



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

To: Commissioners
From: Jonathan Wayne, Executive Director
Date: October 18, 2106
Re: Request by Maine Republican Party to Investigate Jonathan Fulford and the
Progressive Maine PAC

This memo is to provide you with some background information and relevant laws concerning the attached request for investigation received from the Maine Republican Party (“the Party”) on October 12, 2016. The Party urges the Commission to investigate Jonathan Fulford, the Democratic nominee for State Senate, District 11, and a PAC that registered with the Commission on August 18, 2016 with the stated purpose of supporting Mr. Fulford’s election. Please be aware that the Commission staff prepared this memo *prior to* receiving preliminary responses from the candidate and the PAC.

This memo contains some background information on PACs in general. One of the contributing factors to the Party’s concern may be that it is still unusual for an out-of-state organization to register as a PAC in Maine and to pledge \$50,000 for canvassing in a single Maine Senate district. This circumstance – while unusual – does not necessarily violate any law. As long as the PAC files the correct financial reports and does not coordinate with the candidate or his committee or agents, the situation could be completely compliant.

Background Information

The Progressive Maine PAC registered with the Commission on August 18, 2016 with the stated purpose of supporting Mr. Fulford's election to Senate District 11. (The PAC's registration and two campaign finance reports are attached.)

The Progressive Maine PAC appears to be closely related to – or a part of – the Progressive Kick Independent Expenditures political committee, which is registered with the Federal Election Commission. The committee is based in Oakland, California. (A federal “independent expenditure political committee” is a committee formed to influence federal candidate elections that operates independently of the candidates in those races. Because the campaign activity is independent of the candidates, the FEC does not impose contribution limits on the committees.)

In a September 3, 2016 Facebook post, the PAC announced that it was looking to hire two paid staff members to supervise volunteers. Each volunteer would communicate with 25 neighbors and Facebook friends to persuade them to vote. The focus, according to the hiring notice, was on “a Progressive Senate candidate” and the education funding and minimum wage ballot questions.

Through September 30, the Progressive Maine PAC reported spending \$10,162.03 to influence Maine state elections. Through that date, the largest expenditures of the PAC have been to compensate and reimburse three activists:

- Charlotte Warren (Hallowell) (a State Rep. and political consultant) - \$5,506.03
- Margaret English-Flanagan (Winterport) - \$702.65
- Stephen Brimley (Belfast) - \$369.39

I quickly compared the expenditures by the PAC and the expenditures of the Progressive Kick Independent Expenditures political committee on the FEC website, and it appears that the same payments appear on both sets of financial reports. This is understandable if the payments by the PAC represent a subset of the federal committee's expenditures.

Compliance Questions Raised by the Party

After speaking to counsel for the Party, the Commission staff understands that the Party is concerned about two compliance issues:

1. As a Maine Clean Election Act candidate, Jonathan Fulford may not accept any cash or in-kind contributions. Under the Election Law, if a candidate cooperates or consults with a PAC on its expenditures, that constitutes a contribution to the candidate. The Party asks the Commission to investigate whether Mr. Fulford has received an impermissible in-kind contribution because he, his political committee or their agents have consulted or cooperated with the PAC on its expenditures to promote him.
2. Has the PAC made any expenditures in preparing or distributing literature to promote Mr. Fulford that would require the PAC to file independent expenditure (“IE”) reports? (The PAC has filed no IE reports to date.)

In addition, if the PAC is engaged in financial activity to promote any ballot questions, the Party asks the Commission to verify that this activity has been properly reported according to the procedures of the Commission.

Standard for Conducting Investigations

Under the Commission’s statute, “a person may apply in writing to the commission requesting an investigation” concerning a candidate or PAC’s compliance with Maine’s campaign finance law. The Commission is required by statute to conduct an investigation “if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.” (21-A M.R.S.A. § 1003(2)) The Commission’s Rules (attached) contain standards for requests for investigation, as discussed in the final section of this memo.

Background Information on PACs

Political action committees are organizations other than political parties that are engaging in financial activities to influence candidate and/or ballot question elections. PACs sometimes are registered by pre-existing organizations, such as:

- National organizations that are dedicated to a single issue, such as protecting Second Amendment rights, conservation, or reproductive rights,
- Party-based organizations which are national in scope (the Republican State Leadership Committee or the Democratic Governors Association),
- Trade associations or labor unions, such as the Maine Realtors Association or the Maine Education Association, or
- Maine-based party organizations organized by a legislative caucus or legislative leader, such as the House Republican Majority Fund or the Senate Democratic Campaign Committee.

Sometimes PACs will have a bank account that is separate from the organization that sponsored the PAC, but that is not required by law.

Most PACs are not organized as a separate legal entity, such as a corporation or limited liability company. They are a voluntary association of people seeking to influence an election, or part of a pre-existing legal entity such as a not-for-profit corporation.

Maine PACs have influenced candidate elections

- by making contributions directly to candidates, or
- by spending money on communicating directly to voters through mailings, advertisements, or automated phone calls. These direct communications are often referred to as “independent expenditures” (discussed below).

Traditionally, organizing people to canvass voters at their homes (“going door-to-door”) has been the work of candidate committees and the political parties. Recently, some PACs have gotten into the business of organizing volunteers or paying individuals to canvass. These PACs include Rebuild Maine or Planned Parenthood Maine Action Fund PAC. The PACs organized by the legislative caucuses sometimes canvass voters.

While some might perceive this as a new form of paid activity by PACs, it is permitted under law.

Coordinated vs. Independent Spending to Advocate for Candidates

Donors wishing to support candidates for state office in Maine are limited in the amount of cash, goods or services that they may give directly to the candidate.¹ That is why in the past two decades, political parties, PACs and others in Maine have increasingly influenced public opinion by directly funding communications to voters, such as mailings or paid advertisements. As long as these expenditures are made *independently* of candidates in the race, parties and PACs are free to spend as much as they would like to promote their favored candidates.

Maine requires PACs, parties and others to file “independent expenditure reports” of these communications to voters, which are discussed more below. To date, the Progressive Maine PAC has not filed any independent expenditure reports, which is one of the facts cited by the Party in its request for investigation.

Relevant Law

Some Maine statutes and Commission Rules that are relevant to this matter are included in the packet that accompanies this memo.

Restriction against Accepting Contributions

Candidates must report all cash and in-kind contributions received. (21-A M.R.S.A. § 1017(5)) After qualifying to receive public campaign funds, candidates such as Mr. Fulford who are participating in the Maine Clean Election Act program may not accept cash or in-kind campaign contributions. (21-A M.R.S.A. § 1125(6))

¹ Candidates participating in the Maine Clean Election Act program may accept no cash or in-kind contributions.

Coordinated Expenditures; Distributing a Candidate's Literature

If a candidate has suggested or requested that someone make an expenditure to promote their election or has consulted on such an expenditure, the expenditure constitutes a contribution to the candidate. It is also a contribution to distribute or republish the candidate's campaign materials.

Any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate. The financing by any person of the dissemination, distribution or republication, in whole or in part, of any broadcast or any written or other campaign materials prepared by the candidate, the candidate's political committee or committees or their authorized agents is considered to be a contribution to that candidate.

(21-A M.R.S.A. § 1015(5))

Independent Expenditure Reporting

PACs, political parties and others are required to report "independent expenditures," which are expenditures made for communications advocating for or against candidates. After Labor Day, communications that name or depict a clearly identified candidate are presumed to involve independent expenditures. (21-A M.R.S.A. § 1019-B) Independent expenditure reporting is for the costs of designing, producing or disseminating *communications*, such as literature or advertisements. Other paid activities that are unrelated to communications are *not* reportable as independent expenditures.

Evidence Supporting an Investigation

The Commission's rules (attached) require that requests for investigation must

- set out facts with sufficient detail to specify the alleged violation, and
- identify the source of information for those facts or (preferably) be based on personal knowledge.

The only evidence provided by the Party that Mr. Fulford cooperated with the PAC is a Facebook “like” by the candidate. (A colleague of mine with superior knowledge of social networking has suggested to me that Mr. Fulford’s “like” did not refer to the September 3rd hiring notice, but rather a September 21st posting by Ms. Caitlin Hills of Belfast.) In the opinion of the Commission staff, if a candidate offers an online comment addressed to a social network audience that he or she approves of a PAC’s activities in the candidate’s district (even to promote the candidate’s election), that positive comment would not, in itself, constitute “cooperation” with the PAC on its expenditures or “consultation with” the PAC – not in the plain meaning of those terms. We would also have policy concerns that such a broad interpretation of a campaign contribution might limit the financial activities by third-party groups such as the state political parties and caucus PACs. The Facebook comment also does not indicate, in itself, that the PAC made any expenditure “at the request or suggestion” of Mr. Fulford.

The Party also does not include any evidence that the PAC is distributing any paid communications to voters advocating for Mr. Fulford’s election. At this time, it is unknown whether the PAC *is* distributing literature to voters.

For these reasons, I wrote to counsel for the Party on October 12th upon receiving the complaint to request any additional information available supporting an investigation. I have not received any additional information at this time.

Due to the direction in 21-A M.R.S.A. § 1002(1) for the Commission to meet within two business days to consider a complaint or question, I scheduled this matter for a determination by you whether to conduct an investigation, after consulting with the Commission’s Counsel.

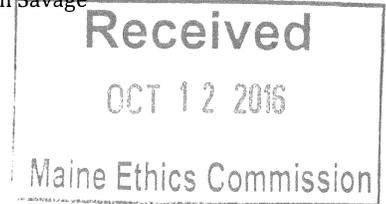
Thank you for your consideration of this item on short notice.



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Jason Savage

Jonathan Wayne, Executive
Director Maine Ethics
Commission



Dear Mr. Wayne,

Please accept this letter as a request for the Ethics Commission to investigate the campaign activities of the Progressive Kick Political Action Committee and Senate candidate Jonathan Fulford (Maine Senate District 11). Specifically, we would like to call your attention to the PAC's initial registration, its October 5th filing, and a Facebook post containing an advertisement for paid staff. As you can see from the advertisement, the PAC's campaign focuses on a progressive Senate candidate, as well as raising the minimum wage and Stand Up for Students ballot questions. To date the PAC has not filed a report of an independent expenditure. Furthermore, it is not registered as a ballot question committee. I would respectfully request that your staff investigate the Progressive Kick PAC's activities to ensure compliance with the law.

I would also request that Mr. Fulford's campaign activities be examined and clarified. Has Mr. Fulford provided the PAC with literature to distribute? Has Mr. Fulford coordinated his campaign activities with the PAC? I enclose a Facebook post with what purports to be Mr. Fulford indicating his knowledge and approval of the PAC's hiring of field staff to promote his race. This Facebook communication provides a stark contrast to the public comments Mr. Fulford has made to the Bangor Daily News in which he indicates that he doesn't condone the organization spending in his race.

The attached Bangor Daily News article also interviews Joshua Grossman, President of a super PAC associated with the Progressive Kick PAC operating



in Maine. Mr. Grossman said concisely: "Fulford is someone we want to help. We are not pretending otherwise." As someone who has great respect for the work of you and your staff, especially as we get closer to election day, I don't want to pretend to assert that we know all the facts relating to this particular campaign and of this particular PAC. I do believe, however, that this matter warrants a thorough investigation.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jason Savage". The signature is fluid and cursive, with a large loop at the end.

Jason Savage

Enclosures: Facebook post
Bangor Daily News article dated
September 27, 2016 Facebook
advertisement

State & Capitol

Maine politics — as it happens



'Dark money' from California backs Maine Democrat challenging Senate president

September 27, 2016 Elections dark money, Jonathan Fulford, Mike Thibodeau, Progressive Kick

By Christopher Cousins



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A California-based political organization has pledged \$50,000 to the Democrat in one of Maine's most-watched Senate contests, again highlighting that money from out-of-state is pouring into legislative races.

The \$50,000 pledge, which was revealed in [registration paperwork](#) filed last month for a political action committee called Progressive Maine, is intended to help Democrat Jonathan Fulford unseat incumbent Republican Sen. Mike Thibodeau for the Waldo County Senate seat. Thibodeau, who is the president of the Senate, eked out a victory over Fulford by just 135 votes in 2014.

Joshua Grossman, president of a Super-PAC called Progressive Kick Independent Expenditures of Oakland, California, said Monday that allocating the \$50,000 to Progressive Maine on Fulford's behalf was part of a community organizing "pilot project." He said the money will be used to hire local staff to coordinate volunteers in activities such as door-to-door canvassing. That includes backing Fulford and all five ballot question on the Nov. 8 ballot. He said the money is not intended for political advertisements.

"Fulford is someone we want to help and we're not pretending otherwise," said Grossman. "This is an attempt on our part to foster a team organization project which is neighbors educating neighbors."

Progressive Kick has supported numerous congressional and state-level candidates, including in Maine. In 2014, the organization pledged nearly \$1.3 million for Democrats challenging what it saw as vulnerable Republican governors, including [spending more than \\$100,000](#) in opposition to

Gov. Paul LePage's re-election campaign. The group has reportedly been interested in Maine politics dating back to 2011 when it sought ways to unseat former Republican U.S. Sen. Olympia Snowe.

The PAC's top donor in 2014 was National Nurses United for Patient Protection, which contributed more than \$1.5 million, along with dozens of individual donors from across the country. Between January 2015 and June 2016, according to Federal Election Commission data, donors have included nursing and teacher labor unions in California and a handful of individuals who combined for about \$433,000.

The Maine Progressives PAC's treasurer, Neil Reiff, is a former deputy counsel for the Democratic National Committee is now an election law specialist based in Washington, D.C.

Thibodeau criticized the organization's anticipated independent expenditures in the race, which because they are being administered by a Maine-based PAC, could come without the California organization being required to reveal its donors.

"There's little question that dark money has a favorite candidate in this race and it's not Mike Thibodeau," said Thibodeau. "There is no question that their intent is to try to influence the outcome in Waldo County while shielding their undisclosed donors."

Maine law regarding disclosure of donors to organizations making independent expenditures was changed in 2015 by citizen initiative. Under the new law, organizations that buy at least \$250 of political advertisements in favor of a certain candidate or cause must disclose their top three donors within the advertisement itself. In this case, the California organization appears to be exempt from identifying its donors for two reasons: It does not intend to purchase advertising and the money is being administered through a Maine-based PAC.

Jonathan Wayne, executive director of the Maine Ethics Commission, which oversees campaign finance in Maine, said he couldn't speak specifically about this group without inspecting its filings but he explained the law in general.

"The idea of the top three funders disclosure is that when a citizen receives the actual communication, such as the mailer or broadcast advertisement, included with that is a statement about those those top three funders are," said Wayne. "It doesn't cover face-to-face communications."

Fulford, a publicly financed candidate, said Monday that he'd recently heard about the \$50,000 pledged on his behalf from a reporter but didn't know much about it. Though he is barred by law from communicating with Progressive Kick, Fulford said he does not condone the organization's spending in his race.

"This election will see record amounts of money spent by wealthy individuals and corporations, some visible and some invisible, because the Supreme Court ruling Citizens United," said Fulford. "In Maine, we will see independent expenditures by groups from out of state. I do not encourage

or endorse this spending in my race. I will introduce legislation that will challenge this ruling.”

Progressive Maine — the PAC formed by Progressive Kick — is looking to hire full-time organizers in Belfast and Winterport, according to a [Sept. 3 Facebook post](#) by the Waldo County Progressives.

Grossman, who is the founder of an eco-friendly paper products company called New Leaf Paper, said he chose the state because of its voting history and low population in each Senate district. According to Grossman, more than 100,000 Mainers turned out to vote in 2012 who didn't return in 2014, and they were disproportionately young, progressive Democrats. His goal is to bring them back to the polls.

“[The Thibodeau-Fulford election] was a close contest [in 2014] and we hope we can make a difference,” he said. “We could have chosen somewhere else in Maine. We had to do it somewhere so this is where that somewhere wound up being.”

Thibodeau and Fulford are scheduled to appear in a candidate forum at 6:30 p.m. Wednesday at the University of Maine’s Hutchinson Center in Belfast.

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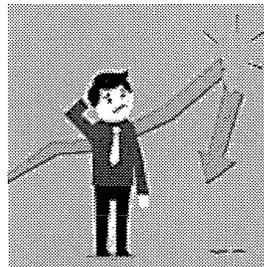
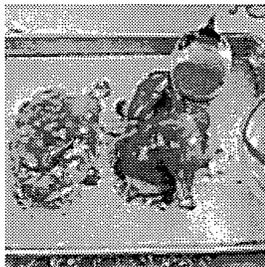
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About Christopher Cousins

Christopher Cousins has worked as a journalist in Maine for more than 15 years and covered state government for numerous media organizations before joining the Bangor Daily News in 2009. [View all posts by Christopher Cousins →](#)

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Waldo County Progressives

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Here's a chance to promote progressive candidates and issues in Waldo County -- and get paid to do it! This group is hiring two paid organizers -- one to be based in Belfast and one to be based in Winterport. Please pass along to anyone you think may be interested.

Progressive Maine, a project of Progressive Kick, is looking to hire one full-time organizer who lives in Belfast, Maine and one full-time organizer who lives in Winterport, Maine. This is a ten week, 40+ hour a week position, with the possibility to grow into more after election day. Pay is \$15 per hour with any expenses (mileage/phone) reimbursed.

The organizer's sole job is the recruitment, care & supervision of volunteers who in turn will be responsible for communicating with 25 of their (assigned by us) Facebook friends and closest neighbors in Belfast and Winterport. The volunteer communication with friends consists of a) voter registration b) base voter mobilization, c) persuasion efforts. The campaign is focused on a Progressive Senate candidate as well as the "raise the minimum wage" and "stand up for students" ballot questions.

Send an email of Interest to ProgressiveMaine@gmail.com. Learn more about Progressive Kick here: <http://progressivekick.org/>



Cove Mann

WCDC Headquarters at 22



Caitlin Hills

Progressive Maine is looking
This is a full-time position,
election day. Pay is \$20 per
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Warren at 207.441.9116



Cove Mann



Reactions



Ann Marshall

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Peggy Schaffer
2 mutual friends

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Daniel Lawson

Add Friend



Caitlin Hills
3 mutual friends

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Jonathan Fulford
2 mutual friends

Add Friend



Adam Stone

Add Friend



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

October 12, 2016

By Email and U.S. Mail

Joshua A. Tardy, Esq.
Irwin, Tardy & Morris
P.O. Box 476
Newport, ME 04953-0476

Dear Mr. Tardy:

Thank you for the correspondence from the Maine Republican Party received an hour ago requesting that the Maine Commission on Governmental Ethics and Election Practices investigate State Senate Candidate Jonathan Fulford and the Progressive Maine PAC. By copy of this letter, I am notifying Mr. Fulford and the PAC's treasurer of the party's request.

The Commission staff understands that the party is concerned about two potential violations, at least:

- Has Mr. Fulford consulted or cooperated with – or requested or suggested – any paid expenditures by the PAC to promote his election, which could result in a prohibited contribution to the candidate?
- As part of the PAC's persuasion campaign, has the PAC incurred any expenditures in preparing or distributing literature promoting Mr. Fulford that would require the filing of independent expenditure reports?

Under Chapter 1, Section 4(2)(C) of the Commission's Rules, requests for investigation should be made upon personal knowledge. Statements which are not based on personal knowledge must identify the source of the information which is the basis for the requested investigation. This detailed support for a requested investigation is necessary for the Commission to decide whether to conduct an investigation and for the person accused of non-compliance to respond.

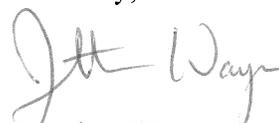
Please provide in writing any additional information suggesting that Mr. Fulford requested, suggested or cooperated with paid activity by the PAC. Also, please provide any additional information available suggesting that the PAC has already engaged in the paid distribution or creation of literature promoting Mr. Fulford's election.

Mr. Joshua A. Tardy
Page 2
October 12, 2016

I will be consulting with the Commission's Counsel tomorrow concerning next steps, and will be in touch with you, the PAC's treasurer, and the candidate.

Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jonathan Wayne".

Jonathan Wayne
Executive Director

cc: Mr. Jonathan Fulford
Neil Reiff, Esq.
David Mitrani, Esq.
Assistant Attorney General Phyllis Gardiner, Commission Counsel



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

October 14, 2016

Katherine R. Knox, Esq.
Bernstein Shur
PO Box 9729
Portland, ME 04104-5029

Neil P. Reiff, Esq.
Sandler Reiff Lamb Rosenstein &
Birkenstock, P.C.
1025 Vermont Avenue N.W., Suite 300
Washington, DC 20005

Dear Ms. Knox and Mr. Reiff,

The Maine Commission on Governmental Ethics and Election Practices received a request from the Maine Republican Party (“the Party”) to investigate State Senate Candidate Jonathan Fulford and the Progressive Maine PAC (“the PAC”). The Commission will give the request preliminary consideration at a meeting on Thursday, October 20, 2016 at 11:00 a.m. at the Commission’s Office, 45 Memorial Circle in Augusta. *This letter is to request preliminary written information by 4:00 p.m. on Monday, October 17* to assist the Commission in deciding whether the request has presented sufficient grounds for believing that a violation may have occurred.

The PAC registered in August 2016 with the stated purpose of supporting Mr. Fulford’s election to Senate District 11 and issued a job announcement indicating that the PAC would be hiring two paid organizers to oversee volunteers. After speaking to counsel for the Party, the Commission staff understands that the Party is concerned about two compliance issues:

- Has Mr. Fulford received an impermissible in-kind contribution because he, his political committee or their agents have consulted or cooperated with – or requested or suggested – expenditures by the PAC to promote his election?
- Has the PAC incurred any expenditures in preparing or distributing literature promoting Mr. Fulford that would require the PAC to file independent expenditure (“IE”) reports? (The PAC has filed no IE reports to date.)

Standard for Conducting Investigations

Under the Commission’s statute, “a person may apply in writing to the commission requesting an investigation” concerning a candidate or PAC’s compliance with Maine’s

campaign finance law. The Commission is required by statute to conduct an investigation “if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.” (21-A M.R.S.A. § 1003(2))

Commission Meeting

This matter has been scheduled for a special meeting of the Commission to be held at 11:00 a.m. on Thursday, October 20, 2016 at the Commission Office, 45 Memorial Circle, 2nd floor in Augusta.

Request for Preliminary Responses

Please provide brief, preliminary responses on behalf of Jonathan Fulford and the PAC by 4:00 p.m. on Monday, October 17. The Commission staff recommends that the preliminary responses include the following:

- *Response by Jonathan Fulford.* The Commission staff recommends explaining whether the candidate, his political committee or their agents requested or suggested any spending by the PAC to promote his election or cooperated or consulted with the PAC on its expenditures. If there has been cooperation or consultation, please elaborate. Has Mr. Fulford, his political committee or their agents provided any literature to the PAC to be distributed? When did Mr. Fulford first learn that the PAC was going to be operating to promote his election? Please clarify the Facebook post that was “liked” by Mr. Fulford.
- *Response by Progressive Maine PAC.* Please provide a general description of the PAC’s activities to influence the general election in Maine Senate District 11 and ballot questions in Maine this year. Has the PAC consulted or cooperated with Jonathan Fulford, his political committee, or their agents on any expenditures? If so, please elaborate. Please provide any costs that the PAC has incurred to prepare, design or disseminate literature supporting Mr. Fulford. If the PAC has distributed literature supporting Mr. Fulford, please provide samples.

Personal Appearances

I recommend that the following two individuals attend the Commission’s October 20 meeting to answer any questions from the Commission:

- Jonathan Fulford, and
- the individual in Maine who is managing the PAC's campaign to promote Mr. Fulford's election.

Their personal attendance will assist the Commissioners with their decision whether sufficient grounds are present for believing that a violation may have occurred.

Relevant Law

Some Maine statutes and Commission Rules that are relevant to this matter are attached.

Restriction against Accepting Contributions

Candidates must report all cash and in-kind contributions received. (21-A M.R.S.A. § 1017(5)) After qualifying to receive public campaign funds, candidates such as Mr. Fulford who are participating in the Maine Clean Election Act program may not accept cash or in-kind campaign contributions. (21-A M.R.S.A. § 1125(6))

Coordinated Expenditures; Distributing a Candidate's Literature

If a candidate has suggested or requested that someone make an expenditure to promote their election or has consulted on such an expenditure, the expenditure constitutes a contribution to the candidate. It is also a contribution to distribute or republish the candidate's campaign materials.

Any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of a candidate ... is considered to be a contribution to that candidate. The financing by any person of the dissemination, distribution or republication, in whole or in part, of any broadcast or any written or other campaign materials prepared by the candidate, the candidate's political committee or committees or their authorized agents is considered to be a contribution to that candidate.

(21-A M.R.S.A. § 1015(5))

Independent Expenditure Reporting

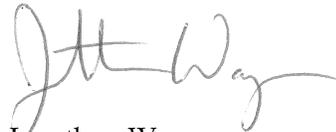
PACs, political parties and others are required to report "independent expenditures," which are expenditures made for communications advocating for or against candidates. After Labor Day, communications that name or depict a clearly identified candidate are presumed to involve independent expenditures. (21-A M.R.S.A. § 1019-B) Independent

Katharine R. Knox, Esq. & Neil P. Reiff, Esq.
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October 14, 2016

expenditure reporting is for the costs of designing, producing or disseminating *communications*, such as literature or advertisements. Other paid activities that are unrelated to communications are *not* reportable as independent expenditures.

Please let me know if you have any questions about the Commission's procedures.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Wayne". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jonathan Wayne
Executive Director

cc: Joshua A. Tardy, Esq.
David Mitrani, Esq.
Assistant Attorney General Phyllis Gardiner



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Sawyer & Nelson, P.A.**
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Katherine R. Knox
(207) 228-7229 direct
kknox@bernsteinshur.com

VIA EMAIL

October 18, 2016

Jonathan Wayne
Executive Director
Maine Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04333-0135

RE: Request for Information – Candidate Jonathan Fulford

Dear Mr. Wayne:

On behalf of my client, Candidate Jonathan Fulford, I write to provide the requested responses to your correspondence dated October 14, 2016 as it relates to the Maine Republican Party's request for investigation into the Fulford campaign.

Under Maine law, investigations into violations of campaign finance law are only justified "if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred" 21-A M.R.S.A. § 1003(2).

The request for investigation submitted by the Maine Republican Party (MEGOP) does not contain any compelling evidence justifying an investigation. In fact, the only evidence submitted by the MEGOP is a copy of a publicly available Facebook post which they infer represents "coordination" on the part of Candidate Fulford and the Progressive Kick PAC. They go on to ask a series of questions related to coordination yet offer absolutely no factual evidence to support these contentions. Violations of Maine's ethics laws are serious matters – and calling into question a candidate's compliance with these laws should not be a casual inquiry. In this case, the MEGOP offers nothing of substance to trigger an investigation and we urge the Commission not only to take no further action but to opine publicly that Candidate Fulford has been in full compliance with the law.

October 18, 2016

Page 2

Factual Summary

On 12/28/15, Jonathan Fulford became a clean elections candidate for the Maine State Senate in District 11 (Waldo County). Since that time, a central theme of Candidate Fulford's campaign is campaign finance reform and he frequently comments on his opposition to big money in politics. (See attachment A).

As a candidate seeking to represent Waldo County, Mr. Fulford follows the Facebook posts of the Waldo County Democrats. This group is open, meaning anyone can view their posts and participate in the group. The group posts a wide variety of information on ballot questions, candidates, issues and general democratic activism. On September 3, 2016, the group posted a job posting for Progressive Kick. The job was described as focusing "on a Progressive Senate Candidate" as well as the "raise the minimum wage" and "stand up for students" ballot questions." Mr. Fulford quickly read the post and clicked on "like" indicating his general support for the post – as he does with many of the Waldo County Democrats posts. He did not, at that time, have any idea that he might be the candidate referenced in the ad.

In late September, Mr. Fulford was contacted by a reporter who was doing a story on Progressive Kick. That reporter, Christopher Cousins, shared with Mr. Fulford what the PAC was doing and that some of its spending would directly support his campaign. Mr. Fulford shared that he didn't know much about their work but condoned their spending in his race. Specifically, Mr. Fulford stated:

"This election will see record amounts of money spent by wealthy individuals and corporations, some visible and some invisible, because of the Supreme Court ruling Citizens United. In Maine, we will see independent expenditures by groups from out of state. I do not encourage or endorse this spending in my race. I will introduce legislation that will challenge this ruling." (See Attachment B).

On October 12, 2016, the MEGOP filed a request for investigation claiming that Mr. Fulford's "like" of the Waldo Democrats post constituted "coordination" with Progressive Kick. It also went on to question whether Mr. Fulford had provided the PAC with campaign literature for distribution – while providing no factual evidence that such literature sharing had occurred (which it had not).

The Facebook Post

As stated above, the advertisement for the PAC came through the Waldo County Democrats – a group Mr. Fulford has long supported. The ad itself does not name him but simply claims to support a "progressive" candidate as well as two ballot questions. There is absolutely no reason Mr. Fulford would have known, or should have known, that Progressive Kick was preparing to participate in his race. At the time of the post, he

October 18, 2016

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had no knowledge of the activities of Progressive Kick and did not know what their electoral plans were for Maine.

Furthermore, the Waldo County Democrats group is open to anyone (including the MEGOP). It is a very public site. There is no hiding of information; its events and posts are public for everyone to see and comment. It strains credulity to argue that the post was somehow sending a secret message to Mr. Fulford that a PAC was coming into his race to help him and that his "like" was an acceptance of that help. Facebook is now, for better or worse, part of mainstream social media. Many get their news there and communicate with the outside world on personal and societal issues. Clicking "like" on a Facebook post happens millions of times daily, for a million different reasons. It is often, as many of us know, done in seconds, after a cursory review of a post. It does not indicate that Mr. Fulford knew of and approved that plans of the PAC.

The MEGOP request for investigation contends that Candidate Fulford's "like" of the Waldo County Democrats post may indicate coordination between himself and the PAC. This is absurd. The post was done by an unaffiliated group, in a public setting and without naming Mr. Fulford as a candidate. There is nothing further to indicate these two parties knew each other and were communicating about their activities.

Maine Clean Election laws were rightly designed to keep outside money out of elections. They were not, however, designed to prevent candidates from interacting with the outside world in one of the most common social mediums on the planet. Candidates must be allowed to interact with their supporters publicly without fear that that that interaction alone may, unbeknownst to them, be held against them later.

Mr. Fulford most certainly did not coordinate with Progressive Kick when he "liked" the Waldo County Democrats post. Moreover, he has consistently and publicly opposed the activities of Progressive Kick and their involvement in his race. The MEGOP offers no evidence to the contrary.

Sharing of Literature

The MEGOP also asks the Commission to investigate whether any literature was shared by Mr. Fulford for distribution by Progressive Kick.

Neither Mr. Fulford nor his campaign has ever shared campaign literature with a third party – including Progressive Kick. As stated above, Mr. Fulford is unaware of the activities of Progressive Kick, with the exception of those shared publicly by the media. He does not know the Principles of the PAC or their campaign plans and in no way has coordinated with their activities.

October 18, 2016
Page 4

Conclusion

We appreciate the opportunity to provide you with responses to these allegations. We would be remiss, however, if we did not mention our concern about the lack of factual evidence supporting this request by the MEGOP. Asking for an investigation is a serious matter and has great personal and public repercussions for candidates. It should not be sufficient that a request merely asks a series of questions such as "I would also request that Mr. Fulford's campaign activities be examined..." Requests for investigations should not be fishing expeditions. They should be reserved for matters of serious concern where the requesting party can provide this Commission with more than suspicion and innuendo to support its request.

Candidate Fulford has, at all times, complied with Maine's Clean Election laws. We urge this Commission not only to refuse further investigation but to affirm his compliance with the law.

Sincerely,

A handwritten signature in black ink, appearing to read "Katherine R. Knox", with a large, sweeping flourish extending to the left.

Katherine R. Knox

Fulford for Waldo County (<http://www.fulfordforme.org/>)

Position Statements

Money in Politics, Transparency and Accountability

We need to get Big Money out of our democracy so that government is accountable to citizens. I'm proud to be running as a Clean Elections Candidate because I want to represent the people of Waldo County. I refuse to owe favors to corporations or wealthy donors whose money overwhelms the voices of people and families. Our Clean Election rules are strict and enable more candidates from all walks of life to run for public office.

My only special interest group is the taxpayer. My average contribution is \$10.77. I will never take money from lobbyists or corporations.

In the time since the last election, I've worked to better understand how Augusta works. It can be hard to figure out when public business is done behind closed doors and without input from us. Dark money and organizations with phony titles wield stealth influence. I will shine a light on these practices and open up government to citizens. The sabotage of the Solar Bill and the 2014 budget deal that was negotiated in secret at the last minute are examples of the poor leadership and lack of transparency that plagues Augusta.

Sunshine is needed.

Climate and Environmental Stewardship

Our future and our economy depend on a healthy environment. Our bay, rivers and ponds, the fields and the forests of Waldo County are ours to enjoy and to protect. We owe it to our grandchildren, our children and ourselves to protect the natural resources that provide our way of life in Maine.

Leadership is sorely needed in the State Senate in addressing energy efficiency and conservation, supporting local energy production and the jobs that would provide, addressing the devastating mercury contamination in the Penobscot River, and creating a sensible long-term strategy for sustainable jobs and stewardship of our resources.

Attachment B

x

State & Capitol

Maine politics — as it happens



'Dark money' from California backs Maine Democrat challenging Senate president

🕒 September 27, 2016 📁 Elections 🔖 dark money, Jonathan Fulford, Mike Thibodeau, Progressive Kick

By Christopher Cousins

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A California-based political organization has pledged \$50,000 to the Democrat in one of Maine's most-watched Senate contests, again highlighting that money from out-of-state is pouring into legislative races.

The \$50,000 pledge, which was revealed in [registration paperwork](#) filed last month for a political action committee called Progressive Maine, is intended to help Democrat Jonathan Fulford unseat incumbent Republican Sen. Mike Thibodeau for the Waldo County Senate seat. Thibodeau, who is the president of the Senate, eked out a victory over Fulford by just 135 votes in 2014.

Joshua Grossman, president of a Super-PAC called Progressive Kick Independent Expenditures of Oakland, California, said Monday that allocating the \$50,000 to Progressive Maine on Fulford's behalf was part of a community organizing "pilot project." He said the money will be used to hire local staff to coordinate volunteers in activities such as door-to-door canvassing. That includes backing Fulford and all five ballot question on the Nov. 8 ballot. He said the money is not intended for political advertisements.

"Fulford is someone we want to help and we're not pretending otherwise," said Grossman. "This is an attempt on our part to foster a team organization project which is neighbors educating neighbors."

Progressive Kick has supported numerous congressional and state-level candidates, including in Maine. In 2014, the organization pledged nearly \$1.3 million for Democrats challenging what it saw as vulnerable Republican governors, including [spending more than \\$100,000](#) in opposition to Gov. Paul LePage's re-election campaign. The group has [reportedly been interested in Maine poli-](#)

AddThis

tics dating back to 2011 when it sought ways to unseat former Republican U.S. Sen. Olympia Snowe.

The PAC's top donor in 2014 was National Nurses United for Patient Protection, which contributed more than \$1.5 million, along with dozens of individual donors from across the country. Between January 2015 and June 2016, according to Federal Election Commission data, donors have included nursing and teacher labor unions in California and a handful of individuals who combined for about \$433,000.

The Maine Progressives PAC's treasurer, Neil Reiff, is a former deputy counsel for the Democratic National Committee is now an election law specialist based in Washington, D.C.

Thibodeau criticized the organization's anticipated independent expenditures in the race, which because they are being administered by a Maine-based PAC, could come without the California organization being required to reveal its donors.

"There's little question that dark money has a favorite candidate in this race and it's not Mike Thibodeau," said Thibodeau. "There is no question that their intent is to try to influence the outcome in Waldo County while shielding their undisclosed donors."

Maine law regarding disclosure of donors to organizations making independent expenditures was changed in 2015 by citizen initiative. Under the new law, organizations that buy at least \$250 of political advertisements in favor of a certain candidate or cause must disclose their top three donors within the advertisement itself. In this case, the California organization appears to be exempt from identifying its donors for two reasons: It does not intend to purchase advertising and the money is being administered through a Maine-based PAC.

Jonathan Wayne, executive director of the Maine Ethics Commission, which oversees campaign finance in Maine, said he couldn't speak specifically about this group without inspecting its filings but he explained the law in general.

"The idea of the top three funders disclosure is that when a citizen receives the actual communication, such as the mailer or broadcast advertisement, included with that is a statement about those those top three funders are," said Wayne. "It doesn't cover face-to-face communications."

✂ Fulford, a publicly financed candidate, said Monday that he'd recently heard about the \$50,000 pledged on his behalf from a reporter but didn't know much about it. Though he is barred by law from communicating with Progressive Kick, Fulford said he does not condone the organization's spending in his race.

✂ "This election will see record amounts of money spent by wealthy individuals and corporations, some visible and some invisible, because the Supreme Court ruling Citizens United," said Fulford. "In Maine, we will see independent expenditures by groups from out of state. I do not encourage or endorse this spending in my race. I will introduce legislation that will challenge this ruling."

AddThis

B3

Progressive Maine — the PAC formed by Progressive Kick — is looking to hire full-time organizers in Belfast and Winterport, according to a [Sept. 3 Facebook post](#) by the Waldo County Progressives.

X

Grossman, who is the founder of an eco-friendly paper products company called New Leaf Paper, said he chose the state because of its voting history and low population in each Senate district. According to Grossman, more than 100,000 Mainers turned out to vote in 2012 who didn't return in 2014, and they were disproportionately young, progressive Democrats. His goal is to bring them back to the polls.

"[The Thibodeau-Fulford election] was a close contest [in 2014] and we hope we can make a difference," he said. "We could have chosen somewhere else in Maine. We had to do it somewhere so this is where that somewhere wound up being."

Thibodeau and Fulford are scheduled to appear in a candidate forum at 6:30 p.m. Wednesday at the University of Maine's Hutchinson Center in Belfast.

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About Christopher Cousins

Christopher Cousins has worked as a journalist in Maine for more than 15 years and covered state government for numerous media organizations before joining the Bangor Daily News in 2009. [View all posts by Christopher Cousins →](#)

Similar articles:

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October 18, 2016

State of Maine
Commission on Governmental Ethics and Election Practices
Attn: Jonathan Wayne
135 State House Station
Augusta, ME 04333-0135
By email to <jonathan.wayne@maine.gov>

Re: Progressive Maine (#9594) Request for Preliminary Information

Mr. Wayne,

I am writing in response to the Request for Preliminary Information sent to Progressive Maine, political action committee ID # 9594 on October 14, 2016. This response serves to provide the Commission with information regarding Progressive Maine's activities to advocate for Jonathan Fulford in Maine Senate District 11.

Progressive Maine has engaged in field activities to promote Fulford's election as well as the passage of two ballot measures, through a model that utilizes paid staff to recruit volunteers. Paid field staff is dedicated to recruiting and training high-end political education volunteers, who are having organic conversations with voters, such as their Facebook friends, community acquaintances, and neighbors.

Under this model, Progressive Maine has only incurred minimal communications costs. Most of the PAC's costs have been for staff and overhead. As the Commission notes in its Request, "Other paid activities that are unrelated to communications are *not* reportable as independent expenditures." As a general matter, the salaries and overhead paid by Progressive Maine are not reportable as independent expenditures. Progressive Maine has been, and will report these staff costs on its regular reports.

Progressive Maine's communications costs have been below \$100, and well below the \$250 independent expenditure reporting threshold. Communications costs pursuant to the Maine effort have totaled ***\$91.29 as of October 15:***

- \$25.21 to Staples on 9/25/2016, for paper and toner; and
- \$66.08 to Staples on 9/30/2016, for printing expenses.

Copies of communication materials printed by Progressive Maine are attached, discussing Progressive Maine's organizing strategy, as well as materials regarding Fulford, Question 2, and Question 4.

These communications have not been coordinated with Mr. Fulford or his campaign under Maine's campaign finance law. Similarly, Progressive Maine staff have not conducted their activities (volunteer recruitment, trainings, and the like) in coordination with Mr. Fulford or his campaign. Progressive Maine is operating independently, to advocate for Mr. Fulford's election, as well as for the passage of Questions 2 and 4.

Progressive Maine is committed to compliance with Maine's campaign finance laws, and has not engaged in activity that has required independent expenditure reporting. If the PAC does disseminate communications above the reporting threshold, it will of course file all independent expenditure reports required by Maine's campaign finance law.

If you have any questions, please feel free to contact our counsel, David Mitrani, Esq. of Sandler Reiff Lamb Rosenstein & Birkenstock, P.C., at 202-479-1111 or at mitrani@sandlerreiff.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Neil Reiff". The signature is fluid and cursive, with a large initial "N" and "R".

Neil Reiff
Treasurer
Progressive Maine

Progressive Maine is a project of Progressive Kick!



Progressive Maine Team Organizing Project: Maine Senate District 11

Problem

While 128 million people voted in the US presidential election in 2012, only 78 million people voted in the 2014 midterms: almost exactly a 40% decline. This off-year drop-off problem is concentrated among folks who are of color, and/or young, and/or low-income. There is no reason to think it won't happen again in 2018 unless something is done differently.

Our Innovative Solution: Team Organizing

Every election cycle people raise millions of dollars on both sides and throw it at advertising with little to indicate that it works and certainly very little to show for it after the election is all over. Our proposal is designed to prevent this pattern from continuing. Pilot projects in a couple of manageably sized state legislative districts will incorporate both civic engagement, i.e. holding government officials accountable in odd-numbered years, and winning elections in even-numbered years. The goal is to build larger electorates for 2016 and especially in 2018 and other non-presidential years. The means to this end is a paid field staff dedicated exclusively to recruiting and training high-end political education volunteers. These volunteers are having organic conversations with voters – and tracking every detail. The voters are a combination of their Facebook friends, community acquaintances, and neighbors.

Why Maine Senate District 11?

Progressive Maine, a project of Progressive Kick, chose Senate District 11 for our pilot project because Jonathan Fulford is a progressive fighter on behalf of family farmers, labor rights, LGBT rights, veterans, the environment, trade – he's way out ahead of the pack on every progressive issue imaginable.

After losing by just 104 votes to the Republican president of the Maine State Senate in the very Republican year of 2014, Fulford never stopped knocking on doors. In fact, another Maine State Senate candidate told us Fulford is the hardest working candidate in the state.

We're organizing around more than just Fulford. We're education people about Question 2 (education funding) and Question 4 (minimum wage) on November's ballot. And, we hope to continue organizing here AFTER the election, activating citizens to hold their elected officials accountable – even ones as great as Fulford would be. Progressive Kick is a progressive SuperPAC. We're required by law to report all of our donors, and we do so. There is absolutely no "dark money" involved.

Conclusion

This is about having an ongoing dialogue and relationship with American voters and nonvoters, as opposed to the drive-by contact that currently happens in elections in this country. There is a lot of political science data to support the fact that people are more likely to absorb a political message and act on it from someone they know personally than from a stranger or from advertising. We also intend to conduct experiments with Stanford & UC Berkeley political scientists measuring the effectiveness of the Team Organizing Project's effect on voter turnout.

For more info on budgets, locations, and much more detail, contact Joshua Grossman at joshua@progressivekick.org.

Progressive Maine, a Project of
Progressive Kick: *Give Conservatives the Boot!*



TALKING POINTS: JONATHAN FULFORD FOR STATE SENATE

Taxes: Jonathan Fulford is in favor of fair taxation. He will work to close loopholes for offshore corporate tax havens and roll back the tax giveaways to the rich. He will fight to fully fund the schools at 55% as mandated by the people of Maine and to restore the full 70% of revenue sharing. **Both of these will result in a drop in property taxes.**

Thibodeau has repeatedly voted to give more tax breaks to the wealthy while passing on those expenses to municipalities, creating higher property taxes. "Maine Senate Republicans go all-out to protect wealthy from tax fairness." Bangor Daily News. June 2, 2015.

Campaign Finance/ Clean Elections: Jonathan Fulford is running as a Clean Elections Candidate. He will represent the people of Waldo County and not owe favors to corporations or wealthy donors. Fulford believes we need to get Big Money out of our democracy so that everyone's voice has equal strength.

Thibodeau takes campaign cash from all sorts of big corporations.

In fact, Thibodeau-controlled political action committees (PACs) have accepted thousands of dollars from banks, pharmaceutical corporations and large lobbying firms. (<http://www.maine.gov/ethics>).

Jobs and Economy: Jonathan has spent his life working as a carpenter, farmer, and parent. He believes people need to have good paying jobs and meaningful work. Mainers deserve an economy that works for everyone, not just the very top. Jonathan supports Question #4 on the ballot to raise the minimum wage.

Question #4 asks:

"Do you want to raise the minimum hourly wage of \$7.50 to \$9 in 2017, with annual \$1 increases up to \$12 in 2020, and annual cost-of-living increases thereafter; and do you want to raise the direct wage for service workers who receive tips from half the minimum wage to \$5 in 2017, with annual \$1 increases until it reaches the adjusted minimum wage?"

Thibodeau opposes raising the minimum wage. Stated publicly at Waldo County Political Forum. September 14, 2016.

Health Care: Jonathon Fulford believes everyone deserves affordable health care. He supports the expansion of MaineCare which will save lives, strengthen our economy, and create jobs. He also supports single-payer, universal health care for every Mainer.

Thibodeau has voted against the expansion of MaineCare every single time. www.votesmart.org

Education: Jonathan believes that taking money from our kids to fund tax cuts for the rich is wrong. He supports full 55% state-funding of our public schools as mandated by the people of Maine. Jonathan also supports Ballot Question #2, often referred to as the "Stand Up for Students" citizen's initiative.

Question #2 asks:

"Do you want to add a 3% tax on individual Maine taxable income above \$200,000 to create a state fund that would provide direct support for student learning in kindergarten through 12th grade public education?"

Thibodeau opposes Question #2. Stated publicly at Waldo County Political Forum. September 14, 2016.

Vote YES on Question #2 "Stand Up For Students"

Frequently Asked Questions

Why now?

Through a 2004 ballot initiative voters asked the State to fund 55% of the total cost of education. To this day, that funding requirement has never been met. Instead, according to figures from the Department of Education, for the last six years funding for public schools has not kept up with the costs of running those schools.

According to the Maine Department of Education, in the 2015-16 school year:

The state paid only 47.5% of the total cost of K-12 public education. The cost of education increased by 2.6%

Funding did not keep up with that increase. The State fell \$154 million short of reaching the 55% funding level.

Since 2008, the lack of funding at 55% equals a cumulative loss in state funding for public schools of \$1.2 billion

A coalition of parents, teachers and other organizations are determined to change that. We are working together on a ballot initiative to better fund our public schools. We collected more than 95,000 signatures to put this simple question before the voters:

Should those making more than \$200,000 pay a bit more in taxes in order to give our children the education they need and opportunities they deserve and reduce the property taxes for Maine homeowners?

We think the answer will be a resounding YES!

What does the initiative do?

The ballot initiative would create a 3% surcharge on any taxable income over \$200,000. The initiative writes into law that this money MUST be used to fund public schools. What's more, the initiative actually states the money must be used for direct classroom instruction, including materials and equipment, as well as teachers, school nurses and other critical public school personnel. The initiative would bring Maine to the 55% requirement for state funding for public schools passed by voters in 2004.

What's the purpose of this?

The 2004 referendum mandated 55% state funding for public education, but didn't provide a means for funding. Question 2 solves that problem by providing a sustainable source for funding that provides the resources to meet the 55% funding level, and that means fair funding for all schools.

Working class towns in Maine cannot afford to spend as much money for their public schools as richer towns can. Question 2 will help make sure that every student has a shot at a quality education, regardless of his or her background or ZIP code.

Why school funding?

When the State fails to pay its share of school funding, our children and our communities suffer. Cities and towns have to make up the difference, often by raising property taxes, cutting services, or both.

Maine has a lot to offer, including a great quality of life. But the key to building a strong economic future is having a skilled, well-educated workforce that will attract more companies and jobs to the state. This proposal will help us give our kids the skills they need to stay and succeed here in Maine

We're already spending too much on administration. We don't need to spend more money. Don't we just need to spend the money we have more efficiently?

Opponents like to trot that argument out as a way of deflecting from the true crisis, which is that we are grossly underfunding early childhood and K-12 education at the cost of giving kids across Maine the educational foundation they need for a better life.

According to a study by the National Council of State Legislatures, Maine, at 10.59%, actually falls within the national average for spending on administration.

What's more, in 2003 and 2004 voters in Maine demanded the state pay 55% of the cost of public education. The 55% requirement was always intended to be the floor, not the ceiling, for funding our schools. In fact, the school funding formula is designed as an adequacy model of funding, meant to provide an adequate model of education to students. We have failed to provide even the base level of funding that our students and communities need and deserve.

Isn't the problem that the whole funding formula is bad?

No. In 2010, the Maine Legislature commissioned an independent and thorough study of Maine's school funding formula. The Picus Report found that Maine's funding formula is an equitable system.

It also found that Maine underfunds early childhood and K-12 education by roughly \$327 million per year.

Will all Maine towns benefit from Question 2 or will some be left out?

All Maine towns will benefit. Here's why: currently all Maine towns are being shortchanged by the state.

The state is failing to meet its mandate to fund at least 55% of public K-12 education. The state is also mandated to pay 100% of special education—programs that are vital to students with learning challenges. Currently, the state is paying only 35% of the cost of special education.

Passing Question 2 will raise \$157 million in state funding. Putting those dollars into classrooms will help all Maine schools.

In 2004, Maine voted for the state to fund 55% of pre-K to 12th grade education. That hasn't happened. What makes you think this time it will work?

The 2004 referendum that told the legislature to fund K-12 public education at 55% didn't provide a way to do that. This initiative solves that problem by providing a funding mechanism.

The money raised goes into a specific fund, The Fund to Advance Public Kindergarten to Grade 12 Education. According to the legislation, the fund is established as an interest-bearing account, administered by the Maine Department of Education.

The legislation also specifically states that the use of the fund is to supplement and not supplant general fund appropriations for direct student learning.

How will the \$157 million be used?

The law reads: The fund may be used only to pay for portions of the state contribution that constitute direct support for student learning and not for the costs of administration.

In other words, if something directly benefits student learning the money may be used to fund it. New computers? Yes. Updated textbooks? Yes. Added courses? Yes. A new science lab? Yes. State of the art tools in a career and technical center? Yes. Another assistant principal? No. The money must be used to directly support student learning and it specifically cannot be used to fund administration.

How are you going to pay for it?

The Stand Up for Students proposal is funded by a 3% surcharge on the wealthiest Mainers' incomes. Individuals who make less than \$200,000 wouldn't be charged. Those who do would pay an additional \$30 for every \$1,000 they earn above \$200,000.

So you're trying to tax the rich?

What we're after is tax fairness. Since 2011, wealthy families in Maine have seen two reductions in their top income tax rate that deliver tax breaks much larger than the income tax breaks for low and moderate income Mainers.



Ballot Question #4:

An Act to Raise the Minimum Wage

“Do you want to raise the minimum hourly wage of \$7.50 to \$9 in 2017, with annual \$1 increases up to \$12 in 2020, and annual cost-of-living increases thereafter; and do you want to raise the direct wage for service workers who receive tips from half the minimum wage to \$5 in 2017, with annual \$1 increases until it reaches the adjusted minimum wage?”

The ballot question before Maine voters (on November 8th, 2016) will:

- Increase the minimum wage to \$9 an hour in 2017 and then by a dollar a year until it reaches \$12 in 2020;
- Increase the minimum wage at the same rate as the cost of living after the year 2020; and
- Gradually increase the subminimum wage for tipped workers (currently \$3.75 an hour), to \$5 an hour in 2017 and then by a dollar a year until it matches the minimum wage for all other workers (after 2024)

Why raise the minimum wage?

Nobody who works full-time should be living in poverty.

The annual take-home pay (after taxes) for a minimum wage worker averages under \$300 a week. Nobody can live on that little money, much less support a family. Low wages mean working parents in Maine can't support children and seniors can't afford to retire.

It's about moms, kids and families.

Increasing the minimum wage to \$12 an hour would help one in four working moms in Maine; 52,000 Maine kids live in a household with a parent who would get a raise that would help them meet their family's needs. Single and working moms who work full time should be able to pay for their children's food, clothes, housing, heat, and healthcare.

Mainers work hard for our communities and they deserve wages that give them a fair shot.

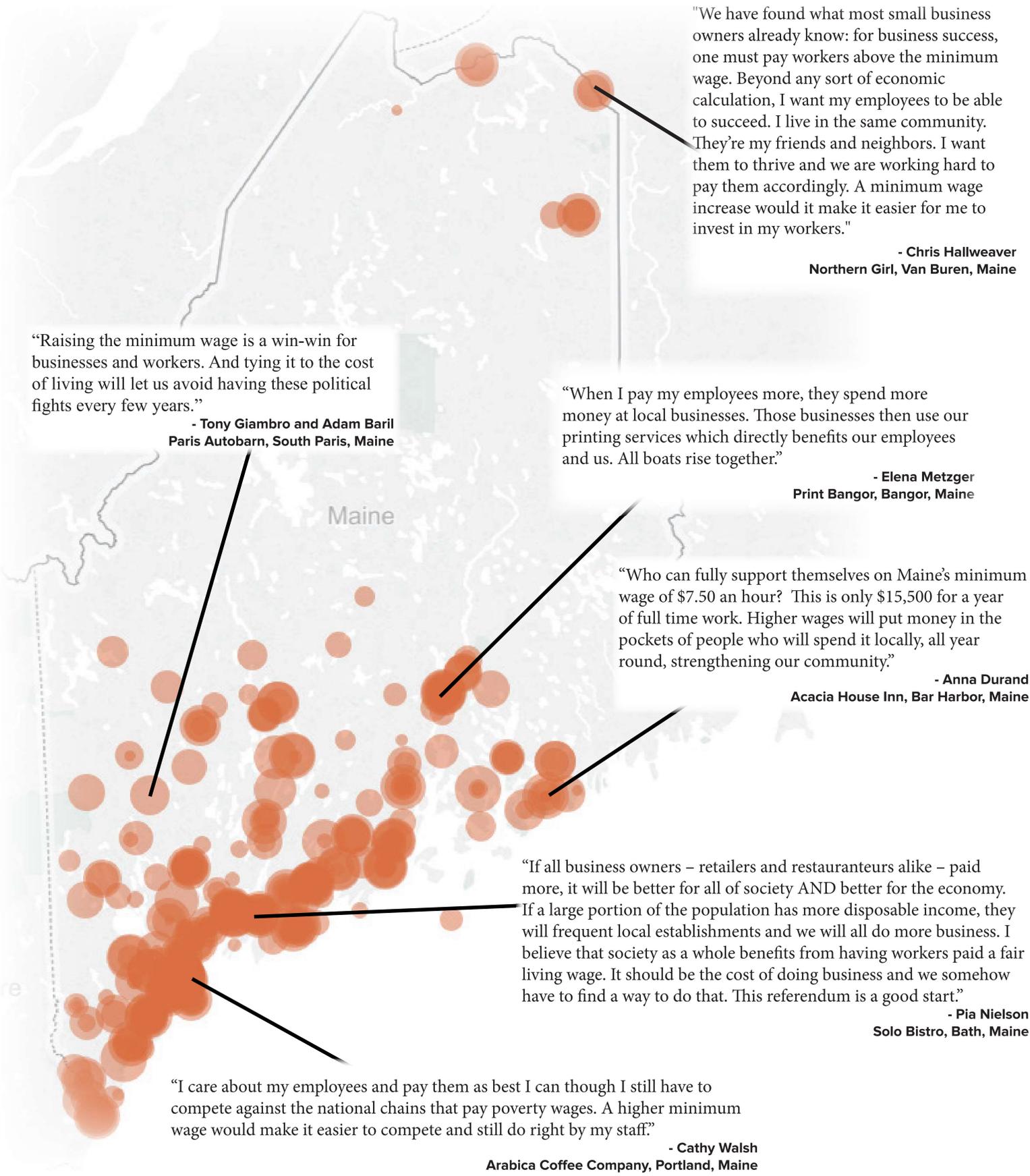
In Maine, tens of thousands of Maine's highly skilled EMTs, firefighters, preschool teachers, and elderly and disabled care providers get paid less than \$12 an hour. These jobs are crucial to our communities' well-being, and should be compensated with a decent paycheck that can support a family.

It's good for small businesses and the Maine economy.

When families earn more, they spend it in their communities at local businesses. This proposal would generate millions in new consumer spending, creating jobs and an economy that works for all of us, not just the wealthy few. Hundreds of Maine small businesses support this initiative; a list of supportive small business owners across Maine can be found here:

<http://www.mainesmallbusiness.org/fairwagemap>.

OVER 500 SMALL BUSINESS OWNERS ACROSS MAINE SUPPORT RAISING THE MINIMUM WAGE TO \$12 AN HOUR



"We have found what most small business owners already know: for business success, one must pay workers above the minimum wage. Beyond any sort of economic calculation, I want my employees to be able to succeed. I live in the same community. They're my friends and neighbors. I want them to thrive and we are working hard to pay them accordingly. A minimum wage increase would make it easier for me to invest in my workers."

- Chris Hallweaver
Northern Girl, Van Buren, Maine

"Raising the minimum wage is a win-win for businesses and workers. And tying it to the cost of living will let us avoid having these political fights every few years."

- Tony Giambro and Adam Baril
Paris Autobarn, South Paris, Maine

"When I pay my employees more, they spend more money at local businesses. Those businesses then use our printing services which directly benefits our employees and us. All boats rise together."

- Elena Metzger
Print Bangor, Bangor, Maine

"Who can fully support themselves on Maine's minimum wage of \$7.50 an hour? This is only \$15,500 for a year of full time work. Higher wages will put money in the pockets of people who will spend it locally, all year round, strengthening our community."

- Anna Durand
Acacia House Inn, Bar Harbor, Maine

"If all business owners – retailers and restauranteurs alike – paid more, it will be better for all of society AND better for the economy. If a large portion of the population has more disposable income, they will frequent local establishments and we will all do more business. I believe that society as a whole benefits from having workers paid a fair living wage. It should be the cost of doing business and we somehow have to find a way to do that. This referendum is a good start."

- Pia Nielson
Solo Bistro, Bath, Maine

"I care about my employees and pay them as best I can though I still have to compete against the national chains that pay poverty wages. A higher minimum wage would make it easier to compete and still do right by my staff."

- Cathy Walsh
Arabica Coffee Company, Portland, Maine

Visit www.mainesmallbusiness.org to see the full map of supportive business owners



Received
 AUG 18 2016
 COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
 Maine Ethics Commission

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
 Mail: 135 State House Station, Augusta, Maine 04333
 Office: 45 Memorial Circle, 2nd floor, Augusta, Maine

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

REGISTRATION: POLITICAL ACTION COMMITTEE

A political action committee must register with the Commission within 7 days of making expenditures to initiate or influence a campaign or election, including unpaid obligations, that total more than:

- \$1,500 for an organization whose major purpose is to influence candidate or ballot question elections, or
- \$5,000 for organizations which participate in candidate elections but whose major purpose is something other than influencing candidate elections.

Registration is not complete until the following additional documents have been submitted:

- **Initial Campaign Finance Report.** All contributions received, whether cash or in-kind, and all expenditures made from the beginning of the calendar year must be reported. Be sure to include any expenditures associated with the collection of signatures, paid staff time, travel reimbursement, and fundraising.
- **Acknowledgement of Responsibilities.** The Treasurer, Principal Officer and any Decision-Makers must sign and return the statement within 10 days of the date of this registration.

Check here if this an amendment

COMMITTEE INFORMATION	
Committee Name: Progressive Maine	Acronym:
Mailing Address: 1904 Franklin St, Suite 725	Phone: 510/893-9200
City, State, Zip Code: Oakland, CA 94612	Fax:
E-mail: admin@progressivekick.org	Website: progressivekick.org
ALTERNATE E-MAIL ADDRESSES	
To receive filing reminders and important information from the Commission. These addresses will not be posted online.	
1. goodwin@sandlerreiff.com	2.
TREASURER INFORMATION	
Cannot be the same as the Principal Officer. See Acknowledgement of Responsibilities for duties of Treasurer.	
Name: Neil Reiff	Phone: 510/893-9200
Mailing Address: 1904 Franklin St, Suite 725	
City, State, Zip Code: Oakland, CA 94612	E-mail: admin@progressivekick.org
PRINCIPAL OFFICER INFORMATION	
Cannot be the same as the Treasurer. See Acknowledgement of Responsibilities for duties of Principal Officer.	
Name: Joshua Grossman	Phone: 510/893-9200
Mailing Address: 1904 Franklin St, Suite 725	
City, State, Zip Code: Oakland, CA 94612	E-mail: admin@progressivekick.org

DECISION-MAKERS

List all persons, other than the Treasurer or Principal Officer, primarily responsible for making decisions for the PAC.

There are no Decision-Makers other than the Treasurer and Principal Officer.

Name:

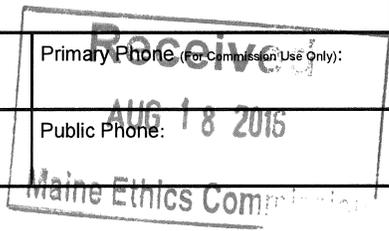
Primary Phone (For Commission Use Only):

Mailing Address:

Public Phone:

City, State, Zip Code:

E-mail:



Name:

Primary Phone (For Commission Use Only):

Mailing Address:

Public Phone:

City, State, Zip Code:

E-mail:

FUNDRAISERS

List all persons, other than the Treasurer or Principal Officer, primarily responsible for fundraising for the PAC.

There are no Primary Fundraisers other than the Treasurer and Principal Officer.

Name:

Phone:

Mailing Address:

City, State, Zip Code:

E-mail:

Name:

Phone:

Mailing Address:

City, State, Zip Code:

E-mail:

LEGISLATORS OR CANDIDATES WITH SIGNIFICANT ROLE IN PAC

List all Candidates or Legislators with a significant fundraising or decision-making role with the PAC.

No Candidates or Legislators have a significant fundraising or decision-making role with the PAC.

Name and office sought/held

Phone:

Mailing Address:

City, State, Zip Code:

E-mail:

Name and office sought/held

Phone:

Mailing Address:

City, State, Zip Code:

E-mail:

Received

AUG 18 2016

FORM OF ORGANIZATION

Name the form or structure of organization, i.e., for-profit or non-profit corporation, voluntary association, partnership, membership organization, etc.

Form of Organization:
527 Political Organization - Federal Independent Expenditure Committee

Date of Origin/Incorporation:
1/25/2011

Maine Ethics Commission

SPONSOR ORGANIZATIONS

List all for-profit or non-profit corporations or other organizations that formed this committee. Use additional sheets as necessary.

This committee was not formed by a for-profit or non-profit corporation or other organization.

Name:
Progressive Kick Independent Expenditures

Mailing Address (City, State, Zip Code):
1904 Franklin St, Suite 725, Oakland, CA 94612

Name:

Mailing Address (City, State, Zip Code):

CAMPAIGN ACCOUNT INFORMATION

For the account into which contributions will be deposited and from which expenditures will be made.

Name of Financial Institution:
Cooperative Center Federal Credit Union

Mailing Address (City, State, Zip Code):
2001 Ashby Ave., Berkeley, CA 94703

Name of Account:
Progressive Maine

STATEMENT OF SUPPORT OR OPPOSITION

The committee must list the specific candidates or categories of candidates, referenda, initiated petitions, people's vetoes, or other campaigns that the committee supports or opposes. If the committee is formed to influence the election of a single candidate, the name of the candidate must be listed.

Support	Jonathan Fulford
Oppose:	

SIGNATURE OF PRINCIPAL OFFICER OR TREASURER

The Treasurer, Principal Officer and any Decision-Makers must submit a signed Acknowledgement of Responsibilities.

Signature: 

Title:
Treasurer

Print name:
Neil Reiff

Date:
August 16, 2016



Commission on Governmental Ethics and Election Practices
 Mail: 135 State House Station, Augusta, Maine 04333
Office: 45 Memorial Circle, Augusta, Maine
 Website: www.maine.gov/ethics
 Phone: 207-287-4179
 Fax: 207-287-6775

2016 CAMPAIGN FINANCE REPORT

FOR POLITICAL ACTION COMMITTEES

COMMITTEE		TREASURER	
Progressive Maine 1904 Franklin Street, Suite 725 Oakland, CA 94612 PHONE: (510) 893-9200 EMAIL: admin@progressivekick.org		Neil Reiff 1904 Franklin Street, Suite 725 Oakland, CA 94612 PHONE: (510) 893-9200 EMAIL: admin@progressivekick.org	
REPORT	DUE DATE	REPORTING PERIOD	
INITIAL FINANCIAL REPORT	08/18/2016	01/01/2016 - 08/18/2016	

FINANCIAL ACTIVITY SUMMARY

RECEIPTS	TOTAL FOR PERIOD	TOTAL FOR YEAR
1. CASH CONTRIBUTIONS (SCHEDULE A)	\$50,000.00	\$50,000.00
2. OTHER CASH RECEIPTS (INTEREST, ETC.)	\$0.00	\$0.00
3. LOANS (SCHEDULE C)	\$0.00	\$0.00
4. TOTAL RECEIPTS (LINE 1 + 2 + 3)	\$50,000.00	\$50,000.00
EXPENDITURES		
5. EXPENDITURES TO SUPPORT OR OPPOSE (SCHEDULE B)	\$0.00	\$0.00
6. OPERATING EXPENDITURES (SCHEDULE B-1)	\$0.00	\$0.00
7. LOAN REPAYMENTS (SCHEDULE C)	\$0.00	\$0.00
8. TOTAL PAYMENTS (LINE 5 + 6 + 7)	\$0.00	\$0.00
CASH SUMMARY		
9. CASH BALANCE AT BEGINNING OF PERIOD	\$0.00	
10. PLUS TOTAL RECEIPTS THIS PERIOD (LINE 4)	\$50,000.00	
11. MINUS TOTAL PAYMENTS THIS PERIOD (LINE 8)	\$0.00	
12. CASH BALANCE AT END OF PERIOD	\$50,000.00	
OTHER ACTIVITY		
13. IN-KIND CONTRIBUTIONS (SCHEDULE A-1)	\$0.00	\$0.00
14. TOTAL LOAN BALANCE AT END OF PERIOD (SCHEDULE C)	\$0.00	
15. TOTAL UNPAID DEBTS AT END OF PERIOD (SCHEDULE D)	\$0.00	

I, LORRIE BRANN, CERTIFY THAT THE INFORMATION CONTAINED IN THIS REPORT IS TRUE, ACCURATE, AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

REPORT FILED BY: LORRIE BRANN
 REPORT FILED ON: 08/18/2016
 LAST MODIFIED: 08/18/2016
 PRINTED: 10/07/2016
 COMMITTEE ID: 9594

**SCHEDULE A
CASH CONTRIBUTIONS**

- For contributors who gave more than \$50, the names, address, occupation, and employer must be reported. If "information requested" is listed instead of occupation and employer, the candidate is waiting to receive that information.
- Cash contributions of \$50 or less can be added together and reported as a lump sum.
- Contributor Types

- | | |
|--|--|
| 1 = Individual | 9 = Candidate / Candidate Committee |
| 2 = Candidate/ Spouse/ Domestic Partner | 10 = General Treasury Transfer |
| 3 = Commercial Source | 11 = Transfer from Previous Campaign |
| 4 = Nonprofit Organization | 12 = Contributors giving \$50 or less |
| 5 = Political Action Committee | 13 = Contributors giving \$100 or less |
| 6 = Political Party Committee | 14 = Contributors giving \$200 or less |
| 7 = Ballot Question Committee | 15 = MCEA Payment |
| 8 = Other Candidate/ Candidate Committee | 16 = Financial Institution |

DATE RECEIVED	CONTRIBUTOR	OCCUPATION AND EMPLOYER	TYPE	AMOUNT
8/15/2016	PROGRESSIVE KICK INDEPENDENT EXPENDITURES 1904 FRANKLIN STREET SUITE 725 OAKLAND, CA 94612		5	\$50,000.00
TOTAL CASH CONTRIBUTIONS				\$50,000.00



Commission on Governmental Ethics and Election Practices
Mail: 135 State House Station, Augusta, Maine 04333
Office: 45 Memorial Circle, Augusta, Maine
Website: www.maine.gov/ethics
Phone: 207-287-4179
Fax: 207-287-6775

2016 CAMPAIGN FINANCE REPORT

FOR POLITICAL ACTION COMMITTEES

COMMITTEE		TREASURER	
Progressive Maine 1904 Franklin Street, Suite 725 Oakland, CA 94612 PHONE: (510) 893-9200 EMAIL: admin@progressivekick.org		Neil Reiff 1904 Franklin Street, Suite 725 Oakland, CA 94612 PHONE: (510) 893-9200 EMAIL: admin@progressivekick.org	
REPORT	DUE DATE	REPORTING PERIOD	
OCTOBER QUARTERLY REPORT	10/05/2016	08/19/2016 - 09/30/2016	

FINANCIAL ACTIVITY SUMMARY

RECEIPTS	TOTAL FOR PERIOD	TOTAL FOR YEAR
1. CASH CONTRIBUTIONS (SCHEDULE A)	\$0.00	\$50,000.00
2. OTHER CASH RECEIPTS (INTEREST, ETC.)	\$0.00	\$0.00
3. LOANS (SCHEDULE C)	\$0.00	\$0.00
4. TOTAL RECEIPTS (LINE 1 + 2 + 3)	\$0.00	\$50,000.00
EXPENDITURES		
5. EXPENDITURES TO SUPPORT OR OPPOSE (SCHEDULE B)	\$0.00	\$0.00
6. OPERATING EXPENDITURES (SCHEDULE B-1)	\$10,162.03	\$10,162.03
7. LOAN REPAYMENTS (SCHEDULE C)	\$0.00	\$0.00
8. TOTAL PAYMENTS (LINE 5 + 6 + 7)	\$10,162.03	\$10,162.03
CASH SUMMARY		
9. CASH BALANCE AT BEGINNING OF PERIOD	\$50,000.00	
10. PLUS TOTAL RECEIPTS THIS PERIOD (LINE 4)	\$0.00	
11. MINUS TOTAL PAYMENTS THIS PERIOD (LINE 8)	\$10,162.03	
12. CASH BALANCE AT END OF PERIOD	\$39,837.97	
OTHER ACTIVITY		
13. IN-KIND CONTRIBUTIONS (SCHEDULE A-1)	\$0.00	\$0.00
14. TOTAL LOAN BALANCE AT END OF PERIOD (SCHEDULE C)	\$0.00	
15. TOTAL UNPAID DEBTS AT END OF PERIOD (SCHEDULE D)	\$0.00	

I, Joshua Grossman, CERTIFY THAT THE INFORMATION CONTAINED IN THIS REPORT IS TRUE, ACCURATE, AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

REPORT FILED BY: Joshua Grossman
REPORT FILED ON: 10/05/2016
LAST MODIFIED: 10/05/2016
PRINTED: 10/07/2016
COMMITTEE ID: 9594

**SCHEDULE B-1
OPERATING EXPENDITURES**

EXPENDITURES TYPES				
CNS	Campaign consultants	POL	Polling and survey research	
CON	Contribution to other candidate, party, committee	POS	Postage for U.S. Mail and mail box fees	
EQP	Equipment (office machines, furniture, cell phones, etc.)	PRO	Other professional services	
FND	Fundraising events	PRT	Print media ads only (newspapers, magazines, etc.)	
FOD	Food for campaign events, volunteers	RAD	Radio ads, production costs	
LIT	Print and graphics (flyers, signs, palmcards, t-shirts, etc.)	SAL	Campaign workers' salaries and personnel costs	
MHS	Mail house (all services purchased)	TRV	Travel (fuel, mileage, lodging, etc.)	
OFF	Office rent, utilities, phone and internet services, supplies	TVN	TV or cable ads, production costs	
OTH	Other	WEB	Website design, registration, hosting, maintenance, etc.	
PHO	Phone banks, automated telephone calls			
DATE OF EXPENDITURE	PAYEE	REMARK	TYPE	AMOUNT
8/31/2016	AMCHECK 110 WEST A STREET SAN DIEGO, CA 92101	PAYROLL TAXES	SAL	\$382.43
8/31/2016	SANDLER REIFF LAMB ROSENSTEIN & BIRKENSTOCK, P.C. 1025 VERMONT AVENUE NW SUITE 300 WASHINGTON, DC 20005	AUGUST LEGAL EXPENSES	PRO	\$755.00
8/31/2016	CHARLOTTE WARREN 19 OAKWOOD DR. HALLOWELL, ME 04347	STAFF SALARIES	SAL	\$920.26
9/15/2016	AMCHECK 110 WEST A STREET SAN DIEGO, CA 92101	PAYROLL TAXES	SAL	\$1,078.81
9/15/2016	CHARLOTTE WARREN 19 OAKWOOD DR. HALLOWELL, ME 04347	STAFF SALARIES	SAL	\$2,088.32
9/19/2016	CHARLOTTE WARREN 19 OAKWOOD DR. HALLOWELL, ME 04347	REIMBURSEMENT FOR MILEAGE	TRV	\$164.70
9/30/2016	AMCHECK 110 WEST A STREET SAN DIEGO, CA 92101	PAYROLL TAXES	SAL	\$1,367.72
9/30/2016	STEPHEN BRIMLEY 115 KALER ROAD BELFAST, ME 04915	STAFF SALARIES	SAL	\$298.00
9/30/2016	STEPHEN BRIMLEY 115 KALER ROAD BELFAST, ME 04915	REIMBURSEMENT FOR SUPPLIES	OFF	\$71.39
9/30/2016	MARGARET ENGLISH- FLANAGAN 12 ELM ST. WINTERPORT, ME 04496	STAFF SALARIES	SAL	\$702.65
9/30/2016	CHARLOTTE WARREN 19 OAKWOOD DR. HALLOWELL, ME 04347	STAFF SALARIES	SAL	\$2,088.48
9/30/2016	CHARLOTTE WARREN 19 OAKWOOD DR. HALLOWELL, ME 04347	REIMBURSEMENT FOR SUPPLIES	OFF	\$50.41

9/30/2016	CHARLOTTE WARREN 19 OAKWOOD DR. HALLOWELL, ME 04347	REIMBURSEMENT FOR MILEAGE	TRV	\$193.86
TOTAL OPERATING EXPENDITURES				\$10,162.03

Maine Revised Statutes
Title 21-A: ELECTIONS
Chapter 13: CAMPAIGN REPORTS AND FINANCES

§1003. INVESTIGATIONS BY COMMISSION

1. Investigations. The commission may undertake audits and investigations to determine whether a person has violated this chapter, chapter 14 or the rules of the commission. For this purpose, the commission may subpoena witnesses and records whether located within or without the State and take evidence under oath. A person or entity that fails to obey the lawful subpoena of the commission or to testify before it under oath must be punished by the Superior Court for contempt upon application by the Attorney General on behalf of the commission. The Attorney General may apply on behalf of the commission to the Superior Court or to a court of another state to enforce compliance with a subpoena issued to a nonresident person. Service of any subpoena issued by the commission may be accomplished by:

A. Delivering a duly executed copy of the notice to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of that person; [2013, c. 162, §1 (NEW).]

B. Delivering a duly executed copy of the notice to the principal place of business in this State of the person to be served; or [2013, c. 162, §1 (NEW).]

C. Mailing by registered or certified mail a duly executed copy of the notice, addressed to the person to be served, to the person's principal place of business. [2013, c. 162, §1 (NEW).]

[2013, c. 162, §1 (AMD) .]



2. Investigations requested. A person may apply in writing to the commission requesting an investigation as described in subsection 1. The commission shall review the application and shall make the investigation if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.

[2011, c. 389, §4 (AMD) .]

§1012. DEFINITIONS

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As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1985, c. 161, §6 (NEW).]

2. Contribution. The term "contribution:"

A. Includes:



(1) A gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing the nomination or election of any person to state, county or municipal office or for the purpose of liquidating any campaign deficit of a candidate, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;

§1015. LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

∴



5. Other contributions and expenditures. Any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate.

The financing by any person of the dissemination, distribution or republication, in whole or in part, of any broadcast or any written or other campaign materials prepared by the candidate, the candidate's political committee or committees or their authorized agents is considered to be a contribution to that candidate.

[1989, c. 504, §§7, 31 (AMD) .]

§1019-B. REPORTS OF INDEPENDENT EXPENDITURES

1. Independent expenditures; definition. For the purposes of this section, an "independent expenditure":

A. Is any expenditure made by a person, party committee, political committee or political action committee, other than by contribution to a candidate or a candidate's authorized political committee, for any communication that expressly advocates the election or defeat of a clearly identified candidate; and [2003, c. 448, §3 (NEW) .]

B. Is presumed to be any expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and is disseminated during the 21 days, including election day, before a primary election; or the 35 days, including election day, before a general or special election. [2013, c. 334, §15 (AMD) .]

[2013, c. 334, §15 (AMD) .]

2. Rebutting presumption. A person presumed under this section to have made an independent expenditure may rebut the presumption by filing a signed written statement with the commission within 48 hours of making the expenditure stating that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate, supported by any additional evidence the person chooses to submit. The commission may gather any additional evidence it deems relevant and material and must determine by a preponderance of the evidence whether the cost was incurred with intent to influence the nomination, election or defeat of a candidate.

[2003, c. 448, §3 (NEW) .]

3. Report required; content; rules.

[2009, c. 524, §6 (RPR); T. 21-A, §1019-B, sub-§3 (RP) .]

4. Report required; content; rules. A person, party committee, political committee or political action committee that makes any independent expenditure in excess of \$250 during any one candidate's election shall file a report with the commission. In the case of a municipal election, the report must be filed with the municipal clerk.

A. A report required by this subsection must be filed with the commission according to a reporting schedule that the commission shall establish by rule that takes into consideration existing campaign finance reporting requirements. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2011 , c . 558 , §2 (AMD) .]

B. A report required by this subsection must contain an itemized account of each expenditure in excess of \$250 in any one candidate's election, the date and purpose of each expenditure and the name of each payee or creditor. The report must state whether the expenditure is in support of or in opposition to the candidate and must include, under penalty of perjury, as provided in Title 17-A, section 451, a statement under oath or affirmation whether the expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate or an authorized committee or agent of the candidate. [2015 , c . 350 , §6 (AMD) .]

C. A report required by this subsection must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form. The commission may adopt procedures requiring the electronic filing of an independent expenditure report, as long as the commission receives the statement made under oath or affirmation set out in paragraph B by the filing deadline and the commission adopts an exception for persons who lack access to the required technology or the technological ability to file reports electronically. The commission may adopt procedures allowing for the signed statement to be provisionally filed by facsimile or electronic mail, as long as the report is not considered complete without the filing of the original signed statement. [2013 , c . 334 , §16 (AMD) .]

This subsection takes effect August 1, 2011.

[2015 , c . 350 , §6 (AMD) .]

5. Exclusions. An independent expenditure does not include:

A. An expenditure made by a person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents; [2011 , c . 389 , §21 (NEW) .]

B. A telephone survey that meets generally accepted standards for polling research and that is not conducted for the purpose of changing the voting position of the call recipients or discouraging them from voting; [2011 , c . 389 , §21 (NEW) .]

C. A telephone call naming a clearly identified candidate that identifies an individual's position on a candidate, ballot question or political party for the purpose of encouraging the individual to vote, as long as the call contains no advocacy for or against any candidate; and [2011 , c . 389 , §21 (NEW) .]

D. A voter guide that consists primarily of candidates' responses to surveys and questionnaires and that contains no advocacy for or against any candidate. [2011 , c . 389 , §21 (NEW) .]

[2011 , c . 389 , §21 (NEW) .]

SECTION HISTORY

2003, c. 448, §3 (NEW). 2007, c. 443, Pt. A, §20 (AMD). 2009, c. 366, §5 (AMD). 2009, c. 366, §12 (AFF). 2009, c. 524, §§6, 7 (AMD). 2011, c. 389, §§20, 21 (AMD). 2011, c. 389, §62 (AFF). 2011, c. 558, §2 (AMD). 2013, c. 334, §§15, 16 (AMD). 2015, c. 350, §6 (AMD).

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Chapter 1: PROCEDURES

SUMMARY: This Chapter describes the nature and operation of the Commission, and establishes procedures by which the Commission's actions will be governed.

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SECTION 4. INITIATION OF PROCEEDINGS**2. Election Campaign Reporting and *Maine Clean Election Act* Violations**

- 
- C. Any person (as defined in 21-A M.R.S.A. §1001) may make an official complaint or request for a Commission investigation by filing a signed written request at the Commission's office, setting forth such facts with sufficient details as are necessary to specify the alleged violation. A copy of the signed request may be filed by facsimile or by electronic mail, provided that the original signed request is submitted to the Commission. Statements should be made upon personal knowledge. Statements which are not based upon personal knowledge must identify the source of the information which is the basis for the request, so that respondents and Commission staff may adequately respond to the request. A copy of any such written request will be promptly mailed to the candidate or organization alleged to have violated the statutory requirements. The Director may conduct preliminary fact finding to prepare a matter for presentation to the Commission. The Director, in consultation with Counsel, will prepare a summary of staff findings and recommendations for inclusion on the agenda.
- D. An oral report of a violation, or a written request containing insufficient detail to specify the violation charged, does not constitute an official request for a Commission determination, and a person registering such a complaint will be so notified.

...

SECTION 5. FACT FINDING AND INVESTIGATIONS

1. **Before Commission Meeting.** With respect to any inquiry, complaint, or request for Commission action properly filed in accordance with the preceding section, or any potential violation that comes to the attention of Commission staff through an audit or review of reports, the Director may conduct such preliminary investigation as is deemed prudent and desirable. If the preliminary investigation suggests that a complaint is without factual basis, the Director may inquire with the person filing the complaint whether he wishes to withdraw the request for further investigation. When a matter is ready for presentation to the Commission, the Director, in consultation with Counsel, will prepare a summary of findings and recommendations for inclusion on the agenda.

2. **By the Commission.** Once any matter is reached on the agenda of a Commission meeting, the Commission will control any further investigation or proceedings. No hearings will be held except by direction of the Commission. On a case-by-case basis, the Commission may authorize its Chair, Director, or any ad hoc committee of its members, to conduct further investigative proceedings on behalf of the Commission between Commission meetings. Any authorization so conferred will be fully reflected in the minutes of the Commission meeting. Consultations between the Commission and its Counsel concerning an investigation (including the issuance of subpoenas) where premature public knowledge of the investigation would place the Commission or another investigatory office at a substantial disadvantage may be held in executive session pursuant to 1 M.R.S.A. §§ 405(6)(E), 1005, and 1013(3-A).
3. **Use of Commission's Subpoena Power.** The Chair is authorized to issue subpoenas in the name of the Commission to compel the attendance of witnesses or the production of records, documents or other evidence when the Chair and the Commission's Counsel are in agreement that the testimony or evidence sought by the subpoena is necessary to disposition of the matter; and to issue any subpoena in the name of the Commission on behalf of any person having a statutory right to an agency subpoena. Any oral testimony compelled by a subpoena issued by this provision will be presented to the Commission or its staff.
4. **Hearings.** The Commission may hold a hearing to receive testimony under oath. Any hearing must be conducted in accordance with the *Maine Administrative Procedure Act* [5 M.R.S.A. §§ 8001 *et seq.*] and Chapter 2 of the Commission's Rules.

SECTION 6. CONTRIBUTIONS AND OTHER RECEIPTS

...

9. If an expenditure is made to promote or support the nomination or election of a candidate, or to oppose or defeat the candidate's opponent(s), and the expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate, the expenditure is considered to be a contribution from the spender to the candidate. As used within this subsection, the term "candidate" includes a committee authorized by the candidate to promote or support his or her election, and all agents of the candidate or the authorized committee.
 - A. In cooperation, consultation or in concert with includes, but is not limited to:
 1. Discussion between the candidate and the creator, producer or distributor of a communication, or the person paying for that communication, regarding the content, timing, location, mode, intended audience, volume of distribution or frequency of placement of that communication, and
 2. Participation by the candidate in making any decision regarding the content, timing, location, mode, intended audience, volume of distribution, or frequency of placement of the communication.
 - B. An expenditure is presumed to be made in cooperation, consultation or concert with, or at the request or suggestion of a candidate, when
 1. the expenditure is made in cooperation, consultation or in concert with any person who, during the twelve months preceding the expenditure,

has been the candidate's treasurer or an officer of the candidate's authorized committee, has had a paid or unpaid position managing the candidate's campaign, or has received any campaign-related compensation or reimbursement from the candidate;

2. when the candidate has directly shared the candidate's campaign plans, activities, or needs with the spender for the purpose of facilitating a payment by the spender on a communication to voters to promote or support the candidate; or
3. the communication replicates, reproduces, republishes or disseminates, in whole or in substantial part, a communication designed, produced, paid for or distributed by the candidate.

The candidate or spender may rebut the presumption by submitting sufficient contrary evidence.

- C. If a candidate requests that a party committee, political action committee, or other potential spender not make any expenditure to promote or support the candidate, or oppose or defeat the candidate's opponent(s), the request does not constitute cooperation or coordination.
- D. An expenditure will not be presumed to have been made in cooperation, consultation or concert with, or at the request or suggestion of a candidate, solely because:
 1. the spender has obtained a photograph, biography, position paper, press release, logo, or similar material about the candidate from a publicly available source;
 2. the person making the expenditure has previously provided advice to the candidate on suggested communication strategies, budgets, issues of public policy, or other campaign plans or activities;
 3. the person makes an expenditure in response to a general, non-specific request for support by a candidate, provided that there is no discussion, cooperation or consultation with the candidate prior to the expenditure relating to the details of the expenditure;
 4. the spender has also made a contribution to the candidate, or has discussed with the candidate his or her campaign plans or activities as part of the candidate's solicitation for a donation;
 5. the expenditure is made by a for-profit or non-profit organization for invitations, announcements, food and beverages and similar costs associated with an event to which the candidate has been invited by the organization to make an appearance before the organization's members, employees, shareholders and the families thereof; or
 6. the expenditure is made by an individual who spends \$100 or less for costs associated with a sign that is lettered or printed individually by hand and that reproduces or replicates a candidate's campaign-related design or graphic.