AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

A LOOK AT H.R. 1826, AND THE PUBLIC FINANCING OF CONGRESSIONAL CAMPAIGNS

HEARING

BEFORE THE

COMMITTEE ON HOUSE ADMINISTRATION HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

HELD IN WASHINGTON, DC, JULY 30, 2009

Printed for the use of the
Committee on House Administration



Available on the Internet:
http://www.gpoaccess.gov/congress/house/administration/index.html

A LOOK AT H.R. 1826, AND THE PUBLIC FINANCING OF CONGRESSIONAL CAMPAIGNS

A LOOK AT H.R. 1826, AND THE PUBLIC FINANCING OF CONGRESSIONAL CAMPAIGNS

HEARING

BEFORE THE

COMMITTEE ON HOUSE ADMINISTRATION HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

HELD IN WASHINGTON, DC, JULY 30, 2009

Printed for the use of the
Committee on House Administration



Available on the Internet:
http://www.gpoaccess.gov/congress/house/administration/index.html

U.S. GOVERNMENT PRINTING OFFICE

52–711 WASHINGTON : 2009

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON HOUSE ADMINISTRATION

ROBERT A. BRADY, Pennsylvania, *Chairman*

ZOE LOFGREN, California
Vice-Chairwoman
MICHAEL E. CAPUANO, Massachusetts
CHARLES A. GONZALEZ, Texas
SUSAN A. DAVIS, California
ARTUR DAVIS, Alabama

DANIEL E. LUNGREN, California
Ranking Minority Member
KEVIN MCCARTHY, California
GREGG HARPER, Mississippi

PROFESSIONAL STAFF
S. ELIZABETH BIRNBAUM, *Staff Director*
VICTOR ARNOLD-BIK, *Minority Staff Director*

A LOOK AT H.R. 1826, AND THE PUBLIC FINANCING OF CONGRESSIONAL CAMPAIGNS

THURSDAY, JULY 30, 2009

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, D.C.

The committee met, pursuant to call, at 11:04 a.m., in Room 1310, Longworth House Office Building, Hon. Robert A. Brady [chairman of the committee] presiding.

Present: Representatives Brady, Lofgren, Capuano, Davis of California, Davis of Alabama, Lungren and Harper.

Staff Present: Jamie Fleet, Staff Director; Tom Hicks, Senior Election Counsel; Janelle Hu, Election Counsel; Jennifer Daehn, Election Counsel; Matt Pinkus, Professional Staff/Parliamentarian; Kyle Anderson, Press Director; Joe Wallace, Legislative Clerk; Daniel Favarulo, Legislative Assistant, Elections; Greg Abbott, Professional Staff; Peter Schalestock, Minority Counsel; and Karin Moore, Minority Legislative Counsel.

The CHAIRMAN. Good morning. I would like to call the Committee on House Administration hearing to order. Welcome, members of the committee, witnesses, and guests.

Before I begin, I would like to recognize the men and women of the AOC and the CAO who have worked hard to renovate our hearing room and our conference room. They did terrific work, a good job, as they do every day, and we get to benefit from them. So we thank them for the job that they do.

Today's hearing will focus on H.R. 1826, the Fair Elections Now Act, sponsored by my friend, John Larson of Connecticut. I want to thank my friend for bringing this legislation to the attention of the committee.

The Fair Elections Now Act is voluntary and would provide qualified House candidates grants, matching funds, and vouchers to replace fundraising that relies on large donors and special interests. In exchange, participating candidates would agree to limit their fundraising to amounts raised by small-dollar donors.

This legislation is based on the very successful model used in Arizona, Connecticut and Maine. These models have been credited with not only expanding the pool of candidates for office who otherwise could not compete in a money-driven election, the bill also encourages a more diverse pool of campaign contributors.

As we witnessed in the 2008 general election, President Obama was able to mount a strong grassroots effort to attract small contributions from a wide range of supporters; from students to bus drivers to factory workers to doctors and lawyers. These new par-

ticipants were able to use the Internet and other means to contribute small-donor amounts and finally have a voice in the electoral process.

Our campaign finance laws are continually under examination. In September, the Supreme Court is scheduled to rehear arguments in the Citizens United case, going beyond the original challenge of the case. This committee will be paying close attention to the Court's ruling and to the Court's treatment of the over 100 years of judicial precedent in campaign finance law.

We will now proceed to other Members' statements. I would like to recognize the Ranking Member Mr. Lungren for any opening statement that he may make.

Mr. LUNGREN. Thank you very much, Mr. Chairman. I would like to thank you for calling today's hearing. I would also like to thank you for your courtesy in agreeing to invite two witnesses to represent the Minority viewpoint today.

I think I am getting a little bit of an idea that when you welcome the gentleman who is the author of the bill and call him friend twice, I get an idea of maybe your position on the bill. So we will consider this.

The CHAIRMAN. I really don't like him that much.

Mr. LUNGREN. So as we consider this friendly bill, H.R. 1826, I am, unfortunately, constrained to register my concern about the belief that taxpayers would be compelled to fund political campaigns.

Historical record shows a striking absence of concrete support for public financing of campaigns. By concrete support, I refer to the number of taxpayers who now, on a volunteer basis, check the box on their tax return allowing the use of their taxes for public financing of Presidential campaigns and to the number of candidates who use public financing.

In a report issued by the Congressional Research Service, the portion of taxpayers who check the public financing box has declined precipitously from the height of 28.7 percent in 1980 to 8.3 percent in 2007. If any of us running for office had suffered that loss of support, we might check what we were doing and not believe that what we were doing is what the folks wanted. Save for a handful of exceptions, that percentage has declined each year.

Moreover, candidates seem committed to going the private route as well. Few major Presidential candidates accept government financing for primary campaigns. In the 2008 election, President Obama, whom you cited, opted to forego public financing in the general election after, of course, he publicly told us he was going to take it as long as he could get an agreement with the other side. John McCain came out and agreed to do it. But it didn't happen. That is despite the fact that the President cosponsored legislation similar to H.R. 1826 when he was a Senator.

The electoral process is a way for individuals to exercise their right to freedom of expression. It is unwarranted and undesirable to establish a government agency to decide for us how much campaigns should cost and how much candidates should receive to pay for them. We even have difficulty in this body determining what is allowed, when it is taxpayer-supported. What is allowed in terms of appropriate language to describe issues? And the last thing I

want us to do is to have government telling us exactly what you can say or can't say.

Part of politics is it is vigorous, it is robust. It ought to have some life to it. And sometimes we try and squeeze the life out of it in the pursuit of cleaning the system. And I am not sure we won't clean the system so much as we actually create uneven playing fields.

So long as the Supreme Court is telling us that the First Amendment allows you to spend whatever amount you may spend on your own campaign—and they have done that—I do not understand why putting restrictions on the other side makes much sense.

As I understand this legislation, there is no way it attempts to limit the other candidate. And so how do you have a system like that work? If the Supreme Court is going to continue to tell us that the First Amendment allows you to spend whatever money you want to run for office yourself, they ought to say you can spend whatever amount of money you want and support another candidate, so long as we know about it in a timely fashion.

My good friend Jack Kemp, who left us this year—and he was a good friend—would have been a candidate for President of the United States in 1988, except he couldn't raise the money. If Steve Forbes had been able to contribute a portion of his fortune to Jack Kemp to run for office, Jack Kemp would have been the candidate, not Steve Forbes, in successive campaigns. With great due respect to Steve Forbes, he is not and never will be the candidate Jack Kemp was. They had similar views. But because of some peculiarity in the law we have, we say to Steve Forbes, who has great ideas but frankly is not a good candidate, or did not prove to be a good candidate, he can spend all the money he wants in the futile effort, but he can't use his First Amendment right to express his point of view by giving that amount of money to a candidate who would be a viable candidate. And I don't understand why, as long as we knew about the money—we knew about it early enough, everybody could make their judgments—why that wouldn't be a better way to go.

So I think this legislation has true difficulty so long as the Supreme Court is going to continue in the position that the First Amendment as properly interpreted as they understand it allows you to spend whatever amount of money you want personally for your own campaign or for expression of your own views. But yet we say if you give it to somebody else who expresses those views better than you do, who basically would be a better candidate than you do, that somehow is a corruption of the system. I do not understand that contradiction.

We will hear testimony that government funding schemes for campaigns do not result in a more accessible field for potential candidates. Neither is the number of viable candidates bolstered or the incumbency advantage substantially diminished. Furthermore, public financing of political campaigns is not proven to effect greater civic participation.

In addition, I am disturbed by a press report quoting a supporter of this bill saying: These kinds of things are the necessary precursors to all the other things we want. I would like to know what those other things are.

Apparently this bill is really intended to change the political playing field, perhaps to advantage one group or another, exactly the kind of partisan manipulation of election laws I hoped that this committee has always tried to avoid or will continue to try to avoid.

Now, in my judgment, is not the time to find further ways to spend money that we do not have. My State of California is showing the rest of the world what can happen to this country. We used to say the only difference between the Federal Government and the State government is that the Federal Government can print money, and the States can't. My State proved that it could print money. They call them IOUs. After 2 months, banks like the Bank of America said, We are not going to take them.

Well, what if China, acting like the Bank of America, decides it is going to stop taking our debt? We are going to be in the same situation my home State is. We are accumulating unprecedented deficits, daily adding to a debt that will not be paid out of my pockets, probably won't even be paid out of my children's pockets. But I do have four grandchildren—actually six grandchildren, with my daughter's two stepchildren—and they are the ones that are going to have to pay this. The last thing the American people need is for this body to heap greater debt on the backs of our progeny for the sakes of political campaigns.

I am going to put it on the record: I hate raising money for campaigns. The only two people I know who enjoyed it both went to prison. And I won't use their names. But I hate it. It is the least attractive part of this job. I can sell ideas, I can ask for support for others. I have a great deal of difficulty—and my campaign finance people are listening, and they would probably say don't say it—but I have a great deal of difficulty making the close on asking for money. It is the most difficult.

And now we have in our campaign coverage by the reporters, they start to judge whether you are a good candidate, whether you have got good prospects depending on how much money you have got in your account. Read the stories now. They are about how much money did you have this quarter. So the very press that is telling us maybe this is what we ought to do is the very press that is making this part of the horse race, and that is a terrible tragedy.

So I know very few politicians who love to raise money. As I say, the only two I do know went to prison where they could think about it for a while. But, having said that, it may be one of those things you have to do in order for this system to work.

With that, I would like to thank each of the witnesses. I am looking forward to hearing what you have to say, and hopefully we can engage in some good questions and answers here today. I appreciate the Chairman's courtesy in allowing us two witnesses, as I said, and I thank you very much.

The CHAIRMAN. I thank the gentleman.

Ms. Lofgren.

Ms. LOFGREN. Thank you, Mr. Chairman. I will be brief so we can get to our witnesses.

I would like to say that although I rarely cosponsor bills that come before the committee, I had to make an exception with this one. I think it is a smart approach and addresses a necessary topic.

The only thing I would suggest in terms of potential changes is to have some kind of index. I remember when I first ran for office in 1980, and I got a $50 contribution, and I just thought that was such a large amount. That was a while ago. Things do change. And maybe it is better to write some kind of inflation index or something into the bill so we don't end up with a ridiculous result some number of years down the road.

I am also from California, and none of us are very happy about how things turned out in the State budget—at least I am not. But I really think in many ways what has happened in California is more of a political problem than an economic problem. It is at least possible, in my mind, that if we had something like this funding in California, we wouldn't have had those rigid ideological battles that ended up dominating the end game.

Yes, it is true that this is a voluntary system. It doesn't control all the candidates. But I think if this were in place, it would become the gold standard for what people should participate in, and there would be tremendous pressure for people to participate in it.

Like Mr. Lungren, I hate to raise—all of us who run for office have to do it because you have to run a campaign, but I don't like it. If we had a different system, I think it would be good for the country.

The checkoff system, it is true, it has declined. But I will tell you this: This system would be cheap at the price for the taxpayers, if it came to that. I don't think it would, but if it did, the taxpayers would get a bargain because they would own the government. They would own the government.

So I look forward to hearing from the witnesses. And I thank you for recognizing me, Mr. Chairman.

The CHAIRMAN. I thank the gentlelady.

I, unlike my two colleagues, enjoyed raising money until I heard your statement. I am going to rethink my position.

Mr. Harper.

Mr. HARPER. Thank you, Mr. Chairman.

I welcome each of you here today for your testimony. I look forward to hearing what you have to say.

I have to tell you that I believe that this is not a good use of taxpayer money. At a time we have already burdened our country with spending funds and things that we just don't have the money for, the price tag on this is not going to be a good one.

I do think that the taxpayer boxes that have not been checked as much in recent years are an indication for the public's distaste for this. It is very difficult to raise money. It is part of our system, and it is probably very unpleasant to have to go to your friends and family and neighbors and do that.

It was a situation, and certainly in my campaign, as a new Member, that I was in a hotly contested primary, and the other candidates—one had $1.3 million; one, $600,000; and I was able to raise $270,000, $20,000 of which was my money—or the bank's money. So it was hard to do. But with that we made the runoff and were successful. And it is part of this. And you appreciate those contributions that you get, but to ask people to give you money and then turn around and give you more money through their taxes is not the fair way to do it.

We need complete transparency in the process. The way to do this should be that if someone wants to give you money, they should be allowed to do that with full disclosure so that you know who it was and what amount that was. We know folks that may not agree with that, but I don't think this is the time to burden our taxpayers with more money to be spent.

With that, I yield back. Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

Mr. Capuano.

Mr. CAPUANO. Mr. Chairman, I actually think this concept is exactly what we need. I hate raising money. I hate it. I hate the fact that the general public thinks that every time I raise a dollar, I am being bought. I hate it. It is bad not just for me, it is bad for the system, it is bad for people's perception of government. And I don't think it levels the playing field, no matter what.

It basically says for most working-class people, You will never be able to run for this office. There are always exceptions. I am one of them. But those are the exceptions.

I do not like this House or the Senate being a place just for millionaires, and that is just what it is getting, one by one.

I do not like the fact that every single time I have to pick up the phone, I feel dirty; not because I am doing anything wrong, it is an absolute requirement to be here and to get our messages out. And I want the system to be better.

I do have some problems with the details of this bill, not a big deal, but the concept is so long overdue that anybody who wants to raise money, go right ahead. You enjoy doing it. That is not what I ran for office to do. I spend a ton of time—we all do. I would really much rather be reading a health-care bill and having that debate, which is fine, or any number of other things, than ever picking up the phone to anybody to beg them not for $100, but for thousands of dollars. I can't imagine anybody likes doing that. I can't imagine anybody wants to push this.

I know this is not a perfect result, but I am more than happy to listen to alternatives to get us off of this terrible treadmill. But until we get a better idea, this is the only one that is left. I think it is a good idea. Again, details are details. We will work them out over time. But, other than that, we are doomed to the never-ending rat race to get the next dollar so we can get our message out so we can beat each other up. For me, I just want off it so we can all just get along.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

Mr. Davis, opening statement.

Mr. DAVIS of Alabama. I will be extremely brief. I am glad to see one of my favorite members of the caucus John Larson here.

I will just make one observation at the beginning, Mr. Chairman, that all of us, I think, are concerned about the explosion of money in politics and the fact the numbers keep ratcheting up. I remember being a little kid who loved politics, reading that some candidates spent a million dollars trying to win a House race and thinking, What is the world coming to? Today that is a minor candidate getting heavily outspent.

The only cautionary note that I bring to the table is I worry, just as much as I worry about money, about the rise of the extreme left and the rise of the extreme right. I fear any system which makes it easier for the extreme right and the extreme left and fringe candidates who come out of both those entities to think that they can use the public dime to command their space when, frankly, the quality of their ideas would entitle them to get to that space. So that is the cautionary note that I would put on the table.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

I would like to welcome our first panel of witnesses today. Representative Larson, serves as the United States Representative for the First Congressional District of Connecticut, which he represented since 1999. Congressman Larson is currently the Chairman of the Democratic Caucus and sits on the Ways and Means Committee. Representative Larson was the original cosponsor of the Fair Election Now Act. As the former Ranking Member of this committee, we welcome you back, and we look forward to your testimony.

In 2008, Representative Pingree was elected to the United States House of Representatives for the First Congressional District of Maine. The Congresswoman sits on the Armed Services Committee as well as the House Rules Committee. Prior to her election in 2008, Congresswoman Pingree was CEO of Common Cause, a nonpartisan advocacy group committed to election reform, amongst other issues, and served as the Maine Senate majority leader from 1996 to 2000.

Representative Walter Jones represents the Third Congressional District of North Carolina in the United States Congress. He has served in the House since being elected in 1995, and currently sits on the Armed Services Committee and Financial Services Committee. Prior to being elected to Congress, Congressman Jones served as an elected official in the North Carolina General Assembly.

I want to thank all Members for taking the time to be here. Without objection, we will have written statements made part of the record. We ask you to summarize your testimony in 5 minutes. We know that that is really tough to do. I do allow leniency along the way and will not gavel you down if you don't go too far out. We are among friends, I think, from time to time.

So I would like to start with our caucus Chairman Mr. John Larson.

STATEMENT OF THE HON. JOHN LARSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. LARSON. Thank you, Chairman Brady and Mr. Lungren, Mr. Harper, Ms. Lofgren, Mr. Capuano, Mr. Davis. We greatly appreciate this opportunity, and I think it instructive that in the opening remarks of the Members that you pretty much had the viewpoints and discussed the necessity why we believe that this legislation is important.

I also think you see common ground right in the outset. I don't think that there is a one of you that enjoys the experience that we see most of our colleagues having to do on a daily basis, making

the trek down to the various campaign offices to get on the phone and dial for dollars.

I say that not because—as all of you have pointed out, that that is certainly the legal system under which we operate. It is not corrupt, but the system is corrosive. And it is that corrosion of the system that affects our democracy. And that is why we believe so strongly and why we are here today.

I want to thank my cosponsors: Chellie Pingree, who is the former head of Common Cause in Maine and knows this issue backwards and forward; Walter Jones, thought by many to be, as I believe, the conscience of the House of Representatives. He does such an outstanding job; and Todd Platts, who couldn't be here today, but also a supporter of the bill, demonstrating its bipartisan position.

I would also like to, for the record, Mr. Chairman, and I will just say this briefly, note the number of groups that are supporting this. I think it is instructive. 9 to 5, the National Association of Working Women; AFSCME; Americans for Campaign Reform; the Chesapeake Climate Action Network; Common Cause; Consumer Watchdog; Democracy 21; Friends of the Earth; Health Care Now; MoveOn.org; the National Council of the Churches of Christ in the USA; Public Campaign; Public Citizen; SEIU; the Sierra Club; and U.S. PIRG, amongst others; and more than 74 of our fellow Members in Congress who support this bill, as I do.

All of my colleagues are principled people who would rather be doing just about anything else, as you bore witness to, than making fundraising calls, attending fundraising breakfasts, lunches, dinners, you name it.

I don't believe that any Member of this body is unduly influenced by the contributions that are made. Members came to Congress, some perhaps with a bit of idealism, strong leadership skills, and a desire to represent their districts in the best way possible. In short, they came here to make a difference. However, in this age of multimillion-dollar congressional campaigns, even the most dedicated Member has no choice but to spend a great deal of his time or her time fundraising. Unfortunately, there is and will remain the perception that contributions mean influence.

Mr. Davis raised the point no one wants to see this go tilted in one direction or the other. That is why the effort to make sure that we have bipartisan support. No one wants to see this tilt one way or the other. We want to see fair elections and open elections. That is why the system is completely voluntary, so that if one chooses, as Mr. Lungren has suggested, not to participate in that, it stands the Buckley v. Valeo test.

This legislation stands that test. It has been vetted, and it stands that test for the very arguments that were presented by my colleagues. But it also provides the opportunity for people to participate, not in a frivolous manner, because you have to meet thresholds, and you have to make sure that you are raising the money first and foremost back in your own State, reacquainting Members more often than not with what goes on back in their own districts, serving the people we were sent to serve here by. And that is an issue that oftentimes gets overlooked.

If you are spending more time in district raising your money there, and not here in Washington, D.C., within the Beltway, then aren't we creating, in many respects, a more representative, a more Republic, democratic society? I believe that that is the core of this legislation and why it is so important.

In my home State of Connecticut, we addressed these problems. The inordinate amount of time spent fundraising was unfair, and the public perceptions of pay-to-play and the runaway cost of campaigns were the main reason why the State of Connecticut implemented a public financing system.

On the second witness panel you will hear from Jeff Garfield, the executive director of the Connecticut State Elections Enforcement Commission, who will testify about the success of Connecticut's system. Seventy-five percent of the candidates for the general assembly participated in the program. Eighty-one percent of those are now serving in Connecticut's General Assembly.

Arizona and Maine, as you will hear from Chellie, have similar systems, which have largely been successful. Such systems allow candidates to spend more time with their constituents, more time, frankly, with their families, and less time, as I believe all of you have acknowledged, in the pursuit of money through fundraising.

This has to be good for the country. It has to be good for people individually. It will provide Members an opportunity perhaps to get to know one another as well as the issues that we are debating as well.

I introduced the Fair Elections Now Act, which is commonly referred to as FENA, with the support of Common Cause, U.S. Public Interest Research Groups, Public Campaign, and many others. I am also proud of the sponsorship in the Senate by Senator Durbin and Arlen Specter.

Mr. Chairman, at this time I ask unanimous consent to enter these letters of support of FENA into the record.

The CHAIRMAN. Without objection, so ordered.

[The information follows:]

9to5, National Association of Working Women
207 E. Buffalo Street, Suite 211, Milwaukee, Wisconsin 53202
• (414) 274-0933 • Fax (414) 272-2870

July 24, 2009

The Honorable Robert Brady
Chairman, House Committee on House Administration
206 Cannon House Office Building
Washington, D.C. 20515

Re: Fair Elections Now Act

Dear Representative Brady:

On behalf of the Board, members and constituents of 9to5, National Association of Working Women, I write to commend you for your leadership on the Fair Elections Now Act. This bill would create a citizen-funded election system through which congressional candidates could run for office utilizing a blend of small donations and public funds.

For over three decades, 9to5 has involved low-wage working women across the country in speaking out to change policy that directly affects them. Though we've had major victories and made significant progress, the big money of entrenched special interests continues to be a formidable foe in our fight for economic justice for women. From expanding childcare access to ensuring pay equity to adopting basic labor standards and protections, the concerns of America's working women will continue to be overshadowed by the money and priorities of the big business lobby until we level the playing field in our political process.

Together, by fighting for fair elections, we can help level that playing field, increase access to the electoral system for women and people of color and lower-income individuals, and ultimately bring more fairness to the workplace for America's working women. 9to5 looks forward to working with you to pass the Fair Elections Now Act. Passing this bill is an important step towards ensuring that all Americans, not just special interests, have a voice in Washington, DC.

Sincerely,

Linda A. Meric

Linda A. Meric
Executive Director, 9to5

Cc: The Honorable Zoe Lofgren
The Honorable Michael Capuano
The Honorable Charles Gonzalez
The Honorable Susan Davis
The Honorable Artur Davis
The Honorable Dan Lungren
The Honorable Kevin McCarthy
The Honorable Gregg Harper

AFSCME
We Make America Happen

Gerald W. McEntee
President
William Lucy
Secretary-Treasurer
Vice Presidents
Ken Allen
Portland, OR
Henry L. Bayer
Chicago, IL
George Boncoraglio
New York, NY
Anthony Caso
Boston, MA
Greg Devereux
Olympia, WA
Danny Donohue
Albany, NY
David R. Fillman
Harrisburg, PA
Michael Fox
Harrisburg, PA
Albert Garrett
Detroit, MI
Raglan George Jr.
New York, NY
Sherryl Gordon
Trenton, NJ
Lakesha Harrison
Oakland, CA
Danny J. Homan
Des Moines, IA
Salvatore Lucciano
New Britain, CT
John A. Lyall
Worthington, OH
Roberta Lynch
Chicago, IL
Gerard S. Middleton Sr.
Baltimore, MD
Veronica Montgomery-Costa
New York, NY
Doug Moore
San Diego, CA
Michael D. Murphy
Madison, WI
Henry Nicholas
Philadelphia, PA
Eddie L. Parks
Westerville, OH
Randy Perreira
Honolulu, HI
George E. Popyack
Oakland, CA
Greg Powell
Austin, TX
Laura Reyes
San Diego, CA
Eddie Rodriguez
New York, NY
Joseph P. Rugola
Cincinnati, OH
Kathy J. Sackman
Downey, CA
Lee Saunders
South St. Paul, MN
Mary E. Sullivan
Albany, NY
Brenda Torres
San Juan, PR
Miguel Vázquez
Harrisburg, PA
Jacqueline D. Wynn
Baltimore, MD
Administrator, 1932-59
Jerry

July 28, 2009

The Honorable Robert Brady
Chairman
House Committee on House Administration
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Dan Lungren
Ranking Member
House Committee on House Administration
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Brady and Ranking Member Lungren:

On behalf of the 1.6 million members of the American Federation of State, County and Municipal Employees (AFSCME), I am writing to thank you for your work on the Fair Elections Now Act (H.R. 1826). We are pleased to learn that you have planned a hearing on the bill, as this is an important step towards much-needed government reform.

Our members, like many Americans, are frustrated by the tremendous influence of corporations and special interests on their elected officials. Severing the link between money and politics will truly level the political playing field and ensure that elected officials govern in the interest of a far wider swath of Americans - including the hardworking American families who make this country run. The Fair Elections Now Act's model of citizen-funded congressional elections would combine public funds with small campaign donations, thus eliminating candidates' reliance on elite large donors and special interests.

AFSCME looks forward to working with you to secure final passage of the Fair Elections Now Act. Thank you for your time, effort, and leadership on this important issue.

Sincerely,

Charles M. Loveless
Director of Legislation

CML: ebr

American Federation of State, County and Municipal Employees, AFL-CIO
TEL (202) 429-1000 **FAX** (202) 429-1293 **TDD** (202) 659-0446 **WEB** www.afscme.org 1625 L Street, NW, Washington, DC 20036-5687

For Immediate Release:

Contact: Nicholas Mitchell
603-227-0626
nick@YouStreet.org

YOU STREET

CHAIRS
SENATORS
Bill Bradley
Bob Kerrey
Warren Rudman
Alan Simpson

Americans for Campaign Reform Announces Support of Fair Elections Now Legislation - Former Senators Speak Out

(Concord, NH - March 25) Americans For Campaign Reform, a bi-partisan advocacy group based in Concord, NH has announced their support of the Fair Elections Now Act. The legislation, which will be introduced this week, provides for voluntary public funding of all Senate and House elections. Senators Durbin (D-IL) and Specter (R-PA) will introduce the Senate bill while Representatives Larson (D-CT) and Jones (R-NC) will introduce similar legislation in the House. These bills respect the importance of citizen involvement in elections by providing a match of public funds for small donations received from a candidate's constituents.

Americans for Campaign Reform is chaired by former Senators Bill Bradley (D-NJ), Bob Kerrey (D-NE), Warren Rudman (R-NH) and Al Simpson (R-WY).

According to Bradley, the cost of running for office has gotten out of control. "It used to be that you were a Senator for four years and you ran for re-election for two years. But in the current world you basically run for re-election from the day you arrive. So, you constantly have to raise money in order to get to the amount you need to be able to run an effective campaign. "When I ran for the Senate in 1978, I spent about $1.3 or $1.4 million for both my primary and general election. In 2000, the Democratic candidate who won that same Senate seat spent about $62 million."

Bradley goes on to talk about the increasing influence of lobbyists on campaign finances. "The only way to break the connection between the lobbyist and the elected official, which is one of the key political reforms of our time, is by going to public funding of all Congressional and Senate campaigns. You can do that for a little less than $2 billion a year out of a $1.6 trillion budget."

Rudman also expresses frustration about the influence of big money on our political system. "There's an overwhelming cynicism of the American people in their government. It's caused by a lot of reasons, but I think one of the principle reasons is a feeling that the Congress has been corrupted by special interest money. I think the continuation of the present system will continue to erode what confidence is left in the government by the America people.

###

For complete information about Americans for Campaign Reform please refer to www.YouStreet.org.



March 24, 2009

Congressman John Larson
United States House of Representatives
106 Cannon House Office Building
Washington, D.C. 20510

Dear Congressman Larson:

Chesapeake Climate Action Network praises your dedication to changing the way America pays for elections by supporting the Fair Elections Now Act. The bill would eliminate the rising campaign costs and the influx of large contributions acting as a corrosive agent in politics. The bill would create a voluntary system in which U.S. House candidates can receive federal campaign funds with a four to one match on small dollar donations up to a limit.

For far too long, we have seen the deterioration of our environment because policymakers are forced to comply with the stimulations of large campaign contributions from oil, gas and coal industries. The hope is that the Fair Elections Now Act would eradicate the pay-to-play politics by keeping the major issues facing our country separate from the influence of special interests contributions.

The Fair Elections Now Act would increase the amount of access and accountability – two variables of democracy that would country desperately needs. The bill is a step in the right direction by reducing the importance of fundraising in the electoral process. Thank you for your assistance in the final passage of the Fair Elections Now Act.

Sincerely,

Kirsten Collings
Campaign Director
Chesapeake Climate Action Network

P.O. Box 11138 Takoma Park, MD 20912 (301) 891-6726

COMMON CAUSE

June 2, 2009

The Honorable John Larson
106 Cannon HOB
Washington, DC 20515

Dear Representative Larson:

Common Cause strongly endorses the Fair Elections Now Act, H.R. 1826, introduced by Representatives John Larson (D-Conn.) and Walter Jones, Jr. (R-N.C.), to create a voluntary system in which candidates who agree to take only small individual contributions can receive ample public funds to run a competitive campaign. On behalf of Common Cause's 400,000 members and supporters around the country, we urge you to support and to co-sponsor this legislation.

Under the Fair Elections Now Act, candidates for Congress could run for office without relying on large contributions and big money bundlers, and would be freed from constant fundraising in order to focus on what people in their communities want.

This proposal already enjoys a broad range of support from organizations and the public at large. Attached to this letter is a list of supporting organizations, including major allies from the civil rights, environmental, health care, labor, and faith communities. The public support for Fair Elections is similarly dramatic: by a better than three-to-one margin (67% / 20%), voters in a February poll supported this modern, citizen-funded election system.

Most critically, this is a much different proposal, in much different political circumstances, than past efforts to enact comprehensive campaign finance reform. The Fair Elections Now Act incorporates both the best practices from states with successful citizen-funded election systems as well as the lessons of the 2008 election to create a new, forward-looking program that amplifies the role of small donors with limited public funds and removes the hard spending limits of past systems.

Politically, the time is right for this reform. The media and Members themselves have begun to shine a spotlight on the recycling of earmarks into campaign contributions, and vice versa. Fundraising is harder in an economic downturn, as you've surely found, yet the demand for more campaign funds has increased to an unsustainable level as costs skyrocket.

The Fair Elections Now Act is the single best method to address this erosion of public trust and the endless hours of fundraising that pulls you and other elected officials away from the core of

your job. Citizen-funded elections already work in states like Arizona, Connecticut, and Maine, and now we're poised to enact them at the federal level.

Common Cause is asking you to co-sponsor and support the Fair Elections Now Act (H.R. 1826). Thank you for your work and your commitment to public service.

Sincerely,

Bob Edgar
President, Common Cause

Sarah Dufendach
Vice President, Legislative Affairs
Common Cause

P.S. Please visit www.commoncause.org/FairElectionsNowAct or contact Sarah Dufendach at (202) 736-5709 or sdufendach@commoncause.org for more information.

Consumer Watchdog

July 27, 2009

The Honorable Robert Brady
Chairman, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

The Honorable Dan Lungren
Ranking Member, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

Re: Fair Elections Now Act, HR 1826

Dear Chairman Brady and Ranking Member Lungren:

On behalf of Consumer Watchdog, one of the nation's leading consumer advocacy groups, I write to thank you for your leadership on the Fair Elections Now Act. By providing public financing for congressional candidates, this historic bill will help create the open and accountable government that the American people demand.

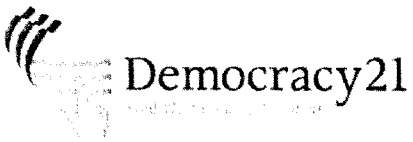
With the palpable momentum for change in Washington, from reforming our ailing health care system to transitioning to a clean energy economy, special interests are making every effort to preserve the status quo. Consumer Watchdog, with decades of experience in campaign reform and consumer advocacy, knows all too well that achieving real change in Washington will require comprehensive public financing of our elections. The Fair Elections Now Act would do just that in Congress by creating a citizen-funded election system where congressional candidates could run for office on a blend of small donations and public funds.

The Fair Elections Now Act is critical to ensuring that our elected leaders keep their promise to be agents of change, rather than the status quo. Consumer Watchdog looks forward to working with you to ensure final passage of the Fair Elections Now Act.

Sincerely,

Carmen Balber
Washington, D.C. Director

Cc: The Honorable Zoe Lofgren
The Honorable Michael Capuano
The Honorable Charles Gonzalez
The Honorable Susan Davis
The Honorable Artur Davis
The Honorable Kevin McCarthy
The Honorable Gregg Harper



March 31, 2009

Senator Richard Durbin
309 Hart Senate Office Building
Washington, DC 20510

Dear Senator Durbin,

Democracy 21 greatly appreciates your taking the lead in the Senate on behalf of legislation to establish a system of public financing for congressional elections. We join in offering our support for the Fair Elections Now Act that you and Senator Arlen Specter are sponsoring.

Your legislation provides the nation with the opportunity to reduce the influence of special interest influence money in Congress and to increase the voice of the American people. The bill provides candidates with the opportunity to run competitive races for Congress without having to become indebted to large contributors and the bundlers who raise these contributions.

Changing the way campaigns are financed is the overriding government integrity reform issue facing the country. The solution is public financing of elections.

The Washington influence culture of special interests, lobbyists and campaign contributions have combined repeatedly to exercise undue influence over government decisions, at the great expense of the American people.

It is widely recognized, for example, that the absence of effective regulation of our financial institutions played a key role in triggering the current financial and economic crisis. A major factor in the absence of such effective regulation, no doubt, was the *$1.5 billion* in contributions given in the past decade by financial institutions to federal candidates and their political parties.

This example and numerous others over the years make a powerful case for public financing of congressional elections in order to obtain policy decisions that better reflect the interests and needs of the American people.

The presidential public financing system, enacted in 1974, became the most striking symbol of the movement for public financing of elections. The system was described by *Washington Post* columnist E.J. Dionne in 2006 as the "rare reform that accomplished exactly what it was supposed to achieve" for most of its existence.

The presidential public financing system served the nation well but is broken now and needs to be repaired. We appreciate your co-sponsorship in the last Congress of legislation introduced by Senators Russell Feingold and Barack Obama to fix the presidential system.

In both the proposal to repair the presidential public financing system and the proposal to establish a new system for congressional races, small donors would become the main source of private contributions for federal elections and would combine with public funds to finance federal elections.

Small donor Internet fundraising, a potential revolutionary development in financing campaigns, allows candidates to raise large sums of small, broad-based, non-influence seeking contributions and to do so at almost no cost and with little need for the candidate's time. It also strengthens our democracy by creating new opportunities for citizens to participate in the political process.

The battle lines for campaign finance reform are now drawn: we must fix the existing public financing system for presidential elections and establish a new public financing system for congressional races.

These reforms would fundamentally change the way Washington works. They are essential to protecting the integrity of our democracy and the interests of the American people in fair government decisions.

Sincerely



Fred Wertheimer
President



March 23, 2009

Congressman John Larson
United States House of Representatives
106 Cannon House Office Building
Washington, D.C. 20510

Dear Congressman Larson:

Friends of the Earth commends applauds the introduction of the Fair Elections Now Act and commends you and Sen. Arlen Specter (R-Pa.) for sponsoring this important piece of legislation. The bill would create a voluntary system of campaign financing to provide qualified U.S. Senate candidates with the option to receive federal campaign funds with a four to one match on small dollar donations up to a limit.

The coal, oil and gas industries use their wealth to spend money lobbying and donating to congressional campaigns to win influence in Washington, so they can block Congress from passing legislation to halt global warming and green our economy. Instead of chasing big contributions to pay for their next elections, members of Congress could spend time doing their jobs – like listening to their constituents who want real progress on the environment.

The Fair Elections Now Act will help change the face of our democracy. It will empower people from all walks of life to be more active in the political process. Friends of the Earth looks forward to working with you to ensure final passage of the Act. Thank you for your time and for taking leadership in on this issue.

Sincerely,

Brent Blackwelder
President
Friends of the Earth

Rose Ann DeMoro
Executive Director
California Nurses Association

Dr. Quentin Young
Co-Founder
Physicians for a National Health Program
Chicago, IL

Healthcare - NOW!

339 Lafayette Street, New York, NY 10012-2725
Phone: (212) 475-8350 or (800) 453-1305

Marilyn Clement
National Coordinator
New York, NY

Leo Gerard
President
The United Steelworkers
Pittsburgh, PA

Jim Winkler
General Secretary
General Board of Church & Society
United Methodist Church
Washington, DC

July 24, 2009

The Honorable Robert Brady
Chairman, House Committee on House Administration
206 Cannon House Office Building
Washington, D.C. 20515

Dear Representative Brady,

Healthcare-NOW! strongly supports your leadership on the Fair Elections Now Act, H.R. 1826. Your decision to hold a hearing on this important issue will help to usher the bill onto the national stage, a crucial step towards its successful passage.

The corrosive influence of money is keeping too many lawmakers from listening to their constituents. Indeed, political campaigns have become so costly that legislators are beholden to their contributors, rather than accountable to the citizens they represent. There is no better example of this corruption than the ongoing battle for comprehensive health care reform. As a result of the health care industry's tremendous campaign contributions and lobbying expenditures, the supermajority of citizen support for dramatic health care reform does not have a corresponding level of support within Congress.

We at Healthcare-NOW! have seen firsthand that the most significant roadblock to comprehensive health care reform is the staggering influence of the health care industry over lawmakers. By creating a system of citizen-financed congressional elections, the Fair Elections Now Act would break the constant gridlock created by special interest and allow legislators to focus on enacting meaningful reform, be it health care, or any of the other urgent issues that are important to the American people.

Thank you again for your support of the Fair Elections Now Act, and Healthcare-NOW! looks forward to working with you to ensure the passage of this essential legislation.

Sincerely,

Katie Robbins
Assistant National Coordinator
Healthcare-NOW!

Cc: The Honorable Zoe Lofgren
The Honorable Dan Lungren
The Honorable Kevin McCarthy
The Honorable Charles Gonzalez
The Honorable Artur Davis
The Honorable Michael Capuano
The Honorable Gregg Harper
The Honorable Susan Davis

E-mail: info@healthcare-now.org

Website: www.healthcare-now.org

MoveOn.org
POLITICAL ACTION

STATEMENT ON BIPARTISAN FAIR ELECTIONS NOW ACT

March 26, 2009

"For too long, Washington has been beholden to fat cat donors and corporate special interests. It is time we end the undue influence these groups have and return power to where it belongs – in the hands of the people.

"It is simple. If we have elections funded by corporate interests, we will have a government beholden to corporate interests. If we have elections funded by the people, we will have a government beholden only to the people.

"MoveOn.org strongly endorses the Fair Elections Now Act and applauds Assistant Senate Majority Leader Dick Durbin (D-Ill.), Senator Arlen Specter (R-Pa.), House Democratic Caucus Chair John Larson (D-Conn.), and Representative Walter Jones (R-N.C.) for this bipartisan and pragmatic approach to fixing the broken campaign finance system.

"Since our founding, MoveOn has provided average citizens the tools to become more involved in government and policy debates. We can see few better ways to continue this work than through working to support the Fair Elections Now Act.

"MoveOn will mobilize hundreds of thousands of our members around the country to urge their elected representatives to co-sponsor this important legislation and work with the sponsors to pass this vital legislation."

###

National Council of the Churches of Christ in the USA
475 Riverside Drive, Suite 800 · New York, NY 10115-0050 · www.ncccusa.org
Justice & Advocacy and Communication · P: 212-870-2048 · F: 212-870-2030 · E: wpattillo@ncccusa.org

July 23, 2009

The Honorable Robert Brady
Chairman, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

The Honorable Dan Lungren
Ranking Minority Member, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

Dear Representative Brady and Ranking Member Lungren,

The National Council of the Churches of Christ USA warmly applauds your support and leadership with respect to the Fair Elections Now Act, H.R. 1826. Your decision to hold a hearing on the issue will help move this important legislation onto the national stage and ultimately lead to its successful passage.

Evidence of repeated corruption, conflicts of interest, and lack of accountability has led many Americans to regard their government with widespread cynicism and has led to a rising crisis of confidence in the American democratic system. The time is overdue to restore that confidence by granting conscientious citizens the honest and responsive government they deserve.

We believe that the Fair Elections Now Act will do just that by alleviating the pressure of constant fundraising and allowing legislators to spend more time hearing from their constituents, rather than seeking the support of wealthy donors.

The National Council of Churches, with our 100,000 local congregations and 45 million adherents, believes this is an ethical issue; a fundamental pillar of our democracy is at stake.

We look forward to working with you to fight for fair play in the election process and against corruption in Washington. Let us begin by securing the critical passage of this Act. We know that your leadership will be pivotal in ensuring this is accomplished; we commend you for your noble efforts, every step of the way.

Sincerely,

Wesley M. Pattillo

Wesley M. Pattillo
Senior Program Director for Justice, Advocacy and Communication
The National Council of the Churches of Christ USA

Cc: The Honorable Zoe Lofgren
The Honorable Michael Capuano
The Honorable Charles Gonzalez
The Honorable Susan Davis
The Honorable Artur Davis
The Honorable Dan Lungren
The Honorable Kevin McCarthy
The Honorable Gregg Harper

PUBLIC CAMPAIGN
CLEAN MONEY CLEAN ELECTIONS

July 30, 2009

The Honorable Robert Brady
Chairman, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

The Honorable Dan Lungren
Ranking Minority Member, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

Re: Committee on House Administration Hearing on "A look at HR 1826 and the Public Financing of Congressional Campaigns "Fair Elections Now Act"

Dear Chairman Brady and Ranking Member Lungren:

On behalf of Public Campaign, a nonprofit, nonpartisan organization dedicated to sweeping campaign reform, I write to thank you for your leadership on the Fair Elections Now Act and commend you for holding this hearing on this critically important legislation. By providing congressional candidates the opportunity to run for office with a mixture of small donations and public financing, this historic bill will help restore public faith in our democracy, and will help foster a more open and accountable government.

Your consideration of this issue is timely because the role that campaign fundraising plays is growing with every election cycle; the public is demanding big changes in how business is conducted in Washington, D.C.; the legislation before you is well-calibrated to meet the political, legal, and policy challenges to fix our broken campaign finance system; and there are successful state policies that are mature enough to show the way forward here in the nation's capitol.

The ever-increasing money chase

As you are aware, fundraising takes more and more time each election cycle. The cost to run for the U.S. House of Representatives has skyrocketed, from an average of about $87,000 spent for successful House elections in 1976 to an average of $1.3 million in 2008. These costs outstrip inflation and have driven elected officials and challengers into a constant state of fundraising. As is routine, newly elected freshman Representatives receive a clear message from their party leaders: if you want to survive you need to have $1 million in the bank by the end of this non-election year. The quick math on that is raising a net $20,000 per week, week in and week out, without a break.

The rise in the cost of political campaigns places members of Congress in a difficult position. Instead of being able to focus without distractions on the work their constituents elected them to do, elected officials are compelled to spend significant amounts of time on the telephone and attending receptions in pursuit of the cash they need to retain their seat. The public views this practice as unseemly. Most of your colleagues quietly acknowledge it represents the worst part of their jobs.

The other dimension to the problem is where the money comes from. Who are these people writing these checks? By and large, they are a micro demographic within the 300 million plus people who live in this country. The average American can't afford to give a candidate $500, or a $1,000, or $4,800 dollars, which is the maximum allowed for an individual between the primary and the general elections. According to the Center for Responsive Politics, one tenth of one percent of the U.S. population in 2008 made a campaign contribution of $2,300 (then the maximum gift per election).[1]

Significant amounts of money come from interests with pending legislative matters before committees. We are seeing this play out right now, with banking lobbyists admitting publicly that they attend fundraisers for members on key committees because that is where they get "face time" with the elected officials. One lobbyist told the New York Times, "[Banks] understand you need a strong political action committee to get access to the fund-raisers. That's where the lawmakers are."[2]

More recently, comprehensive healthcare reform legislation is being held up in the House Energy and Commerce Committee by members who have received tens of thousands more in campaign contributions from the health and insurance industry than other members on the same committee. And the list could go on. For the public, the vast amounts of campaign money that is necessary for members of Congress to raise each cycle, and the seemingly endless availability of campaign money from vested interests, raises serious questions about exactly for whom Congress works.

The public wants change in how campaigns are financed

The 2008 election sent a clear message: voters are demanding change because they view Washington, D.C. as being out of touch and, worse, believe that *our* interests are held hostage by special interests. A public opinion survey taken the night before and on election day revealed that over three-fourths of voters agree with the statement "I am worried that large political contributions will prevent Congress from tackling the most important issues facing America today, like the economic crisis, rising energy costs, reforming health care, and global warming." Fifty-six percent of voters strongly identified with that statement.[3]

---

[1] http://www.opensecrets.org/overview/DonorDemographics.php

[2] Stephen Labaton, "Ailing, Banks Still Field Strong Lobby at Capitol," *New York Times*, June 5, 2009.

[3] Lake Research Partners and the Tarrance Group conducted this bipartisan survey of 1,000 likely voters nationwide, with an oversample of 200 cell phone interviews among likely voters, conducted November 3 - 5, 2008.

A February 2009 poll found that 57 percent of voters thought the campaign finance system was getting worse and that 60 percent of voters believe that campaign contributors have more say in decisions in our nation's capital than the concerns of constituents.

Voters embrace a system like the legislation before you. Sixty-seven percent of voters support a program that mixes public funding of elections with small donations under $100, with just 20 percent opposed. After reading a series of arguments for and against the program, support grew by a net nine percent to 73 percent for and 17 percent against. Democrats, Republicans, and Independents were all equally robust in their support for the measure.[4]

Fair Elections work

Fortunately there is a common sense answer that will refocus elections on voters and volunteers instead of campaign cash and political bundlers. The Fair Elections Now Act introduced by Reps. John Larson (D-Conn.) and Walter Jones (R-N.C.) provides candidates for Congress a way to run without having to join the big money campaign money chase.

The system is constitutional within the Buckley v. Valeo framework. It expands political speech, ensuring that those without access to wealth or political connections can speak with a forceful voice during the campaign season. Decisions in several court cases brought by opponents of the Maine and Arizona public financing of elections laws have upheld the key elements of the system.

It may seem counterintuitive for an incumbent to support a bill like this. After all, each member of Congress won their election using the current system, many on repeated occasions. Yet I know that many who serve under the Capitol dome are deeply troubled by the current unbounded private financing set-up and a good number also find campaign fundraising their least favorite part of being an elected official. The Fair Elections Now Act offers a fair and practical alternative.

State successes show the way forward

The Fair Elections system is often called "Clean Elections" at the state level. In states where it has been implemented, it has changed the face of democracy. It opens up the possibility of running for office and winning to a more diverse range of candidates. In Maine, for example, Deborah Simpson, a low wage worker, single mom, and grassroots civic activist is now a state Senator where she pays particular attention to policies that affect children living in poverty. She credits the Clean Elections system as her successful entry ticket into the political arena.

---

[4] Lake Research Partners and Tarrance Group, February 2009 survey, 1,000 voters, margin of error of +/- 3%

To date, publicly financed elections are the law for at least some offices in the following states and cities: Arizona; Connecticut; Maine; New Mexico; North Carolina; Vermont; Albuquerque, New Mexico; and Portland, Oregon. Today, nearly 400 elected officials are serving their communities after running and winning under one of these systems. In Maine and Connecticut, more than 80 percent of statehouse seats are occupied by publicly financed elected officials. In Arizona, eight of 10 statewide elected officials were elected after using that state's popular program. It should be noted that former Gov. Janet Napolitano (D-Ariz.), now Secretary of Homeland Security, was elected twice under the Arizona Clean Elections system.

***

It is possible to change politics for the better. With the palpable momentum for change in Washington, D.C., from reforming our ailing healthcare system, stabilizing our economy from the effects of the global recession, and transitioning to a clean energy economy, we must leave behind the unsustainable campaign money chase and its grossly negative side effects on our public policy decisions. We can work together to create an alternative campaign finance system based on the widely shared values of free speech, fair competition, equal opportunity, and inclusive participation. It is an idea whose time has come.

Thank you for holding this important hearing today.

Sincerely,

Nick Nyhart
President and CEO
Public Campaign

NN/SBH

cc: The Honorable Zoe Lofgren
The Honorable Michael Capuano
The Honorable Charles Gonzalez
The Honorable Susan Davis
The Honorable Artur Davis
The Honorable Kevin McCarthy
The Honorable Gregg Harper



Auto Safety Group • Congress Watch • Energy Program • Global Trade Watch • Health Research Group • Litigation Group

March 26, 2009

The Hon. Richard Durbin
The Hon. Arlen Specter
United States Senate
Washington, D.C. 20510

Dear Senators Durbin and Specter:

Public Citizen heartily applauds your bipartisan legislation – known as the "Fair Elections Now Act" – that would take large special interest money out of elections, empower small donors, and ensure that members of Congress can spend more time solving the nation's problems instead of raising campaign funds. We also applaud Reps. John Larson, Walter Jones and Todd Platts for introducing companion legislation in the House. This is a critical reform measure that is long overdue in Washington.

The Fair Elections Now Act would fundamentally change the way congressional elections are financed by:

- Providing viable candidates with a substantial grant of public dollars to finance their campaigns in exchange for eschewing any contributions over $100;
- Offering a match of $4 in public money for every $1 raised from individuals, up to a maximum contribution of $100 from private donors; and
- Giving vouchers for television airtime to qualified candidates to help reduce the costs of campaigns.

The Fair Elections Now Act is the product of two years of legislative deliberation by your offices. It completes the second part of a two-step reform drive on Capitol Hill – the first step was to rein in lobbying abuses, and the second is to rein in the influence of large special interest money in financing campaigns.

The Fair Elections Now Act already has gained editorial support nationwide and is favored in poll after poll by strong majorities of voters across political parties – among Democrats, Republicans, and Independents alike. Unlike previous reform bills, this one stands a very good chance of gaining approval both in Congress and in the White House as the current

leadership on Capitol Hill continues to strive to restore the public's faith in the federal government.

Public Citizen stands firmly behind your newest reform effort.

Sincerely,

David Arkush
Director,
Public Citizen's Congress Watch division

Craig Holman, Ph.D.
Government Affairs Lobbyist,
Public Citizen

April 6, 2009

SEIU
Stronger Together

ANDREW L. STERN
International President

ANNA BURGER
International Secretary-Treasurer

ANNELLE GRAJEDA
Executive Vice President

MARY KAY HENRY
Executive Vice President

GERRY HUDSON
Executive Vice President

ELISEO MEDINA
Executive Vice President

DAVE REGAN
Executive Vice President

TOM WOODRUFF
Executive Vice President

SERVICE EMPLOYEES
INTERNATIONAL UNION
CTW, CLC

1800 Massachusetts Ave NW
Washington, D.C. 20036

202.730.7000
TDD 202.730.7481
www.SEIU.org

The Honorable Richard Durbin
United State Senate
309 Hart Senate Office Building
Washington, DC 20510

Re: Fair Elections Now Act

Dear Senator Durbin:

I am writing on behalf of the over 2 million members of the Service Employees International Union (SEIU) to thank you for your sponsorship of the Fair Elections Now Act. This legislation will help level the playing field for Main Street Americans to participate in our political process on the same basis as wealthy campaign contributors and special interests. Americans are right to be skeptical about the political process when billions of dollars of special interest money flow into candidates' campaign treasuries, and candidates spend far too much of their time courting money from the wealthiest among us. As the costs of campaigns continue to escalate, politicians loose their connection with the interests and concerns of voters who are unable to make massive contributions to their campaigns and focus their attention on the needs of large contributors and special interests.

Over a hundred thousand members of SEIU contribute an average of between $3 and $5 every payday to their federal political action fund through voluntary payroll deductions. These contributions give our members a voice in the political process and are used to support candidates who support the issues which are important to working families. In the last election millions of other American contributed small amounts to candidates through the internet. Both of these developments are evidence of the vibrancy of our democracy, but more needs to be done. We need a level playing field for our electoral system based on public financing for candidates and the active participation of average Americans in the political process.

The Fair Elections Now Act makes significant progress toward these goals by recognizing the unique value of small political contributions from a broad base of voters and by helping to break the bonds between candidates and large contributors and special interests through the availability of public financing. The Fair Elections Now Act is a bill whose time has clearly come and we look forward to supporting your efforts to secure enactment of this important legislation. Should you have any questions contact Alison Reardon, director of Legislation, at 202-730-7706 or alison.reardon@seiu.org.

Sincerely,

Anna Burger

Anna Burger
International Secretary-Treasurer

AB:JS:gmb

opeiu#2
afl-cio, clc

SIERRA CLUB
FOUNDED 1892

March 25, 2009

Congressman John B. Larson
United States House
106 Canon House Office Building
Washington, D.C. 20510

Dear Congressman Larson:

The Sierra Club commends you for your leadership regarding the Fair Elections Now Act. The bill would create a voluntary system of campaign financing to provide qualified U.S. House candidates with the option to receive federal campaign funds with a four to one match on small dollar donations up to a limit.

Sierra Club endorses the Fair Elections Now Act because this proposal reduces the excessive dependence on large dollar contributions from polluters like the oil, gas, and coal industries who repeatedly block legislation that protects our environment. Instead of focusing on the major issues facing our country like global climate change, elected officials in Washington spend too much time raising money from the lobbyists and industries they're suppose to oversee.

The Fair Elections Now Act would help strengthen public confidence in our electoral process by reducing the importance of fundraising in the electoral process. It is time for us to change the way we fund our campaigns and this legislation is a critical step in the right direction. We look forward to working with you to ensure final passage of the Fair Elections Now Act.

Sincerely,

Carl Pope
Executive Director
Sierra Club

408 C Street, N.E. Washington, D.C. 20002 TEL: (202) 547-1141 FAX: (202) 547-6009 www.sierraclub.org

SIERRA CLUB
FOUNDED 1892

March 25, 2009

Congressman Walter B. Jones, Jr.
United States House
2333 Rayburn House Office Building
Washington, D.C. 20510

Dear Congressman Jones:

The Sierra Club commends you for your leadership regarding the Fair Elections Now Act. The bill would create a voluntary system of campaign financing to provide qualified U.S. House candidates with the option to receive federal campaign funds with a four to one match on small dollar donations up to a limit.

Sierra Club endorses the Fair Elections Now Act because this proposal reduces the excessive dependence on large dollar contributions from polluters like the oil, gas, and coal industries who repeatedly block legislation that protects our environment. Instead of focusing on the major issues facing our country like global climate change, elected officials in Washington spend too much time raising money from the lobbyists and industries they're suppose to oversee.

The Fair Elections Now Act would help strengthen public confidence in our electoral process by reducing the importance of fundraising in the electoral process. It is time for us to change the way we fund our campaigns and this legislation is a critical step in the right direction. We look forward to working with you to ensure final passage of the Fair Elections Now Act.

Sincerely,

Carl Pope
Executive Director
Sierra Club

408 C Street, N.E. Washington, D.C. 20002 TEL: (202) 547-1141 FAX: (202) 547-6009 www.sierraclub.org

U.S. PIRG
Federation of State PIRGs

July 28th, 2009

The Honorable Robert A. Brady
Chairman, House Administration Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Brady:

We write to offer our perspective on the House Administration's hearing, "A Look at H.R. 1826 and the Public Financing of Congressional Campaigns," and to state our support of H.R. 1826, the Fair Elections Now Act (FENA), a bill introduced by Representatives John Larson (D-CT) and Walter Jones (R-NC). We ask that this letter be included in the record of the hearing.

With healthcare, energy policy, and financial market reform debates in Washington, D.C., special-interest money is making its impact on our legislators.

According to data compiled by the nonpartisan Center for Responsive Politics, health and insurance interests have made $16.8 million in campaign contributions to federal candidates and parties in the first part of this non-election year to make their case on health-care reform. Likewise, the energy sector made $6.1 million in federal donations, and the finance, insurance, and real estate sector contributed $23.8 million. Despite the economic downturn, influence-peddling is a growth industry in our nation's capital.

Elections should be about voters and issues, not insider lobbyists and large political donations. However, as a part of our nation's current money driven campaign system, elected officials are on a never-ending fundraising treadmill—the day after they take office politicians need to turn an eye towards raising enough money for reelection. This climate can lead to legislators spending more time talking to influential big donors than other interests.

In a recent bipartisan poll by the Tarrence Group and Lake Research, 60% of voters said they think that members of Congress are more likely to vote in a way that will please their political contributors, compared to the just 20% who thought that politicians vote in the best interests of their constituents. Americans also believe campaign contributions will impede Congress's progress on major legislation. Nearly four in five voters thought that large contributions would prevent Congress from passing reforms on hot button issues like the economy and education.

The rising cost of Congressional campaigns is unsustainable. There is no end in sight to the escalation in costs, and candidates are spending more and more time trying to raise enough money just to compete. Under our current system, candidates either have to be wealthy or must spend countless hours raising money from wealthy donors and lobbyists. Additionally, legislators in Washington spend too much time raising money from specific constituencies, either from the lobbyists who later request favors from them, or from the very industries they are supposed to oversee.

The landmark legislation, the Fair Elections Now Act, offers an alternative to the current system for those who seek a Congressional seat. A candidate running under this program must demonstrate a broad base of community support by collecting a set number of small dollar donations. Once qualified, candidates receive a grant to pay for their campaigns, and receive matching funds for in-state small dollar donors.

The bill, which was introduced on March 18th, is receiving bipartisan support, and President Obama is on record as a supporter as well. President Obama signed a 2007 questionnaire expressing support for

U.S. PIRG
Federation of State PIRGs

[illegible]
Phone: (202) 546-9707
Fax: (202) [illegible]

clean elections systems and said: *I agree with the campaign reform model in Maine and Arizona, which provides public funding for qualified candidates who agree to spending limits and to stop accepting private contributions, and I believe we need such reform at the federal level. I will make passage of such legislation one of my priorities in my campaign, and in my presidency if elected.*

In addition to support inside the beltway, every major demographic group solidly favors FENA. This includes remarkable support across party lines – 69% of Democrats, 64% of Republicans, and 66% of independents. In addition, there's virtually no difference across regional lines.

We need to change the system and Americans are ready. The way forward can be found in the Fair Elections Now Act. U.S.PIRG urges you and the committee members to support this measure

Sincerely,
Lisa Gilbert
U.S.PIRG Democracy Advocate

July, 2009

The Honorable Robert Brady
Chairman, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

The Honorable Dan Lungren
Ranking Minority Member, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

Dear Representative Brady and Ranking Member Lungren,

I would like to thank you for holding the July 30th Committee hearing and for allowing me to submit testimony on the importance of the Fair Elections Now Act (FENA). The issue that you are considering is extraordinarily important to our political process and to the American public.

I am President of a not-for-profit national organization, The Democracy Matters Institute, that over the last decade has worked with thousands of college and high school students to deepen our democracy. These students believe in our political system, and want to make it more open and more fair. Nothing is more important to this effort than to pass campaign finance reform legislation that can restore the confidence of young people and other citizens in our democracy. The enthusiasm and optimism of these future civic and political leaders is contagious – they work hard on their campuses and in their communities to make our political system more inclusive and open through the passage of a public financing option for candidates. Many of them hope hat they will be able to run for office themselves someday even if they don't have high incomes or connections with wealthy interests

But in the last eleven years, as a professional basketball player in the NBA (this last year I was a member of the Orlando Magic), I also have had a great deal of contact with many other young people who have unfortunately given up on our political system. They believe that money has corrupted the political process; that they have no voice because they cannot compete with big campaign donors. But I tell them that there is hope. That just as sports is an area of fairness, where on any given night the person who wins is not necessarily the one with the biggest bank account, so too we can create a public financing option for candidates for Congress that would mean that the amount of money a candidate can raise money is not the most important determinant of who gets elected.

There are any factors that make a change in how we finance campaigns critical at this time. First, the unsustainable rise in the cost of running for office affects who can run and to whom politicians must turn in order to raise enough campaign cash to remain competitive. Elected officials are forced to run into the open arms of well heeled special interests, big money bundlers, and elite political donors in order to keep up with their competition. Today, we have a never-ending chase for the campaign dollar. To remain in office, elected officials spend more and more time raising money in order to pay for escalating campaign costs. If the general rate of inflation was the same as the rising cost of campaigning, our economy would have collapsed years ago.

This non-stop rise in the cost of political campaigns puts Members of Congress in an awkward position. Instead of being able to focus on the work their constituents elected them to do, elected officials are compelled to spend vast amounts of time dialing for dollars and shaking hands in pursuit of the cash they need to retain their seat, lending an ear to the interests who can give the maximum contributions allowable under current law.

Who are these people writing these checks? They are a micro demographic within the 300,000,000 people who live in this country. The average American can't afford to give a candidate 4,600 dollars—the maximum allowed for an individual - 2,300 for the primary and 2,300 for the general election. How do we shut down the money chase and allow our legislators to spend their time pursuing their constituents' interests? How do we turn the current incentive system upside down and drive elected officials and candidates to the voters they want to serve, instead of towards the big check writers at the next fundraiser?

Fortunately there is a common sense answer that will refocus elections on voters and volunteers instead of campaign cash and political bundlers. The Fair Elections Now Act (FENA) provides candidates for Congress a way to run without joining in the big money chase. FENA draws upon model public financing laws in Maine and Arizona that have been in place for a number of political cycles and provide an alternative to the pay to play system. The system is constitutional within the Buckley v. Valeo framework. It expands political speech, ensuring that those without access to wealth can speak with a forceful voice during the campaign season. Decisions in several court cases brought by opponents of the Maine and Arizona public financing laws have consistently upheld the key elements of the system.

The cost of FENA is relatively small/ But even if it were a larger percentage of our national budget, I believe that an investment in deepening our democracy is the most important investment we can make. Despite the current economic troubles, we are one of the wealthiest countries in the world, and we should to lead by example – by giving every citizen a real voice in our democracy.

It may seem counter-intuitive for an incumbent to support a bill like this. After all, each Member of Congress won his or her election using the current system. Yet I know that many Members are deeply troubled by the current unbounded private financing set-up, and a good number also find campaign fundraising their least favorite part of being an elected official. FENA offers a fair and practical alternative. Many members of the House have already signed on as co-sponsors of this important legislation.

Clean Elections, as it is known at the state level, has changed the face of democracy where it has been implemented. It opens up the possibility of running for office and winning to a more broadly diverse range of candidates. In Maine, for example, Deborah Simpson, a low wage worker, single mom, and grassroots civic activist is now a member of the state legislature, where she pays particular attention to policies that affect children living in poverty. She credits the Clean Elections system as her successful entry ticket into the political arena. Today in the Maine legislature over 83% of sitting legislators

chose the public financing option to run under last November, including a significant number of young people under the age of 30.

It is possible to change politics for the better. And we must do to it together. Working with one another we can leave behind the unsustainable money chase and its negative side effects. Together, we can create a new system based on the widely shared American values of fair competition, equal opportunity and inclusive participation. It is an idea whose time has come.

I am most sincerely yours,



Adonal D. Foyle
President, Democracy Matters
174 Crestview Drive
Orinda, California 94563

U.S. PIRG
Federation of State PIRGs

218 D Street SE,1st Floor
Washington, DC 20003
www.uspirg.org • info@uspirg.org

Phone: (202) 546-9707
Fax: (202) 546-2461

July 28th, 2009

The Honorable Robert A. Brady
Chairman, House Administration Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Brady:

We write to offer our perspective on the House Administration's hearing, "A Look at H.R. 1826 and the Public Financing of Congressional Campaigns," and to state our support of H.R. 1826, the Fair Elections Now Act (FENA), a bill introduced by Representatives John Larson (D-CT) and Walter Jones (R-NC). We ask that this letter be included in the record of the hearing.

Despite the economic downturn, influence-peddling is still a growth industry in our nation's capital. According to data compiled by the nonpartisan Center for Responsive Politics, health and insurance interests have made $16.8 million in campaign contributions to federal candidates and parties in the first part of this non-election year to make their case on health-care reform. Likewise, the energy sector made $6.1 million in federal donations, and the finance, insurance, and real estate sector contributed $23.8 million.

Elections should be about voters and issues, not insider lobbyists and large political donations. However, as a part of our nation's current money-driven campaign system, elected officials are on a never-ending fundraising treadmill—the day after they take office politicians need to turn an eye towards raising enough money for reelection. This climate can lead to legislators spending more time talking to influential big donors than other constituents.

In a recent bipartisan poll by the Tarrence Group and Lake Research, 60% of voters said they think that members of Congress are more likely to vote in a way that will please their political contributors, compared to the just 20% who thought that politicians vote in the best interests of their constituents. Americans also believe campaign contributions will impede Congress's progress on major legislation. Nearly four in five voters thought that large contributions would prevent Congress from passing reforms on hot button issues like the economy and healthcare.

The rising cost of Congressional campaigns is unsustainable. There is no end in sight to the escalation in costs, and candidates are spending more and more time trying to raise enough money just to compete. Under our current system, candidates either have to be wealthy or must spend countless hours raising money from wealthy donors and lobbyists. Additionally, legislators in Washington spend too much time raising money from specific constituencies, either from the lobbyists who later request favors from them, or from the very industries they are supposed to oversee.

The landmark legislation, the Fair Elections Now Act, offers an alternative to the current system for those who seek a Congressional seat. A candidate running under this program must demonstrate a broad base of community support by collecting a set number of small dollar donations. Once qualified, candidates receive a grant to pay for their campaigns, and receive matching funds for in-state small dollar donors.

The bill, which was introduced on March 18th, is receiving bipartisan support, and President Obama is on record as a supporter as well. President Obama signed a 2007 questionnaire expressing support for clean elections systems and said: *I agree with the campaign reform model in Maine and Arizona, which provides public funding for qualified candidates who agree to spending limits and to stop accepting*

U.S. PIRG
Federation of State PIRGs

218 D Street SE,1st Floor
Washington, DC 20003
www.uspirg.org • info@uspirg.org

Phone: (202) 546-9707
Fax: (202) 546-2461

private contributions, and I believe we need such reform at the federal level. I will make passage of such legislation one of my priorities in my campaign, and in my presidency if elected.

In addition to support inside the beltway, every major demographic group solidly favors FENA. This includes remarkable support across party lines – 69% of Democrats, 64% of Republicans, and 66% of independents. In addition, there's virtually no difference across regional lines.

We need to change the system and Americans are ready. The way forward can be found in the Fair Elections Now Act. U.S.PIRG urges you and the committee members to support this measure

Sincerely,
Lisa Gilbert
U.S.PIRG Democracy Advocate

July 27, 2009

The Honorable Robert Brady
Chairman, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

The Honorable Dan Lungren
Ranking Minority Member, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

Re: League of Young Voters Supports the Fair Elections Now Act, HR 1826

Dear Representative Brady and Ranking Member Lungren,

The League of Young Voters enthusiastically supports the Fair Elections Now Act and commends you all for organizing a hearing on this important piece of legislation. The Fair Elections Now Act would create a voluntary system that would allow candidates for Congress to run for office on limited public funds and put an end to the pay to play political system we have today in Washington.

The Fair Elections Now Act will open the electoral process to all members of society without regard to their race, ethnicity, gender, sexual orientation, or age. This will allow federal candidates to spend more time focusing on the people they represent and addressing our nation's challenges, rather than on raising money.

In the seven states and two municipalities that systems that the Act is modeled on, we've seen more candidates with more diverse backgrounds seek, and win, political office. Under a citizen-funded Fair Elections system, even young people like 25 year-old State Representative Matt Lesser (D-CT) can compete with better-known candidates with networks of wealthy donors.

The Fair Elections Now Act would empower every day citizens and encourage civic engagement by focusing on small dollar contributions and reducing the dependence on big money in the electoral process. It is time for a change in our election processes, and this legislation is a critical step in the right direction. We look forward to working to ensure final passage of the Act. The Fair Elections Now Act will bring proven, practical campaign reform measures to races where they are needed the most—our elections for U.S. Congress. Thank you for your time and for taking leadership in on this issue.

Sincerely,

Charlotte Chinana
National Campaigns Director, The League of Young Voters

45 main street; suite 628; brooklyn, ny 11201
(p) 718.305.4245 (f) 718.522.4840
www.theleague.com



Cc: The Honorable Zoe Lofgren
The Honorable Michael Capuano
The Honorable Charles Gonzalez
The Honorable Susan Davis
The Honorable Artur Davis
The Honorable Dan Lungren
The Honorable Kevin McCarthy
The Honorable Gregg Harper

45 main street; suite 628; brooklyn, ny 11201
(p) 718.305.4245 (f) 718.522.4840
www.theleague.com

Mr. LARSON. Last, Mr. Chairman, abiding by your time request, and having slightly gone over it, I want to say that this bipartisan effort is something States have already done, and now it has put the focus on Congress. We have a great opportunity here. There is more commonality of concern about what this process does to us, how corrosive it has become. We are open to ideas and suggestions. Zoe mentioned indexing. Mr. Capuano has other ideas on how to perfect the bill. I am sure that ideas emanating from Mr. Harper and Mr. Lungren are also ones that could better shape elections as we go forward.

That is our commitment, and that is our goal. But primarily we know we are part of a corrosive system that we need to take back to the people and have them once again feel that the government that they have is their own.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

The Honorable Chellie Pingree.

STATEMENT OF THE HON. CHELLIE PINGREE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MAINE

Ms. PINGREE of Maine. Thank you very much, Chairman Brady, Ranking Member Lungren, and distinguished members of this committee. Thank you very much for allowing me to say a few words about this particular bill and about the experiences that we have had in my home State of Maine.

First, I just want to thank Mr. Larson for his sponsorship and hard work already on this bill. It has been a pleasure working with him and also Mr. Jones from North Carolina, who has already done so much in his own State legislature to promote this issue and comes from a State where there has already been several advancements made.

So I am honored to sit here on the panel with both of you and to just take a few minutes to talk to all of the members of the committee.

I am a staunch supporter of this bill and will summarize my testimony and submit my written remarks, but I just want to say a few high points about this.

My experiences in Maine really brought me to understand how much this can change a legislative body and how much it can change all of the members of that body. I have seen firsthand how well this works.

Currently in Maine we have had an operating public financing system, somewhat similar to what we are looking at today, since the year 2000, and 85 percent of the members of the State legislature, Republican and Democrat alike, run under this system, including my daughter, who happens to be the speaker of the house, who I am grateful to say is on the second panel, and you will hear far more interesting information from her. Heaven forbid she ever runs against me in a primary. But that is another matter for another day.

I actually have never run for office under the public financing system. I was elected in 1992 to the State legislature, went on to serve as the senate majority leader, but was term-limited in 2000, at which point I decided to run for the United States Senate and

had an experience somewhat similar to what all of you are describing and was required to raise millions of dollars for that campaign. As we all know, it takes the launch of a United States Senate campaign to get your message out there.

My strongest recollection of those 2 years is something which I think many of you experienced in a variety of ways. We actually had three people sitting outside the room, precalling, to get the calls through. I spent virtually my entire day, sometimes up to 20 hours, because you can still call California, as you know. At 9 o'clock at night in the State of Maine, you are still awake out there and calling people from around the country saying, Hi, I am Chellie Pingree, running for the United States Senate. Would you be willing to donate to my campaign? People I had never met before, people who maybe I heard of somewhere, people who had maybe heard of my campaign, asking them if they would support my campaign. And that is how we went about raising most of that money.

At exactly the same moment, my daughter Hannah, whom you will meet, was 25 years old, had decided to run for the State legislature, where we had just implemented public financing of campaigns, a completely voluntary system very similar to this particular bill. She found people who would give her a $5 contribution to qualify her for running for office. Once she was qualified, she got a reasonable amount of money to run her campaign—not an excessive amount of money, not lots of TV ads, but enough for signs and mailings and radio ads.

Then, you know what she did while I was sitting in that white room for 2 years? She knocked on doors, she went to the fish piers, she went to the grocery store. She talked to all those people who never thought they would meet a politician or participate in a campaign. She engaged them. And she is fond of reminding me she won that campaign. I didn't happen to win that year. But it made a difference in how the campaigning was conducted. And it was exactly, as all of you have said, just how we want campaigning to take place.

I was fortunate enough to run again in 2008, and, as you know, I am now a Member of this wonderful body. But I would like to see us implement a system very similar to what we are talking about in Maine, and this would be—it would be a voluntary system. People would collect a reasonable amount of contributions that were relatively small, that meant anybody could participate. It would then show that a candidate was qualified.

Not anybody could run for office. You would have to collect 1,500 contributions; $50,000 would be the total of what you would have to raise. But then you would get also a reasonable amount of money to run for office. And just as we do in Maine, if your opponent runs without the system, you would be able to match some of what they raise.

So it creates a level playing field. It allows for some support for the high cost of broadcast TV. It has a variety of other technical issues in here which I would be happy to talk about at any time. But it really would change the system whereby we go about running for election.

I know, because I have been a State legislator, a senate majority leader; I know how hard it is to recruit candidates and tell people

that the next thing you are going to have to do is turn around and raise money. I know how hard it is to get diversity in the pool of candidates. This could make an enormous difference.

I also know how hard it is to get a politician to change the system by which they got elected. We all got here and then we say, Well, maybe it wasn't so bad. Maybe we should just stick with the way we have got. But it is completely unacceptable to the public on the outside. It allows for too much influence, whether we choose it or not, of outside money. And, clearly, it changes our behavior, the way we have to spend our time. And as a member of the freshman class, I know as well as anyone that as soon as somebody finishes a vote, the first thing they have to do is get out of the Chamber as fast as they can and start making those phone calls. Before you know it, the next election is around the corner. And all of us want to be back here serving the people.

I just have to ask myself one question: If we had full public financing here, a voluntary system, and if as many Members chose to use it as the State of Maine or Arizona or now Connecticut, would we be struggling this week to figure out how to put together a health-care bill? Would it really be so hard to make policy if we didn't have all the outside influences?

It certainly, I know, would change our behavior. And I am looking forward to supporting this system. I thank you for taking the time to listen to this today, and would be happy to work with you and answer any questions.

The CHAIRMAN. I thank the gentlelady.

[The statement of Ms. Pingree of Maine follows:]

STATEMENT OF
THE HONORABLE CHELLIE PINGREE
HEARING ON 'A LOOK AT H.R. 1826 AND THE
PUBLIC FINANCING OF CONGRESSIONAL CAMPAIGNS
THURSDAY, JULY 30, 2009 11:00 AM

- Thank you Chairman Brady for the opportunity to be here today. And thank you distinguished Committee Members for holding this very important hearing today.

- I would be remiss to not also thank Mr. Larson, whose leadership on this bill has been critical in its success so far, and who I have had the pleasure of working with over the last several months on H.R. 1826.

- I am a staunch supporter of this bill. I have seen firsthand how public financing campaigns can work. In my home state of Maine, we have a public financing system very similar to this plan that has been in place since 2000. Currently 85% of the members of the Maine legislature are Clean Elections candidates – including the Speaker – my daughter Hannah who you will hear from later in this hearing.

- I have never actually run for office under a public finance system. The Clean Elections plan began in Maine the same year that I was term limited from the Maine Senate.

- When I first ran for federal office in 2002, I called people all over the country who knew me, who didn't know me, who'd never heard of me and said, "Hi, I'm Chellie Pingree, and I'm running for national office, I need your help, will you support my campaign?"

- I sat there in a little white room for hours upon hours for nearly two years trying to get to Washington, raising millions of dollars to make sure I had the resources so the voters knew who I was.

- Well, at exactly the same moment, my daughter, who was 26 years old, decided she would run for the state legislature. Maine had just implemented Clean Elections. So she collected the necessary number of qualifying contributions that she needed by asking people to give five dollars and say "yes, I want you to run for office." After that, she didn't have to raise another dime.

- And you know what she spent her time doing while I was locked in that little white room dialing for millions? She went to grocery stores, to fish piers, she knocked on the doors of every person in that district that she wanted to represent, she talked to everybody. And not just the people who could make a contribution, not just the people who knew about the cocktail party, she got to talk to everybody in that district. Some were people who'd never had a chance before to tell a politician what they think.

- **She won** that November, she went on to serve for four terms, and, at 32, she's currently the youngest Speaker of the house in the country, 2nd woman speaker in Maine. And I couldn't be more proud of what she's been able to do.

- As the Speaker, she has been able to recruit people to run for office who never thought they'd have the chance to represent the people who are their friends and neighbors - young people, people from minority communities, people who thought they would never be able to afford the cost of running for public office.

- They can run today because they don't have to know a lot of people with a lot of money, they don't have to spend all their time in a little white room dialing for dollars, they don't have to think about what special interest is going to donate to their campaign.

- I want to tell you a story that my daughter Hannah had told me after she'd gotten elected to office and served on the appropriations committee. She said, "you know Mom, it was a great thing, I was sitting on the appropriations committee, watching people testify, and I never once had to think, 'hmm, did they write me a check or not?' you just had to say, was it a good idea?" That is what people want of us, that's the way democracy should work.

- Hannah will be able tell you her story better than I ever could, but what we are trying to do here today is implement that same idea here in Washington.

- The country faces huge issues right now — problems that we should be spending all of our time trying to fix. We need to get the economy back on track, create a health care system that is open and accessible to all Americans, and we need to create new sources of clean energy that will grow our economy and create good-paying, sustainable jobs.

- On top of all that needs to be done to solve the big problems of today, I consistently see my colleagues making a bee line from the House floor to their own little white rooms to raise money. Using every free minute to often call the same moneyed and special interests that sit in front of our committees to ask them to donate. **This is no way to run a democracy.**

- Instead of doing the peoples' business, some Members of Congress have little choice but to spend hours on the phone, asking contributors, some from half way around the country, to cut them a check.

- All of my colleagues want to spend more time thinking about people who have lost their jobs, lost their health insurance or lost their homes. And not about where the next campaign contribution is going to come from.

- A rigorous system of public financing, an alternative to the money chase, will go a long way to help to restore trust in Congress. It would break the inevitable questions that

arise, whenever an important issue comes up from health care reform to the energy bill: who contributed to which campaign?

- The public is right to ask—it is a legitimate question—but it draws our attention away from the real questions that need to be debated on these important issues.

- A system that is now based on big contributions from wealthy donors not only creates the *appearance* of a conflict of interest, but it creates the possibility of *actual* conflicts of interest as well.

- Finally, I am certain that my colleagues on this distinguished committee hate the time spent raising money as much as I do. I urge you to support this bill, to pass it out of your committee, and to truly change the way we do things in Washington.

- I am proud to be a freshman Member of Congress. Many of us ran on reform and many said we didn't want our earmark requests to be tied to some contribution, said we didn't want to spend all of our time in little white rooms calling those special interests who come before our committees and ask for money. We pledged to do this differently and this is one of the most significant ways we can fulfill that pledge.

- I'm honored to come from Maine where we have proven that this is a model that can work for both parties, for men and for women, for new candidates and for seasoned political figures - and I look forward to seeing this bill, not only be marked up by this committee, but pass the House and be sent to the President's desk.

The CHAIRMAN. The Honorable Walter Jones.

Mr. JONES. Mr. Chairman, thank you. I would like to submit my written statement for the record and take just a few minutes to go off the reading and speak from the heart.

I want to thank Ms. Pingree and Mr. Larson for their leadership and including me the opportunity to join them in this effort.

The system, as has been acknowledged by those of you at the dais, the system is broken. There is no question about it. Too many times Members of Congress have to go back and raise money from the lobbyists. And there is a place for lobbying, and I don't think any of us disagree with that. The law says there is a place. But the perception that we go back to the people who are lobbying us to raise money is where the public really loses trust in Washington and those of us who have the privilege to serve. Nobody is bought. I don't think that. But the public has a different opinion, many times, than what I just stated.

I was—and I want to thank Ms. Pingree for saying I started the effort in 1987. I brought a bill to the floor of the House. For 1 hour I could see I was losing the vote. I sent it back to the committees with no hopes that it would come back out of the committee. However, today we fund our State judges through public finance, and it is working, and it is working well.

I want to go to another issue very quickly. I will never forget in 2003, when my party was the Majority and we had the Medicare prescription drug bill on the floor. We started the vote at 3 in the morning, and we finished the vote at 5:53 in the morning. That night, I think, was the political Sodom and Gomorrah on Capitol Hill.

I will never forget walking at 2:30, 3 o'clock in the evening, a.m., and lobbyists lined up. They outnumbered Members of Congress. How are you going to vote on this; do you know this about why you should vote for this? And then when you got up into the Capitol, they were still there.

Now, that doesn't happen often, but it doesn't need to happen but one time. And the people don't forget it.

I think what Mr. Larson has put together, that Ms. Pingree and Mr. Platts and I have joined in, is a vehicle that can help fix the problem. He has acknowledged, we have acknowledged, that we know that there could be other ideas that can make this a success.

Mr. Chairman, a couple other points real quickly. I am like anyone else. When I go home, and I do the shopping for my family, and I go in the grocery store and I see the families that I don't know what they are making, let us say $40,000, a family of three or four, and I am thinking that I wish that we could raise our moneys from those families; $10, $15. And some of us do get—I do. We do a mailing, I get $10, $15, $25. And nothing makes me feel better, quite frankly. Yet we need the other money, too.

So I think today what we have is an opportunity, as has been said by the two who spoke before me, and some of you, this is an opportunity to return the government back to the people. Yet it doesn't mandate that we all have to abide by this process should it become law.

A couple other points in the minute and 6 seconds I have left. The reason I think that the public financing checkoff is not as

strong as it has been is simply because of this problem here. People say, Well, what does my $5 or my $10 do, or my $1, depending on what State, or if it is the national campaign, because they understand.

I wish Mr. Obama had—quite frankly, I wish he had stuck to his pledge—this has not been a criticism—to abide by the public financing. I think that would have sent a message; even though he had a tremendous vote, he had a lot of small moneys coming in, but I think it would have sent a message that Washington, DC, wants to return the power to you, the people of this country.

So, before closing, I just want to say again, Mr. Chairman, and to the Ranking Member as well, thank you for giving us this opportunity. I have testified a few times, maybe not as many as others, but I will tell you I walked into this room today thinking that this was the most important testimony that I could be part of, because the system is broken, the system needs to be fixed, and Mr. Larson has presented a bill that will work us toward fixing the problem.

I want to thank you, Mr. Chairman, the Ranking Member, and the committee for giving us this opportunity. I hope that you will—from this hearing today and the next witnesses, let us return Congress to where they vote based on their conscience, not on the influence or perceived influence of money that buys the conscience. Let us return it back to the people.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

We will now have our question and answers. I just have a few brief questions.

Connecticut, Maine, and Arizona have public financing. Are they similar? What are the differences within the three States? Does anybody know? I mean, we don't know about Arizona, unless you know about Arizona. We have got Maine and Connecticut. Any glaring differences? This bill will unify all States, but any differences?

Ms. PINGREE of Maine. The next panel will have a couple of people who probably could answer it more technically, but I would say these are basically the same kind of system. They are voluntary systems. You collect a reasonable number of qualifying contributions, very small amounts of money. For instance, in Maine, it is $5. Fifty $5.00 contributions. On this one you have to collect $1,500; obviously, a much bigger area. And then you are given a lump sum fee by which to run your campaign. Sometimes it is based on the average of campaigns run in your district before or campaigns run in your State. Most of them have a component whereby if your opponent runs without using the system, you can be matched with the public money up to three times. So there is not an unlevel playing field. If the allocation is $500, then you can get $500 three times every time your opponent goes over that.

So it is a way to keep it level. It is a way to discourage people from not using the system. But, of course, they certainly can.

One thing that is different about this one is it is somewhat similar to what goes on in New York City. For $100 donations or less that are raised within your State, you can actually kind of go outside of just the allocation, and those $100 contributions or less are matched four to one. So the total under this system that you could

raise under the sort of configuration it is right now is, I think, about $3.4 million, $3.3 million. And there is a very limited number of Members of Congress who have actually raised or spent over $3.4 million, $3.3 million in their campaign.

One of the questions that often gets asked is: Will there be enough money? People don't want to sign up to run under a system and then find out they are in a challenging campaign, or the media market is expensive, or they need to answer some ads. They want to make sure there is plenty of money.

That is one thing that is different about those other States, the match and the ability to go outside it. This one also has a $100,000 media voucher. That is often an issue that people bring up: What about free air time for candidates, or what about a way to get more air time? That is included within this package.

Mr. LARSON. Mr. Chairman, I would just add, as well, again, I just want to say the similarities are the voluntary nature. And I also would go back to this—and specifically in this legislation, meaning the Buckley v. Valeo test. I think it was suggested in your opening remarks, Mr. Chairman, with a case pending before the Supreme Court, this bill becomes even more important, depending upon that ruling.

I would also add that, sharing a lot of the views that Mr. Lungren expressed, Jack Kemp probably could have got elected under this system.

The CHAIRMAN. Why should a new Member, someone from a marginal district, support this bill and want to limit his or her ability to limit the necessary funds to raise to win in marginal districts?

Mr. LARSON. I think, number one, 73 percent of Americans feel that Members of Congress are unnecessarily influenced by special interests and their campaign contributions. Seventy-three percent of Americans believe that campaign contributions from the banking industry have played a major factor in the recent financial crisis.

Any Member that is running, any new Member that is running, and a candidate participates in this program, can tap into $2.4 million of public funds. This is in addition to what he or she raises.

Candidates who participate are incentivized to meet and interact with their constituents. Further, they have much, much more time to work on the issues on which they hear from their constituents, whether they be at public forums or hearings, or whether, when elected, actually work on legislation.

The CHAIRMAN. One last question, in my mind. You talked about a $100,000 media voucher. Is that every State? Do States have to fluctuate on what amount voucher they can get per media market? I don't think we can get an 8-second commercial in the city of Philadelphia, the State of California, or the State of New York or the city of New York for $100,000. Does that fluctuate, or is it broad-based throughout the whole country?

Ms. PINGREE of Maine. In terms of what I know, that is just the same. But that is just an add-on to everything else in the campaign. It also requires a 20 percent reduction off the lowest media rates, which is often an issue when you are running for office is that you are supposed to get the lowest rates, but many people feel

like they don't. I think there is someone on the second panel who can probably answer that more exactly.

Mr. LARSON. It is above and beyond what you are able to put together and raise. You are right, in the Philadelphia market a $100,000 voucher isn't going to get you far on TV.

The CHAIRMAN. Won't get you a return phone call.

Mr. LARSON. Again, as you look at this both in terms of the amount of money that you would be able to raise in a primary and then as the amount of money that you would be able to raise in a general election, there would be sufficient funds there. This voucher is just an add-on. If you are running in Wyoming as opposed to Philadelphia, $100,000 might be more than you would need to get on the airwaves.

So part of some of the suggestions in perfecting this bill is making sure that you not only index it, but also have sliding scales as they relate to districts. These are bills—and I know that the committee is aware of this—that other thoughtful Members like John Tierney and Dave Obey have introduced legislation. I think segments from their legislation that help expand and utilize the system better, as long as we keep it voluntary and make sure that it can suffice with respect to Buckley v. Valeo, I think that any additions in terms of making the system work would be welcome to the cosponsors of this the bill.

The CHAIRMAN. I thank the gentleman.

Mr. Lungren.

Mr. LUNGREN. Thank you very much.

