualified for MCEA funding in 2002 and 2006.

Table 9.C Totals Paid to Gubernatorial Candidates by Type of Payment							
	James Libby (2002)	Jonathan Carter (2002)	Peter Mills (2006)	Chandler Woodcock (2006)	Pat LaMarche (2006)	Barbara Merrill (2006)	Total
Primary Election Initial Payments	\$104,641	\$41,872	\$200,000	\$199,999	\$199,993		\$746,505
Primary Matching Funds	\$209,426						\$209,426
Total for Primary Election	\$314,067	\$41,872	\$200,000	\$199,999	\$199,993		\$955,931
General Election Initial Payments		\$286,910		\$400,000	\$400,000	\$400,000	\$1,486,910
General Election Matching Funds		\$573,820		\$703,728	\$515,162	\$515,732	\$2,308,442
Total for General Election		\$860,730		\$1,103,728	\$915,162	\$915,732	\$3,795,352
Total Funds Paid	\$314,067	\$902,602	\$200,000	\$1,303,728	\$1,115,155	\$915,732	\$4,751,284

Figure 9.2 illustrates that matching funds make up a much larger proportion of the general election funds received by candidates for Governor compared to legislative candidates. That is the basis for recommendation 1.4 in Chapter 11 to increase the initial payment for the general election to \$600,000 and to decrease the maximum matching funds to \$600,000.



Matching Funds Payments to Legislative Candidates in General Elections

Matching funds for the general election has been an increasing part of the MCEA funding for legislative candidates since the program's introduction in 2000 (Table 9.D). This is the result of increasing numbers and amounts of independent expenditures, which means that more candidates are receiving matching funds and larger amounts are being paid.

Table 9.D General Election Matching Funds Paid to Legislative Candidates			
	Number of Candidates Receiving Matching Funds	Total Paid	Average Amount Paid
House			
2000	28	\$56,161	\$2,006
2002	63	\$96,626	\$1,534
2004	121	\$197,904	\$1,636
2006	128	\$381,916	\$2,984
Senate			
2000	12	\$70,219	\$5,852
2002	23	\$76,406	\$3,322
2004	27	\$242,062	\$8,965
2006	22	\$236,988	\$10,772

Table 9.E Matching Funds Paid to 2006 Legislative Candidates			
	Number of Candidates	Total Paid	Average Amount Paid
House Democrats	77	\$260,683	\$3,385.50
House Republicans	46	\$100,282	\$2,180.04
House Greens	4	\$16,255	\$4,063.68
House Independent	1	\$4,697	\$4,696.68
Total for House	128	\$381,917	\$2,983.72
Senate Democrats	11	\$123,735	\$11,248.66
Senate Republicans	9	\$90,999	\$10,110.98
Senate Greens	1	\$20,209	\$20,208.69
Senate Independent	1	\$2,045	\$2,045.02
Total for Senate	22	\$236,988	\$10,772.17

The breakdown of matching funds paid to 2006 candidates by party shows that, on average, Democratic candidates received a larger share of matching funds than Republican candidates (Table 9.E).

Sources of Revenue to the

Maine Clean Election Fund

Payments to candidates are made from the Maine Clean Election Fund, a special revenue account created by the MCEA. The primary sources of revenue to the Fund are:

- an annual transfer of \$2,000,000 from the General Fund on every January 1st;
- income from a check-off option at the top of the income tax return for Maine taxpayers; and
- qualifying contributions of \$5 submitted to the Commission by candidates.

The other sources of income include interest earned on the cash balance in the Fund, and payments of late-filing and other penalties (Table 9.F).

Table 9.F Revenue to the Maine Clean Election Fund					
Fiscal Year	General Fund Transfers	Tax Check-Off	Interest Earned	Qualifying Contributions	Penalties
1999	2,000,000	276,990	0	0	5,583
2000	2,000,000	522,795	262,942	56,213	11,223
2001	2,000,000	274,557	306,450	5,543	6,494
2002	2,000,000	248,226	230,819	128,200	6,408
2003	2,000,000	302,904	119,951	13,995	11,082
2004	2,000,000	247,659	32,767	129,246	4,670
2005	2,000,000	232,000	56,160	0	4,000
2006	6,400,000	215,463	264,998	185,860	7,011

In fiscal year 2006, the Legislature granted an advance of the \$2 million transfer for fiscal year 2007 and transferred into the Fund an additional \$2,400,000 to cover the cost of the MCEA for the 2006 elections. (The fiscal year for Maine state government begins on July 1st and ends on June 30th.)

Legislative Transfers from the Fund

In 2002 and 2003, the Maine Legislature transferred from the Maine Clean Election Fund a total of \$6,725,000 to use for other purposes. The Commission's understanding was that these funds would be returned if it became necessary. In 2006, the Legislature returned \$3,600,000 to the Fund (\$1,200,000 occurred on September 1, 2006 in fiscal year 2007). The unreturned balance of the transferred amount is \$3,125,000. In each year from 2004 through 2007, the Commission has had to alert the Legislature that the Maine Clean Election Fund did not have sufficient cash reserves to pay for upcoming elections.

Since the 2002-2003 transfers, the Legislature has responded by transferring cash into the Fund or advancing amounts from the annual transfers scheduled in future years.

Table 9.G History of Transfers from the Maine Clean Election Fund		
Transfers from Maine Clean Election Fund Totaling \$6,725,000		
\$4.0 million to Maine Rainy Day Fund	May 2002	P.L. 2001, Chapter 559, Part E-3
\$2.5 million to General Fund	November 2002	P.L. 2001, Chapter 714, Part N-1
\$225,000 to General Fund	June 2003	P.L. 2003, Chapter 20, Part D-26
Returns to Maine Clean Election Fund Totaling \$3,600,000		
\$2.4 million from General Fund	March 2005	P.L. 2005, Chapter 3, Part P-1
\$1.2 million from General Fund	April 2006	P.L. 2005, Chapter 519, Part KK
Unreturned Amount: \$3,125,000		

The Fund has sufficient cash for the 2008 legislative elections, provided that the Legislature advances at least \$700,000 of the \$2 million annual transfer scheduled for January 1, 2009. There will be a shortfall in the Fund for the 2010 elections, however, and it is likely that the Commission will need to request the remaining \$3.1 million in the 2009 legislative session.

The Commission is concerned that any further transfers from the Fund will erode confidence in the MCEA, particularly when the Commission has already predicted a shortfall for the 2010 elections.

Administrative and Personnel Expenses

Table 9.H (next page) shows the routine administrative and personnel expenses of the Maine Clean Election Fund, along with net payments to candidates. The Fund's personnel costs in fiscal year 2005 decreased due to vacant positions. Personnel expenses rose in 2006 because a long-vacant position was filled and the Commission hired two limited-time employees during the election year. In the past two fiscal years, the Fund has paid more in STACAP costs, which is the reimbursement that special revenue accounts must pay to the state's General Fund for overhead expenses such as heating, air conditioning, utilities, etc. In fiscal year 2005, the Maine Clean Election Fund began paying for routine technology costs (software and server maintenance) which previously were paid by the Commission's other special revenue account funded by lobbyist registration fees. The Commission is rebidding its technology services to lower these costs.

Table 9.H Routine Administrative and Personnel Expenses of the Maine Clean Election Fund

	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personnel Costs	\$108,036	\$101,051	\$112,032	\$118,346	\$115,031	\$231,864
Net Candidate Payments	\$113,451	\$2,266,536	\$892,394	\$2,201,115	\$385,501	\$4,348,581
Temporary Workers	\$0	\$8,808	\$4,895	\$7,643	\$24,973	\$17,401
Technology Maintenance	\$0	\$5,390	\$0	\$2,675	\$48,000	\$42,290
STACAP	\$4,456	\$3,078	\$5,032	\$11,334	\$23,897	\$51,744
All Other	\$5,044	\$12,015	\$11,701	\$34,421	\$58,846	\$63,166

Chapter 10

Non-Compliance and Auditing

After four election cycles in which the Maine Clean Election Act has been in operation, the Commission has found few instances of wrongdoing in qualifying for public funding or misuse of public funds. The Commission's guidelines on permissible campaign expenditures strive to keep a balance between the accountability for public funds and the flexibility needed to run successful campaigns. The overwhelming majority of MCEA candidates stay within the guidelines established by the Commission and use their campaign funds in ways that will benefit their candidacies. The Commission did encounter a small number of problems in 2004 and 2006. Learning from these problems, the Commission was able to recommend to the Legislature changes to the Act to improve the Commission's oversight and ensure greater accountability and safeguards. Nevertheless, this remains an area that requires ongoing review and improvement to protect the public's funds and confidence in the MCEA. The Commission is grateful for the Legislature's attention to this area to ensure that the Commission finds the correct balance between keeping the MCEA an accessible route to public office and reassuring taxpayers that the program is fiscally accountable.

Restrictions on Spending MCEA Funds

The MCEA requires candidates to use public funds for "campaign-related purposes" but does not define what those are. Under the Act, the Commission must publish formal guidelines outlining permissible campaign-related expenditures. (21-A M.R.S.A. §1125(6)) The guidelines give candidates a fuller explanation of what constitutes a permissible and non-permissible expenditure. For example, payment for personal goods or services that a candidate would otherwise purchase independently of the campaign is prohibited. Candidates also cannot use MCEA funds to assist other candidates or to promote a political party or social cause apart from their campaign. In 2005, the Commission staff made changes to the guidelines in a variety of areas (vehicle travel, food, accommodations, equipment, and post-election thank you communications and parties) after inviting public comment. The guidelines are contained in the Appendix of this report.

The Commission takes seriously its obligation to encourage compliance by educating candidates about their responsibilities in using public funds. The Commission's guidelines are included in the candidate registration packet, and the Commission published an improved 2006 Candidate Guidebook that provides advice on acceptable expenditures. The Commission also periodically mailed informational newsletters to candidates throughout the 2006 election cycle containing reminders about spending restrictions. Some reminders were tailored to address problems identified in the Commission's routine compliance review of campaign finance reports.

Requirements for MCEA Candidates to Document Expenditures

Under the MCEA, participating candidates and their treasurers are required to obtain the following documents for every expenditure of \$50 or more:

- a vendor invoice stating the particular goods and services purchased; and
- a record proving that the vendor received payment. The proof of payment may take the form of a canceled check, a receipt from the vendor, or a bank or credit card statement identifying the vendor as the payee.

Campaigns are not required to submit these documents to the Commission unless the candidate is randomly selected for an audit or unless the Commission requests them for other reasons. This documentation provides confirmation that the MCEA candidate received campaign-related goods and services from a vendor and used MCEA funds to pay the vendor. Candidates must keep these records for two years.

Current Procedures for Overseeing Candidate Expenditures

Reviews of Reported Expenditures

The Commission conducts a compliance review of all expenditures of MCEA funds as disclosed by candidates in their campaign finance reports. The Commission's goal is to review 100% of public funds distributed to candidates. That review typically occurs in the two to three weeks after each filing deadline. The review is conducted by the Commission's auditor and an associate auditor who is hired for a portion of the election cycle. If the Commission staff determines that a reported expenditure does not clearly fall within the Commission's expenditure guidelines, it requests information or documentation from the candidate to verify that the funds were used for campaign-related purposes.

These reviews demonstrate that candidates are spending MCEA funds overwhelmingly on traditional campaign-related expenditures, such as signs, advertising, printing and mailing literature, and travel. In those rare instances in which a candidate spent MCEA funds for purposes that were outside the Com-

mission's guidelines, the candidate is informed that the expenditure was impermissible and the candidate must use personal funds to reimburse the campaign. Some examples are discussed below.

Formal Audits

In 2006, the Commission initiated a program of formal audits of MCEA candidates by requesting receipts or invoices from the vendor and proof of payment to the vendor in the form of bank statements or canceled checks. The Commission will audit all 2006 candidates for Governor who received MCEA funds and 20% of legislative candidates.

The purpose of these audits is to confirm that all campaign expenditures were accurately reported, approved by the candidates, and used for campaign-related purposes. In addition, the Commission intends that the audit will educate candidates about record-keeping requirements and the expenditure guidelines. At the conclusion of the audit, the staff presents a written report to the Commission at a public meeting. The large majority of reports are "no exception" reports, *i.e.*, no deficiencies were found or any minor deficiencies were resolved.

In a typical audit, the Commission's auditor selects specific expenditures from a candidate's campaign finance report for review and requests source documentation for the expenditures from the candidate. If the candidate has not obtained the required documents from the vendor or bank, the candidate is provided a reasonable time period to request them. The candidate is also permitted an opportunity to fix any reporting mistakes by amending the campaign finance report. The Commission's experience to date is that candidates overwhelmingly comply with the reporting and record-keeping requirements. Most failures to comply can be remedied with little or moderate effort by the candidates. If more serious non-compliance is found, the issue becomes a finding in an official audit report for the campaign. The audit report is presented to the Commission, possibly with a recommendation from the staff for the imposition of a penalty or the return of public funds.

Results from 2006 Audits and Reviews of Reported Expenditures

A number of factors contribute to the very high level of compliance and cooperation by candidates:

- Maine's traditions of good-government and a citizen Legislature attract candidates who are interested in public service rather than self-enrichment.
- Candidates only receive a moderate amount of funds for their campaigns, and wasteful expenditures reduce the amount of funds candidates can spend on effective campaign communications to voters.

- Legislative districts are relatively small and all expenditures are publicly disclosed on the Commission's website. This promotes oversight by members of the candidate's community, including the local press and party activists who support the candidate's opponent. Most MCEA candidates value their reputation within their community, and they do not want to endanger that with questionable expenditures.

Nevertheless, some candidates have chosen to spend public funds for purposes that do not comply with the Commission's expenditure guidelines. Generally, these situations were not intentional by the candidates and were the result of confusion about the Commission's guidelines. In 2006, these non-compliant expenditures included:

- a purchase of shoes;
- maintenance for the candidate's car; and
- payment of a medical expense for a dog bite sustained while campaigning.

The Commission staff also discovered two 2006 legislative candidates who apparently used larger amounts of MCEA payments as short-term loans to cover personal expenses. Even though the candidates returned the funds to the state, the Commission staff is recommending the imposition of civil penalties against the candidates because they should not have used MCEA funds for personal expenses.

More Serious Misuse of Public Funds

Following the 2004 elections, the Commission conducted full investigations of two legislative candidates who misspent public funds for purposes other than their own campaigns. While the two candidates themselves were ultimately responsible for any misappropriation of funds that occurred, at the core of the campaigns were two self-described political consultants who recruited both candidates and who benefited from the misuse of public funds.

Julia St. James

Julia St. James ran for a Senate seat as an independent with a party designation of the "Fourth Branch Party." She was recruited to run by Dan Rogers and Jessica Larlee, two individuals with campaign experience who introduced themselves to her as political consultants. Ms. St. James ultimately received \$36,307 in MCEA funds and paid over \$11,000 to Mr. Rogers and Ms. Larlee. The candidate complained that she did not receive services from Rogers for which she paid him large fees. The Commission disallowed a \$5,000 payment to Rogers. The Commission also found that Dan Rogers submitted false invoices in response to a request by the Commission for supporting documentation for his services.

Ms. St. James could not produce any supporting documentation for \$5,769.25 in cash expenditures; failed initially to return equipment and goods purchased with MCEA funds; and used public funds to purchase non-campaign-related items. After an extensive investigation by the staff and a two-day hearing by the Commission, the candidate was ordered to repay \$11,088.15 in MCEA funds and fined \$15,000. Dan Rogers was fined \$17,500 for using MCEA funds for non-campaign purposes and for submitting false documents to the Commission.

Sarah Trundy

Sarah Trundy ran for a House seat as a Green Independent Party candidate and received a total of \$4,487 in MCEA funds. The campaign claimed that it spent nearly \$3,000 for a series of postcard mailings but could not produce any supporting documents or a person who received or saw a postcard. Even the candidate stated that she never saw a postcard. This candidate was remarkable for her complete lack of involvement in her own campaign. Ms. Trundy could not even name her opponent. To the Commission, it appeared that the consultants recruited this candidate only to access MCEA funds. The Commission fined one of the consultants a total of \$15,500 and ordered the candidate to return nearly \$3,000 in public funds.

The Commission hopes that the steep fines and significant negative press coverage will deter others who may think that the MCEA is a source of easy money. These cases also underscore the importance of the staff's review of all campaign finance reports as they are filed, immediate investigation any suspicious or inadequate reporting, and random and selective auditing of campaigns.

Qualifying for Public Funds

The Commission has found almost no fraud in the collection of \$5 qualifying contributions and the raising and spending of seed money. In 2006, however, the Commission encountered two troubling situations which underscore the need to guard against fraud even at the outset of a campaign.

Hon. John M. Michael

In 2006, an independent candidate for Governor, John M. Michael, a former State Representative, submitted more than 2,500 qualifying contributions but was ultimately denied MCEA funding by the Commission staff. The staff found that 746 of the 2,690 qualifying contributions submitted were invalid for a variety of reasons, such as 183 contributors were not registered to vote, and 50 qualifying contributions did not meet the basic requirements. This candidate also disregarded the Commission's administrative regulations for verifying that the contributors were registered Maine voters and for submitting certification materials in a complete and timely manner, which led to the rejection of a large number of qualifying con-

tributions. Accordingly, the staff determined that Mr. Michael had not met the qualifications to receive public funding for his campaign.

Part of the basis for the staff denial was the submission of false statements provided by the campaign to the Commission. The staff made routine telephone calls to 218 individuals who signed a receipt and acknowledgement form stating that they had given \$5 qualifying contributions. Eighteen individuals who were interviewed denied making any contribution at all. Given that 8.3% of 218 individuals contacted said they did not make a contribution, the staff concluded that some individuals involved in the campaign had engaged in some degree of fraud, which was likely to be more widespread than only 18 individuals contacted.

In the interviews, the staff heard from a number of individuals whom Michael campaign workers misled regarding the nature of the documents they were being asked to sign for the candidate. The campaign workers told the individuals that their signature on the receipt and acknowledgement form signified that they supported Mr. Michael qualifying as a candidate, when in fact the form is intended to show that the individual made a \$5 qualifying contribution. This again suggested that substantially more contributors may have been similarly misled.

Mr. Michael hired legal counsel to appeal the staff determination to the members of the Commission. The hearing on the appeal was postponed after the candidate himself objected that he would not be able to get a fair hearing. At the time, one of the positions on the Commission was vacant. Mr. Michael contended that the four Commission members were all members of political parties who would be biased against him as an independent candidate. After a fifth, independent member of the Commission was appointed, Mr. Michael withdrew the appeal and he later withdrew as a candidate.

Peter Throumoulos

Peter Throumoulos was a primary election candidate for State Senate. The Commission staff determined that he did not qualify for MCEA funding because a significant number of the signatures of contributors were forged. The Commission staff learned of this case first from a city clerk who was verifying voter registration on the receipt and acknowledgement forms and noticed the signatures of individuals she knew could not have made the contributions because they were dead. Upon subsequent investigation by Commission staff, it was evident that many other signatures were also fraudulent. This case was referred to the Attorney General for criminal prosecution. A grand jury indicted Mr. Throumoulos on multiple counts of fraud and his case is currently pending in Maine Superior Court.

These cases emphasize the importance of subjecting qualifying contributions and the associated documents to a high degree of scrutiny. In the case of a gubernatorial candidate, \$1.2 million could be at stake; in the case of a Senate candidate, possibly over \$80,000.

Fringe Candidates

One concern raised about public funding of political campaigns is that the availability of campaign funds from the state will induce “fringe” candidates who drive up the cost of the program and use money for self-enrichment. Although the Commission staff does not come into contact with all candidates, they have seen relatively few instances of fringe candidates – individuals who do not perform the basic candidate functions of campaigning (meeting voters door-to-door, taking positions on public issues in the press, attending public forums, etc.). As noted in Chapter 2, the Maine Clean Election Act has only increased the number of legislative candidates in general elections by about 40 candidates per year.

It is undeniable that some portion of MCEA candidates are “long-shots” in their districts. This might be, for example, because the candidates are running against a well-liked incumbent or their legislative district is dominated by voters of a different political party. Some observers of the MCEA view these individuals as undeserving of receiving scarce public funding. Others believe that inclusion of these candidates in the public funding program is inevitable. If the Legislature perceives this to be a problem, one option for addressing the issue is to raise the qualifying requirements (number of qualifying contributions) for legislative candidates.

Candidates Recruited for Electoral Advantage

In the 2004 and 2006 elections, the Commission staff became aware of three races in which MCEA candidates may have recruited and assisted other individuals to run against them. In two cases, the purpose in doing so apparently was to qualify the MCEA candidate for the distribution of MCEA funds for a contested primary, which is much greater than for an uncontested race. In the third case, the MCEA candidate may have recruited an opponent to run in the general election to make it a three-way race in order to increase the MCEA candidate’s chances of winning. The Commission staff became aware of two of these situations when the recruited candidates themselves came forward and stated that the MCEA candidate may have taken advantage of them. Whatever the facts of these individual cases, a possibility exists that unopposed candidates (particularly in a primary election) could assist and recruit opponents in order to receive a greater amount of MCEA funds as a contested candidate. In Chapter 11 of this report, the Commission recommends that the Legislature prohibit this practice as a pre-condition for participation in the MCEA and make it grounds for the revocation of certification.

Chapter 11

Recommendations to the Legislature

Under 1 M.R.S.A. §1009 and 21-A M.R.S.A. §1128, the Commission is authorized to make recommendations to the Legislature concerning the Maine Clean Election Act and to submit legislation to improve the Act. The Commission also is authorized to adopt rules relating to the MCEA (21-A M.R.S.A. §1126). These rules are major substantive, so the Legislature must authorize their final adoption before they can take effect. The Commission's most noteworthy recommendations are discussed below.

1.0 Recommendations Included in the Commission's 2007 Bill

On February 5, 2007, the Commission submitted its statutory recommendations to the Legislature which were printed as Legislative Document 1854.

1.1 60-Day Period for Independent Expenditures.

Under current law, if a mailing or advertisement is distributed to voters more than 21 days before an election, it is considered an independent expenditure only if the communication expressly advocates the election or defeat of a candidate (for example, "Vote for Jones" or "Defeat Smith"). The express advocacy standard – while providing a clear, bright-line rule for PACs and political parties – does not cover many communications concerning candidates that are clearly intended to influence elections. As a result, the public is deprived of prompt, detailed independent expenditure reporting by groups that are spending large amounts to affect elections. In the 2006 race for Governor, for example, more than \$1.2 million spent on television advertising to support the Democratic and Republican nominees was not included in independent expenditure reports. In addition to the loss of disclosure to the public, the matching funds provision in the MCEA is seriously undermined if the costs of mailings and advertising are not included in independent expenditure reports.

As discussed in Chapter 8, during the 2006 elections the express advocacy standard was highly criticized in many quarters. Editorials to this effect are included in the Appendix to this report. Confidence in

Maine's campaign finance laws will be eroded if the same loopholes that are exploited in congressional elections are utilized by PACs and political parties in elections for Maine state office.

The express advocacy standard does not apply to communications distributed to voters in the final 21 days before an election. During that three week period, a communication is presumed to involve an independent expenditure if it merely names or depicts a candidate and if there is a MCEA candidate in the race. The Commission recommends increasing this presumption period from 21 days before the general election to 60 days before the general election. The 60-day time period is modeled after a similar federal law concerning electioneering communications, which are radio and television ads run to support or oppose congressional candidates.

1.2 Requiring MCEA Candidates for Governor to Collect \$15,000 in Seed Money Contributions.

1.2.a Background Considerations.

In the 2007 session, the Legislature received six bills proposing to raise the bar for candidates for Governor to qualify for MCEA funding. Determining the correct qualifications for gubernatorial candidates is difficult because it requires balancing two considerations:

- (1) Since MCEA financing for gubernatorial candidates may be as great as \$1.4 million, public funds should not be paid to candidates who have little chance of winning or who are running only to promote a single political issue or to criticize an opponent. The qualification requirements must be designed so that the candidate can demonstrate that he or she has a credible base of public support. The system will lose public and legislative support if individuals who are widely perceived as "fringe" candidates receive funding.
- (2) The program should be sufficiently accessible to encourage candidates from both inside and outside the two major political parties. In the opinion of the Commission staff, independent or lesser-known candidates should be able to qualify if they have the potential to be serious candidates and they have demonstrated a threshold of public support through the qualification process.

Maine's traditional receptivity to independent state-wide candidates should not be overlooked. Two of Maine's past five governors ran as independents: James B. Longley and Angus S. King, Jr. In 1992, independent presidential candidate Ross Perot received more votes statewide than the incumbent President. Maine consistently ranks among the states with the highest percentage of voters who are not registered in any political party.

1.2.b Requiring Seed Money.

Under current law, candidates for Governor may collect seed money contributions from individuals totaling up to \$50,000. No individual can contribute more than \$100.

The Commission proposes that gubernatorial candidates be required to collect at least \$15,000 in seed money to qualify for public financing, in addition to the other requirements. Public support for the gubernatorial program can be maintained through a qualification process that screens for those candidates with a credible and demonstrable level of public support. This threshold of support must be high enough to deter fringe candidates but not so high as to become a barrier to serious candidates.

1.3 Seed Money from In-State Contributors Only.

The Commission's bill also contains a proposal that MCEA candidates be permitted to collect seed money only from Maine residents. Under current law, seed money may be collected from any individual nationwide.

Two gubernatorial candidates seeking public funding in 2006 (including one who did qualify) received large portions of seed money contributions (47%, and even 67%) from out-of-state contributors. While legal and ethical in the 2006 election, a continuation of this pattern in future election years could erode the public's confidence in the program. The proposal as included in L.D. 1854 would apply to legislative candidates as well, although the Commission believes it has greater importance for gubernatorial candidates.

1.4 Timing of Payments for Candidates for Governor.

Under current law, candidates for Governor receive an initial payment of \$400,000 for the general election in June of the election year and up to \$800,000 in matching funds. In 2006, the Woodcock, Merrill, and LaMarche campaigns received the major part of their general election funds after October 12 – in the last 25 days before the general election – which reduced their ability to advertise in early October or in September. Republican nominee Chandler Woodcock received 63% of his general election funds after October 12. The Commission proposes to increase the initial payment to \$600,000 and to decrease the maximum in matching funds to \$600,000. This would allow candidates for Governor to better plan their communications to voters (particularly advertising) in June in the same way that legislative candidates do now. The Commission believes this would not increase the cost of the MCEA program because under current law, future candidates for Governor are very likely to receive at least \$600,000 for the general election.

1.5 Qualifying Contributions Made by Money Order Must Be Signed.

In the original MCEA enacted by Maine voters, qualifying contributions could only be made in the form of a check in the amount of \$5. The Legislature modified the MCEA to permit candidates to accept \$5 qualifying contributions in cash which the candidates use to purchase \$5 money orders they submit to the Commission. This amendment was intended to facilitate the collection of \$5 qualifying contributions from donors who did not have a checking account or who did not have a checkbook with them at the time they were solicited. Regardless how the contribution is made, the person making the \$5 contribution signs a receipt and acknowledgment (R&A) form stating that they gave \$5 from their personal funds.

The Commission believes that almost all candidates treat the qualification process conscientiously, but there have been some instances in which a candidate has received the \$5 in cash from some source other than the signed contributor. In these cases, the individual's signature on the R&A form, by itself, was not a sufficient safeguard to ensure that the contributor actually gave \$5. To prevent this problem, the Commission recommends that a qualifying contribution of \$5 in cash be counted as valid only if the contributor signs both the money order and the R&A form.

1.6 Allowing Qualifying Contributions by Debit or Credit Card.

Under current law, a qualifying contribution must be in the form of a \$5 check or money order. The Commission proposes that the Legislature permit the Commission to accept \$5 contributions by debit or credit card, provided that the contributor signs the R&A form and the electronic payment information verifies that the money came from the contributor's personal funds.

1.7 Easier Filing for Privately Financed Candidates with a MCEA Opponent.

On three deadlines leading up to a primary or general election, privately financed candidates who have a MCEA opponent must file either an accelerated report disclosing total receipts and expenditures for the election or a notarized affidavit stating that their contributions and expenditures have not exceeded a certain amount. The purpose of the report is to determine at regular periods whether a MCEA candidate is entitled to matching funds. Privately financed candidates have criticized this requirement as burdensome.

To relieve this burden, the Commission proposes that accelerated reports should only be required for privately financed candidates whose receipts or expenditures have exceeded the amount of the initial distribution to the MCEA opponent. In addition, the Commission proposes to simplify the 24-hour reporting requirements so that the same requirements apply to all legislative candidates – whether privately or publicly financed.

1.8 Prohibit MCEA Payments to Members of the Candidate's Family.

Under current law, MCEA candidates are permitted to use public funds to compensate family members for providing services to the candidate. Most candidates do not choose to pay family members, however, because their campaign funds are limited and because most relatives will volunteer. Nevertheless, a small number of MCEA candidates have paid spouses or siblings to provide services to the campaign.

The Commission recommends that this be prohibited under the MCEA. The payments to family members may be well-intentioned and the campaigns may have received valuable services in return for the compensation. However, the practice of paying relatives invites the criticism of the MCEA that candidates are participating in the program in order to enrich themselves or their families. Under the Commission's proposal, candidates could no longer use their MCEA campaign funds to pay their own family members, but they could continue to pay the relatives of their supporters or of party activists.

1.9 Assisting a Person to Become an Opponent.

The Commission proposes that candidates who participate in the MCEA should be prohibited from assisting opponents to qualify as candidates through the petitioning process when that assistance would result in the candidate receiving a greater amount of public funds as a contested candidate. Although this appears to be a limited problem, this possible practice detracts from the public's confidence that the MCEA can be appropriately managed free from abuse.

1.10 Revocation of MCEA Funding.

Once a candidate submits the qualifying contributions and other materials to request MCEA funding, the Commission is required to decide on the request within three business days. If the Commission later finds that a certified candidate made a false statement or committed another serious violation as part of the qualification process, the Commission should be explicitly authorized to revoke the candidate's participation in the MCEA. The Commission would only use this authority in situations of serious violations of the Act or other election laws. The decision to revoke MCEA funding would be made at a public hearing at which the candidate would have a full opportunity to be heard and to present evidence.

1.11 Moving the Annual Transfer Ahead by Four Months. The Commission proposes that beginning in fiscal year 2010 the annual transfer of \$2 million from the General Fund to the Maine Clean Election Fund be scheduled four months earlier on September 1st rather than on January 1st. In election years, this cash could be used to pay matching funds in the last two months before a general election.

2.0 Recommendations Being Considered in Spring 2007 Rule-Making (Major Substantive)

2.1 Travel Log.

Maine Clean Election Act candidates may choose to use their campaign funds to reimburse the candidate for travel. As long as the travel is campaign-related, using MCEA funds for travel is perfectly legitimate, but it raises a concern for some that candidates could be using public funds for personal use. Under the Commission's rules, candidates must keep a log of all campaign travel that is paid for with public funds, which must include the date of the travel, the trips' origin, destination and purpose, and the number of miles traveled. Despite the explanation of the rule in the Commission's Candidate Guide, the Commission found that few candidates in 2006 were aware of the requirement.

Under the proposed rule, the Commission would be authorized to "disallow" travel reimbursements if the Commission determines that the campaign did not keep the travel log, which means that the candidate would be required to repay the campaign for the travel with the candidate's personal funds. By proposing this rule, the Commission is attempting to strike the correct balance between reassuring taxpayers that public funds are not spent for personal travel while still keeping the MCEA program accessible for candidates. The Commission would be grateful for the Legislature's attention to this major substantive rule to ensure that the correct balance is reached.

2.2 Encouraging Candidates to Keep Documentation of Expenditures.

For every expenditure of \$50 or more, MCEA candidates are required to obtain and to keep a vendor invoice stating the particular goods and services purchased and a record proving that the vendor received payment. The proof of payment may take the form of a canceled check, a receipt from the vendor, or a bank or credit card statement identifying the vendor as the payee. The records must be kept for two years after the candidate's last election report.

In 2006, the Commission began a program of auditing the expenditures of 20% of legislative candidates. In almost all cases, the candidates or their treasurers were able to obtain any missing records during the audit. The Commission wishes to develop a policy for those few candidates who are unable to obtain the required documentation (a vendor receipt or invoice, and proof of payment) after repeated requests by the Commission. It proposes a rule change that would provide it the flexibility either to assess a penalty for failing to keep required records or to disallow the expenditure. Disallowing the expenditure would require the candidate to reimburse the Maine Clean Election Fund with the candidate's personal funds. In this matter also, the Commission is balancing fiscal accountability with the interest in keeping the MCEA an accessible program.

3.0 Other Issues and Recommendations

The Commission wishes to alert the Legislature to a number of other issues which were not addressed in the Commission's bill or adopted rule changes.

3.1 Adequate Funding for the 2010 Elections.

In 2002 and 2003, the Legislature transferred \$6,725,000 from the Maine Clean Election Fund to the Rainy Day Fund and the General Fund to be used for other purposes. In 2005 and 2006, the Legislature returned \$3,600,000 to the Maine Clean Election Fund. The Fund will not have sufficient resources to pay to legislative and gubernatorial candidates in the 2010 elections, so it is likely that in the 2009 legislative session, the Commission will need to request the restoration of the remaining \$3,125,000 to the Maine Clean Election Fund.

3.2 Voter Guides and Legislative Scorecards.

In the 2004 and 2006 elections, the Commission received a number of requests for determinations on whether voter guides or legislative scorecards were political communications made for the purpose of influencing an election. These publications are produced by advocacy organizations, which assign a score or grade to Legislators based on whether they voted on legislation in a way that the organization viewed as favorable. On one hand, the Commission heard from the advocacy groups that these publications should be deemed informational rather than political, and should not trigger reporting requirements. On the other hand, some candidates and others have urged the Commission to view these publications as intended to influence the election. Under this view, the costs of voter guides or scorecards could be characterized as independent expenditures which could trigger matching funds, and the organizations which publish them should disclose publicly the funds raised and spent on the publications.

In the spring 2007 rule-making, the Commission staff proposed a rule regarding this issue for public comment but withdrew it because of insufficient time to improve the proposed rule. The Commission would welcome guidance from the Legislature on how it should treat voter guides and legislative scorecards.

3.3 Contribution Limits for Political Action Committees.

In the 2007 session, the Legislature will consider two bills that limit the amount that a contributor may give to a political action committee. The Commission has not taken a position on this legislation. Nevertheless, it does urge the Legislature to take seriously the complaints of many legislative candidates that too much money is being contributed to independent groups, and that increasingly these funds are used to influence candidate elections.

3.4 Role of Staff Assistance by PACs.

Under current law, political parties are permitted to donate up to 20 hours of their employees' time to assist candidates. This assistance is excluded from the definition of 'contribution' in the Election Law. This exclusion is limited to party committees only. When a PAC hires employees to assist candidates, the assistance is a contribution to the candidates under current law. The Commission staff is concerned that some PACs – particularly those organized by legislative caucuses – currently are making unintentional contributions to candidates by hiring employees who assist the candidates. The Legislature may wish to consider this issue.

The Commission is grateful to the Legislature for its consideration of these recommendations.

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Rates of MCEA Participation in General Elections				
Election Year	Office	MCEA Candidates	Total Candidates	MCEA Percentage
2000	House	81	278	29.14%
2000	Senate	35	72	48.61%
2000	Total	116	350	33.14%
2002	House	179	299	59.87%
2002	Senate	52	71	73.24%
2002	Total	231	370	62.43%
2004	House	250	318	78.62%
2004	Senate	58	73	79.45%
2004	Total	308	391	78.77%
2006	House	247	309	79.94%
2006	Senate	66	77	85.71%
2006	Total	313	386	81.09%

Candidates Excluded from Mean and Median Calculations in Chapter 5				
Election Year	Office	Candidate Name	Total Spent	Total Received
1990	House	Alexis M. Casey	\$0.00	\$0.00
1990	House	Alfred N. Lacava	\$0.00	\$0.00
1990	House	Beverly C. Daggett	\$132.17	\$316.75
1990	House	Bradford Boutilier	\$120.00	\$275.00
1990	House	Christopher S. Gurney	\$96.00	\$225.00
1990	House	Elbridge B. Davis	\$211.20	\$211.20
1990	House	Elliott L. Foss	\$0.00	\$0.00
1990	House	Fred L. Richardson	\$21,501.78	\$21,501.78
1990	House	Gary L. Fincher	\$193.58	\$193.58
1990	House	Gay Hoyt	\$0.00	\$0.00
1990	House	George F. Ricker	\$460.80	\$460.80
1990	House	George W. Cummings	\$477.23	\$446.00
1990	House	Harold M. Macomber	\$0.00	\$0.00
1990	House	Herbert C. Adams	\$349.00	\$349.00
1990	House	J. Martin Vachon	\$15.20	\$15.20
1990	House	Jacqueline L. Dumais	\$75.00	\$75.00
1990	House	James E. Miller	\$448.40	\$448.40
1990	House	James V. Oliver	\$150.00	\$300.00
1990	House	Jo Anne Lapointe	\$247.30	\$247.30
1990	House	John Jalbert	\$67.95	\$242.95
1990	House	John Monteith	\$0.00	\$0.00
1990	House	Joseph G. Dostie	\$383.19	\$383.19
1990	House	Judy Paradis	\$366.25	\$450.00
1990	House	Mary Clark Webster	\$20,859.75	\$21,020.00
1990	House	Paul B. Shedd	\$0.00	\$0.00
1990	House	Peter B. Dublin	\$0.00	\$0.00
1990	House	Raymond D. Gross	\$216.00	\$266.00
1990	House	Richard J. Kelly	\$469.24	\$510.00
1990	House	Richard L. Petersen	\$0.00	\$0.00
1990	House	Robert M. Abelson	\$130.00	\$130.00
1990	House	Robert N. Soulas	\$435.56	\$435.56
1990	House	Steven Beckwith	\$0.00	\$0.00
1990	House	Theodore T. Rand	\$0.00	\$0.00
1990	Senate	Bryan J. Albert	\$0.00	\$0.00
1990	Senate	Charlene Kent	\$320.00	\$320.00
1990	Senate	Charles P. Pray	\$52,920.12	\$53,853.28
1990	Senate	Dale McCormick	\$51,687.51	\$49,831.04
1990	Senate	Georgette B. Berube	\$667.21	\$1,050.00
1990	Senate	N. Paul Gauvreau	\$622.40	\$630.00
1990	Senate	Plato Truman	\$0.00	\$0.00
1990	Senate	Shirley R. Barlow	\$739.27	\$739.27
1992	House	Anne M. Rand	\$491.43	\$603.15
1992	House	Carleton H. Mabee	\$0.00	\$0.00
1992	House	Carol Kealiher Stirling	\$150.31	\$180.00
1992	House	Dan A. Gwadosky	\$15,868.58	\$17,233.19

Candidates Excluded from Mean and Median Calculations in Chapter 5, continued				
Election Year	Office	Candidate Name	Total Spent	Total Received
1992	House	Daniel T. Dowling	\$52.95	\$52.95
1992	House	David N. Ott	\$268.66	\$1,698.95
1992	House	Douglas A. Lane	\$355.61	\$355.61
1992	House	Douglas E. Fogg	\$15.12	\$15.12
1992	House	Edward R. White	\$325.07	\$325.00
1992	House	Eric R. Day	\$140.52	\$150.00
1992	House	Gaetan Lamontagne	\$238.00	\$238.00
1992	House	Gene A. Thompson	\$0.00	\$0.00
1992	House	Harry G. True	\$277.00	\$356.67
1992	House	Herbert C. Adams	\$153.93	\$155.95
1992	House	J. Eugene Boivin	\$338.41	\$416.04
1992	House	James H. Bryant	\$309.53	\$309.90
1992	House	Jason P. Burleigh	\$341.00	\$341.00
1992	House	Jeffrey Philip Lowell	\$210.00	\$210.00
1992	House	John C. Monteith	\$296.25	\$296.25
1992	House	Joseph R. Motta	\$95.40	\$100.00
1992	House	Kenneth S. Snow	\$461.21	\$475.47
1992	House	Lois G. Reckitt	\$17,065.09	\$17,061.00
1992	House	Lucien A. Dutremble	\$251.99	\$254.10
1992	House	Mary H. Macbride	\$338.47	\$3,380.47
1992	House	Michael Taylor	\$106.72	\$106.72
1992	House	Normand E. Roy	\$447.25	\$447.25
1992	House	Peter B. Harvey	\$0.00	\$0.00
1992	House	Philip D. Robertson	\$238.50	\$238.50
1992	House	Robinson Verrill	\$100.00	\$100.00
1992	House	Ronald B. Prevoir	\$0.00	\$0.00
1992	House	Ronald G. Webb	\$203.76	\$203.76
1992	House	Sonja L. Hodgkins	\$351.06	\$351.06
1992	House	Sumner H. Lipman	\$16,526.64	\$16,526.64
1992	House	Vernon L. Thompson	\$0.00	\$0.00
1992	House	Victoria Linne	\$0.00	\$0.00
1992	House	Wayne G. Grant	\$411.90	\$381.50
1992	Senate	Alton E. Cianchette	\$133,567.82	\$133,567.82
1992	Senate	David E. Bouthilette	\$1,145.43	\$1,170.00
1992	Senate	David S. Kaler	\$1,152.35	\$1,152.35
1992	Senate	Franklin J. Richards	\$1,005.00	\$1,005.00
1992	Senate	Leonard J. Robinson	\$68.70	\$68.70
1992	Senate	Paul D. Binette	\$482.56	\$482.56
1994	House	Clyde A. Hichborn	\$0.00	\$0.00
1994	House	Dan A. Gwadosky	\$20,200.00	\$24,081.69
1994	House	Debra D. Plowman	\$70,314.00	\$7,090.03
1994	House	Donald W. Beattie	\$45.00	\$75.60
1994	House	Douglas L. Libby	\$170.00	\$170.16
1994	House	Eleanor M. Murphy	\$25.00	\$25.00

Candidates Excluded from Mean and Median Calculations in Chapter 5, continued

Election Year	Office	Candidate Name	Total Spent	Total Received
1994	House	Fred L. Richardson	\$70.00	\$70.00
1994	House	Gary D. Smith	\$159.00	\$159.37
1994	House	Gary W. Seavey	\$356.00	\$650.00
1994	House	George F. Ricker	\$0.00	\$0.00
1994	House	Helen Elizabeth Patterson	\$128.00	\$160.00
1994	House	Herbert C. Adams	\$45.00	\$45.00
1994	House	James V. Oliver	\$100.00	\$100.00
1994	House	Jeffery W. Porter	\$12.00	\$12.00
1994	House	John C. Monteith	\$494.00	\$494.41
1994	House	John P. Marshall	\$0.00	\$250.00
1994	House	Joseph G. Carleton Jr.	\$0.00	\$25.00
1994	House	Kerry L. Holmes	\$10.00	\$10.00
1994	House	Lloyd P. LaFountain	\$419.00	\$424.50
1994	House	Marc J. Vigue	\$200.00	\$300.00
1994	House	Mark Oliver Brown	\$0.00	\$0.00
1994	House	Michael LaBrecque	\$50.00	\$50.00
1994	House	Neal L. Weinstein	\$0.00	\$0.00
1994	House	Peter Hazlett	\$321.00	\$321.00
1994	House	Peter P. Truman	\$0.00	\$0.00
1994	House	Philip C. Rondeau	\$350.00	\$350.00
1994	House	Raymond J. Geary	\$499.00	\$500.00
1994	House	Richard W. Davidson	\$0.00	\$0.00
1994	House	Robert A. Howarth	\$8.00	\$8.00
1994	House	Rosaire J. Sirois	\$0.00	\$125.00
1994	House	Walter A. Bennett	\$280.00	\$280.00
1994	House	William Lemke	\$281.00	\$287.03
1994	Senate	Alan Parks	\$1,442.00	\$1,475.00
1994	Senate	Cristopher M. Cimino	\$74,163.00	\$74,163.52
1994	Senate	H. Norton Webber Jr.	\$769.00	\$769.62
1994	Senate	Wanda G. Worrey	\$1,671.00	\$1,671.87
1996	House	Albert P. Gamache	\$200.00	\$200.00
1996	House	Barbara J. Pinkham	\$390.00	\$390.00
1996	House	Elbridge B. Davis	\$148.00	\$148.50
1996	House	Harold D. Sidell	\$486.00	\$486.73
1996	House	Henry W. Black	\$0.00	\$0.00
1996	House	Jacqueline L. Dumais	\$0.00	\$0.00
1996	House	James A. Bleau	\$0.00	\$0.00
1996	House	Jane Findlen	\$0.00	
1996	House	Jeffrey Fuson	\$0.00	\$0.00
1996	House	John K. Cressey	\$115.00	\$115.00
1996	House	Kerry L. Holmes	\$0.00	\$0.00
1996	House	Leonard C. Whitman	\$100.00	\$100.00
1996	House	Linwood E. Graffam	\$0.00	\$0.00
1996	House	Marc A. Oliver	\$64.00	\$64.24

Candidates Excluded from Mean and Median Calculations in Chapter 5, continued				
Election Year	Office	Candidate Name	Total Spent	Total Received
1996	House	Mark O. Brown	\$0.00	\$0.00
1996	House	Patricia D. Finn	\$361.00	\$361.80
1996	House	Paul W. Feldhaus	\$40.00	\$40.00
1996	House	Philip A. Dugas	\$188.00	\$188.00
1996	House	Raymond R. Poulin	\$0.00	\$0.00
1996	House	Robert R. Rush	\$197.00	\$197.87
1996	House	Roger D. Frechette	\$50.00	\$50.00
1996	House	Ronald P. Kilby	\$100.00	\$125.00
1996	House	Stephen P. Martin	\$169.00	\$169.19
1996	House	William Lemke	\$0.00	\$0.00
1996	Senate	Andrew Kosinski	\$432.00	\$432.44
1996	Senate	Elbridge N. Baker	\$1,994.00	\$675.00
1996	Senate	Gerald A. York	\$712.00	\$733.00
1996	Senate	Jeffrey C. Edwards	\$278.00	\$278.15
1996	Senate	Joel A. Abromson	\$58,696.00	\$65,243.71
1996	Senate	John H. Dionne	\$1,905.00	\$2,759.50
1996	Senate	Richard J. Carey	\$1,488.00	\$1,513.47
1996	Senate	Shirlee Connors-Carlson	\$1,685.00	\$1,685.00
1998	House	Adam Mack	\$29,640.00	\$29,904.53
1998	House	Carlton L. Faloon	\$430.00	\$435.00
1998	House	Catherine R. Duffy	\$110.00	\$110.00
1998	House	Chad A. Hudnut	\$350.00	\$350.00
1998	House	Deborah Anne Goodrich	\$273.00	\$322.64
1998	House	Douglas J. Ahearne	\$385.00	\$385.63
1998	House	Dundee Emmerton-Buehl	\$228.00	\$228.18
1998	House	Gary L. Adams	\$321.00	\$321.68
1998	House	Jeremiah L. McDonald	\$25.00	\$25.00
1998	House	Joanne T. Twomey	\$352.00	\$460.00
1998	House	Joseph S. LaRochelle Jr.	\$0.00	\$0.00
1998	House	Kerry L. Holmes	\$0.00	\$0.00
1998	House	Larry Poulin	\$184.00	\$184.97
1998	House	Michael John McCartan	\$100.00	\$350.00
1998	House	Pamela Pinault	\$0.00	\$0.00
1998	House	Ray Poulin	\$0.00	\$0.00
1998	House	Richard H. Campbell	\$44,642.00	\$47,179.54
1998	House	Roger D. Chadbourne	\$0.00	\$0.00
1998	House	Scott W. Cowger	\$0.00	\$0.00
1998	House	Thomas C. Ito	\$250.00	\$110.00
1998	House	Thomas Crossman	\$0.00	\$0.00
1998	Senate	Bethany Ann Berry	\$200.00	\$204.00
1998	Senate	E. Stephen Murray	\$67,982.00	\$69,440.76
1998	Senate	Erica L. Baron	\$1,670.00	\$1,758.88
1998	Senate	Georgette B. Berube	\$1,058.00	\$1,100.00
1998	Senate	Jeffrey Weinstein	\$1,806.00	\$1,621.00

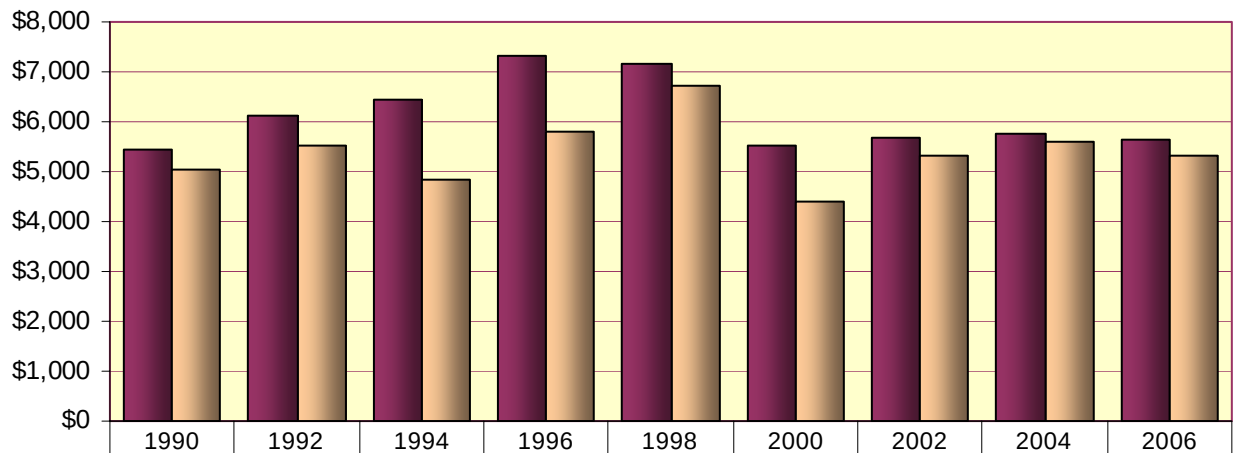
Candidates Excluded from Mean and Median Calculations in Chapter 5, continued

Election Year	Office	Candidate Name	Total Spent	Total Received
1998	Senate	Loreen Colfin West	\$946.00	\$1,179.80
1998	Senate	Michael L. Reynolds	\$0.00	\$0.00
1998	Senate	Paul A. Savoie	\$1,717.00	\$1,717.96
1998	Senate	Richard K. Smith	\$0.00	\$350.00
1998	Senate	Rodney J. Jamison	\$890.00	\$896.00
1998	Senate	Sean R. Cooper	\$1,700.00	\$1,464.12
1998	Senate	Stephen J. Martin	\$0.00	\$0.00
2000	House	Albert J. Duplessis	\$0.00	\$0.00
2000	House	Albion D. Goodwin	\$139.00	\$175.00
2000	House	Barbara E. Robinson	\$336.00	\$450.00
2000	House	Charles E. Mitchell	\$416.00	\$300.00
2000	House	Gregory Young Jr.	\$345.00	\$345.00
2000	House	Joanne T. Twomey	\$351.00	\$0.00
2000	House	Lynda Wilson-Dinino	\$499.00	\$500.00
2000	House	Marc D. Breton	\$463.00	\$463.27
2000	House	Moses A. Sebungya	\$0.00	\$0.00
2000	House	Nathan W. Hagelin	\$266.00	\$270.00
2000	House	Paul J. Cleary	\$0.00	\$0.00
2000	House	Peter D. Chase	\$0.00	\$0.00
2000	House	Peter T. Sipes	\$155.00	\$175.00
2000	House	Richard H. C. Tracy	\$0.00	\$0.00
2000	House	Richard W. Eaton	\$57.00	\$60.00
2000	House	Ronald S. Snow	\$399.00	\$399.65
2000	House	W. Sturgis Whalen	\$55.00	\$55.00
2000	House	Wade E. McLaughlin	\$0.00	\$0.00
2000	House	Walter E. Ash Jr.	\$363.00	\$363.05
2000	House	Wayne R. Leach	\$249.00	\$287.00
2000	House	William P. Clarke Jr.	\$86.00	\$71.40
2000	Senate	Adam Mack	\$61,541.00	\$24,996.46
2000	Senate	Duane J. Belanger	\$284.00	\$700.00
2000	Senate	Judith A. Powers	\$54,720.00	\$54,879.04
2000	Senate	Richard A. Bennett	\$1,791.00	\$0.00
2000	Senate	Richard D. Hart	\$747.00	\$1,226.00
2000	Senate	Robert L. Coates	\$1,852.00	\$1,879.09
2000	Senate	Robert V. Toothaker	\$558.00	\$1,125.02
2000	Senate	W. Tom Sawyer Jr.	\$153,064.00	\$11,430.95
2002	House	Albion D. Goodwin	\$0.00	\$0.00
2002	House	David C. Miner	\$0.00	\$0.00
2002	House	David M. Brown	\$0.00	\$0.00
2002	House	Donald Isaac Curtis	\$0.00	\$0.00
2002	House	Edward J. Suslovic	\$23,472.00	\$23,472.00
2002	House	Gordon L. Hagerman	\$0.00	\$0.00
2002	House	James K. Spinney	\$0.00	\$0.00
2002	House	John S. Merrithew	\$0.00	\$50.00

Candidates Excluded from Mean and Median Calculations in Chapter 5, continued

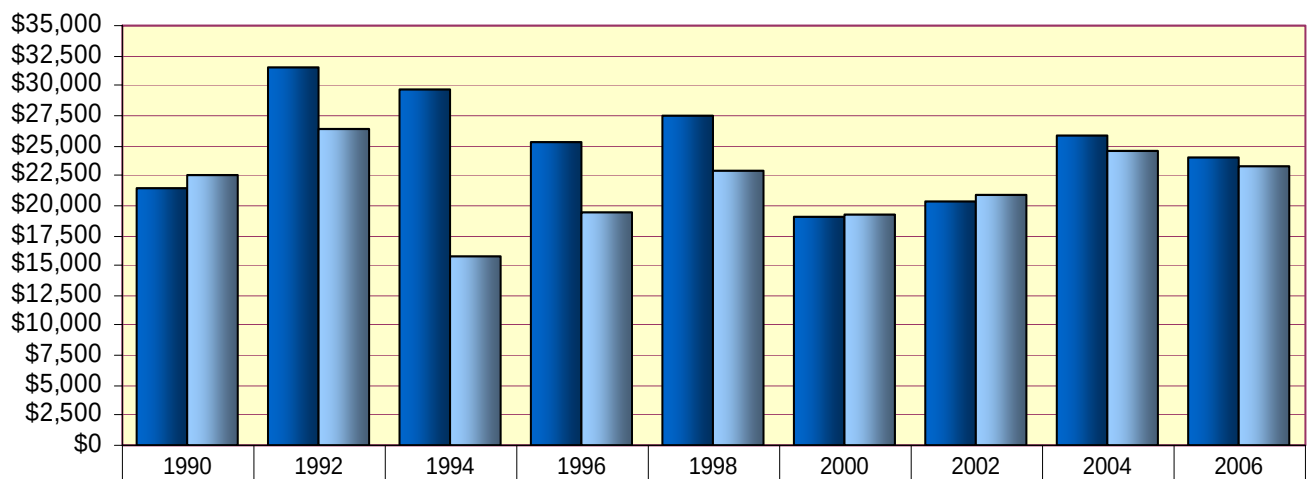
Election Year	Office	Candidate Name	Total Spent	Total Received
2002	House	Jonathan B. Chappell	\$115.00	\$115.00
2002	House	Matthew S. Whittier	\$0.00	\$0.00
2002	House	Morrison Bonpasse	\$0.00	\$0.00
2002	House	Randa L. Thomas	\$0.00	\$0.00
2002	House	Stacey Allen Fitts	\$0.00	\$0.00
2002	House	Virginia L. Diesinger	\$16.01	\$16.01
2002	Senate	Dorothy Lafortune	\$930.21	\$957.50
2002	Senate	Elizabeth C. Dupre	\$722.95	\$680.00
2002	Senate	Frederick Dolgon	\$1,559.00	\$1,605.00
2004	House	Arvina Louise Magno	\$350.00	\$350.00
2004	House	Dana W. Kadey	\$83.06	\$83.06
2004	House	Jesse J. Crandall	\$0.00	\$0.00
2004	House	Michael G. Neveux	\$0.00	\$0.00
2004	House	Neal L. Weinstein	\$466.52	\$466.52
2004	House	Stephen R. Beaudette	\$136.86	\$1,280.00
2004	House	Susan M. Austin	\$19,627.67	\$1,500.00
2004	House	Theresa M. Savage	\$0.00	\$50.00
2004	House	Winola M. Burke	\$400.00	\$400.00
2004	Senate	John D. Linnehan Jr.	\$225,566.00	\$25,566.00
2004	Senate	John P. O'Brien	\$0.00	\$0.00
2004	Senate	John R. Weaver	\$297.72	\$325.00
2006	House	Abigail Holman	\$38,796.18	\$38,797.39
2006	House	David E. Pelletier	\$0.00	\$0.00
2006	House	Glenn Shwaery	\$0.00	\$0.00
2006	House	John I. Simpson	\$30,050.75	\$30,100.00
2006	House	John W. Safarik	\$0.00	\$0.00
2006	House	Laura K. Soule	\$0.00	\$0.00
2006	House	Mark D. Fisher	\$0.00	\$0.00
2006	House	Russell P. Fox	\$0.00	\$0.00
2006	House	Sharon L. Forbis	\$0.00	\$0.00
2006	House	Stephen Beaudette	\$452.39	\$3,893.14
2006	Senate	Earle L. McCormick	\$62,581.65	\$105.55
2006	Senate	Eric Desmarais	\$0.00	\$22.00
2006	Senate	Frank J. Farrington	\$60,855.74	\$63,678.22
2006	Senate	John C. Arsenault	\$0.00	\$0.00
2006	Senate	Joseph C. Perry	\$61,391.14	\$730.00
2006	Senate	Nancy Oden	\$1,551.24	\$808.12
2006	Senate	Nelson Skip Foley	\$773.02	\$890.00

**Figure A.1 Average Amounts Spent by House Incumbents and Challengers
(adjusted for inflation)**



House Incumbent	\$5,434	\$6,117	\$6,450	\$7,304	\$7,172	\$5,534	\$5,664	\$5,779	\$5,646
House Challenger	\$5,059	\$5,504	\$4,853	\$5,801	\$6,719	\$4,401	\$5,307	\$5,615	\$5,320

**Figure A.2 Average Amounts Spent by Senate Incumbents and Challengers
(adjusted for inflation)**



Senate Incumbent	\$21,431	\$31,432	\$29,705	\$25,245	\$27,558	\$19,000	\$20,326	\$25,800	\$24,093
Senate Challenger	\$22,594	\$26,476	\$15,769	\$19,453	\$22,875	\$19,297	\$20,948	\$24,632	\$23,347

Independent Expenditures in 2006: Total Amounts Spent per Candidate

Office	Candidate Name	Amount
Representative	Most, Sylvia	\$9,330.97
Representative	Migliaccio, Marguerite	\$8,993.96
Representative	Simpson, John	\$8,173.81
Representative	Knight, L. Gary	\$7,905.75
Representative	Hobart, Brian	\$7,427.55
Representative	Finley, Donna	\$6,825.90
Representative	Crosby Giles, Jayne	\$6,016.71
Representative	McDonough, John	\$5,851.88
Representative	Dunn, Michael	\$5,768.23
Representative	Cotta, H. David	\$5,737.08
Representative	Elowitch, David	\$5,719.77
Representative	Walker, Robert	\$5,369.60
Representative	Thomson, George	\$5,358.41
Representative	Elliott, Debbie	\$5,332.91
Representative	Beaulieu, Michael	\$5,206.15
Representative	Prescott, Kerri	\$5,126.34
Representative	Silsby, Kimberly	\$5,065.79
Representative	Rand, Anne	\$5,056.35
Representative	Cramer, Lyle	\$4,901.96
Representative	Cilluffo, Anthony	\$4,776.47
Representative	Boland, Andrea	\$4,719.97
Representative	Davis, Kimberly	\$4,579.68
Representative	Carr, Robert	\$4,568.44
Representative	Pendleton, Peggy	\$4,563.34
Representative	Tainter, Arthur	\$4,561.99
Representative	Cleary, Richard	\$4,469.35
Representative	Babine, Shawn	\$4,428.19
Representative	Desgrosseilliers, Sheila	\$4,422.05
Representative	Peoples, Ann	\$4,415.74
Representative	Gavett , Andrew	\$4,377.46
Representative	Wasserott, Susan	\$4,319.03
Representative	Learnard, Robert	\$4,312.65
Representative	Millett, H. Sawin	\$4,246.92
Representative	Conover, Jill	\$4,226.64
Representative	Priest, Charles	\$4,219.14
Representative	Connor, Gary	\$4,214.82
Representative	Bessey, Nancy	\$4,161.44
Representative	Ellis, Rachel	\$4,110.82
Representative	Grose, Carol	\$3,964.48
Representative	Mills, Janet	\$3,957.06
Representative	Garrison, Chester	\$3,883.17
Representative	Hill, Dawn	\$3,881.53
Representative	Ash, Walter	\$3,820.13
Representative	McKeen, William	\$3,692.90
Representative	Pieh, Wendy	\$3,679.03
Representative	Miramant, David	\$3,563.60
Representative	Bailey, William	\$3,562.61
Representative	Alexander, Judith	\$3,512.49
Representative	Kaenrath, Bryan	\$3,508.67
Representative	Emery, Harold	\$3,494.99

Office	Candidate Name	Amount
Representative	Carter, Timothy	\$3,403.00
Representative	Scease, Jane	\$3,360.94
Representative	Harvell, Lance	\$3,302.80
Representative	Arsenault, Reginald	\$3,274.20
Representative	Brautigam, John	\$3,267.64
Representative	Gilbert, Donna	\$3,089.25
Representative	Weddell, Lance	\$3,050.76
Representative	Duddy, Jennifer	\$3,045.68
Representative	Crockett, Patsy	\$3,015.75
Representative	Harmon, R. Ryan	\$2,951.82
Representative	McKane, Jonathan	\$2,918.52
Representative	Flewelling, Dale	\$2,903.26
Representative	Scharff, Adam	\$2,893.70
Representative	Purnell, Kevin	\$2,889.42
Representative	Gethicker, Shawn	\$2,828.38
Representative	Dill, Cynthia	\$2,818.71
Representative	Souther, Clark	\$2,719.12
Representative	Thompson, Judd	\$2,689.94
Representative	Savage, David	\$2,664.88
Representative	Schatz, James	\$2,629.15
Representative	McLeod, Everett	\$2,621.64
Representative	Berry, Seth	\$2,618.79
Representative	Stone, Oscar	\$2,575.63
Representative	Sutherland, Patricia	\$2,559.59
Representative	Fischer, Jeremy	\$2,447.88
Representative	Greeley, Christian	\$2,387.37
Representative	Bowen, Stephen	\$2,351.23
Representative	Gould, Bonnie	\$2,326.50
Representative	Eder, John	\$2,222.42
Representative	Hogate, Jeanne	\$2,184.85
Representative	Samson, Mark	\$2,095.94
Representative	Cray, Dean	\$2,047.36
Representative	Hotham, Randy	\$1,992.56
Representative	Strang Burgess, Meredith	\$1,904.98
Representative	Burns, Richard	\$1,859.19
Representative	Sullivan, Kerry	\$1,843.68
Representative	Adams, Herbert	\$1,815.12
Representative	McFadden, Howard	\$1,768.93
Representative	Rogers, William	\$1,603.98
Representative	Holman, Abigail	\$1,601.94
Representative	Crosby, Gary	\$1,556.60
Representative	Perreault, Sylvia	\$1,528.03
Representative	Meiklejohn, Benjamin	\$1,526.04
Representative	Rosen, Kimberley	\$1,443.78
Representative	Tibbetts, Joseph	\$1,437.13
Representative	Hatch, Pamela	\$1,388.14
Representative	Richardson, Earl	\$1,382.43
Representative	Moulton, Bradley	\$1,366.11
Representative	Cebra, Richard	\$1,365.40
Representative	Hanley, Bruce	\$1,361.78

Independent Expenditures in 2006: Total Amounts Spent per Candidate, continued

Office	Candidate Name	Amount
Representative	Weaver, Windol	\$1,335.83
Representative	Ayotte, Bernard	\$1,334.49
Representative	Reny, Joshua	\$1,332.00
Representative	Muse, Roberta	\$1,301.60
Representative	Haskell, Clayton	\$1,289.55
Representative	Hall, Darren	\$1,263.63
Representative	Freeman, Harold	\$1,242.73
Representative	Hinck, Jon	\$1,237.01
Representative	Lindell, R. Kenneth	\$1,233.97
Representative	Gifford, Jeffery	\$1,231.11
Representative	Chase, Kathleen	\$1,219.74
Representative	Richardson, David	\$1,217.47
Representative	Pratt, Benjamin	\$1,209.43
Representative	Sutter, William	\$1,198.65
Representative	Moore, Gary	\$1,192.08
Representative	Jones, Deane	\$1,176.66
Representative	Bryant-Deschenes, Joan	\$1,148.00
Representative	Bierman, L. Earl	\$1,131.02
Representative	Churchill, John	\$1,076.38
Representative	Berube, Robert	\$1,036.56
Representative	Duchesne, Robert	\$1,001.94
Representative	Feeney, David	\$992.21
Representative	Tessier, Paul	\$960.00
Representative	Piotti, John	\$800.00
Representative	Susi, Ted	\$734.68
Representative	Webster, David	\$717.66
Representative	Dickens, Ellen	\$631.37
Representative	Bossie, Thomas	\$613.37
Representative	Fitts, Stacey	\$598.27
Representative	Perry, Anne	\$437.37
Representative	Flood, Patrick	\$399.80
Representative	Bliss, Lawrence	\$398.68
Representative	Eberle, Jane	\$398.68
Representative	Misluk, Peter Patrick	\$367.23
Representative	Smith, Nancy	\$348.00
Representative	Grant, Prudence	\$342.50
Representative	Dunbar, Scott	\$338.64
Representative	Tardy, Joshua	\$338.64
Representative	Thibodeau, Michael	\$338.64
Representative	Bauer, Lu	\$322.00
Representative	Babbidge, Christopher	\$272.37
Representative	Beavers, Roberta	\$272.37
Representative	Gedat, Roy	\$272.37
Representative	Hayes, Terry	\$272.37
Representative	MacDonald, W. Bruce	\$272.37
Representative	Rines, Peter	\$272.37
Representative	Shepley, Donald	\$272.37
Representative	Wagner, Richard	\$272.37
Representative	Turner, Beth	\$258.64
Representative	Curtis, Philip	\$184.10

Office	Candidate Name	Amount
Representative	Casavant, Alan	\$104.70
Representative	Graham, Anne	\$104.22
Representative	Grefer-Kirkland, Kathryn	\$72.12
Representative	Thomas, Douglas	\$70.49
Senate	Farrington, Frank	\$19,125.01
Senate	Benoit, Paula	\$19,094.43
Senate	Glynn, Kevin	\$16,828.60
Senate	Perry, Joseph	\$16,167.94
Senate	Bowman, Peter	\$15,454.25
Senate	McCormick, Earle	\$13,293.49
Senate	Hastings, David	\$12,918.50
Senate	Lemont, Kenneth	\$11,529.22
Senate	Mayo, Arthur	\$10,958.02
Senate	Snowe-Mello, Lois	\$7,312.60
Senate	Desgrosseilliers, Edward	\$6,121.33
Senate	Diamond, Bill	\$3,163.87
Senate	Medd, Marjorie	\$2,954.26
Senate	Smith, Douglas	\$2,838.64
Senate	Fredette, Kenneth	\$2,500.00
Senate	Sherman, Roger	\$1,643.00
Senate	Nutting, John	\$1,318.28
Senate	Bromley, Lynn	\$1,152.32
Senate	Bartlett, Philip	\$971.39
Senate	Chase, Gail	\$736.23
Senate	Mills, S. Peter	\$338.64
Senate	Plowman, Debra	\$315.00
Senate	Marrache, Lisa	\$256.65

Top 20 Independent Spenders in 2006 Legislative Races	
Filer	Amount Spent
Maine Republican Party	\$217,880.16
House Democratic Campaign Committee	\$147,028.60
Senate Democratic Campaign Committee	\$66,996.17
Maine Prosperity PAC	\$61,744.80
Maine Democratic Party	\$42,664.16
House Republican Fund	\$32,524.84
Maine Senate Republican Victory Fund	\$12,837.78
Leadership for Maine's Future PAC	\$9,626.46
Maine Conservation Voters Action Fund	\$8,149.50
Business Minded Democrats	\$4,722.54
Citizens for Responsibility	\$2,332.80
SCICOM PAC	\$2,327.60
Faircloth Blue Ribbon PAC	\$2,180.73
Jody MacDonald	\$1,950.00
Maine Association of Realtors PAC	\$1,603.98
Penobscot County Democratic Committee	\$1,245.69
Daniel Amory	\$964.64
Lisa T. Marrache	\$960.00
Penobscot County Republican Committee	\$921.10
CFCC PAC	\$894.40

Third-Party Literature Supporting Candidates
(Issue vs. Express Advocacy)

Bill Bailey
IS A COMMUNITY LEADER
WITH A PLAN

It's Time To Put Maine Back To Work

Maine is home to the hardest working people - anywhere!
But the numbers show Maine is struggling

Overview of Economic Performance: Maine Losing Jobs, Struggling

Maine was the only New England state - and the only state in the nation except for Hurricane Katrina victim, Louisiana - to see economic activity decline.

- Maine was the only New England state with negligible payroll job growth.
- Income growth, though respectable, was the slowest in New England.
- Maine's exports declined for the first time since 2000.

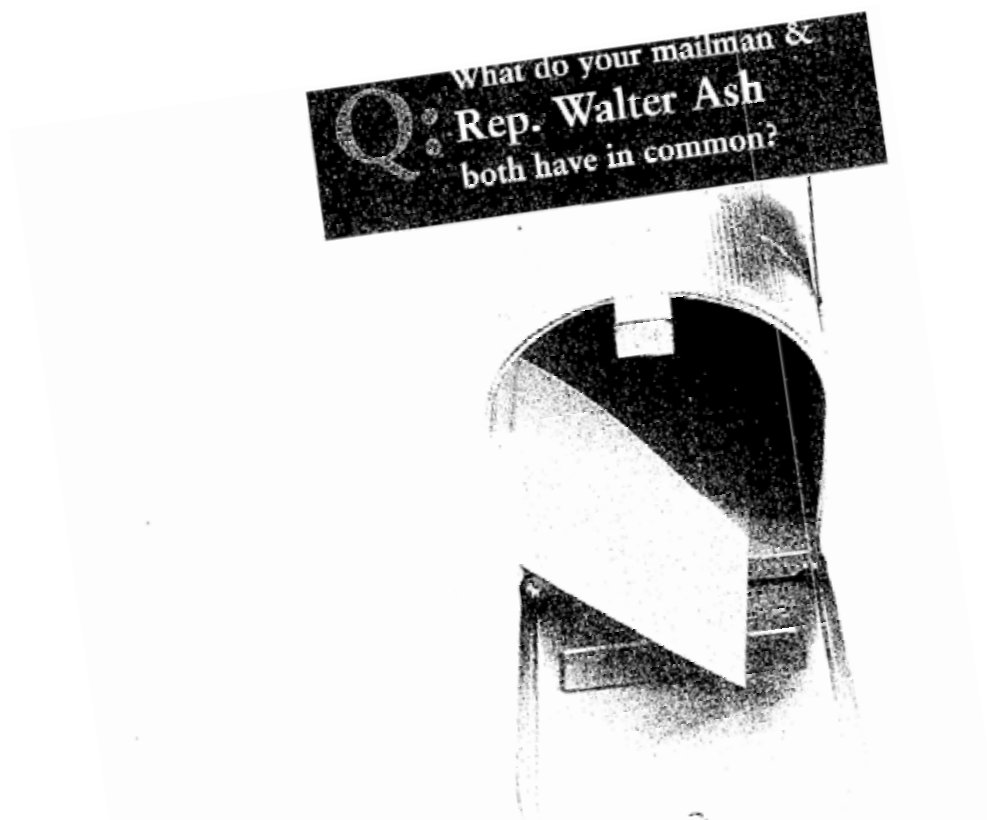
Not only was Maine the only state in the region to experience virtually no job growth, the 2005 benchmark revisions reduced the year-end job count by nearly 6,000.

Source: Federal Reserve Bank of Boston

BUT MAINE CAN IMPROVE!

THERE IS A SOLUTION: lower taxes, reduced spending, streamlined permitting & a focus on affordable high-tech healthcare.
A BETTER ECONOMY MEANS MORE JOBS

**Third-Party Literature Supporting Candidates
(Issue vs. Express Advocacy)**



A: They deliver.

Rep. Walter Ash

is working to build a stronger future for Maine and is standing up for hard-working Mainers.

While in Augusta **Walter Ash** delivered:

- ☒ Voted to double tax refunds for Mainers hit hard by local property taxes. (Roll call #18)
- ☒ Voted to protect Maine children and communities from sex offenders by creating stricter sentences. (Roll call #530)
- ☒ Voted to increase the minimum wage for Maine workers. (Roll call #484)
- ☒ Voted to create more protections for women who have been the victim of domestic violence, and to keep guns out of their abuser's hands. (Roll call #537)

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ETHICS COMMISSION

PAGE 01/01

KJ OUR VIEW 10-1-06

Clean Elections undermined by major parties

Kennebec Journal

No matter how much legal hair-splitting the candidates, their representatives and their parties throw at us, the ads aired by both the Republican Governors' Association and the Maine Democratic Party on behalf of, respectively, Chandler Woodcock and Gov. John Baldacci are about trashing their opponents and electing one of those guys governor of Maine. Plain and simple.

And that means that the intent of the state's landmark Clean Elections law is being cynically undermined by the majority parties and their candidates running for governor.

Here's how the Clean Elections Act works: Each Clean Elections candidate for governor (Woodcock, Green Independent Pat LaMarche and Independent Barbara Merrill) is given \$400,000 by the state to spend on their campaigns after the primary. If the privately funded Baldacci spends more than that on his campaign, it triggers matching funds for the Clean Elections candidates. And if Clean Elections-funded candidates accept outside donations that allow them to spend more, they're breaking the rules.

That sets up a situation where the governor, trying to keep his competitors from spending lots of money, would want to keep his campaign expenses down. What better way to do that than have independent groups like the Democratic Party and other partisan organizations run so-called "issue ads" that don't expressly call for the governor's re-election? Then the considerable expense of producing and running the ad doesn't appear on the governor's campaign balance sheet, triggering matching funds for his competitors.

But since it's politicians who passed the Clean Elections Act, the definition of an issue ad is so broad it's ludicrous. As long as the so-called independent group doesn't coordinate the ad with the campaign and the ad doesn't expressly say "Baldacci for Governor" or "Vote for Baldacci" they're free to say "John Baldacci is the finest governor in Maine history," or "Woodcock is an idiot and Baldacci's I.Q. is 700 points higher than his and he loves his mother more, too," and, believe it or not, viewers are supposed to swallow the claptrap that it isn't a campaign ad. And while the ads run for Baldacci, his party don't go quite

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that far, they're pretty close. How many times do we need to watch Woodcock walking backwards before we get it through our thick heads that someone thinks he's not qualified to be governor?

As for Woodcock, the Republican Governors' Association has similarly gone all out — within the huge loopholes offered to them by the issue ad definition — to advocate for their candidate's campaign. Woodcock's campaign, like Baldacci's, maintains that they've met the legal requirement not to consult with the independent group and that the language of the ads doesn't constitute express advocacy for his campaign.

Oh, please.

What this all points to is the problem of writing and administering a law that tries to control speech.

There are good intentions behind such state and federal laws — to give more people a chance to run for office and to limit the effect of big money on the electoral process. But, as the current situation points out, it doesn't always work that well.

The Legislature could go back to the law and try to close some loopholes, but in the end the centuries-old American tradition of free speech may be a stronger force than a complex set of rules and regulations that are drawn up by politicians and then administered by more politicians and their appointees.

Thursday, September 7, 2006

Portland Press Herald

Woodcock ad: Just this side of legal doesn't cut it

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Last week, the Republican Governors' Association, through their Maine political action committee, paid to air a television commercial featuring state Sen. Chandler Woodcock, who is running for governor. It features vintage photos of Woodcock, shows him engaging with Maine citizens, and the narrator waxes poetic about the senator's background and positions on issues. Some of the phrases in the ad include:

"New solutions to change Maine's direction take experience....Chandler Woodcock's experience means new solutions for Maine's future....A plan to lower taxes to cap out of control spending....A promise to create a more affordable healthcare program."

Would the Republican Governors' Association spend an estimated \$200,000 to run this ad if Chandler Woodcock weren't running for governor? Of course not. That's what prompted Green Independent candidate Pat LaMarche, who's also running for governor, to ask the state's ethics commission for a review of the ad.

We join LaMarche in her concern. Woodcock is a

Clean Elections candidate, as is LaMarche and a number of other candidates on the ballot. And the state's Clean Election rules, which are designed to keep special interest money out of campaigns, say that Clean Election candidates are not supposed to take any private contributions during the campaign; the money they use is to be public money. If the ad expressly supports Woodcock's candidacy, then the governors' association could be fined for making a contribution to Woodcock's campaign; if the Woodcock campaign coordinated with the governors' association the campaign could also be subject to fines.

The ad raises troubling issues.

It's entirely possible that clever lawyers advising the Republicans have figured out a way to skirt the restrictions of the law. Perhaps somebody outside of Woodcock's campaign just happened to have a vintage photo of the candidate which they handed over to the governors' association. Perhaps the fact that the ad carefully avoids using words explicitly associated with the campaign for governor will keep it just this side of legal.

But barely legal seems an incredibly poor foundation for any candidate or any campaign for governor. Maine deserves better. Maine voters should not have to choose among degrees of integrity; integrity is an absolute. Woodcock is a candidate who claimed the moral high ground for going the Clean Elections route. He should have stayed on the high ground and chosen to just say no. That ad could cost him far more than \$200,000.

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
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**EXPENDITURE GUIDELINES FOR 2006
MAINE CLEAN ELECTION ACT CANDIDATES**

Candidates must spend all Maine Clean Election Act (MCEA) funds for campaign-related purposes and not for other purposes such as the candidate's personal benefit, party-building, or to promote another candidate's campaign.

Expenditures for "campaign-related purposes" are those which are traditionally accepted as necessary to promote the election of a candidate to political office. Candidates using MCEA funds must also take into account the public nature of the funds, the underlying objectives of the MCEA, and the reasonableness of the expenditures under the circumstances. In Maine, traditional campaign expenses have included:

- Printing and mailing costs;
- Political advertising expenses;
- Campaign communications such as signs, bumper stickers, T-shirts, or caps with campaign slogans, etc.;
- Office supplies;
- Campaign events (e.g., food, rent of tent or hall, etc.);
- Campaign staff expenses; and
- Campaign travel expenses, such as fuel and tolls.

MCEA funds may not be spent on personal expenses. Those expenses are for goods and services that the candidate would otherwise purchase independently of the campaign, such as:

- Day-to-day household food items and supplies;
- Vehicle and transportation expenses unrelated to the campaign;
- Mortgage, rent, or utility payments for the candidate's personal residence, even if part of the residence is being used by the campaign; and
- Clothing, including attire for political functions such as business suits or shoes.

Maine Clean Election Act funds may not be spent to:

- make independent expenditures supporting or opposing any candidate, ballot measure, or political committee;
- assist in any way the campaign of any candidate other than the candidate for whom the funds were originally designated;
- contribute to another candidate, a political committee, or a party committee, other than in exchange for goods and services;
- pay a consultant, vendor, or campaign staff, other than in exchange for campaign goods or services;
- compensate the candidate for services provided by the candidate;
- pay an entry fee for an event organized by a party committee, charity, or community organization or to place an ad in an event publication, unless the expenditure benefits the candidate's campaign;
- make a donation to a charity or a community organization, other than in exchange for campaign goods or services;
- promote political or social positions or causes other than the candidate's campaign;
- pay civil penalties, fines, or forfeitures to the Commission, or defend the candidate in enforcement proceedings brought by the Commission; or
- assist the candidate in a recount of an election.

Guidelines on Selected Issues

Electronics and Other Personal Property. Goods purchased with MCEA funds that could be converted to personal use after the campaign (e.g., computers, fax machines, and cellular telephones) must be reported on Schedule E of the candidate reporting form. No later than 42 days after the general election, the goods must be sold at fair market value and the proceeds returned to the Maine Clean Election Fund. Candidates are welcome to lease electronic and other equipment.

Food. Candidates may spend a reasonable amount of MCEA funds on food for campaign events or to feed volunteers while they are working. Legislative candidates should not use MCEA funds to purchase food that is consumed only by the candidate and/or the candidate's spouse. Gubernatorial candidates may use MCEA funds to purchase meals for the candidate and/or candidate's spouse if associated with travel for campaign purposes.

Vehicle Travel. Candidates may elect to have the campaign reimburse themselves for vehicle travel at the reimbursement rate that is applicable to state government employees or for amounts actually paid for fuel and repairs (pro-rated to reflect only campaign-related usage). Candidates should keep a record for each trip that includes: date of travel, number of miles traveled, origination, destination, and purpose of travel.

Lodging. Candidates may use MCEA funds to pay for lodging if necessary for campaign purposes, but must keep lodging expenses reasonable.

Post-Election Notes and Parties. Candidates may spend up to the following maximum amounts of MCEA funds on post-election parties, thank you notes, or advertising to thank supporters or voters: \$250 for State Representative candidates, \$500 for State Senate candidates, \$2,500 for gubernatorial candidates. Candidates may also use personal funds for these purposes.

Campaign Training. Candidates may use Maine Clean Election Act funds for tuition or registration costs to receive training on campaigning or policy issues.

Salary and Compensation. Candidates may use MCEA funds to pay for campaign-related services by staff or consultants, provided that compensation is made at or below fair market value and sufficient records are maintained to show what services were received. The Commission recommends keeping a record that shows how many hours of services were provided by the staff member or consultant each month, and a description of services provided that month.

Enforcement

The Commission reviews all expenditures disclosed by MCEA candidates in campaign finance reports, and frequently requests additional information from candidates to verify that public funds were spent for campaign-related purposes. Candidates who misuse public funds may be required to repay some or all public funds received, may be liable for civil penalties, and may be referred to the State Attorney General for possible criminal prosecution.

2007 REPORT ON THE MAINE CLEAN ELECTION ACT

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