

# Agenda

## Item #13



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

To: Commission Members and Counsel  
From: Jonathan Wayne, Executive Director  
Date: March 1, 2007  
Re: Complaint against Democracy Maine

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In 2006, Democracy Maine filed two financial reports under 21-A M.R.S.A. §1056-B stating that the organization had received contributions, and made expenditures totaling \$58,689.14, to oppose the Taxpayers Bill of Rights (TABOR) citizen initiative. Political consultant Roy Lenardson has filed a request that the Commission consider whether the organization should have, instead, registered and filed financial reports as a political action committee (PAC).

The Commission staff is preparing its meeting materials in an abbreviated manner because tomorrow's snow storm could interrupt state government and timely operations of the U.S. Post Office. Rather than a full memo with recommendations, we offer these preliminary thoughts.

**Good Faith of Democracy Maine in Filing §1056-B Reports**

Jonathan Crasnick is the Executive Director of Democracy Maine. As he explains in his February 6 response on behalf of Democracy Maine, he indeed consulted with PAC/Party/Lobbyist Registrar Martha Demeritt about how to report financial activity in

opposition to TABOR. Martha advised him that the organization should disclose its financial activities through §1056-B reports. We believe Mr. Crasnick was operating in good faith. Even if you determine that Democracy Maine was in error by not filing as a PAC, the staff preliminarily recommends that no civil penalty should be assessed because the organization's director sought out advice from the Commission staff in advance.

### **Democracy Maine does not appear to be a PAC**

We recommend that the question of whether Democracy Maine is a PAC be analyzed under Paragraphs (3) and (4) of 21-A M.R.S.A. §1052(A)(5)(A). Both of these paragraphs require that – to qualify as a PAC – an organization must have as its “major purpose” advocating the passage or defeat of a ballot question.

#### **5. Political action committee.** The term "political action committee:"

##### **A. Includes:**

- (1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to influence the outcome of an election, including a candidate or question;
- (2) Any person who serves as a funding and transfer mechanism and spends money to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State;
- (3) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question; and
- (4) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and spends more than \$1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition, including the collection of signatures for a direct initiative, in this State; and

Based on the information provided to date, the Commission staff is inclined to conclude that Democracy Maine does not have as its major purpose advocating the defeat of TABOR. Although press releases and statements to the media alone may not provide a full picture of an organization's activities, the materials provided do not appear to suggest that opposing TABOR was Democracy Maine's major purpose. Also relevant is the timing of the founding of the organization in May 2005. While opposing TABOR may have been a significant project for Mr. Crasnick in 2006, the Commission staff is not ready to conclude that opposing TABOR was the major purpose of the organization.

#### **Completeness of §1056-B Reporting**

The staff wishes to raise for your consideration another issue: whether Democracy Maine's §1056-B reporting of contributions is complete. In its two §1056-B reports, the organization reported total expenditures of \$58,689.14, but its contributions totaled only \$1,705.00. Mr. Crasnick responds that the balance "came from Democracy Maine's funds for general activities."

In the recent attention over the sufficiency of §1056-B reporting, some have raised the general concern that if a §1056-B filer claims that it used its general funds to support or oppose a ballot question, there remains a possibility that the filer could be shielding the original source of those funds who provided them for the purpose of influencing an election. Indeed, this concern one of the central contentions of the complainant against the Maine Heritage Policy Center.

In the case of Democracy Maine, its website explains that it was founded by real estate developer and businessman Robert C.S. Monks. Democracy Maine's office is located at Mr. Monk's office on the fourth floor of City Center in Portland. Mr. Monks remains a one of its three board members. During the Commission's consideration of the complaint against the Maine Heritage Policy Center, I was asked informally by the press why the Commission was not considering why Mr. Monks was not included as a contributor on Democracy Maine's §1056-B reports, since – it was presumed – that Mr. Monks was the sole funder of the organization. In 2004, Mr. Monks was the sole contributor to a PAC, the Citizenship Fund, and he provided \$29,000 to the organization, which was largely spent in six highly contested State Senate races.<sup>1</sup>

In order to perform the Commission's statutory duty to verify that §1056-B reporting is complete, you may conclude that the question is worth pursuing even though it was not included in Mr. Lenardson's complaint and was first raised with me informally by the press based on inferences about Democracy Maine's funders. Since Mr. Monks was part of the organization's board of directors which officially voted in early September 2006 to oppose TABOR, it may be worth asking whether he provided funds to the organization *knowing* that they would be used to oppose TABOR. If that did occur, he should be listed as a contributor in Democracy Maine's §1056-B reports. Please be mindful, however, that Democracy Maine like any nonprofit organization is not generally required to disclose its funders and may be reluctant to disclose this information.

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<sup>1</sup> The PAC reported its first contribution from Mr. Monks on November 1, 2004, which in retrospect seems improbable because that was one day before the November 2 general election.



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### OUR FOUNDERS

#### ROBERT C. S. MONKS,

Bob Monks is a prominent real estate developer and financier, highly regarded for his success in attracting global capital for a wide range of business ventures. His real estate interests include Monks O'Neill Development, Eagle Point Enterprises, The Signal Group, Dirlgo Management, Northland Enterprises, Workforce Housing, The Sprague Corporation, and AM&P Partners. Bob Monks also serves as Chairman of the Board of Institutional Shareholder Services (ISS), the leading proxy services company in the world with 420 employees. International investment partners at ISS include real estate titans Warburg Partners and Hermes.

Bob Monks was previously a principal shareholder and Director of Maine-based Atlantic Bank, N.A. and a Director of Maine Employers Mutual, Maine's largest workers' compensation insurance company; and is currently a Director of Navigator Publishing, a publishing company for the boating industry; and a Director and Investor in Wide Multimedia, a London based Internet financial training company. He attended Duke University and earned his BA degree from the University of Southern Maine. He also attended George Mason University's School of Conflict Resolution.

#### Anthony Buxton,

Anthony W. Buxton is an attorney at Preti Flaherty Beliveau Pachious and Haley and serves as chair of the firm's Energy and Utilities Practice Group.

Tony counsels businesses on how to anticipate and benefit from change in the regulation and sale of energy. He has demonstrated an ability to find creative and unconventional solutions to his clients' problems.

Tony is general counsel to the Industrial Energy Consumer Group, representing Maine's largest consumers of electricity. He is a former member of the Maine Energy Resources Advisory Board. He has presented papers at regional and national conferences on alternative energy development and is the author of Federal and State Legal and Institutional Obstacles to the Development of Small Scale Hydroelectric Projects.

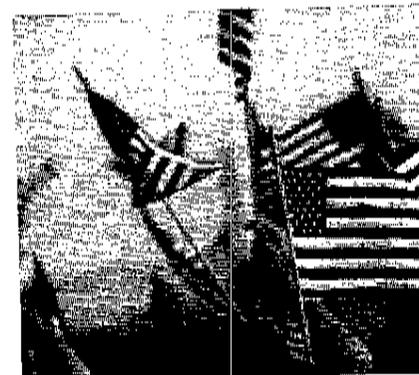
Following his work at the Institute, he was selected to serve as law clerk to the Honorable Hugh H. Bownes of the U.S. Court of Appeals for the First Circuit in Boston. Tony joined Preti Flaherty after completing his clerkship in 1980. He has been listed in Woodward/White's The Best Lawyers in America since 1982.

#### Jacqueline Potter,

Jackie Potter is a political activist and community leader.

She was campaign manager for US Congressman Tom Allen's successful primary and general election victories in 1996. She then served as his Chief of Staff overseeing his Washington and District offices for his first four terms.

She has been a teacher and school administrator in several Maine communities,



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The New York Times, February 16, 2007 [Read More...](#)

**LURC stymies western Maine wind power project**

Bangor Daily News, January 25, 2007 [Read More...](#)

and served for nine years on the Portland School Committee, including terms as chairperson and finance chair. She served as the first director of the Commission for Women, and helped to move the Children's Museum of Maine to downtown Portland as Director of Education.

In 2005, Maine's Dirigo Alliance honored Jackle for "Her dedication to her community and the many local and state efforts to improve the lives of children, women and working families."

**Maine Heritage spent \$31,000 to back TABOR initiative**

Kennebec Journal, January 23, 2007  
[Read More...](#)

**Collins, Snowe oppose troop plan**

Portland Press Herald, January 23, 2007 [Read More...](#)

**As power shifts, Rep. Allen relishes chance for change**

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**Heritage Policy Center ordered to file form**

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**Portland think tank under scrutiny**

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**Maine could be hurt by law on power lines**

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Dennis Bailey is the President of **Savvy Inc.**, a Portland media and public relations firm. Dennis has served as Democracy Maine's media strategist since the group's formation in 2005. He works closely with Democracy Maine's board and staff to develop and implement the group's various media campaigns.

Dennis served as press secretary for US Rep. Tom Andrews for three years before leaving to serve as press secretary for independent gubernatorial candidate Angus King. King went on to defeat the two major party candidates in a stunning upset, becoming the only independent governor at that time in the US. Bailey was press secretary for Governor King for more than six years, until 2000. More recently, Bailey served as a senior media and policy advisor to the successful Baldacci for Governor Campaign in 2002, and has since helped draft several of Governor Baldacci's major addresses and policy speeches.

**Savvy Inc.** was started in 2000. Savvy advises corporate, government, non-profit and political campaign clients on media relations and communications strategy. In 2003 he gained widespread prominence for his central role in the campaign that defeated a statewide referendum to establish a gambling casino in Maine. After the vote, the Maine Sunday Telegram called Bailey "a winner": "He ran a good, common-sense campaign. He was smart not to overexpose himself. He is now one of the most visible figures in the state." Al Diamon of the Portland Phoenix called Bailey "the state's best political operative."

## **BOARD OF DIRECTORS**

Anthony W. Buxton

Robert CS Monks

Jacqueline Potter

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### **Maine could be hurt by law on power lines**

Portland Press Herald, December 11, 2006 [Read More...](#)



# Maine Voices Against Extremism

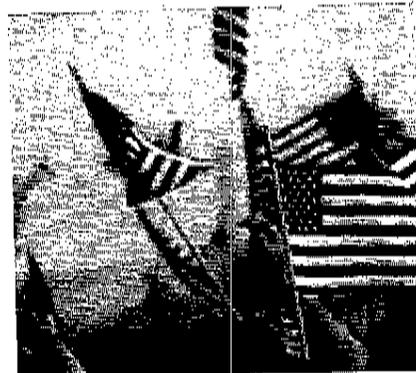
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## Democracy Maine

One City Center 4th Floor  
Portland, ME 04101

Have a question or comment?

Email us at: [info@democracymaine.org](mailto:info@democracymaine.org)



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### IN THE NEWS

#### Weekend Detention Could End Senate's Squabbling on Iraq

The New York Times, February 16, 2007

#### LURC stymies western Maine wind power project

Bangor Daily News, January 25, 2007



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

January 16, 2007

Jonathan Crasnick  
Democracy Maine  
One City Center  
Portland, ME 04101

Dear Mr. Crasnick:

This is to notify you that Roy Lenardson has filed a request that the Ethics Commission consider whether Democracy Maine should have registered as a political action committee (PAC) with the Commission last year and filed regular PAC reports. I have attached his request, the definition of political action committee under 21-A M.R.S.A. §1052(5), the reporting requirements under §1056-B, and an advisory memo from the Commission staff regarding §1056-B reporting.