It seems to me one of the underlying assumptions that you have for the bill is that this will help diminish the impact of money in politics. It has been my observation that you don't diminish the impact of money in politics, you redirect the money in politics, such that now—as much as we raise money, at least that amount, if not more, in most cases, more is being spent by other groups, 527s and so forth, who may think they are doing something for you or against you, and you have no control over independent expenditures. You can't even tell them: Don't run that ad, even if they are trying to help you.

I just think the assumption that if you do this, you are going to take money out of politics just doesn't stack up. Right now I have had so far nine robocalls against me. I have had three radio ads. These are, I believe, in most cases, identified with the Democratic Party. You may have had a passing relationship with that party. In most cases, they are organizations that are front group for unions. This does nothing to stop that. That requires me to spend more money.

And, Mr. Jones, you suggested that we have this aura—not aura, this claim against us that we make our votes because of the money we get. Well, those robocalls suggest that. They go back and they find out how much money I have gotten from people related to banking during my 30 years in politics, add that all up to some form, and say, Tell your Congressman to stop supporting those special-interest groups based on the money that he has received, which is totally absurd. Yet the very things that are being directed at me are the things you are arguing that we have to respond to

because we are raising money, and somehow, magically, because we are going to get it from public funds, that is going to stop it.

There is nothing in this bill that will do anything with 527s. There is nothing in this bill that will do anything with the SEIU, which spent $1 million in my district in the last 2 weeks of my last campaign, not against me, but against one of the State legislators, as is their right to do. And my frustration with this is we have created systems already with McCain-Feingold, and now with your system that will supposedly cleanse the system by taking money out or away from us, and it will be given to groups that have no responsibility.

Now, I don't understand how that is a superior position to having a system which causes all money or as much money as possible, even in huge amounts, to be directed to our campaign so that we have to take responsibility for it.

Mr. LARSON. I understand and appreciate the gentleman's frustration.

Mr. LUNGREN. I think your bill just moves us further in that direction.

Mr. LARSON. Our bill, you are right, does not address 527s. That, I believe, is a whole separate argument that deserves to be addressed. But our bill doesn't address that. Our bill addresses us, elected Members of Congress.

I think it is pretty consistent, listening to the Members here, the level of frustration that we have. Yet if we don't take the first steps to—and this is not about getting money out of the system. Everything that this bill calls for is raising money. You still have to go out and solicit. It is just smaller funds and in your State.

What it seeks to do, I think, is end the corrosive part of this process and then provide an opportunity to put the public back in charge. Whether it is through the enhanced checkoff system or a sale of the public spectrum or other means that could create a fund, a people's fund that would provide a trust from which you could tap into that, I think is better overall for the health of democracy.

Now, with regard to 527s, I think that there is a lot of work that needs to be done in that area, but the two are not related.

Mr. LUNGREN. We are talking about the political system. It is the clash of ideas. We ought not to be afraid of ideas. That is the inconvenient truth we have here, which is the First Amendment to our Constitution——

Mr. LARSON. I am not afraid of ideas.

Mr. LUNGREN [continuing]. Which allows us to say things that are embarrassing or wrong or inappropriate. That is the genius of the First Amendment. And because we have the genius of the First Amendment——

Mr. JONES. Mr. Lungren, excuse me.

Mr. LUNGREN. Just a second.

Because we have the First Amendment, it puts certain inhibitions against what we otherwise might do.

As I say, you can sit here and talk about this. I have had nine robocalls against me; I have got two or three ads against me by groups that are not responsive, which is going to cause me to spend

more money to respond to that. Yet there is the suggestion if we have public financing, we will get rid of these kinds of concerns.

Frankly, the record has been, as we have tried to restrict funding and individual contributions to individuals, we have seen that money go in other places. I suspect that if this bill passes, you will see that money not going to Members, because you restrict the amount of money they can get from any particular individual or any particular group. Those individuals and groups will spend it in other ways because they have got a concern about what government is going to do for them or against them.

So we are going to have more of this which we have in our politics today which is we as candidates can't control the debate to the extent that the people that want to support us support it through us, as opposed to other things. That is the concern I have.

Mr. JONES. Mr. Chairman, since he used my name, but not in vain——

Mr. LUNGREN. I was complimenting you.

Mr. JONES. I know you were, but I wanted to speak very briefly, because John gave the answer.

This is not about us. This is about those people who would love to run for Congress that do not have the accesses that we have. It is to create an opportunity for a person in a district that maybe doesn't have the contacts, but maybe can work through the system that we are proposing to get a little bit of money to challenge me or someone else. That is the only way this democracy is going to survive.

I don't know—not you personally—I don't know how anyone would be opposed to looking at this as an option, because it is strictly voluntary. It is strictly voluntary. I don't see how we lose on that one. Thank you.

The CHAIRMAN. I thank the gentleman.

Ms. Lofgren.

Ms. LOFGREN. Yes, just a couple of quick questions on the broadcast voucher.

Coming from the Bay area, you couldn't buy any amount of—I mean, this would do nothing. And so the question is could these vouchers be used for some other form of media? Could you use them to buy ads on Google or Yahoo? Could you do radio instead of TV? Have you thought about that?

In Los Angeles, I don't think any Members of Congress runs ads because it is just prohibitively expensive to do TV in Los Angeles.

Mr. LARSON. Yes, we have thought about it. The Tierney bill is far more expansive in that area, and certainly we are open, as I said, to change, because what is right for Connecticut, Maine, or Arizona may not be right for California, Massachusetts, Pennsylvania, Alabama. It may not work that way.

So to be able to have a sliding scale and to be able to perfect this as we go forward. But, as Chellie said, I think the panelists behind us, the architects of the concept in the bill, will be better able to explain the thinking behind that. But certainly the most important thing about this thinking is the flexibility and the recognition that you are going to get good input from Members who know better than anyone else what goes on in their congressional district.

Ms. LOFGREN. I will then ask the next panel. I am interested in alternate media.

Mr. LARSON. Which makes sense. That is the way the world is moving.

Ms. LOFGREN. Yes. We have a second panel, and there are a lot of Members, but my other question, from time to time we get concerns, and I think it is legitimate, our colleagues who come from extremely low-income communities have a very difficult time raising funds in those communities because people are so poor.

President Obama had the biggest on-line small-donor campaign in the history of the United States. I don't know if anybody has analyzed the donation patterns to see how many of those small donors lived in low-income communities. If you have, I would be interested. Maybe the next panel has. But I think that is an important thing to know for our colleagues who represent very low-income communities.

Mr. LARSON. It is a great question. I don't have the data off the top of my head, but perhaps the next panel does.

Ms. PINGREE of Maine. And I would just add, if I may, part of the design of this system is to address one of your concerns. Many of us start running for office by calling all of the people we ever went to college with.

Ms. LOFGREN. I understand. I worked off my wedding list. It was, walked two precincts, gave $25, silver tray.

Ms. PINGREE of Maine. The silver tray was worth $100.

Ms. LOFGREN. No, no, the silver tray was the wedding present. It was all on one card.

Ms. PINGREE of Maine. Exactly. What this is attempting to address, many people don't have business contacts, or they didn't serve in politics before. They don't have some other way to get started. This says if you come from a community where you can ask all the people in your neighborhood to chip in a $10 contribution, as Walter was saying, you can turn that into matching money.

Ms. LOFGREN. I understand that. But there is also an on-the-ground reality depending on the level of poverty in some of these districts. When I ran, I mean, I was never expected to win. And I had people who borrowed money so they could donate $200. It was a sacrifice that people made, but they wanted to.

In some parts of America, you can't do that. It is feed the kids, or donate; and the kids are going to get fed first.

I would just like to know—and I think we have a great experiment in a sense in the Obama campaign. I am sure we can get that information and analyze it if it hasn't already been done. I think it will be an important piece of information for many of our colleagues in those communities.

I yield back the balance of my time.

The CHAIRMAN. I thank the gentlelady.

Mr. Harper.

Mr. HARPER. Thank you, Mr. Chairman.

Obviously everybody has good intentions to make the system always work better, but if our concern was, I believe you said, the corrosiveness of large contributions, then why did we increase last year's limit of $2,300 up to $2,400? We seem to be allowing for that.

Mr. LARSON. If I could respond.

Mr. HARPER. If I may finish, and then you can answer. I want you to be able to respond to all of this.

If the deal here is the concern about large contributors, which we all want to get when we are making our calls for contributions for campaign, I found it very easy to accept contributions and vote against that position if they were so inclined to make a contribution. Every one of you in here I know have done that because you do your job, and you do it fairly and efficiently.

But I am sitting here and looking at these letters, Friends of the Earth, worried about the coal, oil, and gas industries using their people to contribute.

Here is another: Chesapeake Climate Action Network, worrying about the coal, oil and gas industries.

Here is Health Care Now worrying about health care industries' tremendous influence by their contributions.

How is this any different than the individual contributor's influence that they may have? We are loaded up—you know, if it wasn't for special-interest groups coming to see us, we wouldn't have anything to do. And we are not really addressing that in this particular situation.

And this is not voluntary for our taxpayers. Unless there is something that is created that allows the taxpayer to say none of their tax money is to be used for this, it is not voluntary to the folks in my district.

If our concern is what to do about—as you said, Congressman Jones, about allowing somebody who doesn't have the financial means to run a campaign, most of the self-funders—and I think the Wall Street Journal, and I may be wrong, did a study on self-funders, and most of them lost.

I am a perfect example within the system that existed to run a grassroots campaign on not much money. It is unheard of to think that you can raise a quarter of a million dollars and make it into a primary against people with $600,000 and $1.3 million. And we did it, and we won because we worked harder than anybody else, and we had great friends across the district that were helping us.

You look at the cost of starting a new Federal agency to oversee this. And if this did happen, isn't there some group that could oversee it without a new bureaucracy created? This is going to cost us money. So if we are going to deal with this, let us deal with something that is going to be completely—deal with the whole issue. That is what I would like to do.

Congressman Larson, you wanted to reply. I want to give you a moment to do that now.

Mr. LARSON. Let me just say, when I used the term "corrosive," what I meant by that was the entire approach ends up being corrosive. What is it corroding? It is corroding the democracy. It has us spending an inordinate amount of time with our hand out, regardless of what the amount is.

Now, this still doesn't get us away from that, it just makes it de minimis. And then it alleviates the time because of the matching amounts of money. So it makes the amounts de minimis, but it makes the influence of people who can give de minimis.

I am not suggesting that anyone up here, nor any Member of Congress, for whatever the contribution will do, they will do exactly what you said. They will vote their interest. They will vote against something. I am not suggesting that person or that person's campaign contribution is going to change your mind. What I am suggesting, though, is overall in an entire system where everybody is doing that, it is corrosive.

Mr. HARPER. Thank you, Congressman.

With that I yield the balance of my time to Congressman Lungren.

Mr. LUNGREN. Mr. Chairman, I would like to introduce two items for the record: One, a study of the Campaign Finance Institute on President Obama's campaign and large donors versus small donors, which shows that President Obama, 26 percent of his donors were $200 or less; and George Bush, 4 years before, 25 percent of his donors were $200 or less. And also a CNN article on large contribution political donors who are now supporting the Fair Elections Now Act.

The CHAIRMAN. Without objection.

[The information follows:]

Home | About CFI | Contact Us | Jobs at CFI |

THE CAMPAIGN FINANCE INSTITUTE

Events | Releases & Analyses | Books and Reports | Tables & Figures |

LAW / BCRA
PRESIDENT
CONGRESS
DISCLOSURE
INTEREST GROUPS
PARTIES
HERBERT E. ALEXANDER

For Immediate Release
11/24/2008

Contact: Michael Malbin
(202) 969-8890

Search

Sign-up to receive email updates on CFI's research and programs. Click here to sign-up.

CFI in the News

Click here for the complete RSS feed

CFI Analysis of Presidential Candidates' Donor Reports

REALITY CHECK: Obama Received About the Same Percentage from Small Donors in 2008 as Bush in 2004

Obama also raised 80% more from large donors than small, outstripping all rivals and predecessors

It turns out that Barack Obama's donors may not have been quite as different as we had thought. Throughout the election season, this organization and others have been reporting that Obama received about half of his discrete contributions in amounts of $200 or less. The Campaign Finance Institute (CFI) noted in past releases that donations are not the same as donors, since many people give more than once. After a more thorough analysis of data from the Federal Election Commission (FEC), it has become clear that repeaters and large donors were even more important for Obama than we or other analysts had fully appreciated.

"The myth is that money from small donors dominated Barack Obama's finances," said CFI's executive director Michael J. Malbin. "The reality of Obama's fundraising was impressive, but the reality does not match the myth."

Main Small Donor Findings

To look more fully at presidential candidates' fundraising during this cycle, CFI conducted an extensive analysis of FEC records to identify repeat donors and to categorize each donor's giving according to the *cumulative amount* he or she gave over the course of a full election cycle.

Although an unusually high percentage (49%) of Obama's funds came in discrete contributions of $200 or less (see Table 3), only 26% of his money through August 31 (and 24% of his funds through October 15, according to the most recent FEC reports) came from donors whose total contributions *aggregated* to $200 or less. Obama's 26% compares to 25% for George W. Bush in 2004, 20% for John Kerry in 2004, 21% for John McCain in 2008, 13% for Hillary Clinton in 2008, and 38% for Howard Dean in 2004.

Fundraising through August 31, 2004 and 2008

		% from Donors who gave this amount in total		
Candidate	Net Individual Contributions	$200 or less	$201-999	$1000 and up
Obama	452,852,990	26%	27%	47%
McCain	204,436,971	21%	20%	59%
Kerry	215,915,455	20%	24%	56%
Bush	256,081,557	25%	13%	60%

		% from Contributions of this amount		
		$200 or less	$201-999	$1000 and up
Obama	452,852,990	49%	18%	33%
McCain	204,436,971	32%	15%	53%
Kerry	215,915,455	37%	20%	44%
Bush	256,081,557	31%	12%	57%

Mid-Range Repeaters

After merging the donor records, combining multiple records from those who gave more than one disclosed contribution, CFI concluded that about 403,000 different people had given enough money (more than $200) by August 31 to have their names disclosed. This increased to about 580,000 by October 15. By comparison, CFI found that about 475,000 discrete donors gave disclosed contributions to all candidates combined in 2003-2004.

The Campaign Finance Institute is a non-partisan, non-profit institute affiliated with the George Washington University.

CFI Book

The Election After Reform

Click here

Obama raised 27% of his money from people whose aggregated contributions fell in a middle range ($201-$999). John Kerry, who also relied on Internet fundraising after clinching the nomination, raised an almost comparable 24% from mid-range donors. McCain's mid-range supplied 20% of his total. Bush received only 13% from this group.

Many of the repeat donors who started off small ended up in the $201-$999 middle range. Among Obama's total pool of 403,000 disclosed donors on August 31, more than half (about 212,000) started off by giving undisclosed contributions of $200 or less. About 93,000 of these repeaters gave in cumulative amounts of no more than $400 for the full primary season. Another 106,000 repeaters ended up between $401 and $999. By comparison, Clinton and McCain each had about 100,000 donors in the entire $200-$999 middle range, and for them the number included both repeaters and one-time givers.

Finally, not many of Obama's 212,000 small-donor repeaters ended up in the top group. Despite colorful press stories, only about 13,000 crossed the $1,000 threshold in their cumulative contributions.

Because of the length of Obama's battle with Clinton for the nomination, his rejection of public financing for the general election, his personal charisma and, most importantly, because of the way he organized his campaign, Obama was able to use the Internet to go back to go the same supporters over and over again for both volunteer assistance and repeat contributions. These repeaters account for the difference between the past reports that focused on small contributions and the aggregates we are able to provide now.

Small Donors

We know less about people who stayed at $200 or below because $201 is the trigger for FEC disclosure. Obama's staff says that more than 3 million people contributed to his campaign. We cannot verify this number independently but we consider it to be plausible. Since about $156 million of Obama's funds as of Oct. 15 had come from donors whose contributions had not broken the $200 disclosure threshold (see Table 1), accepting the staff's statement (and subtracting the number of disclosed donors) would mean that an estimated 2.5 million undisclosed donors gave a cumulative average of about $62 each. This figure is consistent with the amount CFI has calculated for the typical undisclosed donor in past elections and is also consistent with survey research. Obama's innovation would not be in the amount he raised from each small donor, but in the number of such people he was able to reach. His 2.5 million small donors would be in the same general range as CFI's published estimate for the number of small donors who gave to all candidates combined in 2004 (anywhere from 2.0 to 2.8 million).

Large Donors

Finally, Obama received about 80% more money from *large* donors (cumulative contributions of at least $1,000) than from small donors. While the large donors thus were responsible for much more of Obama's money than either his small or middle range group, he received somewhat less proportionally from large donors than did his rivals or predecessors. Forty-seven percent of Obama's money came from large donors compared to 56% for Kerry and 60% for both Bush and McCain. However, because Obama's 47% is based on a larger total, that means he also raised significantly more large-donor money in absolute terms than any of his rivals or predecessors.

Much of this money was raised the "old fashioned" way. Since only about 13,000 of those who started out small for Obama ended up crossing the $1,000 threshold, that means the bulk of Obama's $213 million in large-donor contributions during the primaries came from about 85,000 people who started out giving big and stayed there. Much of this large-donor money – *perhaps close to a majority* – came to the campaign through bundling methods initially perfected by Bush.

According to the Center for Responsive Politics (CRP) – which in the absence of legally mandated disclosure had to use information provided by the campaigns – 561 "bundlers" had raised a minimum of $63 million for Obama by mid-August and 534 people had raised a minimum of $75 million for McCain. The bundlers undoubtedly were responsible for more than these amounts because the campaigns reported the bundlers in ranges and CRP's minimum totals were based conservatively on the low end of each range. A reasonable guess might estimate the real amount at about 50% above the minimum – the mid-point for each range – yielding a total of perhaps about $90 million for Obama as of mid-August and more than $100 million for McCain.

At the top of the bundlers were 47 of Obama's and 65 of McCain's who were listed by the campaigns in mid-August as being responsible for at least $500,000 each. In addition, Public Citizen lists 2,205 people as having contributed in their own names at least $25,000 to joint fundraising committees supporting Obama and 1,846 people as having made similar contributions to joint fundraising committees supporting McCain.

Conclusion

These totals force a reality check. In McCain's case, a $100 million figure from bundlers would represent almost all of the money he raised from large donors ($122 million). In Obama's case, one should combine the estimated $90 million or so he received with the help of bundlers through August with the remaining $120 million or so from other large donors, and then compare it to the $119 million he raised from small donors through August. The comparison should make one think twice before describing small donors as the financial engine of the Obama campaign.

None of these findings denies the importance of either Obama's appeal to repeat donors or his innovative use of online social networking tools to interweave appeals for contributions and critically important campaign volunteers. In particular, Obama did attract repeaters who have not been part of the traditional large-dollar, reception-attending fundraising crowd. The fact is that Obama's financial juggernaut broke records at all contribution levels. The reality does not match the myth, but the reality itself was impressive.

NOTE: This report was written by CFI's Executive Director Michael J. Malbin. The donor research was done by CFI's System Manager, Brendan Glavin and Research Analyst Aaron Dusso, who is also a political science Ph.D. candidate at The George Washington University.

30

List of Tables:

Table 1: Individual Donors (Aggregated Contributions) to Presidential Candidates through August 31, 2008 (with Obama through Oct. 15th)

Table 2: Individual Donors (Aggregated Contributions) to Presidential Candidates through August 31, 2004

Table 3: Individual Contributions (Not Aggregated) to Presidential Candidates through August 31, 2008

Affiliated with The George Washington University

The Campaign Finance Institute | 1990 M Street, NW,
Suite 380 | Washington, DC 20036
Phone: 202-969-8990 | Fax: 202-969-5612
E-mail: info@CFInst.org

© 2000-2009 Campaign Finance Institute
Statements of the Campaign Finance Institute and its Task Forces do not necessarily reflect the views of CFI's Trustees or financial supporters.

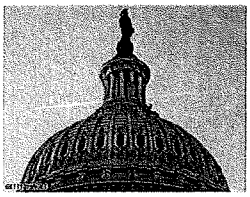
politicalticker... Pawlenty increasing profile as he looks at 2012 EMBED

May 5, 2009

Deep-pocketed donors want campaign finance reform

Posted 05:45 PM ET

From CNN Political Editor Mark Preston


Democratic donors are seeking to limit campaign donations.

WASHINGTON (CNN) – After giving more than $16 million in political contributions, a group of Democratic donors is saying enough is enough – it's time for Congress to scrap the current campaign funding system and encourage a new hybrid model of small dollar donations and public financing.

The 58 deep-pocketed donors, under the umbrella of the Public Campaign Action Fund, will make their plea in a letter Wednesday to be delivered to every Democratic member of Congress, CNN has learned.

"With so much at stake in Washington today, we believe it is shortsighted to continue down the present unsustainable path of skyrocketing campaign spending," the donors write in the letter obtained by CNN. "The Fair Elections Now Act is a common sense idea whose time has come, a change that will set us on a better path in the years ahead."

The legislation would require candidates, who opt into this voluntary program, to collect contributions capped at $100 from a minimum number of in-state donors to prove viability. Once a candidate achieves viability, the candidate would receive a 4-to1 match – which varies from state to state – from the federal government. The candidate would still be able to raise money, but only in $100 or less increments.

Bottom line, a donor would only be allowed to contribute $300 per candidate, per election: $100 for candidate viability, $100 for the primary, and $100 for the general election.

In the Senate, Majority Whip Richard Durbin, D-Illinois, and Sen. Arlen Specter, D-Pennsylvania, are sponsoring the legislation, while Rep. John Larson, D-Connecticut, and Rep. Walter Jones, R-North Carolina, have a similar bill in the House.

List of Democratic donors who signed the letter after the jump

Naomi Aberly
Grant Abert
Elaine Atlas
Amb. Elizabeth Bagley
Smith Bagley
Robert Bowditch
William Budinger
James Kimo Campbell
Peter Copen
Rosemary Faulkner
Ron Feldman
Christopher Findlater
Murray Gallinson
James Gollin
Lee Halprin
Francis W. Hatch
Arnold Hiatt
John Hunting
Greg Jobin-Leeds
John S. Johnson
Wayne Jordan
Craig Kaplan
Michael Kieschnick
Steve Kirsch
Arthur D. Lipson
Henry Lord
Anna Hawken McKay
Rob McKay
Sally Minard
Alan Patricof
Susan Patricof
Doug Phelps
Steve Phillips
Drummond Pike
Rachel Pritzker
Abby Rockefeller
Charles Rodgers
Marsha Rosenbaum
Manny Rouvelas
Vin Ryan
Deborah Sagner
Guy T. Saperstein
Dick Senn
Steve Silberstein

Alison Smith
William Soskin
Martin Stevenson
Pat Stryker
Ellen Susman
Steve Susman
Margery Tabankin
Kate Villers
Philippe Villers
Scott Wallace
George Wallerstein
Marc Weiss
Al Yates
Joe Zimlich

Filed under: campaign funding • political donations

Mr. LUNGREN. I just want to say that I appreciate everyone here and their position. I do remember with public funding we created or helped create a Lyndon LaRouche who ran for President from a prison cell, and continues to run for President with public funds, and I think that might be what Mr. Davis was suggesting in some of these situations. And I don't know how you can construct a system to stop the Lyndon LaRouches of the world from taking advantage of a program like this, but, frankly, I don't think we need to create more of them in our political system.

The CHAIRMAN. I thank the gentleman.

Mr. Capuano.

Mr. CAPUANO. Thank you.

First, I would like to echo the Ranking Member's words. I don't like 527s either. I have never had the good fortune of having any ads run against me just yet. I would encourage the right-wing 527s to please come to Boston and run a few ads against me; it would help me raise more money. But I don't like them either. I would be happy to add anything that we can think of to limit them or get rid of them to this bill or any other bill any time. I think they are corrosive to the system as well.

And I also would like to find ways to limit or at least make transparent outside entities that want to come in and weigh in on each of our races. I have no problem with that. I hate people coming in and creating an agency or group that claims to be some good-government group, and then kicks us. We all know it is one millionaire or one group of people kicking. We both have them.

Again, transparency is probably all you can do. But if there is anything that the Ranking Member or anybody else would like to do on 527s or the like, I am more than happy to join in on that.

As far as voluntary taxes, I wish they were voluntary taxes, because my constituents wouldn't be sending a nickel to Iraq. We wouldn't be sending a nickel for half of the things that we spend money on. Unfortunately, that is just not the way it is. We all get together and beat each other up here, and we come up with a general consensus of where we want to spend money, and that is called taxes. That doesn't mean we get to have checkoff boxes. I don't like the Presidential checkoff box for that very reason, for that very reason.

I totally agree with the issue that Mr. Davis raised about limited access. I totally agree. I am not looking to fund the extreme anybody. I want legitimate candidates on the ballot. I think there are ways to do that. I think this bill has some of those provisions in it. I would like to see some strengthened, but the concept is exactly right. Nobody is looking to fund—and, by the way, the LaRouches that used to be in the Republican Party, and now they have come over to us. Do you want them back?

Mr. LUNGREN. They have found their natural home.

Mr. CAPUANO. I owe him one.

As far as this bill goes, again, I do have some problems with it. One of the problems I don't have is the numbers. The amount of money that is potentially available here is $3.3 million to a specific candidate. Like Mr. Harper, I do come from one of the most expensive TV markets. Not 10 years ago, but in today's market, I would have raised and spent about $700,000 in today's market, so prob-

ably comparable to the numbers you have. I beat guys who literally have spent 10 times more than me. I totally agree with that concept. I actually think this number is too high, my personal opinion, but that is a different issue.

I also don't think that you have to have $3 million. I have to have $3 million if you have $3 million so I can get my message out. If you don't have $3 million, I don't need $3 million. All I want is a reasonably level playing field so whatever message you can get out to say how good you are or how bad I am, I want to be able to do the same. That is all. And the whole concept that it costs millions of dollars to run for Congress, it only does because people who run spend that kind of money. It shouldn't cost that amount of money.

Again, different issue, my guess is we probably can't limit that, so there has to be some number. I just think if there are other proposals out there, I am more than happy to do it. I don't want to spend taxpayers dollars either if it is avoidable. If there are other proposals to do this, please, let us put them on the table and talk about them. All I want to do is I want to do whatever we can to advance the ball: One, get my time back so I can do what I ran for office to do; and, number two, to enhance the view of the public and at least our integrity, if not our judgment—I guess we need to do that individually—but at least the integrity of the system.

We have all said it, and we all know it, there are all kinds, and every couple of years this comes around. I have taken some money from some people who are now being called up. I have looked. In all of the years I have been here, less than 1 percent of the money I took was from some of the people that are now being concerned. Nobody is going to sell out for 1 penny on the dollar. That is ridiculous. But you can't tell people because the numbers are big.

And I am not a good fundraiser, but since I have been here, I have raised about $5 million, and I am not that good at it. That is obscene. Before I got to this job, the most money I ever raised was $100,000. All I want to do is get away from that.

Nobody ran for this office to come and raise money. I don't think, I am not so sure, but if we really knew what we were getting into, I am not so sure that some of us wouldn't make a different judgment. But once you are in it, you are in it, you are on the treadmill. I want to get off the treadmill. If there are other ways, believe me, I am not stuck on this. Help us find a way as opposed to simply saying the current system is okay.

The current system is not okay. It doesn't work, and I want to thank my colleagues for putting this forward. I want to thank my colleagues very much for being open to discussion and amendment on this as we move forward, and I hope that we can make some progress to get us all back to what we really want to do.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank the gentleman.

For the record, Mr. Capuano didn't mean the money he took, he meant the money he raised.

Mrs. Davis.

Mrs. DAVIS. Thank you, Mr. Chairman.

I hope you watch my words here, too.

The CHAIRMAN. I am the conscience here.

Mrs. DAVIS. I appreciate your all being here, and I think this is a critical issue. None of us want to be telemarketers. My concern, and the reason that I have supported in concept public financing, is because I think we work better when we can focus our efforts on solving the problems that we want to solve for our constituents.

No matter how you talk about this, it takes people away from that basic task before them. There is nothing wrong with having supporters, and certainly people want to play a role and engage, and I think that is important, so we need to find ways for people to do that, and we have lots of examples of that.

I think the other concern really is we are trying to match efforts. We are exhausting the voters at the same time. We have supersized campaigns, supersized like so many other things in our culture. That is really what has happened. That is part of the problem.

I have a few questions, and they relate to what do we know now about these efforts in other States. And, Chellie, you spoke to that, and I think the second panel will speak to that as well.

What do we know about whether or not those particular States have reasonable-size campaigns? Do they go from being supersize to being more reasonable? Is the activity of the 527s, is it any less; is it any more; is it just the same? What is our experience with that?

Do candidates actually spend less time fundraising? We are talking about $5 and $10 contributions, and that does play a role engaging people, and it is far better than spending the time on the phone in a whole different format, but does that mean people really have more time?

It seems to me perhaps we do have some opportunities as we look at the bill and we try to figure out how we can help it move forward. It is what do we know now? What kinds of studies are out there? I happen to believe that there are tons of graduate students who have studied a lot of these races, and perhaps we can look at those at well. If you have any comments, I would be happy to entertain them.

Ms. PINGREE of Maine. I know there are some studies that will be handed out to the committee, and I think all of the States are attempting to do a significant amount of analysis as to how this changes the makeup of people who run for office and the amount of money spent.

I will speak briefly about my experience in Maine and then leave it to the people who are actively working on this now. But I think you and others portrayed this accurately in the sense that we have gotten into an arms race here. If you look back to Ms. Lofgren, who said $50 was a lot of money in the 1980s, and now you probably wouldn't make a phone call for $50, you would get it in the mail. Now it is a $2,400 max that you are trying to get with a phone call. We have changed the culture of this. We have upped the amount of money we can spend, the TV buys, and fighting back and forth.

One of the things that doing this does, and Maine has about 85 percent of the Members who run under this system, basically there is a cap. So if you have two people under the volunteer system, they get a limited amount of money. I can't tell you the exact amount, but let us say if you are running for the State senate

where you only have 35,000 in a district, you get about $25,000 to run on, and that is it. So your opponent has $25,000.

Mrs. DAVIS. Have independent or third-party candidates participated more meaningfully in these situations than one would see across the board?

Ms. PINGREE of Maine. I should let somebody behind me answer that. I think there have been times when third-party candidates have been able to participate. But again, you have to be—become a qualifying candidate. So you still have to find people to write you a $5 check. Sometimes that is harder than you think. It is one thing to get a signature, but when you say to somebody on the street, hey, can you also write me a $5 check?

I may be inaccurate here, but I also want to comment on the outside expenditures. If an outside expenditure is directed towards you and the matching system, it can trigger a match for you. So if somebody from the outside runs an ad against you, as was being talked about, that can actually trigger a match into your account. So in a sense, you have much better control. That money goes into your account, and you decide how to answer back what is being said about you, which I think takes away some of the influences of these sort of warring outside expenditures which you have no control over.

The only other thing I wanted to say something about, having lived in a State where we have really had a lot of change in the system since 2000, is it starts to change the culture. The newspaper will now editorialize against who doesn't run under the public financing system and start to ask questions. It doesn't mean that many people don't, because it is still voluntary. They will also run more editorials about outside expenditures. Why are you doing that against that candidate; we have a public financing system. So I think it gets more attention to the culture of your campaigns which we have kind of lost here in this arms race. That is my opinion anyway.

Mr. LARSON. Susan, you are going to hear from Jeff Garfield, the executive director of the Connecticut State Elections Enforcement Commission, later, and I am sure you will find those statistics interesting on how it has worked in Connecticut.

But your point, I go back to when I first ran for the State senate in Connecticut. We used to do something called 10 for 10. We would have 10 households invite people and raise $10 from each person who came to their household. And then they would gather collectively. It was just a more communal way of doing this. At that time you raised money in the community, in your State, et cetera. There wasn't the kind of resources and K Street and all of the other influences. So the emphasis is here conceptually, and you have to work on it, but is to get back to that communal relationship.

But I dare say that the threshold of 1,500 people and $50,000, and while $50,000 doesn't sound like an awful lot of money, when you have to get there with $100 contributions, it is. And some of the questions that have been raised about poorer districts and how we can monitor, those are the things that we need to work through. But in concept, as you said, you are supportive of it. I think that is the beauty of a hearing.

Again, I thank Mr. Brady, because these are the kinds of hearings and things, frankly, we don't get to talk enough about. And there is wide opinion on this. Nobody has a bad opinion, it is just a matter of how we are working this thing through for the collective good of the institution, in this case the Congress, and the democracy that we participate in.

Mr. JONES. Mrs. Davis and Mr. Chairman, I think what has been said is so important for this reason. In the State of North Carolina, we failed in 1987 and 1989, but now we have a system for our State judges that is working extremely well. It is working. The panel behind us will be able to speak to the details of some of these States. It is working, but it is working because the people want it to work. That is what we are trying to say here today.

Thank you for your leadership on the Armed Services Committee, and thank you for what you said, because this is a golden opportunity to move forward.

The CHAIRMAN. I thank the gentleman.

Mr. Davis.

Mr. DAVIS of Alabama. Thank you, Mr. Chairman.

I think what history shows us is that virtually every adventure, every experiment in regulating the financing of campaigns has led to unintended consequences. Many Congresses ago corporate contributions were banned, PACs emerged. We put limits on campaign contributions under the theory that would dilute the influence of money. Candidates adjusted by raising more money from more people and having to reach out to even more special-interest networks to reach their budget goals.

The McCain-Feingold bill in the early part of this century has not reined in independent expenditures. Independent expenditures have exploded. The concept of bundling is now common in politics. At the State and Federal level, large donors who get together and raise money for you, and they may only be giving you their $2,400, but they have raised $50, and they walk in and hand you the $50 that they have raised.

My sense is that there would be unintended consequences that flowed out of public financing. Here is one of the most conspicuous ones. Not only would you get more Lyndon LaRouches and more frivolous fringe third, fourth, fifth and sixth parties, I think you would get more frivolous primary challengers, frankly.

Mr. Jones, in the context of your district under this system, I tell you who I think you would have gotten: Eight or nine people running against you saying that you weren't right-wing enough for their tastes.

John, even in your district I think under this system what you would get is five or six people running against you in every primary saying you took a dime from the biggest insurance company in your district, proof that even John Larson has sold out.

Ms. Pingree, I think what you would get in your district—while I have no doubt you will have a very progressive record here, what you would get is a number of people saying, look at this one contribution from this person, this amendment she supported; now we know why, the real story. That is the nature of modern politics.

The reason we don't get more frivolous primary challenges is, candidly, they can't raise the money. If they were led to believe

they could raise the money—because this kind of system says to fringe candidates all around America, all you have to do is talk to the true believers; all you have to do is talk to the committed, find their Web sites, go to their clubs and meetings and add them all together, and presto, voila, you have got your money coming in now for the Federal Government to sustain you. And, frankly, most of them wouldn't care if they won.

Most frivolous candidates for Congress would not want to be here. They wouldn't want to catch the plane every few days, and they wouldn't want to sit on the floor for 2 hours and cast votes. They would rather do talk radio interviews all day. They run to get their name out. They run because they love to be able to go to a candidates forum and stand up there and say whatever they want to say, and for the first time in their life someone appears to be listening. I think that is what you would get out of the system.

Here is the other unintended consequence that would flow from all these minor challenges. The behavior that would emerge, the Members of Congress would think, how do I avoid minor primary challengers? Let me just vote with the base of my party all of the time. So all of a sudden the Walter Jones of the world would become very infrequent, and you already are on your side. A Republican would say, How do I avoid a minor primary challenger? I will just vote with my base all of the time. A Democrat would say, How do I avoid a minor primary challenge? I will just vote with my base all of the time. And so what you would get is more and more Members of Congress feeling that they had to hew to an ideological line, and I don't think you would get better public policy, I think you would get an even more sharply split political system than we have today.

I agree, frankly, with Mr. Lungren's observation. The big corporate interests in this country, here is how they would adjust to this system. All of the money that they would save from not having to make contributions to congressional candidates and Members of Congress, they would not contribute that money to charity. They would turn around and dump it into independent expenditures, and you would see only more of what we are all going to see in this next 30 days: Every interest group in the country that has a stake in the health-care debate running independent ads in our districts saying here is why you should vote for or against this bill. They would not inject the money into the system, they would redirect it into other forms of expenditures.

That is my 2 cents' worth.

The CHAIRMAN. I thank the gentleman, and I thank every one of you for spending the morning with us. We appreciate it.

Mr. LARSON. Mr. Brady, might we thank your staff, especially Jamie Fleet and Tom, but we want to thank all of them. We want to give a shout-out to Mary McHugh, who I understand had a birthday this week, and tell her that Sister Helen Eugenia still is thinking about her.

The CHAIRMAN. Thank you.

I would like to have the second panel come up to the table.

I call the committee back to order and recognize our next panel of witnesses. I would like to ask unanimous consent for Congress-

woman Chellie Pingree to make one introduction on a witness on the second panel.

Ms. PINGREE of Maine. Thank you very much, Mr. Chairman. This is a rare honor. Thank you for allowing for me to testify on the first panel.

To the Chair and Ranking Member and all of the members of the committee, it is a pleasure to be here today, and what a rare treat to have the chance to introduce my daughter, Hannah Pingree, who, as I mentioned before, I hope never runs against me in a primary. You will all soon see why.

Hannah is a resident of the State of Maine. She is from the island of North Haven. We live in a community of 350 people. She graduated from the smallest high school in the State of Maine. The graduating class had five students. That is about as small as it comes. She went on to study at Brown University and ran for the State legislature at the age of 25. She has served in the State legislature for 7 years, and we have term limits. She is coming on to her last year. She serves as the speaker of the house. Although she may look like she is 12 years old, she scares everyone, and people do pretty much in that house what they are told.

I am grateful that she took the time to come down here and testify. I asked the Chair if she could serve on the panel because she has run under the system, she has recruited candidates under a public financing system, and knows the pitfalls and challenges and what works well.

Thank you for allowing me to introduce her, and for her to be here today.

The CHAIRMAN. Welcome.

Also joining her is Jeffrey Garfield, executive director and general counsel for the Connecticut State Election Enforcement Commission. He has served in that capacity for almost 30 years. Mr. Garfield has been active in many organizations, including the Council on Governmental Ethics Laws, which is the international organization with interests in ethics, election, and campaign finance law.

We have also Bradley Smith, professor of law at Capital University School of Law. Prior to that he served for 5 years as Commissioner on the Federal Elections Commission.

Mr. John Samples is the director of Center for Representative Government, CATO Institute, which studies campaign finance regulation. He is also an adjunct professor at Johns Hopkins. Prior to joining CATO, Mr. Samples served 8 years as director of the Georgetown University Press and was vice president of the 20th Century Fund.

Mr. Arn Pearson is vice president for programs for Common Cause organization, where he works with the national and State offices helping create model campaign finance legislation. Mr. Pearson has a long history in public financing and campaign finance reform. He was previously campaign reform director for Common Cause.

Without objection, your written statements will be a part of the record. We ask you to summarize your testimony in 5 minutes or less.

I will start off by having the speaker of the house, the Honorable Hannah Pingree. Your mom introduced you in a way that none of us up here would be able to do, especially the 12-year-old part.

STATEMENTS OF HANNAH PINGREE, SPEAKER OF THE MAINE HOUSE OF REPRESENTATIVES; JEFFREY GARFIELD, EXECUTIVE DIRECTOR AND GENERAL COUNSEL, CONNECTICUT STATE ELECTIONS ENFORCEMENT COMMISSION; BRADLEY SMITH, PROFESSOR OF LAW, CAPITAL UNIVERSITY SCHOOL OF LAW; JOHN SAMPLES, DIRECTOR, CENTER FOR REPRESENTATIVE GOVERNMENT, CATO INSTITUTE; AND ARN PEARSON, VICE PRESIDENT FOR PROGRAMS, COMMON CAUSE

STATEMENT OF HANNAH PINGREE

Ms. PINGREE. Thank you, Chairman Brady, Ranking Member Lungren and members of the committee. I am Hannah Pingree, Speaker of the Maine House of Representatives. Thank you for the opportunity to be here today to share with you my experiences with the Maine clean elections system as you consider H.R. 1826 and the public financing of congressional campaigns.

I am here to express my strong support for Maine's clean election system and tell you a little about my experience with public financing as both a candidate and as a legislative leader. In many ways public financing has changed the face of Maine politics. Public financing has encouraged many nontraditional candidates to run, from young people and women to working people and single mothers, because they don't have to have networks and wealthy friends or industry support to be successful. Public financing allows candidates, and elected officials, to take the time they need to meet voters and serve their constituents.

Most significantly, public financing has created a separation between the vast majority of legislators and lobby groups. Under the clean election system, most Maine legislators don't receive campaign support from lobbyists, allowing legislators to weigh issues on their merits and vote freely without the fear of losing support in the next campaign.

In 2002, as you heard from my mom, when I was 25 years old, I had the unique experience of being both a first-time candidate for the Maine House running under the public financing system, and also working as a full-time fundraiser for my mother's campaign for U.S. Senate. It opened my eyes to the glaring differences between the two worlds. I could conduct my house campaign by knocking on doors in the rural towns of my island district, attending public functions, and stopping to speak with voters along the way.

On the other hand, my mother was forced to pass up forums and cut short conversations so she could get back to the phone and dial for dollars. She had to spend the majority of her time fundraising to raise the millions of dollars needed to wage a TV campaign that a U.S. Senate race requires. That campaign cycle for me highlighted what is wrong with our Federal campaign system.

The Maine Clean Elections Act was passed by a wide margin of Maine voters in a citizen-initiated referendum in 1996, and became available for candidates in 2000. Since that time, running clean

has become the norm for State house and Senate candidates and statewide races.

In 2000, 33 percent of legislative candidates participated in the voluntary system. By 2008, that number had risen to 81 percent, including the vast majority of candidates in both parties. And candidates who accept public financing are competitive; 85 percent of the winners in 2008 were publicly financed.

The Maine Clean Elections Act works like this. For a State house races, I need to collect $5 contributions from 50 registered voters in my district in order to qualify for about $5,000 to run my campaign in my small district of 8,500 people. I can also raise up to $500 in seed money to start my campaign in the $100 or less donations. Once I have done this, I cannot accept any other donations to my campaign, although a third party can still spend money independently.

If my opponent spends over a certain level, or if a third party spends to support or oppose me, the amount of money I receive later in the race is adjusted up or down.

As the Speaker of the House, I am engaged in recruiting candidates to run for the legislature, and with 8-year term limits, we are constantly recruiting for open seats. I am certain that many candidates would not be able to run for office without the public financing option. The idea of raising funds, even the small amount necessary for a state house campaign, is daunting for many people, especially those from rural or poor districts.

As I found out the first time I ran, people were excited to support my campaign, and they were thrilled that even with modest means, they could help me qualify as a candidate for public financing with just a $5 check. Whether it was a senior citizen or a hardworking lobsterman, they could participate in my campaign, which for many of them was a first. More importantly, after I qualified for clean elections, I could spend the majority of my time talking to my constituents, actually listening to their concerns, without the pressure of needing to fundraise or find new donors.

Because public financing makes the entry process into politics more doable, it has become an important tool for recruiting. From my limited experience with Federal elections, you can contrast Maine's system with Federal recruiting, where self-funded candidates are often preferable. You have to question a system where great personal wealth can make someone more attractive to party groups simply because they won't require as much funding help.

I also believe that policy and process implications for Maine's clean elections system have been significant. In my time as a legislator, I have watched Maine take on numerous issues, from tax reform to health care expansions to environmental policies. And despite spending by out-of-State industries, we have passed some first-in-the-Nation laws. In many other States, passing reforms on these same issues would be uphill battles. This doesn't mean our Maine Legislature has become more liberal or more conservative under clean elections, it means that legislators are more apt to make decisions based on a bill's potential impact on their district and less based on heavy lobbying or campaign support.

For example, I sponsored a major chemical reform bill in 2007 which sought to take a comprehensive look at regulating chemicals

in consumer products, especially children's products. We had a very fierce lobbying effort against the bill in the State house and in the media by the chemical and consumer products industry. And yet it passed with overwhelming bipartisan margins because it was the right policy. It was a clear case where the voice of the public was stronger than the lobby and their millions of dollars of spending.

Overall, the Maine Clean Elections Act has been a tremendous success. In the five elections since its inception, it has allowed candidates the time to focus on their constituents rather than contributors, and it has increased the diversity of representatives in the legislature, and I believe it has allowed Maine legislators the time to focus on the best policies for their constituents rather than worrying about upsetting the entrenched lobbying interests.

I urge the committee's support, and I am happy to answer your questions later.

The CHAIRMAN. Thank you.

[The statement of Ms. Pingree follows:]

STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002
(207) 287-1300

HANNAH M. PINGREE
SPEAKER OF THE HOUSE

Testimony to the House Committee on Administration
Hon. Hannah M. Pingree, Speaker of the Maine House of Representatives
A look at H.R. 1826 and the Public Financing of Congressional Campaigns
July 30, 2009

Good morning Chairman Brady, Ranking Member Lungren and Members of the Committee on House Administration. I am Hannah Pingree, Speaker of the Maine House of Representatives and a resident of North Haven, Maine. Thank you for the opportunity to be here today to share with you my experiences with the Maine Clean Elections Act, Maine's system of public campaign financing, as you consider H.R. 1826 and the Public Financing of Congressional Campaigns.

I am here to express my strong support for Maine's Clean Elections System and to tell you a little about my experience with public financing, as a candidate and as a leader. In many ways, public financing has changed the face of Maine politics. Public financing has encouraged many non-traditional candidates to run – from young people and women to working people and single mothers – because they don't have to have networks of wealthy friends and supporters or industry support for their candidacy. Public financing allows candidates – and elected officials – to take the time they need to meet voters and serve their constituents, because they don't have to spend that time fundraising.

And, probably most significantly, public financing has created a separation between the vast majority of legislators and advocates and lobby groups. Under the Clean Elections system, Maine legislators don't receive campaign support from lobbyists. This makes it much easier to weigh their arguments on their merits, and without fear of losing support in the next campaign.

In 2002, when I was 25, I had the unique experience of being both a first-time candidate for the Maine House of Representatives running under Maine's public financing system and also working as a full-time fundraiser for my mother's campaign for US Senate. It opened my eyes to the glaring differences between the two worlds. Whereas I could conduct my own campaign by knocking on doors, attending public functions and stopping to speak with voters wherever I was, my mother was forced to pass up forums and cut short conversations so that she could get back to the phone and dial for dollars. She had to spend all that time on the phone to raise the millions of dollars needed to wage the kind of television battle a US Senate race requires.

The Maine Clean Elections Act was passed by a wide margin by Maine voters in a citizen-initiated referendum in 1996. Public financing for legislative candidates was made available to candidates for the first time for the 2000 election year. Since that time,

it has become the norm. It is available for State House and Senate candidates and candidates for Governor. In 2000, 33 percent of legislative candidates participated in the Maine Clean Elections Act. By 2008, that number had risen to 81 percent and the vast majority of candidates in both parties were running "clean". Candidates who accept public financing are also competitive; 85 percent of the winners in 2008 were "clean candidates." In 2008, all of the Legislative races combined required $2.95 million in spending through the clean elections system.

The Maine Clean Elections Act works like this: For a State House race, I need to collect $5 dollar contributions from fifty registered voters in my district in order to qualify for about $5,000 to run my campaign. Once I have done this, I cannot accept any other donations to my campaign – though a third party can still spend independently and without my knowledge. Once my donations are certified, I receive an initial disbursement to begin my campaign – either in the primary or general election. As the campaign season progresses, the State's Commission on Governmental Ethics and Elections Practices monitors spending on my race. If my opponent spends over a certain level, or if a third party spends to support or oppose me, the amount of money I receive later in the race is adjusted up or down accordingly. Since our small Maine House districts are only about 8500 people, $5,000 is sufficient to put up signs, send out a few mailings and then have the time to knock on doors and make phone calls. If I have an opponent who runs traditionally and exceeds the $5000 limit, I can get up to $12,000 more in matching funds. The clean election act requires 150 checks for state senate candidates and 3,250 checks for gubernatorial candidates, which ensures grassroots support and demonstrated organizing ability prior to receiving public funds.

As I've noted, accountability is a major component of Maine's system of public financing. Any candidate who accepts public funds must account for those funds – to the penny. Should any of the funds be used for any non-campaign-related purpose, the candidate can be fined by the Ethics Commission, or, in rare cases, referred to the Attorney General for prosecution.

As Speaker of the House, I am engaged in recruiting candidates to run for the legislature. With 8-year term limits, we are constantly recruiting for new open seats. I am certain that many candidates would not be able to run for office without the public financing option, and if they did, they would have a much more difficult time winning their campaigns. The idea of raising funds, even the small amount necessary for a State House campaign, is daunting for many people, especially for those from a rural or poor district. But the option of asking fifty friends and neighbors for $5 so you can qualify for public financing is doable for most people. And as I found out the first time I ran, people were excited to support my campaign, and they were thrilled that, even with modest means, they could make a real difference in my candidacy by writing a $5 check.

Because clean elections make the entry process into politics more doable, it has become an important tool for recruiting. New candidates and incumbents have come to love clean elections, and we strongly encourage all of our candidates to run clean. And from my limited experience with federal elections, you can contrast Maine's system with federal recruiting, where self-funded candidates are often preferable. You have to

question a system where great personal wealth can make someone more attractive to party groups simply because you know they won't require as much funding help.

One issue we still are reconciling with our clean elections system is how to maintain the infrastructure to recruit and train candidates, participate in coordinated campaigns, and still maintain the spirit of the clean elections system. So far, this has occurred through political action committees. PAC's are used in Maine, as they are at the federal level, as a vehicle for leadership candidates to raise party funds and for outside groups to make independent expenditures. Leaders and leadership candidates in Maine cannot use their PACs to support their own campaigns, whether they are clean or traditionally-funded, but they can raise and spend funds to support party activities and independent spending. There has been some criticism of this system, and there are ongoing efforts to strike a balance between allowing fundraising for required party-building activities and infrastructure while maintaining the spirit of the clean elections system.

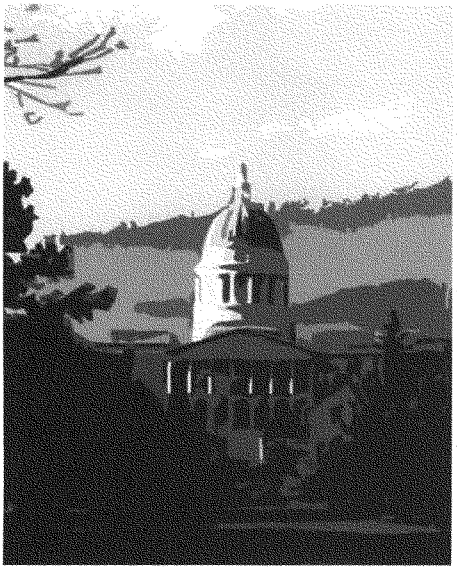
I believe the policy and process implications of Maine's Clean Election system have been significant. In my time as a legislator, I have watched Maine take on numerous issues – from health care reform to environmental policies - and despite spending by out of state industries, we have passed some first-in-the-nation laws. In many other states, passing bills such as these would be uphill battles. This doesn't mean our legislature has become more liberal or conservative under clean elections. But it does mean legislators are more apt to make decisions based on a bill's potential impact on their district, and less on heavy lobbying campaigns or campaign support.

For example, a major chemical reform bill passed in Maine in 2007 which seeks to take a comprehensive look at chemicals in consumer products – especially children's products – and it allows a process to ban those products that have negative health impacts on children. We had a very fierce lobbying effort against the bill in the State House and in the media by the chemical and consumer products industry, and yet it passed by overwhelming bi-partisan margins, because it was the right policy. I believe the voice of the public was stronger than the lobby and their spending. Clean Elections is not singly responsible for this success, but I think it was a major contributing factor. Our public financing system has created an environment that allows us to pass bold and bi-partisan legislation that is demanded by the public, even when industry forcefully objects. On the chemical issue in particular, Congress has failed to take action in a comprehensive way to regulate chemicals in 30 years. There's no guarantee that Congress could pass a bill like that with a public financing system. But it's hard to imagine how it would be possible without one.

Overall, the Maine Clean Elections Act has been a tremendous success. In the five election cycles since its inception, the administrators and policy makers have honed the system to make it easy to comply with and easy to administer. It has increased the diversity of representatives in our legislature. And I believe it has allowed Legislators to focus on the best policies for their constituents rather than worrying about upsetting the entrenched interests that bankroll their campaigns. I would urge the committee to support H.R. 1826 and give candidates for Congress the option of seeking public financing.

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

Commission Members and Staff

Andrew Ketterer | Commission Chair
Vinton E. Cassidy | Commission Member
Michael P. Friedman | Commission Member
Jean Ginn Marvin | Commission Member
A. Mavoureen Thompson | Commission Member

Jonathan Wayne | Executive Director
Paul Lavin | Assistant Director
Phyllis Gardiner | Assistant Attorney General
Cyndi Phillips | Commission Assistant

Registrars

Nat Brown | Candidate Registrar
Sandy Thompson | Candidate Registrar
Martha Demeritt | PAC, Party and Lobbyist Registrar
Gavin O'Brien | Candidate Registrar
Project Position

Auditors

Vincent Dinan | Staff Auditor
Anissa Boisvert | Associate Auditor

Interns

Mary Spooner | Colby College
Brendan O'Keefe | Colby College

Table of Contents

EXECUTIVE SUMMARY 1

INTRODUCTION 7

SECTION 1: Developments in Maine Elections Since the MCEA

CHAPTER

1 History of Participation in the MCEA 13
2 Encouraging New Candidates and Competition 17
3 Independence From Campaign Contributors 23
4 Views of Privately Financed Candidates 29
5 Campaign Spending 33
6 Spending by PACs and Political Parties 41
7 Gubernatorial Elections 49

SECTION 2: Administrative Issues

8 Independent Expenditures and Matching Funds 65
9 Cost and Funding for the Program 73
10 Non-Compliance and Auditing 81

SECTION 3: Recommendations

11 Recommendations 89

APPENDIX 97

LIST OF TABLES

		Page
A	Required Number of Signatures: Party Candidates	8
B	Required Number of Signatures: Non-Party Candidates	9
C	Required Number of $5 Qualifying Contributions	9
D	Initial MCEA Payments for the 2006 Primary Election	10
E	Initial MCEA Payments for the 2006 General Election	10
3.A	2006 Survey Responses: "Why did you decide to participate in the MCEA?"	25
3.B	2006 Survey Responses: "Do you think that the MCEA will change the way you do your job as a Legislator?"	26
4.A	2006 Survey Responses from Privately Financed Candidates: Disapproval of the name of the Maine Clean Election Act	30
4.B	2006 Survey Responses from Privately Financed Candidates: Additional MCEA filing requirements are burdensome	30
4.C	2006 Survey Responses from Privately Financed Candidates: MCEA funds marginal candidates	31
5.A	Initial Payment Amounts for Contested Candidates in the General Election	37
6.A	Total Spending by Candidate PACs	42
6.B	Top 20 Candidate PACs by Spending in 2006	42
6.C	Total Independent Expenditures by Party of Candidate Supported	45
7.A	Finances of Candidates in 2006 Republican Primary Election for Governor	51
7.B	Vote Totals in 2006 Republican Primary Election	52
7.C	2006 Gubernatorial Receipts and Expenditures	52
7.D	Spending on Television Advertising	52
7.E	Timing of General Election Payments for 2006 Gubernatorial Candidates	53
7.F	Timing of General Election Payments for 2006 Legislative Candidates	53
7.G	MCEA Payments to 2006 Gubernatorial Candidates	54
7.H	Total Independent Expenditures in the 2006 Election for Governor	56
7.I	Total Independent Expenditures to Support or Oppose 2006 Gubernatorial Candidates	56
7.J	2006 Finances of the RGA Maine PAC	57
7.K	Maine Democratic Party Payments to Main Street Communications	57
7.L	2006 Gubernatorial Candidate Pat LaMarche: Comments on MCEA Program	59
7.M	2006 Gubernatorial Candidate Barbara Merrill: Comments on MCEA Program	60
7.N	2006 Gubernatorial Candidate Peter Mills: Comments on MCEA Program	61

LIST OF TABLES continued

		Page
7.O	2006 Gubernatorial Candidate Chandler Woodcock: Comments on MCEA Program	62
7.P	Cumulative Spending by 2006 Gubernatorial Candidates	63
7.Q	Vote Totals in 2002 General Election	63
9.A	Total Payments to Candidates	73
9.B	Totals Paid Legislative Candidates by Type of Payment	74
9.C	Totals Paid to Gubernatorial Candidates by Type of Payment	75
9.D	General Election Matching Funds to Legislative Candidates	76
9.E	Matching Funds Paid to 2006 Legislative Candidates	76
9.F	Revenue to the Maine Clean Election Fund	77
9.G	History of Transfers from the Maine Clean Election Fund	78
9.H	Routine Administrative and Personnel Expenses of the Maine Clean Election Fund	79

LIST OF FIGURES

1.1	Rates of MCEA Participation in the General Election	13
1.2	2006 MCEA Participation by Party	14
1.3	Rates of Participation (of Elected Legislators)	14
1.4	Reasons for Participation in MCEA	15
1.5	Overall Satisfaction with MCEA Program	16
1.6	Likelihood of Participating in Future Elections	16
1.7	Future Participation by Gender and Experience	16
2.1	Importance of MCEA in Decision to Run for Office	17
2.2	Importance of MCEA in Decision to Run by Gender	18
2.3	Number of Candidates in General Election: 1990 - 2006	18
2.4	Legislative General Elections: Contested and Uncontested Races	19
2.5	Incumbents in General Elections: Contested and Uncontested	19
2.6	Challengers in General Elections	20
2.7	Number of Women Candidates	20
3.1	Total Contributions, including Seed Money	24
5.1	Differences in Average Spending by House Incumbents and Challengers	33

LIST OF FIGURES continued

		Page
5.2	Differences in Average Spending by Senate Incumbents and Challengers	34
5.3	Differences in Average Spending by House Winners and Losers	35
5.4	Differences in Average Spending by Senate Winners and Losers	35
5.5	Average Amount Spent by Privately Financed House Candidates	36
5.6	Average Amount Spent by Privately Financed Senate Candidates	37
5.7	Average Spending by MCEA Candidates	37
5.8	Median Amount Spent by House Candidates	38
5.9	Mean Amount Spent by House Candidates	38
5.10	Median Amount Spent by Senate Candidates	38
5.11	Mean Amount Spent by Senate Candidates	38
5.12	Total Spending by All Legislative Candidates	39
5.13	Independent Expenditures Plus Candidate Spending - Legislative Races	40
6.1	Total Independent Expenditures in Legislative Races	43
6.2	Number of Candidates Impacted by Independent Expenditures	44
6.3	Number of Independent Expenditure Reports	44
6.4	Average Independent Expenditures Made per Candidate	44
6.5	Top 20 Independent Spenders in 2004 Legislative Races	46
6.6	Top 20 Independent Spenders in 2006 Legislative Races	46
6.7	Independent Spenders in 2006 Gubernatorial Race	47
6.8	Independent Expenditures to Support and to Oppose Legislative Candidates	47
6.9	Independent Expenditures to Support and to Oppose Candidates for Governor	48
8.1	Total IE Spending in the 30 Days Prior to the General Election: 2002 - 2006	69
8.2	Independent Expenditures for the 2006 General Election	70
9.1	Legislative Primary and General Election Distributions and Matching Funds	74
9.2	Gubernatorial Primary and General Election Distributions and Matching Funds: 2002 and 2006	75

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.

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

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

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

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 be 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.

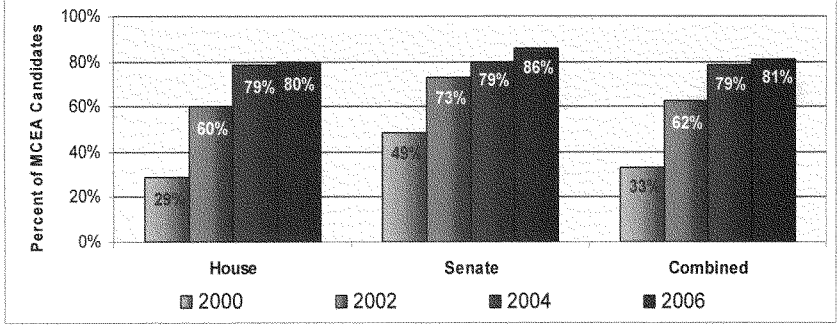
Chapter 1

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).

Figure 1.1 Rates of MCEA Participation in General Elections

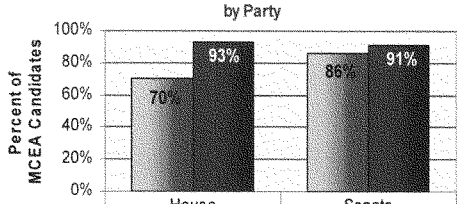


For House candidates, Democrats are participating at a rate that is about 23% higher than Republicans (Figure 1.2, next page). Among candidates running for the State Senate, Democrats and Republicans have been participating in the MCEA in roughly similar numbers. A table with the exact numbers of participants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

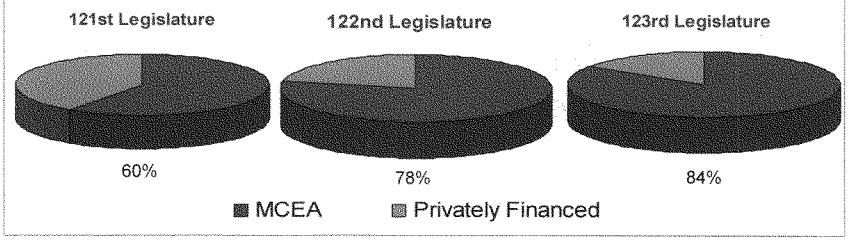
Figure 1.2 2006 MCEA Participation by Party



	House	Senate
Republican	69.93%	85.71%
Democrat	92.67%	91.43%

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).

Figure 1.3 Rates of Participation



Why Did They Participate?

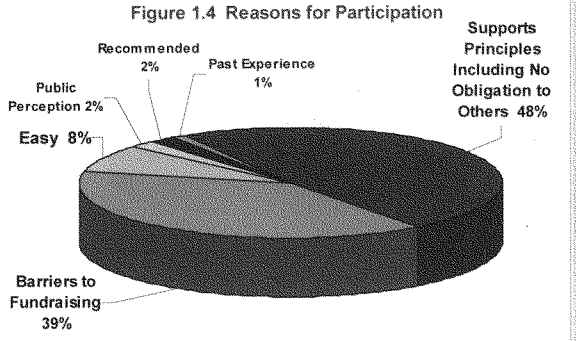
After the 2004 and 2006 elections, the Commission conducted post-election surveys of all legislative candidates. For the 2006 survey, about one-third of MCEA candidates responded. The survey included questions on why they chose to participate in the MCEA, if they were satisfied with the program, if they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

Figure 1.4 Reasons for Participation



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

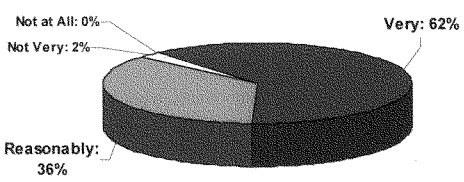


Figure 1.6 Likelihood of Participating in Future Elections

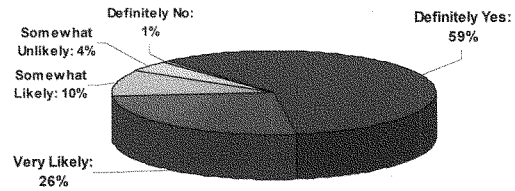
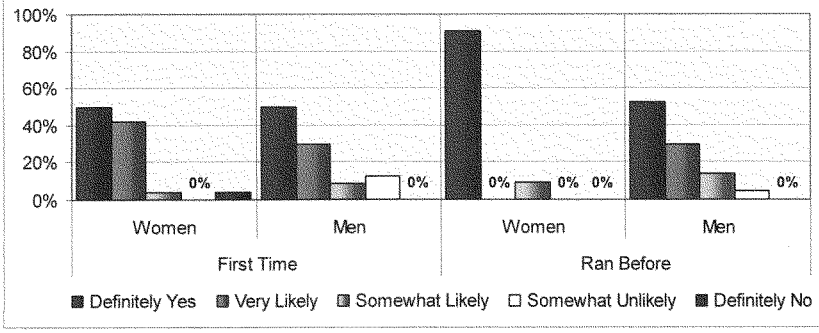


Figure 1.7 Future Participation by Gender and Experience



Chapter 2

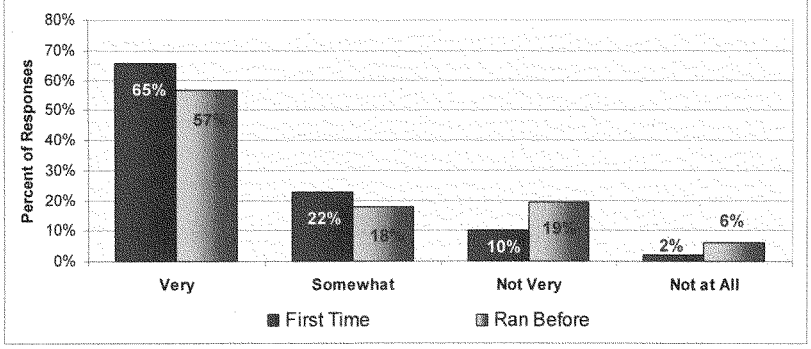
Encouraging New Candidates and Competition

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

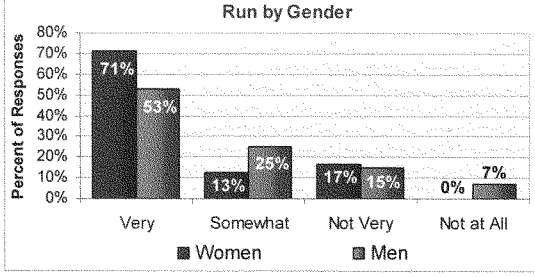
Figure 2.1 Importance of MCEA in Decision to Run for Office



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.

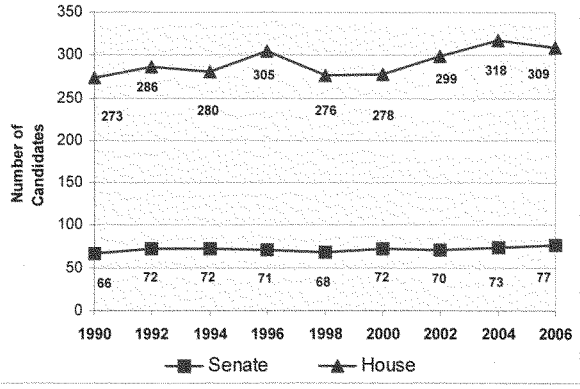
Figure 2.2 Importance of MCEA in Decision to Run by Gender



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).

Figure 2.3 Number of Candidates in General Elections

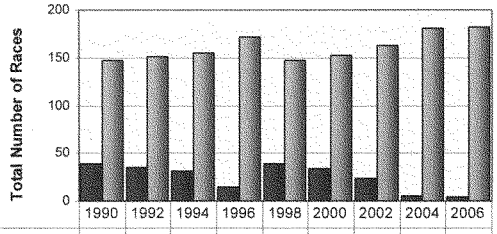


The introduction of roughly 40 candidates in the last two general elections (an 11.45% increase) is noteworthy. Given the survey responses of MCEA candidates that public funding was very or somewhat important in their decision to run, it seems reasonable to conclude that the MCEA has contributed to this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

Figure 2.4 Legislative General Elections: Contested and Uncontested Races

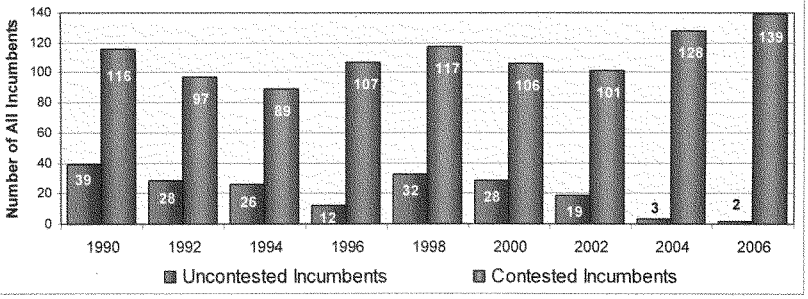


	1990	1992	1994	1996	1998	2000	2002	2004	2006
Uncontested Races	39	35	31	14	39	34	23	5	4
Contested Races	147	151	155	172	147	152	163	181	182

Bringing Out the Challengers

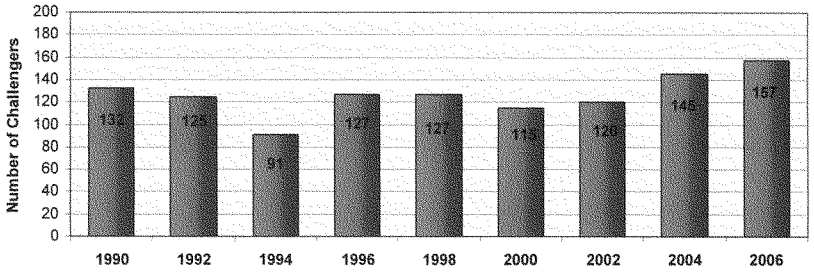
Advocates for greater competition in elections should be pleased at the sharp decrease in incumbents running for re-election without a challenger (Figure 2.5). During the period of 1990 – 2000 (omitting 1996 due to the term limits spike), the average number of incumbents seeking re-election unchallenged 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-

Figure 2.5 Incumbents in General Elections: Contested and Uncontested



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

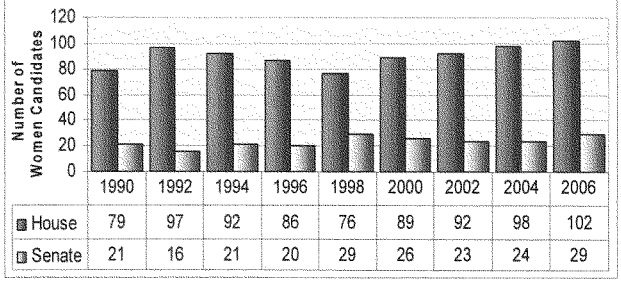


Women Candidates

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 Commission 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.

Figure 2.7 Number of Women Candidates



	1990	1992	1994	1996	1998	2000	2002	2004	2006
House	79	97	92	86	76	89	92	98	102
Senate	21	16	21	20	29	26	23	24	29

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.

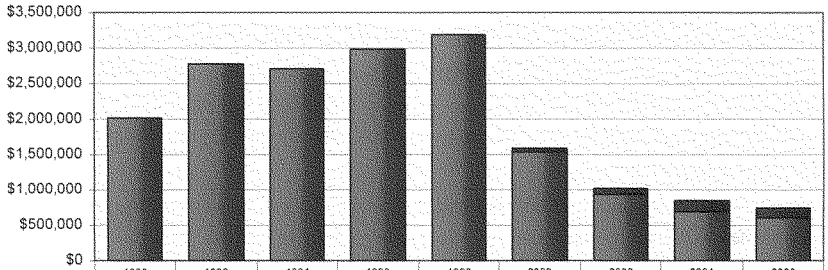
Reduction in Total Contributions to Candidates

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.

Figure 3.1 Total Contributions, including Seed Money (not adjusted for inflation)



	1990	1992	1994	1996	1998	2000	2002	2004	2006
Seed Money						$44,722	$85,180	$144,530	$135,769
Contributions	$2,023,101	$2,781,523	$2,712,445	$2,978,339	$3,190,796	$1,540,466	$934,941	$692,917	$608,619

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.	To put more time in my election, not to be beholden to anyone.	Allowed me to run without being "obligated" to campaign contributors.
I like the statement it makes ... that I am not beholden to lobbying organizations and major donors.	I like the idea that Clean Elections are just that and that we are not indebted to anyone.	I like not being beholden to any individual or group.
Don't want special interest money. Don't want to feel beholden to anyone but my constituents.	The idea of not being obliged to anyone or any business is gratifying.	I want to focus on the voters and issues, rather than spending the majority of time raising funds from special interests.
I believe in it as a way to reduce lobbyist influence.	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.	It takes politics and special interest groups out of a race.
Less "corporate" influence.		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.	Expenditures should be controlled – eliminates money – based on 3rd party influence.	The fact that you don't have to find large donors, who most likely you would be indebted to.
Frees the candidate from any suggestion of influence.	I like not having to owe donors political favors.	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.
So I wouldn't be beholden to anyone.	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!	Because with Clean Elections no corporations own you. You are working for the people.
Precludes trying to "raise funds" & becoming obligated to PAC groups, special interests.	Didn't want to be privately financed or by Big Business. Only have to answer to the taxpayer.	To avoid indebtedness to campaign donors and to eliminate having to spend time raising funds.
If elected there are no monetary IOU's.		
I would not want to be tied to any business or organization to fund me.		

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).

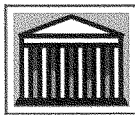


Table 4.B 2006 Survey Responses from Privately Financed Candidates:

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

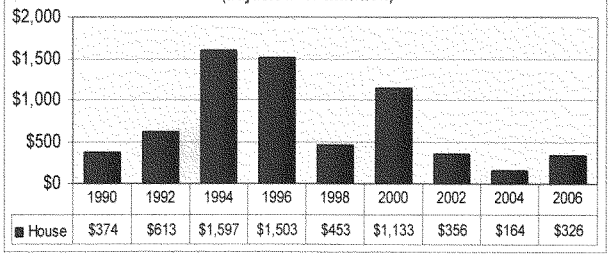
A review of average candidate spending in legislative races since 1990 suggests that the Maine Clean Election Act is having an effect in encouraging financially competitive elections. In the last four election years,

- 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-

Figure 5.1 Differences in Average Spending by House Incumbents and Challengers (adjusted for inflation)

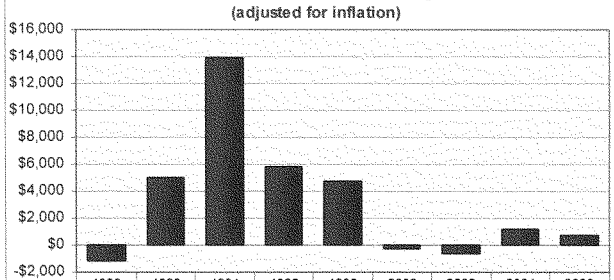


	1990	1992	1994	1996	1998	2000	2002	2004	2006
House	$374	$613	$1,597	$1,503	$453	$1,133	$356	$164	$326

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.

Figure 5.2 Differences in Average Spending by Senate Incumbents and Challengers (adjusted for inflation)



	1990	1992	1994	1996	1998	2000	2002	2004	2006
Senate	-$1,163	$4,956	$13,935	$5,792	$4,683	-$297	-$622	$1,168	$746

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.

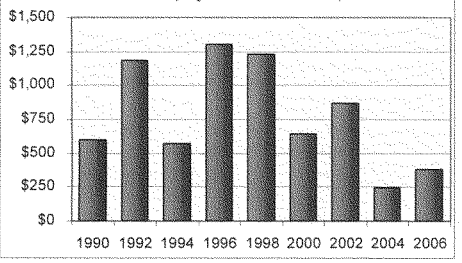
The excluded candidates are listed in the Appendix. Their expenditures have been excluded from the median and mean spending calculations in this chapter, but are included for all other purposes in the report.

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 candidates 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.

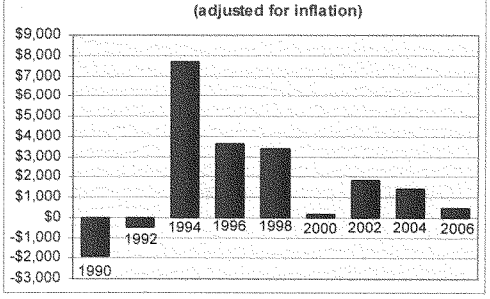
Figure 5.3 Differences in Average Spending by House Winners and Losers (adjusted for inflation)



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.

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



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-

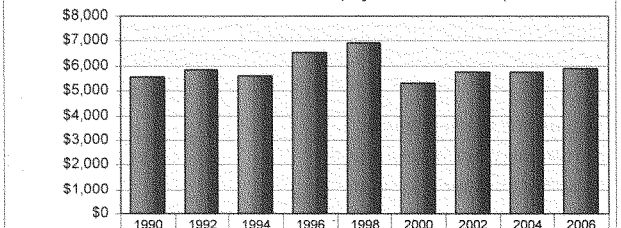
bly in the last two elections. In the Senate, there is an even clearer reduction beginning with the introduction of the MCEA in 2000. In 1990 and 1992, Senate candidates who lost the general election spent more than winners, underscoring that a financial advantage does not single-handedly determine the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

Figure 5.5 Average Amount Spent by Privately Financed House Candidates (adjusted for inflation)



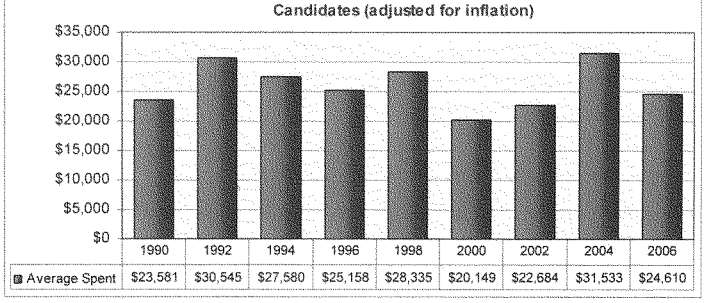
	1990	1992	1994	1996	1998	2000	2002	2004	2006
Average Spent	$5,542	$5,830	$5,607	$6,528	$6,896	$5,285	$5,724	$5,750	$5,907

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.

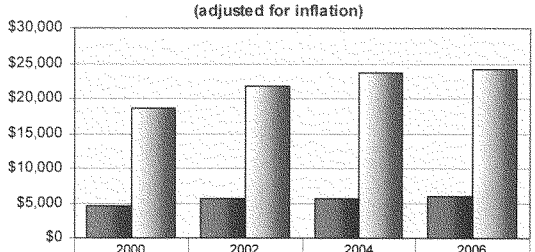
Figure 5.6 Average Amount Spent by Privately Financed Senate Candidates (adjusted for inflation)



	1990	1992	1994	1996	1998	2000	2002	2004	2006
Average Spent	$23,581	$30,545	$27,580	$25,158	$28,335	$20,149	$22,684	$31,533	$24,610

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

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



	2000	2002	2004	2006
House Average Spent	$4,486	$5,569	$5,616	$5,970
Senate Average Spent	$18,553	$21,785	$23,691	$24,209

Average Spending by MCEA Candidates

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

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%

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)

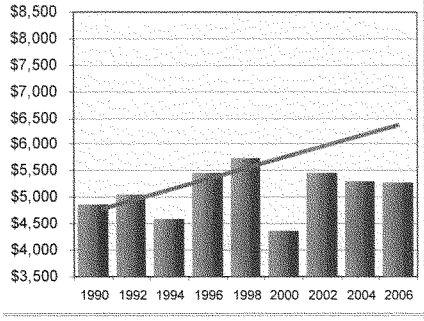


Figure 5.9 Mean Amount Spent by House Candidates (adjusted for inflation)

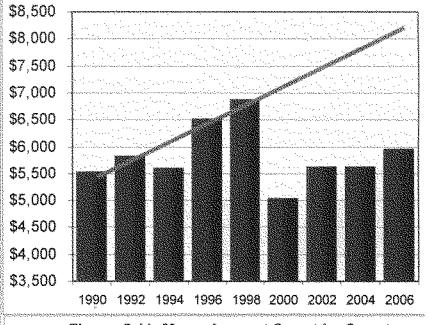


Figure 5.10 Median Amount Spent by Senate Candidates (adjusted for inflation)

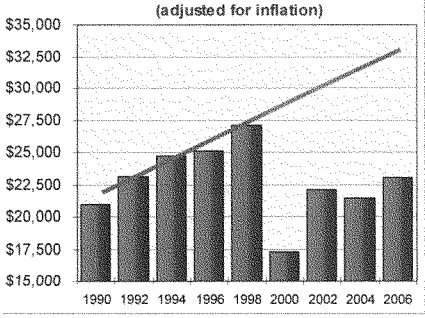
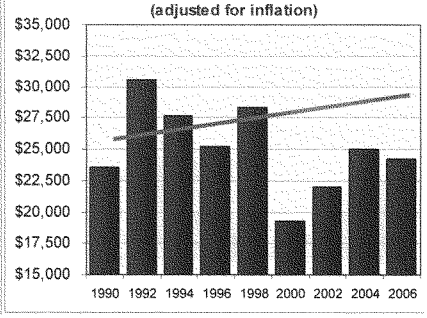


Figure 5.11 Mean Amount Spent by Senate Candidates (adjusted for inflation)



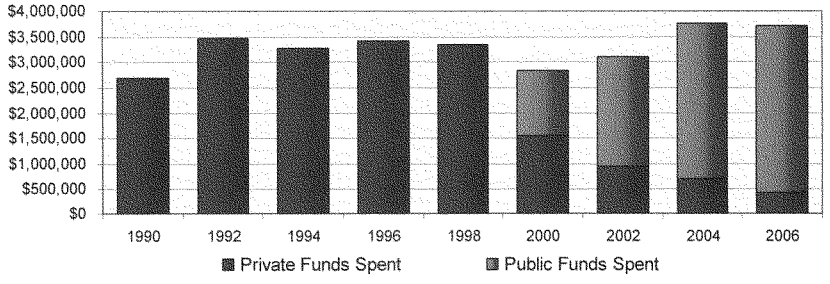
into account, spending by House and Senate candidates was increasing at moderate to rapid rates during the pre-MCEA years of 1990 – 1998 when all legislative campaigns were privately financed. The charts on the previous page show trend lines indicating what median and mean legislative campaign spending 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

Figure 5.12 Total Spending by All Legislative Candidates (adjusted for inflation)



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

Candidate Spending Plus Independent Expenditures

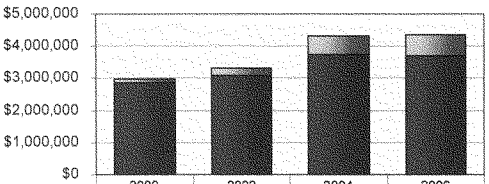
When independent expenditures are added to candidate spending, the resulting total campaign spending increased in 2002 and 2004 and decreased minimally in 2006 (Figure 5.13, next page).

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.

Figure 5.13 Independent Expenditures Plus Candidate Spending - Legislative Races (adjusted for inflation)



	2000	2002	2004	2006
Total Spent Independent Expenditures	$147,274	$235,567	$571,812	$623,020
Total Spent MCEA and Privately Financed	$2,845,669	$3,097,295	$3,751,571	$3,714,584

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.)

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

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.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.

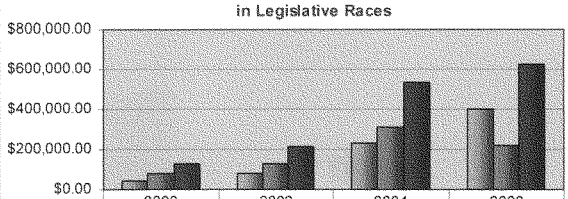
Increases in Independent Expenditures

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-

Figure 6.1 Total Independent Expenditures in Legislative Races



	2000	2002	2004	2006
House	$45,154.82	$80,650.00	$227,286.00	$402,746.68
Senate	$79,965.75	$129,561.00	$308,504.00	$220,273.57
Total	$125,120.57	$210,211.00	$535,790.00	$623,020.25

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.

Figure 6.2 Number of Candidates Impacted by Independent Expenditures

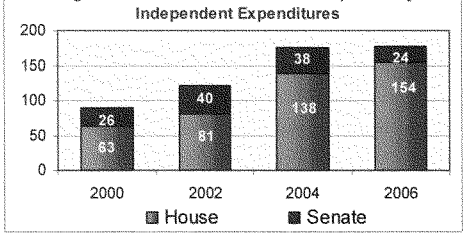
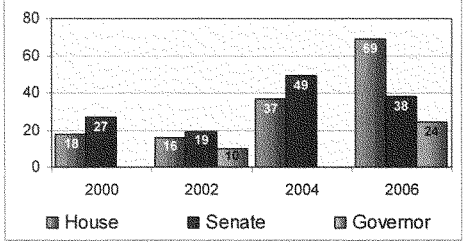


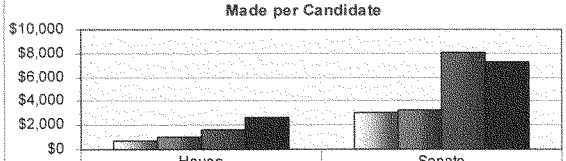
Figure 6.3 Number of Independent Expenditure Reports



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 6.4 Average Independent Expenditures Made per Candidate



	House	Senate
2000	$717	$3,076
2002	$996	$3,239
2004	$1,647	$8,119
2006	$2,615	$7,261

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**

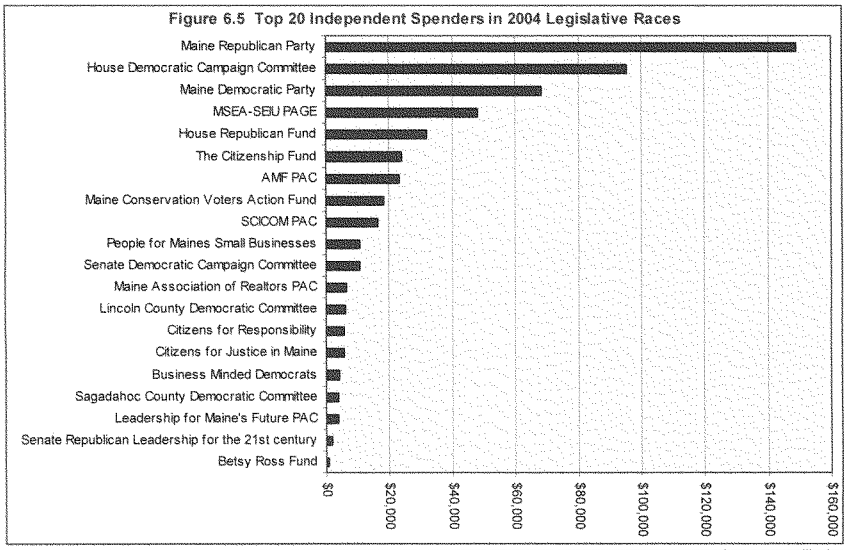


Figure 6.5 Top 20 Independent Spenders in 2004 Legislative Races
Maine Republican Party
House Democratic Campaign Committee
Maine Democratic Party
MSEA-SEIU PAGE
House Republican Fund
The Citizenship Fund
AMF PAC
Maine Conservation Voters Action Fund
SCICOM PAC
People for Maines Small Businesses
Senate Democratic Campaign Committee
Maine Association of Realtors PAC
Lincoln County Democratic Committee
Citizens for Responsibility
Citizens for Justice in Maine
Business Minded Democrats
Sagadahoc County Democratic Committee
Leadership for Maine's Future PAC
Senate Republican Leadership for the 21st century
Betsy Ross Fund
$0
$20,000
$40,000
$60,000
$80,000
$100,000
$120,000
$140,000
$160,000

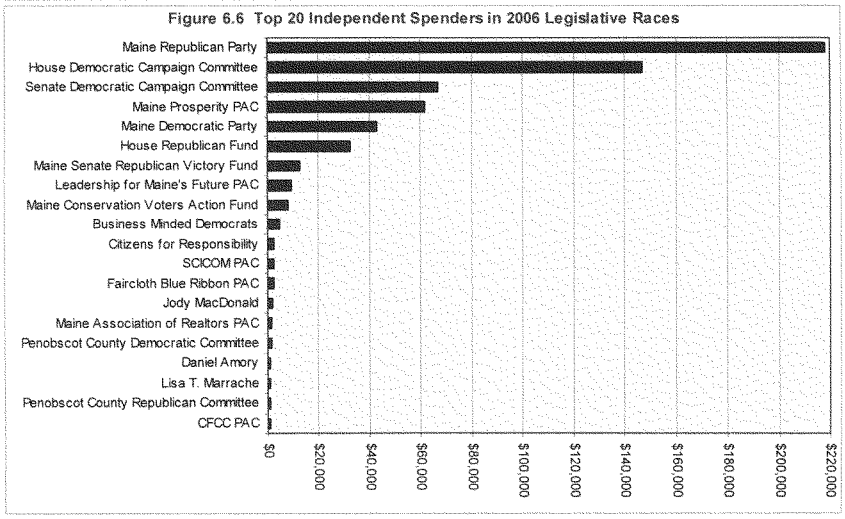
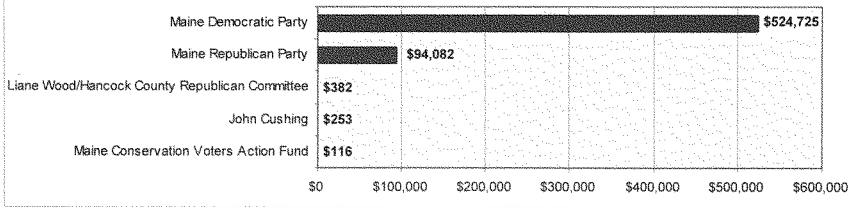


Figure 6.6 Top 20 Independent Spenders in 2006 Legislative Races
Maine Republican Party
House Democratic Campaign Committee
Senate Democratic Campaign Committee
Maine Prosperity PAC
Maine Democratic Party
House Republican Fund
Maine Senate Republican Victory Fund
Leadership for Maine's Future PAC
Maine Conservation Voters Action Fund
Business Minded Democrats
Citizens for Responsibility
SCICOM PAC
Faircloth Blue Ribbon PAC
Jody MacDonald
Maine Association of Realtors PAC
Penobscot County Democratic Committee
Daniel Amory
Lisa T. Marrache
Penobscot County Republican Committee
CFCC PAC
$0
$20,000
$40,000
$60,000
$80,000
$100,000
$120,000
$140,000
$160,000
$180,000
$200,000
$220,000

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



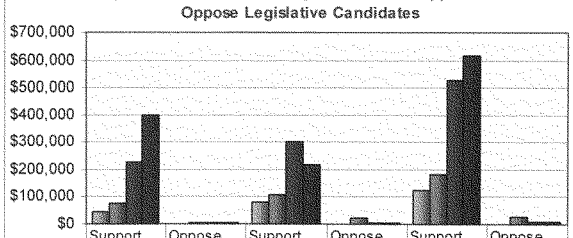
In 2006, only five filers reported making independent expenditures in the race for Governor (Figure 6.7). Chapter 7 includes a more detailed discussion of independent expenditures in the gubernatorial election. As noted there, more than $1.2 million was spent on television advertising in the Governor's 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

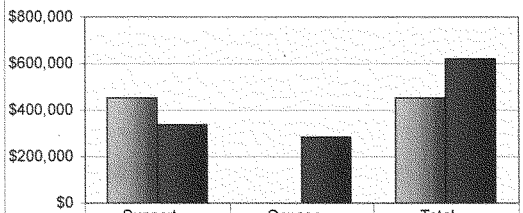
Figure 6.8 Independent Expenditures to Support and Oppose Legislative Candidates



	House		Senate		Total	
	Support	Oppose	Support	Oppose	Support	Oppose
2000	$43,616	$1,539	$79,966	$0	$123,582	$1,539
2002	$76,950	$3,700	$106,509	$23,052	$183,459	$26,752
2004	$224,097	$3,189	$302,781	$5,723	$526,878	$8,912
2006	$399,257	$3,490	$214,924	$5,350	$614,181	$8,840

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).

Figure 6.9 Independent Expenditures to Support and Oppose Candidates for Governor



	Support	Oppose	Total
2002	$451,110	$0	$451,110
2006	$337,962	$281,597	$619,558

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:

- 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)	
Campaign Finance Report	Receipts	Expenditures	Receipts	Expenditures	Receipts	Expenditures
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 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.

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**

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%
All 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 Democrats, 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 skimped 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 encouraging 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.

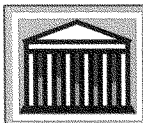


Table 7.N 2006 Gubernatorial Candidate Peter Mills: Comments on MCEA Program

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.

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 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 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%**

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.

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

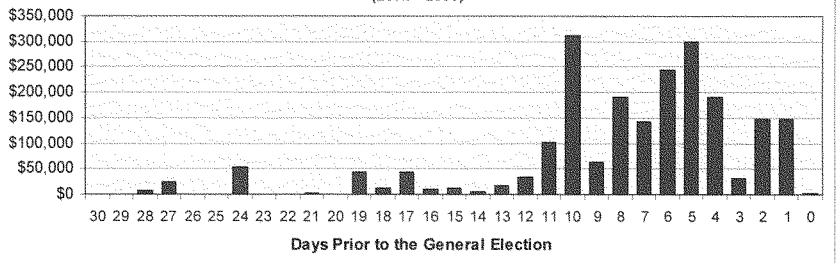
Commission Proposal

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.

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).

Figure 8.1 Total IE Spending in the 30 Days Prior to General Elections (2002 - 2006)



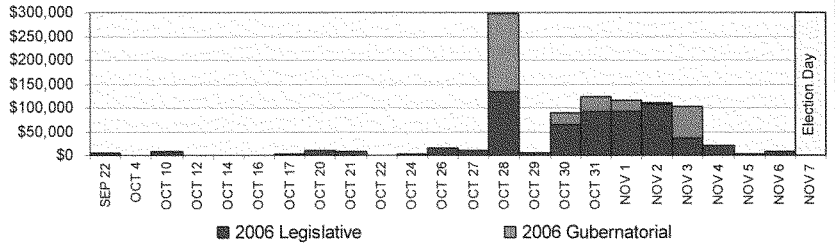
In 2005 and 2006, the Commission took several steps to respond to the problem:

- 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.

Figure 8.2 Independent Expenditures for the 2006 General Election



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**

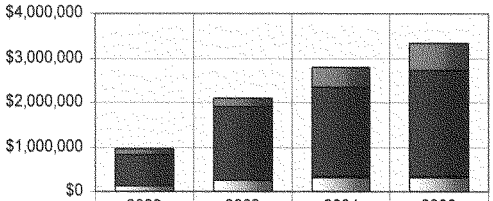
The growth in total payments has resulted from a few factors:

- 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.

Figure 9.1 Total Initial Payments and Matching Funds to Legislative Candidates



	2000	2002	2004	2006
General Matching	$126,380	$173,032	$439,966	$618,904
General	$703,573	$1,662,768	$2,008,649	$2,396,163
Primary Matching	$5,408	$13,907	$18,131	$21,415
Primary	$129,106	$239,831	$332,871	$311,987

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

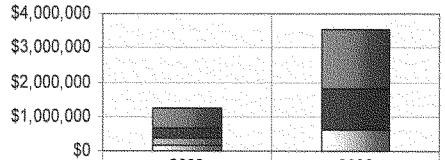
Table 9.C and Figure 9.2 show the breakdown of payments to candidates for Governor who qualified for MCEA funding in 2002 and 2006.

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.

Figure 9.2 Total Initial Payments and Matching Funds to Candidates for Governor



	2002	2006
General Matching	$573,820	$1,734,622
General	$286,910	$1,200,000
Primary Matching	$209,426	$0
Primary	$146,513	$599,993

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 noncompliance 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.

Appendix

Title	Page
Rates of MCEA Participation	A-1
Candidates Excluded from Mean and Median Calculations in Chapter 5	A-2
Figure A.1 Average Amounts Spent: House Incumbents and Challengers	A-8
Figure A.2 Average Amounts Spent: Senate Incumbents and Challengers	A-8
Independent Expenditures in 2006: Total Amounts Spent per Candidate	A-9
Top 20 Independent Spenders in 2006 Legislative Elections	A-11
Third-Party Literature Supporting Candidates	A-12
Editorials on Express Advocacy	A-14
Maine Clean Election Act Expenditure Guidelines	A-16

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

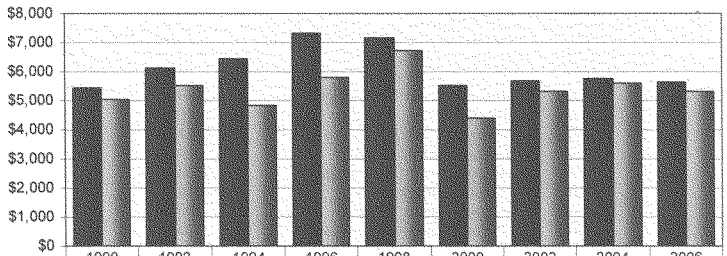
Candidates Excluded from Mean and Median Calculations in Chapter 5, continued				
Election Year	Office	Candidate Name	Total Spent	Total Received
1994	House	Fred L. Richardson	$70.00	$70.00
1994	House	Gary D. Smith	$159.00	$159.37
1994	House	Gary W. Seavey	$356.00	$650.00
1994	House	George F. Ricker	$0.00	$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. Sebunya	$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

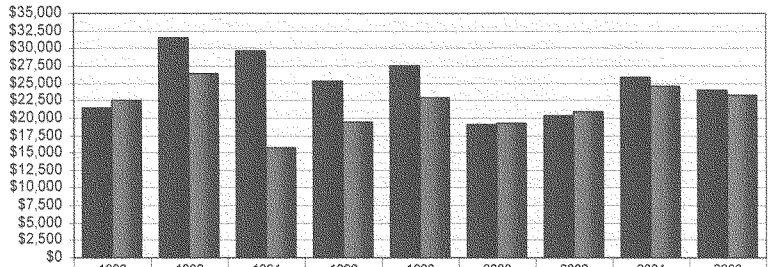
Candidates Excluded from Mean and Median Calculations in Chapter 5, continued				
Election Year	Office	Candidate Name	Total Spent	Total Received
2002	House	Jonathan B. Chappell	$115.00	$115.00
2002	House	Matthew S. Whittier	$0.00	$0.00
2002	House	Morrison Bonpasse	$0.00	$0.00
2002	House	Randa L. Thomas	$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)



	1990	1992	1994	1996	1998	2000	2002	2004	2006
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)



	1990	1992	1994	1996	1998	2000	2002	2004	2006
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

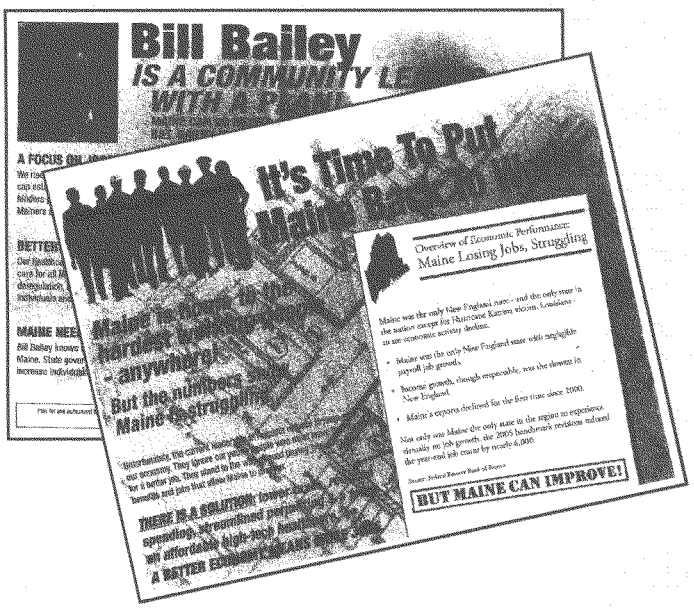
Office	Candidate Name	Amount
Representative	Carter, Timothy	$3,403.00
Representative	Scease, Jane	$3,360.94
Representative	Harvell, Lance	$3,302.80
Representative	Arsenault, Reginald	$3,274.20
Representative	Brautigam, John	$3,267.64
Representative	Gilbert, Donna	$3,089.25
Representative	Weddell, Lance	$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

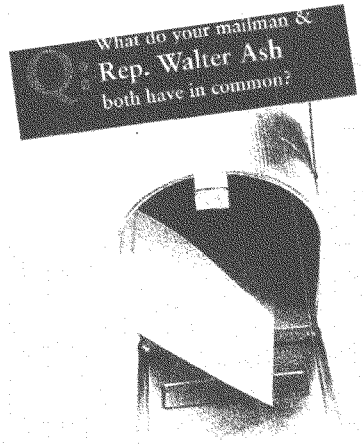
Office	Candidate Name	Amount
Representative	Weaver, Windol	$1,335.83
Representative	Ayotte, Bernard	$1,334.49
Representative	Reny, Joshua	$1,332.00
Representative	Muse, Roberta	$1,301.60
Representative	Haskell, Clayton	$1,289.55
Representative	Hall, Darren	$1,263.63
Representative	Freeman, Harold	$1,242.73
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
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)



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 #539)

Non-profit Org.
U. S. Postage
PAID
Permit #304
Augusta, ME

Tray 2 AUTO**5-DIGIT 04915

DESIGNED, PRINTED & MAILED IN MAINE PRINTED ON RECYCLED PAPER

Paid for by the Maine Democratic Party, 16 Winthrop Street, Augusta, ME 04332
This Communication is not authorized by any candidate or candidate's committee.

04/24/2007 12:13 2072876775 ETHICS COMMISSION PAGE 01/01

KJ

OUR VIEW 10-1-06

Kennebec Journal

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 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 by his party don't go quite 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?

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 "Woodcock is an idiot and Baldacci's I.Q. is 700 points higher than his and he loves his mother more, too."

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

Copyright © 2006 Blethen Maine Newspapers Inc.

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
135 State House Station
Augusta, Maine 04333-0135
Tel: (207) 287-4179 Fax: (207) 287-6775
Website: www.maine.gov/ethics

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

Commission on Governmental Ethics and Election Practices
Mailing: 135 State House Station, Augusta, Maine 04333
Location: 242 State Street, Augusta, Maine

Phone: 207-287-4179
Fax: 207-287-6775
website: www.maine.gov/ethics

The CHAIRMAN. Mr. Garfield.

STATEMENT OF JEFFREY GARFIELD

Mr. GARFIELD. Chairman Brady, Ranking Member Lungren and distinguished members on House Administration, good afternoon. My name is Jeffrey Garfield, and I am the executive director and general counsel for the Connecticut State Elections Enforcement Commission, and I have served in that capacity for 30 years.

I am honored to appear before this committee today to testify concerning H.R. 1826, sponsored by Connecticut's own Congressman Larson; and more particularly to discuss Connecticut's positive experience with the implementation of a full public financing program for legislative elections in 2008.

With me today is Beth Rotman, the director of Connecticut's Citizen Election Program, who was an integral part of implementing the program.

I am proud to say that Connecticut was the first State to adopt a full public financing program by an act of its legislature, combining it with complete bans on contributions by lobbyists and State contractors. Connecticut's comprehensive reform would not have occurred but for strong bipartisan leadership and courage of our Governor M. Jodi Rell and legislative leaders.

Connecticut's voluntary Citizen Election Program has several features akin to H.R. 1826. To establish eligibility for a public grant, a candidate must meet a two-part threshold by raising qualifying contributions between $5 and $100 from individual donors. There is an aggregate dollar contribution requirement, and an in-district requirement for legislative candidates and an instate requirement for statewide candidates. All of these qualifying contributions must come from individuals; no PAC, no entity contributions are permitted. I have provided a detailed overview of Connecticut's program as part of my written testimony, and I ask that it be made part of the record.

The CHAIRMAN. Without objection.

Mr. GARFIELD. Connecticut's campaign finance reform was brought about by scandals involving several elected officials, including our Governor, who resigned from office under threat of impeachment and served a year in prison for public corruption. According to the polls at the time, Connecticut citizens' confidence in their government and elected officials were virtually eradicated. Campaign finance reform was the cornerstone of the reforms aimed at restoring that confidence. Connecticut's public campaign financing program was an unqualified success in the first run for the 2008 legislative elections.

For the reform to be successful, participation in it by candidates must be incentivized. Our participation rate was an extraordinary 75 percent of all State legislative candidates. Moreover, approximately 78 percent of the current legislature ran under the program. By comparison, Maine and Arizona in their first runs had participation rates of one-third and one-quarter respectively.

Special-interest money was virtually eliminated from the 2008 State legislative campaigns. Ninety-seven percent of all contributions raised by candidates were from individuals. In eliminating virtually all special-interest money from campaigns, Connecticut

has addressed the concern that its political culture fostered actual or perceived conflicts of interest. By comparison, in the 2006 legislative elections, candidates received approximately one-half of the money, of the $9.3 million raised from PAC's entities and lobbyists.

The high participation rate of legislative candidates resulted in most contributions derived from small individual donors and the remaining nonparticipating candidates received approximately $60,000 from PACs. Candidates believe that the CEP reduced the appearance of special-interest influence. Sixty-six percent of the candidates in the 2008 legislative elections found that public financing reduced even the appearance that a candidate would be beholden to large donors or special interests.

The availability of public funds encouraged new candidates to join the electoral process in 2008. Approximately 78 percent of first-time candidates in the 2008 legislative elections indicated that the availability of a public campaign grant was an important factor in their decision to run for office.

One such candidate, Karen Houghtaling, is a 41-year-old grandmother holding two jobs as a receptionist and a waitress, who nearly upset a three-term incumbent in a Democratic primary. Ms. Houghtaling said, "What I can tell you is this: I would not have run for State representative this past August were it not for the new Citizen Election Program. I might have been a new kid on the block when it comes to running for public office, but I knew I could never be competitive in a system where someone was essentially encouraged to rely on big private-money contributions."

The program encouraged electoral competition. There was an increase of primaries under the CEP. While the number of unopposed races was not diminished in the first year under the program, challengers fared better under the program in 2008 than they did without it in 2006. All successful challengers participated in the program. Moreover, there were closer races in 2008 than in 2006. The program freed candidates from spending too much time fundraising, affording more candidates greater opportunity to communicate with constituents, and gave value to small $5 contributions.

Cicero Booker, an African American and third-party candidate who ran for the State senate under the program, said he was happy that even disadvantaged people in his community could get involved and know that even their $5 donation was significant. Many people in the district had never donated to a political committee. Candidates were satisfied that they did not have to spend endless time having fundraisers.

Matthew Lesser, a first-time candidate, who at age 25 upset a long-term incumbent, stated, "I believe that having a chance to meet so many of my constituents will make me a better legislator. The result of public financing is a more in touch, more competitive, and more independent legislature which finds itself accountable to our voters, and to the voters alone."

The number of female candidates in 2008 was 102, more than any other previous year. The percentage of women in the State legislature is now a record, almost 32 percent.

Why did the Connecticut program succeed? Because the law incentivizes participation by providing candidates with generous grants with which to wage effective campaigns. Eligibility for pub-

lic grants are also set at reasonable thresholds of support, while both incumbents and challengers alike are able to qualify for public grants. In fact, 93 percent of all participating candidates receive grants.

Let me close by saying this. In its inaugural year, the Citizen Election Program earned the respect and praise of candidates who opted to participate. We hope that Connecticut's experience is one that this committee will closely consider as you move ahead.

One story I would like to share in closing by Democratic State Representative Chris Caruso, who said, "Some people think that it is impossible to blunt the influence of lobbyists and big donors, but that is exactly what happened here in Connecticut this year. For many years environmentalists have tried to expand the bottle bill recycling program to include 5 cent deposits on plastic water bottles. But the powerful beverage industry and paid lobbyists were able to stop every effort at reform because they gave thousands of dollars to legislators. This year, the legislature voted to expand the bottle bill. We voted to reclaim millions of dollars' worth of unclaimed bottle deposits, which take approximately $25 million a year out of the pockets of the beverage industry and puts that money into the general fund where it belongs. This alone recoups more money than the Citizens' Election Program costs. This is just the beginning."

Thank you very much. I will be happy to answer any questions you have later on.

The CHAIRMAN. I thank the gentleman.

[The statement of Mr. Garfield follows:]

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Testimony of Jeffrey B. Garfield, Executive Director & General Counsel
Connecticut State Elections Enforcement Commission

July 30, 2009

Presented to the Committee on House Administration

Concerning H.R. 1826- "The Fair Elections Now Act"

Chairman Brady, Ranking Member Lungren and distinguished members of the Committee on House Administration, good morning. My name is Jeffrey B. Garfield, and I have served as the Executive Director and General Counsel of the State of Connecticut's Elections Enforcement Commission (the "SEEC") for thirty years, and I appear before you today in that capacity.

I am honored to appear before this Committee to testify concerning HR 1826 sponsored by Connecticut Congressman John B. Larson, and more particularly to discuss Connecticut's positive experience with the implementation of a full public financing program for legislative elections in 2008. With me here today is Beth Rotman, the Director of Connecticut's Citizens' Election Program, who was an integral part of implementing the Program.

By way of background, I am proud to say that the State of Connecticut was the first state to adopt a full public campaign financing program by an act of the State Legislature. The states of Maine and Arizona accomplished their campaign reforms by citizen initiative. *In 2005, Connecticut's General Assembly passed the most comprehensive effort to remove special interest money from the electoral process by combining a program of full public financing with complete bans on contributions from lobbyists and state contractors.*

The sweeping 2005 campaign finance reform laws also (1) centralized all campaign finance administration and enforcement functions in the SEEC; (2) created strong disclosure requirements; and (3) imposed reasonable limitations on contributions from political action committees. Connecticut's comprehensive campaign finance reform would not have occurred but for the strong bi-partisanship leadership and courage of our Governor, M. Jodi Rell, and legislative leaders.

Connecticut's voluntary full public campaign financing program, known as the "Citizens' Election Program," (the "CEP") has several features akin to HR 1826. To establish eligibility for a public grant, a candidate must meet a two part threshold by raising qualifying contributions (between $5 to $100) from individual donors. There is an aggregate contribution requirement and an "in-district" requirement for legislative candidates, and an "in-state" aggregate threshold for Statewide candidates. All of these qualifying contributions are small contributions from individuals of no more than $100— no entity contributions are permitted. So, there are no PAC contributions and, as I mentioned earlier, there are no lobbyist or state contractor contributions.

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

All participating candidates must limit their campaign spending to the amount of the qualifying contributions and the public grant. There are grants for candidates who compete in primaries as well as those in general elections. Similar to the federal bill before you, Connecticut law provides for an increased primary grant for candidates competing in party dominant districts. I have attached a detailed overview of Connecticut's program for your further review and comparison.

Connecticut's public campaign financing program was an unqualified success in the first run for the 2008 General Assembly elections.

- **Approximately 75% of all State Legislative candidates participated in the Citizens' Election Program; and, approximately 78% of the current legislature participated in the Program.**

  In the Program's first run, approximately 75% of all candidates participated in the Program. By comparison, Maine and Arizona had approximately 1/3 and1/4 participation rates, respectively, in their first runs.

  Approximately 78% of the current legislature was elected using the CEP. *So, the majority of the current legislature is able to say that they were elected without even the appearance of special interest influence in the electoral process.*

- **Special interest money was virtually eliminated from 2008 State legislative campaigns.**

  In 2008, 97% of all contributions raised by all candidates were from individuals. *So, the State of Connecticut virtually eliminated special interest money and the appearance of special interest influence from State legislative campaigns in 2008.*

  By comparison, in the 2006 legislative elections, candidates received approximately one half of the $9.3 million raised from PACs, lobbyists and entities. With 75% of candidates in the CEP in 2008, most contributions were from small individual donors. And, the remaining nonparticipating candidates received only approximately $60,000 from PACs. There were no reported lobbyist contributions, and no state contractor contributions because of the existing bans.

  According to a survey taken by the SEEC, 66% of candidates in the 2008 legislative elections found that public financing reduced even the appearance that a candidate would be beholden to large donors or "special interests."

- **The availability of public funds encouraged new candidates to join the electoral process in 2008.**

  According to the survey taken by the SEEC, approximately 78% of first time candidates in the 2008 legislative elections indicated that the availability of a public campaign grant was an important factor in their decision to run for office, with 56% indicating that it was a "very important" factor.

  One such candidate, Karen Houghtaling, is a 41 year old grandmother holding two jobs- as a receptionist, and a waitress, who nearly upset a three term incumbent in a Democratic primary for the 80th Assembly District. Speaking at a December 2008 public hearing on the Citizens' Election Program, Ms Houghtaling stated:

  "Today what I can tell you is [that] I would not have run for State Representative this past August if it were not for the new Citizens' Election Program. I might have been a new kid on the block when it comes to running for public office, but I knew I could never be competitive in a system where someone was essentially encouraged to rely on big, private money contributions."

- **The program encouraged electoral competition.**

  The number of primaries increased under the CEP. In 2006, there were no primaries in the state Senate; and in 2008 there were four. The number of primaries for state House seats also increased from 12 to 15.

  While the number of unopposed races did not materially change under the CEP, challengers fared better under the CEP in 2008 than they did without it in 2006. All of the successful challengers participated in the program. Moreover, there were closer races in 2008 than in 2006.

- **The Citizens' Election Program freed candidates from spending too much time fundraising, afforded more candidates a greater opportunity to communicate with constituents, and gave value to small $5 contributions.**

  According to a survey taken by the SEEC, approximately 64% of participating candidates agree that raising small contributions of between $5 and $100 encouraged them to spend time interacting with their constituents.

  Cicero Booker, an African American third party candidate who ran for the State Senate in the 15th District, and who received a public grant stated that he "was happy that even disadvantaged people in his community could get involved and know that even their $5 donation was significant. Many people in the district (which is one of the state's larger cities) had never donated to a political committee."

Under the CEP, once a candidate has qualified for a grant, there is no more fundraising. Republican candidate Christopher Coutu, age 32, who upset a long time Democratic incumbent, was quoted in an article appearing in the New York Times on October 22, 2008 as saying: "Along with empowering people, this program enabled me to focus on the issues and voters instead of fundraising. " Coutu praised the public financing program adding that the "program had created a more level playing field."

Matthew Lesser, a first time Democratic candidate, who at age 25 upset another long time Republican incumbent, agreed with Coutu. At a public hearing in December 2008, Lesser credited the program with making him and his colleagues more responsive to voters. "I also believe that having had the chance to meet so many of my constituents will make me a better legislator. The result of public financing is a more in touch, more competitive, and more independent legislature which our General Assembly finds itself accountable to our voters and to the voters alone."

Tony Hwang, a Republican challenger, ran under the CEP and beat his Democratic opponent in Fairfield. He became the second Asian American to win a legislative seat in Connecticut. Hwang said "the CEP did free us from the constant non-campaign-related issue of fundraising" and that it encouraged 'retail politics."

- **The number of women running for the State Legislature reached an all time high under the Program.**

  The number of female candidates in 2008 was 102, more than any other previous year. The percentage of women in the State legislature is now a record 31.8%.

  Elizabeth Esty, a newly elected state representative from Cheshire told the Meriden Record Journal, a daily newspaper, that women will thrive under the new public financing system. She indicated that women can tap the expansive networks they develop in their communities to raise the seed money needed under the CEP financing system.

Connecticut's Success in Public Campaign Financing

Reasonable Program Thresholds

- The law incentivizes participation by providing candidates with generous grants with which to wage effective campaigns.

- CEP spending limits are set at reasonable levels, thereby incentivizing participation.

- Eligibility for public grants are prescribed at reasonable thresholds of support, and both incumbents and challengers were generally able to qualify for public grants. In fact, 93% of candidates who applied for grants received grants. Another 6% of participating candidates elected not to apply for CEP grants; and, only 1% of participating candidates who applied for grants were denied.

Adequate Staffing and Use of Resources Led to Effective and Successful Administration

- The Commission hired Beth Rotman to head the new public financing program. Before joining the Commission, Beth served as Associate Counsel and then Deputy Counsel of the New York City Campaign Finance Board, a program nationally recognized as the most effective municipal public financing program in the country. Beth was able to bring a wealth of technical knowledge to Connecticut and draw on resources such as the experience of other successful programs. This was absolutely critical to getting such a new and complicated program off the ground so quickly.

- The SEEC was provided with adequate funding and resources to implement the CEP effectively and successfully. The General Assembly provided an adequate and sustainable revenue stream to fund grants. Fifteen million was diverted from the Unclaimed Property Fund each year to the Citizens' Election Fund to pay for public campaign grants. The proceeds of the Unclaimed Property Fund averaged more than $100 million in the last three years before passage of the legislation. No additional taxes were needed to fund the program; nor were tax revenues diverted.

- The Commission established a unit that specializes in the administration of the CEP—the Public Financing Unit. The Public Financing Unit used a teamwork approach with participating campaigns and provided candidate liaisons that guided campaigns through every step of the Program. The "teamwork approach" made candidates feel comfortable, and contributed to candidate satisfaction with the administration of the CEP. Approximately 86% of participating candidates found that it was valuable to have a specific staff liaison assigned to their campaign. Additionally, Commission staff conducted many training sessions and provided guidebooks, fact sheets and other educational and training materials.

- The Commission's hands-on, proactive approach to administering the CEP paid off; following the first run of the CEP, the majority of participating campaigns found that the CEP was administered effectively and customer satisfaction was high. More specifically, 76% of treasurers were satisfied with the program in 2008, and 70% of candidates were satisfied with the first run of the CEP.

- The Commission established policies and procedures to ensure that public grants were given to only eligible candidates and spent only on campaign related expenditures. This

is essential to ensuring public confidence with the administration of a program that distributes public funds.

In its inaugural year, the Citizens' Election Program earned the respect and praise of candidates who opted to participate in the public financing regime. This is great news for the State of Connecticut; and, the Connecticut example is one that I hope this Committee will closely consider as you move ahead.

In closing, I'll share a story as told by Democratic State Representative Chris Caruso, who was a key player in passing the Connecticut legislation:

> Some people think it's impossible to blunt the influence of lobbyists and big donors, but that's exactly what happened here in Connecticut this year. For many years, environmentalists have tried to expand the bottle bill recycling program to include 5-cent deposits on plastic water bottles, but the powerful beverage industry and its paid lobbyists were able to stop every effort at reform because they gave thousands of dollars to legislators.
>
> This year, the legislature — with three-quarters of its members having participated in the Citizens' Election Program — voted to expand the bottle bill. We also voted to reclaim millions of dollars worth of unclaimed bottle deposits, which takes approximately $25 million a year out of the pockets of the beverage industry and puts that money into the general fund where it belongs. This alone recoups more money than the Citizens' Election Program costs. This is just the beginning.

Thank you.

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

EXHIBITS

State Elections Enforcement Commission: Citizens' Election Program: Basic Requirements – 2010 Overview.

State Elections Enforcement Commission: 2008 Citizens' Election Program Statistics.

State Elections Enforcement Commission Citizens' Election Program Statistics: 2008 Participating Candidate Survey.

State Elections Enforcement Commission Citizens' Election Program Statistics: 2008 Participating Treasurer's Survey.

Mark Pazniokas, *Campaign Finance Reform Becomes Law, Governor Signs Landmark Legislation*, Hartford Courant, 2005

Peter Applebome, *Connecticut Hopefuls Flock to Public Financing*, N.Y. Times, October 23, 2008.

Susan Haigh, *Conn. Candidates Line Up for Public Financing*, July 19, 2008.

Arthur Ochs Sulzberger, Jr., *Cleaning Up Connecticut*, N.Y. Times, August 6, 2008.

Mark Pazniokas, *Public Campaign Financing Ends 1st Year a Winner*, Hartford Courant, 2008.

The Day Editorials, *Public Financing Matters*, The Day, November 7, 2008.

Citizens' Election Program: 2008 General Election Statistics.

Jeffrey Garfield Bio:

Attorney Garfield received his Juris Doctor in 1977 from the Western New England College of Law. He was an honors graduate and received several academic awards while studying law.

He began his career in public service with the Legislative Commissioner's Office in 1978 where he advised the Elections Committee of the General Assembly on election law and legislative procedure. His performance earned him a resolution by the House and Senate for dedicated and competent service.

In July, 1979 he became the Executive Director and General Counsel of the State Elections Enforcement Commission, and has been the leader of the agency ever since.

In 1992, he was awarded the highest honor by the Council on Governmental Ethics Laws, an international organization comprised of federal, state and local governmental officials who enforce elections, ethics and freedom of information laws. He also served as President of this organization in 1985-1986, and as a member of its Steering Committee Long Range Planning Committee, By Laws Committee, Program Committee, and Nominations Committee.

He was co-author of a model Campaign Finance Law that was adopted by the Council on Governmental Ethics Laws and recommended as suggested state legislation by the Council on State Governments. Mr. Garfield has served in an advisory capacity to newly created election commissions in the U.S.

He has served on many state legislative and other election related advisory committees and task forces. Mr. Garfield writings have also been published in professional journals. He has been selected for publication in "Who's Who of Distinguished Leadership."

Mr. Garfield served as counsel to the Campaign Finance Reform Working group consisting of Connecticut legislators. The efforts of this body contributed significantly to the enactment by the Connecticut General Assembly of the most comprehensive Campaign Finance reform legislation in the U.S. in December 2005.

Jeffrey Garfield Bio:

Attorney Garfield received his Juris Doctor in 1977 from the Western New England College of Law. He was an honors graduate and received several academic awards while studying law.

He began his career in public service with the Legislative Commissioner's Office in 1978 where he advised the Elections Committee of the General Assembly on election law and legislative procedure. His performance earned him a resolution by the House and Senate for dedicated and competent service.

In July, 1979 he became the Executive Director and General Counsel of the State Elections Enforcement Commission, and has been the leader of the agency ever since.

In 1992, he was awarded the highest honor by the Council on Governmental Ethics Laws, an international organization comprised of federal, state and local governmental officials who enforce elections, ethics and freedom of information laws. He also served as President of this organization in 1985-1986, and as a member of its Steering Committee Long Range Planning Committee, By Laws Committee, Program Committee, and Nominations Committee.

He was co-author of a model Campaign Finance Law that was adopted by the Council on Governmental Ethics Laws and recommended as suggested state legislation by the Council on State Governments. Mr. Garfield has served in an advisory capacity to newly created election commissions in the U.S.

He has served on many state legislative and other election related advisory committees and task forces. Mr. Garfield writings have also been published in professional journals. He has been selected for publication in "Who's Who of Distinguished Leadership."

Mr. Garfield served as counsel to the Campaign Finance Reform Working group consisting of Connecticut legislators. The efforts of this body contributed significantly to the enactment by the Connecticut General Assembly of the most comprehensive Campaign Finance reform legislation in the U.S. in December 2005.

[The information follows:]

STATE ELECTIONS ENFORCEMENT COMMISSION
CITIZENS' ELECTION PROGRAM

Inside The Overview

Basic Requirements..... 1
Program Goals..... 1
Qualifying Threshold..... 2
Candidate's Use of Personal Funds... 3
Loans to the Candidate Committee.. 3
Ballot Requirement..... 3
Primary Campaign Grants..... 4
General Election Campaign Grants.. 5
Expenditure Limits..... 8
Permissible Expenditures..... 9
Excess Receipts or Expenditures..... 10
Independent Expenditures..... 10
Supplemental Payments and Reporting..... 11

Basic Requirements – 2010 Overview

Chapter 157 of the Connecticut General Statutes establishes the Citizens' Election Program (the "Program"), a voluntary program which provides public financing to qualified candidates for statewide offices and the General Assembly. The Program is financed by the Citizens' Election Fund, which receives funds from the proceeds of sale of abandoned property in the State of Connecticut's custody.

Candidates running for statewide office or the office of State Senator or State Representative may join the Program. Additionally, candidates running for the office of State Senator or State Representative in any special election may join the Program.

Although participation in the Program is voluntary, certain requirements apply to *all* candidates for statewide offices and the General Assembly. For example, all candidates must file an affidavit of intent to abide by Program requirements (SEEC Form CEP 10) or an affidavit of intent not to abide by Program requirements (SEEC Form CEP 11). Additionally, all candidates must be aware of additional disclosure requirements, including mandatory supplemental campaign finance disclosure reports.

The State Elections Enforcement Commission (the "Commission") is the filing repository for all campaign forms and disclosure statements. The Commission is also responsible for administering the Program and monitoring compliance with Program requirements.

Program Goals

The voluntary public financing program was designed with various goals, including:

(1) to allow candidates to compete without reliance on special interest money;

(2) to give candidates without access to sources of wealth a meaningful opportunity to seek elective office in the State of Connecticut;

(3) to curtail excessive spending in the State of Connecticut's political process; and

(4) to provide the public with meaningful and timely disclosure of campaign finances.

To participate, candidates must agree to abide by certain requirements, including contribution and expenditure limits and mandatory disclosure.

Qualifying Threshold

To qualify for public financing, candidates must demonstrate they have adequate support from the public. Candidates may accomplish this by meeting a two-part "threshold" that sets requirements for the aggregate amount of money which the candidate must raise and the minimum number of individuals who must have contributed between five dollars to one hundred dollars to the candidate. Qualifying contributions are small monetary contributions from individuals, and do not include in-kind contributions, personal funds or loans. Qualifying contributions must be fully disclosed and adequately documented. Communicator lobbyists and their immediate family members, as well as principals of current and prospective state contractors, may not make qualifying contributions. Additionally, principals of investment services firms "doing business" with the State Treasurer may not contribute to or solicit on behalf of candidates for State Treasurer.

Qualification Thresholds for Statewide Offices			
Office Sought	**Aggregate Contribution Requirement – Individuals Only**	**Minimum Amount of In-State Contributions**	**Contribution Limits**
Governor	$250,000	$225,000	$5 to $100
Lieutenant Governor	$75,000	$67,500	$5 to $100
Attorney General	$75,000	$67,500	$5 to $100
State Comptroller	$75,000	$67,500	$5 to $100
State Treasurer	$75,000	$67,500	$5 to $100
Secretary of State	$75,000	$67,500	$5 to $100

Qualification Thresholds for General Assembly Offices		
Office Sought	**Aggregate Contribution Requirement – Individuals Only**	**Minimum Individual Resident Contributions Between $5 - $100**
State Senator	$15,000	300 residents of municipalities included, in whole or in part, in the district
State Representative	$5,000	150 residents of municipalities included, in whole or in part, in the district

Candidate's Personal Funds

The Program permits candidates to provide a limited amount of personal funds to their candidate committees. Candidates may only provide such personal funds to their candidate committees before applying for initial grants. Any allowable personal funds reduce the grant by a corresponding amount. Personal funds do not constitute qualifying contributions. The maximum allowable amount of personal funds varies depending on the office being sought.

Office Sought	Maximum Allowable Personal Funds
Governor	$20,000
Lieutenant Governor, Attorney General, State Comptroller, State Treasurer, Secretary of State	$10,000
State Senator	$2,000
State Representative	$1,000

Loans to the Candidate Committee

The Program expressly limits the aggregate amount and permissible sources of any loans provided to the candidate committees of candidates intending to participate in the Program to an aggregate of one thousand dollars from financial institutions. The term "financial institution" includes "a bank, Connecticut credit union, federal credit union, an out-of-state bank that maintains a branch in this state and an out-of-state credit union that maintains an office in this state." CONN. GEN. STAT. § 36a-41. No person, political committee, or party committee can endorse or guarantee a loan or aggregate loans exceeding five hundred dollars, except the candidate, or, in a general election, a state central committee.

The one thousand dollar loan limit applies to candidate committees of candidates seeking any statewide or legislative office covered by the Program. Program requirements further provide that any such borrowed funds do not constitute qualifying contributions. A participating candidate must repay all outstanding loans before applying for a grant from the Citizens' Election Fund.

Ballot Requirement

In addition to raising the required amount of qualifying contributions, candidates must also qualify for the ballot to be eligible to receive public funds. This ballot requirement applies in any primary, general or special election. The Office of the Secretary of the State administers the ballot qualification process. Further, if a candidate raises the required qualifying contributions and qualifies for the ballot as a minor party or petitioning candidate, such candidate must meet additional requirements to receive a grant, as discussed below.

Primary Campaign Grants

Major Party Candidates

Eligible major party candidates who qualify for the ballot in a primary may qualify to receive a grant. The amount of the primary grant is reduced by the allowable amount of personal funds, if any, provided by the candidate during the qualifying period. Additionally, all General Assembly grant amounts are subject to a Consumer Price Index adjustment in 2010.

Nomination Sought	Grant Amount
Governor	$1,250,000
Lieutenant Governor, Attorney General, State Comptroller, State Treasurer, and Secretary of State	$375,000
State Senator	$35,000
State Representative	$10,000

General Assembly Candidates in "Party-Dominant" Districts

- Candidates in "party-dominant" districts are eligible for larger grants in primary campaigns.
- A "party-dominant" district is one in which the percentage of active electors (registered voters) in the district who are enrolled in a major party exceeds the percentage of active electors in the district who are enrolled in the other major party by at least 20 percentage points.

"Party Dominant" Districts	Grant Amount
State Senator	$75,000
State Representative	$25,000

General Election Grant

The qualified committee of a candidate who received a primary grant and then won the party nomination through a primary election does not have to re-apply for a grant for the general election campaign. But any unspent primary grant funds that remain in the candidate's account will be subtracted from the general election grant. Additionally, all General Assembly grant amounts are subject to a Consumer Price Index adjustment in 2010.

General Election Campaign Grants
Major Party Candidates

- Reduced by the amount of unspent primary grant funds if the candidate received a primary grant.
- Reduced by any allowable personal funds if the candidate did not have a primary.
- Reduced to 30% of the full amount if the candidate is unopposed in the general election.
- Reduced by 60% of the full amount if the candidate faces only a minor party or petitioning opponent who has not raised an amount equal to the qualifying contribution threshold level for that office.

Grants for Major Party Candidates			
Office Sought	**General Election** *Nominated Candidate with Major Party Opponent*	**General Election** *Nominated Candidate with No Opposition*	**General Election** *Nominated Candidate With Limited Minor or Petitioning Party Opponents*
Governor	$3,000,000	$900,000	$1,800,000
Lieutenant Governor	NA	NA	NA
Attorney General	$750,000	$225,000	$450,000
State Comptroller	$750,000	$225,000	$450,000
State Treasurer	$750,000	$225,000	$450,000
Secretary of State	$750,000	$225,000	$450,000
State Senator	$85,000	$25,500	$51,000
State Representative	$25,000	$7,500	$15,000

General Election Campaign Grants
Minor Party Candidates

- If a candidate for the same office representing the same minor party in the prior regular election received 20% or more of the votes cast for that office, the eligible minor party candidate in the current election may receive the full grant amount.
- If a candidate for the same office representing the same minor party in the prior regular election received at least 15% of the votes cast for that office, the eligible minor party candidate in the current election may receive 2/3 of the full grant.
- If a candidate for the same office representing the same minor party in the prior regular election received at least 10% of the votes cast for that office, the eligible minor party candidate in the current election may receive 1/3 of the full grant.
- If a candidate for the same office representing the same minor party in the prior regular election received less than 10% of the votes cast for that office, the eligible minor party candidate in the current election may qualify for a grant by gathering signatures on nominating petitions approved by the Secretary of the State.
- Minor party candidates who receive less than the full grant amount may raise additional contributions that meet the criteria for qualifying contributions to make up the difference between the grant received and the amount of the full grant.
- Minor party candidates who receive a grant and report a deficit in post-election disclosure statements may be eligible to receive supplemental grant money depending on the percentage of votes they received.

Grants for Minor Party Candidates			
Office Sought	***Candidate for Minor Party Where Party's Prior Candidate for Same Office Received 10% of Vote***	***Candidate for Minor Party Where Party's Prior Candidate for Same Office Received 15% of Vote***	***Candidate for Minor Party Where Party's Prior Candidate for Same Office Received 20% of Vote***
Governor	$1,000,000	$2,000,000	$3,000,000
Lieutenant Governor	NA	NA	NA
Attorney General	$250,000	$500,000	$750,000
State Comptroller	$250,000	$500,000	$750,000
State Treasurer	$250,000	$500,000	$750,000
Secretary of State	$250,000	$500,000	$750,000
State Senator	$28,333	$55,667	$85,000
State Representative	$8,333	$16,667	$25,000

General Election Campaign Grants
Petitioning Candidates

- If a petitioning candidate's nominating petition is signed by electors equaling at least 20% of the votes cast for that office in the prior regular election, the eligible petitioning party candidate in the current election may receive the full grant.
- If a petitioning candidate's nominating petition is signed by electors equaling at least 15% of the votes cast for that office in the prior regular election, the eligible petitioning party candidate in the current election may receive 2/3 of the full grant.
- If a petitioning candidate's nominating petition is signed by electors equaling at least 10% of the votes cast for that office in the prior regular election, the eligible petitioning party candidate in the current election may receive 1/3 of the full grant.
- Petitioning candidates who receive less than the full grant amount may raise additional contributions that meet the criteria for qualifying contributions to make up the difference between the grant amount received by such candidate and the full grant amount.
- Petitioning candidates who receive a grant and report a deficit in post-election disclosure statements may be eligible to receive supplemental grant money depending on the percentage of votes they received.

Grants for Petitioning Candidates			
Office Sought	***Petitioning Candidates Whose Nominating Petition has Signatures Equaling 10% of Votes Cast***	***Petitioning Candidates Whose Nominating Petition has Signatures Equaling 15% of Votes Cast***	***Petitioning Candidates Whose Nominating Petition has Signatures Equaling 20% of Votes Cast***
Governor	$1,000,000	$2,000,000	$3,000,000
Lieutenant Governor	NA	NA	NA
Attorney General	$250,000	$500,000	$750,000
State Comptroller	$250,000	$500,000	$750,000
State Treasurer	$250,000	$500,000	$750,000
Secretary of State	$250,000	$500,000	$750,000
Senator	$28,333	$55,667	$85,000
Representative	$8,333	$16,667	$25,000

Expenditure Limits

- Expenditures during the pre-primary campaign or pre-general election campaign period (the ***"qualifying period"***) are limited to the required amount of qualifying contributions, plus any allowable personal funds the candidate provides to the candidate committee. The "qualifying period" ends with the commencement of the primary campaign period or the general election campaign period, as discussed below.

- For candidates for statewide office or the district office of State Senator or State Representative, the ***primary campaign period*** begins the day after the close of the state or district convention held to endorse such candidate. For candidates for the municipal office of State Senator or State Representative, the primary campaign period begins the day after the close of the caucus, convention, or town committee meeting held to endorse such candidate. The primary campaign period ends on the day of the primary election.

- The ***primary campaign period*** limit is calculated by adding the amount of the primary grant, and any unspent qualifying contributions or unspent personal funds provided by the candidate.

- If a primary election is held, the ***general election campaign period*** for the candidate nominated at the primary begins the day after the primary election. If there is no primary election, the general election campaign period begins the day after the candidate is nominated without a primary. The general election campaign period ends the day the campaign treasurer files the final required campaign finance disclosure statement.

- The ***general election campaign period*** limit is calculated by adding the amount of the general election grant, and any unspent qualifying contributions or unspent personal funds provided by the candidate.

Expenditure Limits during "Qualifying Period"			
Office Sought	**Qualifying Amount**	**Maximum Amount of Candidate's Personal Funds**	**Maximum Expenditures during Qualifying Period**
Governor	$250,000	$20,000	$250,000 - $270,000
Lieutenant Governor	$75,000	$10,000	$75,000 - $85,000
Attorney General	$75,000	$10,000	$75,000 - $85,000
State Comptroller	$75,000	$10,000	$75,000 - $85,000
State Treasurer	$75,000	$10,000	$75,000 - $85,000
Secretary of State	$75,000	$10,000	$75,000 - $85,000
State Senator	$15,000	$2,000	$15,000 - $17,000
State Representative	$5,000	$1,000	$5,000 - $6,000

Permissible and Impermissible Expenditures

- Public funds may be used only for campaign-related expenditures made to directly further the participating candidate's nomination for election or election.
- Campaigns must maintain detailed documentation indicating that campaign expenditures were made to directly further the participating candidate's campaign. Such documentation should be created at the time of the transaction.
- Campaign records are subject to comprehensive audits to ensure compliance with Program requirements.
- For detailed guidelines about permissible expenditures, please review the Citizens' Election Program regulations which can be found on the commission's web site.

Examples of Permissible Expenditures Include:

- **Political Campaign Advertising Expenses**, such as advertisements in any communications medium; production or postage costs related to customary campaign paraphernalia, such as flyers, signs stickers, t-shirts, hats, buttons, etc.;
- **Campaign Promotional Events**, including expenditures for food, space rental, staff and entertainment at such events;
- **Polling or Get-Out-the-Vote Activities** in furtherance of the participating candidates campaign;
- **Food and Beverages for Campaign Workers** not to exceed $15 per person for breakfast, $20 per person for lunch, or $30 per person for dinner;
- **Salaries for Campaign Staff or Consultants**, provided the campaign treasurer maintains a written agreement signed before the performance of any work or services, and contemporaneous records documenting the work performed or services rendered; and
- **Campaign Office Expenses**, including office rent and office supplies.

Examples of Impermissible Expenditures Include:

- **Personal Use** of any candidate or individual;
- **Payments to the Candidate or Candidate's Family Members** or the businesses of the participating candidate or any of the candidate's family members;
- **Contributions, Loans or Expenditures to other Candidates or Committees**;
- **Payments Above the Fair Market Value for the Goods or Services Received**; and
- **Expenditures Lacking Sufficient Contemporaneous Documentation.**

Excess Receipts or Expenditures

- Excess receipts or expenditures are contributions, loans, or other funds received, or expenditures made, or obligated to be made, by a candidate that in the aggregate exceed the applicable expenditure limit for a participating candidate. For the purposes of triggering a supplemental grant, a participating candidate's applicable expenditure limit is the sum of the amount of required qualifying contributions plus the amount of the gull grant for the applicable primary or general election period.

- If a participating candidate is opposed by a candidate who receives funds or makes or incurs expenditures that exceed the participating candidate's applicable expenditure limit, the participating candidate may be eligible to receive supplemental grant funds.

- Nonparticipating candidates are not required to follow the Program's expenditure limits; however, participating candidates are required to follow the Program's expenditure limits. Accordingly, participating candidates should not make excess expenditures. A participating candidate and campaign treasurer of a candidate committee which has received public funds are subject to various penalties if the participating candidate makes or incurs an obligation to make an obligation to make an excess expenditure.

Excess Receipt or Expenditure Reporting within 24 to 48 Hours

- If a candidate committee receives funds or makes or incurs an excess expenditure exceeding the participating candidate's applicable expenditure limit more than 20 days before a primary or election, the campaign treasurer must file a declaration of excess receipts or expenditures within 48 hours of receiving the excess funds or making or incurring the expenditure;

- If a candidate committee receives funds or makes or incurs an excess expenditure exceeding the participating candidate's applicable expenditure limit 20 days or less before a primary or election, the campaign treasurer must file a declaration of excess receipts or expenditures within 24 hours of receiving the excess funds or making or incurring the expenditure.

Independent Expenditures

- An independent expenditure is an expenditure that is made without the consent, knowing participation, or consultation of, a candidate or agent of a candidate committee, and is not a coordinated expenditure.

- Independent expenditures in excess of $1000, in the aggregate, must be reported to the Commission by the person or entity who makes the independent expenditure.

- Independent expenditures made with the intent to promote the *defeat* of a participating candidate who has received a grant from the Program may trigger a supplemental payment or supplemental payments to the participating candidate.

Independent Expenditure Reporting Requirements

- If any person or entity makes or incurs an independent expenditure more than 20 days before a primary or election, such person or entity must report such expenditure within 48 hours of making or incurring the expenditure;
- If any person or entity makes or incurs an independent expenditure 20 days or less before a primary or election, such person or entity must report such expenditure within 24 hours of making or incurring the expenditure.

Supplemental Payments to Participating Candidates Targeted by Independent Expenditures

- A participating candidate is eligible for a supplemental payment only if the opposing non-participating candidate's campaign expenditures, plus the amount of the independent expenditure, exceeds the applicable initial grant amount;
- An eligible participating candidate can receive a supplemental grant matching the amount of the independent expenditure, up to the applicable primary or general election grant amount.

Supplemental Reporting

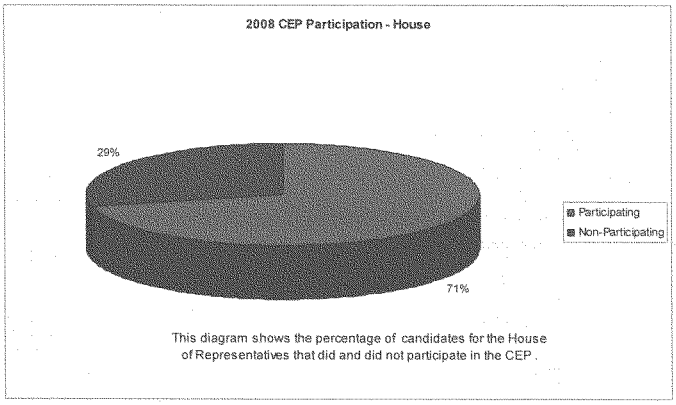
Candidates in Campaigns with any Participating Candidates – 90% Initial Threshold

- If ***any*** candidate in a primary or general election campaign with at least one participating candidate receives contributions, loans or other funds **or** makes or incurs an expenditure exceeding 90% of the applicable expenditure limit for that campaign, the campaign treasurer must file a supplemental campaign finance statement within 48 hours;
- After the initial report, ALL candidates in the campaign for that office must file additional periodic supplemental campaign finance statements with the Commission regardless of the committee's level of expenditures; and
- The Commission may impose penalties of up to $5000 for the failure to timely file supplemental campaign finance statements.

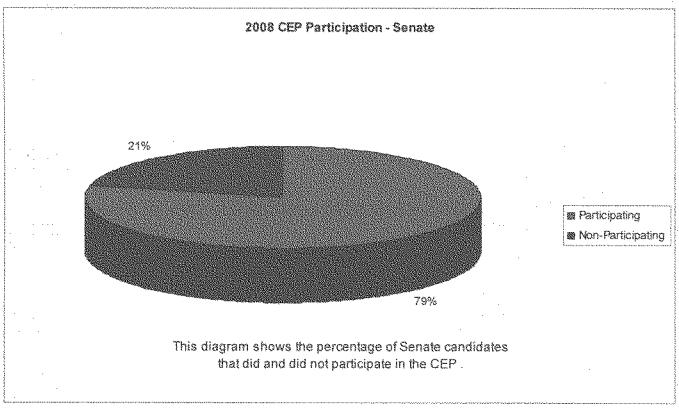
Purpose of Overview Materials

The purpose of this overview is to provide general information about the various rules and requirements of the Program. This document however, is not a substitute for the law, which can be found on the Commission's web site.

Connecticut State Elections Enforcement Commission
2008 Citizens' Election Program Statistics

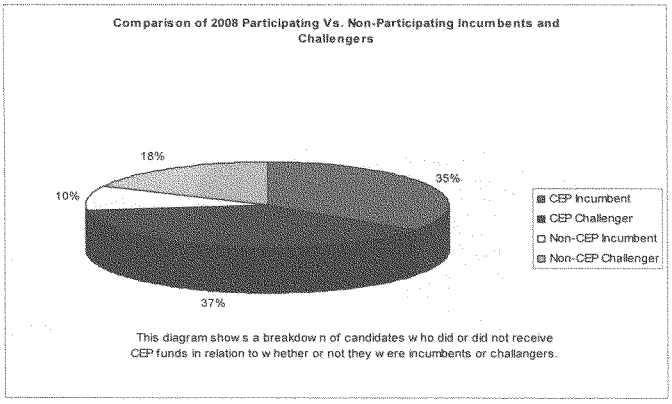


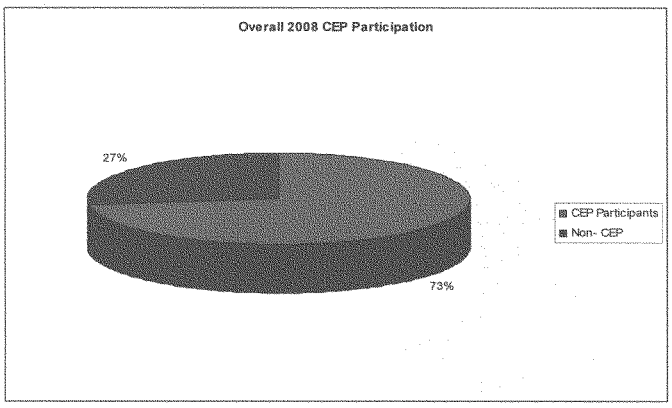
This diagram shows the percentage of candidates for the House of Representatives that did and did not participate in the CEP.



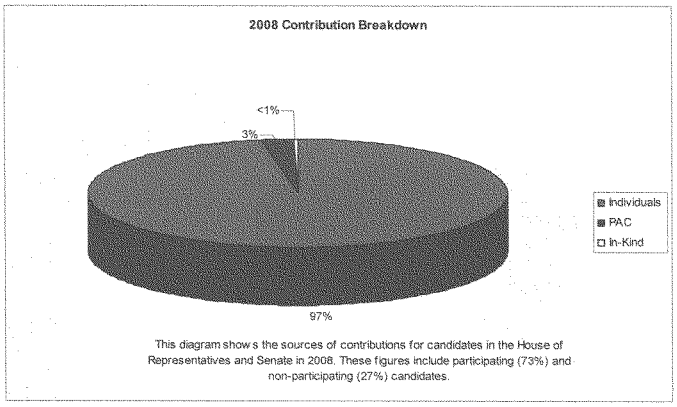
This diagram shows the percentage of Senate candidates that did and did not participate in the CEP.

Connecticut State Elections Enforcement Commission
2008 Citizens' Election Program Statistics

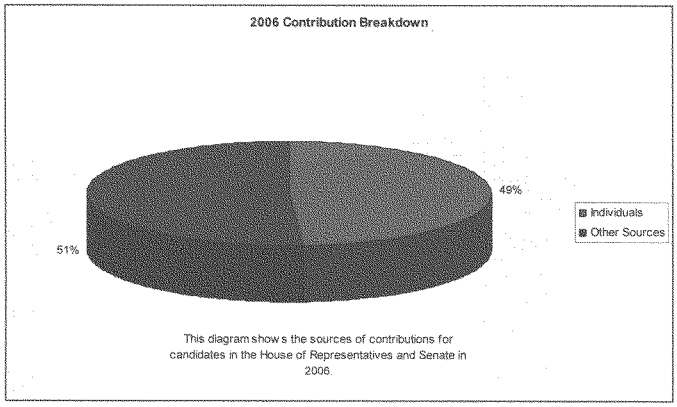




Connecticut State Elections Enforcement Commission
2008 Citizens' Election Program Statistics

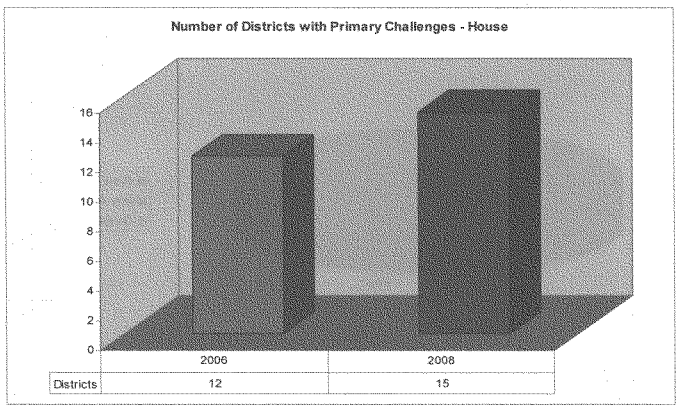


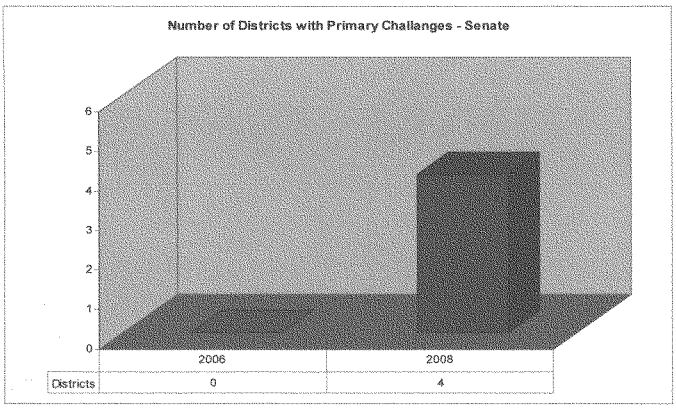
This diagram shows the sources of contributions for candidates in the House of Representatives and Senate in 2008. These figures include participating (73%) and non-participating (27%) candidates.



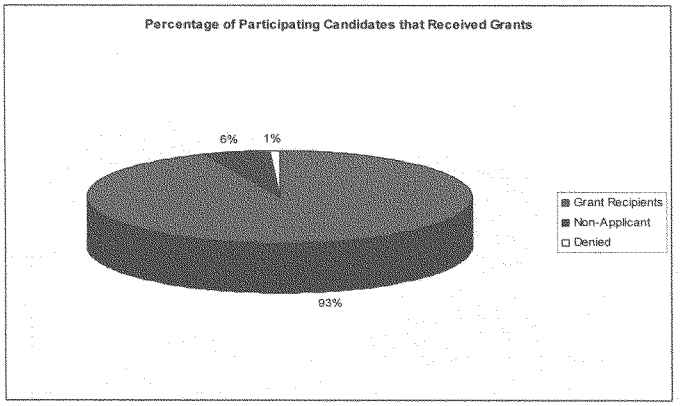
This diagram shows the sources of contributions for candidates in the House of Representatives and Senate in 2006.

Connecticut State Elections Enforcement Commission
2008 Citizens' Election Program Statistics



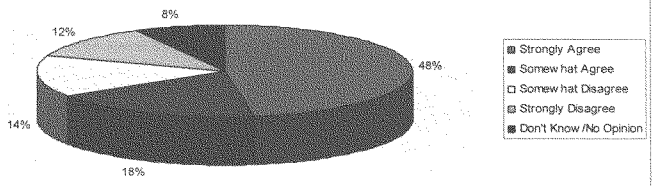


Connecticut State Elections Enforcement Commission
2008 Citizens' Election Program Statistics

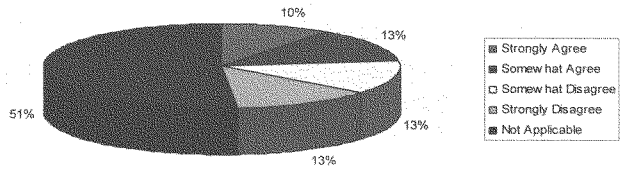


Connecticut State Elections Enforcement Commission
Citizens' Election Program Statistics
2008 Participating Candidate Survey

Participation in the Citizens' Election Program reduces the appearance that I am beholden to large donors or "special interests."

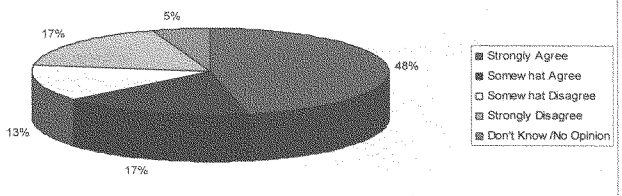


If you were elected in 2008, please indicate your agreement or disagreement with the following statement: The experience of participating in the Citizens' Election Program has made a positive impact on the way I do my job as a legislator.

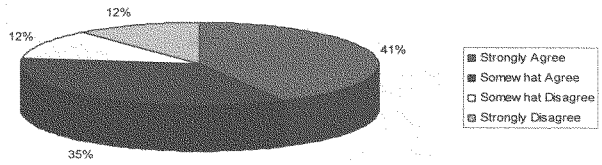


Connecticut State Elections Enforcement Commission
Citizens' Election Program Statistics
2008 Participating Candidate Survey

Public financing provided me the opportunity to compete for elected office without reliance on personal wealth or large donors.

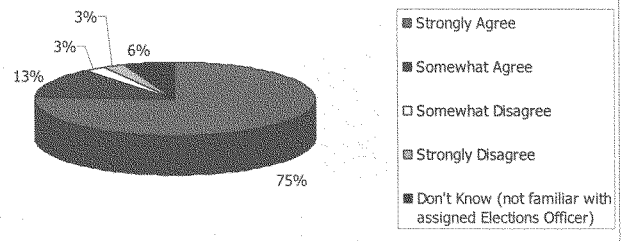


The number of qualifying contributions from in-district contributors required to qualify for a grant (150 for State Representative / 300 for State Senator) was appropriate and achievable.

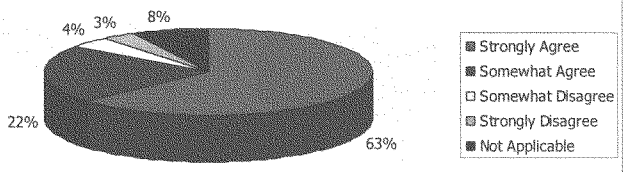


Connecticut State Elections Enforcement Commission
Citizens' Election Program Statistics
2008 Participating Treasurer's Survey

Having a specific Elections Officer assigned to assist the campaign was a valuable resource.

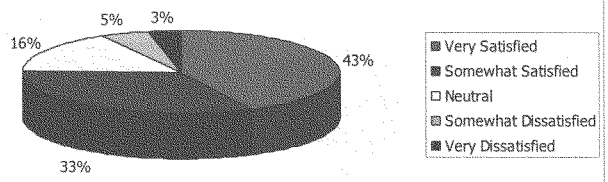


My questions were answered in a timely manner.

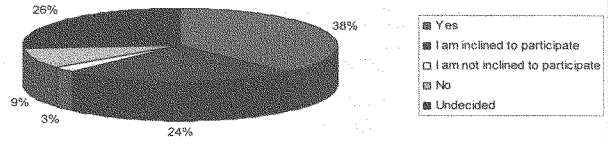


Connecticut State Elections Enforcement Commission
Citizens' Election Program Statistics
2008 Participating Treasurer's Survey

Overall, please rate your satisfaction with your experience with the Citizens' Election Program in 2008.



Do you intend to participate in the Citizens' Election Program in 2010?



STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Citizens' Election Program

2008 General Election Statistics

1. **Total number of candidates = 343**
2. Total number of D = 169
3. Total number of R = 135
4. Total number of Minor = 29
5. Total number of Petitioning = 10

6. **Total number of candidates House = 273**
7. Total number of D House = 136
8. Total number of R House = 105
9. Total number of Minor House = 23
10. Total number of Petitioning House = 9

11. **Total number of candidates Senate = 70**
12. Total number of D Senate = 33
13. Total number of R Senate = 30
14. Total number of Minor Senate = 6
15. Total number Petitioning Senate = 1

16. **Total number of participating candidates = 250**
17. Total number of participating D = 141
18. Total number of participating R = 102
19. Total number of participating Minor = 7
20. Total number of participating Petitioning = 0

21. **Total number of participating candidates House = 195**
22. Total number of participating D House = 111
23. Total number of participating R House = 79
24. Total number of participating Minor House = 5
25. Total number of Petitioning House = 0

26. **Total number of participating candidates Senate = 55**
27. Total number of participating D Senate = 30
28. Total number of participating R Senate = 23
29. Total number of participating Minor Senate = 2
30. Total number of participating Petitioning Senate = 0

20 Trinity Street • Hartford, Connecticut • 06106—1628
Phone: (860) 256-2940 • Toll Free-CT Only: 1-866-SEEC-INFO • Email: SEEC@ct.gov • Internet: www.ct.gov/seec
Affirmative Action / Equal Opportunity Employer

31. Total number of participating candidates who received grant = 235
32. Total number of participating candidates who received grant House = 184
33. Total number of participating D House who received grant = 106
34. Total number of participating R House who received grant = 74
35. Total number of participating Minor House who received grant = 4

36. Total number of participating candidates who received grant Senate = 51
37. Total number of participating D Senate who received grant = 29
38. Total number of participating R Senate who received grant = 21
39. Total number of participating Minor Senate who received grant = 1

40. Total number of participating candidates who received grant and won = 146
41. Received grant and won House = 114 (86 Democrat / 28 Republican)
42. Received grant and won Senate = 32 (22 Democrat / 10 Republican)

43. Total number of participating candidates who did not apply = 13
44. Total number of participating candidates application denied = 2

45. Total number of incumbents = 163
46. Total number of participating incumbents = 130
47. Total number of incumbents that won = 156
48. Total number of participating incumbents that won = 123

49. Total number of incumbents House = 131
50. Total number of participating incumbents House = 101
51. Total number of participating incumbents House that won = 95

52. Total number of incumbents Senate = 32
53. Total number of participating incumbents Senate = 29
54. Total number of participating incumbents Senate that won = 28

55. Total number of challengers = 180
56. Total number of participating challengers = 120
57. Total number of challengers that won = 31
58. Total number of participating challengers that won = 28

59. Total number of challengers House = 142
60. Total number of participating challengers House = 94
61. Total number of participating challengers House that won = 24

62. Total number of challengers Senate = 38
63. Total number of participating challengers Senate = 26
64. Total number of participating challengers Senate that won = 4

65. Total number of candidates by gender = 244 Male / 99 Female
66. Total number of candidates by gender House = 188 Male / 85 Female
67. Total number of candidates by gender Senate = 56 Male / 14 Female

68. Total number of participating candidates by gender = 166 Male / 84 Female
69. Total number of participating candidate by gender who received grant and won = 97 Male/ 49 Female

70. Total number of races with Major Party Opponent 2008 = 117
71. Total number of races with Major Party Opponent 2008 House = 90
72. Total number of races with Major Party Opponent 2008 Senate = 27

73. Total number of races with Minor or Petitioning 2008 = 35
74. Total number of races with Minor or Petitioning 2008 House = 28
75. Total number of races with Minor or Petitioning 2008 Senate = 7

76. Total number of races with Minor Party Only 2008 = 17
77. Total number of races with Minor Party Only House = 15
78. Total number of races with Minor Party Only Senate = 2

79. Total number of races Unopposed 2008 = 53
80. Total number of races Unopposed 2008 House = 46
81. Total number of races Unopposed 2008 Senate = 7

82. Total number of races Unopposed House participating candidate = 19
83. Total number of races Unopposed House participating candidate received grant = 16

84. Total number of races Unopposed Senate participating candidate = 7
85. Total number of races Unopposed Senate participating candidate received grant = 5

86. Total number of races with Major Party Opponent 2006 = 118
87. Total number of races with Major Party Opponent 2006 House = 91
88. Total number of races with Major Party Opponent 2006 Senate = 27

89. Total number of races with Minor or Petitioning 2006 = 41
90. Total number of races with Minor or Petitioning 2006 House = 35
91. Total number of races with Minor or Petitioning 2006 Senate = 6

92. Total number of races Unopposed 2006 = 46
93. Total number of races Unopposed 2006 House = 39
94. Total number of races Unopposed 2006 Senate = 7

The CHAIRMAN. Mr. Smith.

STATEMENT OF BRADLEY SMITH

Mr. SMITH. Thank you, Mr. Chairman and Ranking Member Lungren. I should note as well that I am testifying on behalf of the Center for Competitive Politics, which is an organization I founded in 2005 after I left the Federal Election Commission. I want to thank you for inviting me to be here.

I don't like fundraising either. I hate it. After this meeting, I am going to go back to a lonely room and make phone calls to raise money. That is what we do in the nonprofit world. We don't like it. So if you want to give me $3.3 million in matching funds at a four-to-one match, I would be very, very grateful. We all have things in our jobs that we don't like and that we need to deal with.

My question when it comes to this issue becomes one of: Where is the beef? We are all old enough to remember that saying.

We have heard repeatedly how good this is working. It is an unqualified success. It has been so successful. Really? I mean, we have heard some bad things about California today, but at least you are not selling off your State capitol like Arizona is; right? Where is the success in Arizona? They have the second biggest budget deficit as a percentage of the total budget of any State in the country, and this week they are auctioning off their capitol.

Where is the success in Maine? When I was a young man, I used to go canoeing on the lakes and rivers of Maine. It is a beautiful State, but despite all of that physical beauty, it is one of the highest States in the Nation in terms of the percentage of residents who are leaving the State.

Where is the evidence that suddenly these States are better governed and better run than other States that exist; States such as Utah or Virginia, which have unlimited corporate contributions, and are rated by Governing Magazine as the two best-governed States in the country? Where is the beef?

I think when we begin to get past the sort of platitudes—and we heard a couple of stories about legislation that legislators who favored were glad passed. I am sure that legislators who opposed that might say that the old system was better for the State. So where is the actual evidence in terms of what is helping the residents and that is improving their lives?

If we look realistically at campaign financing, taxpayer financing, it has consistently failed to deliver what it promises to do. For example, it does not save governments money. Both Arizona and Maine in the 8 years before they had public financing, or what they call clean elections of campaigns, had spending rates that were below the national average in growth. And in the 8 years since they have had government financing of campaigns, their spending rates have gone above the national average in the rate of growth. So it doesn't look to me like we are really saving a bunch of money. Just off the top, we don't even have a correlation there.

Let us talk about things like the question of influence of the wealthy, another one of the stated goals of this program, right? Well, one of the things that we know, and it has been noted repeatedly, is that there are other ways for people to participate, through 527s and independent expenditures and so on. But there are yet

other ways. For example, I note that one person who has been promoting this is Steven Kirsch. Now, Steven Kirsch gives away millions of dollars a year in various political causes, maybe not directly into races, but it is not like it is going to kill his influence. If anything, I think it will give him as much or more influence.

The founders of Ben & Jerry's, they are on board. Well, they have been giving away for years 5 percent, or whatever it is, of the company's profit to various political causes that they believe in. Their influence is not going to be dropped down.

We had Sam Waterston up here the other day. He can come up here and he can speak on anything that he wants. He would draw an audience. He is Sam Waterston. Me or some ordinary citizen schlepping around back in Granville, Ohio, where I come from, he can't come here and get an audience, right? He may know as much or more about it as Sam Waterston. Sam Waterston's influence is not going to be tailed off here, and my guess is that he is among the wealthy Americans.

It is suggested that we want to build confidence in government. There actually is data on this. These are things that have been studied, and it doesn't happen. There is polling data. There are studies by Jeffrey Milyo at the University of Missouri; David Primo at Rochester University; Beth Rosensen and Nate Persily at the University of Pennsylvania that doesn't show that campaign finance regulation of this type, or public financing, create a better view of the legislature. In fact, public financing, in Milyo's research, has been shown to actually lead to lower opinions of the legislature, and there may be reasons for that.

For example, one of the things we see is that it opens new elements of corruption. If you have a four-to-one match, it is like a money-making machine. I get my friends to each give me 100 bucks. I have three of them. They each give me 100 bucks, and I get another 1,200 bucks from the government. I have got 1,500 bucks. I give them a $1,000 contract. I got a few hundred bucks for my campaign, I don't really care about winning, and we all come out ahead.

I didn't bring a copy today, but with permission, I would like to offer for the record an article from the Phoenix New Times from April 2, 2009, which explains some of these episodes of corruption in the Arizona program.

The CHAIRMAN. Without objection.

[The information follows:]

New Times

The Dirty Truth about "Clean" Elections

By Sarah Fenske

published: April 2, 2009
http://www.phoenixnewtimes.com/content/printVersion/1164146

Last summer, Margarite Dale went on a spending spree.

The 44-year-old Glendale mom bought two computers — a monitor, desktop, *and* laptop, plus a full set of software for both. Total cost: $2,409. And she didn't stop there. In just a few weeks' time, Dale also purchased a $709 camera and $1,323 in office supplies.

So is Margarite Dale a compulsive shopper? A desperate housewife with a yen for Fry's Electronics?

Not even close. Dale was a Clean Elections candidate for the Arizona House of Representatives. As a member of the Green Party, she didn't have a chance of winning, but she still qualified for full funding under Arizona law. So when it came time to foot the bill for her schmancy new electronic equipment, the taxpayers of Arizona got stuck with the bill.

Yes, ladies and gentlemen, it turns out that even during these tough economic times, you and I are footing the bill for politicians to purchase home-office supplies, sushi dinners, even the occasional GPS system. And our candidates for office get to keep that stuff when the campaign is over — the expenses in question are, apparently, perfectly legal.

The state's landmark Clean Elections system began with the best of intentions. Progressives wanted to reduce the role of money in politics — taxpayer-funded elections seemed a brilliant way to take down special interests and give control back to the people.

But in the 10 years since voters approved the system, it's become a source of irregularities. Today we have politicians using Clean Elections money as personal slush funds. We have Clean Elections being used as just one more tool in the fine art of what Richard Nixon's guys used to call "ratfucking." And, ultimately, we have a Legislature that's more stupid, and more reactionary, than ever.

So much for the progressive wet dream.

After an election cycle that some politicians call the dirtiest in recent history, a growing number of legislators are talking about reform. Meanwhile, a lawsuit pending in federal court from the libertarian Goldwater Institute has a good chance of stripping away some key provisions of Clean Elections on First Amendment grounds. And the Clean Elections Commission has actually hired its own well-connected lobbyist to represent its interests at the Legislature.

No matter what happens next, big changes are on the way. And that's got people talking. They're wondering whether Clean Elections will survive the Goldwater lawsuit. They're wondering whether it's possible to reform the system enough to stop the high jinks.

And, most importantly, they're wondering whether these so-called "clean" elections are worth $15 million in public funds every year. If the system's not getting any cleaner, and the candidates aren't getting any better, what's the point?

Clean Elections sprung out of a reform movement that flourished in Arizona in the late '90s. After the AzScam scandal suggested that any legislator could be bought for a few hundred dollars, and Governor Fife Symington was convicted of fraud and forced to resign his office, progressives figured the state was ready for real change.

In that heady era, Clean Elections was just one in a series of initiatives pitched to voters. (We also got an independent redistricting commission, term limits, and a vote-by-mail option.) Clean Elections was pushed by activists at Common Cause and supported by well-meaning lefties across the country. Molly Ivins, the folksy columnist who got her start at the alternative weekly newspaper in Austin, Texas, even came to town to stump on its behalf.

They made a compelling case. Take the money out of politics, and surely you'd get politicians less beholden to special interest groups.

You'd think the "special interests" would have fought tooth and nail to derail the plan. This was a direct assault on their power.

But the opposition was oddly silent. The local Republican Party was in total disarray after Symington stepped down, and the Chamber of Commerce crowd seemed to underestimate the power of the movement. Jay Heiler, a political consultant who had been Symington's chief of staff, recalls that when the *Arizona Republic*'s editorial board met with leaders in the Clean Election movement to weigh an endorsement, they literally couldn't find any organized opposition to invite as a counterweight. (They ended up inviting Heiler, who had no stake in the matter other than that he opposed it on principle.)

No matter. By pitching the plan as "clean elections" rather than "public financing for elections," the initiative's backers hit the electoral jackpot. When Arizona said yes to the plan, it was one of just two states in the union (Maine being the other) to attempt full government financing for state elections.

But if the idea is simple, the execution's been a bit more complicated.

Rather than spending their time hitting up lobbyists and lawyers for the $840 maximum contribution allowed under Arizona law, "clean" candidates for the Legislature instead collect $5 donations from 200 friends and neighbors. (For statewide races, like governor and corporation commissioner, the threshold number of signatures is much higher, but the $5 limit stays the same.)

Once candidates hit the magic number, they automatically get a check from the state-run Clean Elections Commission. Should they advance to the primary, they get another one.

The money comes not from lobbyists or fat cats, but ordinary citizens who check off a box on their income tax returns to earmark $5 for Clean Elections. There's also a 10 percent surcharge on fees associated with all county court cases.

By agreeing to run "clean," candidates make certain promises. Other than a minimal amount of startup funds, they have to agree not to raise any more money. They also have to agree to accept Clean Elections' spending limits as absolute. Even if a candidate has $1 million in the bank, once he accepts the "clean" label, he can't use it on his own campaign.

Complicating things even more, the system is optional. So-called traditional candidates opt out of the "clean" system, raising as much as $840 from any donor per election cycle. They can also use their own money.

There's a catch, though. If Richie Rich spends $100,000 on his campaign, his "clean" opponents get matching funds to even the playing field. If your opponent is well funded, Clean Elections sees to it that you are, too.

By some measures, Clean Elections has been a success. The biggest fear originally was that legitimate candidates simply wouldn't use the "clean" option. Reporting requirements were too onerous, critics said, and limits too low. Others worried that not enough people would agree to donate $5 to keep the system solvent.

Those fears simply haven't been realized. So many people check their tax forms agreeing to give $5 to the cause that Clean Elections is flush with money. The Clean Elections Commission has actually "donated" $34.8 million to the general fund since 2003 — more than it's taken in $5 check-offs, spokesman Mike Becker says. In this tough-on-crime state, surcharges on criminal and traffic cases are that lucrative.

And legitimate candidates are increasingly opting to run clean. In 2002, 52 percent of all general election candidates ran as clean candidates. By 2008, that number had risen to nearly 65 percent, according to a *New Times* analysis.

And while Republicans have always lagged a bit behind Democrats in opting into the system, their numbers are similarly on the rise. Last year, exactly half of all general election GOP candidates chose to go with Clean Elections, according to a review of election data.

But while the system is clearly popular with both voters and politicians, it's a different story among political observers.

Janice Goldstein is a lobbyist with the left-leaning Arizona Trial Lawyers Association. She was never a supporter of Clean Elections, but she says that even she's been surprised by the low-quality candidates it's brought to the statehouse.

"As one of my members said, it's not just that they haven't talked to people with so-called special interests," she says. "We've got people who haven't talked to anybody! They collect their $5 contributions, get the government check, and they literally arrive here knowing nobody."

Heiler, the Republican, agrees.

"Instead of making our politics more clean, it's actually made it more polarized — and more accessible to relatively inept people."

Anyone who delights in the lurid minutiae of Arizona politics can tell you the story of Yuri Downing, Trevor Clevenger, and Paul Donati, a trio of young Scottsdale residents who registered to run as "clean" libertarian candidates in 2002, only to blow $86,000 on stuff like sushi and drinks at Sanctuary.

The three claimed that they were running a campaign designed to target ASU students and other disenfranchised voters. They had to hang out at places like RA Sushi and O Lounge because that's where the voters are, they claimed. Ha ha.

The Clean Elections Commission didn't find the campaign plan quite so humorous. It ordered the men to pay back nearly all the funds — and the Arizona Attorney General's Office was annoyed enough to prosecute Downing for fraud, perjury, and theft. (After pleading guilty to perjury, Downing went on the lam — he was finally arrested at a Tucson car wash last summer.)

But while the Scottsdale Three have been the most publicized example, they're hardly alone. A *New Times* review of campaign reports from the most recent election cycle found plenty of publicly funded expenditures that, at minimum, raise questions.

Candidates seem to have the philosophy that if the money is there, they might as well spend it. And that's led to some dubious outlays:

• Doug Quelland, a Glendale Republican, spent $795 at a bicycle shop.

• En route to winning his seat in Mesa, Republican Cecil Ash spent $323 on Segway ramps and $384 for a video camera.

• On the final day of a hotly contested Republican primary in north Phoenix, now-state Representative Carl Seel lavished $405 on a GPS unit for his car — along with a two-year service plan.

• Tempe Democrat Ed Ableser drew scorn in a previous run, in 2006, for spending $287 to rent a "frozen drink machine" from Cactus Rita. But his report in 2008 shows the lesson went unlearned — it's a near-endless list of foodstuffs. Blessed with $41,517, Ableser managed to spend $886 on "staff dinners" and food for himself, dining everywhere from RA Sushi to House of Tricks. At one point, Ableser even charged his campaign $4 for a cup of coffee at Xtreme Bean Coffee Company.

Some candidates also appear to have used public funds to enrich their own business interests. Republican Andre Campos was given $45,841 in public funds for his unsuccessful Senate bid. He spent more than half of it, $23,155, at a firm called Image Design Communications.

The firm's sole owner? Andre Campos himself — a guy who lists his principal business as a firm called Spanky Entertainment Marketing. Yep, Campos apparently took a break from marketing bars and clubs to obtain public funding to market himself. (Campos didn't return calls for comment.)

John Fillmore, a Republican running for state representative in Apache Junction, didn't even bother writing a check to a company he owned. Instead, he simply paid himself $2,861 in "petty cash/miscellaneous." Fillmore says he used the cash to avoid his bank's "exorbitant" checking fees.

Fillmore also paid $17,350 to Mesa attorney Daniel Washburn for "communications," according to records. Washburn was "helping me a lot, helping me orchestrate polling places throughout the district," Fillmore says. Would that help have cost so much if he weren't running with a slush fund, courtesy of the taxpayers? Fillmore isn't sure.

"Yeah, it's a lot of money, but it also isn't," he says. "You try to spend where you can and get some good out of it. You don't know if you are or not. You just kind of give it your best shot, you know?"

Then there's Daniel Veres, a Republican running in South Phoenix. He paid a former radio DJ $21,558 for "get out the vote" efforts and "communication" — including, at one point, $540 to set up a MySpace page.

Veres says he's happy with his consultant's efforts, but he didn't exactly get much bang for his buck. His MySpace page drew just 48 friends.

Jackie Thrasher is just the kind of candidate the Clean Elections system was designed to help. The Glendale mom was a band teacher at Lookout Mountain Elementary, a pragmatic Democrat who knew about life beyond politics but didn't have the money or wealthy contacts necessary to finance a campaign.

So when Thrasher ran for office in 2006, she ran clean. Without Clean Elections, Thrasher would have spent months courting donors and raising money. With it, the mom and teacher took just weeks to qualify for the $65,699 she eventually received to finance her campaign.

Thrasher is still grateful for the support. But last fall, when she was up for re-election, she saw the dark side of Clean Elections. Locked in a tight campaign with the small business owner she'd unseated just two years before, Thrasher was forced to stand by as her opponents gamed the very system that was supposed to prevent corruption.

In 2008, both Thrasher and her opponent, Republican Doug Quelland, ran as clean candidates. But the Clean Elections Commission recently examined allegations that Quelland illegally exceeded spending limits in his narrow victory.

According to testimony at the commission's meeting last December, Quelland hired a company called Intermedia to do some consulting and build a Web site. Intermedia's owner, Larry Davis, says the candidate paid him $11,000, plus free rent in a strip mall Quelland owned.

Quelland never reported that as a campaign expense. At the commission meeting, his lawyer argued that the work performed by Davis was merely a benefit to Quelland's business, a coffee shop, not the campaign. He agreed that the initial contract did call for campaign work, but that Quelland wasn't happy with Davis' services and fired him.

Davis angrily disputed that.

"[I]f you go [to] Mr. Quelland's bank and subpoena his records, you will have $11,000 in payments to my firm," he said. "Again, not for passing out fliers [for the coffee shop]. My vendors will also come in here and tell you as well that they worked with our firm well past March 10 to create his red [campaign] 'Q' T-shirts, to create his fliers . . .

"And I will be glad to bring folks in here at any time to tell you that we were out there pounding those signs with Mr. Quelland every day of the week."

The stakes are high. If Davis really did $11,000 in work for Quelland's campaign, it would put Quelland well over the spending limits he agreed to as a clean candidate. Those limits are strictly enforced for a reason: The system simply wouldn't work if candidates took an infusion from government, only to subsidize their campaigns secretly with their own funds.

While Quelland's lawyer denied the charges, the commission has directed its staff to investigate further. (Quelland did not respond to a request for comment.)

If the commission finds that Quelland exceeded his spending limits to that degree, he could be removed from office — a fate that's been suffered by only one previous candidate, David Burnell Smith.

But that's small consolation to the Democrats, who lost the seat by the narrowest of margins. As Jackie Thrasher points out, even if Quelland is removed, it's up to leaders in his own party to replace him.

And Quelland's alleged overspending was hardly the only dirty trick that Clean Elections may have unwittingly financed in District 10. Far more insidious is the very strange case of Margarite Dale, the aforementioned housewife turned Green Party candidate.

When Dale filed papers to run, Thrasher thought it was no big deal. "I saw a Green candidate had filed, and I thought, 'Good for them,'" she says. "Having a number of options and a number of different candidates, that's how it should be."

Until, that is, Thrasher got a call from a *real* Green Party activist. Celeste Castarena told Thrasher that she and her fellow party members had never heard of Margarite Dale. When they did a little research, Castarena reported, they'd learned that Dale had changed her voter registration to Green just days after the Greens qualified for Clean Elections funding.

Prior to that, Margarite Dale had been a Republican.

In an attempt to be open-minded, Castarena says, she invited Dale to a Green Party event. Dale declined, saying she couldn't attend meetings on Sundays or Wednesdays.

"We ended up voting to actively oppose her," Castarena says.

It didn't matter: On the ballot, Dale was still listed as Green Party. And, because real Green Party volunteers had earned Clean Elections status for their party, Dale was awarded a massive infusion of funds. Simply by registering as a Green candidate and gathering 200 token contributions, Dale was granted $68,531 in public money for her "campaign."

Evidence suggests that Dale's candidacy was the ultimate dirty trick — a dastardly plot by the Republican candidates to siphon votes from Thrasher.

The GOP barely bothered to hide its connections to Dale. Doug Quelland's wife, Donna, actually donated $5 to kick-start Dale's campaign — and so did Jim Weiers, the other Republican running in the district, plus five members of his family.

Questioned about the connection, Dale says the Weierses are friends.

Indeed.

Dale certainly ran her campaign as if she were trying to help her "friends" in any way she could. Oddly for a Green Party candidate, Dale hired a campaign consultant closely allied with the GOP. In the most recent election cycle, Blue Point Consulting LLC ran the campaigns of congressional candidate David Schweikert and Pinal County Sheriff Paul Babeu, both serious conservatives. Soon after the election ended, Blue Point hired the GOP's executive director as senior vice president.

Strangely, Dale's campaign also chose to spend a full $10,500 on "polling/research." Consultants say that's rare in a legislative campaign; polling is much too expensive when you're seeking grassroots support.

Even odder: Dale chose to use National Research, a polling firm in New Jersey. Among the few Arizona pols listed on the firm's Web site as past clients? Jim Weiers himself.

So did a big chunk of Margarite Dale's funding go to help her supposed "opponents" figure out the lay of the land? It certainly looks that way, and when *New Times* reached Dale by phone last week, her denials were fairly unconvincing. How did she come to hire the New Jersey firm? Dale couldn't say. Did she share the data she gathered with her Republican "opponents"? Dale didn't know.

"I don't know what the big thing is," she said. "Everything we paid for with Clean Elections money was exactly within the confines of what we were supposed to be doing. Everything we got, we used for my campaign. I did run a campaign, and I got 3,000 votes. You don't get 3,000 votes by doing nothing."

When pressed about her ties to Weiers, Dale grew audibly annoyed. "I thought this was about my experience in the campaign," she said. "I'm kind of done. Thanks." Then she hung up.

Dale's numbers are a little off. She got 2,358 votes, not 3,000. But that was unquestionably enough to make a difference. Jackie Thrasher lost her House seat by a fraction of that — just 553 votes.

"I was really angry, but I got over being angry," Thrasher says today. "There were just too many factors, including these shenanigans, that kept me from winning this time.

"I still believe in Clean Elections, but changes definitely have to be made."

If there's a villain in the Clean Elections story, most moderates will tell you that Constantin Querard fits the bill. A Laveen-based political consultant who boasts that he works only for pro-family (read: anti-abortion) candidates, Querard has made a mint taking down Republicans he believes to be insufficiently conservative.

And this is the real dirty truth about Clean Elections: The measure that was meant to be a Trojan Horse for the left has instead become the ultimate tool of the hard right.

"That's what always happens with such so-called innovations," says Heiler, the Republican operative. "Political culture is like an anthill. It will crawl all over what's placed in the middle of it and try to use it to its advantage."

Querard makes no apologies for that.

"With the exception of Janet Napolitano winning in 2002, which would not have happened without Clean Elections, it's been almost exclusively a boon to conservative Republicans," he says. "And that's nice — even though conservative Republicans tend to be Clean Elections' most vocal critics."

No one has done a better job working the system than Querard. In 2008, he was paid $111,050 by Clean Elections candidates alone. Not bad for a few months' work.

Records show that Querard also works for traditional candidates, like former Speaker — and current state Rep — Jim Weiers. But his success has been heavily dependent on Clean Elections bounty.

His strategy is simple. Arizona has a surplus of "safe" districts, which are either heavily Republican or heavily Democrat. That means the primary can be more important than the general election. A Democrat could never topple a moderate Republican incumbent in most districts — but a social conservative running in the primary could.

Of course, social conservatives used to be at a huge disadvantage. The Chamber of Commerce crowd provided most of the party's financing and was more into laissez faire economics than stopping abortion.

But Clean Elections changed all that. Thanks to public financing, the humblest born-again Christian has just as much money as the most-connected businessman.

Querard is convinced that's a good thing. "Some Republican — someone who wasn't a Clean Elections fan — was saying that this process worked so much when the Chamber of Commerce use to vet the candidates. Well, to the average person voting, no one ever realized that was their job — or the job of the old 'Phoenix 40' before them. This is not what people had in mind when they describe the democracy they want to live in."

But even Querard admits that a bunch of true believers who answer to no one but their consciences can make it pretty difficult to govern. "I can see that degree of independence can cause problems for the people who used to run the show," he says.

And really, in this brave new world, a legislator no longer needs to be a joke in the halls of the Capitol to draw a well-funded primary challenge. No, these days, he need only fail to toe a partisan line. The next thing he knows, his opponents are guaranteed enough funding to get an equal say on the airwaves.

And who do you think primary voters are going to elect? A lawmaker who stresses competence and getting the job done? Or a challenger who pledges ideological purity?

That sort of intra-party takedown has ended the careers of a number of respected lawmakers. Take Toni Hellon, a Republican representative from Tucson who faced an intra-party challenge from Al Melvin in 2006. Melvin, a former merchant marine obsessed with border safety and school choice, got $53,753 in public funds to take on Hellon.

For every dollar Hellon raised from supporters happy with her representation, Clean Elections happily wrote Melvin a check to equalize the playing field.

Melvin, naturally, hired Constantin Querard. And, by painting Hellon as a RINO, or "Republican in Name Only," Melvin persuaded primary voters to give her the boot.

Melvin eventually lost in the general election, despite the additional $35,836 in public funds Clean Elections granted for that stage of his campaign. But the money wasn't spent in vain. It almost certainly increased Melvin's name recognition and readied him for a run in 2008.

So last fall, Melvin again teamed up with Querard. This time they set their sights on another perceived RINO, Pete Hershberger.

Hershberger was a four-term state rep and a Goldwater-style Republican. But in these increasingly shrill times, he'd become a guy social conservatives loved to complain about. He was iffy on abortion. He supported more funding for CPS.

His step across party lines in 2008 to support Governor Janet Napolitano's budget may have been the final straw.

The people who fund traditional campaigns — lawyers, lobbyists, people with business at the statehouse — had no problem with Hershberger. An independent expenditure group spent nearly $7,000 defending his record.

But for every dollar the independent group spent, Al Melvin got matching funds. He ultimately got $38,763 in public funds for his campaign from Clean Elections and knocked out Hershberger, 51 percent to 49 percent.

This time, Melvin actually won in the general election, too.

Now that he's elected, though, Melvin had better watch his back. Should he choose not to toe the party line, some young hardliner is undoubtedly waiting in the wings, needing only to collect 200 $5 contributions to get full public funding.

And Melvin, bizarrely enough, has already earned a RINO label from the Pachyderm Coalition, a local group intent on weeding moderate Republicans out of the Legislature.

His crime? Sponsoring "nanny state" bills that would ban text-messaging while driving and smoking with a minor in the car.

It's not only incumbents who've felt Querard's sting. It's also middle-of-the-road guys who dare to give politics a chance yet aren't sufficiently ideological.

Like Jackie Thrasher, Tony Bouie isn't your typical politician. A kid who grew up in New Orleans and made his name as a football star at the University of Arizona, he played in the NFL before moving back to Arizona and starting a company that manufactures plastic drinking cups.

A committed Christian, Bouie had long thought about running for office. But it wasn't until he was diagnosed with stage four lymphoma in 2007 that he decided to take the plunge.

"It was an impetus to live life to the fullest," he says. It also helped that when Bouie called Doug Clark, a longtime friend who served in the Legislature, Clark said he was thinking about retiring.

Bouie just happened to live in a district where the seat would be opening. "It was a God moment," he says.

Bouie remembers Clark explaining that he'd have to decide whether to run the traditional way — to raise money himself — or to accept government funding. Bouie had first identified with the Republican Party after being horrified by the huge taxes taken out of his NFL paycheck. He didn't even think twice.

"'The government gives you money' — that's not me," he says. "I told Doug, I want to raise the money the other way."

As a political novice, Bouie had no idea what awaited him.

The former football star was running in the Republican primary against Carl Seel and Sam Crump. (Because each district elects two representatives, two of the three men would make it to the general election.) Seel was running as a clean candidate; Crump, like Bouie, used traditional funding.

Both of Bouie's opponents hired Constantin Querard, campaign records show.

And, as Bouie quickly learned, the teamwork between Seel and Crump provided Seel with some major advantages.

Every time Bouie spent the money he'd raised, Seel was given money to match it. Fair enough. But every time Seel's own partner, Crump, spent money, Seel got matching funds, too. Bouie, as a traditional candidate, did not.

Seel ended up getting $58,146 just for the GOP primary.

And Seel didn't use the money to generate high-minded discussion of the issues. Instead, he hammered Bouie as a faux-Democrat, noting that he'd bothered to change his party registration only a few days before registering.

One ad featured a braying donkey with the caption, "This NOT an elephant."

But to Bouie, a black man raised in the Deep South, it didn't look like the symbol for the Democratic Party, either. It looked like a mule, an offensive reference to the post-Civil War promise of "40 acres and a mule" to newly freed slaves.

"It depends on your perspective," he acknowledges. "But I was raised in New Orleans, where racial tensions were pretty high and pretty overt. I took it as a definite dig at my ethnicity." That it was paid for with public funding only made the ad that much more galling. (Seel didn't return calls for comment.)

Bouie finished third in the primary. And though he filed complaint after complaint with the Clean Elections Commission, the commission largely refused to get involved. Bizarrely, it's perfectly legal for traditional and clean candidates to work together — even the result is matching funds for the clean candidate to level the playing field with his own partner.

And the shellacking that Bouie took in that race was nothing compared to what happened to Kara Kelty in the 2008 Democratic primary for the Arizona Corporation Commission.

Kelty, a city councilwoman in Flagstaff, knew she'd need Clean Elections money to have a chance in the race, which is not only statewide but also generally low-profile. She didn't realize then that Clean Elections would ensure her defeat.

When Kelty contemplated running, a longtime political operative, Sam George, approached her about running as a team. (Under his previous name, Sam Vagenas, George was a consultant on the original Clean Elections ballot initiative.)

George, a fellow Democrat, explained to Kelty that he had a terrific plan. He would run as a traditional candidate, spending hundreds of thousands of dollars of his money on the race. That would trigger matching funds from Clean Elections for his clean opponents.

Ostensibly, the money would be granted to even the playing field with George. But because the three Democrats would be running as a team, the real result would be to triple George's investment. With carefully coordinated radio spots and TV commercials financed with their pooled funding, George was confident his Solar Team would have a huge advantage against the less-organized Republicans going into the general elections.

To Kelty, it seemed shady.

"I'm opposed to the concept of using public money as a leverage," she says.

But George had no problem getting two other candidates to sign on. And when he poured $250,000 into his campaign, the Solar Team of Sandra Kennedy, Paul Newman, and himself got $496,000 from Clean Elections to "match" the expense.

The three didn't even try to hide their strategy. Their ad campaign touted the Solar Team. At one point, a Web site erected by their campaign manager asked for donations to the shared effort. (That was definitely a mistake, because clean candidates aren't allowed to raise money after qualifying.)

There was only one kink in George's plan — and that was Kara Kelty. After spurning his offer to run as a team, Kelty stayed in the race and qualified as a clean candidate. That meant she stood to get matching funds every time George spent money.

George and company had an easy fix for that. A lawyer linked to their campaign manager filed a lawsuit to get Kelty kicked off the ballot.

Ultimately, Kelty survived the challenge. But she still couldn't match the combined purchasing power of the Solar Team. She finished fourth in the primary, the only Democrat not to advance to the general election.

She attributes her loss to the difficulty of running a statewide campaign from anywhere other than Phoenix — and to her huge financial disadvantage, thanks to Clean Elections and those matching funds.

Kelty still supports the idea of Clean Elections. But, she says, "as a supporter of public financing for elections, it's disconcerting to me that Clean Elections survived a number of court challenges, only to have the system undone by candidates who were themselves beneficiaries of the system."

George's plan ultimately didn't quite work.

In the general election, the wealthy consultant again poured a quarter-million dollars into his campaign, and again triggered similar sums for his opponents. Yes, the Republican candidates also benefited at that point, but the Solar Team had a running start, thanks to the expensive primary.

For the first time in a decade, a Democrat won a seat on the Corporation Commission. And not just one Democrat — both Kennedy and Newman were elected.

George ended up losing by a hair, to the only person with a better victory plan than his own complicated formula. Former state legislator Bob Stump just happens to have the same name as an incredibly popular late former Arizona congressman.

Never mind that *this* Stump grew up in Hawaii and bears no relation, save party affiliation, to the late congressman. It was still enough to eke out a third-place finish.

Todd Lang, executive director of the Clean Elections Commission, insists that any problems with the system are minimal.

"Any campaign consultant worth their salt will try to game whatever system's in place," he says. "I don't see that as a Clean Elections problem. I see that as the result of political strategies. And what changes behavior is when these strategies don't work." As one example, he notes, Sam George ultimately didn't win his seat on the Corporation Commission. "The point is, it didn't work."

Don't tell that to the Democratic Party. Despite George's loss, the party sees the election of Sandra Kennedy and Paul Newman as its greatest success in 2008.

And even if Lang doesn't see a problem, politicians on both sides of the aisle do. State Representative Chad Campbell, D-Phoenix, says that the most recent election cycle was an eye-opener: "It exposed some of the problems with the Clean Elections system."

Campbell still believes in the system but says he'd like to see reform. He's introduced a bill to close at least one loophole in the system. "This is public money," he says. "We need a higher standard of accountability and transparency."

But no matter what happens in the statehouse, there's a good chance we won't see shenanigans quite so obvious as Sam George's Solar Team in future election cycles. That's thanks to what's happening in the courthouse.

Last June, the U.S. Supreme Court handed down a decision on *Davis v. FEC*. That decision struck down the federal "Millionaire's Amendment," which allowed candidates facing wealthy, self-funded opponent to enjoy higher-than-normal contribution limits.

The Davis decision is complicated, but here's the gist. Campaign-finance law had long held that if candidates were facing an opponent who put millions of personal wealth into his own campaign, they'd be allowed to raise more money from individual donors to level the playing field.

The court found that provision unconstitutional. Spending on political campaigns is a form of free speech, it held, so the Millionaire's Amendment was unfair to, well, millionaires. Just because a

candidate is rich shouldn't mean that fundraising rules change for his opponent. That's an illegal "drag" on the millionaire's free speech rights.

The court made one exception: programs in which the state could justify a compelling interest in stopping corruption.

Reading the court's decision, Nick Dranias, a lawyer at the Goldwater Institute who specializes in First Amendment work, quickly realized that Arizona had a problem.

If raising contribution limits to even the playing field with wealthy candidates is unconstitutional, *surely* so is a state system that guarantees public funding for that purpose. After all, if a candidate like Sam George spends $500,000 of his own money, Clean Elections matches that for his opponent.

Isn't that a drag on George's free speech?

And really, didn't the George case show compellingly that matching funds didn't so much stop corruption as increase it?

The Goldwater Institute filed suit in federal court in late summer. And though U.S. District Court Judge Roslyn Silver refused to issue a restraining order halting matching funds for last fall's election, she did issue a ruling suggesting that there's a substantial likelihood Goldwater will win on the merits. The matching funds, she agreed, are unconstitutional.

Lang, the Clean Elections Commission's executive director, is confident that Clean Elections can win at trial. "The whole point of the First Amendment is to ensure a robust political debate," he says. "That's what matching funds do."

But observers — some of them strong supporters of the system — are less confident. They feel Judge Silver used pretty strong language in her initial ruling and will be unlikely to change course now.

Without a matching funds provision, they say, Clean Elections is doomed.

"You won't see any incumbents using Clean Elections, that's for sure," said one prominent Democratic campaign consultant. "It would be like putting a bull's-eye on your back." After all, by accepting Clean Elections money, candidates agree to strict spending limits — making them vulnerable to attack without matching funds.

One proposal being discussed would double the amount of funding for Clean Elections candidates. Instead of needing a trigger to get more money, everybody would get more money right off the bat. But some insiders say that won't work — it doesn't matter what the limit is so much as that there is one, they say.

Clean Elections, they worry, may be dead in Arizona.

Ironically, public financing for political campaigns is taking off in other parts of the country. Thanks in part to the Arizona experiment, Connecticut voters recently approved a similar plan. Activists say a bill

is about to be introduced in Congress to allow our national representatives the same financing options. They're beginning to trot out the same chestnuts as progressives promised in Arizona in 1998: cleaner politics, and a diminished role for lobbyists.

But anyone examining how this grand experiment played out in Arizona need only note one salient fact.

In 2007, the Clean Elections Commission quietly hired a new representative to push its interests at the Legislature. That man is Mike Williams, a lobbyist extraordinaire who's been haunting the halls of the Arizona Legislature for more than 15 years. His clients range from Taser to Redflex to United Healthcare.

And that means the very commission that was supposed to reduce the role of powerful lobbyists has now hired a powerful lobbyist of its own — to lobby the very lawmakers dependent on the commission for financing.

They call this reform?

Mr. SMITH. Seeing that my time is up, I won't go further other than to say I will be happy to answer questions.

The CHAIRMAN. Thank you.

[The statement of Mr. Smith follows:]

COMMITTEE ON HOUSE ADMINISTRATION

HEARING ON

H.R. 1826 AND THE PUBLIC FINANCING OF CONGRESSIONAL CAMPAIGNS

JULY 30, 2009

PREPARED TESTIMONY OF
BRADLEY A. SMITH
JOSIAH H. BLACKMORE II/SHIRLEY M. NAULT
DESIGNATED PROFESSOR OF LAW
CAPITAL UNIVERSITY LAW SCHOOL
COLUMBUS, OHIO

AND

CHAIRMAN
CENTER FOR COMPETITIVE POLITICS
124 S. WEST STREET, SUITE 201
ALEXANDRIA, VA 22314
(703) 894-6800
WWW.CAMPAIGNFREEDOM.ORG

Testimony of Bradley A. Smith
House Committee on Administration, 7/30/09

Thank you Mr. Chairman, Ranking Member Lungren, and members of the Committee for inviting me to appear before you today. My name is Bradley Smith, and I am the Josiah H. Blackmore II/Shirley M. Nault Designated Professor of Law at Capital University Law School in Columbus, Ohio, where I specialize in election and campaign finance law. From 2000 to 2005 I served as Commissioner of the Federal Election Commission, which of course oversees the public financing system for presidential elections, and I served as Chairman of the Commission during 2004. I am also the founder and Chairman of the Center for Competitive Politics, a non-profit educational organization based in Alexandria, Virginia, which educates the public on the effects of money and campaign regulation on politics and campaigns, and I am testifying today on its behalf.

First, as a matter of terminology, I will usually refer to H.R. 1826 (aka the "Fair Elections Now Act" or "FENA"), and similar proposals of government subsidies to campaigns as "tax" or "government" financing, rather than "public financing." I agree with President Obama and others who noted that even though then-candidate Obama declined last year to participate in the Presidential Campaign Financing System, his campaign was indeed funded by the "public," through the voluntary contributions of millions of Americans. By referring to a system of government subsidized campaigns, such as H.R. 1826, as "tax" or "government" funded, we avoid confusing the issue.

Various schemes for government financed campaigns have floated about for literally over a century. The reasons for the long term interest in having campaigns funded by tax dollars are well known and require no elaboration. There is concern that the dominant system of private, voluntary contributions gives too much influence to "special interests," is contrary to notions of political equality, and, particularly in a system such as the existing federal system, with low campaign contribution limits, takes up too much candidate and officeholder time. How serious these problems really are is a matter of some dispute. *See e.g.* John Samples, The Fallacy of Campaign Finance Reform (2005); Bradley A. Smith, Unfree Speech: The Folly of Campaign Finance Reform (2001); Lillian R. BeVier, *Money and Politics: The First Amendment and Campaign Finance Reform*, 73 Cal. L. Rev. 1045 (1985). But regardless of the seriousness of these problems, what I wish to focus on today is the likelihood that H.R. 1826 or other forms of tax financing can address these problems in any case.

Government financed campaigns are often presented as the cure all for a wide variety of perceived ailments with the Democratic system. Little attention, however, is paid to the actual successes or failures of these programs. This is somewhat surprising, as it is not as though we do not have examples to study. Some form of government financing has existed for Presidential elections for more than 30 years. States such as Wisconsin and Minnesota have also experimented with tax financing for over 30 years. New York City has employed government financing for two decades, and Maine and Arizona, the two states most often held up now as examples, have also had nearly a decade's worth of experience with government financed campaigns. Kentucky has a system; pilot programs have been run in North Carolina and New Jersey. So we can actually look at experience in deciding whether to extend such programs to the U.S. Congress.

Somewhat oddly, when asked if government financed campaigns have been successful, the most common answer I have observed is to list the percentage of candidates who choose to participate in the program, or have been elected using government subsidies. But this is not a measure of success – it is merely a restatement of the law. For example, suppose that, concerned about the time officeholders devote to fundraising, instead of providing public subsidies Congress decided to raise the contribution limit from its current $2400 to $25,000. We would expect that the overwhelming majority, indeed probably all, members of Congress would accept contributions in excess of $2400. Yet nobody would say that that fact alone meant that the new law was a success. Rather, success should be measured in benefits to the public.

Tax financing of campaigns imposes an obvious cost in dollars, a cost particularly hard to bear in times of record deficits, to pay for something that, absent the subsidies, citizens would pay for voluntarily. True, as part of the overall federal budget, tax subsidies for campaigns, as suggested in H.R. 1826, would be a small matter. But it is real money. If we take low end estimates that the program will cost approximately $700 million per year, we realize that for that same amount the government could fund the best art museum in each state with $14 million annually. One year of financing for FENA would otherwise pay for approximately 7 years of operation of the Consumer Products Safety Commission. It would pay to run the Federal Election Commission for approximately 11 years. It is nearly twice the annual budget for the Corporation for Public Broadcasting. It would fund the National Endowment for the Arts for 4 and half years, or the National Endowment for the Humanities for approximately 5 years. It would offset by sevenfold the recent $100 million cuts in cabinet budgets introduced with much fanfare by the Administration. You get the picture – in the great scheme of the federal budget, it is not a lot – but it is real money.

So at a bare minimum, government campaign subsidies must be justified by some benefit to the public. There are strong theoretical reasons to think that tax subsidized campaigns cannot deliver the benefits promised. For example, I am sure that no member of this Committee thinks that the government can prevent private political participation and speech – and just in case anyone does, the Supreme Court has consistently held otherwise.

The result is that tax financed campaigns will not create the hoped for equality or end to special interest influence. Those will money will still be able to spend. For example, many of you will be familiar with the Supreme Court case this term, *Caperton v. Massey Coal.* That case involved a $3 million expenditure by the CEO of Massey Coal aimed at defeating a West Virginia Supreme Court Justice. Some have suggested that the *Caperton* case demonstrates the need for FENA. *See e.g.* Public Campaign Statement on *Caperton v. Massey* Supreme Court Decision, June 8, 2009, at http://www.publicampaign.org/pressroom/2009/06/08/public-campaign-statement-on-caperton-v-massey-supreme-court-decision. But the reality is that FENA or other plans for government subsidies would do nothing to change the facts of *Caperton* – the spending there was independent of the campaign and cannot be blocked by the legislature; the spender in question spent the money despite the fact that the campaigns of the two judicial candidates were both well funded on their own. FENA or no, *Caperton* exists. This is just one

obvious example, then, of how FENA supporters, in their enthusiasm, are arguing that FENA will solve problems that, quite obviously, it won't.

Similarly, North Carolina's government financed judicial elections have merely given rise to greater independent spending. And independent spending was one reason given by then-candidate Obama for not participating in the presidential system. The legislature declined to expand its program this year.

As Congress considers FENA, the trend is rather clearly to abandon, not expand, "clean elections" in the states. Besides North Carolina, Massachusetts repealed its "clean elections" system some years ago. New Jersey ran a four year pilot program after which it decided to terminate, rather than expand the program. The Newark-based Star Ledger, an early and ardent supporter of "clean elections," ultimately called it, "an ill-advised experiment that, "doesn't really work. ... The result is a big bill for taxpayers and no real change in how things get done in [the state capital]." Star Ledger Editorial, *End Clean Elections Flop,* Sep. 5, 2008, available at http://blog.nj.com/njv_editorial_page/2008/09/end_cleanelections_flop.html. Minnesota recently suspended a system of tax subsidies that had long been deemed ineffective in any case. Portions of Arizona's plan were recently deemed unconstitutional, *see McComish v. Brewer,* slip op. No. CV-08-1550-PHX-ROS (D. Ariz., Aug. 29, 2008), available at http://www.campaignfreedom.org/docLib/20080903_AZ_cleanelections_order.pdf. Vermont's system was struck down as unconstitutional by the U.S. Supreme Court in Randall v. Sorrell. Maine has recently reduced disbursements from its program, in order to use the revenue for more pressing government needs.

Thus, this Committee and Congress as a whole must look beyond the promises to the likelihood that FENA can deliver on its goals.

H.R.1826 (and its companion bill, S. 752) seek to establish a system of public funding to combat the "undermining of democracy by campaign contributions from private sources." H.R. 1826, 111th Cong. §101(a) (2009). The sponsors of the legislation and the "good government" groups advocating for its passage have focused on several perceived ills of the current fundraising system, and frequently invoke so-called successful stories from states with similar public financing schemes, including Maine, Arizona and most recently, Connecticut.

Careful analysis of these programs shows that the claimed successes do not exist other than in the rhetorical excesses of the campaign finance regulation communFar too often, anecdotal stories and wild exaggeration substitute for the close scrutiny that should be applied to the purported benefits of taxpayer financed political campaigns.

Coincidentally to this hearing, this week the Center for Competitive Politics had planned the release of an analysis of FENA, *Fairly Flawed.* In it, we examine the 7 policy goals described in the "Findings and Declarations" of H.R.1826 and compare these goals with the actual experiences of states and cities with similar programs. Because the goals are often somewhat vague and imprecise and rely primarily on euphemisms, slogans, and rhetoric, we have done our best to discern what the specific anticipated outcomes are in each goal.

Testimony of Bradley A. Smith
House Committee on Administration, 7/30/09

Much of the following testimony is based on *Fairly Flawed.*

Summary of Policy Goals of H.R. 1826

H.R. 1826 lists seven ways in which publically funding campaigns will lead to the "enhancement of democracy." H.R. 1826, 111th Cong. §101(b) (2009). They include the following:

(1) Reducing the actual or perceived conflicts of interest created by fully private financing of the election campaigns of public officials and restoring public confidence in the integrity and fairness of the electoral and legislative processes through the program which allows participating candidates to adhere to substantially lower contribution limits for contributors with an assurance that there will be sufficient funds for such candidates to run viable electoral campaigns;

(2) Increasing the public's confidence in the accountability of Members to the constituents who elect them, which derives from the programs qualifying criteria to participate in the voluntary program and the conclusions that constituents may draw regarding candidates who qualify and participate in the program;

(3) Helping to reduce the ability to make large campaign contributions as a determinant of a citizen's influence within the political process by facilitating the expression of voters at every level of wealth, encouraging political participation, incentivizing participation on the part of Members through the matching of small dollar contributions;

(4) Potentially saving taxpayers billions of dollars that may be (or that are perceived to be) currently allocated based upon legislative and regulatory agendas skewed by the influence of campaign contributions;

(5) Creating genuine opportunities for all Americans to run for the House of Representatives and encouraging more competitive elections;

(6) Encouraging participation in the electoral process by citizens of every level of wealth; and

(7) Freeing Members from the incessant preoccupation with raising money, and allowing them more time to carry out their public responsibilities.

Goal 1: Reducing the actual or perceived conflicts of interest created by fully private financing of the election campaigns of public officials and restoring public confidence in the integrity and fairness of the electoral and legislative processes through the program which allows participating candidates to adhere to substantially lower contribution limits for contributors with an assurance that there will be sufficient funds for such candidates to run viable electoral campaigns

The language in this goal plainly indicates that the sponsors of the legislation feel that campaign contributions above a certain threshold, or from certain individuals, create a conflict of

interest for legislators that leads to public policy decisions based not on the best interests of the public, but instead reflects the interests of contributors. (Note that the sponsors must believe, therefore, that current federal contribution limits – which prohibit corporate and union contributions and limit individuals to an amount that, in inflation adjusted terms, is less than 60 percent that of 1974, are insufficient to offset this public perception.) If true, such conflicts of interest and improper influence would be removed if elected officials relied upon taxpayer dollars for their campaigns rather than private contributions.

However, the assumption that campaign contributions influence legislators' votes is not supported by research. A substantial majority of academic research on the subject has shown that there is little connection between contributions and legislative votes or actions.

A study by Massachusetts Institute of Technology professors Stephen Anselobehere, James M. Snyder Jr., and Michiko Ueda, reviewed 40 peer reviewed studies on the effects of contributions on legislative behavior, and found that "the large majority of studies find no significant effects of hard money contributions on public policy..." Stephen Ansolabehere, James M. Snyder, Jr., and Michiko Ueda, *Did Firms Profit from Soft Money?,* 3 Election L. J. 193 (2004), citing Stephen Ansolabehere, John de Figueiredo, and James M. Snyder Jr., *Why Is There So Little Money in U.S. Politics* 17 J. Econ. Perspectives 105 (2003). The study then went on to find that even six figure soft money contributions by corporations had no noticeable impact on corporate profitability, concluding, "we are not in a world of excessively large returns to campaign contributors." Rather, "legislators' votes depend almost entirely on their own beliefs and the preferences of their voters and their party," and "contributions have no detectable effects on legislative behavior." Stephen Ansolabehere, John de Figueiredo, and James M. Snyder Jr., *Why Is There So Little Money in U.S. Politics.*

Political scientists Stephen Bronars and John Lott also found that campaign contributions are driven by ideology, and that legislators vote according to their own beliefs, their party loyalty, and the views of their constituents – not contributions. Stephen G. Bronars and John R. Lott, *Do Campaign Donations Alter How a Politician Votes? Or, Do Donors Support Candidates Who Value the Same Things That They Do?,* 40 J. LAW & ECON. 317, 346-47 (1997). Their tests "strongly reject the notion that campaign contributions buy politicians' vote," and they conclude instead that "just like voters, contributors appear able to sort into office politicians who intrinsically value the same things that they do," and donate to those candidates accordingly.

If campaign contributions are not predominate in legislative behavior, then a program such as FENA is unlikely to have much impact. And indeed one study specifically addresses the question of whether moving from privately-funded to taxpayer-financed campaigns leads to a shift in the way elected officials vote. Examining Arizona legislators elected with taxpayer dollars, the study concluded that legislators funded with taxpayer dollars "voted no differently from legislators who accepted private contributions." Robert J. Francosi, *Is Cleanliness Political Godliness?,* at 16, November 2001, Goldwater Institute.

For reasons I will discuss presently, the so-called "clean elections" laws on which FENA is based have not reduced the influence of special interests, and in many ways have increased it.

In fact, research on public attitudes suggests that campaign finance regulations have not correlated with greater public confidence in electoral and legislative institutions or greater voter turnout. *See* Beth Ann Rosenson, *The Effect of Political Reform Measures on Perceptions of* Corruption, 8 Election L. J. 31, 42 (2009) ("one of the key rationales for [campaign finance] reforms – decreasing perceptions of corruption – is not borne out by this research"); David M. Primo and Jeffrey Milyo, *Campaign Finance Laws and Political Efficacy*, 5 Election L. J. 23 (2006) (studying public opinion in states and concluding, "the effect of campaign finance laws [on perceptions of democratic rule] is sometimes perverse, rarely positive, and never more than modest"); David M. Primo, *Public Opinion and Campaign Finance: Reformers Versus Reality*, 7 Independent Review 207 (2002). Indeed, some researchers have argued that reform laws create and increase cynicism and mistrust. Donald A. Gross and Robert K. Goidel, The States of Campaign Finance Reform (The Ohio State University Press 2003). If this is correct, it is extremely unlikely that Fair Elections will "restore public confidence in the integrity and fairness of the electoral and legislative [process]," and may even erode such confidence.

Additionally, the complexity of the law itself creates new, if often inadvertent violations, which are then reported themselves as a form of "corruption," fanning public perception that Congress is corrupt. There is no evidence that passage of major campaign finance regulation or government paid campaigns has led to improved public perceptions of the legislature.

In fact, FENA's 4-1 matching formula for putting taxpayer money into elections could well become a source of corruption itself. As former Federal Election Commission Chairman David Mason notes:

> "The presence of matching funds provides a dramatically increased incentive for conduit contributions: the returns of the illegal scheme are increased by the government match...
>
> "With government subsidies of 400 or 500% of small contributions, it is all too easy to imagine an ACORN-like scheme in which an army of street-level fundraisers are paid bounties to find small donors with no questions asked." David M. Mason, *No Cure for Corruption: Public Financing Under Constitutional Constraints*, 10 Engage 89, 91 (2009).

Thus, the end result is that FENA could well contribute to, rather than reverse, the decline in public confidence in the electoral and legislative processes.

Goal 2: Increasing the public's confidence in the accountability of Members to the constituents who elect them, which derives from the programs qualifying criteria to participate in the voluntary program and the conclusions that constituents may draw regarding candidates who qualify and participate in the program

As a way to improve public confidence in Congress, there is little evidence to support the idea that the Fair Elections Now Act will achieve this goal.

Testimony of Bradley A. Smith
House Committee on Administration, 7/30/09

In a system of representative democracy, elected officials are ultimately held accountable by voters who decide whether they deserve re-election or not. The high level of incumbency retention has been cited by some as a cause of concern regarding accountability and a main justification for expanding these programs.

Building on the belief that high incumbency retention rates signify a lack of accountability, proponents of the Fair Elections Now Act suggest that adopting taxpayer-financed political campaigns will lessen the advantages of incumbency and lead to lower incumbent re-election rates.

But the actual experience of those few states and cities that operate such programs do not support this idea. Arizona and Maine each enacted so-called "clean elections" laws effective with the 2000 elections. Incumbent re-election appear to have fallen in the Arizona State House in the 2002 and 2004 elections, but by 2006 it was back to its normal high rate. The Arizona Senate has seen little change. In Maine, incumbent re-election rates appear to have held relatively steady, aside from a temporary decline in the 2004 senate elections, which disappeared in 2006.

Incumbent Retention Rates for Arizona

Year	House (%)	Senate (%)
1992	93	90
1994	95	100
1996	93	95
1998	98	96
2000	92	100
2002	70	87
2004	81	96
2006	95	87

Incumbent Retention Rates for Maine

Year	House (%)	Senate (%)
1992	84	86
1994	83	90
1996	82	87
1998	86	100
2000	88	91
2002	84	92
2004	83	73
2006	83	90

Calculations using data from The Wisconsin Campaign Finance Project, *available at* http://campfin.polisci.wisc.edu/

Similarly, in Connecticut, where "clean elections" began in 2008, the Office of Legislative Research reports that "In 2006, 100% (32 of 32) of Senate incumbents won reelection, while in 2008, 96.9% (31 of 32) won reelection. Likewise, 95.7% (133 of 139) House incumbents won reelection in 2006 while in 2008, 95.4% (125 of 131) won." The Citizens' Election Program: A Comparison of the 2006 Legislative Races With The 2008 Races, Kristen

Sullivan, Connecticut Office of Legislative Research, Feb. 9, 2009, http://www.cga.ct.gov/2009/rpt/2009-R-0099.htm.

New York City's record on incumbent re-election rates is no better. In the most recent 2005 city elections, 43 of 44 incumbent city council members won. Public Dollars for the Public Good: A Report on the 2005 Elections, p. 20, New York City Campaign Finance Board, 2006, http://www.nyccfb.info/PDF/per/2005_PER/2005_Post_Election_Report.pdf . The only incumbent to lose his re-election campaign was Allen Jennings, who was accused of discrimination and harassment by staff members and was fined tens of thousands of dollars by the Campaign Finance Board for his 2001 campaign. Jennings was defeated by a former city council member who had been term-limited out of office in 2001.

As for public trust in government, political scientist David Primo writes that, "data show in two ways that rising campaign spending was not the cause of public mistrust of government," and that in terms of polling public trust in government in response to specific reforms, "the public seems to favor almost any reform simply in the name of reform." Professor Primo concluded that, "trust in government is not linked to campaign spending." David M. Primo, *Public Opinion and Campaign Finance: Reformers versus Reality*, 7 The Indep. Rev, 207, 211 (2002).

Public opinion polls conducted after New Jersey's public financing pilot programs showed that there was no statistically significant increase in favorable public opinion about their legislature. Rutgers Eagleton Institute of Politics, "Public Attitudes Toward the Clean Elections Initiative," Nov. 2007, p. 2, *available at* http://eagletonpoll.rutgers.edu/polls/CE_FinalReport_1 1_07.pdf. In 2005, 75% of respondents said they trust the state legislature to do what is right "only some or none of the time," and in 2007 that had increased to 80%. The poll concluded that "To the extent... Clean Elections [are] designed to foster confidence in elections and governance... much more work remains."

Research by the Center for Competitive Politics on New Jersey's 2007 "clean elections" pilot project provides one possible reason why replacing private contributions to candidates with taxpayer funds is unlikely to improve citizens' confidence in government: partisan and ideological differences were the primary factors leading to citizens' belief that their elected officials favored so-called "special interests" and party leadership over constituent interests. *Special Interests, Partisan Pouts, and the Usual Suspects*, p. 9, Sean Parnell, Laura Renz, Sarah Falkenstein, Center for Competitive Politics, February 2009, http://www.campaignfreedom.org/docLib/20090223_SR1NJ.pdf. If a voter's partisanship vis the officeholder's party affiliation is the primary determinate of the perception of corruption, then the manner in which the officeholder financed his campaign will matter little. *See also* Nathaniel Persily and Kelli Lammie, *Perceptions of Corruption and Campaign Finance: When Public Opinion Determines Constitutional Law,* 53 U. Penn. L. Rev. 119 (2004) (finding partisan identification of voters vis officeholders to be a primary determinant of perceptions of government corruption).

Moreover, it will be difficult to improve public opinion if citizens are broadly unaware of the Fair Elections program and the supposed benefits it provides. According to the most recent

available data, after nearly a decade, half of Arizona citizens remain unaware of that state's program. *Awareness and Attitude Study, January 2006*, p. 2, prepared for the Arizona Citizens Clean Elections Commission, conducted by Behavior Research Center. Note that after 2006, subsequent studies screened out survey respondents who were not aware of the program. Among those aware of the program, roughly 20 percent and possibly more do not know what the program does. (58% of those surveyed gave "don't know" as their response while 26% gave answers that were wrong when asked what "clean elections" do. These questions were only asked of the 26% of all survey takers who said they were "not very familiar" with "clean elections. It is possible (likely?) that some number of those responding "somewhat familiar" or "very familiar" in fact do not understand what "clean elections" do, increasing the number of citizens who are unaware of the program and what it does.) *Statewide Voter Survey, December 2008*, p. 6, prepared for the Arizona Citizens Clean Elections Commission, conducted by Behavior Research Center. More than a third of those familiar with the program are "unfavorable," "very unfavorable," or "not sure" when asked for their opinion. This suggests widespread ignorance, indifference, and opposition to programs that provide taxpayer dollars to candidates, making the program unlikely to improve public opinion.

Regarding "the conclusions that constituents may draw regarding candidates who qualify and participate in the program," such a goal potentially raises issues of whether the state is attempting to endorse certain candidates. Effort by the government to educate and inform citizens about the program and that create the impression that participating candidates are somehow preferable to non-participating candidates raises concerns that the state is attempting to dictate electoral outcomes. In Cook v. Gralike, 531 U.S. 510, 525 (2001), the Supreme Court struck down a provision in Missouri that identified on the ballot which candidates supported a specific term limits law and which did not, including language stating that those who did not had "disregarded voters instructions on term limits."

In just such an effort to raise public awareness of "clean elections" and guide "conclusions that constituents may draw," New Jersey's 2007 pilot project identified "clean elections" candidates on the ballot and also ran radio, television, and newspaper ads promoting the program. These ads included language suggesting that the program would "take special interest money out of the election process" and similar language suggestive that citizens should prefer candidates participating in the program. New Jersey Election Law Enforcement Commission, http://www.njcleanelections.com/advertising.html .

Discussing the identification of "clean elections" candidates on the ballot in New Jersey, the Center for Government Studies notes that, "The 'clean elections candidate' designation raises constitutional issues... [it] may be found to support participating candidates, and therefore... the state would be regulating an electoral outcome." Jessica Levinson, *Public Campaign Financing: The New Jersey Legislature, A Pilot Project Takes Flight*, p. 26, Center for Government Studies, 2008, available at: http://www.cgs.org/images/publications/cgs_nj_leg_final_081808.pdf. Running ads touting the benefits of the program that suggest positive attributes of participating candidates may also raise similar concerns.

Such public education and promotion of the program also may undermine the supposed voluntary nature of the program. By encouraging constituents to draw positive conclusions about candidates who participate in the program, and, one can safely assume, negative conclusions

about candidates who chose to fundraise traditionally, the Fair Elections program potentially imposes a burden on the decision by a candidate not to participate in the program. This would make the program suspect under the Supreme Court's decisions in Buckley v. Valeo, 424 U.S. 1 (1976), and Davis v. Federal Election Commission, 554 U.S. __ (2008).

There is little to suggest that programs of taxpayer financed political campaigns are capable of improving the public's perception of Congress. Arizonans after 10 years seem largely indifferent to, ignorant of, and opposed to that state's program, hardly indicative of a program that will increase public confidence. Public education efforts could be undertaken to promote awareness, understanding, and support for the program, but would potentially raise constitutional concerns about whether the government is attempting to "dictate electoral outcomes" and push unwilling candidates into the program.

Goal 3: Helping to reduce the ability to make large campaign contributions as a determinant of a citizen's influence within the political process by facilitating the expression of voters at every level of wealth, encouraging political participation, and incentivizing participation on the part of Members through the matching of small dollar contributions

The assumptions at the core of this goal ignore both recent political realities and established trends in voter participation through monetary contributions, contributions of time and talent during the campaign period, and through their votes on Election Day. There are a number of ways citizens can, and do, participate and have an influence on the political process, and the conclusion that eliminating the ability to contribute larger sums of money will increase voter participation in the political process is simplistic and incorrect.

The most common form of political participation is voting, and increased turnout is often cited as a benefit of taxpayer financed political campaigns. But the assumption that implementation of the Fair Elections Now Act or similar measures will increase voter turnout is not supported by evidence, as shown in Maine and Arizona, the two states with the longest history of such programs. Maine's voter turnout averaged 60.8% in the years before "clean elections" were adopted, and have averaged 63.4% since, for an increase of 4.3%. Arizona's turnout has increased a more significant 7.4% over that same time period, from 43% before "clean elections" to 46.2% since.

But national turnout has increased over the same period, averaging 45.4% from 1990 through 1998 and 51.2% since 2000, for an increase of 8.4%. Maine began with a turnout rate considerably above the national average, so raising that rate should be more difficult. But by that same reasoning, Arizona's turnout rate at the time "clean elections" were implemented was below the national rate, suggesting Arizona should have been able to increase voter turnout faster than the national average. In fact, both "clean elections" states have lagged national voter turnout growth since they began providing taxpayer dollars to political candidates. Isolating and determining the reasons for increases or decreases in voter turnout is an extremely difficult task over which political scientists continue to disagree. But supporters of FENA and "clean

elections" have not established that government financed campaigns improve turnout, and the basic raw data suggests that this has not been true in Arizona and Maine.

Turnout Figures for 1990-2008

George Mason University. United States Elections Project: Voter Turnout, available at http://elections.gmu.edu/voter_turnout.htm. Asterisk denotes presidential election year

	Maine	Arizona	National
1990	57%	42%	38%
1992*	74%	56%	58%
1994	56%	39%	41%
1996*	65%	46%	52%
1998	52%	32%	38%
2000*	67%	46%	54%
2002	51%	36%	40%
2004*	74%	54%	60%
2006	54%	39%	40%
2008*	71%	56%	62%

Goal 3 also ignores the fact that there are other ways citizens can have influence in the political process besides contributing financially. Volunteers are a key component of almost every campaign, and can play a decisive role in who wins or loses on election day. Many credit the efforts of 85,000 volunteers in Ohio for delivering that state's electoral votes to George W. Bush in 2004, and President Obama's victory in both the Democratic nomination contest and the general election were fueled in large part by an energetic volunteer base.

The language of Goal 3 suggests a desire to limit giving "as a determinate of political influence" by those citizens capable of making larger donations than the $100 limit that Fair Elections candidates are allowed to solicit. This effort is directly contrary to the Supreme Court's holding in Buckley v. Valeo that restrictions on political speech, in the form of campaign finance limits, cannot be based on a desire to silence some voice in order to enhance others. Beyond this serious constitutional problem, however, this goal is unlikely to be realized because donors capable of making gifts larger than $100 who wish to support certain candidates remain free to contribute to political parties and committees, political action committees, and groups that engage in independent expenditures. Ironically, the Fair Elections Now Act is likely to increase the funding available to such groups, who would no longer have to compete with candidates for the contributions of politically-minded citizens beyond the $100 limit.

For example, since public financing began in Maine in 2000 the total amount spent on independent expenditures has risen 323%. Maine Commission on Governmental Ethics and Election Practices. "2007 Study Report: Has Public Funding Improved Maine Elections?" p. 40. Contributions to these groups come from citizens from every level of wealth who frequently are prohibited, as they would be under this legislation, from giving more than a small contribution to candidates.

California's experience with contribution limits is also instructive here. Previously unlimited contributions were capped for the first time at $1,000 for the 2002 election. By 2006,

independent expenditures on legislative races had increased by 6,144% over the 2000 election, the last without contribution limits. Independent Expenditures: The Giant Gorilla in Campaign Finance, p. 9, California Fair Political Practices Commission, May 2008.

Finally, the explosion in so-called 527-groups in the 2004 election cycle in the wake of McCain-Feingold should serve to warn against efforts to restrain the politically-oriented spending of wealthier Americans.

Goal 4: Potentially saving taxpayers billions of dollars that may be (or that are perceived to be) currently allocated based upon legislative and regulatory agendas skewed by the influence of campaign contributions

The actual experience of Maine and Arizona since they implemented their taxpayer financing programs is directly contrary to the idea that FENA will save taxpayer money. If the assumptions of the Fair Elections Now Act and the similar state "clean elections" programs are correct, we would expect to see evidence supporting this claim in the spending patterns of these two states. Specifically, we should see declines in spending growth in both states relative to the national average.

Instead, since implementing "clean elections" expenditure growth in both states has exceeded that of the rest of the nation, while before adoption of "clean elections" both Arizona and Maine were below the national average in expenditure growth. Center for Competitive Politics. "Do Taxpayer-Funded Campaigns Save Taxpayer Dollars?" September 2008, available at http://www.campaignfreedom.org/research/detail/issue-analysis-4-do-taxpayer-funded-campaigns-save-taxpayer-dollars. The fact that Arizona is facing the second largest budget deficit as a percentage of total budget in the U.S for fiscal year 2010, according to the Center or Budget and Policy Priorities, also does not bode well for claims of improved fiscal responsibility in "clean elections" states.

Goal 5: Creating genuine opportunities for all Americans to run for the House of Representatives (or Senate) and encouraging more competitive elections

Despite claims that "average citizens" are somehow empowered to run for office under taxpayer financed political campaigns, the Fair Elections Now Act is far more likely to simply provide significant taxpayer subsidies to incumbents, celebrity candidates, and candidates backed by their party establishment and well-organized interest groups – in other words, the same candidates that are able to run under today's system of voluntary, private contributions by citizens to candidates they support.

This is primarily because of the extraordinarily high qualifying standards that candidates would be required to meet in order to receive taxpayer dollars under this program, requirements that few will be able to meet who aren't incumbents, celebrities, or who enjoy the backing of party insiders and interest groups.

Testimony of Bradley A. Smith
House Committee on Administration, 7/30/09

The Fair Elections Now Act requires candidates for the U.S. House of Representatives to raise a total of $50,000 from 1,500 residents of the state they are running in, and to do this in only 4 months while accepting contributions of no more than $100. H.R. 1826, §512 (a). The requirements for Senate candidates under S. 752 are higher and vary by state, between 2,500 contributions (AK, DE, MT, ND, SD, VT, WY) and 28,500 (CA). S. 752, §512.

These requirements would be extremely daunting for all but incumbents, celebrity candidates with high name recognition and media coverage of their candidacies, and those with substantial backing from political parties and major organized interest groups.

In particular, the low limit of $100 on individual contributions to candidates participating in the Fair Elections Now Act would make it nearly impossible for most challengers to raise the extremely important early money needed to launch a viable campaign.

Former Republican National Committee Finance Chair Rodney Smith refers to campaign fundraising as an "industry like any other which requires a capital investment in order to go into production." Rodney A. Smith, Money, Power & Elections: How Campaign Finance Reform Subverts American Democracy 145 (2006). The capital investment is necessary for any candidate to begin the process of mounting a serious campaign or to challenge an incumbent, and this typically comes in the form of large contributions made early in the cycle, allowing candidates to develop name recognition and the infrastructure to raise large numbers of small contributions.

This point is made clear in a recent study by Michael Malbin, executive director of the Campaign Finance Institute. Examining the pattern of large ($1,000 or greater) and small ($200 or less) contributions in the 2008 presidential campaign, Malbin found that "...all of the candidates emphasized large contributions in the early stage," and that "[for] all of the candidates with viable campaigns, small contributions increased over time as the candidates gained name recognition." Malbin adds that, "...raising large amounts of money through small contributions presupposes visibility," and concludes that "[candidates] typically have to start by persuading a few people to give much larger amounts before s/he can branch downward and outward." Michael Malbin, *Small Donors, Large Donors and the Internet: The Case for Public Financing after Obama,* Campaign Finance Institute, April 2009, p. 13 (Professor Malbin, I note, nevertheless supports some forms of government financing).

Without the vital seed money that large donations represent early in a campaign, candidates are unable to engage in the sort of fundraising practices that might allow them to build a donor base that would allow them to raise 1,500 contributions during the relatively short Qualifying Period.

Direct mail, for example, a very popular fundraising technique, would be out of the question, as the following example from a leading campaign fundraising strategy book demonstrates:

> Assume that [a] prospecting list contains 40,000 names. Production costs and postage for this large group might run approximately $0.70 per letter, for a total of $28,000. The campaign might receive a 2 or 3 percent response rate from a prospecting list, meaning

> that a great letter will bring about 1,000 respondents. The average contribution from the group as a whole will generally be rather small, maybe $19. The gross income from this mailing would therefore be $19,000, in which case the campaign has incurred a $9,000 loss.

Daniel M. Shea and Michael John Burton, Campaign Craft: The Strategies, Tactics, and Art of Political Campaign Management, 147 (2006).

This example, of course, assumes that the candidate has $28,000 to pay for the mailing. Because prospect mailings are expected to lose money while the list is being built, mailing in smaller batches and using the resulting revenue to fund further mailings is not a viable option because each subsequent mailing will go to fewer people and bring in less revenue, quickly extinguishing the original seed money while the candidate is still well short of the needed donor base. Mailings to the "house file" that is being built may allow the mail program to break even, although the $100 aggregate limit severely constrains this possibility and does not allow funds to be spent on other vital campaign needs.

Dr. JoAnn Gurenlian participated in New Jersey's 2005 "clean elections" pilot project, which required her to obtain 1,500 contributions in order to qualify to taxpayer financing. She estimates that, with the limited amount of seed money, she and her running mate were together able to send out approximately 10,000 mail pieces to potential donors in their district. But returns were minimal and, combined with other fundraising efforts, Gurenlian and her running mate only collected approximately 58% of the needed contributions and failed to qualify for funding. Testimony of 2005 New Jersey State Assembly candidate JoAnn Gurenlian and Jeff Kasko, campaign manager for JoAnn Gurenlian in 2005, to New Jersey Citizen's Clean Elections Commission, November 22, 2005 p. 121, 136, available at: http://www.njleg.state.nj.us/legislativepub/pubhear/cec112205.pdf and follow-up conversation between Gurenlian, Jeff Kasko, and Sean Parnell, May 2009. In fact, only 2 of 10 candidates who tried to qualify under New Jersey's 2005 pilot project were able to do so, one an incumbent and the other his slate partner. New Jersey Citizens' Clean Elections Commission: Preliminary Report, p. 49, February 7, 2006.

Even incumbents can have trouble raising the large number of contributions through mail without necessary seed money. Testifying at a meeting of the New Jersey Citizen's Clean Elections Commission, State Assemblyman Samuel D. Thompson spoke of the significant difficulty of using direct mail as a way of raising the contributions necessary to participate in New Jersey's 2005 pilot project. "If you use a mail campaign... [and] if you've got a 5 percent return... to get 1,500 , with only 5 percent returns, that means you're going to have to [mail] 30,000 pieces... it costs you about $0.45 a piece... you're speaking of $13,500 just to make that mailing... we've[only] got $3,000 in seed money to work with," Thompson told the commission. Testimony of New Jersey State Assemblyman Samuel D. Thompson to New Jersey Citizen's Clean Elections Commission, Aug. 18, 2005 p. 80, available at: http://www.njleg.state.nj.us/legislativepub/pubhear/cec081805.pdf. Thompson and his running mates in New Jersey's 13th District failed to qualify for taxpayer financing.

Door-to-door solicitation by candidates is also not a realistic option for such a large number of contributions, as both incumbents and challengers discovered in New Jersey's failed 2005 experiment. Dr. Gurenlian noted in her testimony that, as a method of fundraising, "The least effective was door-to-door. It was extremely time-consuming... It was very, very difficult to do."

Assemblyman Louis Greenwald, a sponsor of New Jersey's "clean elections" pilot project, was among the many other candidates who reported on the failure of door-to-door solicitations. "We started door-to-door knocking... we found that we were successful on about a 10 percent ratio. That was it. We would never have gotten the 3,000 contributions if we stayed with the door-knocking." Testimony of New Jersey State Assemblyman Louis Greenwald to New Jersey Citizen's Clean Elections Commission, Oct. 6, 2005, p. 33, available at: http://www.njleg.state.nj.us/legislativepub/pubhear/cec100605.pdf.

The one method of fundraising that "clean elections" candidates in New Jersey did have some success with was small events, including "house parties, barbeques, picnics, and other gatherings." Id., p. 34. However, challengers would still find this an extraordinarily difficult way of raising funds in the primary and Fair Elections Qualifying Period. New Jersey's 2005 "clean elections" participants had already won their party's primary nomination, meaning they could count on the support of their political parties in helping to hold small events. As Assemblyman Greenwald testified, "[The Democratic and Republican] parties... have a list, of people who traditionally hold coffees for their candidates. We went to that list of people..." Id.

For a non-incumbent, even with party backing, it was far more difficult to organize these small events. Dr. Gurenlian noted that they had "a network through the county [party]" along with mayors who joined friends and family members who helped put together small events. But even with that assistance, she and her running mate still failed to qualify: "We just didn't have, I think, the network... We were the unknown candidates. We're not an incumbent. We didn't have the reputation of having been a legislator for 10 years. We didn't have a machine behind us."

Candidates participating in the Fair Elections program, however, would have to raise their Qualifying Contributions prior to the primary, H.R. 1826, § 501 (3)-(4), meaning the support of political parties for candidates is unlikely for most non-incumbent candidates, especially those that challenge incumbents in a primary. For this reason, it is extremely unlikely that small events, the only effective way candidates in New Jersey's 2005 "clean elections" pilot project were able to raise qualifying contributions, would be a viable option for most non-incumbent candidates. It should also be noted again that 8 out of 10 candidates failed to qualify for taxpayer funding in New Jersey's 2005 pilot project.

In short, the types of candidates who can raise contributions in small "qualifying" donations are the same candidates who can raise larger contributions.

As to the effect taxpayer funding has on the competitiveness of elections, again using Maine and Arizona as the best examples, there is some indication of an increase in competition,

but it is sporadic and does not follow a pattern, possibly a result of the many factors that indicate why a race is competitive beyond the source of funding.

Competitive Races in the General Election in Maine

	House	Senate
1992	49/151 – 32%	13/35 – 37%
1994	40/151 – 26%	11/35 – 31%
1996	53/151 – 35%	10/35 – 29%
1998	38/151 – 25%	11/35 – 31%
2000	45/151 – 30%	7/35 – 20%
2002	40/151 – 26%	15/35- 43%
2004	63/151 – 42%	18/35 – 51%
2006	61/151 – 40%	18/35 – 51%

Competitive Races in the General Election in Arizona

	House	Senate
1992	12/60 – 20%	6/30 – 20%
1994	13/60 – 22%	0/30 – 0%
1996	17/60 – 28%	4/30 – 13%
1998	16/60 – 27%	2/30 – 7%
2000	24/60 – 40%	6/30 – 20%
2002	20/60 – 33%	2/30 – 7%
2004	18/60 – 30%	5/30 – 17%
2006	21/60 – 35%	10/30 – 33%

Data for competitive races in both states was obtained from The Wisconsin Campaign Finance Project, *available at* http://campfin.polisci.wisc.edu/Data.asp. These numbers represent the number of races in which the winning candidate won with less than 60% of the general vote. The tables include open seat races as well as uncontested contests.

Goal 6: Encouraging participation in the electoral process by citizens of every level of wealth

This goal assumes that donors to candidates participating in the Fair Elections program would be noticeably different in economic status from those who currently give to candidates for Congress. Research on this subject does not support this contention.

A study by the Center for Competitive Politics found that donors to "clean elections" candidates in New Jersey's 2007 pilot project were very similar to "...donors to federal candidates, which [are] dominated by business executives, attorneys, medical professionals, and individuals from the education or media industries." The study concludes that New Jersey's "clean elections" experiment had "...failed to noticeably change the demographics of who gives to campaigns... ." Sean Parnell, Laura Renz, Sarah Falkenstein, *Special Interests, Partisan Pouts, and the Usual Suspects*, at 9, Center for Competitive Politics, Feb. 2009, http://www.campaignfreedom.org/docLib/20090223_SR1NJ.pdf

One recent study, *All Over the Map: Small Donors Bring Diversity to Arizona's Elections*, does purport to show that citizens contributing to "clean elections" candidates are more economically and socially diverse than those contributing to candidates relying on private, voluntary contributions. Nancy Watzman, *All Over the Map: Small Donors Bring Diversity to Arizona's Elections,* Public Campaign, http://www.publicampaign.org/alloverthemap 2008. However, the study has been discredited because of poor methodology – the authors of the report did not have access to information about small dollar donors to the privately funded candidates, and only compared "clean election" donors to donors of $200 or more to recent Arizona U.S. Senate candidates. Sean Parnell, "Pay no attention to those 30,000 people behind the curtain," 9/23/2008, Center for Competitive Politics, http://www.campaignfreedom.org/blog/detail/pay-no-attention-to-those-30000-people-behind-the-curtain. A proper study would have compared "clean elections" donors to the tens of thousands of Arizona small donors (under $200) to privately funded campaigns.

Goal 7: Freeing Members from the incessant preoccupation with raising money, and allowing them more time to carry out their public responsibilities

It is plain that many candidates participating in the Fair Elections program, particularly incumbents, would spend less time on fundraising.

With existing donor bases and a party establishment supporting them, incumbents would have little trouble raising early funding for their campaigns and quickly raising the needed contributions during the Fair Elections Qualifying Period and beyond. Aside from attendance at events organized by campaign staff, an incumbent would not need to devote much time to fundraising efforts.

For most non-incumbents hoping to participate in the program, however, mail and events are not viable options for reasons described above. The most likely alternative is for a candidate to "outsource" or at least closely coordinate their fundraising activities with well-organized interest groups that want to see them elected.

This is in fact what appears to have happened in Arizona and New Jersey. Research by the Center for Competitive Politics found that approximately half of the "clean elections" donors in New Jersey's 2007 pilot project were connected to large interest groups, primarily the National Rifle Association, NJ Education Association, the Communications Workers of America, NARAL Pro-Choice New Jersey, the Sierra Club, and New Jersey Right to Life. Parnell, Renz, and Falkenstein, *supra* at 4.

This should not be surprising given that several candidates in New Jersey's failed 2005 pilot project complained that the program barred overt assistance from organized interest groups. One candidate, Michael Dasaro, said after the 2005 pilot project "We need…the assistance of the citizen action groups. These people are hard workers, good workers, and I support their causes. And I believe with their assistance, this can work, because it's a monumental task for individuals to collect… these contributions." Testimony of Michael Dasaro to New Jersey Citizen's Clean

Elections Commission, Aug. 18, 2005 p. 48, available at: http://www.njleg.state.nj.us/legislativepub/pubhear/cec081805.pdf. Assemblyman Samuel Thompson also testified in 2005 to the need to get organized interest groups involved, saying "...I think it is essential that we be able to get assistance from supportive organizations out there that want to be able to help us." He also noted that he had been endorsed by "...many organizations – business, labor, tenants associations, Senior Truth Squad, etc. A number of these organizations wanted to write to their members and suggest they make a Clean Elections contribution to me." Testimony of Samuel Thompson, *id.* As a result of these complaints, the 2007 legislation specifically allowed for the assistance of organized interest groups in helping to raise qualifying contributions.

In Arizona, organized labor helped then-candidate Janet Napolitano raise nearly one quarter of the necessary signatures and small contributions needed to qualify for that state's "clean elections" program during her 2002 gubernatorial campaign. Chip Mellor, *Three Lessons from Arizona*, in Welfare for Politicians 31, 37-8 (John Samples, ed. 2005). The practice of organized interest groups aiding favored candidates in qualifying for taxpayer financing is common enough that the *Arizona Capitol Times* reports that, "special interest groups routinely collect the necessary number of individual $5 contributions to help candidates qualify for public funding." Christian Palmer, Clean *Elections Institute loses national money stream, seeks donations*, Dec. 29, 2008, available at: http://www.azcapitoltimes.com/story.cfm?id=10095#.

The degree to which non-incumbent candidates participating the Fair Elections program would be required to "outsource" or closely collaborate their fundraising efforts in order to have any chance of qualifying for taxpayer dollars would seem to work against one of the main goals often offered by proponents of such schemes, the idea of reducing "special interest" influence on candidates.

Conclusion

The Fair Elections Now Act promises much, but a careful review of similar programs as well as existing research on related topics demonstrates that there is little likelihood of success. Specifically:

1. The "conflict of interest" that Representatives and Senators are presumed to face in deciding between constituent and donor interests is largely mythical, and elected officials generally do vote their constituents interests as they perceive them.

2. There is little reason to believe that public confidence will increase as a result of this program, and may in fact decline.

3. Similar programs have not led to demonstrated increases voter participation, and the assumptions of the Fair Elections Now Act ignore the many ways other than financially that citizens can participate in the political process. Additionally, it ignores the likely increase in independent expenditures that would result from extremely low contribution limits.

4. There will be no savings to taxpayers through the reduction in spending that is allegedly skewed by the influence of campaign contributions.

5. The Fair Elections Now Act will primarily benefit incumbents, celebrity candidates, or those fortunate enough to enjoy the backing of their political party or well-organized interest groups, while it will be much more difficult for most other candidates to qualify.

6. The demographics of those who contribute to candidates or otherwise participate in the political process is unlikely to noticeably change.

7. The "outsourcing" of fundraising by incumbents to well-organized political parties and interest groups may in fact reduce the amount of time Members and Senators must spend on fundraising, particularly those in competitive races. Challengers who are not able to "outsource" their fundraising to political parties and interest groups, however, will find fundraising to be a nearly all-consuming task.

The failure of the Fair Elections Now Act will not be simply that it does not achieve the goals promoted by its supporters. More worrisome, the program will quite likely do damage to the citizen trust in government and the fairness of the campaign process. The above analysis provides two main causes for concern. Each is dealt with separately below.

The history of taxpayer financed political campaigns is filled with bold promises of reform and ethical progress. The actual results, however, fall well short of what has been pledged and are likely to make matters worse. For this reason, Congress should be wary of enacting the Fair Elections Now Act of 2009.

Thank you.

Bio
Bradley A. Smith

Bradley A. Smith is the Josiah H. Blackmore II/Shirley M. Nault Designated Professor of Law at Capital University Law School in Columbus, Ohio. From 2000-2005 he served as Commissioner on the Federal Election Commission, and was Chairman of the Commission in 2004. Professor Smith's voluminous writings on campaign finance reform include "Unfree Speech: The Folly of Campaign Finance Reform" (Princeton University Press 2001), and *Some Problems with Taxpayer Funded Political Campaigns,* 148 University of Pennsylvania Law Review 591 (1999), as well as articles in the Yale Law Journal, Georgetown Law Journal, Ohio State Law Journal, Harvard Journal of Legislation, Stanford Journal of Law & Policy, and many others.

In 2005 Smith founded the non-partisan, non-profit Center for Competitive Politics, to educate the public on the role of money in elections. He is a member of the Board of Advisors of the Institute for Politics at the University of Minnesota School of Law, and serves on the Editorial Advisory Board of the Election Law Journal. Professor Smith earned his B.A. from Kalamazoo College and a J.D. from Harvard Law School.

The CHAIRMAN. Mr. Samples.

STATEMENT OF JOHN SAMPLES

Mr. SAMPLES. Thank you, Mr. Chairman and Ranking Member Lungren. I appreciate the opportunity to come here and testify on behalf of the CATO Institute in regard to this bill.

I begin my analysis, as you can see from my testimony, with the source of funding for the bill. And it is somewhat complicated, but as I argue it, the ultimate source is the taxpayer, or voluntary contributions, which hasn't worked out well with the Presidential system.

But it is also difficult to find out what the source of funding for this bill is, and I wonder why that is the case. That is to say, why, if all of the things that are promised for this bill are so good, and they benefit democracy, and the words "undermine democracy" and "build up democracy" are used, if those are true, why not simply say to people, look, we are going to do this great thing for democracy, and we are going to tax you for it? Why obscure the sources of the taxation?

I think the reason is pretty clear: The public historically and down to this moment does not support public financing of campaigns. They support something called campaign finance reform by 60/40 numbers. They oppose, generally speaking, and have historically, public financing by the same numbers.

I think they do so for a number of reasons. One is that, in fact, they understand that this kind of program compels taxpayers to support candidates that they would not otherwise support or that they are indifferent to. This goes to the question of whether or not the system is voluntary. That has been hashed out a little bit already. It is clear that it is not voluntary for taxpayers. Why is that important? It is important because what you are doing here is forcing people to support political candidates and causes they don't want to support. It is more like forcing someone to confess a religion than it is like forcing someone to pay for a road. This is fundamentally different than the normal sort of politics. It goes to questions of conscience, not just questions of money being paid for some other kind of public good or something like that.

We also have to raise the question, given the lack of public support, why are we spending this extra money, and what would your constituents think of that at a time of unprecedented deficits?

It says it will save money. I don't believe that. Many people here today have said campaign contributions have little influence over their votes. I believe that. Many people don't. I do. The reason I believe that is because I have read the studies that have been done over time about the influence of contributions that show they come in second behind party ideology and so on.

Public confidence, Professor Smith has laid that out for you. In fact, the campaign finance system doesn't really have any effect on public confidence. Public confidence in government has been going down over time, but it is not because of the campaign finance system.

Let me go to something that I think is very important for Members, which is the unusual points about this legislation. Generally speaking, when you have public financing legislation, something is

done, something bad, to people who don't participate in the system. Sometimes they are forced to pay the public money or whatever. In this case nothing bad is done to nonparticipating candidates at this point. Their contributions limits are not lowered. There is nothing done to make their life harder.

Given that, all things being equal, I would expect that this will, in fact, lead to more challengers. In particular, I don't think it will lead to more challengers in marginal districts. In marginal districts, those will be so hard fought over that everybody will defect. Everybody will be raising private money, I would expect. However, I expect in the 55 to 65 percent range, that is where you won your last election 55 to 65, I think that you will see many more challengers than you would otherwise in this undertaking.

Mr. SAMPLES. So it would expect that that is what you will see. I would say, however, that those candidates in those districts would be expected to raise more money than they do now to try to restore the gap that previously existed before this legislation was passed. So it is not the case that if you are in a 55–65 district that you won last time, that you can expect to do less fundraising. You are going to have to do more, or you are going to have to live with the fact the gap no longer exists.

Finally, on the question of fundraising, since that does seem to be a major concern for many Members, I would say there is an alternative to you, which is twofold. One is to raise the party limits, or get rid of them, so your party can help you. Remember, that was the effect of McCain-Feingold. The only thing that is going to stand out of that was prohibiting party leaders from raising soft money to help you with your campaigns. And, second, raise contribution limits.

The reason you have to raise so much money now and spend so much time is because the limits are so low. They are still lower than they were in 1974, when you take inflation into account. That is easier than doing this, which public confidence, your constituent confidence in you, if you do this and force them to support people they don't want to support, is going to be pretty low.

Thank you very much.

The CHAIRMAN. Thank you.

[The statement of Mr. Samples follows:]

Testimony of John Samples, Ph.D.
Director, Center for Representative Government, Cato Institute
before the
Committee on House Administration
United States House of Representatives
On "A Look at H.R. 1826 and the Public Financing of Congressional Campaigns:
July 30, 2009

Good morning, Chairman Brady, Ranking Member Lungren and members of the committee. I am John Samples, Director of the Center for Representative Government at the Cato Institute. I am the author of *The Fallacy of Campaign Finance Reform* (University of Chicago Press, 2006).

I would like to offer an analysis and evaluation of H.R. 1826, the Fair Elections Now Act. The views I express are my own and should not be construed as representing any official positions of the Cato Institute.

H.R. 1826 concerns the financing of congressional campaigns. How might that be done? At first blush, we seem to face a choice among public financing, private financing, or a mixture of the two. Yet public revenues come from private sources, largely through taxation. Supporters of H.R. 1826 have identified several sources for the $700 to $850 million annual needed by the program: a tax on government contractors, revenues from spectrum sales, a tax on broadcasters (the 20 percent reduction in the lowest rate for advertising), and voluntary contributions. Supporters of the bill suggest the first two are the most important.[1]

Consider the incidence of these two sources of revenue. One would expect a tax on government contractors would be passed along to the federal government as a higher price for goods or services. The general taxpayer then becomes the source of this revenue for H.R. 1826. The spectrum sales involve assets owned by the government. However, H.R. 1826 incurs new spending. If the sales of those assets are used to fund public financing of congressional campaigns, it cannot be used to fund other spending or paying down the government deficit. Absent some unexpected drop in spending unrelated to this bill, the taxpayer would have to fund the federal obligations that might have been funded by the spectrum sales. Once again, the taxpayer would be the ultimate source of funding for H.R. 1826 (or similar spending elsewhere).

The bill tries hard to obscure these new obligations for the taxpayer. Why obfuscate the sources of revenue? After all, H.R. 1826 promises to enhance American democracy. If that is true and if we assume that democracy benefits us all, it would make sense that everyone pay some share of this means to make democracy better. We do not, for example, try to convince voters that disfavored groups or firms should pay for the common defense. Why not simply tax Americans for the promised benefits of public financing of campaigns?

---

[1] See "Summary of the Fair Elections Now Act" at www.commoncause.org.

This remarkable obscurity makes political sense once you realize that Americans have long opposed public financing of campaigns. Many people find this opposition puzzling. After all, if as H.R. 1826 purports to find, private financing undermines democracy, American should support public financing. Yet surveys have long shown the opposite: a majority of Americans oppose public financing. The long decline of support for presidential public funding also speaks to this point. Most people object, I believe, to being forced to pay taxes to support campaigns and candidates they do not support and may actively dislike or oppose. Such taxation also deprives voters of the choice of not contributing to any candidate. The logic of this concern is compelling. If democracy means choosing those who govern, how can it be enhanced by forcing (i.e. depriving of choice) citizens to support candidates and campaigns they oppose or feel indifference toward. Of course, supporters may deny that most Americans oppose public financing.[2] If that is true, however, why do the same supporters obscure the sources of revenue for bills like H.R. 1826? Are they not afraid that if most Americans were called upon to pay directly and clearly for this proposed program, it would be dead on arrival because of public opposition?

The financing issue suggests other problems. As you now, the federal government will be running severe deficits now and into the distant future. H.R. 1826 proposes new spending that will in turn incur new taxes either now or for future taxpayers. Given public distaste for these programs, should Congress incur higher deficits (or higher taxes now) for these programs?

The sponsors of H.R. 1862 have a response. They purport to find that private contributions influence policymaking in ways that impose "large, unwarranted costs on taxpayers through legislative and regulatory distortions caused by unequal access to lawmakers for campaign contributors." By replacing private financing with public money, this bill would "potentially" save billions by precluding such "distortions." The influence of private campaign contributions – especially those given by PACs – have been extensively studied for several decades. Scholars can attribute little influence over congressional voting to contributions alone, once they control for factors like the party, constituency, and ideology of a legislator.[3] On average, we should expect little from this bill if enacted because its harsh judgment about private contributions remains at best, unproven, and at worst, simply wrong.

The same empirical point may be made about other claims in H.R. 1826. Private financing is said to undermine public confidence in government; replacing private financing with government revenues is projected to restore public faith in Washington. Yet a recent leading study found that the campaign finance system had no influence on

---

[2] Majorities have opposed public financing for some time, save for the 1970s. See *The Fallacy of Campaign Finance Reform*, pp. 183-185.

[3] Stephen Ansolabehere, John de Figueiredo, and James M. Snyder, Jr. , "Why is there so little money in US politics?" *Journal of Economic Perspectives* 17(2003):105-130.

whether people trusted or distrusted the government.[4] Another study of the states found that only disclosure of contributions was associated with an increased sense of public efficacy.[5] I do not think most Americans will feel better about the government once they learn their taxes have financed the campaign of a candidate they intensely dislike.

H.R. 1826 does have several unusual features. Most campaign finance legislation seeks an electoral advantage for incumbent members of the legislature, for the party that controls the legislature, or for the marginal voter that completes the majority needed to enact the regulation. H.R. 1826 provides subsidies to candidates who raise small sums through small contributions. The subsidies are significant: in the House, $50,000 in qualifying contributions would be turned into $1 million in campaign funds (including the advertising voucher). All things being equal, I would expect that many incumbent members of Congress would face more and better funded challengers and that party control of either chamber would become marginally less certain. On the other hand, members who provide the marginal votes needed for enacting campaign finance regulation tend to be vulnerable because they serve swing districts. In such districts, I would expect both candidates to avoid the public system since the since the funding will be too low to compete with an opponent who defects to private financing. I would expect that incumbent members of Congress who now receive between 55 and 65 percent of the vote in their district will attract more challengers who have more money than in the past. In other words, I expect H.R. 1826 would harm two groups of people: taxpayers, many of whom will be forced to support candidates not of their choice and a significant number of incumbent members of Congress who now raise more money than their challengers. These members will experience a smaller gap between their campaign resources and those of a challenger. Contrary to the putative findings of the bill, these members may well be forced to allocate more time to fundraising than they do now to restore (or try to restore) their advantage.

Will H.R. 1826 candidates be better candidates? Here I believe some questions need to be asked. In this bill small donors identify candidates who receive large public subsidies for their campaigns. Normally I would assume that a person who gives a small donation has little interest in politics and pays relatively little attention to the qualities of a candidate, certainly in comparison to a person who gives a larger donation; the latter has more at stake and hence, more incentives to make a more careful decision. In a certain sense, however, the small donor in this bill is not a small donor; their contribution grows by about twenty-fold thanks to the federal subsidy triggered if their donation leads to a qualified candidancy. In other words, the "small donor" is investing other people's money (i.e. federal revenue). They have little reason to be careful in their spending since their money is not in question. Moreover, consider how this bill differs from the usual practice of the government. The federal government sometimes identifies people to spend

---

[4] Nathaniel Persily and Kelli Lammi, "Perceptions of Corruption and Campaign Finance: When Public Opinion Constitutes Constitutional Law," University of Pennsylvania Law Review 153(December 2004): 119.

[5] David M. Primo and Jeffrey Milyo, "Campaign Finance Laws and Political Efficacy: Evidence From the States." *Election Law Journal* 5(2006):23-39.

public money on its behalf: the Pentagon, for example, has procurement specialists. Such principal-agent relationships pose difficult questions: how can the principal be sure that the agent is acting on the interests of the principal and not the agent? In other cases, the federal government regulates the agent's choices through rules and oversight. Here the agents spending federal money are self-appointed and free of regulation and oversight. Why would we expect these "small donors" will act on the interests of the ultimate principal here, the American people? One would expect instead these individuals will spend federal money on candidates and causes that appeal to them and have little value to the larger, taxpaying public that funds the program. In that sense, H.R. 1826 proposes a subsidy for a special interest.

In general, I would say that this legislation may foster more challengers in some House districts than would appear under the status quo. This result, if it happens, will come at a cost to taxpayers who will be compelled to support candidates and causes they oppose or are indifferent toward. This burden should not be underestimated. It is more like forcing people to profess a religion they do not confess than it is like forcing people to forego consumption. Government has no business compelling political speech, and H.R. 1826 does just that.

For many years self-styled reformers have demonized private financing of campaigns and indeed, all political activity presumed to reflect self-interest. This definition of politics implied private political activity corrupted government and required controls or even prohibition. On the other hand, reformers also believed once self-interest was removed from politics by heavily regulating or banning private contributions to campaigns, the public interest would assert itself naturally in a reformed legislature. H.R. 1826 reflects this negative view of the private and optimistic assessment of a public sphere cleansed of the private.

Yet it must be said that the hostility to the private stated in the findings of this bill do not lead to many concrete constraints on candidates who choose to remain outside the system. They are not taxed to support those in the system. Their contribution limits are not lowered to make harder to raise private money. They are not subjected to a common spending limit. This forbearance is welcome, but, I suspect, unlikely to be sustained. If enacted, publicly funded candidates would compete with privately-funded campaigns. If the former do not win most elections, new efforts will begin to make elections more "fair" by constraining privately-funded efforts. It would perhaps be better to not go down the path staked out by H.R. 1826.

On the question of public and private in politics, I find the view of the American founders more compelling. They believed government had legitimate tasks to perform on behalf of the American people. But, as James Madison said, the most difficult thing to do was set up a government that could do those tasks and yet also control itself. Elections were part of the solution to the problem of controlling government. Yet elections require informed choice which depends on information. Those in office have little interest in having their power constrained and often seek to limit or stop the flow of information to voters. The First Amendment was added to the Constitution to prevent those who hold power from

stifling political speech. Private political efforts in tandem with elections and public arguments held out the hope of controlling government.

H.R. 1826 reflects a different outlook, a Progressive vision that would substitute publicly funded politics for our current largely private system. In that world, where the government ultimately funds and thereby controls the political activity of the governed, I believe we would sooner or later live in Madison's nightmare, a world in which the government controls the governed who in turn have been deprived of the means to control the government.

The CHAIRMAN. Mr. Pearson, we have an arrangement for you. We don't make deals, we make arrangements. If you can get your testimony done in 5 minutes, we will have questions submitted to all of you on the record, and you can submit them back to us instead of having to stay here for another hour and a half before we come back to vote and then answer questions for another hour and a half.

So if you can get it in in 5 minutes, we will submit questions for the record and have you get back to us in writing.

Mr. Pearson, it is your choice. You are on.

STATEMENT OF ARN PEARSON

Mr. PEARSON. Five minutes. Mr. Chairman, Mr. Lungren, members of the committee, thank you for this opportunity to testify. My name is Arn Pearson. I am vice president for programs at Common Cause. For almost 40 years, Common Cause has worked as a nonpartisan voice for reforms that make the government more open, honest and accountable to the American people, and, in the wake of the Watergate scandal, we were one of the leading voices in crafting the Federal Election Campaign Act, which is the system that you all have worked under for the last generation. But times have changed, and that system is in bad need of an upgrade.

I would say that the answer is not to go back to the six-figure campaign contributions and slush funds of the 1960s and 1970s, but to move ahead for a new system for the 21st century that restores the quality of campaigns, gives you more time to do the job you are supposed to do, and restores public confidence in the integrity of Congress.

Let us face it, these are hard times for Congress. Your job is not an easy one. The problems facing America are extremely difficult. Yet you are expected to spend more than a quarter of your time fundraising, often from those who have a direct financial stake in what you do.

There is a steady drumbeat of pay-to-play scandals and daily stories about the conflicts of interest in the current system, and it is no wonder that public confidence in government is at an all-time low.

We did a poll in February and found 79 percent of people were concerned that large campaign contributions would be an obstacle to progress and would keep you from tackling the big issues that face this country, like energy, health care, and the financial crisis.

A poll by Pew done in 2006 found that 81 percent of people believed that lobbyists bribing Members of Congress is commonplace. These cynical public sentiments do a profound disservice to good people who go into the public life, and undermine public confidence in the core institutions of American democracy.

I doubt this is what you had in mind when you decided to run for Congress, and certainly the people did not send Mr. Smith to Washington to raise money. They expect more and deserve more, and so do you. This current system is a mess. I think everybody has pretty much described the problem.

I want to paraphrase our founder, John Gardner, who said that opportunities are often disguised as insoluble problems. There is a

way out of the current mess. There is a better way to design a system. And you have before you a bill that will do that.

The Fair Elections Now Act offers a promising, effective and voluntary alternative to the current mess. It is based on the best experiences in a number of States, as well as lessons learned in the 2008 elections and the rise of the role of small donors. It provides a new system for a new generation of candidates based on a blend of small-donor democracy and limited public funds.

This is not a partisan issue. I realize the Minority has chosen a couple of people to speak here who are opposed to this. But if you look around the country, there are literally hundreds of candidates for statewide legislative and judicial offices from both parties who have used this system and who think very highly of it. We now have solid majorities of the legislatures and statewide offices in Maine, Connecticut, Arizona, and North Carolina who have used this system and think very highly of it.

I have spent the last 12 years working to implement and refine these types of systems and have worked with a number of States and now Congress to tailor programs that work. And I want to just say this is not a one-size-fits-all proposition. These are pragmatic programs tailored to the realities of the campaigns for different public offices and jurisdictions. They are not a panacea. They do not solve all problems, but everybody here has laid out some very concrete problems that can be addressed, and we can create significant improvements in our democracy.

I would urge you to take ownership of this bill and work together to craft the specifics so that this works for Congress.

In the States, both candidates and voters have given these systems very high marks. I won't go through all the polling numbers. They are in my testimony. The reforms are on solid constitutional ground.

In closing, I would just say that there has been a lot of reference to problems with the current regulatory system and independent spending. The fact of the matter is that the current Court has made it very difficult to do much about spending. It is unconstitutional to limit spending.

What this bill does is, instead of taking a regulatory approach to try and clamp down in one place only to see it pop up somewhere else, it creates an alternative floor for folks to run under that provides resources for vigorous campaigns without having to rely on wealthy special interests.

Thank you very much.

The CHAIRMAN. Thank you.

[The statement of Mr. Pearson follows:]

COMMON CAUSE
Holding Power Accountable

Testimony of Arn H. Pearson
Vice President for Programs, Common Cause

Presented to the Committee on House Administration
on H.R. 1826, the Fair Elections Now Act

July 30, 2009

Chairman Brady, Ranking Member Lungren, and distinguished members of the Committee on House Administration, thank you for the opportunity to testify. My name is Arn Pearson, and I am vice president for programs at Common Cause.

For almost 40 years, Common Cause has provided a nonpartisan voice for reforms that make government more open, honest and accountable to the American people. In the wake of the Watergate scandal, we led efforts to create the Federal Election Campaign Act in 1974, ushering in the system of campaign finance regulation and presidential public funding that federal candidates have run under for more than thirty years. But times have changed, and that system is in bad need of an upgrade. You have before you today, in the Fair Elections Now Act, a golden opportunity to craft a new framework for the 21st Century that will improve the quality of campaigns, give you more time to serve the public interest, and restore public confidence in the integrity of Congress.

Let's face it: These are hard times for Congress. Your job is not an easy one. The problems facing America are daunting, yet by most estimates, you have to spend more than a quarter of your time fundraising, often from those who have a direct financial stake in what you do. There has been a steady drumbeat of pay-to-play scandals here and in the states, and every day the news is full of stories that highlight the inherent conflicts of interest in the current system and erode the public's faith that you will act in their best interest. No wonder public approval for

the job Congress is doing stands at around 33 percent, after hitting an all-time-low of 14 percent last summer.[1]

A bipartisan national poll conducted earlier this year by Lake Research Partners and the Tarrance Group found that 79 percent of voters worry that large campaign contributions are a roadblock to progress and will prevent Congress from tackling the big issues facing the nation, like our financial crisis, health care and climate change – a sentiment strongly held across the board, regardless of party affiliation.[2] Even worse, a Pew Research Center survey found that 81 percent of Americans believe that lobbyists bribing members of Congress is commonplace,[3] and a 2006 poll by CNN found that half of Americans think most members of Congress are corrupt.[4]

These cynical public sentiments – and the campaign finance system that fuels them – do a profound disservice both to the people like you who go into public service and to the core institutions of American democracy. The vast majority of members are good, talented and dedicated people caught in a bad system.

I doubt this is what you had in mind when you decided to run for Congress. Surely the American people did not send Mr. Smith to Washington to spend his time raising money. They expect and deserve more, and so do you. If you could start from scratch, would this be the system you would choose?

At first blush, the current campaign mess looks like a Gordian Knot. The cost of campaigns – and fundraising – is soaring, members face increasing pressure to fundraise for their own campaigns and their caucuses, and powerful interests with a financial stake in what you do are pouring record amounts into political contributions and sophisticated lobbying campaigns. A recent report by Common Cause on health industry spending provides a good case in point. The industry has contributed more than $374 million to members of Congress since 2000, targeting the lion's share to committees that handle health care legislation. Health industry campaign

---

[1] Gallup, *Congress' Approval Rating Drops to 33%*, June 23, 2009, http://www.gallup.com/poll/121208/Congress-Approval-Rating-Drops-33.aspx.

[2] Lake Research Partners and the Tarrance Group, national opinion survey of 800 likely voters, conducted February 2-6, 2009.

[3] Pew Research Center for the People & the Press, *Americans taking Abramoff, Alito and Domestic Spying in Stride*, Jan. 11, 2006, http://people-press.org/reports/pdf/267.pdf.

[4] CNN, *Poll: Half of Americans think Congress is corrupt*, Oct. 19, 2006, http://www.cnn.com/2006/POLITICS/10/19/congress.poll/index.html.

contributions were up 73 percent in the 2008 elections as compared to 2000, and so far this year, the industry has spent $1.4 million per day on lobbying.[5] Meanwhile, the current campaign finance regulatory regime is in a state of flux, with many of its key underpinnings under attack from reform opponents eager to open the floodgates.

But the words of Common Cause's founder, John Gardner, ring as true today as they did in 1965 when he was sworn in as President Johnson's Secretary of Health, Education and Welfare: "What we have before us are some breathtaking opportunities disguised as insoluble problems."

The knot can be cut. Americans are hungry for change. Many members of Congress are hungry for change. The system you inherited does not serve you well, nor does it serve the public well. People want representation that they can trust, and the power to give it to them lies within your grasp. And the timing is right – the Internet revolution makes possible a much more democratic system for funding elections, and the states have pioneered the way with innovative new solutions.

The Fair Elections Now Act offers a highly promising, effective and voluntary alternative to the current mess. Inspired by the success of reforms in states like Connecticut, Maine, Arizona, North Carolina and New Mexico, Fair Elections empowers candidates to run for Congress using a blend of small donor and public dollars, and to end their dependence on large contributions from special interests. Candidates who show significant support in their home states and agree to accept contributions of $100 or less from individuals only can qualify for an initial campaign grant and earn a 4-to-1 match on in-state small donations.

This is not a partisan issue. Hundreds of Democratic and Republican legislators, statewide officials and judges have been elected through similar systems at the state level over the past decade. Candidates who used state citizen-funded election programs now hold 85 percent of the seats in the Maine Legislature, 78 percent of the seats in the Connecticut General Assembly, 54 percent of the seats in the Arizona State Legislature, 80 percent of statewide elected offices in Arizona, and 68 percent of North Carolina's top judicial positions.

---

[5] Common Cause, *Legislating Under the Influence*, June 24, 2009, http://www.commoncause.org/HealthCareReport.

Citizen-funded elections work. I have worked closely with lawmakers from both parties over the last 12 years to implement and refine successful public funding programs in Maine and Connecticut, and to help design new systems for many other states and Congress. These are not one-size-fits-all laws; they are pragmatic programs tailored to the political realities of campaigns for different public offices and jurisdictions.

As a result, the laws enjoy strong bipartisan support from elected officials who believe they have significantly improved the political process for candidates and voters alike. Maine's elections commission surveys participating candidates after every election cycle, and those candidates consistently give the program high marks. As in years past, 95 percent said were satisfied with the Clean Elections program in 2008, and 97 percent said they would likely or definitely use the program again for their next election. The most commonly cited reasons for this satisfaction were being able to focus on voters and issues, and not feeling obligated to others.[6] In Connecticut, 71 percent of participating candidates were satisfied with the Citizens' Election Program on its debut in 2008, and 66 percent believed the program reduced the perception that they were beholden to special interests.[7]

Voters like Fair Elections too. A recent poll in Maine shows that 74 percent of voters want gubernatorial candidates to use the program, and 55 percent said they would be more likely to support someone who did.[8] Likewise, our national polling in February of this year found 67 percent support for public funding for congressional candidates who agree to abide by lower contribution limits, and that support was remarkably consistent across party lines.[9]

Clearly we need to change the way American pays for elections. The current pay-to-play culture leads to an arms race in campaign spending and fundraising, undermines public confidence in their elected government, deters qualified people from entering public service, and makes it harder for you to do the job you came here for.

Fortunately, the small-donor/public-funding approach embraced by the Fair Elections Now Act is on solid constitutional ground. In fact, the more the U.S. Supreme Court

---

[6] Maine Commission on Governmental Ethics and Election Practices, *Report on Survey of 2008 Candidates*, forthcoming Aug. 6, 2009.

[7] Connecticut State Elections Enforcement Commission, unpublished survey.

[8] Critical Insights, *Spring 2009 Tracking Survey*, June 2009.

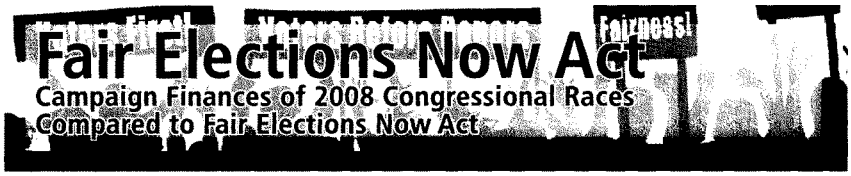
[9] Lake Research Partners and the Tarrance Group, February 2009.

increasingly restricts what Congress can do to reform the system from a traditional regulatory standpoint – in cases like *Wisconsin Right to Life* and *Davis v. FEC* – the more voluntary public funding systems offer the best avenue for meaningful change. In a world with fewer practical limits on political spending by organized wealthy interests, Fair Elections offers a floor for vigorous campaigns for all candidates to ensure that concentrated wealth cannot drown out other voices.

At an 80 percent participation rate, we estimate that the Fair Elections program would cost approximately $500 million per year. That is a very small amount when compared to the cost of the status quo, in which dependence on special-interest funding for campaigns distorts public spending priorities in a myriad of ways, including earmarks for campaign contributors, and undermines our democracy.

For the price of a cup of coffee per American per year, you can return common sense to the nation's capitol and leave a legacy for the next generation of voters and congressional candidates.

I urge you to vote in favor of H.R. 1826, the Fair Elections Now Act.



Summary

Under the Fair Elections Now Act (H.R. 1826), candidates for Congress could run for office on a blend of small donations and public funds. This voluntary citizen-funded election system allows qualified candidates who raise enough individual contributions of under $100 in their home state to receive a public grant for the primary and—if they win—the general election. Candidates may raise additional small contributions and receive a 4-to-1 match with Fair Elections funds, up to a cap. They may continue raising unlimited, unmatched small contributions. (See bill summary for details.)

Totals under Fair Elections

To qualify, a candidate must raise $50,000 in small, individual contributions. The candidate then receives a federal grant of $360,000 for the primary and another federal grant of $540,000 for the general election, for a total of $950,000. If the candidate raises the maximum in matchable small contributions, his or her total fundraising at that point will reach $3.3 million.

2008 candidates

Of the 435 members of the 111th Congress:

- Over 95% of winning candidates in 2008 spent less than the $3.3 million provided by small donations and the maximum in federal matching funds under Fair Elections
- 20 of them—under 5%—raised and spent more than $3.3 million in the last election cycle (see details and notes below)
- More than a quarter of all members of Congress—127 of them—raised and spent less than the base grant of $950,000 under Fair Elections
- In other words, a very small fraction would have needed to raise more than the maximum in matchable small donations under Fair Elections to equal their campaign fundraising in the last cycle. A much larger fraction would have exceeded last cycle's fundraising simply by qualifying for the base Fair Elections grants.

In a bit more detail

- 14 Democrats in Congress raised more than $3.3 million. Among them were Representatives Rob Andrews, who had entertained a run for Senate before deciding to run for reelection; Charlie Rangel, John Murtha, and Steny Hoyer, all members of leadership; and Bill Foster, who had to run twice: in the special election for former Speaker Hastert's seat and then again to defend the seat in November.
- Six Republicans in Congress raised more than $3.3 million. This included Representatives John Boehner, the Minority Leader; Eric Cantor, the Minority Whip; and Vern Buchanan, who spent nearly $750,000 of his own money on the race.

The Fair Elections Now Coalition

BRENNAN CENTER FOR JUSTICE · COMMON CAUSE · CHANGE CONGRESS · Democracy MATTERS · PUBLIC CAMPAIGN · Public Citizen · U.S. PIRG

This document was printed in-house.

July 23, 2009

Clean Elections In Practice

Results from States and Municipalities

Arizona

Clean Elections has been an option for state candidates in Arizona since 2000 and two-thirds of candidates chose to run in 2008 using the program. Currently 54 percent of the legislature is made up of officials that used the Clean Elections program, up from 42 percent in 2006. As of January 2009, 50 officials that used the voluntary system will hold 65 percent of Arizona House seats and 37 percent of Senate seats. This means officials using the Clean Elections program will hold 39 of 60 Arizona House seats and 11 of 30 Senate Seats.

All three of the Corporation Commissioners elected in 2008 used the Clean Elections program, which makes 8 out of 10 statewide elected officials in Arizona who ran and won using Clean Elections.

Maine

Clean Elections has become a vital part of the election process in Maine since first being instituted in 2000. In 2009, 85 percent of the legislature is filled by people who won using their Clean Elections program. Officials who ran under the Clean Elections program now hold 80 percent of the Senate, or 28 seats, and 86 percent, or 130 seats, in the Maine House of Representatives.

North Carolina

The Clean Elections program North Carolina implemented for top judicial seats and three statewide Council of State offices has been overwhelmingly adopted by candidates. In North Carolina's judicial races, 2008 marked the third time candidates had the option of participating in the public financing program. Clean Elections candidates won all five of the North Carolina Court of Appeals races. Additionally, both candidates for the Supreme Court ran under the Clean Elections program. The winners include two African-Americans and two women.

In sum, candidates who ran under the Clean Elections program now hold 68 percent of North Carolina's top judicial seats. That number includes five of the seven Supreme Court Justices, and 10 of 15 Court of Appeals judges. In addition, Clean Elections candidates won two of the Council of State Offices. June Atkinson, Superintendent of Public Instruction, and Wayne Goodwin, Commissioner of Insurance, are both serving free from the influence of big special interest money. In fact, the percentage of campaign contributions to the Commissioner of Insurance contest by those industries directly regulated by that office dropped from 66% in 2004 to 5% in 2008.

Connecticut

November 2008 saw Connecticut's first general election under its new Citizens' Election Program and the results were outstanding. Participating candidates made up 75 percent of those seeking office in Connecticut's General Assembly. A total of 151 out of 187 seats are now filled by officials who used the Citizens' Election Program. In the state Senate, 89 percent of the seats, or 32 of 36, are now held by Clean Elections officials. In the House, officials who ran under the Clean Elections system will hold 119 of 151 seats.

New Jersey

In 2007, all nine of the winning candidates used their pilot program in the three legislative districts where the Fair and Clean Elections system was implemented. The winners include Democrats and Republicans, representatives and senators, from all three districts where the program was available. Eighty percent of the candidates used the system and 100 percent of the winners did.

Portland, Ore. And New Mexico

Longtime civic activist Amanda Fritz won her 2008 Portland City Council race as a Clean Elections candidate; this is the second cycle that the program has been in use. Fritz is now one of the city's four commissioners, elected citywide to a non-partisan position serving Portland's 570,000 citizens.

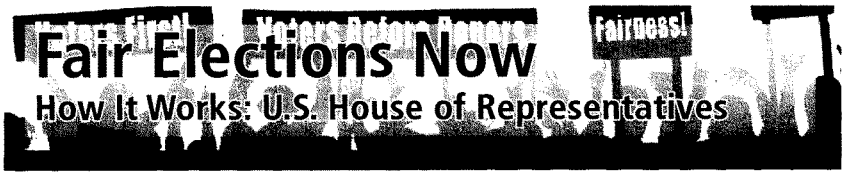
In New Mexico, the two candidates running under the Clean Elections programs won their races for seats on the Public Regulation Commission.

The Fair Elections Now Coalition

BRENNAN CENTER FOR JUSTICE · COMMON CAUSE · CHANGE CONGRESS · Democracy MATTERS · PUBLIC CAMPAIGN · Public Citizen · U.S. PIRG

April 14, 2009

This document was printed in-house.



House Fair Elections Now Act - HR 1826

Phase	HR 1826
Seed money	Unlimited contributions of $100 or less from individuals only
Qualifying contributions	1,500 contributions of between $5 - $100 from in-state residents totaling at least $50,000 collected during a 6-month window needed to qualify.
Primary election grant	40% of base amount. 2008 estimate: $360,000
Primary matching funds	4 to 1 match on in-state contributions of $100 or less. Cap on public matching funds is 200% of primary election grant. 2008 estimate: up to $180,000 in small contributions for up to $720,000 in matching funds, totaling $900,000.
Primary spending limit	No spending limit. Candidate can continue to raise unlimited small donations after public funds cap out.
General election grant	60% of base amount. 2008 estimate: $540,000
General matching funds	4 to 1 match on in-state contributions of $100 or less. Cap on public matching funds is 200% of general election grant. 2008 estimate: up to $270,000 in small contributions for up to $1,080,000 in matching funds, totaling $1,350,000.
General spending limit	No spending limit. Candidate can continue to raise unlimited small donations after public funds cap out.
General coordinated party expenditures	Capped at 10% of general election grant amount or FECA limit, whichever is less
Broadcast voucher for general election	$100,000
MAXIMUM PUBLIC FUNDS	**$2.8 million**
MAXIMUM QUALIFYING & MATCHABLE SMALL DONATIONS	**$500,000**
MAXIMUM TOTAL FUNDS	**$3.3 million, plus unlimited (unmatched) small donations.**

Base amount	80% of national average spent in winning House races for past two cycles. For 2004-2006, that average was $1,125,000; 80% of that is $900,000.

The Fair Elections Now Coalition

BRENNAN CENTER FOR JUSTICE · COMMON CAUSE · CHANGE CONGRESS · DEMOCRACY MATTERS · PUBLIC CITIZEN · U.S. PIRG

This document was printed in-house. July 23, 2009

Fair Elections *Now* Coalition

BRENNAN CENTER FOR JUSTICE · CHANGE CONGRESS · COMMON CAUSE · Democracy MATTERS · PUBLIC CITIZEN · U.S. PIRG

Business Leaders in Support of Clean Elections
(Company listed for identification purposes only)

Robert Arnow
Chairman
Swig, Weiler & Arnow
Management Company

Marcel Arsenault
President & CEO
Colorado & Santa Fe Real Estate Company

Berkley Bedell
Founder & Chairman
Berkley & Co.
Former Congressman, Iowa

Peter A. Benoliel
Chairman Emeritus
Quaker Chemical Corporation

Andrew Bernstein
Chief Executive Officer
Cymfony

Edgar M. Bronfman, Sr.
Former Chief Executive Officer
Seagram's

Allan Brown
Chairman of the Board
Vance Brown Builders

Charlie Couric
Founder and Past President
Brita Products Company

Stanley Eisenberg
Former Chief Executive Officer
Sunnydale Farms

John H. Elliott
Chairman of the Board
Rhode Island Textile Company

Richard Foos
Chairman
Shout! Factory

Walt Freese
CEO
Ben & Jerry's

Murray Galinson
Chairman
San Diego National Bank

William Gates, Sr.
Attorney/Philanthropist

Jerry Grinstein
Madrona Venture Group
Former CEO of Delta Airlines

Alan G. Hassenfeld
Chairman, Executive Committee
Hasbro, Inc.

Christie Hefner
Former Chairwoman & Chief Executive
Playboy Enterprises

Arnold Hiatt
Former Chief Executive Officer
Stride Rite, Inc.
Chairman
Stride Rite Foundation

William Hubbard
President
Center Development Corp.

Fred S. Hubbell
Executive Board Member (Ret.)
ING Group

G. David Hurd
Emeritus Chairman
Principal Financial Group

Lee Iacocca
Founder, The Iacocca Foundation
Former CEO, Chrysler Corporation
Former President, Ford Motor Company

Michael J. Johnston
Senior Partner
The Capital Group Companies, Inc.

John Langan
President
Townsend Press

Mitchell Kapor
Founder & Past President
Lotus Development Corporation

Mike Kappus
President
Rosebud Agency

Steve Kirsch
Founder, Chairman and Chief Executive Officer
Propel Accelerator
Chief Executive Officer
Abaca Technology Corporation
Chairman
Kirsch Foundation

Ned Lamont
Founder & Chairman
Campus Televideo

Thomas Layton
CEO
Metaweb Technologies

Peter Malkin
Chairman
Wein & Malkin LLC

Kenneth F. Mountcastle
Senior Vice President (Ret.)
Dean Witter Reynolds

Chang Park
Chairman of the Board
Universal Remote Control, Inc.

Alan Patricof
Managing Partner
Greycroft, LLC

William Ruckelshaus
Strategic Director
Madrona Venture Group
Former Chief Executive Officer
Weyerhaeuser
Former EPA Director and Deputy Attorney General in the Nixon Administration

Paul Sack
Principal
Paul Sack Properties, Inc

William F. Simmons
President & Chief Marketing Officer,
Group Benefit Services

Jim Sinegal
Chief Executive Officer
Costco

Peter Booth Wiley
Chairman of the Board
John Wiley & Sons, Inc.

Peter Workman
President & Publisher
Workman Publishing Company

George Zimmer
CEO
Men's Wearhouse

Fair Elections *Now* Coalition

BRENNAN CENTER FOR JUSTICE | CHANGE CONGRESS | COMMON CAUSE | Democracy MATTERS | PUBLIC CITIZEN | Public Citizen | U.S. PIRG

Fair Elections FAQ

1) What are Fair Elections?

The Fair Elections Now Act would help restore public confidence in the Congressional election process by providing qualified candidates for Congress with grants, matching funds, and vouchers from the Fair Elections Fund to replace campaign fundraising that largely relies on large donors and special interests. In return, participating candidates would agree to limit their campaign spending to the amounts raised from small dollar donors plus the amounts provided from the Fund.

2) Why do we need Fair Elections?

The costs of House campaigns are rapidly spiraling out of control. Members are being forced to spend more and more time raising money rather than legislating, and challengers are struggling to raise the money it takes to compete. As the costs of campaigning rise and the reliance on wealthy donors increases, public opinion of our democracy sours.

The Fair Elections Now Act would restore public confidence in the election process by allowing qualified candidates to receive campaign funds from the House Fair Elections Fund to supplement their small-dollar fundraising, instead of relying largely on money from wealthy private interests. In return, participating candidates would voluntarily agree to limit their campaign spending to the amounts allocated to them by the program and to contributions raised from small-dollar donors that give $100 or less per donor per election.

This voluntary alternative to traditional privately financed campaigns would free candidates from the incessant, time-consuming money chase that has tainted public perceptions of elected officials and fostered abuses that undermine our democracy. Candidates could instead devote their time and energy to talking with their constituents about the issues that are important to them.

3) What are the benefits to participating in the Fair Elections system?

Participating candidates will receive enough campaign funds to be competitive, and will additionally receive free media vouchers and a 20% discount below the lowest unit cost on broadcast advertising in the run-up to the election. Moreover, they are freed to spend more time with the voters and less time with donors.

4) Would the Fair Elections system mandate participation?

No. The system is voluntary, and only candidates that choose to participate and that qualify will be considered Fair Election candidates.

Fair Elections *Now* Coalition

BRENNAN CENTER FOR JUSTICE | CHANGE CONGRESS | COMMON CAUSE | Democracy MATTERS | PUBLIC CAMPAIGN | Public Citizen | U.S. PIRG

5) How does a candidate qualify for the Fair Elections benefits?
To demonstrate viability as a candidate, a candidate must gather at least 1,500 qualifying contributions of between $5 and $100 from in-state donors. These donations must amount to at least $50,000.

6) How much funding does a participating candidate receive?
The amount of initial funding that a candidate would be eligible to receive for the primary election is $360,000 and for the general election is $540,000. In districts that are determined to be "party-dominant," the amounts are reversed.

In addition, contributions raised from in-state donors would be matched 4:1 for up to 200% of the grant for which that candidate would be eligible for a given election. Finally, participating candidates for the general election would receive a $100,000 voucher that could be used to purchase television advertising.

7) What are obligations of participating candidates?
Fair Election candidates must pledge not to accept private donations in excess of $100 per election per donor, and must participate in one debate for the primary and two debates for the general election.

8) How could a participating candidate compete against a self-funding billionaire or large amounts of independent expenditures?
A Fair Elections candidate could raise an unlimited amount of small-dollar donations if needed, and would qualify for matching funds up to the prescribed cap. Based on historical precedent, only in very rare cases would a participating candidate be excessively outspent by a non-participating candidate.

9) How much would the Fair Elections system cost?
No official score has been developed, but assuming the same strong rate of participation as Connecticut experienced in its first election cycle under it successful system, the annual estimated cost is between $450 to 600 million annually.

10) How would the Fair Elections system be paid for?
At the outset, the Fair Elections system would be financed via a 10% set aside from the proceeds generated by the auction of the remaining broadcast spectrum. The most recent auction generated nearly $20 billion.

11) Is the Fair Elections system constitutional?
Yes. Since it is an optional system it would pass the most commonly-cited constitutionality test established in *Buckley v. Valeo*.

Fair Elections *Now* Coalition

BRENNAN CENTER FOR JUSTICE · CHANGE CONGRESS · COMMON CAUSE · Democracy MATTERS · PUBLIC CAMPAIGN · Public Citizen · U.S. PIRG

12) Has the Fair Elections idea been piloted successfully?

Yes. The following table summarizes the Fair Elections-type systems that have already been implemented at the state and local levels with much success.

State/ Locality	Electoral Contest(s) for which Public Funding is Available	Method of Approval?	Year Approved	Year Implemented
Arizona	Statewide and legislative races	Ballot initiative	1998	2000
Connecticut	Statewide and legislative races	Legislation	2005	2008
Maine	Statewide and legislative races	Ballot initiative	1996	2000
New Jersey	Legislative (pilot project)	Legislation	2004	2005
New Mexico	Public Regulation Commission	Legislation	2003	2005
	Statewide Judicial Races	Legislation	2007	2008
North Carolina	Judicial elections	Legislation	2002	2004
	Council of States (pilot project)	Legislation	2007	2008
Vermont	Governor and Lt. governor	Legislation	1997	2000
Albuquerque, N.M.	City Races, Mayor	Ballot initiative	2005	2006
Portland, Ore.	City races	Legislation	2005	2006

Fair Elections *Now* Coalition

BRENNAN CENTER FOR JUSTICE | CHANGE CONGRESS | COMMON CAUSE | Democracy MATTERS | PUBLIC CAMPAIGN | Public Citizen | U.S. PIRG

13) What groups are supporting the Fair Elections Now Act?

The following groups support the Fair Elections Now Act:

Fair Elections Now Coalition:

Brennan Center For Justice
Change Congress
Common Cause
Democracy Matters
Public Campaign
Public Citizen
US PIRG

Endorsing Organizations:

1Sky
9-to-5
ACORN
AFSCME
Americans for Campaign Reform
Campaign for America's Future
Campus Progress
Chesapeake Climate Action Network
Citizens for Responsibility and Ethics in Washington
Consumer Watchdog
Corporate Accountability International
Democracy 21
DEMOS
Dolores Huerta Foundation
Friends of the Earth
Greenpeace
Healthcare Now
Hip Hop Caucus
League of Conservation Voters
League of Young Voters
Mexican American Legal Defense Education Fund
MoveOn.org
NAACP
National Council of the Churches of Christ in the USA
National Organization of Women
Progressive Future
Rock the Vote
SEIU
Sierra Club
Unitarian Universalist Association of Congregations
USAction
William C. Velazquez Institute

Fair Elections *Now* Coalition

BRENNAN CENTER FOR JUSTICE | CHANGE CONGRESS | COMMON CAUSE | Democracy MATTERS | PIRG | Public Citizen | U.S. PIRG

Former Members of Congress in Support of Fair Elections Policy

Sen. Jim Abourezk, (D-SD)
Rep. Don Albosta, (D-MI)
Rep. Tom Andrews, (D-ME)
Rep. Lud Ashley, (D-OH)
Rep. Chester Atkins, (D-MA)
Rep. Michael Barnes, (D-MD)
Rep. Berkley Bedell, (D-IA)
Rep. Sherwood Boehlert, (R-NY)
Rep. David Bonior, (D-MI)
Sen. Bill Bradley, (D-NJ)
Rep. Bill Burlison, (D-MO)
Rep. Jim Chapman, (D-TX)
Rep. Butler Derrick, (D-SC)
Rep. Bob Edgar, (D-PA)
Rep. Victor Fazio, (D, CA)
Rep. Frank Guarini, (D-NJ)
Rep. Lee Hamilton, (D-IN)
Rep. Michael Harrington, (D-MA)
Rep. James Hastings, (R, NY)
Rep. Dennis Hertel, (D-MI)
Rep. Elizabeth Holtzman, (D-NY)
Rep. Amory Houghton, (R-NY)
Rep. Thomas Jerold Huckaby, (D-LA)
Rep. Bill Hudnut, (R-IN)
Rep. Earl Hutto, (D-FL)
Rep. Andrew Jacobs Jr., (D-IN)
Rep. John Jenrette, (D-SC)
Sen. Bob Kerrey, (D-NE)
Rep. Jim Leach, (R, IA)
Rep. Elliot Levitas, (D, GA)
Rep. Stan Lundine, (D-NY)
Rep. Richard Mallary, (R, VT)
Sen. Charles Mathias (R-MD)
Rep. Pete McCloskey, (R-CA)
Rep. Matt McHugh, (D-NY)
Rep. Toby Moffett, (D-CT)
Rep. Connie Morella, (R-MD)
Rep. Lucien Nedzi, (D, MI)
Hon. Leon Panetta, (D-CA)
Rep. John Porter, (R-IL)
Rep. Tom Railsback, (R-IL)
Sen. Warren Rudman, (R-NH)
Rep Marty Russo, (D-IL)
Rep. Pat Schroeder, (D, CO)
Rep. John J.H. Schwarz, (R-MI)
Rep. Ronnie Shows, (D-MS)
Sen. Alan Simpson, (R-WY)
Rep. Charles Stenholm, (D-TX)
Rep. James Symington, (D-MO)
Rep. Esteban Torres, (D-CA)
Rep. J. Bob Traxler, (D-MI)
Sen. Tim Wirth, (D-CO)

July 24, 2009

Running and Winning
Clean Elections Candidate Experiences

Rep. David Lujan

Rep. David Lujan (D-Ariz.), the House Minority Leader in the Arizona House of Representatives, was always fascinated by the legislative process and worked behind the scenes for years. In 2002 he was elected to the Phoenix Union School Board which began his career as a public servant. In 2004, Lujan decided to run for the state legislature.

Even though he had plenty of experience - former assistant attorney general, former legislature staffer, school board member - Lujan just wasn't sure he could pull together enough money to win. He didn't have deep pockets or the Rolodex to raise the amount of money necessary to run a viable campaign. "I didn't have a lot of connections in terms of lobbyists and fundraising," he said.

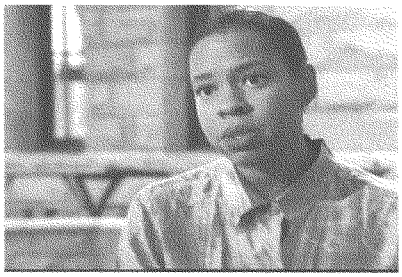
"Clean Elections in Arizona definitely made it possible because I knew I would have the ability to raise the funds through Clean Elections that would put me on a competitive level with any of the other opponents," he said.

Lujan won in 2004 and is now in his second term at the legislature. In 2006, he was honored for his work on education with the Arizona Students Association's Legislator of the Year Award. He is also focused on children's health and safety issues.

As a Clean Elections candidate, "you're out there meeting those who are going to put you in office-the voters, going door-to-door, trying to collect the $5 contributions, and you're meeting with your future constituents."

"I think it opens up the political process," he said. "I think [Clean Elections] changes the dynamics of the debate in your state on a whole variety of issues, and it brings in candidates that are going to have an opinion that are not going to be necessarily tied to special interests."

Aside from serving in the legislature, Lujan is the Staff Attorney for Defenders of Children, a non-profit organization providing legal and support services for children who are victims of abuse. Among other community activities, he volunteers his time with the Central High School mock trial team and is Chair of the Advisory Board for the Arizona Latino Leadership Institute.



Sen. Leah Landrum Taylor (D-Ariz.), a four-term Arizona legislator and fan of the state's Clean Elections law. She has won elections both with private funding, in 1998, and with public funding in her subsequent campaigns.

Sen. Leah Landrum Taylor

"Any time I have an opportunity to speak to a group of women, I encourage them to run for office, and tell them that it is possible using Clean Elections." That's the advice from Sen. Leah Landrum Taylor (D-Ariz.), a four-term Arizona legislator and fan of the state's Clean Elections law.

Landrum has won elections both with private funding, in 1998, and with public funding in her subsequent campaigns.

Clean Elections brings her closer to constituents, she said. She receives three times more phone calls from constituents now than she did when she ran with private funds.

"I was an incumbent, so it would have been easy to continue going the traditional route," she said.

"But I was inspired by the whole vision of Clean Elections. It involved the whole community. It was an opportunity to keep special interests out of decision-making, to keep them from pounding down your door to remind you that they gave you money."

Sen. Landrum Taylor, an African American, has become an unrelenting fighter for environmental justice. Her south Phoenix district, comprised largely of people of color, is harshly impacted by toxic pollution.

She sits on the K-12 Education, Natural Resources and Rural Affairs Committee and the Public Safety and Human Resources Committee. She is also the Arizona Caucus Chair for the National Black Caucus of State Legislators

"The system helps women running for office get their message out more effectively. You'll likely contact at least 1,000 constituents personally in order to get the $5 qualifying contributions."

Rep. Kelvin Roldán

At 28 years old, Rep. Kelvin Roldán (D-Conn.) became the youngest Hispanic ever elected to the Connecticut General Assembly, serving Hartford's 4th Assembly District, when he first ran in 2006.

Serving a large number of less fortunate people, Rep. Roldán has witnessed the benefits of using the state's Citizens' Election Program. "When you tell people that it only takes $5 to contribute, then you can actually have people involved who otherwise would not even be able to participate in the process due to the cost. I mean, not everyone can afford to give $100; $5 is an easy way of getting involved in the electoral process," Roldán said.

By easing the barriers into the political process for those wishing to get involved, those of lesser means, who have struggled for a voice in the past, are now able to contribute to candidates. As a result of the program, the donation from the day laborer is just as important as the one from the corporate CEO.

"I do believe that this is a question of access; I do believe that there are more people now involved in the process than there would have been...The program does give hope to people for involvement and not only that, but if you look at the people who have contributed to the program, a significant number of them have never contributed to another political campaign," Roldán noted.

In addition to opening the doors to greater citizen involvement, Connecticut's Citizens' Election Program has also freed Rep. Roldán to focus on important issues. Having run under the traditional system in 2006 when he was first elected to the General Assembly, Rep. Roldán saw a stark difference in how he used his time.

"I'm concentrating now on talking to my constituents...[my interactions] have mostly now been about the policies and the work, not any discussions about money," Roldán said. The Citizens' Election Program provided an avenue to talk about "the real needs of the people that we represent," he said. Roldán also found that the program created a greater opportunity for public discourse, by allowing candidates to test ideas and discuss important issues. "Isn't that what Democracy is all about?" he stated.

Rep. Roldán is currently the Vice-Chairman of the Appropriations Committee and also serves on the Judiciary and Insurance & Real Estate Committees. In the past, big money donors from those industries regulated by these committees would typically have bombarded the committee members for their vote. With the institution of the Citizens' Election Program, the influence of such special interests has been drastically reduced.

Rep. Christopher Coutu

Elected when he was 32 years old, Rep. Christopher Coutu (R-Conn.) started his career in politics ad an Alderman of the City of Norwich in Connecticut. Ready to run for the State Assembly, Coutu was eager to participate in Connecticut's new Citizens' Election Program. In the process of collecting small contributions to qualify for the program, he encountered and was able to engage a diverse group of individuals.

"The great thing about [public] campaign financing is the fact that just about anyone can come up with five dollars...all different types of people, all different types of economic backgrounds...it has really opened up who can participate in the political process," commented Coutu.

By knocking on doors of members of his community and asking for small donations, Coutu was able to mobilize a dedicated volunteer base who felt invested in his campaign. His desire to shift the focus from dialing for dollars to the issues propelled him to become one of the first candidates to qualify for the program.

"[The Citizens' Elections Program] truly does enable candidates to focus on the issues over anything else. And there's nothing better than getting candidates out there to shake hands and meet people and talk about the issues instead of thinking in the back of your mind 'How can I get more funding from this person?' It's a great thing."

Fair Elections *Now* Coalition

BRENNAN CENTER FOR JUSTICE | CHANGE CONGRESS | COMMON CAUSE | Democracy MATTERS | PUBLIC CITIZEN | U.S. PIRG

Democratic and Republican Elected Officials Back Fair Elections-Style Proposals

"Americans would be shocked if they knew how much time Members of Congress and candidates seeking office must spend dialing for dollars and attending fundraisers. Without a fundamental reform of the way we finance campaigns, we cannot bring real reform to Capitol Hill. Our bipartisan bill will give candidates the opportunity to focus on dealing with our nation's problems and not chasing after campaign cash."

- **U.S. Senator Dick Durbin (D-IL),** sponsor, Fair Elections Now Act, March 2009

"States across the country, including my home state of Connecticut, have acted as laboratories for reforms like the Fair Elections Now Act. States have shown overwhelming success in taking the influence of big donors out of their legislative process and allowing lawmakers to get back to the people's business rather than spending their time dialing for cash. Now it is time to bring this kind of real change to Washington. President Obama showed us all how small donations and average Americans can make a difference in an election. With the Fair Elections Now Act we can bring that sort of grassroots enthusiasm and involvement to our Congressional races."

- **Congressman John B. Larson (D-CT),** sponsor, Fair Elections Now Act, March 2009

"It's time to return government to the people. And the first step is for Congress to debate legislation like the Fair Elections Now Act, which would help ensure that the average citizen has a voice."

- **Congressman Walter B. Jones (R-NC),** sponsor, Fair Elections Now Act, March 2009

"I am joining Senator Durbin in introducing legislation in the Senate to provide for public financing because I believe it will be a significant step in improving public confidence in the election process. The public is understandably very distrustful of what happens in public life when there are contributions by interested parties in the political process in terms of whether that influences our official decisions. I think that it does not, but there is great public skepticism on that question and I think public financing will go a long way to restoring public confidence in the electoral system."

- **U.S. Senator Arlen Specter (D-PA),** sponsor, Fair Elections Now Act, March 2007

"The difference between being able to go out and spend your time talking with voters, meeting with groups, doing things like traveling to communities that have been under-represented in the past as opposed to being on the phone selling tickets to a $250 a plate fundraiser – that's the real, practical difference."

- **Homeland Security Secretary Janet Napolitano (D),** on running successfully as a 2002 Clean Elections gubernatorial candidate in Arizona

"Yet this is landmark legislation, and not merely because Connecticut is the first state to enact such sweeping reforms through legislative action rather than by referendum, as was the case in Maine and Arizona. Equally important is the opportunity this bill lays before citizens who may have thought about public service but lacked the money to run for office or disliked the process of raising it for a campaign. I believe this legislation will encourage new voices in our political process, introducing fresh ideas and novel approaches."

- **Connecticut Governor M. Jodi Rell (R),** op-ed, *Hartford Courant,* December 8, 2005, upon signing legislation

"When I'm walking the halls of the legislature and I see lobbyists from major corporations or even small organizations, I know that I get to make decisions that think about all the people in my constituencies, all the people in my district and not just specific interest groups."

- **Former Maine State Senate President Beth Edmonds (D),** *The Road to Clean Elections* Video

"When you think about Clean Elections, the first word that comes to mind is fairness, because it brings about inclusiveness, it also brings about a good amount of competitiveness, and it opens it up in diversity as well."

- **Arizona State Representative Leah Landrum Taylor (D),** *The Road To Clean Elections* Video

"You have an opportunity to spend time with voters, listening to their concerns, discussing issues and not have to constantly be raising money up and through the time and after an election."

- **Arizona Corporation Commissioner William Mundell (R),** *The Road To Clean Elections* Video

"I owe more allegiance to my constituents, all the constituents really, and I don't really give big business or corporations that much consideration."

- **Maine State Representative Jim Annis (R),** *The Road To Clean Elections* Video

"I think [Clean Elections] opens up the political process. I think it changes the dynamics of the debate in your state on a whole variety of issues, and it brings in candidates that are going to have an opinion that are not going to be necessarily tied to special interests.... People will ask if you are running Clean or traditional. So, it's sort of a badge of honor."

- **Arizona State Representative David Lujàn (D),** Profile in Clean Elections

Road to Clean Elections video and Profile in Clean Elections are available from Public Campaign, http://www.publicampaign.org

Fair Elections *Now* Coalition

BRENNAN CENTER FOR JUSTICE · CHANGE CONGRESS · COMMON CAUSE · Democracy MATTERS · PUBLIC CAMPAIGN · Public Citizen · U.S. PIRG

Fair Elections Now Organizational Supporters

- 1Sky
- 9to5
- ACORN
- AFSCME
- Americans for Campaign Reform
- Brennan Center For Justice
- Campaign for America's Future
- Campus Progress
- Change Congress
- Chesapeake Climate Action Network
- Citizens for Responsibility and Ethics in Washington
- Common Cause
- Consumer Watchdog
- Corporate Accountability International
- Democracy 21
- Democracy Matters
- DEMOS
- Dolores Huerta Foundation
- Friends of the Earth
- Greenpeace
- Healthcare Now
- Hip Hop Caucus
- League of Conservation Voters
- League of Young Voters
- MALDEF
- MoveOn.org
- NAACP
- National Council of the Churches of Christ in the USA
- National Organization of Women
- Progressive Future
- Public Campaign
- Public Citizen
- Rock the Vote
- SEIU
- Sierra Club
- U.S. PIRG
- USAction
- Unitarian Universalist Association of Congregations

- William C. Velazquez Institute

As of July 24, 2009

Lake Research Partners

THE TARRANCE GROUP

MEMORANDUM

To: Interested Parties

From: Celinda Lake, David Mermin, John Norris; *Lake Research Partners*
Brian Nienaber, Ashlee Rich; *The Tarrance Group*

Re: National polling on support for a proposal to tackle big money in Congressional elections[1]

In an environment dominated by economic concerns, a new bipartisan poll reports that voters strongly support a proposal to address the influence of big money and lobbyists in Congress by providing qualified candidates limited public funding in exchange for their accepting no large contributions. This support is driven by a sense of urgency for change in Washington DC, including the way elections are funded and due to the strong perception that members of Congress are indebted to their wealthy contributors rather than average constituents.

Key Highlights

More than two-thirds of voters (67%) support providing qualified congressional candidates a limited amount public funding if they agree to take no large contributions, while just 20% are opposed and 11% are undecided. Furthermore, a larger percentage of voters favor this proposal "strongly" (44%) than those who are opposed or undecided combined.[2]

- Every major demographic group solidly favors the proposal. This includes support across party lines (69% of Democrats, 64% of Republicans, and 66% of independents). Even the least supportive demographic group still favors the proposal by a 2-to-1 ratio.

---

[1] Lake Research Partners and the Tarrance Group conducted this bipartisan survey of 800 likely voters nationwide conducted February 2-6, 2009. The survey was commissioned by the Congressional Fair Elections Coalition.

[2] Text of proposal: Under this plan, candidates for Congress could run for office without raising large campaign contributions. Instead they would collect a large number of small contributions from their home state in order to qualify for a limited amount of public funding for their campaign. They would be prohibited from taking any contributions over 100 dollars or any contributions from lobbyists. Contributions of 100 dollars or less would be matched with public funds on a four to one basis, up to a strict limit.

The call for change includes the way elections are financed. Four out of five voters (81%) believe we need to change the way elections are financed, including a majority (54%) who call for "major" changes.

Most voters believe the problem is getting worse. Nearly three out of five voters (57%) believe that our campaign finance system is getting worse, compared to only 5% who think it is improving.

A solid majority of voters believe Congress prioritizes the will of their political contributors rather than constituents. Sixty percent of voters say members of Congress are more likely to vote in a way that will please their political contributors, compared to just 20% who think that they vote for the best interests of their constituents.

Voters see large campaign contributions as a roadblock to solving the most pressing economic issues facing America. More than three quarters (79%) of voters agree with the statement "I am worried that large political contributions will prevent Congress from tackling the important issues facing America today, like the economic crisis, rising energy costs, reforming health care, and global warming."

- **This sentiment is held strongly across the board, regardless of party affiliation.** Voters across party lines agree with the statement above (82% agree for Democrats, 79% agree for independents, 77% agree for Republicans).

Voters believe that the influence of campaign money given to members of Congress was a "major factor in causing the current financial crisis on Wall Street." Nearly three in four voters (73%) said that they thought large campaign contributions from the banking industry led to lax oversight, with 56 percent agreeing strongly with the sentiment.

- **This is also held strongly across the board, regardless of party affiliation.** Voters across party lines agree with the statement above (76% agree for Democrats, 68% agree for independents, 74% agree for Republicans).

For more information on this survey, contact Celinda Lake or David Mermin at Lake Research Partners (202-776-9066) or Brian Nienaber or Ashlee Rich at the Tarrance Group (703-684-6688)

MEMO

To: Interested Parties
From: David Donnelly, Public Campaign Action Fund
Date: July 28, 2009
RE: Recent Rasmussen Polling on Campaign Finance Attitudes

Rasmussen conducted public opinion research to assess public attitudes about campaign finance issues in the wake of the decision by the Supreme Court to hear new arguments in the Citizens United case. The court could loosen restrictions on corporate money in politics. The polling was conducted July 8-9 and Rasmussen surveyed 1,000 registered voters. The sampling error is +/- 3%.

Americans have low thresholds for what appears corrupting in terms of size of contributions, and the thresholds are getting lower. More than half say $50,000 in contributions to a member of Congress would be enough to influence a vote.

- "Fourteen percent (14%) of voters say a $1,000 contribution is big enough to influence a congressman or governor, while eight percent (8%) say it takes more than $100,000. Twenty-six percent (26%) say $10,000 is enough, while 22% think a $50,000 contribution will make the difference and 11% say $100,000.

- In 2006, Rasmussen found just 6% felt that $1,000 would influence their member of Congress, 8% lower than today, and 18% felt that it would take more than $100,000, 10% more than today.

- "Thirty-five percent (35%) believe [members of Congress] are [corrupt]."

- "Fifty-seven percent (57%) of Americans say political donors get more than their money back in terms of favors from members of Congress."

Americans of all stripes want more regulation of campaign contributions, but are cynical about loopholes.

- "56% believe the federal government should regulate how much money individuals can give to political campaigns", with 25% opposed to the idea. Nineteen percent registered not sure.

- "88% say it's at least somewhat likely that special interest groups will find ways to get money to politicians and influence their votes" even with new restrictions. The intensity is high on this question, with 69% saying it is very likely this will happen.

- "There is very little partisan disagreement on the need for campaign finance regulation or over the ability of special interests to get around that regulation."

Voters support disclosure of campaign donations more than limits on contributions (but voters were not given the choice of both).

- "Sixty-eight percent (68%) agree that it is more important for campaigns to disclose the source of all their contributions than it is to limit how much money individuals can give to a campaign. Twenty-three percent (23%) say limiting campaign contributions is more important."

Thirty percent of voters supported public financing of presidential campaigns while 47% were opposed.

- While I cannot find the precise wording of this question, these results are consistent with historical polling that doesn't provide any context or additional information about a public financing program. They are also a net +16% than the results Rasmussen reported in March 2006 (23% favor, 56% opposed).

courant.com

I Didn't Get Elected To Be A Fundraiser

How Trolling For Donations Detracts From Lawmakers' Mission

By CHRIS MURPHY

February 3, 2008

Recently, I saw "Charlie Wilson's War," a new movie about a brash, extravagant congressman in the 1980s. The movie was full of scenes of lavish ballrooms, fancy cocktail parties, women in pearls and men in tuxedos. For a second, I thought to myself, "Being a member of Congress must be one big party." And then I remembered — it's just a movie.

Don't get me wrong, I love this job. Every morning, I get to pick up the paper, read about what's wrong in America, and then walk to work to try and fix it. Yet the daily demands of the House leave little personal time. Most weeks, Saturday and Sunday are my only full days back in Connecticut, and they are packed with fairs, town halls, constituent meetings and political events — the kind of face-to-face retail politics that are the bread and butter of any elected official's job. Weekdays in Washington are equally frenetic: a mix of meetings with constituents, committee hearings, policy briefings, votes on the House floor and answering endless phone calls.

But let me pull back the curtain a little bit more. On top of all of the official duties of a congressman, I and my colleagues find that more and more of our time is spent on our re-elections, largely raising money. On any given day, the foot traffic to and from the national Republican and Democratic campaign offices is constant, and the conditions under which we labor are pretty depressing. At the Democratic offices, I sit in a room with cubicles, surrounded by freshmen and veteran legislators, feeling more like a telemarketer than a member of Congress. And I'm told that every year, the room gets more crowded. When I take a breath and look around, it becomes clear that this problem won't correct itself with time.

I'm a workaholic — I took this job prepared to work 16-hour days endeavoring to move forward the issues I and my constituents care about, like universal health care, land preservation and true energy independence. But with several hours of every day dedicated to raising the millions of dollars necessary for re-election, I simply cannot devote all of my energy to solving these problems.

Moreover, our current campaign finance system feeds a growing perception of corruption in government and creates barriers to bipartisanship. Rarely do political contributions lead to direct quid pro quo transactions — donations for votes — and those that cross this

line normally get caught. But private donations create an appearance of corruption in our public officials and erode the confidence and trust people have placed in government — without which no democracy can survive long-term.

Further, endless evening fundraising commitments mean that, when votes end, members rush to seek campaign contributions rather than grab a burger or beer with a colleague from across the aisle. This pressure to spend rare free moments fundraising means that there is less time to get to know your colleagues. As a result, partisan sniping comes much easier because you often don't know the person you're sniping at.

Most elected officials don't want you to know about the world of political fundraising because they fear that it paints an unflattering portrait of public life. (I'm sure there might even be a political price for me to pay for talking so bluntly about fundraising here.) But if the picture is unbecoming, the solution lies not in hiding the ugliness, but in exposing it. Why? Because it doesn't have to be this way.

There is a relatively simple cure: public financing of congressional campaigns. I have been an unrelenting advocate for public financing of elections for nearly a decade now, and that resolve has only been strengthened by my brief time here in the nation's Capital.

The more we remove the need for individual members of Congress to raise private election funds, the more our representatives can focus on the things they were elected to do, and the more time they will have to cross party lines and erase the divisions that pollute our national dialogue.

We did it in Connecticut, but we're not there yet here in Washington.

But have faith! With every new class of representatives that comes to Congress, there is a greater recognition of the perils of private financing of campaigns. I believe that by pulling back the curtain on the daily pressures faced by members of Congress, we can show the public how critical this reform is to the salvation of our democracy.

But a national system of public financing will require a leap of faith by the American public. Taxpayers rightly ask, "Why should my tax dollars go to financing the campaign of someone with whom I disagree?"

We have to turn this thinking on its head. We are already paying for this system with a government unable to tackle the largest problems facing our country — partly because big campaign donors control too much of the agenda and partly because legislators aren't spending enough time studying the issues and building cross-party allegiances.

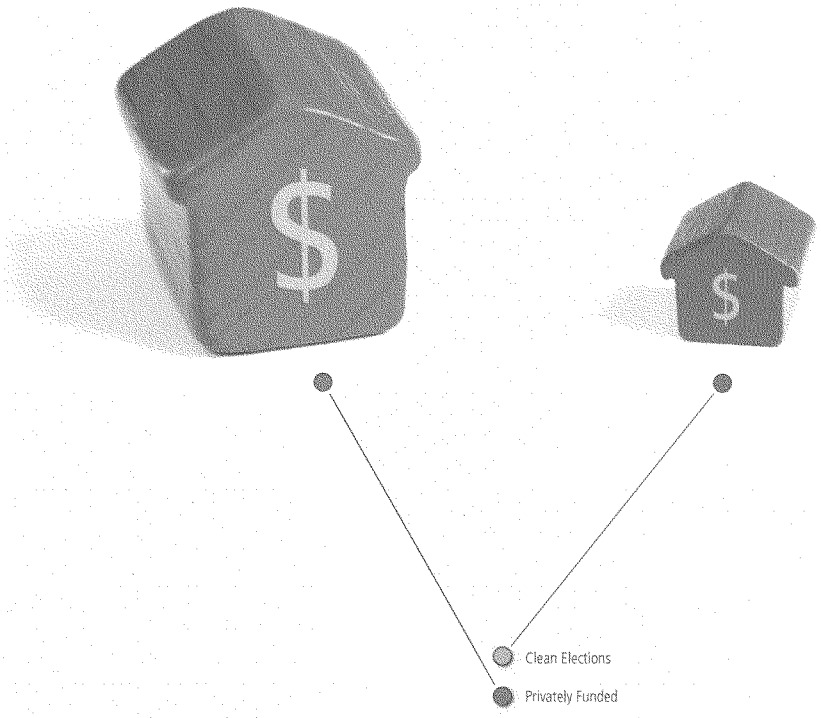
It's time for us to admit that there is a cost to democracy. And so long as the schedules of members of Congress and candidates for federal office are filled with donor calls and fundraising events, we are paying far more through the back door than we would pay through the front door with a transparent system of public financing.

Chris Murphy represents Connecticut's 5th Congressional District in the U.S. House of Representatives.

—EMBARGOED UNTIL MAY 21, 2008—

All Over The Map:

Small Donors Bring Diversity to Arizona's Elections



PUBLIC CAMPAIGN

Clean Money Clean Elections

by NANCY WATZMAN

ALL OVER THE MAP

Small Donors Bring Diversity to Arizona's Elections

May 2008

ACKNOWLEDGEMENTS

Dr. Brian J. Stults conducted the statistical analyses underlying this report. He holds a Ph.D. in sociology, and is currently a professor in the College of Criminology and Criminal Justice at Florida State University. He has published extensively using U.S. Census data on topics including residential segregation, exposure to neighborhood crime, and language retention among third generation immigrants.

Eric Ehst, executive director at the Arizona Clean Elections Institute, provided invaluable advice for this analysis. The Institute's report, "Reclaiming Democracy in Arizona: How Clean Elections has expanded the universe of campaign contributors," which analyzed the 1998 and 2002 gubernatorial races, provided a model for this new report.

Thanks to the staff of Public Campaign and Public Campaign Action Fund for their support and for reviewing this report and providing invaluable suggestions: Nick Nyhart, president and CEO; Susan Anderson, Rick Bielke, David Donnelly, William Ewing, Jeannette Galanis, Gail Gomez, Solange Hansen, Avi Klein, David Miller, John Papagiannis, Monica Rober, Adam Smith, Katie Schlieper, and Tony Vila.

TABLE OF CONTENTS

Executive summary..... p. 1

Background..... p. 5

Racial and ethnic diversity..... p. 7

Economic diversity..... p. 9

Family concentration..... p. 14

Geographic diversity..... p. 16

Conclusion..... p. 18

Methodology..... p. 20

EXECUTIVE SUMMARY

There is a buzz in the air among those who follow politics about the increasing importance of small donors in elections. It's true that in some races in some places, small donors are contributing at greater levels than they have previously. This can only help engage more people in politics. However, the larger story is that the great bulk of campaign contributions still come from big donors.

In sharp contrast, under Arizona's Clean Elections law, candidates may build their entire campaigns on the participation of small—$5—donors.[1] Candidates who wish to take part in the system must raise a set number of these $5 contributions from Arizona residents. They then qualify to receive a public grant to run their campaigns. Once they accept this grant, they must abide by strict spending limits and can no longer raise any private money for their campaign.[2]

This study for the first time examines the demographic profile of $5 qualifying contribution donors in Clean Elections gubernatorial campaigns in Arizona over the course of two election cycles. We demonstrate that Arizona's qualifying contribution donors have a different profile than typical big donors giving to Arizona campaigns for those candidates who opt into the private system. They are more diverse racially and ethnically, as well as economically and geographically. This makes intuitive sense. We know that overall big donors to political campaigns tend to be wealthier and less diverse than the rest of the population.[3] It would follow that small donors to campaigns would be more widely spread out among neighborhoods where people tend to have lower- to mid-level incomes.

These findings underscore the importance of public financing systems in encouraging wider political participation by such donors. To conduct this analysis, we examined the $5 qualifying contributions collected by Arizona gubernatorial candidates in the 2002 and 2006 elections, comparing and contrasting them with contributions raised by candidates running with funding from private sources—more than 67,000 contributions in all. We analyze these data by zip code alongside U.S. Census data to determine the racial, ethnic, geographic, and economic characteristics of these donors.

In nearly every category we looked at, Clean Elections $5 donors more accurately represent the diversity of the state than the private system does:

Racial/Ethnic Diversity

- **Race/ethnicity.** Clean Elections small donors are more racially and ethnically diverse than big donors giving to privately funded candidates. In particular, areas where Latino populations are concentrated provide more contributions from Clean Elections small donors than they do to privately funded campaigns. Clean Elections candidates collected twice as much, proportionately, of their contributions from zip codes with the highest

1 In 2006, gubernatorial candidates were required to collect at least 4,200 $5 contributions in order to qualify for the Clean Elections program.

2 While they work to collect their qualifying contributions, Clean Elections candidates may raise a small, set amount of "seed money" from private contributors. They may also contribute a set, small amount of their own money to their campaigns.

3 See, for example, this 1998 study on donors to congressional campaigns: www.opensecrets.org/pubs/donors/donors.asp.

percentages of Hispanics than did privately funded candidates. In the zip codes with the lowest percentages of Hispanics, privately funded candidates raised proportionately better than a third more of their campaign cash than Clean Elections candidates did—9.5 percent versus 6.8 percent. Zip codes with the highest percentages of American Indians in the state also provided more contributions, proportionately, for Clean Elections candidates than for privately funded candidates.

Economic Diversity

- **Income.** Clean Elections small donors are drawn from populations on the lower and middle parts of the income scale as compared to big donors giving to privately funded candidates. Neighborhoods with median household incomes up to $50,000 were a larger source of contributions for Clean Elections candidates than for privately funded candidates. In contrast, neighborhoods with median household incomes over $50,000 were a lucrative source of contributions for privately funded candidates. Privately funded candidates received 62 percent of their contributions from these more affluent zip codes, nearly double the 32 percent figure for Clean Elections candidates.

- **Blue collar.** Clean Elections donors are more likely to live in areas where people work in "blue collar" professions than big donors giving to privately funded candidates. Zip codes with the highest concentration of blue collar workers were the source of more than 2.4 times more qualifying $5 contributions for Clean Elections candidates, proportionately, than they were for big contributions for privately funded campaigns. In contrast, zip codes with the lowest blue collar populations contributed 11.5 times more, proportionately, to privately funded candidates than they did to Clean Elections candidates.

- **Home value.** Clean Elections candidates collected more of their contributions, proportionately, from areas where housing prices are lower than privately funded candidates did. The most extreme contrast was in zip codes where median home values were $200,000 and above. Here, privately funded candidates collected 3.4 times more of their contributions, proportionately, than Clean Elections candidates did.

- **Poverty.** Clean Elections donors tend to come from areas where there are greater levels of poverty than those areas inhabited by big donors to privately funded campaigns. Overall, Clean Elections candidates raised more proportionately—1.9 times as much—than privately funded candidates did from zip codes with high levels of poverty. On the other end of the scale, zip codes with the lowest concentration of people living in poverty were the source of 1.6 times as much campaign cash, proportionately, for privately funded candidates than for Clean Elections candidates.

Family Concentration

- **Female-led households.** Areas with higher levels of female-led households are more widely represented among Clean Elections small donors than they are by big donors to privately funded campaigns. The pattern was most dramatic at the extremes. In neighborhoods where three percent or under of the households were headed by women, privately funded candidates raised more than 2.2 times as much cash, proportionately, than Clean Elections candidates did. In contrast, in zip codes where the concentration of female-headed households was seven percent or higher, the scenario was almost exactly reversed. Clean Elections candidates raised more than 2.3 times as much, proportionately, from these zip codes as privately funded candidates did.

- **Households with young families.** Neighborhoods with high percentages of families with children under 18 accounted for larger percentages of Clean Elections $5 donors than big donors to privately funded campaigns. Neighborhoods where 35 percent or more of the households have children under age 18 were the source of proportionately more small contributions to Clean Elections candidates than they were for big contributions to privately funded candidates—30 percent versus 21.8 percent.

Geographic Diversity

- **Rural versus urban.** Rural areas are more widely represented by Clean Elections small donors than they are by big donors to privately funded campaigns. While all the candidates collected more of their contributions from urban areas, Clean Elections candidates got slightly more, proportionately, from zip codes with higher rural populations—15.7 percent of their contributions, versus 10.5 percent.

- **Statewide distribution.** Clean Elections small donors and big donors to privately funded campaigns alike came disproportionately from Maricopa and Pima counties, where more than three quarters of the population live. However, the reliance on the two counties was much more extreme for privately funded candidates than it was for Clean Elections candidates.

- **Out-of-state influence.** By definition, Clean Elections $5 donors live in Arizona. Privately funded campaigns, however, collected a significant proportion of campaign cash from out of state.

Looking closely at individual candidates, some particular patterns also emerged. For example, Len Munsil, the GOP gubernatorial candidate in the 2006 general election, raised more of his contributions from middle class neighborhoods than his opponents did. Prior to his candidacy, Munsil headed the Center for Arizona Policy, a conservative, Christian-oriented organization. Alfredo Gutierrez, a Democratic candidate in the 2002 primaries, raised three times as many contributions, proportionately, from zip codes with a high Hispanic population than any other candidate, Clean Elections or privately funded.

BACKGROUND

The Arizona Citizens Clean Elections Act

In 1998, Arizona voters approved the Citizens Clean Elections Act, which established a system of full public financing for candidates for statewide and state legislative offices. The new law went into effect for the 2000 elections, and the first gubernatorial race under the new system took place in 2002.

The Clean Elections law is designed to enable qualified candidates to launch competitive campaigns without having to raise their campaign money from high dollar donors who often expect legislative or regulatory favors or access in return. Candidates are able to spend their time on the campaign trail talking to constituents, rather than worrying about their next big dollar fundraiser.

Under the system, candidates who wish to participate must raise a set number—the number varies by office—of $5 contributions from Arizona residents. In this "qualifying" period, they may also use a small, set amount of their own money and a limited amount of "seed money" from private donors to help them launch their efforts.[4] Once candidates collect their qualifying $5 contributions, they receive a grant to run their campaign, provided they agree to abide by strict spending limits and to raise no more private money. If they are outspent by a privately funded opponent, they may receive additional public funds, sometimes referred to as "fair fight funds," to run a competitive campaign.

ARIZONA CLEAN ELECTIONS GUBERNATORIAL CANDIDATES REQUIREMENTS		
	2002	2006
number of qualifying $5 contributions required	4,000	4,200
primary grant, if opposed	$409,950	$453,849
general election grant, if opposed	$614,930	$680,774

Source: Citizens Clean Elections Commission, Arizona Clean Elections Institute

In the four election cycles it has been in place, the Arizona Clean Elections system has proven robust. Currently 42 percent of the legislature and nine out of 11 statewide officials ran using the system. Gov. Janet Napolitano (D) ran using the system for both her 2002 and 2006 races. In her most recent general election race, she faced an opponent, Len Munsil, who also ran with a Clean Elections grant. The Republican primary also featured another Clean Elections gubernatorial candidate, Don Goldwater.

Clean Elections has opened up elections in Arizona to diverse candidates. Women use the system at higher rates than men do. In the 2006 primary elections, 69 percent of women ran as Clean Elections candidates versus 52 percent of male candidates. Of those who won office, 62 percent of women

4 For 2006 gubernatorial campaigns, the self-funding limit was $1,160 and the seed money limit was $46,440 (restricted to no more than $120/contributor). Together this represents less than five percent of the standard public financing grant for primary and general elections.

ran under the Clean Elections system versus 36 percent of men. Of the 34 women who won office in 2006, 21 ran as Clean Elections candidates, including 18 of 31 legislators and all three statewide officers (governor, secretary of state, and corporation commissioner).[5]

Overall, in Arizona, candidates who are members of racial and ethnic minorities, who often do not have access to the same private sources of campaign funding that non-Hispanic white candidates do, rely on Clean Elections grants in statewide races. Since the implementation of the system in Arizona, five of the six minority candidates for statewide office have participated in the system.[6]

Who Are the Small Donors?

By definition, Arizona's Clean Elections program enhances the power of small donors. They are crucial to participating candidates' campaigns because they are the means by which candidates qualify for public funding. The Arizona Clean Elections system, however, also provides the perfect opportunity to explore the nature of small donors—and why it's important to increase their participation in elections. *Who are they? Where do they live? Are they demographically different from big dollar donors to campaigns?*

To answer these questions, we concentrated on Arizona's gubernatorial races in 2002 and 2006. Because the gubernatorial races are statewide, they provide a greater range of information for demographic analysis than state legislative races would. We obtained records of $5 qualifying contributions to the nine gubernatorial campaigns that qualified for Clean Elections funding: Janet Napolitano (2002 and 2006); Len Munsil (2006); 2002 primary candidates Betsey Bayless (R), Alfredo Gutierrez (D), Richard Mahoney (I), Mark Osterloh (D), Carol Springer (R); and 2006 primary candidate Don Goldwater.

To establish points of comparison, we included two sets of data on privately funded campaigns. One set is the individual contributions to Matt Salmon (R),[7] who ran a privately funded campaign in the general election against Napolitano in 2002. In 2006 both major party general election candidates participated in Clean Elections, offering no privately funded candidate to study for comparison purposes.[8] So we included the next best thing: the large individual ($200+) contributions to Arizona's two 2006 U.S. Senate candidates: Sen. Jon Kyl (R) and Jim Pederson (D). Though not an exact "apples-to-apples" comparison, these statewide U.S. Senate races provide an indication of where privately funded candidates raised their money that year.[9]

We then compared totals raised by zip code by Clean Elections candidates versus privately funded candidates with data from the U.S. Census Bureau. In doing this, we were able to get a picture of

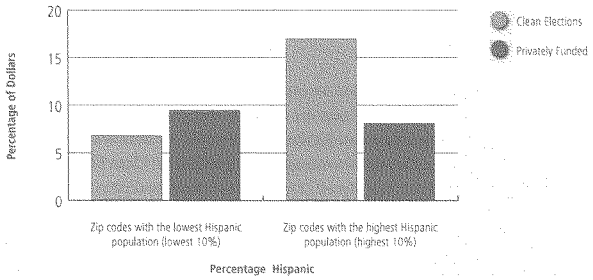
5 Arizona Clean Elections Institute, communication with Eric Ehst, executive director.
6 Arizona Clean Elections Institute, based on analysis of data from the Arizona Secretary of State office.
7 Under Arizona law, privately funded candidates raising more than $500 must itemize all contributions of more than $25 to their campaigns.
8 While there were several privately funded candidates in the GOP primary, they raised so little money overall that including their data would skew the analysis.
9 Ninety-one percent of the individual contributions collected by these two U.S. Senate candidates came in the form of $200+ donations, according to the Center for Responsive Politics.

how Clean Elections $5 donors differed from big donors to privately funded campaigns economically, racially/ethnically, and geographically. (Please see the Methodology section for more information.)

RACIAL AND ETHNIC DIVERSITY

Arizona has a large Latino population—25 percent according to the 2000 Census.[10] Some 11 percent of the state's zip codes have Latino populations of 50 percent or more. Analysis shows that Clean Elections candidates are more likely to collect their contributions from zip codes with high percentages of Hispanics than are privately funded candidates. The chart below shows that Clean Elections candidates collected twice as much, proportionately, of their contributions from zip codes with the highest percentages of Hispanics than did privately funded candidates. In the zip codes with the lowest levels of Hispanics, privately funded candidates raised proportionately better than one-third more of their campaign cash than Clean Elections candidates did, 9.5 percent versus 6.8 percent.

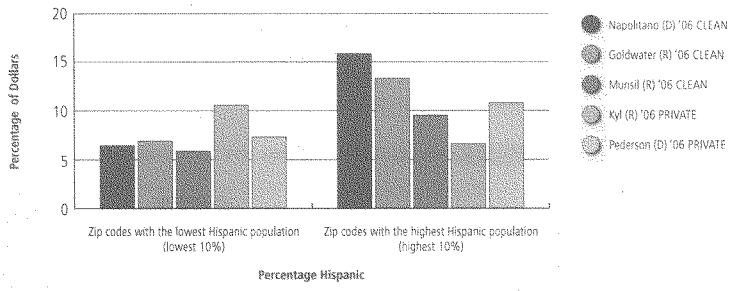
FIGURE 3 PERCENTAGE HISPANIC POPULATION IN CONTRIBUTOR ZIP CODES



An up close look at 2006 campaigns shows a similar pattern. Clean Elections candidates Goldwater and Napolitano raised proportionately more $5 qualifying contributions from zip codes with the highest Hispanic population than did U.S. Senate candidates. Munsil collected proportionately more from these zip codes than U.S. Senate candidate Kyl, but less than Pederson.

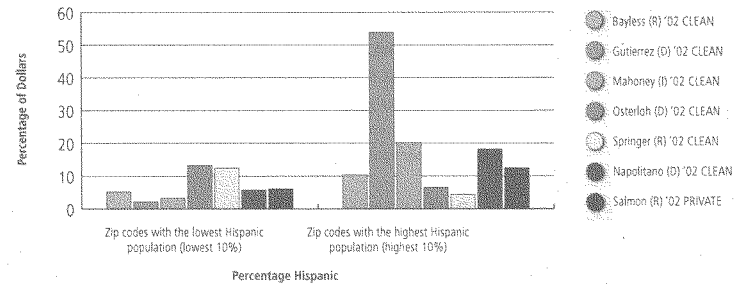
10 U.S. Department of Commerce, Bureau of the Census. 2004. Census of Population and Housing, 2000: Summary File 3. Washington, DC: U.S. Dept. of Commerce, Bureau of the Census.

FIGURE 2 PERCENTAGE HISPANIC POPULATION IN CONTRIBUTOR ZIP CODES



Looking at the 2002 candidates up close shows a more startling pattern. Clean Elections candidate Alfredo Gutierrez, himself a Latino, raised 2.7 times more contributions, proportionately, from zip codes with high Hispanic population than any other candidate, Clean Elections or privately funded. Clean Elections candidates Janet Napolitano and Richard Mahoney raised more proportionately from these zip codes than did privately funded candidate Matt Salmon.

FIGURE 3 PERCENTAGE HISPANIC POPULATION IN CONTRIBUTOR ZIP CODES

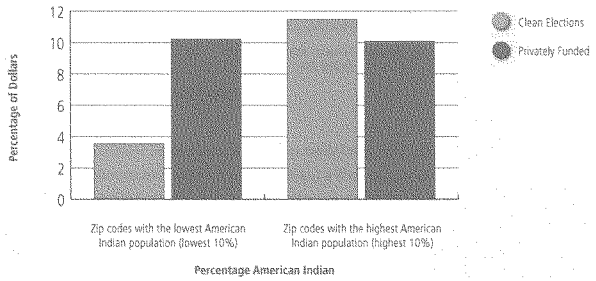


American Indians comprise a smaller percentage of Arizona's population—less than five percent (4.55)—than Latinos.[11] However, unlike other racial and ethnic groups in the state, this population is highly concentrated in specific zip codes. Indeed, more than ten percent of Arizona's zip codes have populations that are more than 90 percent American Indian.

11 Ibid.

Collectively, Clean Elections candidates were somewhat more likely to raise proportionately more of their contributions from zip codes with high percentages of American Indians as compared to privately funded candidates. The difference is more extreme in the zip codes with low levels of American Indians than it is in zip codes with high levels of American Indians. Here, privately funded candidates raised nearly three times more, proportionately, from the zip codes without many American Indians than did Clean Elections candidates.

FIGURE 4 PERCENTAGE AMERICAN INDIAN POPULATION IN CONTRIBUTOR ZIP CODES



We did not include analysis of contributions for African Americans because of the nature of their population patterns in Arizona, which is small and spread out. This makes an analysis by zip code uninformative. African Americans, or non-Hispanic blacks, made up less than three percent of the Arizona population in 2000. There are also very few zip codes with a population that is predominantly African American. Of all the zip codes in Arizona, about 62 percent have a percentage of African Americans of less than one percent, and 99 percent have a percentage less than 17 percent. The zip code with the highest percentage of African Americans is about 49 percent. There were no contributions from that zip code to any of the campaigns examined.

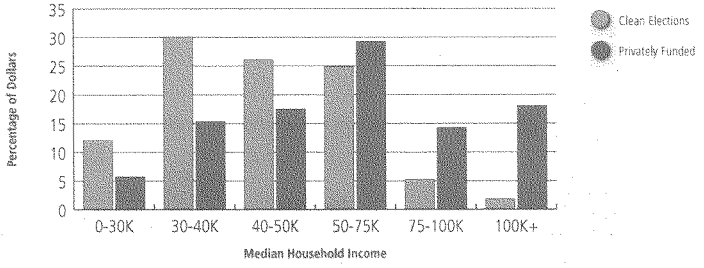
ECONOMIC DIVERSITY

INCOME

Clean Elections small donors to candidates were more likely to come from zip codes with lower and middle class median household incomes than big donors to privately funded campaigns.

The chart below shows that neighborhoods with median household incomes below $50,000 were a larger source of contributions for Clean Elections candidates than for privately funded candidates. In contrast, neighborhoods with median household incomes over $50,000 were a lucrative source of contributions for privately funded candidates. Privately funded candidates received 62 percent of their contributions—nearly twice as much—from these more affluent zip codes, compared to about 32 percent for Clean Elections candidates.

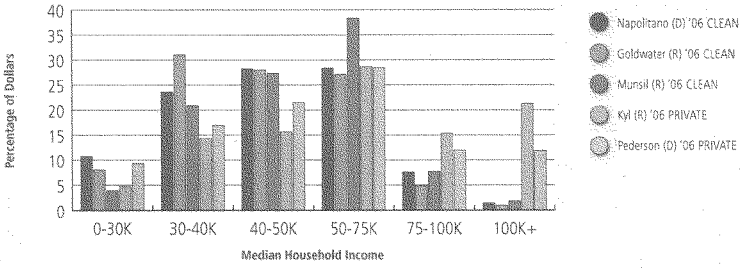
FIGURE 3 MEDIAN HOUSEHOLD INCOME IN CONTRIBUTOR ZIP CODES



Taking a closer look at 2006 campaigns, the same pattern persists. For Clean Elections candidates, neighborhoods with low median incomes were proportionately larger sources of contributions for Clean Elections candidates than they were for privately funded campaigns.

The one exception is Len Munsil's campaign. He raised a smaller proportion of his Clean Elections contributions from zip codes with median incomes up to $30,000 than did privately funded candidates. However, he raised proportionately more from zip codes with median household incomes in the middle of the range—$30,000 to $75,000—than privately funded campaigns. He also raised proportionately less from zip codes where median household incomes were $75,000 and above. Most striking was how much more, proportionately, the two U.S. Senate candidates raised from zip codes where the median household income was $100,000 or more. Sen. Kyl raised 11.4 times as much from these zip codes as the closest Clean Elections candidate, and Pederson raised 6.4 times as much.

FIGURE 4 MEDIAN HOUSEHOLD INCOME IN CONTRIBUTOR ZIP CODES

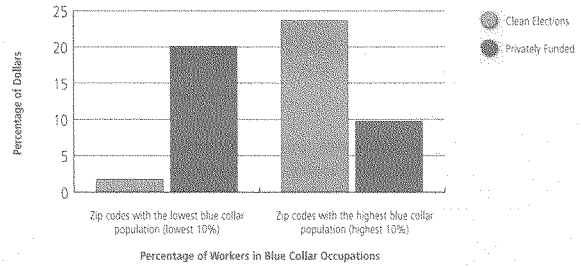


Blue Collar

Clean Elections candidates collected a larger proportion of their contributions from zip codes with high levels of blue collar workers than did privately funded candidates. The chart below shows that zip codes with the highest concentration of blue collar workers were the source of more than 2.4

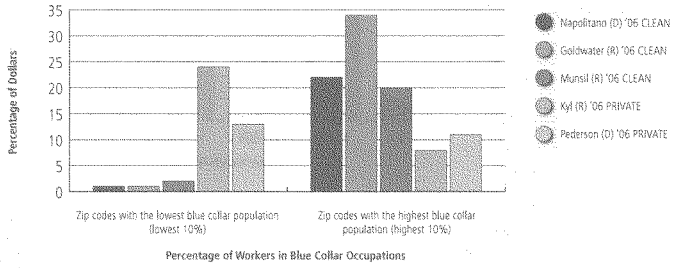
times more qualifying $5 contributions for Clean Elections candidates, proportionately, as they were for big contributions for privately funded campaigns. In contrast, zip codes with the lowest blue collar populations contributed 11.5 times more, proportionately, to privately funded candidates than they did to Clean Elections candidates.

FIGURE 7 PERCENTAGE BLUE COLLAR POPULATION IN CONTRIBUTOR ZIP CODES



This chart breaks down the contributions from blue collar zip codes by the 2006 campaigns. Notably, while all the Clean Elections candidates raised more of their contributions proportionately from blue collar neighborhoods, Don Goldwater raised the most at 34 percent of his qualifying funds. In neighborhoods with the lowest concentrations of blue collar workers, the privately funded U.S. Senate candidates collected substantial amounts of their campaign cash—Sen. Kyl, 24 percent, and Pederson, 13 percent. In contrast, all of the Clean Elections candidates raised two percent or less of their qualifying contributions from these neighborhoods.

FIGURE 8 PERCENTAGE BLUE COLLAR POPULATION IN CONTRIBUTOR ZIP CODES

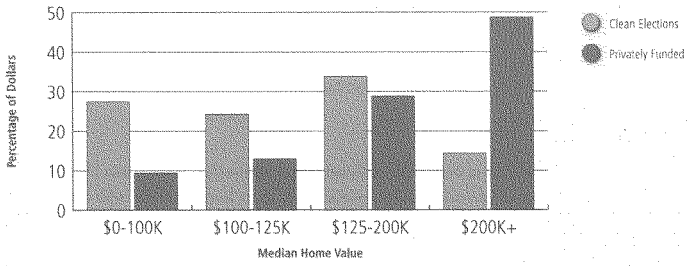


Home Value

Overall, Clean Elections candidates raised proportionately more of their $5 qualifying contributions in neighborhoods with lower median home values than privately funded candidates did from big donors.

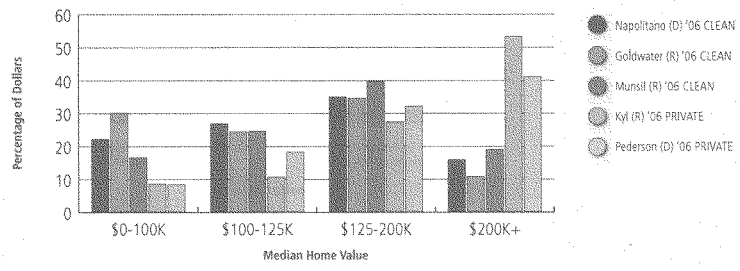
The contrast was particularly stark in zip codes with median house values up to $125,000. In zip codes where median home values were $125,000 to $200,000, the difference between Clean Elections candidates and privately financed candidates was less extreme, but still present. The most telling contrast, however, was in zip codes where median home values were $200,000 and above. Here, privately funded candidates collected 3.4 times more contributions, proportionately, than Clean Elections candidates.

FIGURE 9 MEDIAN HOME VALUE IN CONTRIBUTOR ZIP CODES



A close up view of the 2006 campaigns shows similar patterns. Again, the most extreme contrast is shown in zip codes where median home value is more than $200,000. Here, all the privately funded candidates raised at least twice as much campaign cash, proportionately, as did Clean Elections candidates.

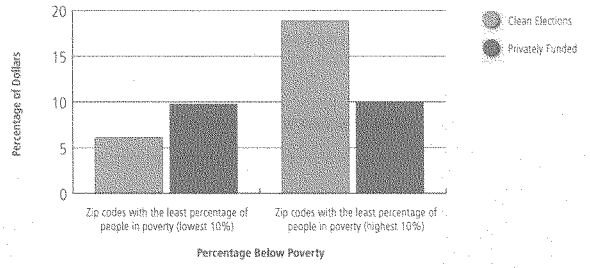
FIGURE 10 MEDIAN HOME VALUE IN CONTRIBUTOR ZIP CODES



POVERTY

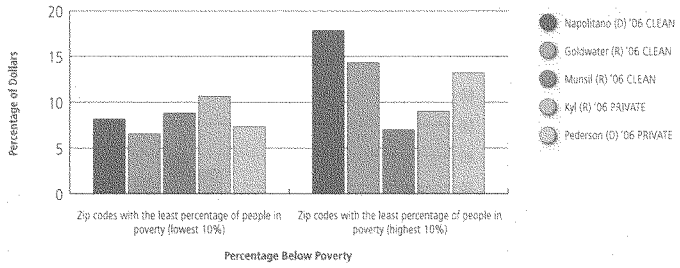
Overall, Clean Elections candidates raised more proportionately—1.9 times as much—than privately funded candidates did from zip codes with high levels of poverty. On the other end of the scale, zip codes with the lowest concentration of people living in poverty were the source of 1.6 times as much campaign cash, proportionately, for privately funded candidates than for Clean Elections candidates.

FIGURE 11 PERCENTAGE OF POPULATION BELOW POVERTY IN CONTRIBUTOR ZIP CODES



A close look at individual 2006 campaigns shows that all the Clean Elections candidates, with the exception of Munsil, raised proportionately more from zip codes with the highest percentages of people living in poverty than privately funded candidates. Munsil received 8.8 percent of his contributions from zip codes with the highest concentrations of people living in poverty. Sen. Kyl and Pederson both raised more proportionately from these zip codes—10.6 and 7.3 percent, respectively.

FIGURE 12 PERCENTAGE OF POPULATION BELOW POVERTY IN CONTRIBUTOR ZIP CODES



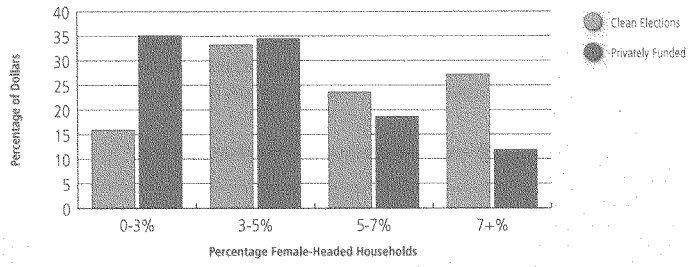
FAMILY CONCENTRATION

FEMALE-HEADED HOUSEHOLDS

Clean Elections candidates raised proportionately more small contributions from zip codes with five percent or more of female-headed households than privately funded candidates from big donors. This relationship was reversed in areas with low percentages of female-headed households.

The pattern was most dramatic at the extremes. In neighborhoods where three percent or less of the households were headed by women, privately funded candidates raised more than 2.2 times as much cash, proportionately, than Clean Elections candidates did. In contrast, in zip codes where the concentration of female-headed households was seven percent or higher, the scenario was almost exactly reversed. Clean Elections candidates raised more than 2.3 times as much, proportionately, from these zip codes as privately funded candidates did.

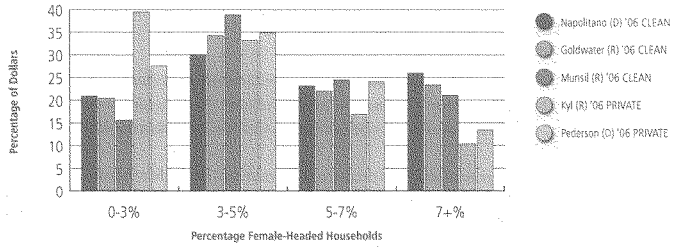
FIGURE 12 PERCENTAGE FEMALE-HEADED HOUSEHOLDS IN CONTRIBUTOR ZIP CODES



A close look at the 2006 campaigns shows that all of the Clean Elections candidates raised proportionately more from zip codes where female-headed households were seven percent or higher. Napolitano raised 26 percent of her Clean Elections contributions from such neighborhoods; Goldwater, 23.4 percent; and Munsil, 21.1 percent. In contrast, the two U.S. Senate candidates raised under 14 percent of their contributions from such zip codes.

Sen. Kyl raised 39.5 percent of his contributions from neighborhoods in which female-headed households were lowest, three percent or less, and Pederson, 27.6 percent. All of the Clean Elections candidates raised 21 percent or less of their contributions from these zip codes.

FIGURE 14 PERCENTAGE FEMALE-HEADED HOUSEHOLDS IN CONTRIBUTOR ZIP CODES

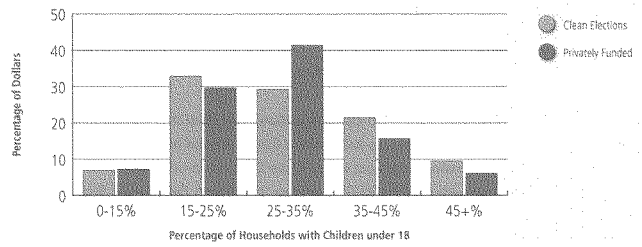


HOUSEHOLDS WITH YOUNG FAMILIES

Neighborhoods where 35 percent or more of the households have children under age 18 were the source of proportionately more small contributions to Clean Elections candidates than they were for big contributions to privately funded candidates—30 percent versus 21.8 percent.

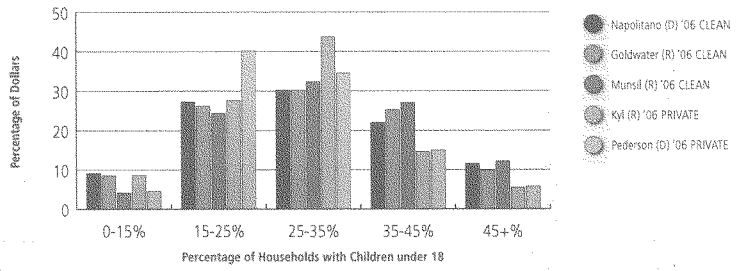
Both Clean Elections and privately funded candidates raised most of their cash, however, from zip codes where about one-fourth to one-third of households have children—62.2 percent for Clean Elections candidates and 71 percent for privately funded candidates.

FIGURE 15 PERCENTAGE OF HOUSEHOLDS WITH CHILDREN UNDER 18



When looking at the 2006 campaigns studied, all the Clean Elections candidates raised more proportionately from zip codes where 35 percent or more of the households have children under 18 than did privately funded candidates. Munsil collected 39.2 percent of his contributions from these zip codes; Napolitano, 33.5 percent; and Goldwater, 35.1 percent. In contrast, the two privately funded candidates raised proportionately less from these zip codes—for Sen. Kyl, 20.1 percent, for Pederson, 20.7 percent.

FIGURE 16 PERCENTAGE OF HOUSEHOLDS WITH CHILDREN UNDER 18

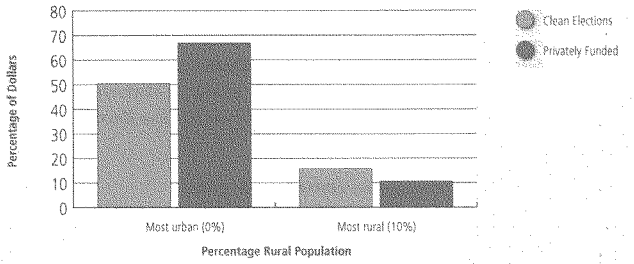


GEOGRAPHIC DIVERSITY

Rural versus Urban

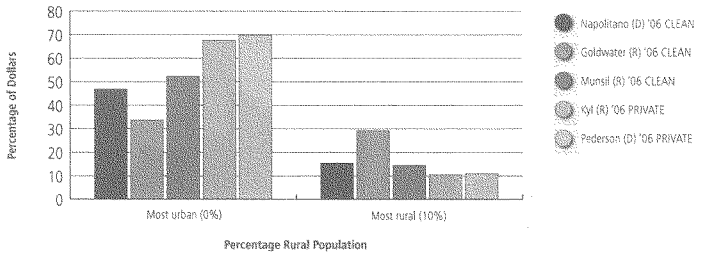
While all the candidates collected more of their contributions from urban areas, Clean Elections candidates received 1.5 times as much, proportionately, from zip codes with higher rural populations—15.7 percent of their contributions, versus 10.5 percent. The state's most urban areas, in contrast, were the source of 66.9 percent of privately funded candidates' big contributions versus 50.5 percent of Clean Elections candidates' qualifying contributions.

FIGURE 17 PERCENTAGE RURAL POPULATION IN CONTRIBUTOR ZIP CODES



A close up view of 2006 candidates shows a similar pattern. Notably, Don Goldwater raised the most, proportionately, in Clean Elections qualifying contributions from high rural areas in comparison to other Clean Elections candidates. He collected 29.2 percent of his qualifying contributions from these zip codes; Napolitano and Munsil raised 15.4 and 14.5 percent, respectively. Privately funded U.S. Senate candidate Sen. Kyl generated 10.4 percent of his contributions from these zip codes, and Pederson generated 10.9 percent.

FIGURE 13 PERCENTAGE RURAL POPULATION IN CONTRIBUTOR ZIP CODES



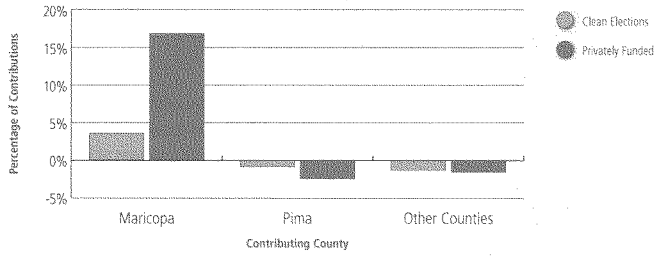
Geographic Diversity

Another way to look at geography is to examine contributions by county. The graph below shows that Clean Elections candidates' $5 contributions more closely mirror the population levels of various counties than do big donors to privately funded candidates.

Note: The bars represent the difference between the percentage of contributions that come from a particular county and the percentage of Arizona's population that lives in that county. If the bar is above zero it means the candidate raised a disproportionately high amount of contributions from that county. If the bar is below zero, it means the candidate raised a disproportionately low amount of contributions from that county. The closer the bar is to zero, the more proportionate the fundraising.

Maricopa County is Arizona's most populous county, and Pima is the second. More than three-quarters of the population live in these two counties and more than 60 percent in Maricopa alone. Clean Elections and privately funded candidates all raised a disproportionate high amount of campaign cash from these two counties. However, the reliance on Maricopa County was four times more extreme for privately funded candidates than it was for Clean Elections candidates.

FIGURE 14 PROPORTIONATE CONTRIBUTIONS BY COUNTY

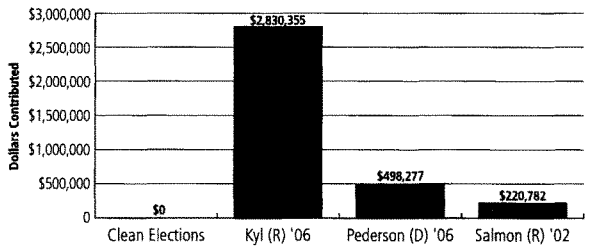


In State Versus Out of State

By definition, all of the $5 contributions that Clean Elections candidates collect must come from people living in Arizona. However, there is no similar rule for privately funded candidates—they may collect contributions from wherever they can.

Candidates for the U.S. Senate collected $3.3 million of their large contributions from out of state—nearly one quarter of their total take from individuals. In his 2002 gubernatorial race, Matt Salmon took $221,000 from out-of-state donors, about 11 percent of the total he raised. His list of top contributing out-of-state zip codes included 90210 in Beverly Hills, California ($4,200), and 20854 in Potomac, Maryland ($2,150), a wealthy suburb of Washington, DC.

FIGURE 20: DOLLARS CONTRIBUTED FROM OUT OF STATE



CONCLUSION

Arizona's experience with small donors under the Clean Elections system provides intriguing evidence of why it's important to encourage their participation. Simply put, the demographics of Clean Elections small donors are substantially different from those of big donors to privately funded campaigns. They tend to be more ethnically and geographically diverse. They come from neighborhoods where people have lower incomes and more modest homes. Because Clean Elections candidates "owe" their elections to this more diverse group, many people believe they are more likely to feel free to pursue policies while in office that benefit the general public rather than a small set of big money donors.

Indeed on Gov. Napolitano's first day in office as governor, she signed an executive order allowing the state to buy prescription drugs in bulk to lower prices. "If I had not run Clean, I would surely have been paid visits by numerous campaign contributors representing pharmaceutical interests and the like, urging me either to shelve that idea or to create it in their image," she said in a 2003 speech. "All the while, they would be wielding the implied threat to yank their support and shop for an opponent in four years."

The movement toward Clean Elections is not limited to Arizona. Seven states and two cities nationwide have Clean Elections in place for some or all statewide races. The programs in Arizona and Maine are the oldest and among the most comprehensive, both in operation since 2000. This year, Connecticut will implement a Clean Elections system for all statewide and legislative races. Activists in more than 20 states are working for Clean Elections.

CLEAN ELECTIONS/FULL PUBLIC FINANCING OF ELECTIONS STATES

State/Locality	Office Where Public Funding Available	How Approved	Year Approved
Arizona	Statewide and legislative	Initiative	1998
Connecticut	Statewide and legislative	Legislation	2005
Maine	Statewide and legislative	Initiative	1996
New Jersey	Legislative pilot project	Legislation	2004
New Mexico	Public regulation commission Statewide judicial elections	Legislation Legislation	2003 2007
North Carolina	Supreme court and court of appeals State auditor, commissioner of insurance, and superintendent of public instruction	Legislation Legislation	2002 2007
Vermont	Governor and lieutenant governor	Legislation	1997
Albuquerque, New Mexico	City council districts and mayor	Initiative	2005
Portland, Oregon	City auditor and the five members of the city council (four city commissioners and mayor)	Legislation	2005

At the federal level, Assistant Senate Majority Leader Dick Durbin (D-IL) and Sen. Arlen Specter (R-PA) have introduced the Fair Elections Now Act, legislation that would bring a Clean Elections-modeled system to the U.S. Senate. A companion bill is expected to be introduced soon in the House of Representatives. Proposals are also in the works to strengthen the Watergate-era presidential partial public financing law.

As we gain more experience with Clean Elections, there will be more opportunities to explore how they are changing the nature of political participation. A number of studies are planned to track the Connecticut program as it is implemented. Meanwhile, this analysis of Arizona's Clean Elections law shows that when candidates rely on small donor qualifying contributions they engage in political participation—by a multitude of demographic measures—a far more diverse group of people than do candidates who choose private financing for their races.

METHODOLOGY

Clean Elections Small ($5) Donors

Public Campaign collected data on Arizona's $5 donors from a number of sources. Candidates have the option of filing this information with the Arizona Secretary of State's office through either paper reports or electronically.

- **Janet Napolitano 2002, Betsey Bayless (R) 2002, Alfredo Gutierrez (D) 2002, Richard Mahoney (I) 2002, Mark Osterloh (D) 2002, Carol Springer (R) 2002.** The Arizona Clean Elections Institute provided us with these data, which it had previously collected for its 2004 report, "Reclaiming Democracy in Arizona: How Clean Elections has expanded the universe of campaign contributors."

- **Don Goldwater 2006.** We obtained Goldwater's electronic filing of $5 donors from the Arizona Secretary of State's office.

- **Janet Napolitano 2006 and Len Munsil 2006.** Napolitano and Munsil filed paper reports of their $5 donors. We obtained these records from the Arizona Secretary of State's office. We then contracted with the Institute on Money in State Politics (www.followthemoney.org) to enter these records into a database.

Donors to Privately Funded Campaigns

- **Matt Salmon 2002.** We obtained these records from the Institute on Money in State Politics (www.followthemoney.org), which tracks state-level campaign contributions in all 50 states. We included contributions from individuals to his campaigns. In Arizona, privately funded candidates who raise more than $500 for their campaigns must itemize contributions of $25 and above.

- **U.S. Senate 2006.** We obtained individual contributions of $200+ to John Kyl and Jim Pederson for their 2006 Senate campaigns (six year totals) from the Center for Responsive Politics (www.opensecrets.org). The Center downloads these data from the FEC (www.fec.gov).

U.S. Census Bureau Data

The social, economic, and geographical information for zip codes used in this analysis was drawn from Summary File 3 (SF3) of the 2000 U.S. Census of Population and Housing. SF3 contains economic and housing characteristics compiled from a sample of approximately 19 million housing units nationwide (about 1 in 6 households) that received the Census 2000 long-form questionnaire. Though most of the campaign finance data used in this report are from 2006, there is not an existing data source that directly provides information about zip codes in more recent years than the 2000

U.S. Census. An alternative to using 2000 Census data would have been to interpolate 2006 zip code characteristics using Census data from both 1990 and 2000. Since comparable zip codes were not identifiable in 1990, this would have required using county-level data and assuming that any changes observed in counties over the 10-year decennial period would be equally applicable to the zip codes within those counties. It would also assume that changes from 1990 to 2000 would have continued in a linear fashion until 2006. Rather than make these various assumptions, we chose to use the zip code characteristics taken directly from Census 2000.

Zip Code Tabulation Areas

ZIP Code Tabulation Areas (ZCTAs) from the U.S. Census were used to link census information with campaign finance data. ZCTAs are a statistical entity developed by the U.S. Census Bureau for tabulating summary statistics from Census 2000. This new entity was developed to overcome the difficulties in precisely defining the land area covered by each zip code. With some exceptions, these units usually match the zip code for a given area. For more information on ZCTAs, visit www.census.gov/geo/ZCTA/zcta.html.

Linking 2000 Census data to campaign finance data from 2002 and 2006 using zip codes is complicated by the fact that zip codes can change over time. Thus, some zip codes reported in the campaign finance data did not exist as ZCTAs in the 2000 Census data. In these instances, Tiger/Line files from the U.S. Census and the U.S. Geological Survey were used to generate a crosswalk linking units across the various years. For more information about Tiger/Line files, visit www.census.gov/geo/www/tiger/.

Linking campaign finance data to census data on race/ethnicity has other limitations. Neither the U.S. Federal Election Commission (FEC) nor the Arizona Secretary of State's office requires contributors to list their race/ethnicity or other demographic information along with their campaign contributions, so it is necessary to consult the census data. We use zip codes as the best, if imperfect, option. Because we are using zip codes, however, there is some inevitable distortion of the data. For example, there may be a zip code that contains both a large percentage of households with high and low income areas, or variation in racial/ethnic groups represented.

Privately funded candidates raised a significant proportion of their contributions from out of state. Because other states often have different demographic characteristics from Arizona, including these zip codes in our analysis might sometimes give over- or under-emphasis to a particular comparison. For example, out-of-state zip codes may have a higher proportion of African Americans because there is a larger African American population in those areas overall. For consistency's sake, we included in our analyses all zip codes, whether from in-state or out-of-state, unless otherwise indicated.

When the Census Bureau delineates ZCTAs, they exclude certain zip codes such as those serving specific organizations or companies, and those that are dedicated only to Post Office (PO) Boxes. Thus, these are also omitted from our analysis.

In rare cases where there are negative campaign contribution amounts—which are attributable to refunded contributions—these contributions are added to totals.

Race and Ethnicity

In Census 2000, respondents were allowed to identify themselves as belonging to as many as four racial or ethnic groups, in addition to identifying themselves as Hispanic or non-Hispanic. In this report, persons are considered Hispanic if they identified themselves as such, regardless of what racial group(s) they may have reported. Whites, African Americans, Asians/Pacific Islanders, and American Indians/Alaska Natives are identified as non-Hispanics who reported belonging to a single race.

We use the terms "Latino" and "Hispanic" to refer collectively to Central and South Americans, Cubans, Dominicans, Mexicans, Puerto Ricans, and others of Spanish and Latin American descent.

Blue Collar Occupations

Many categorizations exist that attempt to classify occupations as either blue collar or white-collar. This report classifies the following Census occupation categories as blue collar: farming, fishing, and forestry, construction, extraction, and maintenanceproduction, transportation, and material moving

Rural

Charts showing the percentage of a zip code that is rural are based on the U.S. Census definition of rural and urban. The U.S. Census defines a population as urban if it is located within a block or block group with a density of at least 1,000 persons per square mile, and surrounding blocks or block groups with a density of at least 500 persons per square mile. The remainder of the population is considered rural.

Poverty

Charts showing the percentage of persons in a zip code living below poverty are based on the U.S. Census definition of poverty. For more information, visit www.census.gov/hhes/www/poverty/povdef.html.

NOTES

NOTES

NOTES



CLEAN
MONEY
CLEAN
ELECTIONS

1320 19th Street NW, Suite M-1, Washington, DC, 20036
Tel: 202-293-0222 www.publicampaign.org Fax: 202-293-0202

This report was printed in-house.

The CHAIRMAN. I would like to recognize the Ranking Member.

Mr. LUNGREN. Mr. Chairman, I just wanted to explain we have 13 votes called on the floor; we have a motion to recommit, discussion on that, which means we won't be back here for a long time. So, in consultation with the Chairman, we agreed that rather than try and hold you back here and see when we could come back, if we could submit questions to you, and you answer.

[The information follows:]

ROBERT A. BRADY, PENNSYLVANIA
CHAIRMAN

DANIEL E. LUNGREN, CALIFORNIA
RANKING MINORITY MEMBER

Congress of the United States
House of Representatives
COMMITTEE ON HOUSE ADMINISTRATION
1309 Longworth House Office Building
Washington, D.C. 20515-6157
(202) 225-2061
www.house.gov/cha

August 13, 2009

Ms. Hannah Pingree
Speaker of the House
2 State House Station
Augusta, Maine 04333

Dear Speaker Pingree:

Thank you for testifying during the July 30, 2009 Committee on House Administration hearing on, "A Look at H.R. 1826 and the Public Financing of Congressional Campaigns." Below you will find questions from Members of the Committee. Your responses will be made a part of the hearing record. Please provide your responses to the Committee by September 13, 2009.

1. What factors do you think determine the success or failure of a public financing program? Why has it worked for 10 years in Maine and Arizona but could not get off the ground in Massachusetts?

2. H.R. 1826 would require candidates to have to collect disclosure forms from even small donors contributing five dollars. Does Maine require disclosure forms from small donors? Can increased disclosure help to increase transparency and alleviate concerns of donor fraud?

3. When determining qualifications for candidates to receive public financing, how do we draw the line between third party or independent candidates and fringe candidates?

4. Do you believe that the fundraising thresholds in H.R. 1826 treat candidates from low population districts fairly as compared to candidates from high population districts?

5. Aside from public financing, could pay-to-play laws and bans on contributions from lobbyists and federal contractors, as some states have done, help improve voters' perception of politicians? Would such bans be constitutional on a federal level?

6. Broadcast vouchers are helpful or less so depending on the cost of media in a candidate's district. What else can we do to lower the costs of communicating with constituents?

7. How would the logistics of H.R. 1826 work? The FEC will be tasked with turning around within a short time requests for funding. Can the FEC handle the potential for massive requests? Based on your experience in Maine, what resources will the agency need administratively?

8. Can a public financing program help to increase the diversity of House candidates? In Maine, has public financing increased the number of women and minorities in the state legislatures?

9. In Maine, how is the public financing program funded? What happens if there are more candidates looking for funding than the fund can support?

10. Why should a new Member or someone from a marginal district support H.R. 1826 or public financing? Would it limit his/her ability to raise the funds necessary to win?

11. Does Maine have any mechanism to protect taxpayers from being forced to pay for the political campaigns of fringe or extremist candidates whose views they find offensive?

12. Mr. Bradley Smith testified during the hearing that legislators usually vote along party lines. Has public financing worked to free candidates from dependency on party funds? Can it help to increase bipartisanship?

13. If public financing programs do not increase public confidence, why then are they so popular in states that have successful programs? Why do voters overwhelmingly vote for public financing candidates in Connecticut and Maine?

14. Wouldn't a public financing program that relies on small donor contribution encourage increased interaction with constituents?

Thank you and I look forward to your responses.

Sincerely,



Robert A. Brady
Chairman

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

Testimony of Jonathan Wayne, Executive Director
Maine Commission on Governmental Ethics and Election Practices
to the Committee on House Administration
U.S. House of Representatives

Public Hearing on H.R. 1826 and the Public Financing of Congressional Campaigns
July 30, 2009

Dear Chairman Brady, Ranking Member Lungren, and Members of the Committee on House Administration:

Thank you for the opportunity to provide information for the July 30, 2009 public hearing on the Fair Elections Now Act (H.R. 1826). This written testimony is to provide you with information on behalf of the Maine Ethics Commission staff about the successful operation of Maine's public financing program. I will be unable to attend the hearing.

The Maine Clean Election Act (MCEA) was enacted by Maine voters in 1996 and created a voluntary program of public campaign funding for candidates for the Maine Legislature and for the office of Governor. It has been in operation for five legislative elections and two elections for Governor.

Under the MCEA, participating candidates qualify for public funding by collecting a threshold number of small contributions. After qualifying, the candidate's campaign funds are provided by the State of Maine. If candidates are running against a high-spending opponent, they may qualify to receive additional campaign funds to keep them on an even playing field with their opponent.

The MCEA program has proven to be quite successful in attracting candidates for the Legislature. In the 2008 elections, 81% of legislative candidates participated in the MCEA. Eighty-five percent of members of the current Maine Legislature financed their campaigns through the MCEA program. Six candidates for Governor qualified for public funding in the 2002 and 2006 elections, including three State Senators and a member of the State House of Representatives.

In the view of the Commission staff, the MCEA program has succeeded in creating a viable, alternative system of campaign financing, allowed participating candidates to spend more time communicating with voters, and decreased the importance of campaign fundraising in legislative and gubernatorial campaigns.

If you or members of your staff would like more information regarding the public financing of elections in Maine, please telephone me at (207) 287-4179 or read the Commission staff's 2007 Study Report at www.maine.gov/ethics. Thank you.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002
(207) 287-1300

HANNAH M. PINGREE
SPEAKER OF THE HOUSE

September 8, 2009

Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515-6157

Dear Members of the House Committee on Administration:

Below please find answers to your follow up questions from my testimony on Thursday, July 30th. Please let me know if I can be of any other assistance.

1. I believe the largest factor in the success of the program is the support of the electorate – from when it originally passed through citizen initiative and through its implementation. The program continues to enjoy very high marks in surveys of Maine voters. In Maine, elected officials took the program seriously, funded it, and participated because of the strong support it received in the 1996 referendum. Elected officials felt they had to take the program seriously, because the people did. The second factor is the ability it gives the elected official running clean to focus on constituent contact, freeing them from the burden of raising money. Once an elected official has gone through the process and has not had to spend a majority of their time raising money they become a supporter and believer in the program, as indicated by Maine's 81 percent candidate participation rate. In Massachusetts, I believe the legislature never fully implemented the program – so its failure in that state has less to do with the quality of clean elections as a policy and more to do with Massachusetts political decision making.

2. Forms are required with all qualifying contributions, which disclose the contributors name, address, and signature. The contributor's voter registration is then verified by a town clerk to make sure that every contribution is allowable. Disclosure is a good antidote to fraud and claims of alleged fraud and Maine's system has made fraud on the collection of contributions nearly impossible. The Maine Commission on Governmental Ethics and Elections Practices is very diligent in monitoring even the five dollar qualifying contributions. The Commission also does random audits of candidates to ensure no fraud is taking place.

3. Ensuring that public money is being spent on viable candidates is admittedly one of the most challenging components of a clean elections system and raises the question how to "draw the line between third party and fringe candidates?" In determining where to

draw the line you have to balance the competing interests of wanting to make the system viable for an outsider or third party, versus the interests of protecting taxpayer funds. I think Maine's system does make it viable for third party candidates to run for office, but based on Maine's history, only one third party candidate has ever been elected to the Maine legislature as a green party candidate and he ran under the clean elections system, served for two terms, and was then defeated by a major party candidate who was also running under clean elections. A Maine House candidate only receives approximately $5,000 to run for office. This limited amount means that most candidates win or lose based on real support, knocking on doors, etc. For a Congressional race, the matching funds provision means that you need to demonstrate real popular support to quality for funds.

Maine's system for larger statewide races has evolved, partially to ensure that taxpayer money is going to viable candidates. For example, this last session in Maine, I sponsored and secured passage of a bill that required gubernatorial clean elections candidates to raise at least $40,000 of an allowable $200,000 in seed money in $100 contributions from in-state residents. For a more rural state like Maine this is a formidable requirement for any candidate but the legislature felt it was necessary to ensure that any candidates receiving a substantial amount in clean elections funds had a broad base of support from in the state.

4. Yes, they seem fair. While I can understand that in some lower population districts it might be formidable to raise 1500 contributions with an amount equaling at least $50,000 in amounts between $5 and $100 if you compare it with the amount of that has to be raised privately in any congressional race I think it seems less formidable. Given my own experience with clean elections, I think people are usually more amendable to giving a smaller contribution when they find out how the system works. It helps them feel invested in the system and in the individual candidate's campaign. Obviously all US House districts are approximately the same size so I assume your question also refers to whether districts with expensive media markets would be disadvantaged. In Maine our legislative races are primarily mail and radio based, so we don't have these kind of media market disparities. I think some bonus for districts with high media costs could make sense but that is not a problem we have encountered.

5. I think that such restrictions could help to improve voter perceptions of our elections system. As I am not a legal scholar. I can't expound on the constitutionality of proposed measures, but given the recent hearing in front of the Supreme Court on corporate contributions it will be interesting to see the current court's view of First Amendment speech, contributions, and elections.

6. The airwaves are owned by the people, and the telecommunications companies utilize them at the discretion of the people. I believe that networks should be required as a part of the licensing process to give substantial free airtime to candidates and other civic causes.

7. The Maine Commission on Governmental Ethics and Elections Practices does a phenomenal job in tracking and addressing the needs of the candidates who use the Maine clean elections system with limited staff. Given Maine's experience and the fact that we typically have over 400 people running for the Maine House and Senate; I am confident with an adequate level of staffing that the FEC could handle the requests. Maine even has some provisions in our law that deposits matching funds into candidates accounts so they would be immediately available if a major expenditure is made by an opposing traditional candidate. The Maine Ethics Commission then gives a candidate authorization to spend a certain amount, but it means there is an immediate ability for clean election candidates to respond with paid media, if necessary, because money is already in their campaign accounts.

8. In 1996, when clean elections were adopted there were 35 women in the Maine House of Representatives. This session, there are 47 women. I think that increase can directly be tied to clean elections. The system has allowed many people who otherwise wouldn't run to take on the challenge of public office – from young people to people from varying professions – from farmers to fishermen to single moms. As a legislative leader, I have found that clean elections does help us recruit more diverse candidates, not just those people with deep pockets or huge networks of associates who can donate to their campaigns.

9. It is funded through the regular appropriations process. In hard budget times, there is a great deal of pressure to cut the system. Just this session some people wanted to eliminate clean elections funding for gubernatorial candidates. The majority of the legislators however were unwilling to entertain this idea, as they support the system and the value it provides. I think it is a testament to the program that we have been able to preserve it even through tough budget times. We have not encountered a situation where the program directly ran out of money. The potential exists this cycle and as a method of dealing with it the Legislature has authorized the Maine Commission on Governmental Ethics and Election Practices to make up any shortfall by allowing clean candidates to fundraise the difference between the amounts the fund can provide versus the authorized disbursements. Hopefully, the Commission will not have to use that authority.

10. This will be a problem at first, but once some candidates use the system and others see that it is a viable system I think many would choose to utilize it. In 2008, 81% of Maine used the clean elections system, and 85% of the victors were publicly financed. Many candidates in Maine feel it gives them more time to actually go out and campaign and because of our matching allowances in Maine, if a candidate runs clean and their opponent runs a traditional campaign and spends a great deal of money, the clean candidate has some ability to counter that campaigning through matching funds.

11. The mechanism is the qualifying requirements which exist to ensure that candidates are viable.

12. I do believe that it does free some legislators to vote their beliefs and break with party lines. This is a difficult phenomenon to quantify, but in my own anecdotal

experience in leadership the people who participate in the clean elections system are more open and willing to consider issues from different perspectives. I very much disagreed with Mr. Smith's characterization of Maine's political system. Nearly 80% of the work done in committees in Maine is bi-partisan and often unanimous, and some of the most difficult work, like balancing our state budget, is often done through a bi-partisan 2/3rds vote of the legislature. In the 7 years I have been in the legislature, the vast majority of our budgets (including our bi-annual budget passed this past spring) were passed with a 2/3rds bi-partisan vote. I think clean elections, and the nature of our state, have allowed our two parties to work well together and find many areas of bi-partisan agreement. I think the reduced role of the lobby in the Maine legislature has played a positive role in increasing these bi-partisan relationships in Maine.

13. I think it does increase public confidence. In my experience with my own campaigns, and with assisting other candidates in their campaigns, citizens get more invested in clean elections campaigns. The people I collected my qualifying contributions from were excited to be making a small contribution and really felt they were a part of my campaign. And in general, I find voters in my district and in Maine are very positive about a system that takes the influence of major donors and lobby groups out of the campaign environment.

14. It absolutely does. The best part of the clean elections system is that it frees up candidates to interact with their constituents and get a real sense for the issues and concerns of the people they represent. It allows for democracy at its best.

ROBERT A. BRADY, PENNSYLVANIA
CHAIRMAN

DANIEL E. LUNGREN, CALIFORNIA
RANKING MINORITY MEMBER

Congress of the United States
House of Representatives
COMMITTEE ON HOUSE ADMINISTRATION
1309 Longworth House Office Building
Washington, D.C. 20515-6157
(202) 225-2061
www.house.gov/cha

August 13, 2009

Mr. Jeffrey Garfield
Executive Director & General Counsel
Connecticut State Elections Enforcement Commission
20 Trinity Street
Hartford, CT 06106

Dear Mr. Garfield:

Thank you for testifying during the July 30, 2009 Committee on House Administration hearing on, "A Look at H.R. 1826 and the Public Financing of Congressional Campaigns." Below you will find questions from Members of the Committee. Your responses will be made a part of the hearing record. Please provide your responses to the Committee by September 13, 2009.

1. Connecticut was the first state to adopt public financing by an act of the state legislature rather than by citizen initiative. In your opinion, what did it take to convince the legislature to change the rules of the game?

2. What factors do you think determine the success or failure of a public financing program? Why has it worked for 10 years in Maine and Arizona but could not get off the ground in Massachusetts?

3. H.R. 1826 would require candidates to have to collect disclosure forms from even small donors contributing five dollars. Does Connecticut require disclosure forms from small donors? Do you believe that increased disclosure could help to increase transparency and alleviate concerns of donor fraud?

4. When determining qualifications for candidates to receive public financing, how do we draw the line between third party or independent candidates and fringe candidates? Does Connecticut have any mechanism to protect taxpayers from being forced to pay for the political campaigns of fringe or extremist candidates whose views they find offensive?

5. Do you believe that the fundraising thresholds in H.R. 1826 treat candidates from low population districts fairly as compared to candidates from high population districts?

6. How has Connecticut's ban on contributions from lobbyists and federal contractors affected voters' perception of politics in the State? Would such bans be constitutional on a federal level?

7. Broadcast vouchers are helpful or less so depending on the cost of media in a candidate's district. What else can we do to lower the costs of communicating with constituents?

8. How would the logistics of this H.R. 1826 work? The FEC will be tasked with turning around within a short time requests for funding. Can the Agency handle the potential for massive requests? Based on your experience in Connecticut, what resources will the agency need administratively?

9. Can a public financing program help to increase the diversity of House candidates? In Connecticut, has public financing increased the number of women and minorities in the State Legislature?

10. In Connecticut, how is the public financing program funded if there is no appropriation? What happens if there are more candidates looking for funding than the fund can support?

11. Why should a new Member or someone from a marginal district support H.R. 1826 or public financing? Would it limit his/her ability to raise the funds necessary to win?

12. What is the average number of constituents in a Connecticut state legislative district?

13. What is the average amount of the government grant to state legislative candidates in the general election?

14. Mr. Bradley Smith testified that in his opinion legislators' votes depend almost entirely on their party preferences. Has public financing worked to free candidates from dependency on party funds? Can it help to increase bipartisanship?

15. If public financing programs do not increase public confidence, why then are they so popular in states that have successful programs? Why do you think voters overwhelmingly vote for public financing candidates in Connecticut?

16. Wouldn't a public financing program that relies on small donor contribution encourage increased interaction with constituents?

17. Connecticut ran a very successful program last year in which each candidate was assigned a liaison by the Public Financing Unit to guide candidates through the program. Does the FEC have the resources to assist congressional candidates and run the public financing program?

Thank you and I look forward to your responses.

Sincerely,



Robert A. Brady
Chairman

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

September 16, 2009

The Honorable Robert A. Brady, Chairman
Committee on House Administration
Congress of the United States
House of Representatives
1309 Longworth House Office Building
Washington, CT 20515-6157

Dear Chairman Brady:

I would like to thank you and the other committee members for the opportunity to provide testimony in connection with the July 30, 2009 Committee on House Administration hearing on, "A Look at H.R. 1826 and Public Financing of Congressional Campaigns." Enclosed please find our response to the questions from members of the Committee. I hope these responses will provide the Committee with more detailed information concerning public campaign financing and the Connecticut experience.

Sincerely,

Jeffrey B. Garfield
Executive Director & General Counsel

Attachment

20 Trinity Street • Hartford, Connecticut • 06106–1628
Phone: (860) 256-2940 • Toll Free-CT Only: 1-866-SEEC-INFO • Email: SEEC@ct.gov • Internet: www.ct.gov/seec
Affirmative Action / Equal Opportunity Employer

Due to the length of Mr. Garfield's response, the answers to these questions will be kept on site with the official records of the Committee and will be available for viewing upon request.

ROBERT A. BRADY, PENNSYLVANIA
CHAIRMAN

DANIEL E. LUNGREN, CALIFORNIA
RANKING MINORITY MEMBER

Congress of the United States
House of Representatives
COMMITTEE ON HOUSE ADMINISTRATION
1309 Longworth House Office Building
Washington, D.C. 20515-6157
(202) 225-2061
www.house.gov/cha

August 13, 2009

Mr. John Samples
Director, Center for Representative Government
CATO Institute
1000 Massachusetts Ave, N.W.
Washington, D.C. 20001-5403

Dear Mr. Samples:

Thank you for testifying during the July 30, 2009 Committee on House Administration hearing on, "A Look at H.R. 1826 and the Public Financing of Congressional Campaigns." Below you will find questions from Members of the Committee. Your responses will be made a part of the hearing record. Please provide your responses to the Committee by September 13, 2009.

1. What factors determine the success or failure of a public financing program? Why has it worked for 10 years in Maine and Arizona but could not get off the ground in Massachusetts?

2. Looking at the current trends in appellate and Supreme Court campaign finance laws, is there anything in HR. 1826 that may be subject to constitutional scrutiny?

3. H.R. 1826 would require candidates to have to collect disclosure forms from even small donors contributing five dollars. Wouldn't the increased disclosure help to increase transparency and alleviate concerns of donor fraud?

4. What effect would H.R. 1826 have on current FEC laws regulating coordination amongst publicly-financed candidates and political parties? What about independent expenditures?

5. When determining qualifications for candidates to receive public financing, how do we draw the line between third party or independent candidates and fringe candidates?

6. Do you believe that the fundraising thresholds in H.R. 1826 treat candidates from low population districts fairly as compared to candidates from high population districts?

7. Aside from public financing, could pay-to-play laws and bans on contributions from lobbyists and federal contractors, as some states have done, help reduce perceived corruption of House members? Would such bans be constitutional on a federal level?

8. Broadcast vouchers are helpful or less so depending on the cost of media in a candidate's district. What else can we do to lower the costs of communicating with constituents?

9. How would the logistics of H.R. 1826 work? The FEC will be tasked with turning around within a short time requests for funding. Can the FEC handle the potential for massive requests? What resources will the agency need administratively? In Connecticut, which ran a very successful program last year, each candidate was assigned a liaison by the Public Financing Unit to guide candidates through the program. Does the FEC have the resources to assist congressional candidates and run a public financing program?

10. Can a public financing program help to increase the diversity of House candidates? In Maine and Connecticut, has public financing increased the number of women and minorities in the state legislatures?

11. How is the public financing program funded if there is no appropriation? What happens if there are more candidates looking for funding than the fund can support?

12. Why should a New Member or someone from a marginal district support H.R. 1826? Would it limit his/her ability to raise the funds necessary to win?

13. If public financing programs do not increase public confidence, why then are they so popular in states that have successful programs? Why do voters overwhelmingly vote for public financing candidates in Connecticut and Maine?

14. Wouldn't a public financing program that relies on small donor contribution encourage increased interaction with constituents?

15. The popularity of the Presidential fund check off on IRS form has waned greatly over the years since its implementation. Can a similar tax check off adequately fund a House public financing program, particularly if the program grows in popularity? What other funding streams might be necessary to sustain the program? If H.R. 1826 is implemented, can we promise that we will not have to raise taxes to fund it?

Thank you and I look forward to your responses.

Sincerely,



Robert A. Brady
Chairman

CATO

COMMITTEE
HOUSE ADMINISTRATION
2009 SEP 28 PM 1:01

JOHN SAMPLES
Director
Center for Representative Government

September 11, 2009

Robert A. Brady
Chairman
Committee on House Administration
U.S. House of Representatives
1309 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Brady,

Thank you for the opportunity to testify on July 30, 2009, during your hearing on "A Look at H.R. 1826 and the Public Financing of Congressional Campaigns." Herewith you will find my responses to questions posed by members of your Committee.

Sincerely,

John Samples

Responses to Members of the Committee
Hearings "A Look at H.R. 1826 and Public Financing of Campaigns" held July 30, 2009
John Samples, the Cato Institute

1. What factors determine the success or failure of a public financing program? Why has it worked for 10 years in Maine and Arizona but could not get off the ground in Massachusetts?

I assume that you define success or failure as persistence over time. What distinguishes Maine and Arizona from Massachusetts? In the latter state, leaders in the legislature opposed the program for several reasons including budgetary restraint. Polls also showed the public in Massachusetts did not support the program thereafter. Presumably public support in the other states has been sufficient until now to sustain those programs.

2. Looking at the current trends in appellate and Supreme Court campaign finance laws, is there anything in HR. 1826 that may be subject to constitutional scrutiny?

Buckley v. Valeo states that public financing is permitted under the Constitution. This bill provides money to qualified candidates. It does not restrict the efforts of candidates outside the system. Mandatory disclosure has been traditionally validated by the courts to prevent corruption or the appearance of corruption and to educate the public. The disclosure provisions for small sums to qualify candidates cannot seriously be defended as preventing corruption or the appearance of corruption. Their information value to voters must also be low. Whether a court would find such disclosure unconstitutional is open to question but perhaps unlikely.

3. H.R. 1826 would require candidates to have to collect disclosure forms from even small donors contributing five dollars. Wouldn't the increased disclosure help to increase transparency and alleviate concerns of donor fraud?

Please see my answer to the previous question. The agency in question could collect relevant information without disclosing it. That path might deal with concerns about qualification fraud and maintain the privacy of donors. At the same time, the public might well have doubts about qualifying donations given the sums obtained by a successful qualification.

4. What effect would H.R. 1826 have on current FEC laws regulating coordination amongst publicly-financed candidates and political parties? What about independent expenditures?

I have no view on this question.

5. When determining qualifications for candidates to receive public financing, how do we draw the line between third party or independent candidates and fringe candidates?

This suggests two questions. Apart from campaign finance, can we reliably distinguish third party or independent candidates from fringe candidates? Perhaps being on the fringe is like being "obscene," it depends on the eyes of the beholder (or which Supreme Court justice is looking). As far as rules regarding money go, requiring a persistent party apparatus would preclude qualification by a candidate who gains support quickly and unexpectedly during an election. Some candidates thought of as fringe, Lyndon LaRouche comes to mind, were able to establish party apparatuses that persisted over time. The

"fringe" problem seems inherent to any public financing system that includes matching funds as evidence of public support. Some candidates with unusual views will come through the matching funds filter. Their campaigns will cause citizens to wonder why taxes are being spent on such candidates. Their unusual behavior will attract media attention and publicize the fact that their campaigns are supported by the taxpayer.

6. Do you believe that the fundraising thresholds in H.R. 1826 treat candidates from low population districts fairly as compared to candidates from high population districts?

In Congress, population among electoral districts varies only for the Senate. The costs of media vary in both chambers since some House districts would have more expensive media markets than others. I doubt the funding in the bill would be adequate for publicly funded candidates in states with expensive media markets.

7. Aside from public financing, could pay-to-play laws and bans on contributions from lobbyists and federal contractors, as some states have done, help reduce perceived corruption of House members? Would such bans be constitutional on a federal level?

The Federal Election Campaign Act (FECA) prohibits contributions from federal contractors to candidates for federal offices. The federal Securities and Exchange Commission's (SEC) Municipal Securities Rulemaking Board (MSRG) proscribes hiring a municipal securities underwriter, consultant, or broker who has contributed within two years to candidates for offices with the power to hire them. This restriction on contributions was challenged on First Amendment groups and as a violation of the Tenth Amendment for regulating state and local elections. The Court of Appeals for the District of Columbia Circuit upheld MSRB Rule G-37 in *Blount v. Securities and Exchange Commission*, 61 F.3d 938 (1995). The U.S. Supreme Court declined to review the case.

Recently, the United States District Court, District of Connecticut, upheld bans on contributions from lobbyists, state contractors, and their families enacted by the Connecticut state legislature. The court attached little weight to the speech interest at stake and emphasized the importance of the legislature's putative goal of preventing corruption. The court also gave great weight to recent scandals in Connecticut related to bribery and lobbyists.

Would the current U.S. Supreme Court reach a similar finding regarding federal legislation? In part, the details of the legislation would matter; the Connecticut court mentioned several kinds of political activity not covered by the legislation. The recent history of Congress might also matter to the Court. However, it is clear that a current majority on the Supreme Court attach significant importance to First Amendment speech rights in cases involving campaign finance and depreciate putative state interests in preventing corruption or the appearance of corruption. For that reason, the Connecticut case does not provide adequate evidence to predict what the Supreme Court might do.

It is also worth noting that prohibiting contributions by lobbyists would probably prompt many firms to move fundraising away from formally-defined lobbyists to other members of the firm not so designated.

I know of no systematic evidence that such restrictions affect public trust in government. Professor Jeffrey Milyo of the University of Missouri, an economist who empirically studies campaign finance and has a comprehensive grasp of the relevant literature, has recently remarked, "I am quite confident that

there is absolutely no scientific evidence on that question; it is a testable hypothesis, it just hasn't been tested." Indeed, what systematic evidence we have indicates campaign finance laws have no relationship to trust in government which is affected by other factors. Most citizens know little about the actual details of laws and hence, this finding is not surprising.

8. Broadcast vouchers are helpful or less so depending on the cost of media in a candidate's district. What else can we do to lower the costs of communicating with constituents?

Lowering the cost of communicating with *constituents* would by its nature involve the work of officials in office rather than candidates for office who would be concerned about communicating with *voters*. Generally speaking, lowering the costs of communicating with constituents would increase the already formidable advantages of incumbency and should not be undertaken on grounds of unfairness to challengers and the voters. As for candidates, markets will generally determine the highest valued use of media and should be allowed to price media time without regulation or subsidies.

9. How would the logistics of H.R. 1826 work? The FEC will be tasked with turning around within a short time requests for funding. Can the FEC handle the potential for massive requests? What resources will the agency need administratively? In Connecticut, which ran a very successful program last year, each candidate was assigned a liaison by the Public Financing Unit to guide candidates through the program. Does the FEC have the resources to assist congressional candidates and run a public financing program?

The FEC has experience administering a presidential system that has dealt with relatively few primary candidates over the years. H.R. 1826 would probably involve more candidates in a matching system in one election cycle than the FEC has dealt with *in toto* in the presidential system since 1976. The initial difficulties of administering the program would require substantial funding and learning.

10. Can a public financing program help to increase the diversity of House candidates? In Maine and Connecticut, has public financing increased the number of women and minorities in the state legislatures?

Presumably a public financing program would not allocate funding on the basis of race, gender, or national origin. A program open to all on a matching basis might mean more candidates in each of these categories if the relatively low qualifying threshold attracted more candidates from these categories. The presidential matching fund system has a spotty record on this score, and it might be noted that the most successful female and African American primary presidential candidates in history were both formidable fundraisers of private campaign money. The effects on women and minorities in both states remain open to debate.

11. How is the public financing program funded if there is no appropriation? What happens if there are more candidates looking for funding than the fund can support?

It would either not be funded (leading to litigation by disappointed candidates who had qualified for funding) or the funding would come out of general tax revenues. The latter would also presumably happen if more candidates qualified than the fund could support. In both cases, taxpayers would be forced to pay taxes to support candidates they opposed. The presidential system was designed to avoid

such involuntary contributions. Presumably many voters might take offense when the use of general tax revenues becomes public.

12. Why should a New Member or someone from a marginal district support H.R. 1826? Would it limit his/her ability to raise the funds necessary to win?

In response to this question, I stand by my testimony given to the committee:

"H.R. 1826 does have several unusual features. Most campaign finance legislation seeks an electoral advantage for incumbent members of the legislature, for the party that controls the legislature, or for the marginal voter that completes the majority needed to enact the regulation. H.R. 1826 provides subsidies to candidates who raise small sums through small contributions. The subsidies are significant: in the House, $50,000 in qualifying contributions would be turned into $1 million in campaign funds (including the advertising voucher). All things being equal, I would expect that many incumbent members of Congress would face more and better funded challengers and that party control of either chamber would become marginally less certain. On the other hand, members who provide the marginal votes needed for enacting campaign finance regulation tend to be vulnerable because they serve swing districts. In such districts, I would expect both candidates to avoid the public system since the since the funding will be too low to compete with an opponent who defects to private financing. I would expect that incumbent members of Congress who now receive between 55 and 65 percent of the vote in their district will attract more challengers who have more money than in the past. In other words, I expect H.R. 1826 would harm two groups of people: taxpayers, many of whom will be forced to support candidates not of their choice and a significant number of incumbent members of Congress who now raise more money than their challengers. These members will experience a smaller gap between their campaign resources and those of a challenger. Contrary to the putative findings of the bill, these members may well be forced to allocate more time to fundraising than they do now to restore (or try to restore) their advantage."

I might add that H.R. 1826 would make it more difficult to raise the necessary funds to win since it would change the practical meaning of "necessary" by quantitatively increasing the sum in question for many members.

13. If public financing programs do not increase public confidence, why then are they so popular in states that have successful programs? Why do voters overwhelmingly vote for public financing candidates in Connecticut and Maine?

This question makes some questionable assumptions. A program might be popular because of its aspirations even though citizens know little about it. A program need not increase the confidence in government of the people who like them. Polling often shows that respondents who support "campaign finance reform" also doubt reforms will change much.

Voters may vote for publicly financed candidates for a number of reasons. We can only conclude that they vote for candidates who are publicly financed because of the public financing if we compare candidates who are similar in all ways except that one takes private financing while the other takes public financing. Such studies have not been done. Moreover, given poll findings over time for the entire nation that indicate a majority dislikes taxpayers financing of campaigns, it should be doubted that public financing per se would attract votes for candidates throughout the nation. The opposite would seem to be the case if public financing were more generally available.

14. Wouldn't a public financing program that relies on small donor contributions encourage increased interaction with constituents?

This conclusion depends on the mean contribution under a private system. In the House, 1,500 small contributions qualify for rough $1 million in public funding under H.R. 1826 including media time. To raise that much from private donors would require a mean contribution of $666 by 1,500 donors. If the mean and media contribution were roughly the same and the mean private contribution were less than $666, the candidate would have to garner the sum from *more* donors under a private system.

(Note that more donors would mean more interaction with constituents if all donors were constituents; if private donors were not constituents, more private donors need not translate into more interaction with constituents. However, publicly-funded candidates would have more interaction with constituents in this case because of the requirement that qualifying funds come from constituents and not because of the "small donation" requirement).

This assumes rates of success would be the same under both systems. Surely public financing advocates would wish to argue that rates of success would be higher under the qualifying system because people would be happy to contribute (and also, because their donations would be subsidized by the taxpayer which would mean a higher net consumer surplus for the donor at any level of contribution). In that case, the candidate relying on private donations would have to interact with more potential donors to raise the same sum as the publicly financed candidate.

The answer to this question thus depends on several contingencies and might well vary by candidate over time.

15. The popularity of the Presidential fund check off on IRS form has waned greatly over the years since its implementation. Can a similar tax check off adequately fund a House public financing program, particularly if the program grows in popularity? What other funding streams might be necessary to sustain the program? If H.R. 1826 is implemented, can we promise that we will not have to raise taxes to fund it?

There is no reason to think a tax check off system would provide enough funding to support the system outlined in H.R. 1826 given the history of the presidential system. Given that, it would be irresponsible to "promise that we will not have to raise taxes to fund" the program.

The sources of funding for the system are (1) all current taxpayers; (2) a subset of current taxpayers; (3) all future taxpayers; or (4) a subset of all future taxpayers. (Some portion of the cost might be inflated away). As mentioned in my testimony, H.R. 1826 seems to select option (2) but actually selects option (1).

Here again a reality check is in order. If the source of funding for the program must be obscured from the public, do voters really want the program? If voters are not willing to pay for the program, why should it be enacted?

ROBERT A. BRADY, PENNSYLVANIA
CHAIRMAN

DANIEL E. LUNGREN, CALIFORNIA
RANKING MINORITY MEMBER

Congress of the United States
House of Representatives
COMMITTEE ON HOUSE ADMINISTRATION
1309 Longworth House Office Building
Washington, D.C. 20515-6157
(202) 225-2061
www.house.gov/cha

August 13, 2009

Mr. Bradley Smith
Professor of Law
Capital University School of Law
303 East Broad Street
Columbus, OH 43215-3201

Dear Mr. Smith:

Thank you for testifying during the July 30, 2009 Committee on House Administration hearing on, "A Look at H.R. 1826 and the Public Financing of Congressional Campaigns." Below you will find questions from Members of the Committee. Your responses will be made a part of the hearing record. Please provide your responses to the Committee by September 13, 2009.

1. What factors determine the success or failure of a public financing program? Why has it worked for 10 years in Maine and Arizona but could not get off the ground in Massachusetts?

2. Looking at the current trends in appellate and Supreme Court campaign finance rulings, is there anything in HR. 1826 that may be subject to constitutional scrutiny?

3. H.R. 1826 would require candidates to have to collect disclosure forms from even small donors contributing five dollars. Wouldn't the increased disclosure help to increase transparency and alleviate concerns of donor fraud?

4. What effect would H.R. 1826 have on current FEC laws regulating coordination amongst publicly-financed candidates and political parties? What about independent expenditures?

5. When determining qualifications for candidates to receive public financing, how do we draw the line between third party or independent candidates and fringe candidates?

6. Do you believe that the fundraising thresholds in H.R. 1826 treat candidates from low population districts fairly as compared to candidates from high population districts?

7. Aside from public financing, could pay-to-play laws and bans on contributions from lobbyists and federal contractors, as some states have done, help reduce perceived corruption of House members? Would such bans be constitutional on a federal level?

8. Broadcast vouchers are helpful or less so depending on the cost of media in a candidate's district. What else can we do to lower the costs of communicating with constituents?

9. How would the logistics of H.R. 1826 work? The FEC will be tasked with turning around within a short time requests for funding. Can the FEC handle the potential for massive requests? What resources will the agency need administratively? In Connecticut, which ran a very successful program last year, each candidate was assigned a liaison by the Public Financing Unit to guide candidates through the program. Does the FEC have the resources to assist congressional candidates and run a public financing program?

10. Can a public financing program help to increase the diversity of House candidates? In Maine and Connecticut, has public financing increased the number of women and minorities in the state legislatures?

11. During your testimony you referred to H.R. 1826 as a "tax" financing proposal. Yet isn't it true that public financing programs are not funded by direct taxes, rather by surplus funds?

12. Don't most House candidates who challenge seated incumbents rely heavily on the support of party PACs and congressional PACs to get elected? Would this bill make it more difficult for first time House candidates?

13. If public financing programs do not increase public confidence, why then are they so popular in states that have successful programs? Why do voters overwhelmingly vote for public financing candidates in Connecticut and Maine?

14. Wouldn't a public financing program that relies on small donor contribution encourage increased interaction with constituents?

15. The popularity of the Presidential fund check off on IRS form has waned greatly over the years since its implementation. Can a similar tax check off adequately fund a House public financing program, particularly if the program grows in popularity? What other funding streams might be necessary to sustain the program? If H.R. 1826 is implemented, can we promise that we will not have to raise taxes to fund it?

Thank you and I look forward to your responses.

Sincerely,



Robert A. Brady
Chairman

CAPITAL UNIVERSITY
LAW SCHOOL
Preparing Tomorrow's Leaders

August 27, 2009

Hon. Robert A. Brady, Chairman
Committee on House Administration
1309 Longworth House Office Building
Washington, D.C. 20515-6157

Dear Chairman Brady:

Thank you for the opportunity to testify on behalf of the Center for Competitive Politics at the Committee's July 30 hearing on "A Look at H.R. 1826 and the Public Financing of Congressional Campaigns." Below are my responses to the written questions posed by members of the Committee.

1. *What factors determine the success or failure of a public financing program? Why has it worked for 10 years in Maine and Arizona but could not get off the ground in Massachusetts?*

   The simple answer is that in Massachusetts the state legislature refused to fund the program, and ultimately put the issue back to voters in an advisory referendum, in which Massachusetts voters voted two to one against the program. It was then repealed by the legislature.

   More broadly, there has been a good deal of experimentation with tax-financed campaigns in this country. Most notably Wisconsin and Minnesota enacted programs in the 1970s, as did the Congress for Presidential elections. These systems have uniformly fallen into desuetude (Wisconsin), been terminated or defunded (Minnesota), or are widely considered "broken" (the presidential system). A recent pilot program in New Jersey was terminated last year; this year the state of North Carolina chose not to expand its trial program beyond judicial races.

   A key reason for the collapse of these programs is a failure to provide adequate funding to campaigns. For example, in Wisconsin, the amounts provided by the state were so low that few serious candidates would participate, and the program began branded as a program for "losers." Even programs that were initially funded adequately, such as the Presidential funding program, have over time fallen behind. Even though the amounts given to candidates in the Presidential general election program were adjusted with inflation, they did not keep up to date with the costs of campaigning, which have risen faster than general inflation. Moreover, in the Presidential primary system, the contributions that could be matched, and the contribution limits, were not adjusted for inflation. ("Shays-Meehan" finally

303 EAST BROAD STREET COLUMBUS, OHIO 43215-3200
614.236.6500 FAX 614.236.6956 www.law.capital.edu

implemented indexing of some – but not all – contribution limits, but limits still remain barely over 50% of the inflation adjusted value of the original $1000 limit.)

The second major "technical" problem with tax ("public") financing programs is that they tend not to have the flexibility to adapt to changes in campaigning techniques and the legal landscape. For example, the Presidential campaign system has never, after 33 years, adapted to the Supreme Court's decision in *Buckley v. Valeo,* 424 U.S. 1 (1976), allowing unlimited independent spending. For example, a reasonable response would be to substantially increase or abolish altogether limits on coordinated party spending. However, the difficulty of passing legislation (relative to the ability to block legislation) has meant, in case after case, that the system quickly becomes dated and tends to warp the system. For example, one reason that members now spend so much time raising money is that the Federal Election Campaign Act has made it much harder, and therefore more time consuming, to raise money. However, the "reform community" has fought tooth and nail against every effort to make fundraising less time consuming, not only by raising contribution limits for inflation, but by easing arcane, needless, and often outdated rules. In fact, the "reform community" continues efforts to make fundraising more difficult and time consuming for candidates, as with recent efforts to make "bundling" more difficult.

H.R. 1826 attempts to address this problem by giving the Fair Elections Oversight Board considerable flexibility to make adjustments to the program without legislative approval. *See* § 531 (c)(2)(C). Whether this will be effective in addressing the problem of flexibility, of course, remains to be seen.

More importantly, however, I would disagree with the premise that the program has "worked" in Arizona and Maine. In determining whether or not such a program "works," it is not enough merely to point to the number of candidates that participate in the system or that are elected using the system. Surely if Congress were to raise the limit on contributions to $100,000, most or all candidates and, therefore, most or all elected Members of Congress would then accept contributions well above the current $2400 limit, but I doubt that this fact in and of itself would lead anyone to call such a member "a success." Yet mere participation in the system is the primary measure supporters of these laws use.

The real measurement of success is whether or not these programs improve state governance and improve the lives of the citizens of these states. Here, there is little evidence that "clean elections" in Maine and Arizona have been successful. In fact, Arizona is facing one of the worst fiscal crises in the country, hardly a sign of the improved fiscal policy and governance that is often promised by advocates of "clean elections" programs.

In truth, from a policy standpoint, there is little reason to believe that taxpayer financed political campaigns have not changed either Arizona or Maine for the better. Republicans in each state continue to vote as Republicans in other states do, Democrats as do Democrats, and so on. *See* Robert J. Franciosi, *Is Cleanliness Political Godliness?*, (Goldwater Institute 2001).

The long list of failures for taxpayer financed political campaigns include no increase in voter turnout, *see* Center for Competitive Politics, *Fairly Flawed: Analysis of the 2009 Fair Elections Now Act*, p. 13 (July 2009); no improvement in public perception of the legislature, *id.* at p. 8-11; no savings to taxpayers through reductions in wasteful spending, *see* Center for Competitive Politics, *Do Taxpayer-Funded Campaigns Actually Save Taxpayer Dollars* (Sep. 2008); no change in the backgrounds of those elected to office, *see* Center for Competitive Politics, *Legislator Occupations – Change or Status Quo After Clean Elections?* (April 2008); no increase in the number of women elected to office, *see* Center for Competitive Politics, *Do "Clean Election" Laws Increase Women in State Legislatures?* (August 2008); and no reduction in campaign spending. Center for Competitive Politics, *Appendix 5: Conclusions & Recommendations on New Jersey's "Clean Election" Experiment*, pp. 6-7 (May 2008).

Section 310 the Bipartisan Campaign Reform Act of 2002 ("Shays-Meehan", P.L. 107-155) required the United States General Accounting Office to undertake a study of the Arizona and Maine programs. The resulting study, GAO-03-453, *Campaign Finance Reform: Early Experience of Two States That Offer Full Public Funding for Political Candidates* (May 2003), did not find early success in the programs. In comparing the results of the laws against stated objectives, the study found:

a. "Voter Choice. While one goal of the public financing was to encourage more candidates to run for office, the average numbers of state legislature candidates per district race in maine and Arizona in the 2000 and 2002 elections were not notably different than the averages for the two previous elections, 1996 and 1998."

b. "Electoral Competition. The public financing programs were expected to make elections more competitive, but our analyses were inconclusive."

c. "Interest Group Influence. ... in our fall 2002 survey of voting-age citizens in Maine and Arizona, of the respondents who acknowledged some awareness of the respective state's applicable law, almost two-thirds in both states answered that there was no effect on their confidence in government or that it was too soon to tell. Additionally, slightly more respondents in each state answered that the law had greatly or somewhat increased their confidence in state government ... thatn did respondents who answered that the law had greatly or somewhat decreased their confidence."

d. "Campaign Spending. Under the public financing programs in the 2000 and 2002 elections, average legislative candidate spending decreased in Maine but increased in Arizona, compared to previous elections. Also, particularly in the 2002 elections, both states experienced increase in independent expenditures... ."

e. "Voter participation. Although a goal of the public financing programs was to increase voter participation, turnout in Maine's and Arizona's

2000 elections did not differ significantly from prior presidential election years."

Id. p. 4-6.

2. *Looking at the current trends in appellate and Supreme Court campaign finance rulings, is there anything in HR. 1826 that may be subject to constitutional scrutiny?*

The sponsors are to be complimented for avoiding the obvious constitutional controversies that surround spending limits, rescue funds, or penalties on non-participating candidates. It is my current belief that the core provisions of H.R. 1826 would comply with the Constitution, as interpreted in Supreme Court precedent, including *Davis v. Federal Election Commission.* 76 U.S.L.W. 4675 (2008). Although no Court precedents would hold that the disclosure provisions of H.R. 1826 are unconstitutional, there is some possibility for litigation of the disclosure provisions of the law, particularly given the extremely low threshold for disclosure, and members should give serious thought to constitutionality of these low disclosure thresholds. *See e.g. Brown v. Socialist Workers '74 Campaign Committee,* 459 U.S. 87 (1974). *See also Protect Marriage Washington v. Public Disclosure Commission,* Case No. 3:09-cv-05456-BHS (W. D. Wash. July 29, 2009)(granting injunction against disclosure of signatories of initiative petitions). There may be constitutional questions surrounding the appointments procedure for members of the Fair Elections Oversight Board. It is unlikely that the President can be forced to make an appointment from a candidate recommended by his first four appointees. *See* § 531(b)(1)(C); *Buckley v. Valeo.*. If the provision is not interpreted as mandating the appointment of the person recommended by the other Commissioners, this would not be a problem.

3. *H.R. 1826 would require candidates to have to collect disclosure forms from even small donors contributing five dollars. Wouldn't the increased disclosure help to increase transparency and alleviate concerns of donor fraud?*

Yes. Nonetheless, there would still be considerable incentives to commit fraud under the 4 to 1 matching dollar provisions, just as there are currently violations of the prohibition on contributions in the name of another or foreign contributions, even when disclosure is mandated.

I will add here that in my experience disclosure provisions of the law are among the most difficult provisions for first time and inexperienced candidates, treasurers, and volunteer to comply with. This provision is likely to particularly burden small campaigns most reliant on volunteers. Extremely low thresholds for mandatory disclosure also may risk constitutional litigation as an unnecessary violation of privacy rights. See answer to question 2 above.

4. *What effect would H.R. 1826 have on current FEC laws regulating coordination amongst publicly-financed candidates and political parties? What about independent expenditures?*

H.R. 1826 limits party coordinated expenditures to the lesser of ten percent of the amount the participating candidate may receive for a contested general election, or the amount currently provided for by law. See § 104. The amount that a

participating candidate receives for the general election is in turn determined as 60 percent of 80 percent of the national average amount spent by winning candidates in the last two cycles. See § 522. Based on 2008 and 2006 data, I estimate the coordinated expenditure limit for 2010 under the bill at $63,014, vs. the current statutory limit of $43,700 determined by the FEC for candidates in states with more than one district. For candidates in which the congressional district covers the entire state, the current limit is $87,300. Thus, the effect of H.R. 1826 in 2010 would either be nothing, for multi-member states, or a reduction in coordinated expenditures by about $24,000 for participating candidates in states with only one member. Because both the current statutory number and the number provided for by H.R. 1826 change from election to election, future predictions cannot be made, but would likely stay within this range for at least an election cycle or two.

Because party independent expenditures are protected by law, see *Colorado Republican Federal Campaign Committee v. Federal Election Commission,* 518 U.S. 604 (1996), H.R. 1826 will not affect them.

5. *When determining qualifications for candidates to receive public financing, how do we draw the line between third party or independent candidates and fringe candidates?*

I do not believe that such a line can ever be effectively drawn. If it is set far too high, it will exclude good candidates. If set far too low, it will attract many fringe candidates. If set "just right," there will always be close cases on both sides of the line. I do not know where "just right" is. This appears to be something of a problem in the states that have experience with "clean elections." For example, in Arizona, parties have run "spoiler" candidates on "clean elections" funds to drain votes from the opposing major party. Some candidates have spent large sums on restaurant and bar tabs. *See* Sarah Fenske, *The Dirty Truth About Clean Elections,* Phoenix New Times, Mar. 31, 2009, http://www.phoenixnewtimes.com/2009-04-02/news/the-dirty-truth-about-clean-elections/1.

6. *Do you believe that the fundraising thresholds in H.R. 1826 treat candidates from low population districts fairly as compared to candidates from high population districts?*

I think that the bigger concerns are the geographic spread of the district and the media markets within which candidates operate. H.R. 1826 provides a flat $100,000 in political advertising vouchers for candidates. Obviously, in a market such as New York City, this is very little, whereas in may mean more in a small city such as Grand Rapids. Other districts, such as Ohio's 7th, require television advertising in two major markets (in this case, Columbus and Dayton) to reach all voters in the district.

In the sense that competing candidates run under the same restrictions, this is fair. However, in an area where campaigning is more expensive, this may benefit incumbents over challengers (challengers usually benefit from higher spending). In the end, I doubt that there is any "fair" means of allocating funds.

7. *Aside from public financing, could pay-to-play laws and bans on contributions from lobbyists and federal contractors, as some states have done, help reduce perceived corruption of House members? Would such bans be constitutional on a federal level?*

The Federal Election Campaign Act already prohibits government contractors from contributing to campaigns. 2 U.S.C. § 441c. This does not appear to have done much to reduce perceived corruption of House members.

I am generally skeptical that either limits or tax financing will reduce perceived corruption. The laws themselves invite allegations that they are being violated, which are covered by the news. Even when candidates are exonerated, the perception often then remains in the public mind that the candidate or officeholder merely "beat the rap" - further fueling distrust of officeholders. Research indicates that neither regulations nor tax funding of campaigns increase citizen confidence in government. *See* David M. Primo and Jeffrey Milyo, *Campaign Finance Laws and Political Efficacy: Evidence from the States,* 5 Elec. L. J. 23 (2006); Peter Woolley and Tim Vercellotti, Rutgers Eagleton Institute of Politics, *Public Attitudes Toward the Clean Elections Initiative,* Nov. 27 2007, http://eagletonpoll.rutgers.edu/polls/CE_FinalReport_11_07[1].pdf; ; David M. Primo, *Public Opinion and Campaign Finance: Reformers versus. Reality*, 7 Indep. Rev. 207 (2002); Nathaniel Persily and Kelli Lammie, *Perceptions of Corruption and Campaign Finance: When Public Opinion Determines Constitutional Law,* 53 U. Penn. L. Rev. 119 (2004).

Transparency in bidding and contracting may, in my opinion, have a more beneficial effect without raising the constitutional issues raised by campaign finance regulations and subsidies.

8. *Broadcast vouchers are helpful or less so depending on the cost of media in a candidate's district. What else can we do to lower the costs of communicating with constituents?*

The cost of compliance with campaign finance regulations adds as much as twenty percent to campaign costs. Low dollar fundraising, mandated by law, also has a substantially higher administrative cost than high dollar fundraising. Simplifying and deregulating would be highly beneficial in lowering campaign costs.

Otherwise, that is little that Congress can do but subsidize campaigns, as H.R. 1826 attempts to do, or dictating market prices, a problematic undertaking. Congress has mandated that candidates receive the lowest unit charge from broadcasters. 47 U.S.C. §315. While this may lower the cost of campaigning, it has always struck me as unfair that a candidate may vilify an entity, such as a private business or a union, using the lowest unit rate, but if the entity attempts to respond, it must do so at market rates.

9. *How would the logistics of H.R. 1826 work? The FEC will be tasked with turning around within a short time requests for funding. Can the FEC handle the potential for*

massive requests? What resources will the agency need administratively? In Connecticut, which ran a very successful program last year, each candidate was assigned a liaison by the Public Financing Unit to guide candidates through the program. Does the FEC have the resources to assist congressional candidates and run a public financing program?

Historically, the FEC has been able to make very rapid turnarounds on requests for funds under the Presidential funding system. The price of rapid releases of funds – probably a good thing – is the difficulty of reclaiming funds if it later turns out that the candidate is not eligible.

As the question implies, however, funding all congressional races would be a significant increase in the FEC's workload. I believe that that increase will be felt most severely on the back-end, when the FEC attempts to audit campaigns. H.R. 1826 does not specifically require audits of publicly financed campaigns, but the obligations of the Commission under the bill imply a much larger number of audits, and one can expect a strong public demand for audits. *See* § 532.

In 2000, the year I joined the Commission, the Commission concluded 12 non-presidential committee audits. This number increased each year until it peaked at 32 in 2004, my final full year on the Commission, when I served as Chairman. It then declined to a low of 13 in 2006, before returning to 31 in 2008. Obviously, auditing any substantial number of publicly financed committees – possibly over 500 in an election cycle - would require a very substantial increase in the FEC's Audit staff, which has hovered at approximately 40 FTEs for several years.

Given that it has been four years since I resigned from the Commission, I believe it would best to seek further detail to this question from the FEC directly.

10. *Can a public financing program help to increase the diversity of House candidates? In Maine and Connecticut, has public financing increased the number of women and minorities in the state legislatures?*

I believe that the answer is "no."

I have not studied Connecticut, which in any event has very little experience from which to draw conclusions. Historically, however, Maine and Arizona have been among the nation's leaders in the percentage of women serving in the legislature. The Center for Competitive Politics has studied the impact of "clean elections" on the number of women in the legislature in Maine and Arizona. In the decade before Arizona enacted "clean elections," women made up, on average, 35 percent of the Arizona legislature, peaking at 40 percent in 1997-98. In the first four election cycles after adopting "clean elections," women made up, on average, just 34 percent of Arizona legislators, with a peak of 35 percent in 2005-06 and 07-08. Similarly, in Maine, on average 29 percent of legislators were women in the decade before "clean elections," but just 28 percent of legislators were women in the first four elections after "clean elections" was adopted. Laura Renz, *Do "Clean Election" Law Increase*

Women in State Legislatures, Center for Competitive Politics, August 2008, http://www.campaignfreedom.org/research/detail/do-clean-elections-increase-the-number-of-female-legislators. This comes at a time of increasing representation of women in legislatures nationally. While we would not go so far as to suggest that "clean elections" is responsible for the decline or stagnation in the number of women serving in the two states, there is certainly no reason to think the programs have increased the number of women legislators.

Neither Arizona nor Maine are fertile ground to study effects of "clean elections" on the percentage of African-Americans in the legislature, given each state's small African-American population. The number of Latinos in the Arizona legislature has increased since the implementation of "clean elections" but is still small. In the first year under "clean elections," it increased from 7 to 12 of 90 state representatives, but has remained largely unchanged since (currently 13 of 90). The initial increase is more likely attributable to the growth of the state's Hispanic population and to one time events than to "clean elections."

The Center for Competitive Politics has also studied the effect of "clean elections" on the occupations of those making up the legislature. We found no statistically significant shifts in occupations, and the small numbers involved in different categories means that just a handful of legislators can skew categories. Nonetheless, for what value it has, we found that both Maine and Arizona the number of legislators listing their occupation as "business" has increased since the enactment of "clean elections," and in both states remains the largest single occupational category. In each state, the percentage of lawyers has increased slightly, and is one of the largest occupational categories. In Maine the numbers of retirees in the legislature has remained constant, while increasing slightly (from 2% to 5%) in Arizona, but the number of "homemakers" has declined in each state. There has been a sharp decline in the number of educators in Arizona (from an average of 15 percent prior to "clean elections" to just seven percent post-"clean elections") but a slight increase in Maine (from an average of 19 percent to 21 percent). In summary, there is no evidence that "clean elections" has created a more representative legislature in terms of the occupational background of legislators in either "clean elections" state. See Laura Renz, *Legislator Occupations – Change or Status Quo After Clean Elections?*, Center for Competitive Politics, April 2008, available at http://www.campaignfreedom.org/research/detail/legislator-occupations-change-or-status-quo-after-clean-elections.

11. *During your testimony you referred to H.R. 1826 as a "tax" financing proposal. Yet isn't it true that public financing programs are not funded by direct taxes, rather by surplus funds?*

The program is funded by tax dollars. I suspect that only in Washington does anyone care if they are called "direct taxes" or "surplus funds." The proposal will be funded by government revenues derived from spectrum auctions and voluntary checkoffs. While this allows taxpayers to designate some funds, it does not reduce their tax liability, and therefore does not alter the amount of taxes collected by the government. Other government programs must therefore be cut, other taxes

increased, or borrowing increased to cover the amounts spent for "fair elections." "Public financing" is a more attractive euphemism that obscures the fact that tax dollars are being used, to be sure, but as President Obama repeatedly noted in his last campaign, voluntary contributions by the public is the true form of "public" financing.

12. *Don't most House candidates who challenge seated incumbents rely heavily on the support of party PACs and congressional PACs to get elected? Would this bill make it more difficult for first time House candidates?*

Historically, challengers are more reliant on large contributions than are incumbents. This is because incumbents are more likely to have a past database of contributors, and higher name recognition, which facilitate small contributions. *See e.g.* Campaign Finance Institute, *Democrat and Republican Challengers Rely on $1000 Contributions More than Incumbents*, June 27, 2001. Thus, the 4 to 1 government match under H.R. 1826 for contributions under $100 is likely to benefit incumbents over first time candidates. Additionally, challengers as a general rule tend to fair better in races with higher spending, so to the extent that H.R. 1826 will reduce spending, it is likely to make it more difficult for challengers. Additionally, incumbents may find it easier than challengers to raise qualifying contributions under the program, thanks to their experience, database of past donors, and name recognition.

13. *If public financing programs do not increase public confidence, why then are they so popular in states that have successful programs? Why do voters overwhelmingly vote for public financing candidates in Connecticut and Maine?*

I do not believe that the supposition is correct. First, I disagree that the programs have been successful – see question 1, above.

Second, I disagree that they are particularly popular. As noted above, the polling is highly mixed – *see* question 7, above. The term "clean elections" (and now "fair elections") are highly biased terms that were selected precisely to gain public support from voters not aware of the substantive contents of the legislation. A poll finding support for "clean elections" is no more surprising than a poll finding support for "a good economy." Support for tax financed campaigns is highly sensitive to how the question is asked. *See* David M. Primo, *Public Opinion and Campaign Finance: Reformers versus Reality,*7 Indep. Rev. 207, 211-212 (2002) ("For instance, a question regarding public financing of campaigns can result in vastly different responses ... Question-wording effects suggest that whoever chooses the terms of the debate will win it.") In a 2006 Rasmussen survey commissioned by the Center for Competitive Politics, 2000 voters were asked, "Should the federal government provide public funding for all political campaigns?" Only 28 percent agreed, even though a majority of respondents also favored limits on campaign contributions. This mix has also shown up at the ballot box. For example, in 1998 Massachusetts voters two to one in favor of "clean elections" at the ballot box, but in 2002, those same voters voted by an even more overwhelming three to one margin against "clean elections" in an advisory referendum, after which the law was repealed by the legislature. The difference? The

first measure asked voters to support "clean elections." The second asked voters, "Do you support taxpayer money being used to fund political campaigns for public office in the Commonwealth of Massachusetts?" Whether calling it "clean elections" or "taxpayer money being used to fund political campaigns" is more honest I will leave to the members of the committee.

Third, voters do not "overwhelmingly" vote for "clean elections" candidates and Maine and Connecticut. I know of no evidence that has attempted to determine the effect of running "clean" on a candidate's percentage of the vote. Nor am I aware of any evidence showing that participating candidates, when facing candidates relying on voluntary contributions, win by larger margins than would otherwise be expected based on the district's degree of partisanship, qualifications of the candidates, and so on. It is true that participating candidates make up the majority of legislators in states that have adopted "clean elections" programs, but that is to be expected since most candidates participate, and because the reason that most candidates participate is that the state "clean elections" programs provide very substantial advantages for participating candidates, including "rescue funds" should they be in danger of being outspent by voluntary funded candidates. The constitutionality of these "rescue funds" is now highly suspect. *See Davis v. Federal Election Commission.* 76 U.S.L.W. 4675 (2008); *see also McComish v. Brewer*, slip op. No. CV-08-1550-PHX-ROS, (D. Ariz. Aug. 29, 2008) (holding Arizona's provision unconstitution in light of *Davis*). It makes no more sense to argue that voters in "clean elections" states "overwhelmingly" favor participating candidates than it does to say that voters in congressional races overwhelmingly favor candidates who take PAC contributions – though in fact most members of Congress do accept PAC contributions.

One of the few states to conduct serious polling on public perception of "clean elections" is New Jersey. There, surveys conducted by the Eagleton Institute at Rutgers found that the state's pilot program of "clean elections" had no substantial effect on public confidence. In fact, prior to the program, 75 percent of respondents said they trusted the legislature to do what is right "only some or none of the time." After the pilot program, that number had actually *increased*, to 80%. The Institute concluded, "to the extent ... Clean Elections [are] designed to foster confidence in governance..., much more work remains." Peter Woolley and Tim Vercellotti, Rutgers Eagleton Institute of Politics, *Public Attitudes Toward the Clean Elections Initiative,* Nov. 27, 2007.

Similarly, an analysis by the Center for Competitive Politics of public opinion surveys in Arizona found that "half of Arizona citizens were unaware of that state's [clean elections] program," and a third of those who were familiar with the program did not favor it. Center for Competitive Politics, *Fairly Flawed: Analysis of the 2009 Fair Elections Now Act*, pp. 9-10 (July 2009). The widespread ignorance, indifference, and opposition to Arizona's "clean elections" program do not support the belief that the program is "popular" with the public.

14. *Wouldn't a public financing program that relies on small donor contribution encourage increased interaction with constituents?*

Probably not. For example, at the July 30 hearing, an advocates of the Maine program at the state level noted how under "clean elections" she was free to meet

with citizens, while her congressional counterparts spent time fundraising. What this overlooks is that State House districts in Maine have fewer than 8500 people, whereas a congressional district has over half a million people and covers half the state. What we have seen, in Arizona, in New Jersey, and elsewhere, is that candidates typically farm out the collection of qualifying contributions to interest groups. *See* Center for Competitive Politics, *Fairly Flawed: Analysis of the 2009 Fair Elections Now Act*, p. 17-22, 25-27, July 2009. The best way to increase true interaction with constituents is to make fundraising easier, by easing restrictions on the size of contributions, on party coordinated expenditures, and on bundling activities.

15. *The popularity of the Presidential fund check off on IRS form has waned greatly over the years since its implementation. Can a similar tax check off adequately fund a House public financing program, particularly if the program grows in popularity? What other funding streams might be necessary to sustain the program? If H.R. 1826 is implemented, can we promise that we will not have to raise taxes to fund it?*

In recent years, fewer than ten percent of tax filers have used the check off in the presidential system. This, coupled with the decline in the number of people required to file or having a net tax liability, has caused severe funding shortages. Indeed, had not most major candidates opted out of the primary system in 2008, and then Senator Obama opted out of the general election system, the system would have been months overdue in making payments to participating candidates.

In both 2007 and 2008, the Presidential system brought in just under $50 million from roughly 16 and a half million filers who checked the box. In 1993, Congress increased the check off from $1 to $3 in an effort to bring more money into the system. The result was the sharpest one year drop, from 18.9 percent to 14.5 percent participation, in what has been a long term downward trend. It would not be surprising if raising the checkoff from $3 to $10, as proposed by FENA, causes another substantial drop in participation. Assuming (a rather dubious assumption) that there would be no large drop off in participation caused by the higher $10 check off, the system would raise approximately $160 million per year, or $320 million per cycle. Other funding streams appear to be relativey minor, with the primary source being ten percent of spectrum auctions, which are estimated to be less than $10 billion, possibly much lower, between now and 2015,[1] for a total contribution to the fund of less than $1 billion over the period, or no more than $250 million maximum per cycle.

In 2008, House candidates spent a total of $978.5 million. Conservatively, one would expect FENA, if it is successful in garnering even modest candidate participation, to cost at least $500 million per cycle in current dollars (based on roughly 50% candidate participation, with no increase the overall number of candidates). If FENA garners substantial participation, and draws more candidates into races, particularly in primaries, and as inflation increases the cost of campaigning, the cost could be substantially more. Thus, a most conservative estimate of the cost, without adjusting

[1] Gregory F. Rose and Mark Lloyd, *The Failure of FCC Spectrum Auctions,* p. 2 (Center for American Progress, May 2006.)

for inflation, would be $500 million per cycle. A most liberal estimate of the income streams would produce, at most, approximately $570 million per cycle. So the funding might work, depending on the assumptions adopted. However, a prudent measure that includes adjustments for inflation, a decline in check offs with the increase in check offs from $3 to $10, an assumption that spectrum auctions will produce somewhere between the high and low estimates of $600 million and $1 billion between now and 2015, and a 60 percent candidate participation rate would almost certainly leave a substantial shortfall in revenue.

Again, I thank the Committee for the opportunity to take part in this important discussion, and would be happy to answer any other questions the Committee may have.

Very Truly,

Bradley A. Smith
Josiah H. Blackmore II/Shirley M. Nault
Designated Professor of Law

and

Chairman, Center for Competitive Politics
124 W. South Street, Suite 201
Alexandria, VA 22314

Cc: Daniel Favarulo
Peter Schalestock

ROBERT A. BRADY, PENNSYLVANIA
CHAIRMAN

DANIEL E. LUNGREN, CALIFORNIA
RANKING MINORITY MEMBER

Congress of the United States
House of Representatives
COMMITTEE ON HOUSE ADMINISTRATION
1309 Longworth House Office Building
Washington, D.C. 20515-6157
(202) 225-2061
www.house.gov/cha

August 13, 2009

Mr. Arn Pearson
Vice President for Programs
Common Cause
1133 19th Street NW, 9th Floor
Washington, DC 20036

Dear Mr. Pearson:

Thank you for testifying during the July 30, 2009 Committee on House Administration hearing on, "A Look at H.R. 1826 and the Public Financing of Congressional Campaigns." Below you will find questions from Members of the Committee. Your responses will be made a part of the hearing record. Please provide your responses to the Committee by September 13, 2009.

1. What factors determine the success or failure of a public financing program? Why has it worked for 10 years in Maine and Arizona but could not get off the ground in Massachusetts?

2. Looking at the current trends in appellate and Supreme Court campaign finance laws, is there anything in HR. 1826 that may be subject to constitutional scrutiny?

3. H.R. 1826 would require candidates to have to collect disclosure forms from even small donors contributing five dollars. Could increased disclosure help to increase transparency and alleviate concerns of donor fraud?

4. What effect would H.R. 1826 have on current FEC laws regulating coordination amongst publicly-financed candidates and political parties? What about independent expenditures?

5. When determining qualifications for candidates to receive public financing, how do we draw the line between third party or independent candidates and fringe candidates?

6. Do you believe that the fundraising thresholds in H.R. 1826 treat candidates from low population districts fairly as compared to candidates from high population districts?

7. Aside from public financing, could pay-to-play laws and bans on contributions from lobbyists and federal contractors as some states have done help to reduce perceived corruption of House members? Would such bans be constitutional on a federal level?

8. Broadcast vouchers are helpful or less so depending on the cost of media in a candidate's district. What else can we do to lower the costs of communicating with constituents?

9. Media access costs more in New York than in other markets. Is giving one hundred thousand dollars across the board competitive?

10. How would the logistics of this H.R. 1826 work? The FEC will be tasked with turning around within a short time requests for funding. Can the Agency handle the potential for massive requests? What resources will the agency need, additional personnel, administratively? In Connecticut, which ran a very successful program last year, each candidate was assigned a liaison by the Public Financing Unit to guide candidates through the program. Does the FEC have the resources to assist congressional candidates and run the public financing program?

11. Can a public financing program help to increase the diversity of House candidates? In Maine and Connecticut, has public financing increased the number of women and minorities in the state legislatures?

12. How is H.R. 1826 funded if there is no appropriation? What happens if there are more candidates looking for funding than the fund can support?

13. Why should a new Member or someone from a marginal district support H.R. 1826? Would it limit his/her ability to raise the funds necessary to win?

14. The number of taxpayers voluntarily agreeing to allocate $3 of their taxes to the presidential campaign financing system has declined to 8.3% in 2007, down from a high of 28.7% in 1980. Put another way, 91.7% of taxpayers directly oppose the presidential campaign financing system by refusing to let their tax dollars be used to fund it. Do you agree that this represents an overwhelming repudiation of taxpayer-financed campaigns by the American taxpayers? If not, why not?

15. According to the Congressional Research Service (CRS), the spectrum auction funding source identified in H.R. 1826 is not viable. The CRS report stated that, "Any additional disbursements from the [spectrum auction] fund would be treated as new costs by the Congressional Budget Office and would score as needing to be offset." Given that, and the mere 8.3% of taxpayers allowing their taxes to be used for the presidential campaign financing system, what spending cuts or tax increases would you propose to offset the cost of H.R. 1826, which is estimated at between $500 million and $850 million per year?

16. Mr. Bradley Smith stated in his testimony that legislators vote almost entirely on their party preferences. Has public financing programs freed candidates from dependency on party funds? Can it help to increase bipartisanship?

17. Don't most House candidates who challenge seated incumbents rely heavily on the support of party PACs and congressional PACs to get elected? Would this bill make it more difficult for first time House candidates?

18. If public financing programs do not increase public confidence, why then are they so popular in states that have successful programs? Why do voters overwhelmingly vote for public financing candidates in Connecticut and Maine?

19. Wouldn't a public financing program that relies on small donor contribution encourage increased interaction with constituents?

20. The popularity of the Presidential fund check off on IRS form has waned greatly over the years since its implementation. Can a similar tax check off adequately fund a House public financing program, particularly if the program grows in popularity? What other funding streams might be necessary to sustain the program? If H.R. 1826 is implemented, can we promise that we will not have to raise taxes to fund it?

Thank you and I look forward to your responses.

Sincerely,



Robert A. Brady
Chairman

COMMON CAUSE
Holding Power Accountable

Responses of Arn Pearson, Vice President for Programs
to Questions from the House Committee on Administration
Regarding H.R. 1826, the Fair Elections Now Act

September 23, 2009

1. What factors determine the success or failure of a public financing program? Why has it worked for ten yeas in Maine and Arizona but could not get off the ground in Massachusetts?

Voluntary public financing of elections have been in place since the 2000 election cycle in Maine and Arizona. In these states, candidates who qualify by collecting a set number of $5 contributions from registered voters qualify for a grant large enough to mount a competitive campaign. Once qualified, these candidates agree to forgo all private contributions and adhere to strict spending limits.

Similar laws are in place in four other states (Connecticut, North Carolina, and New Mexico) and two cities (Albuquerque, NM, and Portland, OR). In the three states where similar laws cover the most number of offices – Arizona, Connecticut and Maine – voters and candidates alike give the systems high marks. In 2008, more than four of every five lawmakers in Connecticut and Maine were elected under their state programs. And in Arizona, eight of ten statewide elected officials participated. In all, roughly 400 state candidates were elected in 2008 having run under public financing programs like the one proposed in the Fair Elections Now Act.

Several factors have led to the success of public funding of elections in these states:

- Ample funding for candidates to run competitive campaigns;
- Tough but reachable qualifying thresholds that allow candidates who demonstrate broad community support the ability to qualify;
- Allowing candidates to spend their time focusing on their constituents and the issues instead of fundraising;
- Freeing incumbents from the constant stress of raising campaign contributions and allowing them to do the job they were elected to do;
- Reducing the public perception of undue influence by large contributors; and
- Sound, efficient and fair program administration.

Voters in Massachusetts passed a ballot measure in 1998 by a two-to-one margin. At the time, Massachusetts was ranked second to last in the number of contested races for a state legislature, with just one-third of incumbents actually facing an opponent during their re-election campaigns. Therefore, the voter-approved law was seen by incumbent lawmakers as a threat rather than a way to reduce the fundraising pressures on them.

The Massachusetts Constitution gives voters a limited right to enact legislation. Any matter that requires funding must rely on an appropriation by the state legislature. At the time, the strongest opponent of the law was the Speaker of the House, who refused to appropriate the funding, and a majority of lawmakers preferred the criticism they received for opposing the law to the possibility of opponents on the campaign trail. When the state legislature balked at funding the law, voters and candidates took the state to court and won a Pyrrhic victory: the state was forced to sell property to finance the law in the middle of the election – a politically unpopular move. Legislative leaders used the controversy to fuel an effort to repeal the voter-passed law, which had never had a chance to work.

2. Looking at the current trends in appellate and Supreme Court campaign finance laws, is there anything in H.R. 1826 that may be subject to constitutional scrutiny?

H.R. 1826 rests on sound constitutional ground. Voluntary public financing laws, such as the presidential funding system reviewed in *Buckley v. Valeo* in 1976, have consistently been found to enhance political speech and address compelling government interests in reducing corruption and the appearance of corruption.

A federal district court in Connecticut just ruled that the state's Citizens Election Program was unconstitutional because of its higher qualifying thresholds for minor party candidates and its "trigger" provision linking supplemental grants to opponent or independent spending. *Green Party of Connecticut v. Garfield*, 3:06 cv 1030 (SRU) (Aug. 27, 2009). However, the system proposed in H.R. 1826 has neither of these features.

Nor does the pending Supreme Court case of *Citizens United v. FEC*, No. 08-205 (U.S. 2009), affect H.R. 1826. Indeed, the Supreme Court's current trend toward deregulation of campaign spending increasingly makes public funding the last major alternative for changing the way America pays for elections. Empowering candidates to mount vigorous campaigns on a blend of small-donor and public dollars is an effective way to reduce the public perception of corruption and conflict of interest in Washington, DC and free our elected representatives from the growing demands of fundraising.

Public funding of elections remains on strong constitutional ground, and nothing in current trends in federal case law casts doubt upon the constitutionality of H.R. 1826. I have attached a memo from the Brennan Center for Justice that reviews this question in more detail.

3. H.R. 1826 would require candidates to have to collect disclosure forms from even small donors contributing five dollars. Could increased disclosure help to increase transparency and alleviate concerns of donor fraud?

While increased transparency is a worthy goal, it has to be balanced against the burden imposed on candidates and donors. Concerns about fraud among small donors was limited to a very small

fraction of donors in the 2008 presidential election (*see, e.g., New York Times,* "Fictitious Donors Found in Obama Finance Records," Oct. 9, 2008, http://www.nytimes.com/2008/10/10/us/politics/10donate.html). It is not the goal of H.R. 1826 to increase campaign contribution reporting requirements in general. However, simple disclosure forms would be required for in-state contributions that either help a candidate qualify for the Fair Election Fund or obtain a matching contribution from the Fund. In those cases, the contributions will be accompanied by a signed form with the donor's name and address, for the purpose of allowing verification and auditing. Similar forms have proven easy and effective for verification and fraud prevention in state public financing programs.

4. What effect would H.R. 1826 have on current FEC laws regulating coordination amongst publicly financed candidates and political parties? What about independent expenditures?

H.R. 1826 would not significantly change current law on coordination between candidates and parties. Political parties could make coordinated expenditures on behalf of participating candidates up to the *lesser of* the current limits or 10% of the program's general election allocation. For example, we estimate that 10% of the general election allocation, had Fair Elections been in effect in 2008, would have been $54,000. The pre-existing limit was $40,900, so most candidates would have seen no change. However, candidates in one-district states would have been capped at $54,000 instead of the pre-existing limit of $81,800.

The Supreme Court has repeatedly held that independent expenditures cannot be limited. *See Buckley v. Valeo,* 424 U.S. 1, 45 (1976); *FEC v. Nat'l Conservative PAC*, 470 U.S. 480, 497 (1985); *Colo. Republican Fed. Campaign Comm. v. FEC*, 518 U.S. 604, 618 (1996). Instead, the Fair Elections Now Act seeks to allow candidates in competitive races to raise sufficient funds to run a vigorous campaign and counter independent expenditures, without relying on large contributions. Participating candidates can raise an unlimited amount in small contributions, even after maxing out on public funds. In other words, although we cannot impose a spending ceiling – short of adopting a constitutional amendment – we can raise the floor.

Studies have found that having sufficient campaign resources is more important than having equal campaign resources. Once candidates reach a level sufficient to run a vigorous campaign, additional spending has a reduced marginal benefit. That may be why so many self-funded candidates' massive spending does not translate into votes. *See* Americans for Campaign Reform, *Does Money Buy Elections? The Impact of Spending on U.S. Congressional Campaigns*, Jan. 2008, http://just6dollars.org/files/doesmoneybuyelections.pdf. H.R. 1826 is designed to enable candidates to run highly competitive campaigns without spending all of their time fundraising or becoming dependent on wealthy donors and bundlers.

5. When determining qualifications for candidates to receive public financing, how do we draw the line between third party or independent candidates and fringe candidates?

H.R. 1826 is designed to ensure that only serious candidates for the U.S. House qualify for funding, and that the level of funding matches a candidate's level of effort. In order to qualify for Fair Election funds, a candidate must collect at least 1,500 qualifying contributions of between $5 and $100 from state residents, with a cumulative value of $50,000 or more. That is a

substantial hurdle, requiring both community support and the ability to organize a serious campaign. After the initial Fair Elections grant, a qualified candidate earns a 4:1 match on small in-state contributions, which means the level of funding is tied to the level of voter backing.

For those reasons, there is no need to wade into the constitutionally treacherous waters of distinguishing between major and minor parties, or viable and "fringe" candidates. Likewise, the Maine and Arizona Clean Elections laws do not have separate minor party rules, and those states have not experienced a problem with "fringe" candidates qualifying for funding.

In addition, H.R. 1826 has a built-in mechanism for adjusting the qualifying thresholds should a problem emerge. The Act's Fair Elections Oversight Board is charged with reviewing the program after each election cycle with an eye toward whether the law "strikes a balance regarding the importance of voter involvement, the need to assure adequate incentives for participating, and fiscal responsibility." *See* §531(c)(2). The Board is authorized to adjust the qualifying thresholds as needed to ensure effective operation of the program.

6. Do you believe that fundraising thresholds in H.R. 1826 treat candidates from low population districts fairly as compared to high population districts?

It appears that the intent of the question is to ask about low-*income* v. high *income* districts, as the population of House districts is roughly equal. If that's the case, the answer is "yes." The qualification thresholds and contribution limits of the Fair Elections Now Act are designed to minimize the effect of income variations between districts and candidates' supporters. When the contribution limit is $2,400, candidates have a strong incentive to focus on the very small percentage of citizens who can afford to give in large amounts. By making the contribution limit for participating candidates $100 – and providing a 4:1 match for those contributions made by state residents – H.R. 1826 makes low- and middle-income donors just as important as wealthy donors. An in-state $20-donor becomes just as valuable as a $100 out-of-state donor, and an in-state $100-donor becomes worth $500. That means the voice of a low-income voter is relatively much greater than it is under the current campaign finance system. The aggregate $50,000 qualifying threshold should be achievable by any candidate who has a serious chance of winning election to the U.S. House of Representatives, and is necessary to prevent wasting public resources on marginal candidates.

7. Aside from public financing, could pay-to-play laws and bans on contributions from lobbyists and federal contractors as some state have done help to reduce perceived corruption of House members? Would such bans be constitutional on a federal level?

A well-crafted pay-to-play law would complement, but not substitute for, a voluntary system of citizen-funded elections under H.R. 1826. Pay-to-play laws address heightened concerns around conflict of interest, corruption and the appearance of corruption related to a subset of players who have a concrete financial stake in government action. However, they do not address the more fundamental conflicts created by today's campaign finance regime, which fosters dependence of elected officials on wealthy donors in order to get and stay in office.

Carefully tailored pay-to-play laws have been consistently upheld by the courts, including cases in Connecticut, New York and New Jersey decided over the past year. Therefore, well-drafted

federal pay-to-play law would most likely be found constitutional. I have attached a memo from the Brennan Center that addresses this issue in more depth.

8. Broadcast vouchers are helpful or less so depending on the cost of media in a candidate's district. What else can we do to lower the costs of communicating with constituents?

H.R. 1826 allows participating candidates to purchase television advertising at 80% of the lowest unit charge during the final 45 days of a primary election and 60 days of a general election. *See* §202. We are open to other approaches to tackling the problem of communication costs, but more comprehensive solutions – such as free air time – should be addressed in separate legislation.

9. Media access costs more in New York than in other markets. Is giving one hundred thousand dollars across the board competitive?

Media vouchers are a relatively small component of the benefits provided to qualified candidates under H.R. 1826, and the overall package is extremely competitive. Participating candidates get substantial initial grants, may earn a supplemental 4:1 match on small in-state contributions, get discounted air time, and may benefit from party coordinated expenditures worth up to ten percent of their general election allocation. That said, the $100,000 voucher will certainly go further in some districts than others. We considered adding a media market adjustment, but concluded that it was too complex. However, the bill authorizes the Fair Elections Oversight Board to review this provision and make adjustments as needed.

10. How would the logistics of this H.R. 1826 work? The FEC will be tasked with turning around within a short time requests for funding. Can the Agency handle the potential for massive requests? What resources will the agency need, additional personnel, administratively? In Connecticut, which ran a very successful program last year, each candidate was assigned a liaison by the Public Financing Unit to guide candidates through the program. Does the FEC have the resources to assist congressional candidates and run the public financing program?

The basic structure and operation of H.R. 1826 follows successful public funding programs in a number of states and municipalities. The administering agency – in this case the FEC – is responsible for verification of qualifying contributions, releasing payment of matching funds, and auditing candidate reports. The mechanics of the law are intentionally left to rulemaking, allowing the Agency the flexibility to draw upon best practices developed in other successful programs. H.R. 1826 creates a Fair Elections Oversight Board within the FEC to administer and review the program.

Proper administration of public financing systems does require adequate resources, drawn from the programs' funding sources. The amount spent on administration of state public financing programs in 2008 ranged from about 6% (in Arizona) to 15% (in Connecticut) of total program costs. However, that number is somewhat misleading, as the amount spent has more to do with the number of candidates and the level of audits chosen than the amount of public funds

dispersed. For example, Maine's administrative costs ran about 12% for the 2008 legislative elections with 373 participating candidates, but were just 6% in the 2006 combined legislative and gubernatorial elections. Likewise, Connecticut had higher administrative costs in its first cycle of legislative elections because of start-up costs (such as computer systems and software) and because the State Elections Enforcement Commission chose to audit 100% of participating candidates. In contrast, Maine audits all participating gubernatorial candidates, but only 20% of participating legislative candidates. In 2008, the per-candidate administrative costs ranged from around $1,000 in Maine to approximately $8,000 in Arizona and Connecticut. (Figures are derived from annual reports of the administering agencies and interviews with agency staff.) Given the higher levels of spending in congressional races as compared to state legislative races, I would expect the administrative costs to be closer to 5-6% of the total cost of the Fair Elections program.

11. Can a public funding program help to increase the diversity of House candidates? In Maine and Connecticut, has public funding increased the number of women and minorities in the state legislatures?

Although state experience shows that public financing helps increase voter choice and the diversity of candidates, it is a stretch to say that public financing results in any one demographic group (or political party, for that matter) getting more people elected. Programs like Fair Elections create the *opportunity* for a larger and more diverse pool of candidates to run vigorous campaigns, but election results depend on how many people choose to seize that opportunity, how much support those candidates have in their districts, and how good a job they do at running campaigns.

Data from Maine, Arizona and Connecticut suggests a positive impact on the number of women and minority candidates running for office, and there tend to be high participation rates among those demographic groups. Diversity among candidates, especially ethnic minorities, has more than doubled in Arizona, while in Maine the number of women candidates and legislators has increased by 18%. Diversity in candidates is not the only positive result – in Arizona we have seen more minorities give to candidates and increased participation by minority voters in the political process.

A 2007 study by Maine's elections commission found that more women have run for office in every election since the Clean Elections program went into effect than the average for the preceding decade. Maine Commission on Governmental Ethics and Election Practices, *2007 Study Report: Has Public Funding Improved Maine Elections,* (2007), p. 20, www.maine.gov/ethics/pdf/publications/2007_study_report.pdf. The study found that the Clean Election program was a very important factor in the decision to run for office for 71% of participating female candidates in 2006, and that 91% would definitely use the program again. *2007 Study Report* at p. 16. In 2008, there were 113 women candidates, 99 of whom participated in the program. The number of women elected to the legislature, however, has fluctuated, with no significant change from the preceding decade. *See* www.maine.gov/legis/house/history/women.htm.

In Arizona, the number of women elected to public office has risen from 25 in 2002 to 34 in 2006 (the latest year for which I have numbers). In 2006, 21 of the 34 female candidates used

Clean Elections, and all of those candidates won. *See* http://library.publicampaign.org/sites/default/files/2006ElectionStatistics_000.PDF In the 2008 debut of Connecticut's Citizens' Election Program, 102 female candidates ran for General Assembly seats – the largest number in ten years – and 93% of those candidates participated in the program.

In Arizona, overall participation by Latino, African-American, Native American and Asian candidates also has increased substantially. In 2000 when the program began, there were 13 minority candidates in the primaries, 10 of whom ran under the Clean Elections program. In 2006, the number of minority candidates increased to 37, with 21 of those candidates using the program, according to Public Campaign.

A number of minority legislators have spoken out about how state public funding programs reduce barriers to running for office and change the nature of campaigns. State Representative Kelvin Roldán, who became the youngest Latino elected to the Connecticut General Assembly last year at age 28, says the Citizens' Election Program enabled him to engage voters more and makes him a better legislator by allowing him to focus on his constituents and policy, instead of money. http://www.publicampaign.org/blog/2009/03/31/rep-kelvin-roldan-a-clean-elections-profile-0 In an event at the Congressional Black Caucus Foundation's Annual Legislative Conference last year, State Representative Gary Winfield also credited Connecticut's Citizens' Election Program for his election. *See* http://library.publicampaign.org/node/658/.

These laws also have a positive impact on civic participation in our electoral process. A study done by Public Campaign showed that small contributors in Arizona's publicly financed gubernatorial campaigns represent communities that are more racially, ethnically, economically, and geographically diverse than big money donors to privately financed campaigns. *All Over The Map: Small Donors Bring Diversity to Arizona's Elections* (2008), www.publicampaign.org/alloverthemap.

12. How is H.R. 1826 funded if there is no appropriation? What happens if there are more candidates looking for funding than the fund can support?

H.R. 1826 contains two principle funding mechanisms: 1) ten percent of the "proceeds from recovered spectrum auctions"; and 2) a voluntary $10 check-off on federal income tax forms.

The Federal Communications Commission conducts spectrum auctions of unused or returned broadcast spectrum to the private sector. In addition, the FEC is directed by this statute to invest portions of the Fund to enhance the funding for this program. Since it's an auction, we can't be precisely sure how much funding future sales of unused spectrum will generate. What we do know, however, is that the most recent auction of unused or returned broadcast spectrum brought in $19.6 billion. The auction, known as Auction 73, included 261 rounds of bidding by companies like AT&T, Verizon Communications and Google. (For context, Auction 73 was projected to come in at $10.2 billion, about half of what it actually generated.) Had ten percent of Auction 73 proceeds been allocated to the Fair Elections Fund, as this bill requires, it would have been more than enough to seed the fund for roughly two election cycles. The FCC noted that this auction was particularly successful, but even the more moderate proceeds from earlier auctions would have easily covered the cost of the Fair Elections program.

The tax check-off in H.R. 1826 provides a supplemental source of funding. A $10 check-off would raise an estimated $170 million per year at current participation rates for the presidential program.

In the unlikely event that the demand from candidates exceeds Fair Election Fund revenues, the FEC will provide pro-rated benefits under the same rules as the Presidential Funding Program. *See* §502(d)(2).

We are open to hearing other suggestions from members of this or other committees for alternative funding sources should the auction of unused spectrum sales be determined as insufficient.

13. Why should a new Member or someone from a marginal district support H.R. 1826? Would it limit his/her ability to raise the funds necessary to win?

H.R. 1826 allows candidates to earn vigorous funding for highly competitive races. We believe that all members should support H.R. 1826 because it is good policy, reduces the fundraising pressures on lawmakers, and addresses the public's concern that campaign contributions influence the legislative process. However, participation in the program is voluntary, and each candidate will make his or her own calculation of whether the program or traditional private funding suits their needs best.

The potential benefits provided under the Fair Elections program exceed current spending in the vast majority of House campaigns. Had the program been in effect for the 2008 elections, we estimate that the maximum public funds available, plus the small contributions needed to qualify for and generate those funds, would have been $3.3 million. Participating candidates would be allowed to raise an unlimited amount of small contributions (up to $100) even after program benefits cap out.

In 2008, only 20 winning candidates raised and spent more than $3.3 million. Several of these winning candidates were members of their party's leadership whose fundraising and expenditures reflected their support for other candidates and party committees. Furthermore, nearly 30% of the House of Representatives – 127 – raised and spent less than the base grant of $950,000 under Fair Elections.

In addition, supporting H.R. 1826 makes good politics. Voters across the political spectrum support public financing when coupled with low limits on donations. Polls conducted over the last decade show consistent support in the high 60s for policies that couple public financing with conditions like limiting contributions to $100 or agreeing to a spending limit. A national, bipartisan survey conducted in February 2009 found 67% support for a Fair Elections-style proposal. That support cut across party and regional lines, with 69% of Democrats, 64% of Republicans and 66% of unenrolled voters in favor of the proposal. The same survey found that voters prefer elected officials who vote for public financing over those who voted against it. Half of those surveyed said they would feel more favorable about a member of Congress who voted for this type of proposal, while only 8% said it would make them feel less favorable. *See* Lake Research Partners and the Tarrance Group (February 2009), www.commoncause.org/FairElectionsPoll.

14. The number of taxpayers voluntarily agreeing to allocate $3 of their taxes to the presidential campaign financing system has declined to 8.3% in 2007, down from a high of 28.7% in 1980. Put another way, 91.7% of taxpayers directly oppose the presidential campaign financing system by refusing to let their tax dollars be used to fund it. Do you agree that this represents an overwhelming repudiation of taxpayer-financed campaigns by the American taxpayers? If not, why not?

With all due respect, the premise of this question is absurd. As of 2002 (the most recent data I could find), there were 220 check-off programs in 41 states plus the District of Columbia. Federation of Tax Administrators, *Check-Off Programs See Strong Growth* (2003), www.taxadmin.org/fta/rate/Checkoff03.html. Of those, the Presidential Funding Program has the strongest participation rate, even at 8.3% in 2007. The next strongest contender is contributions for political parties, the other common program that does not add to a taxpayer's liability, clocking in at 7.7% as of 2002. Let's assume half went to each of the major parties. Does that mean 96% of taxpayers "directly oppose" the Republican Party or the Democratic Party? Only one-half of one percent of taxpayers made a check-off for child abuse prevention programs in 20 states. Do we live in a nation of people who directly oppose child abuse prevention? Hardly. Tax check-off programs are a useful tool for many worthy causes, but their success depends upon levels of public awareness and motivation, which fluctuate over time.

Concerned about falling participation rates, the FEC conducted polling and focus groups in the early 1990s. The majority of taxpayers surveyed knew very little about the check-off, why it existed, or what the money would be used for. *See* Public Citizen, *Fixing the Voluntary Tax Checkoff Program to Fund Presidential Elections*, www.citizen.org/congress/campaign/issues/pub_fin/articles.cfm?ID=10642. In addition, many large commercial tax preparation outfits now use software where the default answer to check-offs is "no" if the taxpayer fails to specify a preference one way or the other.

Participation rates peaked in the post-Watergate years, when public awareness of the Presidential Funding Program and why it was needed was strong. In my opinion, the impact of soft money and loopholes – like "joint fundraising committees" – over the years has also eroded the visible impact of the program, to the point that people don't perceive a real difference between participating and nonparticipating candidates. When the FEC did its survey, 17% of taxpayers who did not use the check-off cited "they don't need my money/they have plenty of money" as the reason, second only to 23% who had no reason. After more than 40 years, the presidential program is in bad need of an upgrade, and the trade-off for getting public funding needs to be clear – like agreeing to forego large contributions – as it is in H.R. 1826.

National polls have consistently shown strong support for public funding when voters can clearly see what they get in return, such as spending limits or lower contribution limits. A Lake/Tarrance poll in February 2009 found 67% support for a system like Fair Elections, cutting across party lines. In addition, 62% of those surveyed considered a voluntary income tax check-off to be an appealing funding option for this type of program (only 11% said it was not appealing).

I believe that a Fair Elections tax check-off – where funded candidates agree to accept small contributions from individuals only – would draw significant support. Although voluntary tax

check-offs alone are not an adequate tool for funding this type of program, they can generate significant funds, thereby decreasing pressure on other sources.

15. According to the Congressional Research Service (CRS), the spectrum auction funding source identified in H.R. 1826 is not viable. The CRS report stated that, "Any additional disbursements from the [spectrum auction] fund would be treated as new costs by the Congressional Budget Office and would score as needing to be offset." Given that, and the mere 8.3% of taxpayers allowing their taxes to be used for the presidential campaign financing system, what spending cuts or tax increases would you propose to offset the cost of H.R. 1826, which is estimated at between $500 million and $850 million per year?

H.R. 1826 offers an effective way to restore public confidence in the integrity of Congress, and to free you up to do the job you were elected to do, for about the price of a cup of coffee and a donut for every American each year.

I am confident that, if Congress is serious about reforming the current conflict-ridden campaign finance mess, it can come up with funding alternatives and cost savings if the auction of unused spectrum sales is determined to be insufficient or needs to be offset. For example, even a small reduction in earmarks would free up more than enough funds. Common Cause has urged Congress to enact earmark reforms that would go a long way toward reducing the pay-to-play politics that erode public trust in government. *See* Common Cause letter to House members (June 9, 2009) http://www.commoncause.org/site/apps/nlnet/content2.aspx?c=dkLNK1MQIwG&b=4773617&ct=7100349. Just eliminating earmarks for campaign contributors, as proposed by Rep. Hodes in H.R. 2038, would save more than the cost of Fair Elections. A recent study by Common Cause found that just the 18 members of the House Appropriations Subcommittee on Defense obtained $355.5 million in earmarks (i.e., no-bid contracts) to the 2008 defense spending bill for campaign contributors who gave their sponsors more than $1.3 million.

In Maine, voters required the state to find administrative cost savings to offset the cost of the Clean Elections Fund. We would be happy to work with members of the Committee to identify alternative funding sources.

16. Mr. Bradley Smith stated in his testimony that legislators vote almost entirely on their party preferences. Has public financing programs freed candidates from dependency on party funds? Can it help to increase bipartisanship?

Public funding systems give candidates a way to run viable campaigns without having to depend on large donors, caucus PACs or political parties. By the same token, parties and caucus PACs would not have to engage in endless fundraising to support participating candidates' campaigns. Although H.R. 1826 prohibits parties and PACs from contributing to participating candidates, it does not significantly change coordinated expenditure limits or interfere with party-building activities.

I have not seen any research on this point, but I can speak from my personal experience in Maine. I have spoken with a number of legislators over the years who have told me that Clean

Elections frees them to vote their conscience on controversial bills, and have worked on legislation where participating candidates crossed party lines to vote on important consumer protections.

H.R. 1826 would free members of Congress from the constant pressures of fundraising. Participating members would have more time to respond to constituents and more time to debate, negotiate, and compromise with their colleagues across the aisle. Given the polarization of today's politics, we believe Fair Elections would aid in lessening the partisan nature of national debates.

17. Don't most House candidates who challenge seated incumbents rely heavily on the support of party PACs and congressional PACs to get elected? Would this make it more difficult for first time House candidates?

No. In fact, the opposite would be true. Fair Elections would make it easier for first-time candidates to fund their campaigns. In the current system, candidates have to demonstrate their fundraising prowess, and amass huge war chests, in order to attract party or caucus support. Under H.R. 1826, those candidates will not have to rely on the strategic choices of others, but will have an independent means of running vigorous campaigns.

Caucus leaders on both sides of the aisle in Maine have told me that Clean Elections is the best candidate recruiting tool they have. A survey of 2008 legislative candidates by Maine's elections commission confirms that conclusion. Nearly three out of four (74%) first-time candidates surveyed said that having the Clean Elections option available was "very important" to their decision to run for office. *See* Commission on Governmental Ethics and Election Practices, *Draft 2008 Candidate Survey* (May 2009) (not published yet; attached).

18. If public funding programs do not increase public confidence, why then are they so popular in states that have successful programs? Why do voters overwhelmingly vote for public financing candidates in Connecticut and Maine?

Voters like public funding because it makes elected officials more accountable to them, reduces conflicts of interest, and gives them more choice at the polls. Polling in states that have Clean Election-style programs continue to show strong public support:

- A June 2009 poll found that 74% of Maine voters surveyed want candidates for governor to use the system in 2010, and 55% said they would be more likely to vote for a candidate that did (only 11% said they would be less likely to vote for a participating candidate). Those results were consistent with a 2008 tracking poll. And despite Maine's fiscal crisis, voters rejected the idea of cutting the Clean Elections Fund 54% to 34%. *See* http://www.mainecleanelections.org/research.html.

- A December 2008 poll found that 80% of Arizona voters believe the Clean Elections program is important for their state. Two out of three (64%) people surveyed had a favorable impression of the program, as compared to only 11% who had an unfavorable impression (poll results available upon request; not on-line). Those results are consistent with a 2002 Arizona Republic poll indicating that 64% of the public believed that Clean

Elections have had a "positive impact on Arizona elections." *See* http://www.azcleanelections.gov/Libraries/2001-2002-docs/Election_Facts.sflb.ashx.

- In Connecticut, a May 2005 Zogby poll found 76% support among likely voters for public funding of state elections, with strong support across party and demographic lines. By large margins, Connecticut voters believed that the influence of money on elected officials needed to be limited (82%) and that state politicians were more concerned with the needs of their campaign donors than the needs of the general public (62%). *See* http://www.commoncause.org/atf/cf/%7BFB3C17E2-CDD1-4DF6-92BE-BD4429893665%7D/Firstzog.pdf. I am not aware of any polling yet on public attitudes following the debut of Connecticut's Citizens' Election Program. However, editorial and candidate support has been very strong.

The public opinion research out there does not delve into the most salient factors behind the public's strong support for their public funding programs. However, Maine's election commission published a comprehensive report in 2007 evaluating the impact of Clean Elections. The study concluded that Maine's Clean Elections program:

- Encourages first time candidates to run for office;
- Allows more challengers to compete;
- Provides more choice to voters at the polls;
- Controls the growth in campaign spending;
- Sharply reduces total private contributions to candidates; and
- Allows candidates to spend more time communicating with voters.

See http://www.state.me.us/ethics/pdf/publications/2007_study_report.pdf.

Our most recent national poll found strong support for similar reforms in Congress. A national, bipartisan public opinion poll by Lake Research Partners and the Tarrance Group conducted in February of 2009 found that 67% of voters support a Fair Elections-style proposal for publicly funding Congressional elections, with just 13% opposed and 18% undecided. Every major party and demographic group favored the proposal by a two-to-one margin. *See* http://www.commoncause.org/site/pp.asp?c=dkLNK1MQIwG&b=4773901.

Voter support for public funding of elections also reflects a desire to curb the influence of wealthy special interests on the legislative process. According to the Lake Partners/Tarrance Group poll, a strong majority of voters believe that large campaign contributions have an impact on how Congress handles critical issues. Over three-fourths of voters (79%) agree with the statement, "I am worried that large political contributions will prevent Congress from tackling the important issues facing America today, like the economic crisis, rising energy costs, reforming health care, and global warming." Three out of four voters also see large contributions as a major factor in the recent financial mess, with 73% agreeing to the statement, "Large campaign contributions from the banking industry to members of Congress have resulted

in lax oversight and have been a major factor in causing the current financial crisis on Wall Street."

19. Wouldn't a public financing program that relies on small donor contributions encourage increased interaction with constituents?

Yes. By making small contributions from in-state residents more attractive and reducing the amount of time spent fundraising, the Fair Elections Now Act will make spending time with your constituents both more rewarding and more feasible. H.R. 1826 would reduce the current divide between campaign donors and voters, and make campaigns more about Main Street than Wall Street.

Maine's elections commission surveys participating candidates after each election, and those candidates consistently cite more time with constituents and more time to talk about issues as reasons they like Maine's Clean Elections program. The vast majority of candidates, regardless of party affiliation, say they like the system and want to use it again. Maine reported a 95% candidate satisfaction rate in 2008. *See* Commission on Governmental Ethics and Election Practices, *Draft 2008 Candidate Survey* (May 2009) (not published yet; attached).

20. The popularity of the Presidential fund check off on IRS forms has waned greatly over the years since its implementation. Can a similar tax check off adequately fund a House public financing program, particularly if the program grows in popularity? What other funding streams might be necessary to sustain the program? If H.R. 1826 is implemented, can we promise that we will not have to raise taxes to fund it?

There are many reasons for the gradual decline in use of the tax check-off for the Presidential Public Funding program, not the least of which is that the program is in bad need of an upgrade. Nonetheless, the check-off still out-performs all other tax check-offs and generates significant revenue. I believe that the House public financing program proposed in H.R. 1826 would result in higher check-off rates, especially if some resources are dedicated to public education about the program. The benefit to taxpayers is much clearer under H.R. 1826: a Congress where members are elected without ever taking PAC money or large contributions, and where support of a small in-state donor is worth more than a K Street lobbyist.

That said, tax check-offs should not be relied upon as the primary source of funding for Fair Elections. The bill as currently drafted uses a share of revenues from broadcast spectrum auctions, and we are open to other sources of revenue. There is no need to raise taxes to pay for Fair Elections. Tapping existing revenue streams, modest fees on for-profit entities that benefit from government spending through contracts and earmarks, or identifying cost-saving measures would all be sufficient to fund the program.

Please refer to my answers to Questions 12 and 15 for a more detailed response.

BRENNAN
CENTER
FOR JUSTICE

Brennan Center for Justice
at New York University School of Law

161 Avenue of the Americas
12th Floor
New York, New York 10013
212.998.6730 Fax 212.995.4550
www.brennancenter.org

Memorandum

To: The Honorable Robert A. Brady, Chairman
The Honorable Daniel E. Lungren, Ranking Minority Member
Committee on House Administration, U.S. House of Representatives
From: Monica Youn and Ciara Torres-Spelliscy
Brennan Center for Justice at NYU School of Law
Re: H.R. 1826: Response to Questions to Arn Pearson, dated August 13, 2009
Question Number 2
Date: September 11, 2009

The Committee asked: "Looking at the current trends in appellate and Supreme Court campaign finance laws, is there anything in HR. 1826 that may be subject to constitutional scrutiny?"

Brennan Center Response:

Public financing programs such as H.R. 1826, which provide public funding to candidates who voluntarily agree to certain restrictions, have consistently been praised and upheld by the United States Supreme Court and several federal circuit courts of appeals. *See, e.g., Buckley v. Valeo*, 424 U.S. 1 (1976) (per curiam) (upholding the presidential public financing system under Federal Election Campaign Act ("FECA")); *Daggett v. Comm'n on Governmental Ethics & Election Practices*, 205 F.3d 445 (1st Cir. 2000) (upholding Maine's Clean Election Act); *Rosenstiel v. Rodriguez*, 101 F.3d 1544, 1552 (8th Cir. 1996) (upholding Minnesota's public funding for elections); *see also Duke v. Leake*, 524 F.3d 427 (4th Cir. 2008) (upholding North Carolina's judicial public financing system). These courts have concluded that public financing *furthers* First Amendment values and thus advances sufficiently important and significant state interests. *See Buckley*, 424 U.S. at 92-107.

Public financing systems have typically been subject to constitutional challenge on two constitutional grounds: (1) whether the program chills free speech rights under the First Amendment or (2) whether the program implicates equal protection rights under the Fourteenth Amendment. These grounds for challenges are usually unsuccessful, and public financing systems have traditionally been upheld by most courts. However, this is not universally true – in two cases, courts have enjoined public financing systems that feature matching funds "triggered" by opposing or independent expenditures and/or a distinction between the treatment of major and minor party candidates. *See Day v. Holahan*, 34 F.3d 1356 (enjoining provision of Minnesota's campaign finance statute that increased candidate's expenditure limit and public subsidies based on amounts of independent expenditures); *Green Party of Connecticut v. Garfield*, 3:06 cv 1030 (SRU) (Aug. 27, 2009) (enjoining Connecticut's Citizens Election Program). However, the public financing system in H.R. 1826 exhibits neither of these features. Additionally, the pending case of *Citizens United v. FEC*, No. 08-

205 (U.S. 2009), which is under submission to the Supreme Court, does not bear on public financing systems such as that in H.R. 1826. Accordingly, nothing in current trends in appellate and Supreme Court campaign finance law casts doubt upon the constitutionality of H.R. 1826.

Public Financing Systems Such as FENA Enhance, Rather Than Inhibit, the Exercise of First Amendment Freedoms

Modern campaign finance jurisprudence springs from the seminal case of *Buckley v. Valeo*, which reviewed the constitutionality of contribution limits, expenditure limits and public financing. In *Buckley*, the U.S. Supreme Court explained that a public funding system aims, "not to abridge, restrict, or censor speech, but rather to use public money to facilitate and enlarge public discussion and participation in the electoral process, goals vital to a self-governing people." *Id.* at 92-93. The Court further noted that:

> the central purpose of the Speech and Press Clauses was to assure a society in which "uninhibited, robust, and wide-open" public debate concerning matters of public interest would thrive, for only in such a society can a healthy representative democracy flourish. Legislation to enhance these First Amendment values is the rule, not the exception. Our statute books are replete with laws providing financial assistance to the exercise of free speech.

Id. at 93 n.127 (citations omitted).

Public financing promotes "uninhibited, robust, and wide-open public debate" not only through direct subsidies for speech but also through more indirect means. A full public funding system restructures the incentives between candidates hungry for cash and donors hungry for influence. In this sense, then, a public financing system serves the same interest as contribution limits, *i.e.*, combating "both the actual corruption threatened by large financial contributions and the eroding of public confidence in the electoral process through the appearance of corruption." *McConnell v. FEC*, 540 U.S. 93, 136 (2003) (internal quotation omitted). "Because the electoral process is the very 'means through which a free society democratically translates political speech into concrete governmental action,' . . . measures aimed at protecting the integrity of the process . . . tangibly benefit public participation in political debate." *Id.* at 137 (quoting *Nixon v. Shrink Mo. Gov't PAC*, 528 U.S. 377, 401 (2000) (Breyer, J., concurring)).

Public funding systems also foster First Amendment interests by freeing candidates from the rigors of fundraising and permitting them to devote time to communication and debate. *See Buckley*, 424 U.S. at 96 ("Congress properly regarded public financing as an appropriate means of relieving . . . candidates from the rigors of soliciting private contributions.") (internal quotation omitted); *Rosenstiel*, 101 F.3d at 1553 (recognizing Minnesota's compelling interest in reducing "the time candidates spend raising campaign contributions, thereby increasing the time available for discussion of the issues and campaigning"); *Vote Choice, Inc. v. DiStefano*, 4 F.3d 26, 39 (1st Cir. 1993) (upholding Rhode Island public financing law because such programs "'facilitate communication by candidates with the electorate' [and] free candidates from the pressures of fundraising") (quoting *Buckley*, 424 U.S. at 91).

The Roberts Supreme Court has reaffirmed *Buckley*'s support of public financing systems. In *Davis v. FEC*, 128 S.Ct. 2759 (2008), the Court reaffirmed *Buckley's* strong approval of public financing

systems, reiterating the government's ability to condition acceptance of public funds on a requirement that candidates abide by specific expenditure limits,. The *Davis* Court noted that:

> In *Buckley*, we held that Congress "may engage in public financing of election campaigns and may condition acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations" even though we found an independent limit on overall campaign expenditures to be unconstitutional. 424 U.S., at 57, n. 65; see *id.*, at 54–58.

Davis v. FEC, 128 S.Ct. 2759, 2772 (2008) (affirming *Buckley*'s holdings on voluntary public financing).

Because public funding programs include a voluntary agreement by participating candidates to abide by spending limits and to forego (or limit) private contributions, such programs are subject to attack on the ground that they violate the First Amendment rights of contributors as well as candidates, but this claim has so far been found to be without merit. *Republican Nat'l Comm. v. FEC*, 487 F. Supp. 280, 286 (S.D.N.Y.) (three-judge court) ("[S]ince the candidate has a legitimate choice whether to accept public funding and forego private contributions, the supporters may not complain that the government has deprived them of the right to contribute."), *aff'd*, 445 U.S. 955 (1980).

FENA, like the presidential public financing program and those in Maine, Arizona and North Carolina, furthers First Amendment values by seeking to enlarge public discussion, prevent corruption and its appearance, and open elective offices to a broader pool of candidates.

HR 1826 Avoids Challenges to "Trigger" Provisions Based on *Davis v. FEC*

Because of the careful drafting of H.R. 1826, this bill avoids one of the most contested questions in campaign finance law: the constitutionality of trigger matching funds. Trigger matching funds, which are also known as "rescue funds" or "fair fight funds" in some jurisdictions, are additional public funds that are made available to a publicly funded candidate facing high spending from either a privately-funded opponent or from an independent spender. The additional public grants are "triggered" by spending above a set monetary threshold by an opponent or an independent spender.

Buckley and its follow-up case *Republican Nat'l Comm. v. FEC*, did not address the constitutionality of trigger matching funds because FECA does not contain this type of funding mechanism. For years, the federal courts held trigger matching funds to be presumptively constitutional. *Daggett v. Comm'n on Governmental Ethics & Election Practices*, 205 F.3d 445, 465 (1st Cir. 2000) (holding public funding system's matching fund provision based on independent expenditures did not burden speakers' First Amendment rights); *Jackson v. Leake*, 476 F. Supp. 2d 515, 529 (E.D.N.C. 2006), *aff'd sub nom., Duke v. Leake*, 524 F.3d 427 (4th Cir. 2008) (rejecting argument that trigger provisions in public campaign financing scheme impairs speaker's First Amendment speech rights); *Ass'n of Am. Physicians & Surgeons v. Brewer*, 363 F. Supp. 2d 1197, 1199-1203 (D. Ariz. 2005) (rejecting plaintiffs' First Amendment challenge to public financing scheme's matching fund provisions and adopting reasoning of *Daggett*); *Wilkinson v. Jones*, 876 F. Supp. 916, 927-28 (W.D. Ky. 1995) (rejecting constitutional challenge to trigger provision that increased participating candidate's expenditure limit based on the expenditures of privately-financed candidates).

The one outlier to this reading of the constitutionality of trigger matching funds was the Eighth Circuit's decision in *Day v. Holahan*, 34 F.3d 1356, 1359-60 (8th Cir. 1994), which found that a trigger which matched independent spending in Minnesota was unconstitutional. The Eighth Circuit itself abandoned the reasoning of *Day* in a later case by upholding opponent trigger matching funds. *Rosenstiel v. Rodriguez*, 101 F.3d 1544, 1551-2 (8th Cir. 1996); *see also Daggett*, 205 F.3d at 464 n.25 (noting that the "continuing vitality of Day is open to question"); *Leake*, 524 F.3d at 438 ("the Day decision appears to be an anomaly even within the Eighth Circuit, as demonstrated by that court's later decision in Rosenstiel").

At least one court has opined that the presumed constitutionality of trigger matching funds was called into question when the Supreme Court mentioned *Day* favorably in *dicta* in *Davis v. FEC*, 128 S. Ct. 2759, 2772 (2008), a case which struck down the Millionaire's Amendment to the Bipartisan Campaign Reform Act (BCRA). Although *Davis* is about contribution limits in privately funded elections, and not about public financing, a federal district court in Connecticut recently stated that "[t]here is no question that the Supreme Court's decision in *Davis* has breathed new life into the legal reasoning of *Day*." *Green Party of Connecticut v. Garfield*, 3:06 cv 1030 (SRU) slip op. at 134-36 (Aug. 27, 2009) (relying on *Davis* to strike down Connecticut's trigger matching funds). Presently, the question of the constitutionality of trigger matching funds is an open issue in on-going federal cases in Arizona and the Second Circuit, and this question may ultimately reach the Supreme Court.[1]

However, H.R.1826 has avoided this debated constitutional issue because as presently drafted, FENA does not have trigger matching funds. Instead, participating candidates retain the ability to gather small private contributions throughout the election cycle so that they can respond to high spending in a race as necessary.

HR 1826's Equal Treatment of Major and Minor Parties

As mentioned above, a federal court in Connecticut recently enjoined that state's public financing system, in part, because the Connecticut system imposed different qualification requirements on major and minor party candidates, requiring an additional showing of electoral support from minor party and independent candidates before they were given the same public funding as major party candidates. However, this holding does not bear upon FENA, since the proposed congressional public financing system makes no distinction between candidates from major and minor parties.

Connecticut implemented a popular support-based system that allowed non-major party candidates to receive public campaign funding upon demonstrating a broad base of support. Under this system, non-major party candidates could receive one-third, two-thirds, or full funding in a general election by winning over 10, 15 or 20 percent of the vote, respectively, in the previous election or by collecting an equivalent number of signatures. Furthermore, non-major party candidates could be reimbursed after an election if their popular support increased.

---

[1] The Supreme Court last year declined to hear a case in which the Fourth Circuit had upheld the constitutionality of North Carolina's judicial public financing system, which included triggered matching funds in high-spending races or those with independent expenditures. *See North Carolina Right to Life, Inc. v. Leake*, 524 F.3d 427, 437 (4th Cir. 2008), *cert. denied by Duke v. Leake*, 129 S.Ct. 490 (Nov. 3, 2008).

The Connecticut district court held that this differential treatment of major and minor party candidates violated the Fourteenth Amendment's guarantee of equal protection. As the judge in the case explained, "[t]he government . . . in creating such a public campaign financing scheme to combat the influence and appearance of corruption in politics, may not simultaneously disadvantage minor party candidates' political opportunity." *Green Party of Connecticut v. Garfield*, 3:06 cv 1030 (SRU) slip op. at 68 (Aug. 27, 2009). By contrast, H.R. 1826 avoids this equal protection issue by making no distinction between candidates from major and minor parties.

Conclusion

The public financing system for Congressional elections created by H.R. 1826 was carefully structured to maximize its ability to survive judicial scrutiny. Like all public financing systems it enhances First Amendment values and does so while providing equal access to public funding from candidates of all stripes. For these reasons, the Brennan Center urges the Committee to approve H.R. 1826.

BRENNAN
CENTER
FOR JUSTICE

Brennan Center for Justice
at New York University School of Law

161 Avenue of the Americas
12th Floor
New York, New York 10013
212.998.6730 Fax 212.995.4550
www.brennancenter.org

Memorandum

To: The Honorable Robert A. Brady, Chairman
The Honorable Daniel E. Lungren, Ranking Minority Member
Committee on House Administration, U.S. House of Representatives
From: Monica Youn and Ciara Torres-Spelliscy
Brennan Center for Justice at NYU School of Law
Re: H.R. 1826: Response to Questions to Arn Pearson, dated August 13, 2009
Question Number 7
Date: September 11, 2009

Question 7:

"Aside from public financing, could pay-to-play laws and bans on contributions from lobbyists and federal contractors as some states have done help to reduce perceived corruption of House members? Would such bans be constitutional on a federal level?"

Brennan Center Response:

In advancing FENA's goal of combating corruption and the appearance of corruption among House members, pay-to-play laws could be considered a complement to, but not a substitute for, Congressional public financing. While the nomenclature varies, contribution restrictions that apply to lobbyists, government contractors or highly regulated industries are often known as "pay-to-play" restrictions. They are referred to as "pay-to-play" regulations because they seek to prevent deals whereby contributors "pay" an official for the opportunity to "play" with government business or in a government-regulated arena. Contributions from government contractors and highly regulated industries, who seek lucrative contracts, licenses and other beneficial treatment from the government, often raise the appearance of corruption. Similarly, contributions made by lobbyists, who meet directly with public officials about legislation or administrative action affecting the lobbyists' clients at the same time they are delivering checks to candidates, raise at least the appearance of corruption. Accordingly, many states have enacted regulations or bans on contributions by state contractors, by lobbyists and their clients, and by highly regulated industries.[1] Courts throughout the nation have upheld such pay-to-play regulations, recognizing that political

[1] *See* CRAIG HOLMAN, PUBLIC CITIZEN, "PAY TO PLAY" RESTRICTIONS ON CAMPAIGN CONTRIBUTIONS FROM GOVERNMENT CONTRACTORS 2008 – 2009 (2009), http://www.cleanupwashington.org/documents/paytoplay2009.pdf (listing nine states with contractor pay-to-play laws).

contributions by government contractors, by lobbyists and their clients, and by highly regulated industries pose severe risks of corruption.

However, pay-to-play laws cannot be considered a substitute for public financing systems. Although pay-to-play laws may lessen the potential for corruption by specified groups, such as lobbyists, state contractors, and highly regulated industries, pay-to-play laws do nothing to combat elected officials' dependence on large sums of private money, and on the corruption and appearance of corruption inherent in such a "dialing for dollars" system.

Pay-to-Play Laws Are Usually Held Constitutional

The Supreme Court recognized over fifty years ago that lobbyists can be subject to special regulations because of their influence on the legislative process. *U.S. v. Harriss*, 347 U.S. 612 (1954) (upholding disclosure requirements for federal lobbyists). The Court described modern legislative process in the following way:

> Present-day legislative complexities are such that individual members of Congress cannot be expected to explore the myriad pressures to which they are regularly subjected. Yet full realization of the American ideal of government by elected representatives depends to no small extent on their ability to properly evaluate such pressures. *Otherwise the voices of the people may all too easily be drowned out by the voice of special interest groups seeking favored treatment while masquerading as proponents of the public weal.* This is the evil the [federal] Lobbying Act was designed to prevent.

U.S. v. Harriss, 347 U.S. 612, 625 (1954) (emphasis added). The Court concluded that Congress could require disclosures from federal lobbyists in part because Congress had the "power of self-protection." *Id.* State contractors and highly regulated industries can also be subject to special restrictions because of the conflicts of interest presented when they seek lucrative contracts or concessions from the very politicians that they have helped to elect. *Earle Asphalt Co.*, A-37-08 (NJ 2009) (upholding NJ's state contractor pay-to-play laws); *Ognibene v. Parkes*, No. 08 Civ. 1335 (S.D.N.Y. 2009) (upholding NYC's city contractor pay-to-play laws); *Green Party of Conn. v. Garfield*, 590 F. Supp. 2d 288 (D. Conn. 2008) (upholding CT's state contractor pay-to-play laws); *Casino Ass'n of La. v. State*, 820 So. 2d 494, 509 (La. 2002) (upholding ban on contributions from riverboat and land-based casinos to all candidates and all PACs that support or oppose a candidate); *Soto v. State*, 565 A.2d 1088, 1098 (N.J. Super. Ct. App. Div. 1989) (upholding ban on political contributions from casino employees to any candidate or political committee); *Schiller Park Colonial Inn, Inc. v. Berz*, 349 N.E.2d 61, 67-68 (Ill. 1976) (upholding ban on contributions from members of liquor industry to any candidate or political party). Since the livelihood of both lobbyists, government contractors, and highly regulated industries depends in large part on their ability to successfully influence governmental officials, governmental efforts to curb both the perception and reality of undue influence can appropriately be focused on these groups.

Whether a court will uphold a particular "pay-to-play" ban or regulation as constitutional depends upon the reach of the law and the grounds for imposing it. While narrow pay-to-play regulations are generally upheld, *see, e.g., Blount v. SEC*, 61 F.3d 938, 944-48 (D.C. Cir. 1995) (upholding constitutionality of SEC regulations prohibiting municipal finance underwriters from making campaign contributions over $250 to officials who award government underwriting contracts), court decisions on broader pay-to-play regulations have been mixed, depending on the courts' judgments

about whether the broader restrictions were necessary to address the potential for corruption.[2] Accordingly, pay-to-play laws, which address only a subset of private donors, do not fundamentally alter the incentives that cause elected officials to become beholden to private donors.

Play-to-Play Laws Are Not a Substitute for Public Financing

Public financing addresses corruption in a different way by giving candidates an alternative to the private campaign financing system. In most public financing systems, private fund raising is diminished or nearly eliminated. Thus, candidates do not face the "dialing for dollars" pressures that cause them to become obligated to major donors. On the other hand, pay-to-play restrictions typically encourage candidates to seek funding from other sources with fewer direct conflicts of interest; but the candidates still rely on private funds.

Pay-to-play restrictions and public financing can be complementary because on the one hand, the pay-to-play restrictions eliminate some of the most potentially corrupting money from politics, meanwhile public financing can help fill the candidate's funding gap with clean public money. Thus, pay-to-play rules can incentivize candidates to participate in the public financing system. For example, the State of Connecticut, in the wake of multiple corruption scandals involving the governor and other elected officials, enacted a comprehensive campaign finance reform act that encompassed both pay-to-play bans on state contractors, lobbyists, and their clients, as well as a full public financing system for state elected officials. A federal court upheld the pay-to-play bans

---

[2] *See N.C. Right to Life, Inc. v. Bartlett*, 168 F.3d 705, 718 (4th Cir. 1999) (upholding sessional ban on lobbyist's contributions as constitutional); *Blount v. Sec. Exch. Comm'n*, 61 F.3d 938, 946-47 (D.C. Cir. 1995) (upholding constitutionality of SEC regulations that prohibit municipal finance underwriters from making campaign contributions over $250 to officeholders who award government underwriting contracts); *Wachsman v. City of Dallas*, 704 F.2d 160, 173 (5th Cir. 1983) (upholding City charter provision prohibiting contributions by City employees to City council elections); *Green Party of Conn. v. Garfield*, 590 F. Supp. 2d 288 (D. Conn. 2008) (upholding lobbyists' and state contractors' contribution and solicitation bans); *Inst. of Governmental Advocates v. Fair Political Practices Comm'n*, 164 F. Supp. 2d 1183, 1192 (E.D. Cal. 2001) (upholding ban on contributions from lobbyists to offices lobbied); *Casino Ass'n of La. v. State*, 820 So. 2d 494, 509 (La. 2002) (upholding ban on contributions from riverboat and land-based casinos to all candidates and all PACs that support or oppose a candidate); *State v. Alaska Civil Liberties Union*, 978 P.2d 597, 619-20 (Ala. 1999) (upholding a restriction on lobbyists' giving contributions to candidates outside of their own district); *Kimbell v. Hooper*, 164 Vt. 80, 665 A.2d 44, 48 (1995) (upholding sessional ban on lobbyist's contributions); *Gwinn v. State Ethics Comm'n*, 426 S.E.2d 890, 893 (Ga. 1993) (upholding ban on contributions by insurance companies to candidates for Commissioner of Insurance); *Soto v. State*, 565 A.2d 1088, 1098 (N.J. Super. Ct. App. Div. 1989) (upholding ban on political contributions from casino employees to any candidate or political committee); *Schiller Park Colonial Inn, Inc. v. Berz*, 349 N.E.2d 61, 67-68 (Ill. 1976) (upholding ban on contributions from members of liquor industry to any candidate or political party). *But see Dallman v. Ritter*, No. 09CV1188 (D. Colo. July 17, 2009) (enjoining law which prohibited holders of state contracts over $100,000 that were not competitively bid from making contributions to candidates for any elected office in the state or in connection with any ballot issue); *DePaul v. Commonwealth*, 969 A.2d 536 (Pa. 2009) (finding that complete ban on political contributions by individuals affiliated with licensed gaming violated the Pennsylvania Constitution's protection of freedom of expression and association); *Ark. Right to Life State Political Action Comm. v. Butler*, 29 F. Supp. 2d 540, 553 (E.D. Ark. 1998) (invalidating ban on fundraising during any legislative session as well as thirty days before and after regular sessions); *Shrink Mo. Gov't PAC v. Maupin*, 922 F. Supp. 1413, 1419 (E.D. Mo. 1996) (*Maupin II*) (invalidating a session ban that lasted 4 ½ months, because cutting off funds for 1/3 of an election year prevented candidates from amassing the resources necessary for effective advocacy); *State v. Dodd*, 561 So. 2d 263, 264 (Fla. 1990) (invalidating a session ban that applied to both regular and special sessions, which may be called at any time, because it imposed a "potentially . . . limitless" period of time during which money could not be raised); *Fair Political Practices Comm'n v. Superior Ct.*, 25 Cal. 3d 33, 45 (1979) (noting the importance of ridding the political system of corruption but nonetheless striking down as overbroad a state law that banned all contributions from lobbyists).

against constitutional challenge, *Green Party of Conn. v. Garfield*, 590 F. Supp. 2d 288 (D. Conn. 2008). Although the court struck down the public financing system because it considered the Act's treatment of minor party candidates and its triggered matching funds to be constitutionally infirm, the court went out of its way to explain that it did not mean to cast doubt upon the constitutionality of public financing systems in general, nor on the motives of the State of Connecticut in enacting broad prophylactic reforms.

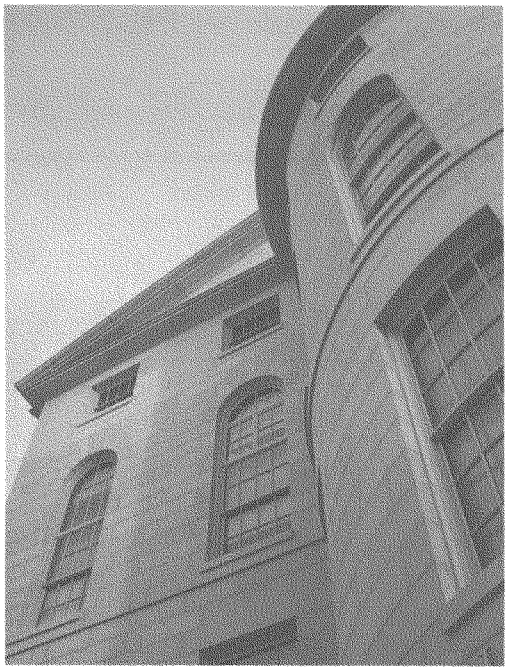
Conclusion

The Brennan Center suggests that adopting narrowly tailored pay-to-play restrictions for Congressional lobbyists and federal contractors would be constitutional and could function as a complement to the public financing system contemplated by H.R. 1826. However, pay-to-play reforms should not be considered to be an adequate substitute for the capacity of public financing to lessen corruption and the appearance of corruption.

COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES

DRAFT
2008 Candidate Survey

Candidate Opinions of the Maine Clean Election Act Program and the Commission's Operations



Date: 05/21/2009

EXECUTIVE SUMMARY

Beginning in 2004, the Commission on Governmental Ethics and Election Practices (the Commission) began surveying candidates. Following the regular election in November (of even numbered years), a survey is sent to all gubernatorial and legislative candidates. The survey asks candidates to rate services provided by the Commission and to voice opinions on Maine Election Law and the Maine Clean Election Act (MCEA) program, a voluntary public funding program for gubernatorial and legislative campaigns. The survey is one method the Commission uses to obtain information used in making improvements to its operations, election law and the MCEA program.

This report focuses mostly on the areas covered in the *2007 Study Report*, in which the 2006 survey results were analyzed and discussed. By focusing on these areas, comparisons were possible between the two elections. Additional areas analyzed and discussed in this report include opinions on services provided to the candidates and the Commission's electronic filing system used by candidates to file campaign finance reports.

The 2008 survey results proved interesting: in some areas there was little change from the 2006 survey and in other areas there were subtle but notable shifts in opinions.[1] Overall, the Commission and the MCEA program continue to be highly rated in almost all areas. Lower rated areas changed little from 2006 to 2008. This is due to the fact that some of the changes would be unconstitutional (prohibit or restrict independent expenditures) or difficult to achieve (change the name of "clean" election program to "public funded").

There is a wealth of information that the candidates provided in the 2008 survey and although not all of it was presented in this report, the Commission will continue to review and analyze it as it makes additional improvements in the future. A complete compilation of the results is available upon request.

The Commission is most appreciative of the candidates who took the time to completed the survey. With their input, the Commission is better able to serve the needs of candidates and others who are involved with their campaigns. Thank you.

1 A direct comparison was not possible for all areas because of changes made to the candidate survey form in 2008.

The Survey and Respondents

The Candidate Survey. Starting with the 2004 elections, the Maine Commission on Governmental Ethics and Election Practices (Commission) began surveying candidates on their opinions concerning the Maine Clean Election (MCEA) program and the Commission's operations. After each election, a survey is sent to all publicly and privately financed candidates running for legislative office and in gubernatorial election years, to all gubernatorial candidates. Since the 2008 election was not a gubernatorial election year, the results and discussion of the 2008 survey concerns only candidates who ran for the Maine Legislature (House and Senate).

The survey (see a copy in the Appendix) included questions on the candidates' level of satisfaction with the Commission and the MCEA program, reasons why candidates chose to participate in the MCEA, if they would participate again, and if elected would it change the way they conducted legislative business.

Who Responded. For the 2008 survey, a little over 50% of all legislative candidates responded, which is almost twice the number that responded in 2006. Almost one-half of the 2008 respondents were elected. A summary of the survey respondents is shown in Table 1 below.

Table 1. 2008 Survey Respondents

87% ran with public funds	13% ran with private funds
44% were seeking re-election	43 % were first time candidates
32 % women	68% men
85 % were House candidates	15% were Senate candidates

The survey respondents closely represent the entire pool of candidates where:

- 85% of the candidates ran with public funds and 15% with private funds;
- 36% were seeking re-election and 54% were first time candidates;
- 30% were women and 70 % were men; and
- 79% were House candidates and 21% Senate candidates.

Why Did They Participate in the MCEA Program

Comparison - 2006 vs. 2008 . The 2008 survey contained a list of reasons for participation and asked respondents to check "all that applied." Additional space was provided to allow respondents to describe any other reason for participation. The 2006 survey asked candidates to explain the reason for participation. Most of the 2006 respondents gave only one or two reasons. Because candidates choose to participate in the MCEA program for multiple reasons, the 2008 survey provided more information on why candidates participate than the 2006 survey did. A direct comparison of the of

"It (MCEA program) is a great way to recruit new candidates who fear fundraising, don't have lots of money, young people, etc."

"How is it called "clean" when party organizations still dump money into races?"

"Great inspiring experience."

"Appreciate the fact that because of MCEA funds, money doesn't play a part in the campaign."

"I am not a fan of public funding. The system is tilted to the advantage of the publicly funded on several levels."

"MCEA has expanded the number of candidates which is positive."

"Feeling that I was elected on my merits not because I could raise a lot of money. I feel more independent."

(Candidates' comments from the 2008 Candidate Survey)

the two elections is not possible but the rank order of each reason was analyzed. Generally the rank order was similar between 2006 and 2008.

Figures 1 and 2 at right show the percentage of 2008 and 2006 respondents selecting each reason. "Support principles," which includes no obligation to others, focusing on voters and issues, or leveling the playing field, was the most frequently stated reason for participation in 2006 and again in 2008.

"Barriers to fundraising," which includes lack of time to raise contributions, the rural nature of the candidate's district, or a dislike of fundraising, ranked second in 2006 and continued the same rank in 2008.

Ranking third in 2008 was "public perception," the candidate's view that the public would have a positive perception of them running as an MCEA candidate. This is a change from 2006, when public perception ranked fifth. This change may indicate that the MCEA program, although a voluntary program, is thought by some candidates as being more of a obligatory program because of the perceived positive public perception of being an MCEA candidate.

Figure 1. Reasons for Participation: 2008 Candidates

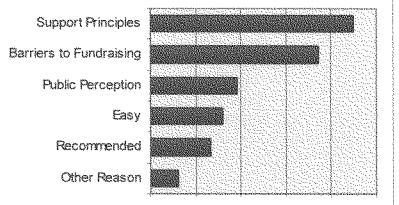
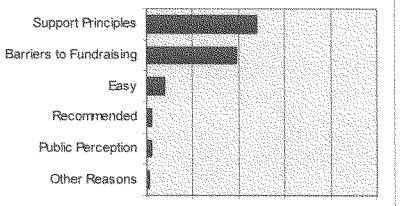


Figure 2. Reasons for Participation: 2006 Candidates



In 2008, many candidates publicized that they were "Maine Clean Election Candidates" to benefit from this positive public perception. The Commission is not aware of any public opinion survey concerning MCEA candidates compared to privately financed candidates but such a survey would be helpful since some privately financed candidates believe that the public has a less than positive view of them compared to MCEA candidates. It may be that candidates, rather than the public, perceive more positive public perception running as an MCEA candidate than what actually exists. One 2008 MCEA candidate wrote: "Public perception was my number one reason. I discovered, however, that almost no one knew what it meant."

Ranking fourth in 2008 was the ease of running as an MCEA candidate. Thirty-two percent (32%) of the candidates chose to run with MCEA funds because it was easy. Ranking fifth (27% of the candidates) was "recommended" meaning that the MCEA program was recommended to them as a way of running for office. Lastly, various "other reasons" were stated by twelve percent (12%) of the candidates. "Other reasons" listed included cost of campaigns, other fundraising issues and additional benefits running as an MCEA candidate. Table 2 on the next page lists the explanations candidates gave as other reasons for participation.

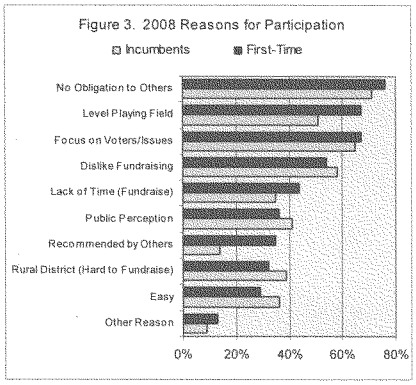
First Time Candidates vs. Incumbents. The survey responses were analyzed to determine if there were any differences between the reasons first time candidates participate compared to incumbents, who were seeking re-election. Unfortunately the 2006 survey did not capture this information, thus a comparison between 2006 and 2008 is not pos-

TABLE 2. OTHER REASONS FOR PARTICIPATION IN MCEA

COSTS OF CAMPAIGNS	FUNDRAISING	BENEFITS
"Tired of using my own money. It's "lose-lose" to run traditional." "It keeps campaigns cost-effective." "Keeps overall spending down." "Less uncertainty. You know you will have sufficient funds to run a credible race right from the start." "The rules make private financing unrealistic. I did not want to use clean funds as I see it as political welfare at taxpayer expense, just the limits on per individual contributions and matching funds leaves one with no choice at all."	"(I) may have been discriminated against due to my young age. As a first time candidate and a young candidate, I feel it would have been hard to raise money traditionally. I have extensive fundraising experience and people would not have thought I would get pass the primary." "(I am) not connected to fundraise effectively." "I'm on several charity boards and I'm already asking my friends and colleagues for money too many times."	"Less paperwork and reporting by far when compared to traditional campaign." "No campaign debt."

sible.

Figure 3, at right, shows that generally there is little difference between first time candidates and incumbents concerning their reasons for participating. The greatest difference between these two types of candidates is "level playing field" and "recommended by others."



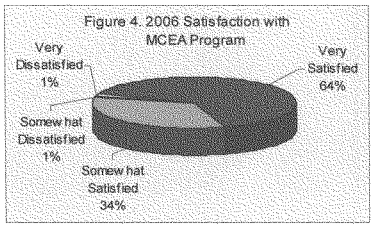
"Level playing field" means that all candidates have the same opportunity to run a campaign equal to their opponent because funding is equal. Incumbents usually have an advantage over their opponents and it is reasonable to expect that a "level playing field" is not as important to them as it is for first time candidates, who seek equal funding, to better compete with their incumbent opponents. As one elected incumbent candidate stated: "...Overall, non-incumbents benefit more from clean elections."

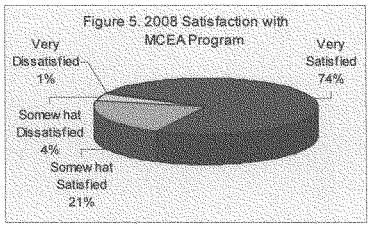
Twice as many first time candidates compared to incumbents listed "recommended by others" as one of the reasons for participation. Many first time candidates may not be aware of the MCEA program and/or the benefits and because it was recommended, they participate.

WILL CANDIDATES CONTINUE TO PARTICIPATE IN THE FUTURE?

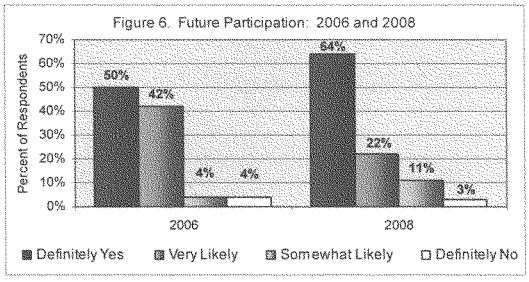
In the survey, candidates were asked whether they were satisfied with the program and whether they would participate in the MCEA in the future. Overwhelmingly, participating candidates stated that they were satisfied with the MCEA program and would participate again.

Satisfaction with MCEA Program. In 2008, seventy-four percent (74%) of the candidates were "very satisfied" with the program, which is a ten percent increase from sixty-four percent (64%) in 2006. An additional twenty-one percent (21%) in 2008 were "somewhat satisfied" (see Figures 4 and 5 below).

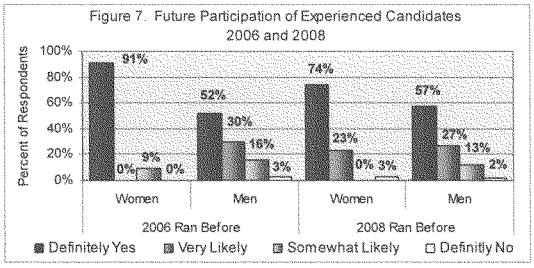




Future Participation - All Candidates. Survey responses show that sixty-four percent (64%) of the MCEA candidates will "definitely" participate again in future elections, which is a fourteen percent increase from 2006. Twenty-two percent (22%) will "very likely" participate again (see Figure 6 at right).

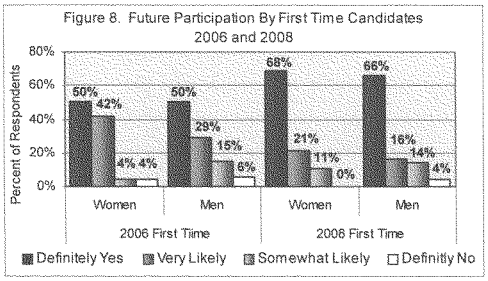


Future Participation - Experienced Candidates. When survey responses are sorted by experience and gender, a greater number of experienced women candidates (74%) said that they would "definitely" participate in the MCEA for future elections compared to men (57%).



Almost all experienced women candidates (97%) said that they would "definitely" or were "very likely" to participate in the future compared to eight-four percent (84%) of men candidates. This is comparable to 2006, where similar opinions were expressed by candidates (see Figure 7 above). Experienced women candidates continue to prefer running as an MCEA candidate.

Future Participation - First Time Candidates. Almost twenty percent more first time candidates in 2008 than in 2006 said that they would "definitely" participate in the future. There was no significant difference between first time women compared to first time men candidates (see Figure 8 on the next page).



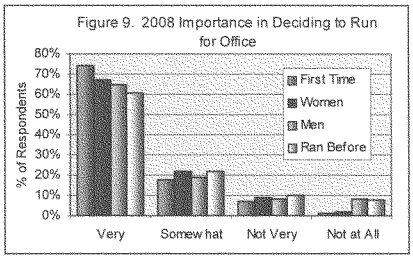
Summary. Candidates' positive experiences with the program coupled with the likelihood that they will continue to participate in the future assures a high rate of future participation in the MCEA program. This is especially true for first time and women candidates where they are more likely to participate and run a second time.

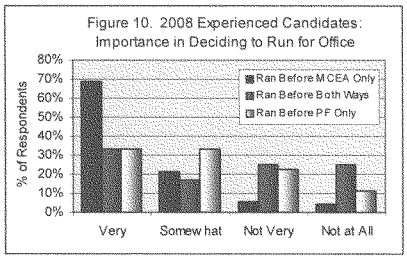
Importance of the MCEA in Candidates' Decisions to Run

First Time vs. Experienced Candidates. The 2008 survey asked: "How important was the availability of the MCEA in making your decision to run for office?" When the 2008 responses are sorted according to experience, seventy-four percent (74%) of first-time candidates reported that the MCEA was "very important" compared to sixty percent (60%) of experienced candidates (see Figure 9 below).

Women vs. Men Candidates. When a comparison is made between all woman and all men candidates, there is little difference. About two-thirds of women and men candidates reported that it was "very important" in their decision to run (see Figure 9 below).

Experienced Candidates. In 2008, the greatest difference in opinion was found between experienced candidates (see Figure 10 below). Over two-thirds of experienced candidates - who have run only as MCEA candidates in prior elections - reported that the MCEA was "very important" compared to only a third of the experience candidates who previously ran both ways (with MCEA and private funds) or with private funds only.





Elected Incumbents. Sixty-two percent (62%) of elected incumbents reported that the MCEA was "very important" in deciding to run for office and an additional eighteen percent (18%) reported that it was "somewhat important."

Summary. One clear success of the Maine Clean Election Act is that it has not only encourages first-time candidates to run for office, but also experienced and elected legislators to run again. Because of the rural nature of Maine, fundraising is more difficult and many candidates are discouraged by the prospects of private fundraising and the

possibility that they may not raise enough funds to run a viable campaign. In addition, many candidates do not want to feel "beholden" to special interests and the availability of MCEA funds is very important factor when contemplating running for office.

More Competitive Races.

One of the benefits of a public campaign financing system like the MCEA is that it encourages more candidates - especially first time candidates and women - to run for office. With more candidates running for office, the number of uncontested races decreases. Public funding which includes matching funds provisions which the MCEA program has, also increases competiveness by keeping the fund raising and spending equal between opponents.

The National Institute on Money in State Politics (Institute) developed an index, the (m)c50, for determining the competiveness of races. The (m)c50 considers the number of races that were uncontested (not competitive) compared to the number of contested races and for contested races, the index compares the winners' fund raising and spending against the top funded losers. A race is considered uncompetitive if one candidate raised more than twice the amount of their opponent.

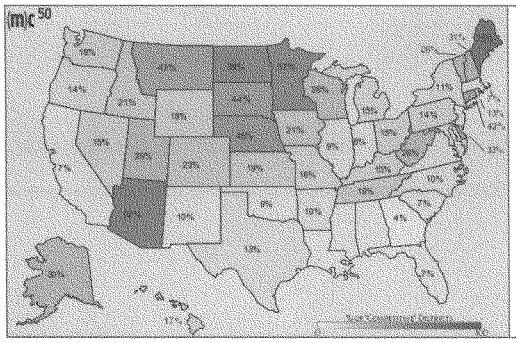


Figure 11. Competitive Rating [(m)c^{50}] by the National Institute on Money in State Politics

(m)c^{50}, developed by the National Institute on Money in State Politics, shows the level of monetary competitiveness in 2008 state legislative general elections (see Appendix for explanation).

According to the Institute, Maine has the highest competitive rating nationally for the 2008 elections followed by Arizona, which also has a public financing program (see Figure 11 above). It appears that public funding programs not only increase the likelihood of more contested races but also equalize the fund raising and spending of campaigns so that there is little difference between the amount of money spent by winners and the amount spent by losers. In Maine, there have been only a very few races in which a privately financed candidate has had a monetary benefit. In these few races the privately financed candidate's fund raising and spending exceed the amount of public funds available to the MCEA opponent.

Candidates' Opinions on Matching Funds and Independent Expenditures

In the 2008 survey, the Commission asked: "Overall, how satisfied are you with the way matching funds worked in this election?" and "If there were independent expenditures in support of your candidacy, do you think they helped, hurt, or had no effect on your campaign?"

Because most MCEA candidates are in races with MCEA opponents rather than with privately financed opponents, the majority of matching funds are triggered by third parties making independent expenditures and not by the fundraising and spending of the privately financed opponents. Therefore, matching funds in conjunction with independent expenditures have generated the most debate with candidates.

> *"MCEA has expanded the number of candidates which is positive. The negative seems to be the independent expenditures - usage is high, frequent, unpredictable and in some races excessive. The IE needs review and better controls."* (2008 candidate)

Opinions range from "get rid of it" (matching funds provisions) or "restrict independent expenditures" to "don't know how to fix it but matching funds arrive too late to be useful" to "I was dissatisfied not with the fact that matching funds are granted to ensure fairness. I was dissatisfied that the party made useless independent expenditures without my consent and by doing so, supplied my opponent with additional funds."

Satisfaction with the matching funds process differs greatly between the MCEA and privately financed candidates (see Figure 12 below), which is not surprising given that most privately financed candidates believe that public funds should not be used to fund campaigns and that matching funds continues to reward MCEA candidates for not "working" for their funding.

Interestingly, MCEA and privately financed candidates have similar opinions on whether independent expenditures helped, hurt, or had no effect on their campaign. A greater percentage of candidates believe that independent expenditures had no effect on their campaigns (see Figure 13 below).

Figure 12. Satisfaction with Matching Funds Process

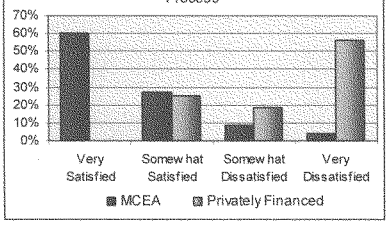
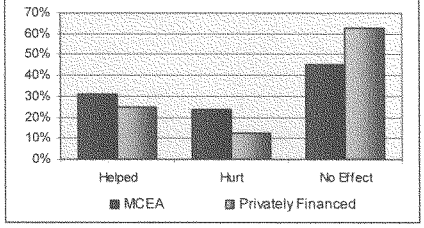


Figure 13. Opinion of Independent Expenditures



Elected Legislators' Perspectives on the Benefits of Being an MCEA Candidate.

In the 2006 and 2008 candidate surveys, the Commission asked MCEA candidates - who were elected - if they believed there were benefits to them (as a legislator) as a result of running as an MCEA candidate. Responses varied but almost all of the candidates believe that there were benefits. Most MCEA candidates who were elected believed that they would be more independent ("not beholden to special interest") and would be able to focus on the issues and their constituencies rather than on special interests. A selection of responses is found in Table 3 on the next page.



TABLE 2. RESPONSES OF CANDIDATES ELECTED TO THE 124TH LEGISLATURE:
"As you look forward to the 124th Legislature, what do you believe will be the benefits to you as a legislator as a result of running as an MCEA candidate?

Believed there are benefits:

From Incumbent Legislators

"Not having to answer to special interest groups (because) - it's going to be a difficult session."

"No real or perceived obligation to special interest."

"No obligations to special interests in a tight budget time. All obligation to average citizens, who made your success possible in those same tight budget times...we must always remember who exactly we really serve."

"Continue to make my votes as I see fit."

"I start the session debt-free and without "obligations" to anyone... This is huge!"

"Focus on what's best for my constituents and the state. (I) Have had time to work on issues in my community without worrying about fundraising."

"I don't "owe" anything to any lobbyist! (or anyone else, for that matter)."

From Incumbent Legislators (continued)

"I owe nothing to anyone!"

"Just the fact that we can focus on constituent issues and concerns to bring forward to the 124th."

From Newly Elected Legislators

"I don't fell beholding to anyone or any group other than the constituents in my district."

"I got to focus on what's important, the issues and getting to know everyone in my district instead of begging for money.

"I do not owe any groups anything - only my constituents. No promises were made other than my hard work and commitment."

""I can represent residents of my district without any obligation (real or imagined) to any donor."

"Not being in debt to PACs."

"No one will be wondering why I may be helping a specific constituent."

From Newly Elected Legislators (continued)

"Spending my time with voters and issues gives me huge confidence of what I need to work on."

"I have no one that I owe."

"I feel running as a Maine Clean Election candidate allowed me the opportunity to focus on voters and the issues at hand. I also feel the public perception was that I was playing on a level field and not catering to special interest groups."

"Clean elections made my campaign about knocking on doors. As an elected official, my constituents have met me and know I am approachable. This benefits them and myself."

"First, it enabled me to run. I would not have run without the clean election fund. Also, there are no obligations to donors or groups.'

"No sense of obligation to any special interest - just to voters in my district."

Believed no benefits or differences:

From Incumbent Legislators

"The process is now standard. I think it is neither a benefit nor a negative."

"I don't think it makes any difference - having done it both ways. Clean Election money is not enough to mount an effective campaign in a rural district. No one who gave me money in my first campaign expected special consideration."

"I do not see any benefit over a privately financed elected official. I do not feel (that) either (one) is obligated to any group. I look to lobbyist for information only."

"I don't foresee any unique benefits."

TABLE 3. 2008 SURVEY RESPONSES OF PRIVATELY FINANCED CANDIDATES: "Do you have any suggestions for improving the Clean Election program?

Philosophical Differences		
"Eliminate it (MCEA)! It's a scam." "Eliminate it (MCEA). Poor way to spend taxpayers' money." "Eliminate the clean funding provisions." Get rid of it (MCEA). Let candidates raise their own funds. Cap the total amount to be raised and spent."	"(MCEA) eliminates the need for candidates to work for support! If amounts that could be raised by candidates were limited, it would accomplish what had supposedly been intended by taxpayer funded elections." "Change the name to 'public funding' from 'clean'."	"...philosophically I'm opposed to it (MCEA). So my suggestion is to abolish or repeal it." "Candidates should not take taxpayer dollars. Stop it now and require candidates to work for their funding just like taxpayers work for their money."
Impact of Independent Expenditures and Matching Funds		
"(Generous MCEA payments) together with independent expenditures for party candidates, practically force unenrolled candidates to take MCEA, even if they would rather not."	"How is it called 'clean' when party organizations still dump money into races." "Third party expenditures and excessive matching dollars only works in favor of "clean" candidates."	"Remove possibility of third party expenditures. Program can not be 'clean' as long as they are permitted." "Matching funds requirements too complicated...Need to be streamlined."
Increase Requirements on MCEA		
"Double the number of checks needed."	The system is tilted to the advantage of the publically funded candidate on several levels."	"Non-viable candidates qualify and too many candidates are using (MCEA) instead of paying when they can."
Change the Program		
"Run MCEA program as a matching program (and set cap)."	"Make (MCEA) mandatory. No private funding allowed. (How are you going to do that? Change the Constitution.)"	"The baseline allocations for MCEA candidates are too generous."

WHY PRIVATELY FINANCED CANDIDATES DID NOT PARTICIPATE

In the 2008 elections (similar to the 2006 elections), fifteen percent of all legislative candidates chose to raise private funds to finance their campaigns rather than participate in the MCEA program. The reasons for not participating did not change from 2006 to 2008 and include:

- 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.

OPINIONS OF PRIVATELY FINANCED CANDIDATES ON THE MCEA

In the 2006 and 2008 surveys, candidates were asked for their suggestions on improving the MCEA. Common themes and issues were identified. In the 2006 survey, issues that were brought up repeatedly included:

- the use of "clean" in the name of the Maine Clean Election Act (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);
- the cost and ease of qualifying for MCEA funding; and
- the additional reporting requirements for privately financed candidates.

Comments in the 2008 survey centered around philosophical differences - that taxpayers should not pay for political campaigns rather than the use of "clean', although a couple of respondents suggested a name change: "Tell it like it is; change name to "Taxpayer Funded." Privately financed candidates clearly have an opinion on the use of public, taxpayer funds being spent on political campaigns namely that public funds should not fund campaigns. This issue and the use of "clean" continues to generate some of the most sharply worded comments from privately financed candidates. Increasing the qualifying requirements and dislike of the matching fund provisions were two other areas frequently mentioned (see Table 4 on the prior page).

Suggestions for Improving MCEA: MCEA vs. Privately Financed

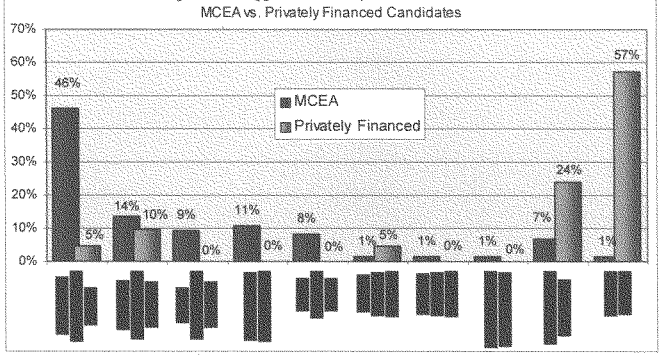
The comments and experiences of the candidates are important in maintaining the integrity and fairness of the MCEA program. Many of the past improvements made to the MCEA were suggested by candidates - both publicly and privately financed - in the candidate surveys or during informal discussions or comments made to the Commission staff. These suggestions and the resulting changes have been and will continue to be an importance part of the success of the MCEA program.

As a result of suggestions made in the 2006 survey, improvements were made including streamlining the accelerated reporting requirements, increasing documentation on the Receipt and Acknowledgement forms, and increasing the qualifying requirements.

Additional improvements are currently being considered by the First Session of the 124th Legislature. Several bills were submitted to the Legislature with the purpose of strengthening requirements and increasing the demonstrated level of support candidates must have to qualify for MCEA funding. The Commission proposed new seed money requirements for gubernatorial candidates in order to ensure that only those candidates with a demonstrated threshold of support within the state receive funding. Final legislative action is pending on most of these bills and there is wide support for these measures.

There are common themes between the two groups of candidates - MCEA and privately financed - for improving the MCEA but there is a definite difference of opinion. Figure 14 (on next page) shows the common themes sorted by the financing status of the candidate. Almost one-half of the MCEA candidates feel that no changes are necessary and over one-half of privately financed candidates believe that the program should be eliminated. The category named "Other changes in program" includes running the MCEA program as a matching program (similar to the fed-

Figure 16. Suggestions for Improvements to MCEA:
MCEA vs. Privately Financed Candidates



eral system), combining the seed money and qualifying contributions to be a single part of the program, basing the MCEA payment amounts on the amount of seed money collected, and changing the matching funds provisions of the program.

The comments and experiences of both privately financed and MCEA candidates are important in maintaining the integrity and fairness of the MCEA program. Candidates' views have improved the program making it more efficient and accountable.

Satisfaction with the Commission and Helpfulness of Resources

Satisfaction with the Commission. One of the Commission's priorities is to provide the best service possible to candidates and their campaign staff. Since 2004, the survey has asked candidates to rate their satisfaction with the service provided by the Commission. In 2008, eighty-eight percent (88%) of the candidates were "very satisfied" with the Commission and another ten percent (10%) were "somewhat satisfied." Comments noted the responsiveness, patience, and professionalism of the staff. The Commission is pleased that its hard work and dedication is recognized and appreciated by the people it serves.

Helpfulness of Resources. The 2008 survey asked all candidates, publicly and privately financed, to rate the helpfulness of various resources the Commission provides to

Figure 14. Satisfaction with Commission

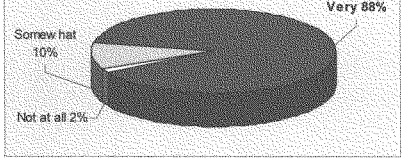
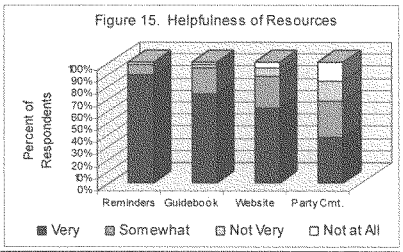


Figure 15. Helpfulness of Resources



them and their campaigns and the helpfulness of party committees.

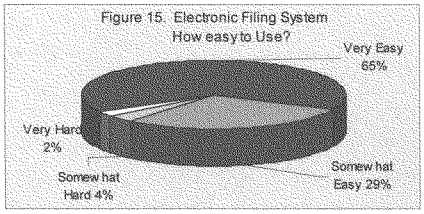
- Reminder Notices or Newsletters. The notices are mailed prior to a report filing deadlines to remind candidates of the upcoming deadlines and to offer ways to comply with requirements. In 2006, these notices were changed from a one page letter to a newsletter format in order to provide more timely information on pertinent subjects. The newsletter format continued for the 2008 elections. These reminders were rated "very helpful" by eighty-nine percent (89%) of the respondents and received the highest rating (see Figure 15 on prior page).
- Candidate Guidebook. Seventy-three percent (73%) of the respondents rated the guidebook as very helpful. Improvements to the format and indexing were suggested.
- Commission's Website. Since 2005 the Commission has been improving both its information website and the electronic filing system website (used by candidate's to file their campaign finance reports). The website ranked third behind the reminders and guidebook. Most of the comments and suggestions concerned the electronic filing system's limited accessibility: "Website needs to be both windows and apple accessible"; "Please make it Mac friendly and Firefox friendly!" The Commission is actively working to make these and other improvements for the 2010 elections.
- Party Committees. Party committees play an important role in educating and training candidates and for some candidates are the only source of information. According to the survey, the helpfulness of the party committees ranked last with a little over a third of the candidates finding the party committees to be very helpful with another third finding them somewhat helpful.
- Suggestions for Additional Resources. A suggestion was made that the Commission develop information and training programs. Although these have, in the past, been the priority of party committees, the Commission will continue to work closely with the committees on the training they provide to candidates.

Electronic Filing System

Maine is one of thirty states that mandates the electronic filing of campaign finance reports. The public's interest for more timely disclosure and searchable databases makes mandatory electronic filing more important. After a campaign finance report is filed, information is immediately disclosed online. In Maine, campaign finance information for county, legislative and gubernatorial candidates is disclosed on the Commission's public disclosure website: www.mainecampaignfinance.com.

In the 2002 and 2004 elections, candidates could choose to file their campaign finance reports online using the Commission's electronic filing system (e-filing system) rather than filing paper reports. For the 2006 elections, the electronic filing of reports became mandatory unless the candidate requested a waiver. For the 2008 elections, ninety-five percent (95%) of legislative and county candidates filed their reports electronically. Electronic filing is an easy and accurate way to comply with disclosure requirements and thus, has become the acceptable way to file.

The Commission's principle in designing the system (and subsequent improvements) has been simplicity, ease of



"The system has gotten much better over the last six years."

"Great website - electronic filing was a breeze! A lot of work went into the website and that was obvious - great work!"

(Comments from 2008 candidates)

use, and increased functionally (e.g., Excel download and CSV upload). Improvements have been made to the system over the past four years and more are scheduled to be completed by the 2010 elections.

The 2008 survey asked candidates: "Did you find the electronic filing system to be - very easy, somewhat easy, somewhat hard, or very hard?" Ninety-four percent (94%) of the candidates found the e-filing system either to be "very easy" or "somewhat easy" (see Figure 15 above).

APPENDIX

TITLE	PAGE
Competitive Rating, National Institute on Money in State Politics	A1
2008 Candidate Survey	A2-A3

(05/11/2009; from the website: followthemoney.org)

About the National Institute on Money in State Politics and the (m)c50. The National Institute on Money in State Politics is the only nonpartisan, nonprofit organization revealing the influence of campaign money on state-level elections and public policy in all 50 states. Our comprehensive and verifiable campaign-finance database and relevant issue analyses are available for free through our Web site FollowTheMoney.org. We encourage transparency and promote independent investigation of state-level campaign contributions by journalists, academic researchers, public-interest groups, government agencies, policymakers, students and the public at large."

About the (m)c50. An important part of our electoral process is the concept of competiveness. When we at the National Institute on Money in State Politics wanted to analyze this issue, we found ourselves wrestling with the very definition of the word. How **do** you define competitiveness? We turned to the academic world for some clues. In *Electoral Competition in the American States* by Holbrook and Van Dunk (1993), district level competitiveness is measured in terms of votes. The article also references the Ranney Index in which district level competitiveness is measured in terms of two-party balance across the state.

What about money? Because money takes such an important role in modern politics, it makes sense to also use money to help define a legislative district as competitive. We came up with the following criteria for the **(m)c50** analysis:

> Was the district contested? If the district was uncontested, then by definition it is not competitive; there is no one to compete against.
>
> Compare the winner's raised money versus the highest funded loser.

When thinking about a foot race, one might consider the distance between the first place position and the second place position to be a measure of the competitiveness of that race. **(m)c50** does the same by comparing the winner against the top funded loser to see if a challenge was presented. This required some sort of threshold for determining what was competitive and what was not. While not very scientific, we chose 50 percent as more of a popular method. Simply put, if one candidate raised more than twice what the other one had, the district is labeled as uncompetitive.

Methods. Our technique works quite well for most states. Remarkably, between different cycles the percentage of competitive districts per state is relatively consistent, showing the trends within a state. Some states are improving over time, while others seem to be stagnant. We were astounded to see how few districts met this generous criteria. Certain states produced unexpected results with our initial formula and had to be re-examined. Multimember districts, like those in Arizona and New Hampshire required special rules to provide a reliable method of analysis. By averaging the total of the winners' money, and using that to compare against the loser's **(m)c50** can show what amount, on average, was required to win, and whether the highest loser was within the threshold.

Conclusions. Obviously a lot of factors determine competitiveness in politics. Incumbency, values, history and ethnicity all play some roll in a contest between candidates. At the Institute, we're always looking for ways to highlight the role that money plays in politics and the correlation between money and votes. Hopefully by using **(m)c50**, you'll get a sense of these numbers as well.

COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
Mailing: 135 State House Station, Augusta, Maine 04333
Location: 242 State Street, Augusta, Maine

November 14, 2008

Phone: 207-287-4179
Fax: 207-287-6775
Website: www.maine.gov/ethics

2008 Candidate Survey

Why does the Commission want this information?

After every election, the Commission staff conducts a voluntary, anonymous survey of legislative candidates. The information provided by candidates has assisted the Commission staff in improving our operations and in making suggestions for statute and rule changes. We hope that you will share your ideas and suggestions with us.

Thank you

ALL CANDIDATES:
PLEASE COMPLETE SECTIONS I AND II.

MAINE CLEAN ELECTION CANDIDATES:
PLEASE COMPLETE SECTIONS I, II AND III.

SECTION I

Please describe yourself:

Candidate for: ☐ House ☐ Senate

Financing: ☐ MCEA ☐ Privately Financed

Experience: ☐ First-time candidate

☐ Ran for legislature before

If ran before, did you run with:

☐ MCEA funds

☐ Private funds

☐ Both ways

Are you an incumbent: ☐ Yes ☐ No

Gender: ☐ Female ☐ Male

SECTION II

1. Overall, how helpful was the Ethics Commission in meeting your needs as a candidate?

☐ Very ☐ Somewhat ☐ Not Very ☐ Not at All

Comments or suggestions on how the Commission can better assist candidates:

2. How helpful were these resources for your campaign?

	Very	Somewhat	Not very	Not at all
Commission's website	☐	☐	☐	☐
Candidate Guidebook	☐	☐	☐	☐
Mailed reminders	☐	☐	☐	☐
Party committees	☐	☐	☐	☐

3. Did you find the electronic filing system to be:

☐ Very easy ☐ Somewhat easy ☐ Somewhat hard ☐ Very hard

4. If there were independent expenditures in support of your candidacy, do you think they helped or hurt your campaign?

☐ Helped ☐ Hurt ☐ Had no effect ☐ None in my race

5. Overall, how satisfied are you with the way matching funds worked in this election?

☐ Very ☐ Somewhat satisfied ☐ Somewhat dissatisfied ☐ Very dissatisfied

6. Do you have any suggestions for improving the Clean Election program? Please explain.

IF YOU WOULD LIKE TO SEND ADDITIONAL COMMENTS,
PLEASE MAIL THEM TO THE ATTENTION OF JONATHAN WAYNE OR E-MAIL THEM TO: Jonathan.Wayne@ maine.gov.

Page A3

SECTION III *For Maine Clean Election Act Candidates Only*



7. Overall, how satisfied are you with the Clean Election program?

☐ Very satisfied ☐ Somewhat satisfied ☐ Somewhat dissatisfied ☐ Very dissatisfied

8. What was confusing about the MCEA program?

9. Do you have any suggestions for improving the qualifying process for Clean Election candidates - seed money, qualifying period, $5 qualifying contributions, deadlines, etc.?

10. How important to you was the availability of Maine Clean Election Act funding in making your decision to run for office?

☐ Very ☐ Somewhat ☐ Not Very ☐ Not at All

11. Why did you decide to participate in the Maine Clean Election Act? Please check all that apply and circle the most important reason.

Support MCEA principles and purposes including:	☐ No obligation to others	☐ Level "playing field"	☐ Focus on voters and issues
Impediments to fundraising:	☐ Lack of time	☐ Rural district	☐ Dislike fundraising
Other reasons:	☐ Public Perception	☐ Easy	☐ Recommended

Other reason not listed: ☐ _____

Please explain:

12. How likely are you to participate in the Maine Clean Election Act if you run for office again?

☐ Definitely Yes ☐ Very Likely ☐ Somewhat Likely ☐ Definitely No

13. **Please complete if you were elected.** As you look forward to the 124th Legislature, what do you believe will be the benefits to you as a legislator as a result of running as an MCEA candidate? Please explain.

OPTIONAL Your Name: _____ May we contact you: ☐ Yes ☐ No

Additional Comments:



Commission on Governmental Ethics
and Election Practices

Commission on Governmental Ethics and
Election Practices
Mailing: 135 State House Station, Augusta, Maine 04333
Location: 242 State Street, Augusta, Maine

Phone: 207-287-4179
Fax: 207-287-6775
Website: www.maine.gov/ethics

Mr. LUNGREN. I thank you, Mr. Chairman. Maybe we can have another panel and have President McCain and Senator Obama testify as to how well the public funding worked.

The CHAIRMAN. I thank the panel again.

Madam Speaker, will you please tell your Governor that I said hello. He was my roommate when he was here.

This hearing is adjourned.

[Whereupon, at 1:07 p.m., the committee was adjourned.]

SUBMITTED FOR THE JULY 30, 2009 HEARING RECORD

Committee on House Administration
August 10, 2009

Written testimony of former U.S. Senators Bill Bradley (D-NJ), Bob Kerrey (D-NE), Warren Rudman (R-NH), and Alan Simpson (R-WY), Co-Chairs of Americans for Campaign Reform

We commend the Committee on House Administration for today taking up one of the most challenging and urgent issues before the Congress: the financing of election campaigns through private contributions and its corrosive effect on public confidence in our democracy.

We write to you as Chairs of Americans for Campaign Reform, a bipartisan initiative to strengthen American democracy through citizen-funded Fair Elections. Our purpose is simple: to free elected leaders from the mounting pressures of raising campaign funds by supporting the passage of small donor-driven public campaign finance. The Fair Elections Now Act would accomplish that goal.

We have all seen how rising campaign costs and the influx of big money in politics undermines public confidence in our democracy and places undue burdens on elected officials. As we look back on our many years in Washington, it is hard to imagine how many hours were devoted to attending fundraisers and calling strangers for campaign contributions. Today, as you well know, the problem has gotten much worse. In 2008, the average House and Senate incumbent raised $1.3 million and $7.5 million, respectively—nearly twice the amounts raised just ten years ago. That means that you and your colleagues must collect thousands of dollars a day throughout your term in office--time spent away from doing the real work you came to Washington to do.

We know of only one way to fundamentally address this problem: small donor-driven campaign finance reform. A Fair Elections system of matching small donations would ensure that hard-working candidates who accept only small checks from their constituents and show broad-based public support, have access to sufficient funding to mount a credible campaign. It combines what

works in our current finance system—citizen small donations—with matching funds to ensure an open debate. And it rejects what does not work: big money from lobbyists and special interest groups which undermines public confidence and distracts from the business of governing.

Consistent with the First Amendment, the program is voluntary; it cherishes political speech by enabling more voices to enter the debate without added regulation. Funding would come from a revenue-neutral allocation of 10% of future broadcast spectrum auctions for House elections.

In seven states and numerous cities from Arizona to Maine, citizen funded Fair Elections are ushering in a new kind of politics, where candidates spend more time with the voters they seek to represent in place of large contributors. Three-fourths of candidates across party lines voluntarily participate in the state programs, bringing a new culture of accountability, and the chance to now bring meaningful reform to Washington in the 111th Congress has never been greater.

We urge the Committee on House Administration to refer this urgent legislation and to the full House for consideration and passage this year. The integrity of our democratic institutions depends on such reform.

Sen. Bill Bradley
New Jersey

Sen. Bob Kerrey
Nebraska

Sen. Warren Rudman
New Hampshire

Sen. Al Simpson
Wyoming

SUBMITTED FOR THE JULY 30, 2009 HEARING RECORD

Committee on House Administration
August 10, 2009

Statements of former Members of the U.S. House of Representatives supporting passage of the Fair Elections Now Act, HR 1826

Statement of Congressman Estaban Torres (D-CA)

It is the peoples voices that can be best heard by public funding as the most expressive and effective mode of electing their representatives to government. Moreover, the only way to cancel the coffers of the special interests and their influence upon matters of governance.

Statement of Congressman Victor Fazio (D-CA)

While Im not one who believes that campaign contributions are inherently corrupting, I do believe that the time and attention that has to be now devoted to raising money has gone out of control. Members of Congress have to spend way too much of their time on the phone instead of dealing with the issues of the day, therefore I support HR 1826.

Statement of Congressman Frank Guarini (D-NJ)

There is no problem that we cannot resolve using plain and practical common sense. Failure to act responsibly in addressing our problems will beour downfall as a great nation.

Our greatest, single impediment is our big money system for funding political campaigns. The lobbies, and their money, play too large a role in shaping our legislation. to bridle their power, open reform iwll be a grand leap forward for democracy.

I fully endorse all efforts by Americans for Campaign Reform to change our system [to] publicly funded elections. Simply put, it will return government to the people and provide a sound basis for future leadership in our nation.

Statement of Congressman Stan Lundine (D-NY)

You have my enthusiastic support of the Bill HR 1826 providing a small donor-driven model of voluntary public funding for all House and Senate elections. Having served 11 years in the

House of Representatives and 8 as Lieutenant Governor of New York, I am painfully aware of the enormous challenge of fundraising to seek public office at the Congressional or State level.

Middle income Americans are practically eliminated from becoming candidates unless they have the support of special interests which distort the objective process of improving America. Somewhat reluctantly, I came to the conclusion that the only rational way to restore competitive democracy is through matching small donations with public funding.

Statement of Congressman Berkley Bedell (D-IA)

I served in the U.S. Congress representing Nortwest Iowa from 1974 through 1986.

I have witnessed how campaign contributions now control the Legislative process.

If we want to return democratic government to the people it is imperative that we pass public funding of political campaigns.

The Fair Elections Now Act is by far the most important legislation that could possibly be passed by the Congress.

July, 2009

The Honorable Robert Brady
Chairman, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

The Honorable Dan Lungren
Ranking Minority Member, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

Dear Representative Brady and Ranking Member Lungren,

I would like to thank you for holding the July 30th Committee hearing and for allowing me to submit testimony on the importance of the Fair Elections Now Act (FENA). The issue that you are considering is extraordinarily important to our political process and to the American public.

I am President of a not-for-profit national organization, The Democracy Matters Institute, that over the last decade has worked with thousands of college and high school students to deepen our democracy. These students believe in our political system, and want to make it more open and more fair. Nothing is more important to this effort than to pass campaign finance reform legislation that can restore the confidence of young people and other citizens in our democracy. The enthusiasm and optimism of these future civic and political leaders is contagious – they work hard on their campuses and in their communities to make our political system more inclusive and open through the passage of a public financing option for candidates. Many of them hope hat they will be able to run for office themselves someday even if they don't have high incomes or connections with wealthy interests

But in the last eleven years, as a professional basketball player in the NBA (this last year I was a member of the Orlando Magic), I also have had a great deal of contact with many other young people who have unfortunately given up on our political system. They believe that money has corrupted the political process; that they have no voice because they cannot compete with big campaign donors. But I tell them that there is hope. That just as sports is an area of fairness, where on any given night the person who wins is not necessarily the one with the biggest bank account, so too we can create a public financing option for candidates for Congress that would mean that the amount of money a candidate can raise money is not the most important determinant of who gets elected.

There are any factors that make a change in how we finance campaigns critical at this time. First, the unsustainable rise in the cost of running for office affects who can run and to whom politicians must turn in order to raise enough campaign cash to remain competitive. Elected officials are forced to run into the open arms of well heeled special interests, big money bundlers, and elite political donors in order to keep up with their competition. Today, we have a never-ending chase for the campaign dollar. To remain in office, elected officials spend more and more time raising money in order to pay for escalating campaign costs. If the general rate of inflation was the same as the rising cost of campaigning, our economy would have collapsed years ago.

This non-stop rise in the cost of political campaigns puts Members of Congress in an awkward position. Instead of being able to focus on the work their constituents elected them to do, elected officials are compelled to spend vast amounts of time dialing for dollars and shaking hands in pursuit of the cash they need to retain their seat, lending an ear to the interests who can give the maximum contributions allowable under current law.

Who are these people writing these checks? They are a micro demographic within the 300,000,000 people who live in this country. The average American can't afford to give a candidate 4,600 dollars—the maximum allowed for an individual - 2,300 for the primary and 2,300 for the general election. How do we shut down the money chase and allow our legislators to spend their time pursuing their constituents' interests? How do we turn the current incentive system upside down and drive elected officials and candidates to the voters they want to serve, instead of towards the big check writers at the next fundraiser?

Fortunately there is a common sense answer that will refocus elections on voters and volunteers instead of campaign cash and political bundlers. The Fair Elections Now Act (FENA) provides candidates for Congress a way to run without joining in the big money chase. FENA draws upon model public financing laws in Maine and Arizona that have been in place for a number of political cycles and provide an alternative to the pay to play system. The system is constitutional within the Buckley v. Valeo framework. It expands political speech, ensuring that those without access to wealth can speak with a forceful voice during the campaign season. Decisions in several court cases brought by opponents of the Maine and Arizona public financing laws have consistently upheld the key elements of the system.

The cost of FENA is relatively small/ But even if it were a larger percentage of our national budget, I believe that an investment in deepening our democracy is the most important investment we can make. Despite the current economic troubles, we are one of the wealthiest countries in the world, and we should to lead by example – by giving every citizen a real voice in our democracy.

It may seem counter-intuitive for an incumbent to support a bill like this. After all, each Member of Congress won his or her election using the current system. Yet I know that many Members are deeply troubled by the current unbounded private financing set-up, and a good number also find campaign fundraising their least favorite part of being an elected official. FENA offers a fair and practical alternative. Many members of the House have already signed on as co-sponsors of this important legislation.

Clean Elections, as it is known at the state level, has changed the face of democracy where it has been implemented. It opens up the possibility of running for office and winning to a more broadly diverse range of candidates. In Maine, for example, Deborah Simpson, a low wage worker, single mom, and grassroots civic activist is now a member of the state legislature, where she pays particular attention to policies that affect children living in poverty. She credits the Clean Elections system as her successful entry ticket into the political arena. Today in the Maine legislature over 83% of sitting legislators

chose the public financing option to run under last November, including a significant number of young people under the age of 30.

It is possible to change politics for the better. And we must do to it together. Working with one another we can leave behind the unsustainable money chase and its negative side effects. Together, we can create a new system based on the widely shared American values of fair competition, equal opportunity and inclusive participation. It is an idea whose time has come.

I am most sincerely yours,



Adonal D. Foyle
President, Democracy Matters
174 Crestview Drive
Orinda, California 94563

MEMO

To: Interested Parties
From: David Donnelly, Public Campaign Action Fund
Date: July 28, 2009
RE: Recent Rasmussen Polling on Campaign Finance Attitudes

Rasmussen conducted public opinion research to assess public attitudes about campaign finance issues in the wake of the decision by the Supreme Court to hear new arguments in the Citizens United case. The court could loosen restrictions on corporate money in politics. The polling was conducted July 8-9 and Rasmussen surveyed 1,000 registered voters. The sampling error is +/- 3%.

Americans have low thresholds for what appears corrupting in terms of size of contributions, and the thresholds are getting lower. More than half say $50,000 in contributions to a member of Congress would be enough to influence a vote.

- "Fourteen percent (14%) of voters say a $1,000 contribution is big enough to influence a congressman or governor, while eight percent (8%) say it takes more than $100,000. Twenty-six percent (26%) say $10,000 is enough, while 22% think a $50,000 contribution will make the difference and 11% say $100,000.

- In 2006, Rasmussen found just 6% felt that $1,000 would influence their member of Congress, 8% lower than today, and 18% felt that it would take more than $100,000, 10% more than today.

- "Thirty-five percent (35%) believe [members of Congress] are [corrupt]."

- "Fifty-seven percent (57%) of Americans say political donors get more than their money back in terms of favors from members of Congress."

Americans of all stripes want more regulation of campaign contributions, but are cynical about loopholes.

- "56% believe the federal government should regulate how much money individuals can give to political campaigns", with 25% opposed to the idea. Nineteen percent registered not sure.

- "88% say it's at least somewhat likely that special interest groups will find ways to get money to politicians and influence their votes" even with new restrictions. The intensity is high on this question, with 69% saying it is very likely this will happen.

- "There is very little partisan disagreement on the need for campaign finance regulation or over the ability of special interests to get around that regulation."

Voters support disclosure of campaign donations more than limits on contributions (but voters were not given the choice of both).

- "Sixty-eight percent (68%) agree that it is more important for campaigns to disclose the source of all their contributions than it is to limit how much money individuals can give to a campaign. Twenty-three percent (23%) say limiting campaign contributions is more important."

Thirty percent of voters supported public financing of presidential campaigns while 47% were opposed.

- While I cannot find the precise wording of this question, these results are consistent with historical polling that doesn't provide any context or additional information about a public financing program. They are also a net +16% than the results Rasmussen reported in March 2006 (23% favor, 56% opposed).

courant.com

I Didn't Get Elected To Be A Fundraiser

How Trolling For Donations Detracts From Lawmakers' Mission

By CHRIS MURPHY

February 3, 2008

Recently, I saw "Charlie Wilson's War," a new movie about a brash, extravagant congressman in the 1980s. The movie was full of scenes of lavish ballrooms, fancy cocktail parties, women in pearls and men in tuxedos. For a second, I thought to myself, "Being a member of Congress must be one big party." And then I remembered — it's just a movie.

Don't get me wrong, I love this job. Every morning, I get to pick up the paper, read about what's wrong in America, and then walk to work to try and fix it. Yet the daily demands of the House leave little personal time. Most weeks, Saturday and Sunday are my only full days back in Connecticut, and they are packed with fairs, town halls, constituent meetings and political events — the kind of face-to-face retail politics that are the bread and butter of any elected official's job. Weekdays in Washington are equally frenetic: a mix of meetings with constituents, committee hearings, policy briefings, votes on the House floor and answering endless phone calls.

But let me pull back the curtain a little bit more. On top of all of the official duties of a congressman, I and my colleagues find that more and more of our time is spent on our re-elections, largely raising money. On any given day, the foot traffic to and from the national Republican and Democratic campaign offices is constant, and the conditions under which we labor are pretty depressing. At the Democratic offices, I sit in a room with cubicles, surrounded by freshmen and veteran legislators, feeling more like a telemarketer than a member of Congress. And I'm told that every year, the room gets more crowded. When I take a breath and look around, it becomes clear that this problem won't correct itself with time.

I'm a workaholic — I took this job prepared to work 16-hour days endeavoring to move forward the issues I and my constituents care about, like universal health care, land preservation and true energy independence. But with several hours of every day dedicated to raising the millions of dollars necessary for re-election, I simply cannot devote all of my energy to solving these problems.

Moreover, our current campaign finance system feeds a growing perception of corruption in government and creates barriers to bipartisanship. Rarely do political contributions lead to direct quid pro quo transactions — donations for votes — and those that cross this

line normally get caught. But private donations create an appearance of corruption in our public officials and erode the confidence and trust people have placed in government — without which no democracy can survive long-term.

Further, endless evening fundraising commitments mean that, when votes end, members rush to seek campaign contributions rather than grab a burger or beer with a colleague from across the aisle. This pressure to spend rare free moments fundraising means that there is less time to get to know your colleagues. As a result, partisan sniping comes much easier because you often don't know the person you're sniping at.

Most elected officials don't want you to know about the world of political fundraising because they fear that it paints an unflattering portrait of public life. (I'm sure there might even be a political price for me to pay for talking so bluntly about fundraising here.) But if the picture is unbecoming, the solution lies not in hiding the ugliness, but in exposing it. Why? Because it doesn't have to be this way.

There is a relatively simple cure: public financing of congressional campaigns. I have been an unrelenting advocate for public financing of elections for nearly a decade now, and that resolve has only been strengthened by my brief time here in the nation's Capital.

The more we remove the need for individual members of Congress to raise private election funds, the more our representatives can focus on the things they were elected to do, and the more time they will have to cross party lines and erase the divisions that pollute our national dialogue.

We did it in Connecticut, but we're not there yet here in Washington.

But have faith! With every new class of representatives that comes to Congress, there is a greater recognition of the perils of private financing of campaigns. I believe that by pulling back the curtain on the daily pressures faced by members of Congress, we can show the public how critical this reform is to the salvation of our democracy.

But a national system of public financing will require a leap of faith by the American public. Taxpayers rightly ask, "Why should my tax dollars go to financing the campaign of someone with whom I disagree?"

We have to turn this thinking on its head. We are already paying for this system with a government unable to tackle the largest problems facing our country — partly because big campaign donors control too much of the agenda and partly because legislators aren't spending enough time studying the issues and building cross-party allegiances.

It's time for us to admit that there is a cost to democracy. And so long as the schedules of members of Congress and candidates for federal office are filled with donor calls and fundraising events, we are paying far more through the back door than we would pay through the front door with a transparent system of public financing.

Chris Murphy represents Connecticut's 5th Congressional District in the U.S. House of Representatives.

Lake Research Partners

THE TARRANCE GROUP

MEMORANDUM

To: Interested Parties

From: Celinda Lake, David Mermin, John Norris; *Lake Research Partners*
Brian Nienaber, Ashlee Rich; *The Tarrance Group*

Re: National polling on support for a proposal to tackle big money in Congressional elections[1]

In an environment dominated by economic concerns, a new bipartisan poll reports that voters strongly support a proposal to address the influence of big money and lobbyists in Congress by providing qualified candidates limited public funding in exchange for their accepting no large contributions. This support is driven by a sense of urgency for change in Washington DC, including the way elections are funded and due to the strong perception that members of Congress are indebted to their wealthy contributors rather than average constituents.

Key Highlights

More than two-thirds of voters (67%) support providing qualified congressional candidates a limited amount public funding if they agree to take no large contributions, while just 20% are opposed and 11% are undecided. Furthermore, a larger percentage of voters favor this proposal "strongly" (44%) than those who are opposed or undecided combined.[2]

- Every major demographic group solidly favors the proposal. This includes support across party lines (69% of Democrats, 64% of Republicans, and 66% of independents). Even the least supportive demographic group still favors the proposal by a 2-to-1 ratio.

---

[1] Lake Research Partners and the Tarrance Group conducted this bipartisan survey of 800 likely voters nationwide conducted February 2-6, 2009. The survey was commissioned by the Congressional Fair Elections Coalition.

[2] Text of proposal: Under this plan, candidates for Congress could run for office without raising large campaign contributions. Instead they would collect a large number of small contributions from their home state in order to qualify for a limited amount of public funding for their campaign. They would be prohibited from taking any contributions over 100 dollars or any contributions from lobbyists. Contributions of 100 dollars or less would be matched with public funds on a four to one basis, up to a strict limit.

The call for change includes the way elections are financed. Four out of five voters (81%) believe we need to change the way elections are financed, including a majority (54%) who call for "major" changes.

Most voters believe the problem is getting worse. Nearly three out of five voters (57%) believe that our campaign finance system is getting worse, compared to only 5% who think it is improving.

A solid majority of voters believe Congress prioritizes the will of their political contributors rather than constituents. Sixty percent of voters say members of Congress are more likely to vote in a way that will please their political contributors, compared to just 20% who think that they vote for the best interests of their constituents.

Voters see large campaign contributions as a roadblock to solving the most pressing economic issues facing America. More than three quarters (79%) of voters agree with the statement "I am worried that large political contributions will prevent Congress from tackling the important issues facing America today, like the economic crisis, rising energy costs, reforming health care, and global warming."

- **This sentiment is held strongly across the board, regardless of party affiliation.** Voters across party lines agree with the statement above (82% agree for Democrats, 79% agree for independents, 77% agree for Republicans).

Voters believe that the influence of campaign money given to members of Congress was a "major factor in causing the current financial crisis on Wall Street." Nearly three in four voters (73%) said that they thought large campaign contributions from the banking industry led to lax oversight, with 56 percent agreeing strongly with the sentiment.

- **This is also held strongly across the board, regardless of party affiliation.** Voters across party lines agree with the statement above (76% agree for Democrats, 68% agree for independents, 74% agree for Republicans).

For more information on this survey, contact Celinda Lake or David Mermin at Lake Research Partners (202-776-9066) or Brian Nienaber or Ashlee Rich at the Tarrance Group (703-684-6688)



Auto Safety Group • Congress Watch • Energy Program • Global Trade Watch • Health Research Group • Litigation Group

Testimony of David Arkush, Director,
and Craig Holman, Ph.D., Government Affairs Lobbyist,
Public Citizen's Congress Watch division*

Submitted to the Committee on House Administration
on the Subject of the Fair Elections Now Act (H.R. 1826)

July 30, 2009

Chairman Brady and Ranking Member Lungren:

As the Congress addresses some of the nation's most pressing problems—financial regulation, health care and climate change—the House Committee on Administration has also appropriately decided to address an underlying systemic factor that intimately affects the policy outcomes on each of these major issues: *money in politics.*

Public Citizen is delighted that this committee recognizes that the problem of money in politics must be as high of a high priority for the Congress as it is for the American people. The American public is somewhat more hopeful now than it has been in many years that the federal government might begin to solve the nation's gravest problems. But the public is still very much worried that excessive money in politics, especially campaign contributions from the wealthy, will stymie congressional efforts.

The greatest single step that the 111th Congress could take toward ensuring that it advances the priorities of all Americans, not just wealthy special interests, is to pass the Fair Elections Now Act (H.R. 1826). This legislation would reduce the role of special interest money in elections by replacing it with a combination of small-donor contributions and public financing.

The Fair Elections Now Act (FENA) is the second part of a two-punch reform effort that began as early as 2006. The first part was the Honest Leadership and Open Government Act (HLOGA), which the 110th Congress adopted by an overwhelming, bipartisan vote. HLOGA implemented sweeping lobbying and ethics reforms, reining in undue influence-peddling through lobbyist-financed wining and dining and opening the books on the financial activities of lobbyists through real-time quarterly lobbying reports and disclosure of political contributions. Having achieved that great success, Congress is now turning to reforming the way in which campaign money influences government.

* Public Citizen is a national public interest organization with a long history of working in the interests of the American public through lobbying, litigation, regulatory oversight, research and public education.

1600 20th Street NW • Washington, DC 20009-1001 • (202) 588-1000 • www.citizen.org

215 Pennsylvania Ave SE • Washington, DC 20003-1155 • (202) 588-1000 • www.citizen.org

The 111th Congress stands at the brink of fundamentally changing "politics as usual." At least since the lobbyist corruption scandals in early 2006, Americans have demanded dramatic changes in Washington, greater transparency in government, and more accountability of money in politics. Many of these reforms have already been adopted. Now the most crucial reform – reducing the role of special interest money in campaigns – is before Congress.

Public Financing of Elections Enjoys a Long Tradition as a Mainstream Solution to the Problem of Money in Politics

Though adoption of the Fair Elections Now Act would be a landmark act, public financing of elections is anything but new and radical.

At least as early as the Progressive movement at the turn of the 20th century, efforts have been made to reform the way in which campaigns are financed, seeking to provide the resources necessary to wage competitive campaigns while reducing the troublesome sources and amounts of campaign money. One of the earliest reform proposals—mistakenly seen by many as a radical, new idea—is public financing of candidate campaigns. In its simplest form, public financing of candidate campaigns consists of providing qualified candidates with public funds to conduct their campaigns. The idea is to provide candidates with the means necessary to pay for campaign activity while easing their fundraising frenzy and lessening the perception that politicians are granting private favors in exchange for their campaign funds.

Money in politics cannot be avoided and should not necessarily be viewed as undesirable. Political campaigns are an effort to communicate messages about candidates and their issues, and to provide the public with some level of knowledge from which to make election decisions. All of these communications cost money—and a lot of it.

But private money can also undermine the integrity of elections and the broader political system. When fundraising becomes a major preoccupation of elected officials, our system of representative government is threatened at its core. From the perspective of elected officials, efforts to raise campaign funds can drastically diminish the time and attention to communicating with voters and even governing. The money chase also creates pressure to engage in ethical lapses, such as negotiating or compromising on public policy in ways that are not in the interest of voters, or worse yet trading favors for dollars. From the perspective of the electorate, excessive money in politics is perceived as corrupting to politicians, and this perception undermines public confidence in the democratic process with consequences just as grave as those of actual corruption.

The Time Has Come for Public Financing of Congressional Elections

The current economic crisis, the exorbitant cost of health care, and the looming climate disaster have made Americans more aware than ever of the pernicious grip of big money in politics. Americans have seen that large corporate interests—the health care industry, the oil and gas interests, the pharmaceutical lobby and more—wield an unacceptably strong influence over

policies in these critical areas. Even when campaign contributions only coincide with congressional votes, rather than actually influence those votes, the public perception is the same.

Against this backdrop, no one should be surprised that a recent poll showed enormous public support for removing special interest money from elections by funding them publicly. In the poll, conducted by Lake Research Partners and The Tarrance Group, 67 percent of those surveyed supported providing qualified candidates a limited amount of public funding if they agree to take no large contributions. Further, 81 percent believed that the way elections are financed should be changed. Support for reform is strong across the political spectrum. By wide margins, Democrats, Republicans, and independents all support freeing our elected officials from the special-interest money chase so that they can spend more time solving the nation's problems.

The Congress, too, is showing a great amount of enthusiasm for ending the money chase. The bipartisan Fair Elections Now Act is rapidly gaining support in the 111th Congress from a broad spectrum of congressional caucuses and leaders. The reform movement in Congress that first took hold in 2006 remains strong and committed today.

Voters have loudly demanded major changes in the way campaigns are financed, calling for an end to a system in which special-interest money overpowers citizen voices. New members of Congress and new leadership on Capitol Hill are striving to restore the public's faith in the federal government. Passing the Fair Elections Now Act is the perfect way to show the electorate that the 111th Congress is, indeed, serious about change.

Sincerely,

David Arkush,
Director
Public Citizen's Congress Watch

Craig Holman, Ph.D.
Government Affairs Lobbyist
Public Citizen

U.S. PIRG
Federation of State PIRGs

218 D Street SE,1st Floor
Washington, DC 20003
www.uspirg.org • info@uspirg.org

Phone: (202) 546-9707
Fax: (202) 546-2461

July 28th, 2009

The Honorable Robert A. Brady
Chairman, House Administration Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Brady:

We write to offer our perspective on the House Administration's hearing, "A Look at H.R. 1826 and the Public Financing of Congressional Campaigns," and to state our support of H.R. 1826, the Fair Elections Now Act (FENA), a bill introduced by Representatives John Larson (D-CT) and Walter Jones (R-NC). We ask that this letter be included in the record of the hearing.

Despite the economic downturn, influence-peddling is still a growth industry in our nation's capital. According to data compiled by the nonpartisan Center for Responsive Politics, health and insurance interests have made $16.8 million in campaign contributions to federal candidates and parties in the first part of this non-election year to make their case on health-care reform. Likewise, the energy sector made $6.1 million in federal donations, and the finance, insurance, and real estate sector contributed $23.8 million.

Elections should be about voters and issues, not insider lobbyists and large political donations. However, as a part of our nation's current money-driven campaign system, elected officials are on a never-ending fundraising treadmill—the day after they take office politicians need to turn an eye towards raising enough money for reelection. This climate can lead to legislators spending more time talking to influential big donors than other constituents.

In a recent bipartisan poll by the Tarrence Group and Lake Research, 60% of voters said they think that members of Congress are more likely to vote in a way that will please their political contributors, compared to the just 20% who thought that politicians vote in the best interests of their constituents. Americans also believe campaign contributions will impede Congress's progress on major legislation. Nearly four in five voters thought that large contributions would prevent Congress from passing reforms on hot button issues like the economy and healthcare.

The rising cost of Congressional campaigns is unsustainable. There is no end in sight to the escalation in costs, and candidates are spending more and more time trying to raise enough money just to compete. Under our current system, candidates either have to be wealthy or must spend countless hours raising money from wealthy donors and lobbyists. Additionally, legislators in Washington spend too much time raising money from specific constituencies, either from the lobbyists who later request favors from them, or from the very industries they are supposed to oversee.

The landmark legislation, the Fair Elections Now Act, offers an alternative to the current system for those who seek a Congressional seat. A candidate running under this program must demonstrate a broad base of community support by collecting a set number of small dollar donations. Once qualified, candidates receive a grant to pay for their campaigns, and receive matching funds for in-state small dollar donors.

The bill, which was introduced on March 18th, is receiving bipartisan support, and President Obama is on record as a supporter as well. President Obama signed a 2007 questionnaire expressing support for clean elections systems and said: *I agree with the campaign reform model in Maine and Arizona, which provides public funding for qualified candidates who agree to spending limits and to stop accepting*

U.S. PIRG
Federation of State PIRGs

218 D Street SE,1st Floor
Washington, DC 20003
www.uspirg.org • info@uspirg.org

Phone: (202) 546-9707
Fax: (202) 546-2461

private contributions, and I believe we need such reform at the federal level. I will make passage of such legislation one of my priorities in my campaign, and in my presidency if elected.

In addition to support inside the beltway, every major demographic group solidly favors FENA. This includes remarkable support across party lines – 69% of Democrats, 64% of Republicans, and 66% of independents. In addition, there's virtually no difference across regional lines.

We need to change the system and Americans are ready. The way forward can be found in the Fair Elections Now Act. U.S.PIRG urges you and the committee members to support this measure

Sincerely,
Lisa Gilbert
U.S.PIRG Democracy Advocate

AFSCME
We Make America Happen

Gerald W. McEntee
President

William Lucy
Secretary-Treasurer

Vice Presidents

Ken Allen
Portland, OR

Henry L. Bayer
Chicago, IL

George Boncoraglio
New York, NY

Anthony Casa
Boston, MA

Greg Devereux
Olympia, WA

Danny Donohue
Albany, NY

David R. Fillman
Harrisburg, PA

Michael Fox
Harrisburg, PA

Albert Garrett
Detroit, MI

Raglan George Jr.
New York, NY

Sherryl Gordon
Trenton, NJ

Lakesha Harrison
Oakland, CA

Danny J. Homan
Des Moines, IA

Salvatore Luciano
New Britain, CT

John A. Lyall
Worthington, OH

Roberta Lynch
Chicago, IL

Glenard S. Middleton Sr
Baltimore, MD

Veronica Montgomery-Costa
New York, NY

Doug Moore
San Diego, CA

Michael D. Murphy
Madison, WI

Henry Nicholas
Philadelphia, PA

Eddie L. Parks
Westerville, OH

Randy Perreira
Honolulu, HI

George E. Popyack
Oakland, CA

Greg Powell
Austin, TX

Laura Reyes
San Diego, CA

Eddie Rodriguez
New York, NY

Joseph P. Rugola
Columbus, OH

Kathy J. Sackman
Pomona, CA

Eliot Seide
South St. Paul, MN

Mary E. Sullivan
Albany, NY

Braulio Torres
San Juan, PR

David Warrick
Indianapolis, IN

Jeanette D. Wynn
Tallahassee, FL

323A-09
5/09

July 28, 2009

The Honorable Robert Brady
Chairman
House Committee on House Administration
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Dan Lungren
Ranking Member
House Committee on House Administration
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Brady and Ranking Member Lungren:

On behalf of the 1.6 million members of the American Federation of State, County and Municipal Employees (AFSCME), I am writing to thank you for your work on the Fair Elections Now Act (H.R. 1826). We are pleased to learn that you have planned a hearing on the bill, as this is an important step towards much-needed government reform.

Our members, like many Americans, are frustrated by the tremendous influence of corporations and special interests on their elected officials. Severing the link between money and politics will truly level the political playing field and ensure that elected officials govern in the interest of a far wider swath of Americans - including the hardworking American families who make this country run. The Fair Elections Now Act's model of citizen-funded congressional elections would combine public funds with small campaign donations, thus eliminating candidates' reliance on elite large donors and special interests.

AFSCME looks forward to working with you to secure final passage of the Fair Elections Now Act. Thank you for your time, effort, and leadership on this important issue.

Sincerely,

Charles M. Loveless
Director of Legislation

CML: cbr

American Federation of State, County and Municipal Employees, AFL-CIO
TEL (202) 429-1000 **FAX** (202) 429-1293 **TDD** (202) 659-0446 **WEB** www.afscme.org 1625 L Street, NW, Washington, DC 20036-5687

July 27, 2009

The Honorable Robert Brady
Chairman, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

The Honorable Dan Lungren
Ranking Minority Member, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

Re: League of Young Voters Supports the Fair Elections Now Act, HR 1826

Dear Representative Brady and Ranking Member Lungren,

The League of Young Voters enthusiastically supports the Fair Elections Now Act and commends you all for organizing a hearing on this important piece of legislation. The Fair Elections Now Act would create a voluntary system that would allow candidates for Congress to run for office on limited public funds and put an end to the pay to play political system we have today in Washington.

The Fair Elections Now Act will open the electoral process to all members of society without regard to their race, ethnicity, gender, sexual orientation, or age. This will allow federal candidates to spend more time focusing on the people they represent and addressing our nation's challenges, rather than on raising money.

In the seven states and two municipalities that systems that the Act is modeled on, we've seen more candidates with more diverse backgrounds seek, and win, political office. Under a citizen-funded Fair Elections system, even young people like 25 year-old State Representative Matt Lesser (D-CT) can compete with better-known candidates with networks of wealthy donors.

The Fair Elections Now Act would empower every day citizens and encourage civic engagement by focusing on small dollar contributions and reducing the dependence on big money in the electoral process. It is time for a change in our election processes, and this legislation is a critical step in the right direction. We look forward to working to ensure final passage of the Act. The Fair Elections Now Act will bring proven, practical campaign reform measures to races where they are needed the most—our elections for U.S. Congress. Thank you for your time and for taking leadership in on this issue.

Sincerely,

Charlotte Chinana
National Campaigns Director, The League of Young Voters

45 main street; suite 628; brooklyn, ny 11201
(p) 718.305.4245 (f) 718.522.4840
www.theleague.com



Cc: The Honorable Zoe Lofgren
The Honorable Michael Capuano
The Honorable Charles Gonzalez
The Honorable Susan Davis
The Honorable Artur Davis
The Honorable Dan Lungren
The Honorable Kevin McCarthy
The Honorable Gregg Harper

45 main street; suite 628; brooklyn, ny 11201
(p) 718.305.4245 (f) 718.522.4840
www.theleague.com



July 30, 2009

The Honorable Robert Brady
Chairman, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

The Honorable Dan Lungren
Ranking Minority Member, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

Re: Committee on House Administration Hearing on "A look at HR 1826 and the Public Financing of Congressional Campaigns "Fair Elections Now Act"

Dear Chairman Brady and Ranking Member Lungren:

On behalf of Public Campaign, a nonprofit, nonpartisan organization dedicated to sweeping campaign reform, I write to thank you for your leadership on the Fair Elections Now Act and commend you for holding this hearing on this critically important legislation. By providing congressional candidates the opportunity to run for office with a mixture of small donations and public financing, this historic bill will help restore public faith in our democracy, and will help foster a more open and accountable government.

Your consideration of this issue is timely because the role that campaign fundraising plays is growing with every election cycle; the public is demanding big changes in how business is conducted in Washington, D.C.; the legislation before you is well-calibrated to meet the political, legal, and policy challenges to fix our broken campaign finance system; and there are successful state policies that are mature enough to show the way forward here in the nation's capitol.

The ever-increasing money chase

As you are aware, fundraising takes more and more time each election cycle. The cost to run for the U.S. House of Representatives has skyrocketed, from an average of about $87,000 spent for successful House elections in 1976 to an average of $1.3 million in 2008. These costs outstrip inflation and have driven elected officials and challengers into a constant state of fundraising. As is routine, newly elected freshman Representatives receive a clear message from their party leaders: if you want to survive you need to have $1 million in the bank by the end of this non-election year. The quick math on that is raising a net $20,000 per week, week in and week out, without a break.

The rise in the cost of political campaigns places members of Congress in a difficult position. Instead of being able to focus without distractions on the work their constituents elected them to do, elected officials are compelled to spend significant amounts of time on the telephone and attending receptions in pursuit of the cash they need to retain their seat. The public views this practice as unseemly. Most of your colleagues quietly acknowledge it represents the worst part of their jobs.

The other dimension to the problem is where the money comes from. Who are these people writing these checks? By and large, they are a micro demographic within the 300 million plus people who live in this country. The average American can't afford to give a candidate $500, or a $1,000, or $4,800 dollars, which is the maximum allowed for an individual between the primary and the general elections. According to the Center for Responsive Politics, one tenth of one percent of the U.S. population in 2008 made a campaign contribution of $2,300 (then the maximum gift per election).[1]

Significant amounts of money come from interests with pending legislative matters before committees. We are seeing this play out right now, with banking lobbyists admitting publicly that they attend fundraisers for members on key committees because that is where they get "face time" with the elected officials. One lobbyist told the New York Times, "[Banks] understand you need a strong political action committee to get access to the fund-raisers. That's where the lawmakers are."[2]

More recently, comprehensive healthcare reform legislation is being held up in the House Energy and Commerce Committee by members who have received tens of thousands more in campaign contributions from the health and insurance industry than other members on the same committee. And the list could go on. For the public, the vast amounts of campaign money that is necessary for members of Congress to raise each cycle, and the seemingly endless availability of campaign money from vested interests, raises serious questions about exactly for whom Congress works.

The public wants change in how campaigns are financed

The 2008 election sent a clear message: voters are demanding change because they view Washington, D.C. as being out of touch and, worse, believe that *our* interests are held hostage by special interests. A public opinion survey taken the night before and on election day revealed that over three-fourths of voters agree with the statement "I am worried that large political contributions will prevent Congress from tackling the most important issues facing America today, like the economic crisis, rising energy costs, reforming health care, and global warming." Fifty-six percent of voters strongly identified with that statement.[3]

---

[1] http://www.opensecrets.org/overview/DonorDemographics.php
[2] Stephen Labaton, "Ailing, Banks Still Field Strong Lobby at Capitol," *New York Times*, June 5, 2009.
[3] Lake Research Partners and the Tarrance Group conducted this bipartisan survey of 1,000 likely voters nationwide, with an oversample of 200 cell phone interviews among likely voters, conducted November 3 - 5, 2008.

A February 2009 poll found that 57 percent of voters thought the campaign finance system was getting worse and that 60 percent of voters believe that campaign contributors have more say in decisions in our nation's capital than the concerns of constituents.

Voters embrace a system like the legislation before you. Sixty-seven percent of voters support a program that mixes public funding of elections with small donations under $100, with just 20 percent opposed. After reading a series of arguments for and against the program, support grew by a net nine percent to 73 percent for and 17 percent against. Democrats, Republicans, and Independents were all equally robust in their support for the measure. [4]

Fair Elections work

Fortunately there is a common sense answer that will refocus elections on voters and volunteers instead of campaign cash and political bundlers. The Fair Elections Now Act introduced by Reps. John Larson (D-Conn.) and Walter Jones (R-N.C.) provides candidates for Congress a way to run without having to join the big money campaign money chase.

The system is constitutional within the Buckley v. Valeo framework. It expands political speech, ensuring that those without access to wealth or political connections can speak with a forceful voice during the campaign season. Decisions in several court cases brought by opponents of the Maine and Arizona public financing of elections laws have upheld the key elements of the system.

It may seem counterintuitive for an incumbent to support a bill like this. After all, each member of Congress won their election using the current system, many on repeated occasions. Yet I know that many who serve under the Capitol dome are deeply troubled by the current unbounded private financing set-up and a good number also find campaign fundraising their least favorite part of being an elected official. The Fair Elections Now Act offers a fair and practical alternative.

State successes show the way forward

The Fair Elections system is often called "Clean Elections" at the state level. In states where it has been implemented, it has changed the face of democracy. It opens up the possibility of running for office and winning to a more diverse range of candidates. In Maine, for example, Deborah Simpson, a low wage worker, single mom, and grassroots civic activist is now a state Senator where she pays particular attention to policies that affect children living in poverty. She credits the Clean Elections system as her successful entry ticket into the political arena.

---

[4] Lake Research Partners and Tarrance Group, February 2009 survey, 1,000 voters, margin of error of +/- 3%

To date, publicly financed elections are the law for at least some offices in the following states and cities: Arizona; Connecticut; Maine; New Mexico; North Carolina; Vermont; Albuquerque, New Mexico; and Portland, Oregon. Today, nearly 400 elected officials are serving their communities after running and winning under one of these systems. In Maine and Connecticut, more than 80 percent of statehouse seats are occupied by publicly financed elected officials. In Arizona, eight of 10 statewide elected officials were elected after using that state's popular program. It should be noted that former Gov. Janet Napolitano (D-Ariz.), now Secretary of Homeland Security, was elected twice under the Arizona Clean Elections system.

***

It is possible to change politics for the better. With the palpable momentum for change in Washington, D.C., from reforming our ailing healthcare system, stabilizing our economy from the effects of the global recession, and transitioning to a clean energy economy, we must leave behind the unsustainable campaign money chase and its grossly negative side effects on our public policy decisions. We can work together to create an alternative campaign finance system based on the widely shared values of free speech, fair competition, equal opportunity, and inclusive participation. It is an idea whose time has come.

Thank you for holding this important hearing today.

Sincerely,

Nick Nyhart
President and CEO
Public Campaign

NN/SBH

cc: The Honorable Zoe Lofgren
The Honorable Michael Capuano
The Honorable Charles Gonzalez
The Honorable Susan Davis
The Honorable Artur Davis
The Honorable Kevin McCarthy
The Honorable Gregg Harper

ROCK THE VOTE

Testimony for House Administration Committee Hearing on H.R. 1826, the "Fair Elections Now Act" □ □

By: Heather Smith, President, Rock The Vote

July 30, 2009

Rock The Vote is buoyed by the prospects of the Fair Elections Now Act. It's proven impact on the state elections will be bring much needed change to a federal campaign finance system that is out of control and awash in special interest cash. The cost to run for office is skyrocketing and our elected leaders are being forced to spend countless hours dialing for dollars and attending fundraisers.

The bill, H.R. 1826, introduced by Reps. John Larson (D-Conn.) and Walter Jones (R-N.C.), would provide candidates for Congress a viable alternative to seek public office. The bill would emphasize small dollar donors over maxed out contributors and provide everyone, young and old, an opportunity to have a meaningful part of a political campaign. By making a small dollar contribution worth as much as a maxed out donation, a small contribution from a college student, recent graduate or single parent is worth just as much as one from a corporate CEO or one of their many lobbyists.

In the states where Fair Election modeled programs are up and running, we are seeing candidates from different backgrounds and life experiences seeking office. The programs are an effective way for young people to run for and thrive in political office. In Maine, Rep. Hannah Pingree (D) was first elected to the Maine House in 2004 when she was 28 years old. Her appointment to majority leader in her second term made her the youngest and only the third female legislator to hold the position and now she is the Speaker of the House.

Then there is Rep. Kevin Roldan (D), age 30, from Connecticut, who ran and won under a similar program. Kevin has the distinction of being the youngest Hispanic ever elected to the Connecticut legislature. And Henry Beck (D), who was a 22-year-old city councilman in Waterville, Maine and student at Colby College when he won the District 76 seat after beating his Republican opponent Andrew Kabatznick, a 2008 graduate from Colby College.

There are many more of these stories. And without these Fair Elections modeled programs, some of these young politicians may have been shut out of the political process because they neither had the wealth nor political connections to run a viable campaign denying us their leadership, energy, and perspective.

I want to thank the House Administration Committee for holding this hearing today and I want to urge every member of the committee to support the Fair Elections Now Act.

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

Testimony of Jonathan Wayne, Executive Director
Maine Commission on Governmental Ethics and Election Practices
to the Committee on House Administration
U.S. House of Representatives

Public Hearing on H.R. 1826 and the Public Financing of Congressional Campaigns
July 30, 2009

Dear Chairman Brady, Ranking Member Lungren, and Members of the Committee on House Administration:

Thank you for the opportunity to provide information for the July 30, 2009 public hearing on the Fair Elections Now Act (H.R. 1826). This written testimony is to provide you with information on behalf of the Maine Ethics Commission staff about the successful operation of Maine's public financing program. I will be unable to attend the hearing.

The Maine Clean Election Act (MCEA) was enacted by Maine voters in 1996 and created a voluntary program of public campaign funding for candidates for the Maine Legislature and for the office of Governor. It has been in operation for five legislative elections and two elections for Governor.

Under the MCEA, participating candidates qualify for public funding by collecting a threshold number of small contributions. After qualifying, the candidate's campaign funds are provided by the State of Maine. If candidates are running against a high-spending opponent, they may qualify to receive additional campaign funds to keep them on an even playing field with their opponent.

The MCEA program has proven to be quite successful in attracting candidates for the Legislature. In the 2008 elections, 81% of legislative candidates participated in the MCEA. Eighty-five percent of members of the current Maine Legislature financed their campaigns through the MCEA program. Six candidates for Governor qualified for public funding in the 2002 and 2006 elections, including three State Senators and a member of the State House of Representatives.

In the view of the Commission staff, the MCEA program has succeeded in creating a viable, alternative system of campaign financing, allowed participating candidates to spend more time communicating with voters, and decreased the importance of campaign fundraising in legislative and gubernatorial campaigns.

If you or members of your staff would like more information regarding the public financing of elections in Maine, please telephone me at (207) 287-4179 or read the Commission staff's 2007 Study Report at www.maine.gov/ethics. Thank you.

WASHINGTON BUREAU · NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
1156 15TH STREET, NW SUITE 915 · WASHINGTON, DC 20005 · P (202) 463-2940 · F (202) 463-2953
E-MAIL: WASHINGTONBUREAU@NAACPNET.ORG · WEB ADDRESS WWW.NAACP.ORG

July 28, 2009

Congressman Robert A. Brady
Chairman
Committee on House Administration
United States House of Representatives
Washington, DC 20515

via fax

RE: NAACP SUPPORT FOR THE *FAIR ELECTIONS NOW ACT*, H.R. 1826

Dear Chairman Brady;

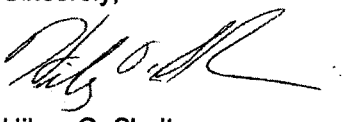
The NAACP, our nation's oldest, largest and most widely-recognized grassroots civil rights organization, would like to express our support for H.R. 1826, the *Fair Elections Now Act*, and to thank you for holding a hearing on this important topic. This vital legislation would restore public confidence in the election process and allow qualified candidates for the US House of Representatives to focus their campaigns on the voters, rather than on raising money from special interests. Furthermore, if enacted, this legislation will encourage qualified candidates for federal office who might otherwise be unenthusiastic about running by the need to court special interests.

This legislation, which is based on working models in Maine and Arizona, would create a voluntary system that gives candidates the option to stop attending fundraisers and dialing their "friends" for donations without risking a loss to a well-funded opponent. Qualified candidates for Congress would be provided with grants, matching funds, and vouchers from the Fair Elections Fund to replace campaign fundraising that largely relies on large donors and special interests. For those who choose to participate, fundraising would be limited to "seed money" in amounts of no more than $100 per person to pay for campaign start-up costs; once they are able to prove their viability, candidates will then begin to receive money from the "Fair Election

Fund." Candidates would also receive vouchers for a discount on television and radio time.

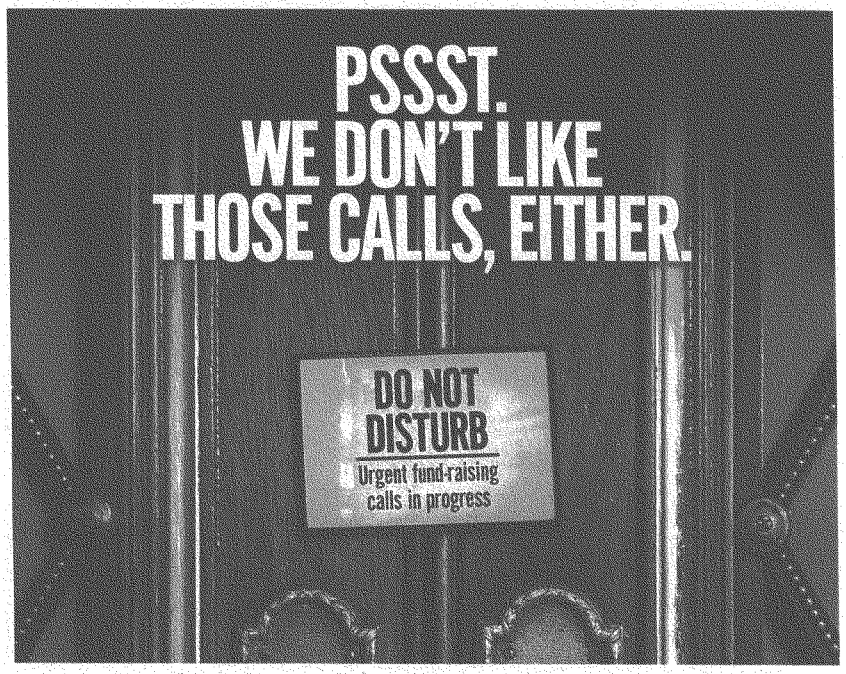
If enacted, the *Fair Elections Now Act* would restore the confidence of the voters that their federally elected officials were responsive to them, not just to big donors. It would also allow candidates to spend less time talking to special interests and more time listening to their potential constituents. Thus I again would like to thank you for holding this hearing and ask that this letter be included in the official hearing record. Thank you in advance for your attention to the concerns of the NAACP. Should you have any questions or comments, please feel free to contact me at (202) 463-2940.

Sincerely,



Hilary O. Shelton
Director, NAACP Washington Bureau &
Senior Vice President for Advocacy and Policy

ROLL CALL
THE NEWSPAPER OF CAPITOL HILL SINCE 1955
THURSDAY, JULY 30, 2009



We Business Leaders Call for an End to the Campaign Money Chase. Let's Pass H.R. 1826 and S.752: The Fair Elections Now Act.

We are on the receiving end of Senators' and Representatives' endless fund-raising calls. And trust us: we hate getting those calls every bit as much as they hate making them.

Each hour in 2008, campaigners for federal office got on the horn and raised $600,000. That's $14 million each day, $100 million each week, $5 billion for the year!

Elected officials spend so much time dialing for dollars it's as if they're moonlighting a second job. With the economy, health care, energy and so many other issues at stake, who has time for that?

So let's terminate this mutually wasteful, degrading process. Let's pass the Fair Elections Now Act.

Fair Elections candidates agree not to take contributions of more than $100 from anyone. Not lobbyists, not special interests, not their PACs. In return for swearing off high-dollar fund-raising, they receive ample public funding to run a vigorous campaign.

The American people wholeheartedly support Fair Elections. So do we. Let's get it done.

COMMON CAUSE
Holding Power Accountable.

go to: FairElectionsNow.org

PUBLIC CITIZEN

Alan Patricof, Managing Partner, Greycroft **Arnold Hiatt**, former CEO, Stride Rite Inc. **Alan G. Hassenfeld**, Chairman, Executive Committee, Hasbro, Inc. **Chang K. Park**, Chairman of the Board, Universal Remote Control, Inc. **Gerald Grinstein**, Strategic Director, Madrona Venture Group, former CEO Delta Airlines **William Ruckelshaus**, Strategic Director, Madrona Venture Group **Christie Hefner**, former Chairman & Chief Executive, Playboy Enterprises **Gordon Segal**, Chairman, Crate & Barrel **Peter A. Benoliel**, Chairman Emeritus, Quaker Chemical Corp. **Charles Couric**, Founder & Past President, Brita Products Co. **Vincent J. Ryan**, Chairman, Schooner Capital **Robert Arnow**, Chairman, Swig, Weiler & Arnow Management Co. **Alan E. Kligerman**, CEO, AkPharma Inc. **Walt Freese**, CEO, Ben & Jerry's **William N. Hubbard III**, President, Center Development Corporation **Paul Sack**, Founder, The RREEF Funds **Steven Kirsch**, CEO, Propel Accelerator **Danny Goldberg**, President, Gold Village Entertainment, Inc. **Dick Senn**, Founder & CEO, Tanamar, Inc. **Michael "Mick" Fleming**, Partner, Lane Powell PC **Gregory Gretsch**, Managing Director, Sigma Partners **Thomas Leyton**, CEO, Metaweb **Stanley Eisenberg**, former CEO, Sunnydale Farms **John H. Elliott**, President, South Carolina Elastic Co. **Mike Kappus**, President, Rosebud Agency **Arnold Miller**, Co-Founder, Isaacson Miller **Robert Sibarium**, President, Midnite Enterprises LLC **John Watts III**, Chairman Emeritus, Fischer Francis Trees & Watts, Inc. **Michael J. Johnston**, Exec. Vice President (ret.), Capital Group Companies **Berkley Bedell**, Founder & Former President, Pure Fishing **Peter Workman**, President & Publisher, Workman Publishing Company **Allan Brown**, Chairman, Vance Brown Builders **Dennis Mehiel**, Chairman & CEO, U.S. Corrugated Inc. **Frederick S. Hubbell** : *Corporate affiliations listed for identification purposes only*

Groups that Support HR 1826, Fair Elections Now Act

9to5, National Association of Working Women
AFSCME
Americans for Campaign Reform
Chesapeake Climate Action Network
Common Cause
Consumer Watchdog
Democracy 21
Friends of the Earth
Healthcare-NOW!
MoveOn.org
National Council of the Churches of Christ in the USA
Public Campaign
Public Citizen
SEIU
Sierra Club
U.S. PIRG

9to5, National Association of Working Women
207 E. Buffalo Street, Suite 211, Milwaukee, Wisconsin 53202
• (414) 274-0933 • Fax (414) 272-2870

July 24, 2009

The Honorable Robert Brady
Chairman, House Committee on House Administration
206 Cannon House Office Building
Washington, D.C. 20515

Re: Fair Elections Now Act

Dear Representative Brady:

On behalf of the Board, members and constituents of 9to5, National Association of Working Women, I write to commend you for your leadership on the Fair Elections Now Act. This bill would create a citizen-funded election system through which congressional candidates could run for office utilizing a blend of small donations and public funds.

For over three decades, 9to5 has involved low-wage working women across the country in speaking out to change policy that directly affects them. Though we've had major victories and made significant progress, the big money of entrenched special interests continues to be a formidable foe in our fight for economic justice for women. From expanding childcare access to ensuring pay equity to adopting basic labor standards and protections, the concerns of America's working women will continue to be overshadowed by the money and priorities of the big business lobby until we level the playing field in our political process.

Together, by fighting for fair elections, we can help level that playing field, increase access to the electoral system for women and people of color and lower-income individuals, and ultimately bring more fairness to the workplace for America's working women. 9to5 looks forward to working with you to pass the Fair Elections Now Act. Passing this bill is an important step towards ensuring that all Americans, not just special interests, have a voice in Washington, DC.

Sincerely,

Linda A. Meric

Linda A. Meric
Executive Director, 9to5

Cc: The Honorable Zoe Lofgren
The Honorable Michael Capuano
The Honorable Charles Gonzalez
The Honorable Susan Davis
The Honorable Artur Davis
The Honorable Dan Lungren
The Honorable Kevin McCarthy
The Honorable Gregg Harper

AFSCME
We Make America Happen

Gerald W. McEntee
President

William Lucy
Secretary-Treasurer

Vice Presidents

Ken Allen
Portland, OR

Henry L. Bayer
Chicago, IL

George Boncoraglio
New York, NY

Anthony Caso
Boston, MA

Greg Devereux
Olympia, WA

Danny Donohue
Albany, NY

David R. Fillman
Harrisburg, PA

Michael Fox
Harrisburg, PA

Albert Garrett
Detroit, MI

Raglan George Jr.
New York, NY

Sherryl Gordon
Trenton, NJ

Lakesha Harrison
Oakland, CA

Danny J. Homan
Des Moines, IA

Salvatore Luciano
New Britain, CT

John A. Lyall
Worthington, OH

Roberta Lynch
Chicago, IL

Glenard S. Middleton Sr.
Baltimore, MD

Veronica Montgomery-Costa
New York, NY

Doug Moore
San Diego, CA

Michael D. Murphy
Madison, WI

Henry Nicholas
Philadelphia, PA

Eddie L. Parks
Westerville, OH

Randy Perreira
Honolulu, HI

George E. Popyack
Oakland, CA

Greg Powell
Austin, TX

Laura Reyes
San Diego, CA

Eddie Rodriguez
New York, NY

Joseph P. Rugola
Columbus, OH

Kathy J. Sackman
Pomona, CA

Eliot Seide
South St. Paul, MN

Mary E. Sullivan
Albany, NY

Braulio Torres
San Juan, PR

David Warrick
Indianapolis, IN

Jeanette D. Wynn
Tallahassee, FL

July 28, 2009

The Honorable Robert Brady
Chairman
House Committee on House Administration
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Dan Lungren
Ranking Member
House Committee on House Administration
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Brady and Ranking Member Lungren:

On behalf of the 1.6 million members of the American Federation of State, County and Municipal Employees (AFSCME), I am writing to thank you for your work on the Fair Elections Now Act (H.R. 1826). We are pleased to learn that you have planned a hearing on the bill, as this is an important step towards much-needed government reform.

Our members, like many Americans, are frustrated by the tremendous influence of corporations and special interests on their elected officials. Severing the link between money and politics will truly level the political playing field and ensure that elected officials govern in the interest of a far wider swath of Americans - including the hardworking American families who make this country run. The Fair Elections Now Act's model of citizen-funded congressional elections would combine public funds with small campaign donations, thus eliminating candidates' reliance on elite large donors and special interests.

AFSCME looks forward to working with you to secure final passage of the Fair Elections Now Act. Thank you for your time, effort, and leadership on this important issue.

Sincerely,

Charles M. Loveless
Director of Legislation

CML: cbr

American Federation of State, County and Municipal Employees, AFL-CIO
TEL (202) 429-1000 FAX (202) 429-1293 TDD (202) 659-0446 WEB www.afscme.org 1625 L Street, NW, Washington, DC 20036-5687

For Immediate Release:

Contact: Nicholas Mitchell
603-227-0626
nick@YouStreet.org

Americans for Campaign Reform Announces Support of Fair Elections Now Legislation - Former Senators Speak Out

YOU STREET

CHAIRS
SENATORS
Bill Bradley
Bob Kerrey
Warren Rudman
Alan Simpson

(Concord, NH - March 25) Americans For Campaign Reform, a bi-partisan advocacy group based in Concord, NH has announced their support of the Fair Elections Now Act. The legislation, which will be introduced this week, provides for voluntary public funding of all Senate and House elections. Senators Durbin (D-IL) and Specter (R-PA) will introduce the Senate bill while Representatives Larson (D-CT) and Jones (R-NC) will introduce similar legislation in the House. These bills respect the importance of citizen involvement in elections by providing a match of public funds for small donations received from a candidate's constituents.

Americans for Campaign Reform is chaired by former Senators Bill Bradley (D-NJ), Bob Kerrey (D-NE), Warren Rudman (R-NH) and Al Simpson (R-WY).

According to Bradley, the cost of running for office has gotten out of control. "It used to be that you were a Senator for four years and you ran for re-election for two years. But in the current world you basically run for re-election from the day you arrive. So, you constantly have to raise money in order to get to the amount you need to be able to run an effective campaign. "When I ran for the Senate in 1978, I spent about $1.3 or $1.4 million for both my primary and general election. In 2000, the Democratic candidate who won that same Senate seat spent about $62 million."

Bradley goes on to talk about the increasing influence of lobbyists on campaign finances. "The only way to break the connection between the lobbyist and the elected official, which is one of the key political reforms of our time, is by going to public funding of all Congressional and Senate campaigns. You can do that for a little less than $2 billion a year out of a $1.6 trillion budget."

Rudman also expresses frustration about the influence of big money on our political system. "There's an overwhelming cynicism of the American people in their government. It's caused by a lot of reasons, but I think one of the principle reasons is a feeling that the Congress has been corrupted by special interest money. I think the continuation of the present system will continue to erode what confidence is left in the government by the America people.

###

For complete information about Americans for Campaign Reform please refer to www.YouStreet.org.



March 24, 2009

Congressman John Larson
United States House of Representatives
106 Cannon House Office Building
Washington, D.C. 20510

Dear Congressman Larson:

Chesapeake Climate Action Network praises your dedication to changing the way America pays for elections by supporting the Fair Elections Now Act. The bill would eliminate the rising campaign costs and the influx of large contributions acting as a corrosive agent in politics. The bill would create a voluntary system in which U.S. House candidates can receive federal campaign funds with a four to one match on small dollar donations up to a limit.

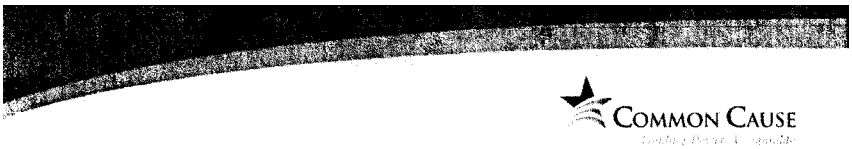
For far too long, we have seen the deterioration of our environment because policymakers are forced to comply with the stimulations of large campaign contributions from oil, gas and coal industries. The hope is that the Fair Elections Now Act would eradicate the pay-to-play politics by keeping the major issues facing our country separate from the influence of special interests contributions.

The Fair Elections Now Act would increase the amount of access and accountability – two variables of democracy that would country desperately needs. The bill is a step in the right direction by reducing the importance of fundraising in the electoral process. Thank you for your assistance in the final passage of the Fair Elections Now Act.

Sincerely,

Kirsten Collings
Campaign Director
Chesapeake Climate Action Network

P.O. Box 11138 Takoma Park, MD 20912 (301) 891-6726



June 2, 2009

The Honorable John Larson
106 Cannon HOB
Washington, DC 20515

Dear Representative Larson:

Common Cause strongly endorses the Fair Elections Now Act, H.R. 1826, introduced by Representatives John Larson (D-Conn.) and Walter Jones, Jr. (R-N.C.), to create a voluntary system in which candidates who agree to take only small individual contributions can receive ample public funds to run a competitive campaign. On behalf of Common Cause's 400,000 members and supporters around the country, we urge you to support and to co-sponsor this legislation.

Under the Fair Elections Now Act, candidates for Congress could run for office without relying on large contributions and big money bundlers, and would be freed from constant fundraising in order to focus on what people in their communities want.

This proposal already enjoys a broad range of support from organizations and the public at large. Attached to this letter is a list of supporting organizations, including major allies from the civil rights, environmental, health care, labor, and faith communities. The public support for Fair Elections is similarly dramatic: by a better than three-to-one margin (67% / 20%), voters in a February poll supported this modern, citizen-funded election system.

Most critically, this is a much different proposal, in much different political circumstances, than past efforts to enact comprehensive campaign finance reform. The Fair Elections Now Act incorporates both the best practices from states with successful citizen-funded election systems as well as the lessons of the 2008 election to create a new, forward-looking program that amplifies the role of small donors with limited public funds and removes the hard spending limits of past systems.

Politically, the time is right for this reform. The media and Members themselves have begun to shine a spotlight on the recycling of earmarks into campaign contributions, and vice versa. Fundraising is harder in an economic downturn, as you've surely found, yet the demand for more campaign funds has increased to an unsustainable level as costs skyrocket.

The Fair Elections Now Act is the single best method to address this erosion of public trust and the endless hours of fundraising that pulls you and other elected officials away from the core of

your job. Citizen-funded elections already work in states like Arizona, Connecticut, and Maine, and now we're poised to enact them at the federal level.

Common Cause is asking you to co-sponsor and support the Fair Elections Now Act (H.R. 1826). Thank you for your work and your commitment to public service.

Sincerely,

Bob Edgar
President, Common Cause

Sarah Dufendach
Vice President, Legislative Affairs
Common Cause

P.S. Please visit www.commoncause.org/FairElectionsNowAct or contact Sarah Dufendach at (202) 736-5709 or sdufendach@commoncause.org for more information.

Consumer Watchdog

July 27, 2009

The Honorable Robert Brady
Chairman, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

The Honorable Dan Lungren
Ranking Member, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

Re: Fair Elections Now Act, HR 1826

Dear Chairman Brady and Ranking Member Lungren:

On behalf of Consumer Watchdog, one of the nation's leading consumer advocacy groups, I write to thank you for your leadership on the Fair Elections Now Act. By providing public financing for congressional candidates, this historic bill will help create the open and accountable government that the American people demand.

With the palpable momentum for change in Washington, from reforming our ailing health care system to transitioning to a clean energy economy, special interests are making every effort to preserve the status quo. Consumer Watchdog, with decades of experience in campaign reform and consumer advocacy, knows all too well that achieving real change in Washington will require comprehensive public financing of our elections. The Fair Elections Now Act would do just that in Congress by creating a citizen-funded election system where congressional candidates could run for office on a blend of small donations and public funds.

The Fair Elections Now Act is critical to ensuring that our elected leaders keep their promise to be agents of change, rather than the status quo. Consumer Watchdog looks forward to working with you to ensure final passage of the Fair Elections Now Act.

Sincerely,

Carmen Balber
Washington, D.C. Director

Cc: The Honorable Zoe Lofgren
The Honorable Michael Capuano
The Honorable Charles Gonzalez
The Honorable Susan Davis
The Honorable Artur Davis
The Honorable Kevin McCarthy
The Honorable Gregg Harper



March 31, 2009

Senator Richard Durbin
309 Hart Senate Office Building
Washington, DC 20510

Dear Senator Durbin,

Democracy 21 greatly appreciates your taking the lead in the Senate on behalf of legislation to establish a system of public financing for congressional elections. We join in offering our support for the Fair Elections Now Act that you and Senator Arlen Specter are sponsoring.

Your legislation provides the nation with the opportunity to reduce the influence of special interest influence money in Congress and to increase the voice of the American people. The bill provides candidates with the opportunity to run competitive races for Congress without having to become indebted to large contributors and the bundlers who raise these contributions.

Changing the way campaigns are financed is the overriding government integrity reform issue facing the country. The solution is public financing of elections.

The Washington influence culture of special interests, lobbyists and campaign contributions have combined repeatedly to exercise undue influence over government decisions, at the great expense of the American people.

It is widely recognized, for example, that the absence of effective regulation of our financial institutions played a key role in triggering the current financial and economic crisis. A major factor in the absence of such effective regulation, no doubt, was the *$1.5 billion* in contributions given in the past decade by financial institutions to federal candidates and their political parties.

This example and numerous others over the years make a powerful case for public financing of congressional elections in order to obtain policy decisions that better reflect the interests and needs of the American people.

The presidential public financing system, enacted in 1974, became the most striking symbol of the movement for public financing of elections. The system was described by *Washington Post* columnist E.J. Dionne in 2006 as the "rare reform that accomplished exactly what it was supposed to achieve" for most of its existence.

The presidential public financing system served the nation well but is broken now and needs to be repaired. We appreciate your co-sponsorship in the last Congress of legislation introduced by Senators Russell Feingold and Barack Obama to fix the presidential system.

In both the proposal to repair the presidential public financing system and the proposal to establish a new system for congressional races, small donors would become the main source of private contributions for federal elections and would combine with public funds to finance federal elections.

Small donor Internet fundraising, a potential revolutionary development in financing campaigns, allows candidates to raise large sums of small, broad-based, non-influence seeking contributions and to do so at almost no cost and with little need for the candidate's time. It also strengthens our democracy by creating new opportunities for citizens to participate in the political process.

The battle lines for campaign finance reform are now drawn: we must fix the existing public financing system for presidential elections and establish a new public financing system for congressional races.

These reforms would fundamentally change the way Washington works. They are essential to protecting the integrity of our democracy and the interests of the American people in fair government decisions.

Sincerely



Fred Wertheimer
President

Friends of the Earth

March 23, 2009

Congressman John Larson
United States House of Representatives
106 Cannon House Office Building
Washington, D.C. 20510

Dear Congressman Larson:

Friends of the Earth commends applauds the introduction of the Fair Elections Now Act and commends you and Sen. Arlen Specter (R-Pa.) for sponsoring this important piece of legislation. The bill would create a voluntary system of campaign financing to provide qualified U.S. Senate candidates with the option to receive federal campaign funds with a four to one match on small dollar donations up to a limit.

The coal, oil and gas industries use their wealth to spend money lobbying and donating to congressional campaigns to win influence in Washington, so they can block Congress from passing legislation to halt global warming and green our economy. Instead of chasing big contributions to pay for their next elections, members of Congress could spend time doing their jobs – like listening to their constituents who want real progress on the environment.

The Fair Elections Now Act will help change the face of our democracy. It will empower people from all walks of life to be more active in the political process. Friends of the Earth looks forward to working with you to ensure final passage of the Act. Thank you for your time and for taking leadership in on this issue.

Sincerely,

Brent Blackwelder
President
Friends of the Earth

Rose Ann DeMoro
Executive Director
California Nurses Association

Dr. Quentin Young
Co-Founder
Physicians for a National Health Program
Chicago, IL

Healthcare - NOW!

339 Lafayette Street, New York, NY 10012-2725
Phone: (212) 475-8350 or (800) 453-1305

Marilyn Clement
National Coordinator
New York, NY

Leo Gerard
President
The United Steelworkers
Pittsburgh, PA

Jim Winkler
General Secretary
General Board of Church & Society
United Methodist Church
Washington, DC

July 24, 2009

The Honorable Robert Brady
Chairman, House Committee on House Administration
206 Cannon House Office Building
Washington, D.C. 20515

Dear Representative Brady,

Healthcare-NOW! strongly supports your leadership on the Fair Elections Now Act, H.R. 1826. Your decision to hold a hearing on this important issue will help to usher the bill onto the national stage, a crucial step towards its successful passage.

The corrosive influence of money is keeping too many lawmakers from listening to their constituents. Indeed, political campaigns have become so costly that legislators are beholden to their contributors, rather than accountable to the citizens they represent. There is no better example of this corruption than the ongoing battle for comprehensive health care reform. As a result of the health care industry's tremendous campaign contributions and lobbying expenditures, the supermajority of citizen support for dramatic health care reform does not have a corresponding level of support within Congress.

We at Healthcare-NOW! have seen firsthand that the most significant roadblock to comprehensive health care reform is the staggering influence of the health care industry over lawmakers. By creating a system of citizen-financed congressional elections, the Fair Elections Now Act would break the constant gridlock created by special interest and allow legislators to focus on enacting meaningful reform, be it health care, or any of the other urgent issues that are important to the American people.

Thank you again for your support of the Fair Elections Now Act, and Healthcare-NOW! looks forward to working with you to ensure the passage of this essential legislation.

Sincerely,

Katie Robbins
Assistant National Coordinator
Healthcare-NOW!

Cc: The Honorable Zoe Lofgren
The Honorable Dan Lungren
The Honorable Kevin McCarthy
The Honorable Charles Gonzalez
The Honorable Artur Davis
The Honorable Michael Capuano
The Honorable Gregg Harper
The Honorable Susan Davis

MoveOn.ORG
POLITICAL ACTION

STATEMENT ON BIPARTISAN FAIR ELECTIONS NOW ACT

March 26, 2009

"For too long, Washington has been beholden to fat cat donors and corporate special interests. It is time we end the undue influence these groups have and return power to where it belongs – in the hands of the people.

"It is simple. If we have elections funded by corporate interests, we will have a government beholden to corporate interests. If we have elections funded by the people, we will have a government beholden only to the people.

"MoveOn.org strongly endorses the Fair Elections Now Act and applauds Assistant Senate Majority Leader Dick Durbin (D-Ill.), Senator Arlen Specter (R-Pa.), House Democratic Caucus Chair John Larson (D-Conn.), and Representative Walter Jones (R-N.C.) for this bipartisan and pragmatic approach to fixing the broken campaign finance system.

"Since our founding, MoveOn has provided average citizens the tools to become more involved in government and policy debates. We can see few better ways to continue this work than through working to support the Fair Elections Now Act.

"MoveOn will mobilize hundreds of thousands of our members around the country to urge their elected representatives to co-sponsor this important legislation and work with the sponsors to pass this vital legislation."

###

National Council of the Churches of Christ in the USA
475 Riverside Drive, Suite 800 · New York, NY 10115-0050 · www.ncccusa.org
Justice & Advocacy and Communication · P: 212-870-2048 · F: 212-870-2030 · E: wpattillo@ncccusa.org

July 23, 2009

The Honorable Robert Brady
Chairman, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

The Honorable Dan Lungren
Ranking Minority Member, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

Dear Representative Brady and Ranking Member Lungren,

The National Council of the Churches of Christ USA warmly applauds your support and leadership with respect to the Fair Elections Now Act, H.R. 1826. Your decision to hold a hearing on the issue will help move this important legislation onto the national stage and ultimately lead to its successful passage.

Evidence of repeated corruption, conflicts of interest, and lack of accountability has led many Americans to regard their government with widespread cynicism and has led to a rising crisis of confidence in the American democratic system. The time is overdue to restore that confidence by granting conscientious citizens the honest and responsive government they deserve.

We believe that the Fair Elections Now Act will do just that by alleviating the pressure of constant fundraising and allowing legislators to spend more time hearing from their constituents, rather than seeking the support of wealthy donors.

The National Council of Churches, with our 100,000 local congregations and 45 million adherents, believes this is an ethical issue; a fundamental pillar of our democracy is at stake.

We look forward to working with you to fight for fair play in the election process and against corruption in Washington. Let us begin by securing the critical passage of this Act. We know that your leadership will be pivotal in ensuring this is accomplished; we commend you for your noble efforts, every step of the way.

Sincerely,

Wesley M. Pattillo

Wesley M. Pattillo
Senior Program Director for Justice, Advocacy and Communication
The National Council of the Churches of Christ USA

Cc: The Honorable Zoe Lofgren
The Honorable Michael Capuano
The Honorable Charles Gonzalez
The Honorable Susan Davis
The Honorable Artur Davis
The Honorable Dan Lungren
The Honorable Kevin McCarthy
The Honorable Gregg Harper

PUBLIC CAMPAIGN
CLEAN MONEY CLEAN ELECTIONS

July 30, 2009

The Honorable Robert Brady
Chairman, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

The Honorable Dan Lungren
Ranking Minority Member, House Committee on House Administration
United States House of Representatives
Washington, D.C. 20515

Re: Committee on House Administration Hearing on "A look at HR 1826 and the Public Financing of Congressional Campaigns "Fair Elections Now Act"

Dear Chairman Brady and Ranking Member Lungren:

On behalf of Public Campaign, a nonprofit, nonpartisan organization dedicated to sweeping campaign reform, I write to thank you for your leadership on the Fair Elections Now Act and commend you for holding this hearing on this critically important legislation. By providing congressional candidates the opportunity to run for office with a mixture of small donations and public financing, this historic bill will help restore public faith in our democracy, and will help foster a more open and accountable government.

Your consideration of this issue is timely because the role that campaign fundraising plays is growing with every election cycle; the public is demanding big changes in how business is conducted in Washington, D.C.; the legislation before you is well-calibrated to meet the political, legal, and policy challenges to fix our broken campaign finance system; and there are successful state policies that are mature enough to show the way forward here in the nation's capitol.

The ever-increasing money chase

As you are aware, fundraising takes more and more time each election cycle. The cost to run for the U.S. House of Representatives has skyrocketed, from an average of about $87,000 spent for successful House elections in 1976 to an average of $1.3 million in 2008. These costs outstrip inflation and have driven elected officials and challengers into a constant state of fundraising. As is routine, newly elected freshman Representatives receive a clear message from their party leaders: if you want to survive you need to have $1 million in the bank by the end of this non-election year. The quick math on that is raising a net $20,000 per week, week in and week out, without a break.

The rise in the cost of political campaigns places members of Congress in a difficult position. Instead of being able to focus without distractions on the work their constituents elected them to do, elected officials are compelled to spend significant amounts of time on the telephone and attending receptions in pursuit of the cash they need to retain their seat. The public views this practice as unseemly. Most of your colleagues quietly acknowledge it represents the worst part of their jobs.

The other dimension to the problem is where the money comes from. Who are these people writing these checks? By and large, they are a micro demographic within the 300 million plus people who live in this country. The average American can't afford to give a candidate $500, or a $1,000, or $4,800 dollars, which is the maximum allowed for an individual between the primary and the general elections. According to the Center for Responsive Politics, one tenth of one percent of the U.S. population in 2008 made a campaign contribution of $2,300 (then the maximum gift per election).[1]

Significant amounts of money come from interests with pending legislative matters before committees. We are seeing this play out right now, with banking lobbyists admitting publicly that they attend fundraisers for members on key committees because that is where they get "face time" with the elected officials. One lobbyist told the New York Times, "[Banks] understand you need a strong political action committee to get access to the fund-raisers. That's where the lawmakers are."[2]

More recently, comprehensive healthcare reform legislation is being held up in the House Energy and Commerce Committee by members who have received tens of thousands more in campaign contributions from the health and insurance industry than other members on the same committee. And the list could go on. For the public, the vast amounts of campaign money that is necessary for members of Congress to raise each cycle, and the seemingly endless availability of campaign money from vested interests, raises serious questions about exactly for whom Congress works.

The public wants change in how campaigns are financed

The 2008 election sent a clear message: voters are demanding change because they view Washington, D.C. as being out of touch and, worse, believe that *our* interests are held hostage by special interests. A public opinion survey taken the night before and on election day revealed that over three-fourths of voters agree with the statement "I am worried that large political contributions will prevent Congress from tackling the most important issues facing America today, like the economic crisis, rising energy costs, reforming health care, and global warming." Fifty-six percent of voters strongly identified with that statement.[3]

---

[1] http://www.opensecrets.org/overview/DonorDemographics.php

[2] Stephen Labaton. "Ailing, Banks Still Field Strong Lobby at Capitol," *New York Times*, June 5, 2009.

[3] Lake Research Partners and the Tarrance Group conducted this bipartisan survey of 1,000 likely voters nationwide, with an oversample of 200 cell phone interviews among likely voters, conducted November 3 - 5, 2008.

A February 2009 poll found that 57 percent of voters thought the campaign finance system was getting worse and that 60 percent of voters believe that campaign contributors have more say in decisions in our nation's capital than the concerns of constituents.

Voters embrace a system like the legislation before you. Sixty-seven percent of voters support a program that mixes public funding of elections with small donations under $100, with just 20 percent opposed. After reading a series of arguments for and against the program, support grew by a net nine percent to 73 percent for and 17 percent against. Democrats, Republicans, and Independents were all equally robust in their support for the measure.[4]

Fair Elections work

Fortunately there is a common sense answer that will refocus elections on voters and volunteers instead of campaign cash and political bundlers. The Fair Elections Now Act introduced by Reps. John Larson (D-Conn.) and Walter Jones (R-N.C.) provides candidates for Congress a way to run without having to join the big money campaign money chase.

The system is constitutional within the Buckley v. Valeo framework. It expands political speech, ensuring that those without access to wealth or political connections can speak with a forceful voice during the campaign season. Decisions in several court cases brought by opponents of the Maine and Arizona public financing of elections laws have upheld the key elements of the system.

It may seem counterintuitive for an incumbent to support a bill like this. After all, each member of Congress won their election using the current system, many on repeated occasions. Yet I know that many who serve under the Capitol dome are deeply troubled by the current unbounded private financing set-up and a good number also find campaign fundraising their least favorite part of being an elected official. The Fair Elections Now Act offers a fair and practical alternative.

State successes show the way forward

The Fair Elections system is often called "Clean Elections" at the state level. In states where it has been implemented, it has changed the face of democracy. It opens up the possibility of running for office and winning to a more diverse range of candidates. In Maine, for example, Deborah Simpson, a low wage worker, single mom, and grassroots civic activist is now a state Senator where she pays particular attention to policies that affect children living in poverty. She credits the Clean Elections system as her successful entry ticket into the political arena.

---

[4] Lake Research Partners and Tarrance Group, February 2009 survey, 1,000 voters, margin of error of +/- 3%

To date, publicly financed elections are the law for at least some offices in the following states and cities: Arizona; Connecticut; Maine; New Mexico; North Carolina; Vermont; Albuquerque, New Mexico; and Portland, Oregon. Today, nearly 400 elected officials are serving their communities after running and winning under one of these systems. In Maine and Connecticut, more than 80 percent of statehouse seats are occupied by publicly financed elected officials. In Arizona, eight of 10 statewide elected officials were elected after using that state's popular program. It should be noted that former Gov. Janet Napolitano (D-Ariz.), now Secretary of Homeland Security, was elected twice under the Arizona Clean Elections system.

***

It is possible to change politics for the better. With the palpable momentum for change in Washington, D.C., from reforming our ailing healthcare system, stabilizing our economy from the effects of the global recession, and transitioning to a clean energy economy, we must leave behind the unsustainable campaign money chase and its grossly negative side effects on our public policy decisions. We can work together to create an alternative campaign finance system based on the widely shared values of free speech, fair competition, equal opportunity, and inclusive participation. It is an idea whose time has come.

Thank you for holding this important hearing today.

Sincerely,

Nick Nyhart
President and CEO
Public Campaign

NN/SBH

cc: The Honorable Zoe Lofgren
The Honorable Michael Capuano
The Honorable Charles Gonzalez
The Honorable Susan Davis
The Honorable Artur Davis
The Honorable Kevin McCarthy
The Honorable Gregg Harper



Auto Safety Group • Congress Watch • Energy Program • Global Trade Watch • Health Research Group • Litigation Group

March 26, 2009

The Hon. Richard Durbin
The Hon. Arlen Specter
United States Senate
Washington, D.C. 20510

Dear Senators Durbin and Specter:

Public Citizen heartily applauds your bipartisan legislation – known as the "Fair Elections Now Act" – that would take large special interest money out of elections, empower small donors, and ensure that members of Congress can spend more time solving the nation's problems instead of raising campaign funds. We also applaud Reps. John Larson, Walter Jones and Todd Platts for introducing companion legislation in the House. This is a critical reform measure that is long overdue in Washington.

The Fair Elections Now Act would fundamentally change the way congressional elections are financed by:

- Providing viable candidates with a substantial grant of public dollars to finance their campaigns in exchange for eschewing any contributions over $100;
- Offering a match of $4 in public money for every $1 raised from individuals, up to a maximum contribution of $100 from private donors; and
- Giving vouchers for television airtime to qualified candidates to help reduce the costs of campaigns.

The Fair Elections Now Act is the product of two years of legislative deliberation by your offices. It completes the second part of a two-step reform drive on Capitol Hill – the first step was to rein in lobbying abuses, and the second is to rein in the influence of large special interest money in financing campaigns.

The Fair Elections Now Act already has gained editorial support nationwide and is favored in poll after poll by strong majorities of voters across political parties – among Democrats, Republicans, and Independents alike. Unlike previous reform bills, this one stands a very good chance of gaining approval both in Congress and in the White House as the current

leadership on Capitol Hill continues to strive to restore the public's faith in the federal government.

Public Citizen stands firmly behind your newest reform effort.

Sincerely,

David Arkush
Director,
Public Citizen's Congress Watch division

Craig Holman, Ph.D.
Government Affairs Lobbyist,
Public Citizen

April 6, 2009

SEIU
Stronger Together

ANDREW L. STERN
International President

ANNA BURGER
International Secretary-Treasurer

ANNELLE GRAJEDA
Executive Vice President

MARY KAY HENRY
Executive Vice President

GERRY HUDSON
Executive Vice President

ELISEO MEDINA
Executive Vice President

DAVE REGAN
Executive Vice President

TOM WOODRUFF
Executive Vice President

SERVICE EMPLOYEES
INTERNATIONAL UNION
CTW, CLC

1800 Massachusetts Ave NW
Washington, D.C. 20036

202.730.7000
TDD: 202.730.7481
www.SEIU.org

The Honorable Richard Durbin
United State Senate
309 Hart Senate Office Building
Washington, DC 20510

Re: Fair Elections Now Act

Dear Senator Durbin:

I am writing on behalf of the over 2 million members of the Service Employees International Union (SEIU) to thank you for your sponsorship of the Fair Elections Now Act. This legislation will help level the playing field for Main Street Americans to participate in our political process on the same basis as wealthy campaign contributors and special interests. Americans are right to be skeptical about the political process when billions of dollars of special interest money flow into candidates' campaign treasuries, and candidates spend far too much of their time courting money from the wealthiest among us. As the costs of campaigns continue to escalate, politicians loose their connection with the interests and concerns of voters who are unable to make massive contributions to their campaigns and focus their attention on the needs of large contributors and special interests.

Over a hundred thousand members of SEIU contribute an average of between $3 and $5 every payday to their federal political action fund through voluntary payroll deductions. These contributions give our members a voice in the political process and are used to support candidates who support the issues which are important to working families. In the last election millions of other American contributed small amounts to candidates through the internet. Both of these developments are evidence of the vibrancy of our democracy, but more needs to be done. We need a level playing field for our electoral system based on public financing for candidates and the active participation of average Americans in the political process.

The Fair Elections Now Act makes significant progress toward these goals by recognizing the unique value of small political contributions from a broad base of voters and by helping to break the bonds between candidates and large contributors and special interests through the availability of public financing. The Fair Elections Now Act is a bill whose time has clearly come and we look forward to supporting your efforts to secure enactment of this important legislation. Should you have any questions contact Alison Reardon, director of Legislation, at 202-730-7706 or alison.reardon@seiu.org.

Sincerely,

Anna Burger

Anna Burger
International Secretary-Treasurer

AB:JS:gmb

opeiu#2
afl-cio, clc

SIERRA CLUB
FOUNDED 1892

March 25, 2009

Congressman John B. Larson
United States House
106 Canon House Office Building
Washington, D.C. 20510

Dear Congressman Larson:

The Sierra Club commends you for your leadership regarding the Fair Elections Now Act. The bill would create a voluntary system of campaign financing to provide qualified U.S. House candidates with the option to receive federal campaign funds with a four to one match on small dollar donations up to a limit.

Sierra Club endorses the Fair Elections Now Act because this proposal reduces the excessive dependence on large dollar contributions from polluters like the oil, gas, and coal industries who repeatedly block legislation that protects our environment. Instead of focusing on the major issues facing our country like global climate change, elected officials in Washington spend too much time raising money from the lobbyists and industries they're suppose to oversee.

The Fair Elections Now Act would help strengthen public confidence in our electoral process by reducing the importance of fundraising in the electoral process. It is time for us to change the way we fund our campaigns and this legislation is a critical step in the right direction. We look forward to working with you to ensure final passage of the Fair Elections Now Act.

Sincerely,

Carl Pope
Executive Director
Sierra Club

408 C Street, N.E. Washington, D.C. 20002 TEL:(202) 547•1141 FAX:(202) 547-6009 www.sierraclub.org

SIERRA CLUB
FOUNDED 1892

March 25, 2009

Congressman Walter B. Jones, Jr.
United States House
2333 Rayburn House Office Building
Washington, D.C. 20510

Dear Congressman Jones:

The Sierra Club commends you for your leadership regarding the Fair Elections Now Act. The bill would create a voluntary system of campaign financing to provide qualified U.S. House candidates with the option to receive federal campaign funds with a four to one match on small dollar donations up to a limit.

Sierra Club endorses the Fair Elections Now Act because this proposal reduces the excessive dependence on large dollar contributions from polluters like the oil, gas, and coal industries who repeatedly block legislation that protects our environment. Instead of focusing on the major issues facing our country like global climate change, elected officials in Washington spend too much time raising money from the lobbyists and industries they're suppose to oversee.

The Fair Elections Now Act would help strengthen public confidence in our electoral process by reducing the importance of fundraising in the electoral process. It is time for us to change the way we fund our campaigns and this legislation is a critical step in the right direction. We look forward to working with you to ensure final passage of the Fair Elections Now Act.

Sincerely,

Carl Pope
Executive Director
Sierra Club

408 C Street, N.E. Washington, D.C. 20002 TEL: (202) 547-1141 FAX: (202) 547-6009 www.sierraclub.org

U.S. PIRG
federation of State PIRGs

218 D Street SE, 1st Floor
Washington, DC 20003
www.uspirg.org • info@uspirg.org
Phone: (202) 546-9707
Fax: (202) 546-2461

July 28th, 2009

The Honorable Robert A. Brady
Chairman, House Administration Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Brady:

We write to offer our perspective on the House Administration's hearing, "A Look at H.R. 1826 and the Public Financing of Congressional Campaigns," and to state our support of H.R. 1826, the Fair Elections Now Act (FENA), a bill introduced by Representatives John Larson (D-CT) and Walter Jones (R-NC). We ask that this letter be included in the record of the hearing.

With healthcare, energy policy, and financial market reform debates in Washington, D.C., special-interest money is making its impact on our legislators.

According to data compiled by the nonpartisan Center for Responsive Politics, health and insurance interests have made $16.8 million in campaign contributions to federal candidates and parties in the first part of this non-election year to make their case on health-care reform. Likewise, the energy sector made $6.1 million in federal donations, and the finance, insurance, and real estate sector contributed $23.8 million. Despite the economic downturn, influence-peddling is a growth industry in our nation's capital.

Elections should be about voters and issues, not insider lobbyists and large political donations. However, as a part of our nation's current money driven campaign system, elected officials are on a never-ending fundraising treadmill—the day after they take office politicians need to turn an eye towards raising enough money for reelection. This climate can lead to legislators spending more time talking to influential big donors than other interests.

In a recent bipartisan poll by the Tarrence Group and Lake Research, 60% of voters said they think that members of Congress are more likely to vote in a way that will please their political contributors, compared to the just 20% who thought that politicians vote in the best interests of their constituents. Americans also believe campaign contributions will impede Congress's progress on major legislation. Nearly four in five voters thought that large contributions would prevent Congress from passing reforms on hot button issues like the economy and education.

The rising cost of Congressional campaigns is unsustainable. There is no end in sight to the escalation in costs, and candidates are spending more and more time trying to raise enough money just to compete. Under our current system, candidates either have to be wealthy or must spend countless hours raising money from wealthy donors and lobbyists. Additionally, legislators in Washington spend too much time raising money from specific constituencies, either from the lobbyists who later request favors from them, or from the very industries they are supposed to oversee.

The landmark legislation, the Fair Elections Now Act, offers an alternative to the current system for those who seek a Congressional seat. A candidate running under this program must demonstrate a broad base of community support by collecting a set number of small dollar donations. Once qualified, candidates receive a grant to pay for their campaigns, and receive matching funds for in-state small dollar donors.

The bill, which was introduced on March 18th, is receiving bipartisan support, and President Obama is on record as a supporter as well. President Obama signed a 2007 questionnaire expressing support for

[illegible] • [illegible] • [illegible] • [

U.S. PIRG
Federation of State PIRGs

218 D Street SE, 1st Floor
Washington, DC 20003
www.uspirg.org • info@uspirg.org
Phone: (202) 546-9707
Fax: (202) 546-2161

clean elections systems and said: *I agree with the campaign reform model in Maine and Arizona, which provides public funding for qualified candidates who agree to spending limits and to stop accepting private contributions, and I believe we need such reform at the federal level. I will make passage of such legislation one of my priorities in my campaign, and in my presidency if elected.*

In addition to support inside the beltway, every major demographic group solidly favors FENA. This includes remarkable support across party lines – 69% of Democrats, 64% of Republicans, and 66% of independents. In addition, there's virtually no difference across regional lines.

We need to change the system and Americans are ready. The way forward can be found in the Fair Elections Now Act. U.S.PIRG urges you and the committee members to support this measure

Sincerely,
Lisa Gilbert
U.S.PIRG Democracy Advocate