Agenda Item #2

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

To: Interested Persons
From: Jonathan Wayne, Executive Director
Date: July 18, 2011
Re: Invitation to Comment on Maine Clean Election Act Program

This memo is to invite you to provide your comments on possible changes to the Maine Clean Election Act program in light of a recent court decision removing the matching funds component of the program.

Maine Clean Election Act Program

Through a 1996 citizen initiative, Maine voters approved the Maine Clean Election Act (MCEA), which established a voluntary program of full public financing for candidates for the Maine Legislature and for Governor. Among the goals attributed to the program are encouraging new candidates to run for public office, minimizing the role of fundraising in political campaigns, and providing candidates with the opportunity to spend more time on voter contact and other campaign activities. In order to continue to achieve these objectives and maintain political support, the MCEA program needs to:

- provide a level of campaign funding that most candidates will view as sufficient to meet their needs;
- promote the prudent spending of public campaign funds by candidates; and
- keep the cost of the program reasonable.

Unavailability of Matching Funds in 2012

In past elections, participants in the program received an initial payment of MCEA funds for each election and could potentially qualify to receive "matching funds." Recently, around one-half of MCEA candidates for the Legislature have received matching funds. Matching funds has been viewed by some MCEA candidates as attractive because it allowed them to engage in additional campaign speech if there were a large amount of independent expenditures in the race or if they were running against a well-financed opponent. In 2012, the Commission will be unable to pay matching funds, because of the recent U.S. Supreme Court decision, Arizona Free Enterprise Club's Freedom Club PAC v. Bennett.

Invitation to Comment

The Commission would welcome your comments on any changes that should be made to the MCEA program in light of the AZ Free Enterprise Club decision. The Commission is conducting a study of the MCEA program pursuant to Resolve 2011, Chapter 103, and will issue a report with possible legislation by October 15, 2011. **You are welcome to comment at a public hearing of the Commission on July 28, 2011 at 9:00 a.m. at the Commission's office at 45 Memorial Circle in Augusta.** Written comments are welcome through August 10, 2011.

Ideas for Changes to the Maine Clean Election Act Program

The Commission would welcome any thoughts you have for potential changes to the MCEA program to replace matching funds or to make the program more successful. You are welcome to propose your own ideas or offer variations on the following concepts which the Commission staff has already received informally. Please feel free to highlight any features that do not seem practical or could result in unintended consequences.

1. Permit MCEA Candidates to Qualify for a Second Payment of MCEA Funds for the General Election

Under current law, candidates qualify for MCEA funding by collecting a required number of "qualifying contributions" of $5 or more payable to the Maine Clean Election Fund. Once they qualify (usually in April of the election year), candidates receive initial payments for the primary election (April) and for the general election (June). (See chart on next page for campaign funding available to 2010 candidates).

One reform proposal is to permit MCEA candidates who decide they need additional campaign funds to collect additional qualifying contributions which they would turn in to the Commission in September. The candidates would then receive a second payment, around the first week in October. The amount of the second payment could be aimed at providing sufficient funding for candidates in competitive elections, while setting the qualifying hurdle sufficiently high to contain the cost of the program.

2. Allow Small Donations and Additional Payments of Public Campaign Funds

In order to allow candidates to engage in campaign speech beyond the initial payment, MCEA candidates could be allowed to collect small donations of up to $100 (or some other low maximum) from individual residents of Maine. To reduce the burden of fundraising, the State of Maine could provide additional public funds at a rate of $3 or $4 in public money for every dollar of small contributions received from a registered Maine voter. For example, at a 3-1 match, receiving a contribution of $25 could result in a payment of $75 in public campaign funds.

3. Permit Candidates to Spend only the Initial Payment

Another option is to continue to provide basic payments for the primary and general election, and to allow no other campaign funds other than a limited amount of seed money collected before qualifying for public funds. One potential concern with this option is that some candidates might decline to join the program if they knew at the outset that their campaign spending was restricted to seed money plus the single payments for the primary and general election.

Thank you for your comments on the Maine Clean Election Act program for the 2012 elections.

Amounts of Initial Payments for 2010 Elections		
Candidate	**Primary Election**	**General Election**
State Representative: Contested candidates	$1,504	$4,144
Uncontested candidates	$512	$1,368
State Senate: Contested candidates	$7,746	$19,078
Uncontested candidates	$1,927	$6,296

2010 MCEA Payments and Matching Funds			
Primary Election	Initial Payment	Maximum Matching Funds	Maximum Public Funds for the Election
State Representative	$1,504	$3,008	$4,512
State Senate	$7,746	$15,492	$23,238
General Election	Initial Payment	Maximum Matching Funds	Maximum Public Funds for the Election
State Representative	$4,144	$8,288	$12,432
State Senate	$19,078	$38,156	$57,234

PLEASE NOTE: Legislative Information ***cannot*** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Resolve, Directing the Commission on Governmental Ethics and Election Practices To Study Modifying the Maine Clean Election Act

Sec. 1 Commission on Governmental Ethics and Election Practices to study the Maine Clean Election Act. Resolved: That the Commission on Governmental Ethics and Election Practices shall study the Maine Clean Election Act to address any adverse rulings by the United States Supreme Court in the case of McComish v. Bennett, No. CV-08-1550-PHX-ROS (D. Ariz. Jan. 20, 2010); and be it further

Sec. 2 Report. Resolved: That the Commission on Governmental Ethics and Election Practices shall submit a report of its findings including any suggested changes to the Maine Clean Election Act pursuant to the study under section 1 by October 15, 2011 to the Joint Standing Committee on Veterans and Legal Affairs. The Joint Standing Committee on Veterans and Legal Affairs shall report out legislation based on the report by December 1, 2011 for presentation to the Second Regular Session of the 125th Legislature; and be it further

Sec. 3 Transfer of funds; Commission on Governmental Ethics and Election Practices - Other Special Revenue Funds. On the effective date of this resolve, the State Controller shall transfer $3,250 from the Commission on Governmental Ethics and Election Practices, Clean Elections Other Special Revenue Funds account to the Legislative General Fund account in the Legislature to fund the costs of 2 interim meetings of the Joint Standing Committee on Veterans and Legal Affairs to review the commission's report under section 2 and report out legislation.