**Requested Response**

I am scheduling this matter for the Commission's meeting in March, because the agenda for the February meeting is already quite long. The date for the March meeting has not been finalized. **Kindly submit a written response to the request no later than Wednesday, February 7<sup>th</sup>.**

In your response, please describe Democracy Maine's overall mission and activities relating to the Taxpayer Bill of Rights (TABOR) initiative. I recognize that some activities are reflected in Schedule B of your §1056-B report, but I think it would be helpful if you could provide the Commission with a description.

With regard to the funders of your organization's TABOR activities, under 21-A M.R.S.A. §1056-B Democracy Maine is required by the Election Law to report "contributions ... for the purpose of initiating, promoting, defeating, or influencing in any way a ballot question ...." Please describe the sources of funding for the organization's TABOR activities, in particular what funds were used to make the reported expenditures that were not shown on Schedule A of your §1056-B reports.

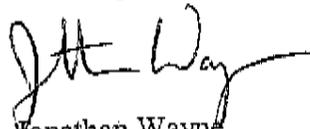
For your consideration, I have attached a December 27, 2006 memo from the Commission staff offering advice on what to include in a §1056-B report. (This advice has not been approved by the Commission members.) On the issue of reporting contributions, we have advised disclosing:

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
WEBSITE: WWW.MAINE.GOV/ETHICS

- funds which the contributor specified were given in connection with a ballot question (*i.e.*, for the purpose of promoting or opposing a ballot question);
- funds provided in response to a solicitation which would lead the contributor to believe that the funds would be used specifically for the purpose of promoting or opposing a ballot question; and
- funds which can reasonably be determined to have been provided by the contributor for the purpose of promoting or opposing a ballot question when viewed in the context of the contribution and the recipient's activities regarding a ballot question.

If you have any questions, please telephone me at 287-4179. Thank you.

Sincerely,



Jonathan Wayne  
Executive Director

cc: Roy Lenardson

01/08/2007 10:55 2072876775

ETHICS COMMISSION

PAGE 01/01

**From:** Roy Lenardson [mailto:roy@strategicadvocacy.com]  
**Sent:** Monday, January 08, 2007 7:52 AM  
**To:** Wayne, Jonathan; Lavin, Paul  
**Subject:** Complaint

Dear Jonathan:

I would like to formally request that the staff review whether or not Democracy Maine incorrectly filed as a 1056-B when their activities are more accurately reflected as a Political Action Committee. In addition to the Democracy Maine inquiry, I am concerned that the AARP, while certainly a large organization with many responsibilities beyond anti-Tabor activities, fails to meet the 1056-B test. I am not familiar with an organization spending 300,000 dollars in a single campaign, and deciding it is not a PAC.

It makes sense to me that a quick review of all the 1056-B filers is in order. I am specifically requesting the AARP review, although there may be others that should also be included.

I am attaching several documents which I believe represent a "major" portion of the activities of the Democracy Maine during the referendum campaign. Including:

1. Email solicitations (I have included 3) asking for money for the defeat of TABOR
2. A press release announcing that "Democracy Maine Begins Campaign to Expose TABOR as a Fraud"
3. A copy of one of the Newspaper Ads (Full page) that ran in papers throughout Maine urging a NO vote on Question 1
4. A copy of one of the mailings that was sent from Democracy Maine urging the defeat of TABOR
5. A screen shot of their campaign website [www.stophurricane.tabor.com](http://www.stophurricane.tabor.com), which also links to their other website, [www.democracymaine.com](http://www.democracymaine.com) and includes a link for a radio Ad.
6. A copy of their 1056-B report which shows just over \$1000 dollars in contributions and more than \$42,000 in expenditures July 24<sup>th</sup> through October 23, a 3 month period. I do not have the latest copy.

Finally, I would like to state that I am adamantly opposed to the requirement created in the context of the 1056-B reports that an organization file where and when they have spoken on an issue. This new requirement that groups register their speaking activities with the government is dangerous.

However, I believe the Maine Heritage Policy Center, which is now required to register with the government, is being unfairly singled out. The following organizations did not file a 1056-B report yet expended resources and spoke in opposition to TABOR:

1. The City of Portland
2. The Kathadin Institute
3. The University of Maine System
4. The Catholic Church
5. The Maine State Chamber

This is by no means a complete list, but before I file an additional complaint, could you please provide me with guidance on the standards being used that will trigger the reporting requirement? Information on how many speeches have to be given or the number of meetings held, the number of mentions in the paper, radio and TV. If there are specific content issues that one would need to consider, that be helpful to know as well. My goal here is to understand exactly when the 1056-B report would be triggered.

I look forward to working with you in this issue.

**Roy Lenardson**

Strategic Advocacy, LLC  
605 US Route One, Suite 3  
Scarborough, Maine 04074  
207.329.0992 (c)

FROM :

FAX NO. :

Nov. 30 2006 09:05AM P1

----- Forwarded Message

From: Democracy Maine <info@democracymaine.org>  
Reply-To: <info@democracymaine.org>  
Date: Tue, 29 Aug 2006 16:32:45 -0400  
Subject: Maine Sunday Telegram on TABOR

Dear Fellow Citizens,

This past weekend the Maine Sunday Telegram published an editorial that criticized the spending cap legislation known as TABOR for "giving a motivated minority the power to wrap up their government in a fiscal straightjacket."

The editorial went on to say:

*"A more effective critique addresses the manner in which TABOR clamps down on spending. It's a policy bludgeon that leaves government less able to respond to opportunities and unexpected fiscal burdens. And TABOR's biggest effect is more likely to be felt on local rather than state programs."*

Click here to read the full Maine Sunday Telegram Editorial.

<http://pressherald.maine.today.com/viewpoints/editorials/060827tabor.shtml>

TABOR is a one-size fits all formula that takes away local control.

Visit <http://www.notabor.org/> to learn how TABOR will affect Maine's families and economy.

Make an online contribution <http://www.democracymaine.org/Default.aspx?tabid=57> and help Democracy Maine spread the word against TABOR.

Democracy Maine  
One City Center, 4th Floor  
Portland, ME 04101

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FROM :

FAX NO. :

Nov. 30 2006 09:06AM PZ

----- Forwarded Message

**From:** Democracy Maine <info@democracymaine.org>  
**Reply-To:** <info@democracymaine.org>  
**Date:** Thu, 28 Sep 2006 16:14:30 -0400  
**Subject:** TABOR: Not From Maine - PBS Special

Dear Fellow Citizens,

While supporters of TABOR claim that it is a "homegrown" Maine initiative, in reality, TABOR is political extremism from outside of Maine. TABOR is part of a national conservative movement supported by and secretly funded by far right extremists like Grover Norquist and Howard Rich.

This week, a PBS episode of NOW, investigates how organizations associated with New York billionaire Howard Rich and Americans for Tax Reform Director Grover Norquist are secretly providing major funding for TABOR-like ballot initiatives all across the United States. NOW also investigates the questionable tactics that have been used to get these initiatives on the ballot.

This special report strongly counters TABOR proponents' arguments that TABOR is a homegrown solution for Maine. Please view this investigation online at:

<http://www.pbs.org/now/shows/238/index.html> <<http://www.pbs.org/now/shows/238/index.html>>

Learn why TABOR is a national strategy being pushed in Maine by far right extremists who are not concerned with the interests of Maine citizens.

TABOR is a fraud and another incompetent solution from the far right.

Click here <<http://www.democracymaine.org/Default.aspx?tabid=57>> to make an online contribution of \$25 <<http://www.democracymaine.org/Default.aspx?tabid=57>> and help Democracy Maine <<http://www.democracymaine.org/Default.aspx?tabid=85>> spread the truth about TABOR.

Thank you,

Jon Crasnick

Democracy Maine

Democracy Maine  
One City Center, 4th Floor  
Portland, ME 04101

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Dec. 20 2006 01:50PM P1

FROM :

FAX NO. :

From: "Democracy Maine" <info@democracymaine.org>  
 Reply-To: info@democracymaine.org  
 To: [REDACTED]@hotmail.com  
 Subject: TABOR Forecast: A FRAUD on Maine  
 Date: Tue, 03 Oct 2006 14:35:07 -0400

<[http://www.democracymaine.org/Portals/0/Skins/Blue\\_H-Menu\\_NE/people.jpg](http://www.democracymaine.org/Portals/0/Skins/Blue_H-Menu_NE/people.jpg)>

<[http://www.democracymaine.org/Portals/0/images/DemMaine\\_logo\\_cmyk\(contribution\).jpg](http://www.democracymaine.org/Portals/0/images/DemMaine_logo_cmyk(contribution).jpg)>

Dear Fellow Citizens,

Last week we learned the truth; TABOR is from out of state and harmful to Maine.

This week, Democracy Maine began its campaign against TABOR by running ads in Maine's major newspapers that expose TABOR for what it truly is - A FRAUD. TABOR will not do what it's supporters say it will. In fact, TABOR will make tax cuts virtually impossible by allowing a small, one-third minority of lawmakers to prevent necessary reforms. Click on the image below to see Democracy Maine's ad against TABOR.

<[http://www.democracymaine.org/Portals/0/docs/DemMaine\\_TABOR\(PPH\).pdf](http://www.democracymaine.org/Portals/0/docs/DemMaine_TABOR(PPH).pdf)>

visit <http://www.stophurricanetabor.com/> to learn why TABOR is a fraud and dangerous for Maine

Democracy Maine needs your help to keep this ad in Maine newspapers. Help Democracy Maine  
 <<http://www.democracymaine.org/>> defeat TABOR by donating \$100  
 <<http://www.democracymaine.org/Default.aspx?tabid=57>> , \$50  
 <<http://www.democracymaine.org/Default.aspx?tabid=57>> , or \$25  
 <<http://www.democracymaine.org/Default.aspx?tabid=57>> . Click here to make a secure Online Contribution  
 <<http://www.democracymaine.org/Default.aspx?tabid=57>> .

Thank you,

Jon Crasnick

Democracy Maine

Democracy Maine  
 One City Center  
 Portland, ME 04101

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FROM : MAINE HERITAGE POLICY CENTER FAX NO. : 2077734385

Sep. 28 2006 02:46PM P1

Sep 28 2006 14:29:37 Via Fax

-&gt;

2077734385 Editor

Page 001 of 002

*Maine Voices Against Extremism*

One City Center, 4<sup>th</sup> Floor  
 Portland, ME 04101  
 (207) 831-9840  
[www.democracymaine.org](http://www.democracymaine.org)

221-1041

Sept. 28, 2006

FOR IMMEDIATE RELEASE

## DEMOCRACY MAINE BEGINS CAMPAIGN TO EXPOSE TABOR AS A FRAUD

PORTLAND – Democracy Maine today announced its campaign in opposition to Question One, otherwise known as TABOR, which the group says is a fraud on the voters of Maine.

The group intends to reach voters through newspaper and radio ads, direct mail and other media to tell the facts about TABOR.

“TABOR is a fraud,” said Jon Crasnick, executive director of Democracy Maine, the year-old organization that was founded to confront partisan extremism that is preventing real problems from being solved. “It will not restrain spending by the Legislature in any way, it will hurt local control, not strengthen it, and it will make real tax reform almost impossible. This is exactly the opposite of what the proponents of TABOR are telling the voters. That’s why it’s a fraud.”

Democracy Maine’s campaign began this week with on-line banner ads warning voters about “Hurricane Tabor.”

“TABOR is not a local, home-grown solution to Maine’s unique problems, even though the proponents claim it is” Crasnick said. “This is being brought into Maine by the same incompetent national and far-right special interests that returned us to sky-high deficits, developed a flawed and dangerous foreign policy, and led the tragic response to hurricane Katrina.

FROM :MAINE HERITAGE POLICY CENTER

FAX NO. :2077734385

Sep. 28 2006 02:46PM P2

Sep 28 2006 14:30:13 Via Fax

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2077734385 Editor

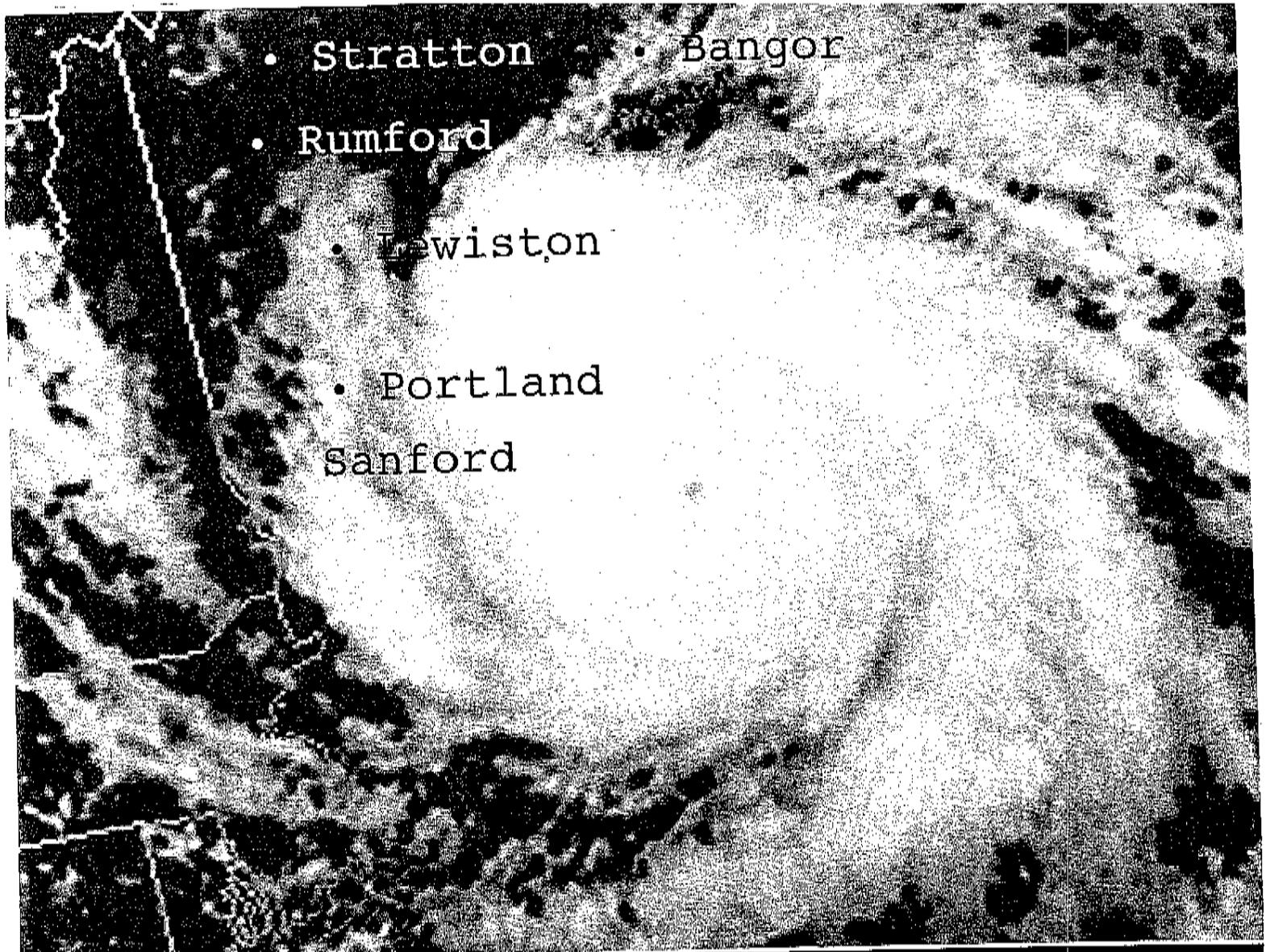
Page 002 OF 002

"We need to improve government and make it more efficient, not wipe it out," Crasnick added.

The group has a website, [www.stophurricanetabor.com](http://www.stophurricanetabor.com) that details the initiative and contains a complete "fraud forecast." The site also has a link to a recent PBS report about the national far-right groups that are behind TABOR initiatives across the country.

For more information about Democracy Maine, go to [www.democracymaine.com](http://www.democracymaine.com)

**Contact: Jon Crasnick, 776-0521.**

- 
- Stratton
  - Bangor
  - Rumford
  - Lewiston
  - Portland
  - Sanford

# HURRICANE TABOR VIPES OUT REAL TAX REFORM

A major storm is bearing down on Maine voters, and the radar shows it will wipe out any chance for real tax reform in Maine. It's called TABOR — Question 1 on the Nov. 7 ballot.

**FORECAST: TABOR IS A FRAUD — IT WILL NOT CUT YOUR TAXES**

**TABOR** will make tax cuts virtually impossible by changing the law so that it takes just a one-third minority to block tax reform.

**TABOR** takes control away from local taxpayers.

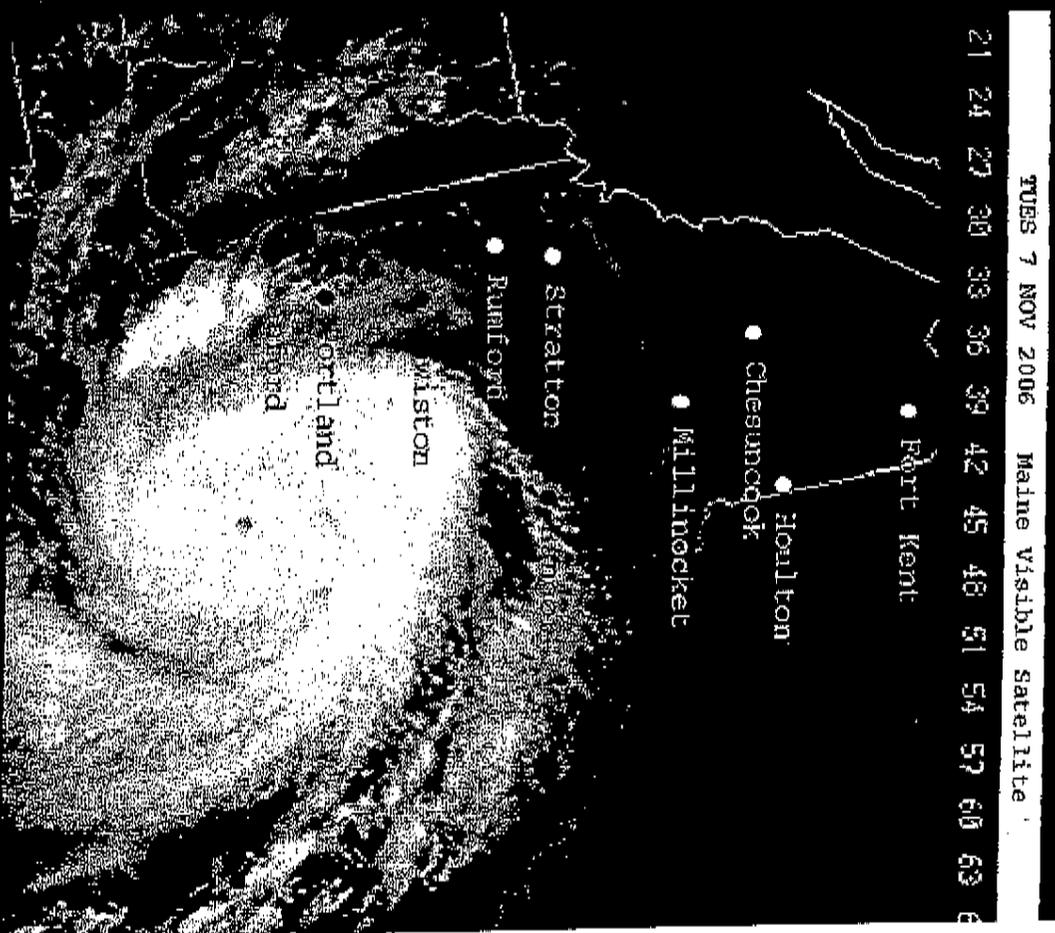
Nov. 28 2006 02:41PM P1

FAX NO. :

FROM :

# HURRICANE TABOR WIPES OUT REAL TAX REFORM

STOP THE HURRICANE  
[www.StopHurricaneTABOR.com](http://www.StopHurricaneTABOR.com)



FROM :

FX NO. :



**DON'T BE TRICKED BY TABOR  
VOTE NO ON QUESTION 1**

A major storm is bearing down on Maine voters, and the radar shows it will wipe out any chance for real tax reform in Maine. It's called TABOR — Question 1 on the Nov. 7 ballot.

**FORECAST: TABOR IS A FRAUD — IT WILL NOT CUT YOUR TAXES**

**TABOR** will make tax cuts virtually impossible by changing the law so that it takes just a one-third minority to block tax reform.

**TABOR** takes control away from local taxpayers.

**TABOR** gives Augusta total control — lawmakers can change it or even ignore it.

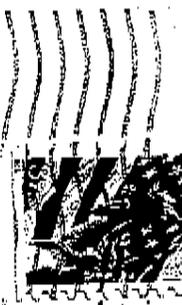
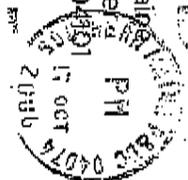
**TABOR** is sponsored by the same incompetent national and far-right special interests that returned us to sky-high deficits, developed a flawed and dangerous foreign policy, and led the tragic response to Hurricane Katrina.

*"TABOR is a policy bludgeon that leaves governments less able to respond to opportunities and unexpected fiscal burdens."*

— Maine Sunday Telegram, 8/27/06

**WWW.STOPTABOR.COM**  
**WWW.StopHurricaneTABOR.com**

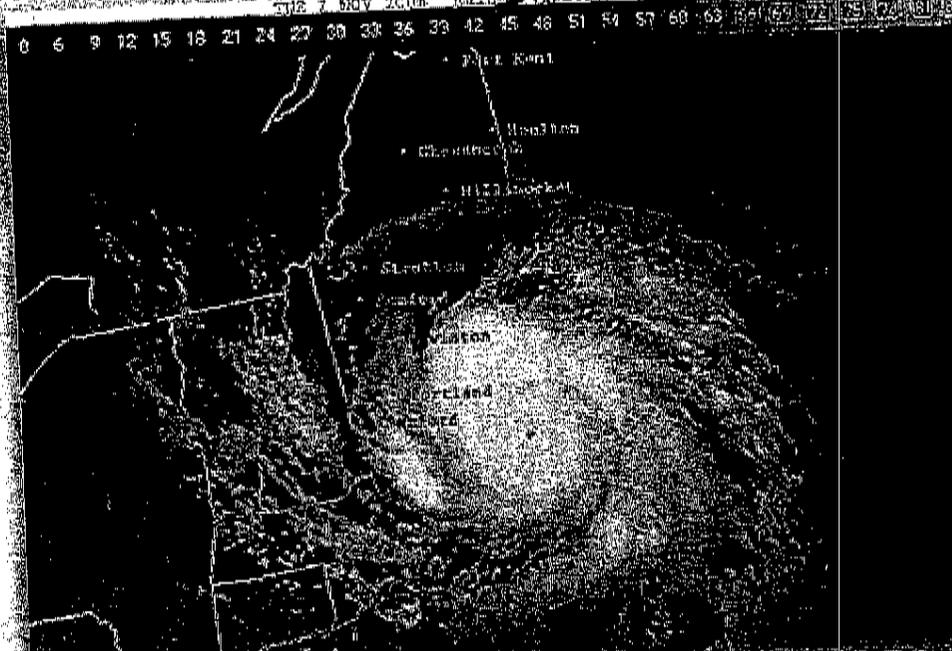
Paid for by  
Democracy Maine  
One City Center  
Portland, ME 04101



NEW  
ST. A.  
ME

ter

STOPHURRICANETABOR.COM VOTE NO ON QUESTION 1



# HURRICANE TABOR WIPES OUT REAL TAX REFORM

DON'T BE TRICKED BY TABOR VOTE NO ON QUESTION 1

A major storm is bearing down on Maine voters. The forecast shows that TABOR — Question 1 on the Nov. 7 ballot — is a catastrophic fraud that will wipe out any chance for real tax reform in Maine.

**TABOR** is a fraud — it will not cut your taxes.

**TABOR** will make tax cuts virtually impossible by changing the law so that it takes just a one-third minority to block tax reform.

**TABOR** takes control away from local taxpayers.

**TABOR** gives Augusta total control — lawmakers can change it or even ignore it.

**TABOR** is sponsored by the same incompetent national and far-right special interests that returned us to sky-high deficits, developed a flawed and dangerous foreign policy, and led the tragic response to Hurricane Katrina.

*"[TABOR] is a policy bludgeon that leaves governments less able to respond to opportunities and unexpected fiscal burdens." — Maine Sunday Telegram, 8/27/06*

complete  
FRAUD  
forecast

contribute  
to stop  
TABOR



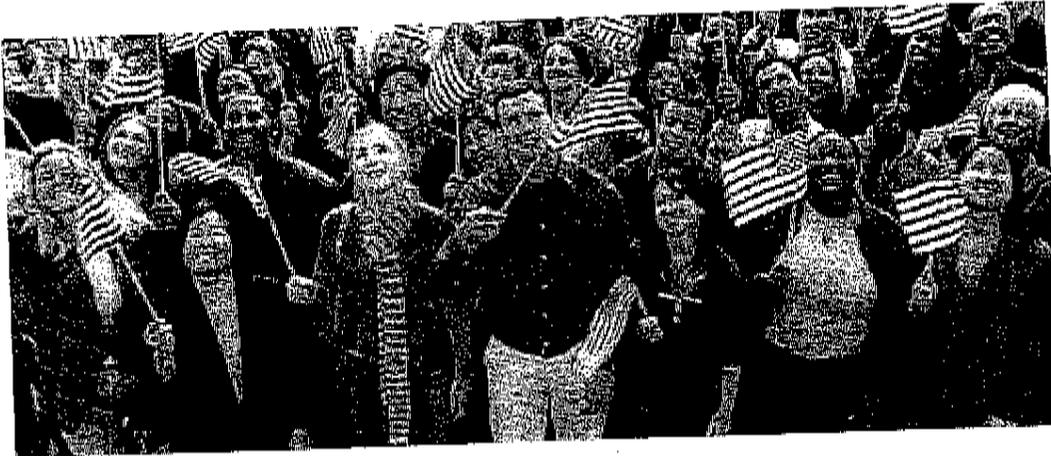
HEAR  
THE NEW  
RADIO  
SPOT!

CONTACT  
HOME

[stophurricanetabor.com/index.html](http://stophurricanetabor.com/index.html) as retrieved on Dec 8, 2006 07:40:38 GMT.  
Paid for by Democracy Maine, One City Center, Portland, ME 04101

NOTE: The link to contribute takes you here: <http://www.democracymaine.org/Default.aspx?tabid=57>

From: "Democracy Maine" <[info@democracymaine.org](mailto:info@democracymaine.org)>  
Reply-To: [info@democracymaine.org](mailto:info@democracymaine.org)  
To: [@hotmail.com](mailto:@hotmail.com)  
Subject: New Ad: Help Knock TABOR off course  
Date: Thu, 26 Oct 2006 20:30:44 -0400



## DEMOCRACY MAINE

*Maine Voices Against Extremism*

Dear Maine Citizens,

As November 7th approaches, support for TABOR is declining quickly as voters learn the truth. The truth is that TABOR is A FRAUD. It is being pushed by incompetent special interests and will not do what its supporters say it will. It will not control state spending, it will rob communities of local control, and it will wipe out any chances of lower taxes in Maine.

Democracy Maine has produced a new Radio ad to help spread the truth about TABOR. Click here to listen to our new ad and then forward this message to your friends and family.

We need your help to get our ad onto the radio. Help Democracy Maine knock TABOR off course by donating \$100, \$50, or \$25. Click here to make a Secure Online Contribution. Any amount you can give will make a difference.

Visit [www.stophurricaneetabor.com](http://www.stophurricaneetabor.com) or [www.democracymaine.org](http://www.democracymaine.org) to learn why TABOR is a fraud and dangerous for Maine!

Thank you,

Jon Crasnick

Democracy Maine

Democracy Maine  
One City Center  
Portland, ME 04101

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## Title 21-A, §1052, Definitions

### 4. Expenditure. The term "expenditure:"

#### A. Includes:

- (1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, made for the purpose of influencing the nomination or election of any person to political office; or for the initiation, support or defeat of a campaign, referendum or initiative, including the collection of signatures for a direct initiative, in this State;
- (2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure for the purposes set forth in this paragraph; and
- (3) The transfer of funds by a political action committee to another candidate or political committee; and

[2005, c. 575, §4 (amd).]

#### B. Does not include:

- (1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless these facilities are owned or controlled by any political party, political committee or candidate;
- (2) Activity designed to encourage individuals to register to vote or to vote, if that activity or communication does not mention a clearly identified candidate;
- (3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;
- (4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by a political action committee in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities by the political action committee on behalf of any candidate does not exceed \$100 with respect to any election;
- (5) Any unreimbursed travel expenses incurred and paid for by a political action committee that volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$100 with respect to any election; and
- (6) Any communication by any political action committee member that is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office.

[2005, c. 301, §22 (amd).]

[2005, c. 575, §4 (amd).]

### 5. Political action committee. The term "political action committee:"

#### A. Includes:

- (1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to influence the outcome of an election, including a candidate or question;
- (2) Any person who serves as a funding and transfer mechanism and spends money to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State;
- (3) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question; and
- (4) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and spends more than \$1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition, including the collection of signatures for a direct initiative, in this State; and

[2005, c. 575, §5 (amd).]

#### B. Does not include:

- (1) A candidate or a candidate's treasurer under section 1013-A, subsection 1;
- (2) A candidate's authorized political committee under section 1013-A, subsection 1, paragraph B; or

## Title 21-A, §1052, Definitions

(3) A party committee under section 1013-A, subsection 3.

[RR 2005, c. 2, §14 (cor).]

[RR 2005, c. 2, §14 (cor).]

PL 1985, Ch. 161, §6 (NEW).  
PL 1985, Ch. 614, §23 (AMD).  
PL 1989, Ch. 504, §21-23, 31 (AMD).  
PL 1989, Ch. 833, §13, 21 (AMD).  
PL 1991, Ch. 839, §27 (AMD).  
PL 1991, Ch. 839, §33 (AFF).  
PL 1995, Ch. 483, §17 (AMD).  
PL 1997, Ch. 683, §A12 (AMD).  
PL 1999, Ch. 729, §6 (AMD).  
PL 2005, Ch. 301, §22 (AMD).  
PL 2005, Ch. 575, §3-5 (AMD).

## Title 21-A, §1056-B, Reports of contributions and expenditures by persons

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### §1056-B. Reports of contributions and expenditures by persons

Any person not defined as a political committee who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of \$1,500 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the commission. In the case of a municipal election, a copy of the same information must be filed with the clerk of that municipality. [1999, c. 729, §8 (new).]

**1. Filing requirements.** A report required by this section must be filed with the commission according to a reporting schedule that the commission shall establish that takes into consideration existing campaign finance reporting schedule requirements in section 1059. [1999, c. 729, §8 (new).]

**2. Content.** A report must contain an itemized account of each contribution received and expenditure made aggregating in excess of \$100 in any election; the date of each contribution; the date and purpose of each expenditure; and the name of each contributor, payee or creditor. Total contributions or expenditures of less than \$500 in any election need not be itemized. The report must state whether the purpose for receiving contributions and making expenditures is in support of or in opposition to the ballot question. [1999, c. 729, §8 (new).]

**3. Forms.** A report required by this section 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. [1999, c. 729, §8 (new).]

PL 1999, Ch. 729, §8 (NEW).



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

To: Interested Persons  
From: Jonathan Wayne, Executive Director  
Date: December 27, 2006  
Re: Advice from Commission Staff on §1056-B Reporting

---

In response to a request, the Ethics Commission staff is offering the advice below regarding which financial activities are covered by 21-A M.R.S.A. §1056-B. This advice is offered provisionally until more permanent guidance can be determined through formal rulemaking or, possibly, a statutory amendment to §1056-B. If you believe you may need to file an amended §1056-B report as a result of this advice, please feel free to telephone Martha Demeritt at 287-4179. Please keep in mind that the advice has been drafted by the Commission staff, and has not been specifically approved by the Commission members.

#### **Contributions Covered by §1056-B**

Section 1056-B covers "contributions ... made for the purpose of initiating, promoting, defeating, or influencing in any way a ballot question ...." We propose that this would include the following:

- funds which the contributor specified were given in connection with a ballot question (*i.e.*, for the purpose of promoting or opposing a ballot question);
- funds provided in response to a solicitation which would lead the contributor to believe that the funds would be used specifically for the purpose of promoting or opposing a ballot question; and
- funds which can reasonably be determined to have been provided by the contributor for the purpose of promoting or opposing a ballot question when viewed in the context of the contribution and the recipient's activities regarding a ballot question.

Funds provided in response to a solicitation which would lead the contributor to believe that the funds would be for an organization's general activities would not be covered by Section 1056-B.

#### **Expenditures Covered by §1056-B**

Section 1056-B covers "expenditures made for the purpose of initiating, promoting, defeating, or influencing in any way a ballot question ...." We propose that this would include the following:

- expenditures for communications to voters for the purpose of promoting or opposing a ballot question, including advertising on television, radio, and print media; literature that is mailed or distributed by hand to voters; automated telephone calls and scripted calls from live callers; signs, bumper stickers, and other forms of outdoor advertising;
- staff time promoting or opposing the ballot question at public or press events;
- staff time canvassing (conducting door-to-door visits to) voters;
- travel expenses paid to employees in connection with appearances at public or press events;
- staff time preparing presentations, testimony or press releases to promote or oppose the ballot question;
- research or technical analysis including the writing of reports, where the sponsoring organization knows or reasonably should know that the research will be used to promote or oppose the ballot question; and
- expenditures to distribute research or technical analysis of a ballot question for the purpose of encouraging voters to vote yes, or no, on the question.

This list is not intended to be exhaustive and is similar to the types of expenditures reported by political action committees to promote or defeat a ballot question.

#### **Expenditures Not Covered by §1056-B**

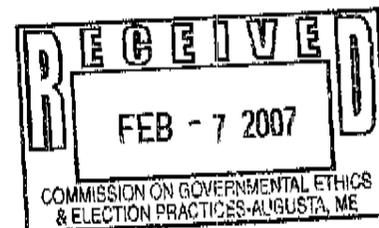
We propose that expenditures made merely to educate voters or others in a neutral way about a ballot question are not covered by §1056-B:

- Hosting a meeting at which advocates or members of the public are invited to present their views on the ballot question, provided that the sponsors of the event make reasonable efforts to ensure that the forum is balanced.

In 2006, for example, this would include the many community organizations (rotary clubs, public libraries, church groups) that hosted TABOR-related debates.

- News stories, commentary, or editorials concerning a ballot question distributed through the facilities of a broadcasting station, newspaper, magazine, or other periodical publication, unless the facilities are owned or controlled by persons otherwise engaged in other advocacy activities to promote or oppose the ballot question.
- Research or analysis of a ballot question which is not conducted for the purpose of initiating, promoting, or defeating the ballot question.

This could include research that is conducted in a neutral fashion and is intended to be communicated to opinion leaders, in academic settings, or to the public at large. When statewide ballot questions are pending, it is not unusual for individuals with specialized skills (e.g., academics, attorneys, educational institutions, pollsters) to be hired to undertake research or analysis concerning the ballot question. If these activities are neutral and not made for the purpose of promoting or defeating the question, they would not be covered by §1056-B.



One City Center, 4<sup>th</sup> Floor  
Portland ME 04101  
(207) 831-9840  
[www.democracymaine.com](http://www.democracymaine.com)

February 6, 2007

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

**RE: Requested response to complaint by Roy Lenardson**

Dear Mr. Wayne,

I am responding to your letter dated January 16th, 2007, in which you requested a response to the complaint against Democracy Maine by Roy Lenardson.

**Response to requested information**

Democracy Maine, originally created under the name *Democracy Now*, was formed in May of 2005 with the mission to expose political extremism in Maine – whether partisan or ideological – and advocate against its eroding of Maine's political processes. Democracy Maine often sees both republicans and democrats, and conservatives and liberals caught in a war of rhetoric and meaningless talking points and unable to work towards solutions to the challenges facing Maine.

In April 2006, consistent with this message, Democracy Maine first became involved with the Taxpayer Bill of Rights (TABOR) by filing an *amicus brief* with the Maine Supreme Court in support of a lower court's decision upholding the statutory deadline for submitting petition signatures for the TABOR referendum. *See exhibit A.*

The brief cited numerous cases around the country to support Democracy Maine's argument that Maine Secretary of State Matthew Dunlap did not have the discretion to accept the petition signatures after the deadline established in statute. Democracy Maine believed that while there was no foul play involved with the decision, allowing state

Democracy Maine Response  
February 6, 2007

officials to accept referendum signatures after the deadline would erode confidence in the electoral process and set a dangerous precedent.

Democracy Maine did not take a position for or against TABOR. At that time, Democracy Maine's message was simply that the citizen's initiative process is very important to democracy. It has clear rules that govern its implementation, and strict compliance with those rules is necessary to protect the integrity of the process.

In May 2006, Maine's Supreme Court ruled that the late TABOR signatures could be accepted and that TABOR would appear on November's ballot. It was not until July of 2006 however, that Democracy Maine began to investigate the origins and potential impacts of TABOR. During the summer months of 2006, Democracy Maine's staff and board of directors debated what the organization's position on TABOR would be. As is clearly stated in Democracy Maine's 6-Day pre-general §1056-B report, Democracy Maine worked with media and political consultants to develop possible messages. Democracy Maine also commissioned a poll to learn what support existed for TABOR. In September of 2006, Democracy Maine's board of directors officially voted to oppose TABOR.

It was then – September 6, 2006 - when I called the Maine Ethics Commission and spoke with Martha Demeritt. I asked Martha what disclosure was required from a 501(c)(4) nonprofit organization that wished to directly advocate for the defeat of a referendum question. Martha explained that under current Maine law, since Democracy Maine was formed for a purpose other than defeating TABOR, Democracy Maine was not required to register and report as a Political Action Committee (PAC). Instead Martha explained, Democracy Maine would be required to file Maine form 1056-B (the "§ 1056-B report"), otherwise known as the "*Persons other than a PAC*" report. 1056-B reports are required from organizations that do not qualify as PACs but that raise and/or spend over \$1500 for the specific purpose of influencing the outcome of an election or referendum. 21-A M.R.S.A. § 1056-B.

Having spoken to Martha, Democracy Maine announced and began its campaign to expose the deceptions or deficiencies of TABOR and advocate for its defeat. Democracy Maine's activities relating to the Taxpayer Bill of Rights are reflected in the complaint packet submitted by Mr. Lenardson. Democracy Maine announced its campaign through press releases and email correspondence sent to Democracy Maine's email subscribers. *See attached exhibit B.* Democracy Maine also ran advertisements opposing TABOR in the Portland Press Herald and Bangor Daily News, created direct mail pieces, and launched a website called [www.stophuricanetabor.com](http://www.stophuricanetabor.com). *See attached exhibits C & D.* All of Democracy Maine's activities against TABOR were meant to show that TABOR was an attack on democracy in Maine. We argued that TABOR would take control away from local governments and individuals; would eliminate majority rule by giving power to small minorities on any governing body; and was not a solution created in or for Maine

Democracy Maine Response  
February 6, 2007

but rather part of a national movement started and funded by national figures such as Grover Norquist and Howard Rich.

Democracy Maine's § 1056-B reports also illustrate that during its campaign against TABOR, Democracy Maine attempted to raise money to help fund its activities. Via emails and conventional mailings, Democracy Maine solicited contributions for its work to defeat TABOR. From these solicitations, between September 28 and November 13, Democracy Maine raised a total of \$1705.00. Eight of the contributions to Democracy Maine were \$100 or more and were itemized in Democracy Maine's two § 1056-B reports. *See exhibits E & F.*

Your request pointed out that Democracy Maine is required in its 1056-B to report, "contributions...for the purpose of initiating, promoting, defeating, or influencing in any way a ballot question..." As I have stated above and in Democracy Maine's 1056-B's: Democracy Maine raised, through solicitations specifically for our TABOR activities, a total \$1705.00.

As is stated in our 1056-B reports, Democracy Maine spent a total of \$58,698.14 to defeat the TABOR initiative. Since Democracy Maine was only able to raise \$1705.00, the majority of funds that paid for the anti TABOR activities came from Democracy Maine's funds for general activities. And although Maine's § 1056-B reporting requires organizations other than PACs to disclose how much money they spend to influence an election, they are not required to account for the source of the money used to pay for the reported expenses, if the source is general contributions for the organization's general activities. As we recently saw for example, the Maine Heritage Policy Center disclosed spending \$30,962.19 in support of TABOR but reported raising only \$975.00.

### **Response to Mr. Lenardson's Complaint**

On December 21<sup>st</sup>, Mr. Lenardson testified before the Ethics Commission that he did not believe the Maine Heritage Policy Center (MHPC) acted as a PAC in 2006 or during the TABOR campaign. Mr. Lenardson was a previous employee of the MHPC and continues to have close ties to that organization. As the Commission is aware, Democracy Maine had joined a complaint against MHPC, which was taking the position that it did not even have § 1056-B reporting obligations. Regardless of whether the present complaint against Democracy Maine is a retaliatory response to Democracy Maine's recent complaint against MHPC, Mr. Lenardson's assertion that Democracy Maine is a PAC seems inconsistent with his recent argument and testimony that MHPC is not a PAC.

It would also be inconsistent for this Commission to decide that Democracy Maine acted as a PAC in 2006 or during the TABOR campaign based on its recent decisions that both the Maine Heritage Policy Center and the Maine Economic Research Institute were not PACs in 2006.

Democracy Maine Response  
February 6, 2007

Democracy Maine was created in 2005, well before the TABOR signatures were even submitted to the Secretary of State. Democracy Maine's mission is to expose and combat partisan and/or ideological extremism, and TABOR's origins and restrictions on government made it a perfect issue underneath the umbrella of that overarching mission.

As the attached press releases and newspaper articles will demonstrate, Democracy Maine was involved in several other issues in 2006 including the promoting of wind power projects as viable solutions to global warming, and lobbying Maine's two US Senators to vote against naming Samuel Alito to the US Supreme Court. *See exhibits G & H.*

Democracy Maine has gone out of its way to learn about and follow Maine's current campaign finance laws. Based on Maine's current laws and recent decisions by the Ethics Commission, I do not believe Democracy Maine is or has acted like a Political Action Committee as Mr. Lenardson has suggested. However, it has become clear in recent months that there is great confusion in this State over what is required from groups other than PACs and what should be required from groups other than PACs. Democracy Maine has recently voiced its desire for increased transparency in the sources of funding for political activities and feels strongly that when any organization spends any amount of money to try to influence the outcome of an election, Maine people need and have a right to know exactly where that money comes from.

I look forward to speaking before you and the Commission at your March meeting and answering any questions that you may have.

Very Sincerely,



Jonathan A Crasnick

Executive Director  
Democracy Maine

**Exhibit  
A****STATE OF MAINE  
SUPREME JUDICIAL COURT  
SITTING AS THE LAW COURT****Law Docket No. Ken-06-223**

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**KATHLEEN C. McGEE****Petitioner-Appellee****v.****MATTHEW DUNLAP, MAINE SECRETARY OF STATE****Respondent-Appellant****v.****MARY ADAMS****Intervenor-Appellant**

---

**ON APPEAL FROM THE KENNEBEC COUNTY SUPERIOR COURT**

---

**BRIEF OF AMICUS CURIAE DEMOCRACY MAINE, INC.****Richard L. O'Meara, Bar No. 3510  
Christopher B. Branson, Bar No. 7270  
MURRAY, PLUMB & MURRAY  
75 Pearl Street  
P.O. Box 9785  
Portland, Maine 04101  
(207) 773-5651  
Attorneys for Amicus Curiae  
Democracy Maine, Inc.**

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    vacated.

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**TABLE OF AUTHORITIES**

**Cases**

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Respondent-Appellant Secretary of State Matthew Dunlap and Intervenor-Appellant Mary Adams appeal from the entry by the Superior Court (Kennebec County, *Marden, J.*) of a decision and order in favor of Petitioner-Appellee Kathleen C. McGee.

### **STATEMENT OF FACTS**

The facts are not in dispute. On October 21, 2004, the Maine Secretary of State approved the application of Mary Adams and others to initiate proceedings to place a referendum question, in the form of a direct initiative, before Maine voters under 21-A M.R.S.A. § 901. On the same date, the Secretary of State issued a referendum petition entitled “An Act to Create the Taxpayers’ Bill of Rights” (“TABOR”) and with the Question worded as follows: “Do you want to limit increases in state and local government spending to the rate of inflation plus population growth and to require voter approval for all tax and fee increases.”

In order to have the referendum placed on the 2006 ballot, the proponents of the initiative had to obtain the requisite number of valid signatures and timely file the petitions with the Secretary of State in compliance with the statutory deadline of Friday, October 21, 2005, pursuant to 21-A M.R.S.A. § 903-A(1).

The proponents timely filed with the Secretary of State on Friday, October 21, 2005 petitions containing an insufficient number of valid signatures. The proponents then filed additional petitions on the following Monday, October 24, 2005. Together, the Friday and Monday

petitions contained enough signatures to get the initiative on the ballot, if the Monday petitions were allowed.

On February 21, 2006, the Secretary of State issued a decision accepting the Monday petitions and validating the TABOR petitions as having enough signatures to place the initiative on the ballot.

### **PROCEDURAL HISTORY**

On or about February 25, 2006, Petitioner Kathleen C. McGee timely filed a Rule 80C Petition for Review of Final Agency Action in the Maine Superior Court, seeking a declaratory judgment that the untimely petitions are invalid and asking the Court to reverse the Secretary of State's decision. On March 2, 2006, the Superior Court granted the motion of Intervenor Mary Adams to intervene. The parties agreed at a telephonic Court conference on March 9, 2006 that an evidentiary hearing was unnecessary.

On April 3, 2006, the Superior Court, *Marden, J.*, entered a Decision and Order reversing the Secretary of State's decision of February 21, 2006, titled "Determination of the Validity of a Petition for Initiated Legislation Entitled: An Act To Create the Taxpayer Bill of Rights." The Court further held that the Secretary of State had no authority to accept petitions presented subsequent to October 21, 2005, one year from their date of issuance. This appeal followed.

### **ISSUES PRESENTED**

1. Should the Law Court affirm the Decision and Order of the Superior Court reversing the Secretary of State's decision of February 21, 2006, titled "Determination of the Validity of a Petition for Initiated Legislation Entitled: An Act To Create the Taxpayer Bill of Rights"?
2. Did the Secretary of State have authority to accept petitions presented subsequent to October 21, 2005, one year from their date of issuance?
3. Does the one-year deadline of 21-A M.R.S.A. § 903-A(1) comport with the First Amendment as a reasonable and nondiscriminatory restriction that serves a legitimate state interest, namely preventing fraud?
4. Did the Secretary of State's action interpreting 21-A M.R.S.A. § 903-A so as to permit him, as a matter of policy, to exercise discretion to extend the mandatory statutory deadline on the purported basis of substantial compliance, constitute rulemaking within the meaning of Maine's Administrative Procedure Act, 5 M.R.S.A. § 8001 *et seq.*?

## ARGUMENT

**I. VOTER INITIATIVES AND REFERENDA ARE A VALUED AND POTENT EXERCISE IN DIRECT DEMOCRACY AND IT IS PARAMOUNT TO SAFEGUARD THEIR INTEGRITY, FOR ITS OWN SAKE, AND TO PROMOTE PUBLIC CONFIDENCE IN OUR DEMOCRATIC GOVERNMENT.**

We call ourselves a democracy. The integrity of our electoral process in Maine and the United States as a whole – historically taken for granted and of late bitterly disputed to the highest levels of the judiciary – is the bedrock of the legitimacy to which our democratic system aspires.

These principles hold as true for ballot initiatives as for other types of elections. The U.S. Supreme Court has held, “[a]s the Tenth Circuit recognized in upholding [an] age restriction, [a] *six month limit on circulation*, and [an] affidavit requirement, *States allowing ballot initiatives have considerable leeway to protect the integrity and reliability of the initiative process*, as they have with respect to election processes generally.” *Buckley v. American Constitutional Law Foundation, Inc.*, 525 U.S. 182, 191(1999) (emphasis added). The Court went on to state, “there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes.” *Id.* at 187 (quoting *Storer v. Brown*, 415 U.S. 724, 730, 94 S. Ct. 1274 (1974)).

State courts have echoed these themes. After reciting legislative requirements governing petition signers, circulators, proponents of local referenda, and elected officials, the California Court of Appeal stated: “These requirements serve to safeguard the integrity of the electoral process, and to provide elections officials with orderly and clear procedures for determining whether a measure is qualified for the local ballot.” *Mapstead v. Anchundo*, 73 Cal.Rptr.2d 602, 607 (Cal. App. 1998).

Viewed through the lens of policy, our elections must be trustworthy for two reasons: First, honest elections are good and necessary in themselves. Second, we want to promote confidence in our government, in the eyes of our own citizenry and in the eyes of rest of the world. Public confidence, in turn, promotes greater participation, the lifeblood of democracy.

If faith in our democratic institutions is our civic religion, we take it as an article of that faith that sound elections yield the right results, the will of the people expressed and captured in choosing our elected officials and, in the case of referenda and initiatives, directly creating law and policy.

The need for public confidence in the electoral process is not a matter of cosmetics. Its indispensability can perhaps best be illustrated by the familiar consequences of the loss of public confidence in the system: dismal voter turnout, potential resultant disproportionate

electoral influence of extremist groups who vote in greater numbers, disrespect for public officials, apathy, cynicism, resignation, lack of participation, and dropping out of active citizenship.

Maine and many other states have long-established constitutional and statutory procedures for referenda and initiatives. Placing the levers of legislative power squarely in the hands of the voters, this form of direct democracy has unquestionably had a major impact across the nation – California’s Proposition 13 is but one prominent example.

With the power of the ballot initiative inevitably comes the potential for abuse and the consequent need to establish – and enforce – a regulatory regime to stand vigil over the lawful exercise of that valued franchise.

In this appeal our concern is not with the substance of electoral measures – presumably various successful ballot initiatives have had the same mixed track record of salutary and devastating consequences as have various enactments of the people’s elected representatives. Our concern today is with process. If the established initiative process is scrupulously observed, the substance will be left to the voters.

This appeal arises in the context of these *macro* issues. Amicus Democracy Maine respectfully submits that this appeal should be decided with these principles borne in mind – not as high-minded platitudes – but as practical issues in protecting the soundness and legitimacy of the day-to-day, nuts-and-bolts operation, from one election

to the next, of a working democracy, of which Sir Winston Churchill famously said, "It has been said that democracy is the worst form of government except all the others that have been tried."

**II. COURTS THROUGHOUT THE UNITED STATES HAVE REJECTED UNTIMELY PETITIONS FOR INITIATIVES AND REFERENDA.**

It is hornbook law that "[a]fter signatures have been obtained, an initiative or referendum *must be timely filed* with the designated public officer." *Am.Jur.2d*, Initiative and Referendum, § 31. In the view of Amicus Democracy Maine, the number, geographic breadth and vitality of the court decisions enforcing that principal make a compelling case for affirming the decision of the Superior Court.

In *Infinger v. Stuckey*, 234 S.E.2d 214 (S.C. 1977) (deadline for a referendum is mandatory and judicial extension is jurisdictionally prohibited), the Supreme Court of South Carolina faced a similar set of facts: some petitions were timely submitted, but lacked sufficient valid signatures, while additional petitions containing the needed number of valid signatures were submitted after the deadline. Refusing to place the referendum on the ballot, the Court held: "When, as here, the statute is plain and unambiguous, it becomes the duty of the court to apply it literally because the legislative design is unmistakable." *Id.* at 216.

Similarly, the Supreme Court of Arizona has held that the untimely filing of petitions supporting an initiative (seeking to eliminate what had become known as the "bed, board and booze tax"), pursuant to a

deadline of four months before the general election, resulted in the initiative being “null and void for inclusion on any ballot.” *City of Flagstaff v. Mangum*, 793 P.2d 548, 550, 552, 558 (Ariz. 1990).

Likewise, the Court of Appeals of Arizona vacated the trial court’s order and prohibited a referendum from appearing on the ballot where its supporting petitions were untimely filed, even though the petitions were filed by the date the Director of Elections had (erroneously) given to the proponents. *Robson Ranch Mountains, LLC v. Pinal County*, 51 P.3d 342 (Ariz. App. 2002). The court made a number of pertinent observations about the regulation of initiatives:

[T]he trial court’s rulings undermine the well-established principle in Arizona that referendum proponents must “comply strictly with applicable constitutional and statutory provisions” because “the referendum is an extraordinary power” . . . . See also *Lawrence v. Jones*, 199 Ariz. 446, ¶¶ 7-8, 18 P.3d 1245, ¶¶ 7-8 (App. 2001) (although “constitutional right to referendum is to be broadly construed,” referendum petition must strictly comply with all applicable statutory requirements); . . . .

In addition, the trial court’s rulings unnecessarily inject both confusion and lack of uniformity in this area of the law. See *Pioneer Trust Co.*, 168 Ariz. at 66, 811 P.2d at 27 (noting importance of establishing, when possible, a “bright-line rule easily ascertainable by all interested parties” for referendum petitions); cf. *Simpson*, 193 Ariz. 391, ¶ 12, 972 P.2d 1027, ¶ 12 (noting importance of avoiding “litigation-generating ambiguities” in referendum process when possible). Far from “remov[ing] uncertainty,” as the trial court noted, its rulings actually produce just the opposite effect. As

Anam correctly points out, “the prospect of material disputes as to ‘who said what’ and ‘who gave what to whom’ leads to ridiculous results in referenda challenges . . . .”

*Id.* at 351 (citations omitted).

The Supreme Court of Utah rejected the appeal of proponents of a referendum, where the proponents failed to file their petitions in a timely manner. *Bigler v. Vernon*, 858 P.2d 1390 (Utah 1993). The court admonished that “plaintiffs could have produced, circulated and filed their own referendum petitions within the relevant period of time.” *Id.* at 1393. The court further stated: “We have emphasized previously the importance of strict compliance with the time limits contained in this provision, noting that the failure to meet the . . . deadline is fatal to a referendum petition.” *Id.* at 1392.

In *Portland General Electric Co. v. City of Portland*, 41 P.3d 1126 (Or. App. 2002), the appellate court made short work of this issue: in a two-page opinion, the appellate court summarily vacated the judgment of the trial court and held that the untimely filing of an initiative petition rendered it “void.” *Id.* at 1127. The court noted that the proponents “cite no authority” for their assertion that the City Auditor “has the discretion to accept late signature submittals.” *Id.*

“To safeguard the neutral application of the procedural requirements – an application unfocused on the content of the initiative or the election official’s personal view – the election official’s authority is

ministerial.” *Glendale Tenants Ass’n v. City of Glendale*, 2005 WL 419409, 4 (Cal. App. 2005) (unpublished decision). In *Glendale*, the California appellate court affirmed the trial court’s judgment granting a petition for writ of mandate prohibiting the initiative from being placed on the ballot where the petition “was filed after the applicable deadline had elapsed.” *Id. at \*1*. The court stated: “It is not disputed that the failure to comply with a time requirement constitutes a substantial defect. (See *Steele v. Bartlett*, 18 Cal.2d 573, 574 (1941) [candidate who filed election papers one day late must be omitted from the ballot].)” *Id. at \*4*. Although unpublished, this opinion is of particular interest because, assuming *arguendo* that the Law Court were to adopt the “substantial compliance” test urged by appellants, untimely filing was deemed to be a substantial defect; the California court, moreover, relied on a decision where papers were filed, as here, one day late.

Additional decisions from throughout the nation have reached the same conclusion: the untimely filing of petitions mean the initiative does not get on the ballot this time. See, e.g., *Let the People Vote v. Board of County Commissioners of Flathead County*, 120 P.3d 385 (Mont. 2005) (Supreme Court of Montana refused to allow initiative onto ballot where signature petitions were out of time); *Direct Sellers Ass’n v. McBrayer*, 503 P.2d 951 (Ariz. 1973) (Supreme Court of Arizona reversed court of appeals and barred referendum from ballot where proponents had relied on unlawful effort to amend petitions after expiration of deadline); see

also, *Let's Help Florida v. Smathers*, 360 So.2d 496 (Fla. 1<sup>st</sup> Dist. Ct. of App. 1978) (Secretary of State lacked discretion to *shorten* the time for filing initiative petitions notwithstanding the unexpected filing of thousands of petitions resulting in an administrative bottleneck).

The one case we have located in which the court permitted a referendum petition to be filed a day late is readily distinguishable. The proponents of the petition had physically attempted a timely filing of the petition numerous times, but encountered the extraordinary obstacle that the office where they were to file the petition was “*closed to the public*” prior to the deadline! *Truman v. Village of Clay Center*, 825 N.E.2d. 1182, 1188 (Ohio App. 2005). No such extenuating circumstances chargeable to the Secretary of State are present here.

**III. THE ONE-YEAR DEADLINE OF 21-A M.R.S.A. § 903-A(1) COMPLIES WITH THE FIRST AMENDMENT BECAUSE IT IS A REASONABLE AND NONDISCRIMINATORY RESTRICTION THAT SERVES A LEGITIMATE STATE INTEREST, NAMELY PREVENTING FRAUD.**

In her Memorandum of Law in the Superior Court, Intervenor Adams argued briefly that Petitioner McGee’s “interpretation of Section 903-A(1)” runs afoul of the First Amendment to the U.S. Constitution. Her argument ignores established jurisprudence permitting time limits on electoral processes to prevent fraud.

At the outset, Intervenor Adams is incorrect that the time limit is subject to strict scrutiny. Here, the time limit is reasonable and non-discriminatory. As a result, it passes muster under the First Amendment

provided it advances an important state interest. As the Superior Court held and the Secretary of State admits, the primary statutory purpose of the time limit was “to reduce fraudulent signatures in the initiative circulation process, and to ensure that no signatures were more than one year old.” *Decision and Order of the Superior Court*, pp. 9 and 21.

Prevention of fraud is a legitimate and valid state goal. *Rosario v. Rockefeller*, 410 U.S. 752, 791 (1973) (“It is clear that preservation of the integrity of the electoral process is a legitimate and valid state goal.”); *Marston v. Lewis*, 410 U.S. 679, 680 (1973) (“States have valid and sufficient interests in providing for some period of time – prior to an election – in order to prepare adequate voter records and protect . . . electoral processes from possible frauds.”)

In affirming the District Court’s ruling after a bench trial upholding a six-month limitation on circulation of petitions, the Tenth Circuit observed that an orderly process requires time lines. *American Constitutional Law Foundation, Inc. v. Meyer*, 120 F.3d 1092, 1099 (10<sup>th</sup> Cir. 1997), *aff’d on other grounds*, 525 U.S. 182 (1999). The court found six months a “reasonable window,” a sensible, “nondiscriminatory ballot access regulation.” *Id.*; *see also* the Supreme Court’s characterization of Tenth Circuit’s ruling on appeal, *Id.*, 525 U.S. at 191, n. 10. The Tenth Circuit’s ruling upholding the six-month time limit for petitions is particularly notable because the court simultaneously struck down other requirements for ballot initiatives that it found invalid as unnecessary

and improper restrictions on political expression. *Id.* at 191; 120 F.3d at 1100-05.<sup>1</sup>

Hence, contrary to Intervenor Adams' argument, there is no First Amendment infirmity in the requirement of a deadline, on its face or as applied.

**IV. WHERE THE LEGISLATURE HAS DRAWN A BRIGHT LINE RULE TO PREVENT FRAUD IN VOTER INITIATIVES, THE INTEGRITY OF THE PROCESS REQUIRES SCRUPULOUS APPLICATION OF THE RULE.**

The one-year deadline of 21-A M.R.S.A. § 903-A is just the sort of reasonable, clear deadline that, when enforced, provides clear guidance to proponents navigating their way through the initiative process. The ruling demanded by appellants, in contrast, would create bad law, confusion and doubt as to what standards govern the extraordinary exercise of the referendum power.

There appears to be no dispute that the Legislature enacted 21-A M.R.S.A. § 903-A to prevent fraud in ballot initiatives and to ensure automatic enforcement of the requirement that signatures be no more than one year old, without the need for the Secretary of State to exercise discretion in the matter.

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<sup>1</sup> Many other time-limitations on electoral processes have survived First Amendment attack. *See, e.g., Burdick v. Takushi*, 504 U.S. 428, 437 (1992) (a candidate's or a voter's interest in deciding late rather than early whether to participate in an election is not a weighty interest); *Storer v. Brown*, 415 U.S. 724, 736 (1974) (little weight given to the interest the candidate and his supporters may have in making a late rather than an early decision to seek independent ballot status); *Acorn v. Bysiewicz*, No. 3:04CV1624(MRK), p. 40 (D. Conn. December 20, 2005) (Connecticut's 7-day advance voter-registration deadline "imposes only reasonable, non-discriminatory restrictions.").

Moreover, as thoroughly demonstrated in the Decision and Order of the Superior Court, section 903-A is consistent with the Maine Constitution because, as the Legislature contemplated, proponents of ballot initiatives can readily comply with both the statutory and Constitutional deadlines, as the proponents would have done in this case, if they had simply timely filed the signatures by the Friday deadline.<sup>2</sup> On this point, in addition to the authorities previously cited by the parties and the court, the Supreme Court of Washington case of *State ex rel. Kiehl v. Howell*, 138 P. 286 (Wash. 1914) is on *all fours*. There, as here, the proponents filed petitions for a ballot initiative outside the statutory timetable, but within a deadline in the state constitution. There, as here, the proponents argued that the constitutional scheme was self-executing and should override the statutory timetable. The Washington Secretary of State refused to place the initiative on the ballot and the proponents sought a writ of mandamus by direct application under the original jurisdiction of the Supreme Court of Washington. The Court denied the writ and held:

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<sup>2</sup> To the extent the proponents' failure to timely file the Monday petitions was mere carelessness, the situation is comparable to that where a citizen's failure timely to register to vote is no basis to invalidate reasonable registration deadlines: "[T]he State is justified imposing a reasonable registration cutoff prior to any primary or general election, beyond which a citizen's failure to register may be presumed a negligent or willful act forfeiting his right to vote in a particular election." *Rosario*, 410 U.S. at 760 (Powell, J. dissenting) (emphasis added)(cited in the majority opinion at 760).

The Legislature is expressly authorized to enact laws to facilitate the initiative and referendum. It seems clear to us that a limitation upon the time within which, prior to the election, a proposed measure may be filed and the procuring of signatures of voters to the petitions commenced is a proper subject of legislation, looking to orderly procedure and fairness to the electors. While the constitutional amendment is declared to be self-executing, it is apparent that its execution would be almost, if not wholly, impracticable without legislation of some such nature as this.

*Id.* at 287. While this decision may be approaching its one-hundredth anniversary, the factual and legal posture of the case is remarkably similar to the one at bar. Amicus Democracy Maine suggests the result should be the same as well.

The Superior Court's decision conclusively demonstrates that the words "must be completed within one year of the date of issuance" are mandatory under the statutory scheme; therefore, we will not belabor the point here.

The Legislature appears to have carried forward to the present day, in the statute at issue now, Maine's historic detailed and precise regulation of the initiative process that the Law Court observed in *Allen v. Quinn*, 459 A.2d 1098, 1103 (Me. 1983), when the Court stated:

[T]he people in retaking to themselves part of the legislative power have laid out in unusual detail the procedure by which they will legislate by direct vote . . . . That detail even extends, for example, to prescribing five o'clock p.m. as the hour of the filing deadline for initiative petitions . . . . In the midst of this specificity, . . . a court

must be chary of reading another time limitation into section 18(1) by implication.

Likewise, the Legislature has enacted detailed – and mandatory – statutory procedures for ballot initiatives consistent with the Maine Constitution. The Court should be equally chary to tinker with the bright line one-year deadline at issue here, by opening the door to non-transparent, uncertain exercise of unauthorized discretion by the Secretary of State to infer “substantial compliance.” By drawing the line here and now, and applying the clear statutory rule, the Court may well avoid many future court challenges to ballot initiatives.

**V. THE SECRETARY OF STATE’S INTERPRETATION OF 21-A M.R.S.A. § 903-A(1) TO ALLOW SUBSTANTIAL COMPLIANCE AND HIS SUSPENSION OF THE DEADLINE THEREIN CONSTITUTE UNAUTHORIZED RULEMAKING UNDER MAINE’S ADMINISTRATIVE PROCEDURE ACT AND SHOULD BE VACATED.**

The Secretary of State opens his brief to the Superior Court by stating that “[t]his appeal marks the first time that the Secretary of State’s *interpretation and application of the statutory deadline* for filing citizen initiative petitions, in 21-A M.R.S.A. § 903-A, has been challenged in Maine.” *Brief of Respondent Secretary of State in Superior Court.*

With that sentence, the Secretary of State makes clear that he undertook to “interpret” section 903-A. No doubt the Secretary of State would say that he intends to apply his “interpretation” allowing substantial compliance generally, as a policy and standard, and that it is not for this set of initiative proponents alone. For him to contend

otherwise would be fatally arbitrary and capricious. If the same situation arose again, he would presumably apply this standard and interpretation again, consistently in the future.

However, the Secretary of State's *interpretation* fails to comport with Maine's Administrative Procedure Act 5 M.R.S.A. § 8001 *et seq.* As a result, his interpretation should be vacated and the initiative should remain off the ballot.

The Act defines an agency "rule" broadly as follows:

- A. "Rule" means the whole or any part of every regulation, standard, code, statement of policy, or other agency statement of general applicability, including the amendment, suspension or repeal of any prior rule, that is or is intended to be judicially enforceable and implements, interprets or makes specific the law administered by the agency, or describes the procedures or practices of the agency.

5 M.R.S.A. § 8002(9).

The Secretary of State's effective extension of the petition deadline is intended to be judicially enforceable (indeed he is asking the Law Court to enforce it), describes the procedures the agency will follow, and determines the State policy for disposition late-filed initiative petitions. Such an adjustment to the petition deadline should have taken place, if at all, only after satisfying the notice and public hearing requirements of the Administrative Procedure Act, 5 M.R.S.A. § 8052.

An analogous situation was addressed in an Opinion of the Attorney General in which the Attorney General held that the Maine Housing Authority was required to follow the rulemaking procedures of

the Administrative Procedure Act *to establish a deadline* for submission of proposals to the Maine Housing Authority. *Op. Atty. Gen.*, June 27, 1980. The Attorney General concluded that portions of Housing Authority Consent Resolution which contained criteria that specified circumstances under which Housing Authority would not allocate housing assistance subsidies, and which were judicially enforceable, constituted “rules” under provisions of this section. Provisions of Housing Authority housing unit reservation policies which established *deadline for submission of proposals* to Housing Authority in response to public notice, and which established standards for approval or disapproval of applications, constituted “rules,” within meaning of this section.

Here, as in the case of the Maine Housing Authority, an agency of State government purports to establish deadlines, as a matter of policy and standards for members of the public to make submissions to the agency, which will then approve or disapprove the submissions based on the standards.

Other examples underscore the point. *See, e.g., Fulkerson v. Commissioner, Maine Dept. of Human Services*, 628 A.2d 661 (Me. 1993) (Department of Human Services co-payment provisions constitute “rules” subject to Administrative Procedure Act); *New England Whitewater Center, Inc. v. Department of Inland Fisheries and Wildlife*, 550 A.2d 56 (Me. 1988) (Department of Inland Fisheries and Wildlife’s changes in

process for allocating minimum daily number of passengers to whitewater rafting outfitters constituted rule making, and thus allocations were invalid for failure of Department to comply with rule making provisions of Administrative Procedure Act). The Secretary's failure to provide the process required by the Administrative Procedure Act requires that his extension of the deadline be declared null and void, just as the Department of Inland Fisheries and Wildlife's action was declared in *New England Whitewater Center, Inc, supra*.

The Secretary's extension of the statutory deadline was an activity affecting the citizens of the state. Affected citizens should have been apprised of the activities and provided the opportunity to participate.

In Maine, case law and Attorney General opinions generally support the courts' authority to vacate decisions of improper administrative proceedings. For example, the Attorney General specifically asserted the power to vacate departmental actions that violate the Freedom of Access Law in a letter to the Speaker of the House of Representatives offering the Offices' advisory opinion regarding whether a letter from the Chairman of the Commission on Governmental Ethics and Election Practices constituted a valid advisory opinion.

*Op. Att'y Gen.* 84-85. Title 1, Section 409(2) states:

If any body or agency approves any ordinances, orders, rules, resolutions, regulations, contracts, appointments or other official action in an executive session, this action shall be illegal and the officials responsible shall be subject to the penalties hereinafter provided. Upon learning of

any such action, any person may appeal to any Superior Court in the State. If a court, after a trial de novo, determines this action was taken illegally in executive session, it shall enter an order providing for the action to be null and void....

1 M.R.S.A. § 409(2). After determining that the Commission violated the Freedom of Access Law by polling members by telephone, the Attorney General concluded that, pursuant to 1 M.R.S.A. § 409(2), the Commission's action was "invalid, and therefore, the Commission had not yet issued a valid advisory opinion" *Id.* at 3.

In *Soucy v. Northland Frozen Foods*, potato farmers moved to vacate a Department of Agriculture decision relating to their business contract because the Department had exceeded its statutory authority. *Soucy v. Northland Frozen Foods*, ARO AP-01-005 at 4 (Me. Super. Ct. 2004). The court held that the Department did, in fact, exceed its authority in the contract dispute, and thus chose to vacate the Department's determination *Soucy*, ARO AP-01-005 at 7.

Additionally, the Court in *Jurlanski v. Portland Yacht Club* held that, when an agency failed to act properly on all zoning matters before it, or to make sufficient and clear findings of fact, the proper course for the courts was to remand to the agency for findings that permit meaningful judicial review. *Jurlanski v. Portland Yacht Club*, 782 A.2d 783, 787 (Me. 2001). Likewise, in *Cumberland Farms Northern, Inc. v. Maine Milk Commission*, the Court vacated the State Milk Commission's

recommended minimum prices to be paid to producers, dealers and retailers for sale of fluid milk when the Commission failed to properly adopt rules within its rule-making authority to set those prices because of deficiencies in the process, including poor accounting practices.

*Cumberland Farms Northern, Inc. v. Maine Milk Commission*, 428 A.2d 869 (Me. 1981).

In *Mutton Hill Estates, Inc. v. Town of Oakland* the Court noted that while a remand order to the agency for further review was the usual remedy chosen by superior courts when errors were found in administrative decision-making, the court also had additional authority to affirm, reverse, or modify the decision under review. *Mutton Hill Estates, Inc. v. Town of Oakland*, 468 A.2d 989, 992 (Me. 1983).

Separately, *Mutton Hill* further noted that

It is essential to a party's right to procedural due process that he be given notice of and an opportunity to be heard at proceedings in which his property rights are at stake...Without notice to Mutton Hill, or a right for it to be heard, to invite admittedly biased opponents of the application to participate in the factfinding compilation is to determine conclusively, by an ex parte proceeding, Mutton Hill's property rights in violation of this constitutional guarantee.

*Id.*

Finally, In *Houlton Water Co. v. Maine Public Utilities Commission*, Maine Superior Court, Civil Action CV-92-63 (Lipez, J.) (Decision and Order of July 20, 1992 and Order of July 30, 1992), the Court declared

null and void a decision of the Public Utilities Commission to adopt a rule where the Commission failed to give public notice of a meeting to adopt the rule. Discussing Maine's Administrative Procedure Act, Justice Lipez held that an adjudicatory proceeding under 5 M.R.S.A. Section 8002(1), a rule under 5 M.R.S.A. Section 8002(9) and an advisory ruling under 5 M.R.S.A. Section 9001(1) are all subject to the requirements of the Administrative Procedure Act. Within the ambit of those three types of actions are included "deciding the rights or duties of specific parties to a case, establishing standards or procedures intended to be binding on persons or parties . . . , or issuing a ruling that is intended to guide the behavior of specific persons that are subject to statutes or rules . . . ." *Decision and Order of July 20, 1992*, at p. 9. Although the case involved a different state agency, Justice Lipez's ruling strongly supports the conclusion that the Secretary of State's action here is subject to the Administrative Procedure Act.

The Secretary of State's unauthorized and *ultra vires ad hoc* end-run around the Administrative Procedure Act is an alternative ground for affirmance of the Superior Court's decision in this case and is also an independent basis for this Court to invalidate the untimely Monday petitions.

**CONCLUSION**

For all of the foregoing reasons, the Superior Court's judgment should be affirmed.

Dated at Portland, Maine: April 14, 2006.

Respectfully submitted,

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Richard L. O'Meara, Bar No. 3510  
Christopher B. Branson, Bar No. 7270  
Counsel for Democracy Maine, Inc.

MURRAY, PLUMB & MURRAY  
75 Pearl Street, P.O. Box 9785  
Portland, Maine 04104-5085  
(207) 773-5651

**CERTIFICATE OF SERVICE**

I hereby certify that two copies of the foregoing Brief of Amicus Curiae were sent this day by first-class mail, postage prepaid to:

Gerald F. Petrucelli, Esq.  
PETRUCELLI & MARTIN  
P.O. Box 9733  
Portland, ME 04104

Phyllis Gardiner, Esq.  
Assistant Attorney General  
6 State House Station  
Augusta, ME 04330-0006

Michael A. Duddy, Esq.  
KELLEY, REMMEL & ZIMMERMAN  
53 Exchange Street  
P.O. Box 597  
Portland, ME 04112

Dated: April 14, 2006

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Christopher B. Branson, Bar No. 7270  
Attorney for Amicus Curiae  
Democracy Maine, Inc.

**Exhibit  
B***Maine Voices Against Extremism*

One City Center, 4<sup>th</sup> Floor  
Portland, ME 04101  
(207) 831-9840  
[www.democracymaine.org](http://www.democracymaine.org)

Sept. 28, 2006  
FOR IMMEDIATE RELEASE

## **DEMOCRACY MAINE BEGINS CAMPAIGN TO EXPOSE TABOR AS A FRAUD**

PORTLAND – Democracy Maine today announced its campaign in opposition to Question One, otherwise known as TABOR, which the group says is a fraud on the voters of Maine.

The group intends to reach voters through newspaper and radio ads, direct mail and other media to tell the facts about TABOR.

“TABOR is a fraud,” said Jon Crasnick, executive director of Democracy Maine, the year-old organization that was founded to confront partisan extremism that is preventing real problems from being solved. “It will not restrain spending by the Legislature in any way, it will hurt local control, not strengthen it, and it will make real tax reform almost impossible. This is exactly the opposite of what the proponents of TABOR are telling the voters. That’s why it’s a fraud.”

Democracy Maine’s campaign began this week with on-line banner ads warning voters about “Hurricane Tabor.”

“TABOR is not a local, home-grown solution to Maine’s unique problems, even though the proponents claim it is” Crasnick said. “This is being brought into Maine by the same incompetent national and far-right special interests that returned us to sky-high deficits, developed a flawed and dangerous foreign policy, and led the tragic response to hurricane Katrina.

“We need to improve government and make it more efficient, not wipe it out,” