



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

**Testimony of Jonathan Wayne, Executive Director of the  
Commission on Governmental Ethics and Election Practices  
before the Joint Standing Committee on Veterans and Legal Affairs  
February 14, 2018**

Senator Mason and Representative Luchini, distinguished members of the committee: my name is Jonathan Wayne, and I am the Executive Director of the Maine Ethics Commission. Thank you for the opportunity to testify in support of LD 1780, which is an agency bill to request one-time additional revenue of \$700,000 to the Maine Clean Election Fund to minimize the risk of a shortfall in the Fund midway through the 2018 election year. (The bill was originally drafted in December 2017 to request a larger amount, which we have reduced in light of additional information now available.)

Under current law, the Commission is obligated to pay both legislative and gubernatorial candidates who successfully qualify for Maine Clean Election Act (MCEA) funding. Payments to MCEA candidates are made from a single account, the Maine Clean Election Fund.

If the Legislature wishes to minimize the risk of a shortfall during this year's elections, the Commission staff suggests having sufficient funding for three gubernatorial candidates for the primary election and two gubernatorial candidates in the general election (shown as scenario B on page 3 of this handout).<sup>1</sup> In this scenario, we estimate that the Maine Clean Election Fund would need a one-time transfer of \$700,000 to avoid running out of money. If fewer candidates for Governor qualify for funding for the 2018 primary and general elections, no shortfall will occur.

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<sup>1</sup> In order to qualify for MCEA funding, candidates for Governor must qualify for the ballot and collect 3,200 qualifying contributions by April 2<sup>nd</sup>. This is going to be difficult for most of the gubernatorial candidates who have declared an interest in qualifying for this funding.

*Effects of a shortfall.* In scenario B, the Commission staff estimates that the shortfall *could* be in the range of \$400,000 - \$700,000, but it would depend on how many legislative candidates are in the program and to what extent candidates qualify for supplemental payments based on collecting additional qualifying contributions. Any shortfall would cause alarm for both legislative and gubernatorial candidates, and would shake confidence in the program.

Nevertheless, the candidates could still receive most of the public funds for which they could qualify (probably in the range of 90%). To make up for the reduced payment amounts, the Commission could authorize candidates to collect traditional campaign contributions. There are various ways to structure this, and the final decision would be made by the Commissioners after receiving input, and with as much advance notice to candidates as is practical so that they could plan ahead.

For members who are new to the State's management of the Maine Clean Election Fund, I have attached a history of deappropriations from the Fund and revenue that the Legislature has provided to replenish the Fund when necessary.

Thank you for your consideration of this testimony.

### 3 Scenarios – Candidates for Governor in 2018 (2/14/2018)

#### Primary Election

**Scenario A \$2,700,000**

		Cand 1	Cand 2		QCs Required
Init. Dist. Only	\$400,000		\$200,000		3200
1st Supp. Only	\$550,000				4000
1st & 2nd	\$700,000				4800
3rd	\$850,000	\$850,000			5600
4th	\$1,000,000				6400
<b>Total</b>		<b>\$850,000</b>	<b>\$200,000</b>		

**Scenario B \$5,250,000**

		Cand 1	Cand 2	Cand 3	QCs Required
Init. Dist. Only	\$400,000		\$200,000		3200
1st Supp. Only	\$550,000			\$550,000	4000
1st & 2nd	\$700,000				4800
3rd	\$850,000	\$850,000			5600
4th	\$1,000,000				6400
<b>Total</b>		<b>\$850,000</b>	<b>\$200,000</b>	<b>\$550,000</b>	

**Scenario C \$6,950,000**

		Cand 1	Cand 2	Cands 3&4	Cand 5	QCs Required
Init. Dist. Only	\$400,000		\$200,000		\$200,000	3200
1st Supp. Only	\$550,000			\$550,000		4000
1st & 2nd	\$700,000					4800
3rd	\$850,000	\$850,000				5600
4th	\$1,000,000					6400
<b>Total</b>		<b>\$850,000</b>	<b>\$200,000</b>	<b>\$1,100,000</b>	<b>\$200,000</b>	

#### General Election

		Cand 1	Cand 2		QCs Required
Init. Dist. Only	\$600,000				3200
1st Supp. Only	\$775,000				4400
1st & 2nd	\$950,000				5600
3rd	\$1,125,000				6800
4th	\$1,300,000				8000
5th	\$1,475,000				9200
6th	\$1,650,000		\$1,650,000		10400
7th	\$1,825,000				11600
8th	\$2,000,000				12800
<b>Total</b>		<b>\$0</b>	<b>\$1,650,000</b>		

		Cand 1	Cand 2		QCs Required
Init. Dist. Only	\$600,000				3200
1st Supp. Only	\$775,000				4400
1st & 2nd	\$950,000				5600
3rd	\$1,125,000				6800
4th	\$1,300,000				8000
5th	\$1,475,000				9200
6th	\$1,650,000		\$1,650,000		10400
7th	\$1,825,000				11600
8th	\$2,000,000	\$2,000,000			12800
<b>Total</b>		<b>\$2,000,000</b>	<b>\$1,650,000</b>		

		Cand 1	Cand 2	Cand 5	QCs Required
Init. Dist. Only	\$600,000				3200
1st Supp. Only	\$775,000				4400
1st & 2nd	\$950,000			\$950,000	5600
3rd	\$1,125,000				6800
4th	\$1,300,000				8000
5th	\$1,475,000				9200
6th	\$1,650,000		\$1,650,000		10400
7th	\$1,825,000				11600
8th	\$2,000,000	\$2,000,000			12800
<b>Total</b>		<b>\$2,000,000</b>	<b>\$1,650,000</b>	<b>\$950,000</b>	

**Participation by 2018 Legislative  
Candidates 2/14/2018 Projections**

	2006 actual	2008 actual	2010 actual	2012 actual	2014 actual	2016 actual	2018 projected
Primary Election Payments	\$333,402	\$368,856	\$316,440	\$308,131	\$193,160	\$355,301	\$417,325
General Election Payments	\$3,015,067	\$2,585,179	\$2,984,566	\$1,794,719	\$1,797,220	\$1,804,529	\$2,224,575
Supplemental Payments						\$1,185,000	\$1,312,125
<b>Total</b>	<b>\$3,347,775</b>	<b>\$2,954,035</b>	<b>\$3,301,006</b>	<b>\$2,102,850</b>	<b>\$1,990,380</b>	<b>\$3,344,830</b>	<b>\$3,954,025</b>

	2006	2008	2010	2012	2014	2016	2018 (projected)	2018 (projected)
<b>Payments for Primary Election</b>								
House - Contested Candidates	32	31	43	42	12	28	32	
House - Uncontested Candidates	212	209	196	148	133	165	183	
<b>Total</b>	<b>244</b>	<b>240</b>	<b>239</b>	<b>190</b>	<b>145</b>	<b>193</b>	<b>215</b>	<b>\$172,300</b>
Senate - Contested Candidates	9	14	6	13	6	14	16	
Senate - Uncontested Candidates	56	47	55	45	36	36	41	
<b>Total</b>	<b>65</b>	<b>61</b>	<b>61</b>	<b>58</b>	<b>42</b>	<b>50</b>	<b>57</b>	<b>\$245,025</b>
<b>Total Payments for Primary</b>								<b>\$417,325</b>
<b>Basic Funding for General</b>								
House - Contested Candidates	245	234	232	183	149	168	212	\$1,060,000
House - Uncontested Candidates	3	15	3	4	6	11	3	\$4,575
<b>Total</b>	<b>248</b>	<b>249</b>	<b>235</b>	<b>187</b>	<b>155</b>	<b>179</b>	<b>215</b>	<b>\$1,064,575</b>
Senate - Contested Candidates	67	59	64	55	50	47	58	
Senate - Uncontested Candidates	0	0	0	0	0	1	0	
<b>Total</b>	<b>67</b>	<b>59</b>	<b>64</b>	<b>55</b>	<b>50</b>	<b>48</b>	<b>58</b>	<b>\$1,160,000</b>
<b>Total Basic Payments for General</b>								<b>\$2,224,575</b>
<b>Supplemental Payments</b>								
House								\$453,650
Senate								\$858,475
<b>Total</b>								<b>\$1,312,125</b>
<b>Projected Total for 2018</b>								<b>\$3,954,025</b>

### De-Appropriations from Maine Clean Election Fund

Fiscal Year	Amount	Action by Legislature	Chapter Law	Deadline in Law
2003	\$4,000,000	Transfer to Maine Rainy Day Fund	P.L. 2001, Chapter 559, § E-3 (2002)	6/30/2003
2003	\$2,500,000	Transfer to General Fund	P.L. 2001, Chapter 714, § N-1 (2002)	6/30/2003
2004	\$225,000	Transfer to General Fund	P.L. 2003, Chapter 20, § D-26 (2003)	6/30/2004
2008	\$135,199	Transfer to General Fund	P.L. 2007, Chapter 539, § L-3 (2008)	6/30/2008
2009	\$1,300,000	Reduction in annual revenue	P.L. 2007, Chapter 240, § F-2 (2007)	1/1/2009
2009	\$135,717	Transfer to General Fund	P.L. 2007, Chapter 539, § L-3 (2008)	6/30/2009
2010	\$363,930	Transfer to General Fund	P.L. 2009, Chapter 213, § NNNN-4 (2009)	6/30/2010
2011	\$121,310	Transfer to General Fund	P.L. 2009, Chapter 213, § NNNN-4 (2009)	6/30/2011
2012	\$1,300,000	Transfer to General Fund	P.L. 2011, Chapter 655, § AA-1 (2012)	6/30/2012
2013	\$950,000	Transfer to General Fund	P.L. 2011, Chapter 655, § AA-1 (2012)	6/30/2013
2015	\$1,700,000	Reduction in annual revenue	P.L. 2013, Chapter 368, § MM-4 (2013)	1/1/2015
<b>Total</b>	<b>\$12,731,156</b>			

### Returns to Maine Clean Election Fund

2006	\$2,400,000	Transfer from General Fund	P.L. 2005, Chapter 3, § P-1 (2005)	1/1/2006
2007	\$1,200,000	Transfer from General Fund	P.L. 2005, Chapter 519, § KK-1 (2006)	9/30/2006
2010	\$2,000,000	Transfer from General Fund	P.L. 2009, Chapter 213, § F-1 (2009)	6/1/2010
2014	\$500,000	Transfer from General Fund	P.L. 2013, Chapter 368, § MM-3	6/1/2014
<b>Total</b>	<b>\$6,100,000</b>			

**Net Transfer from Maine Clean Election Fund:  
\$6,631,156**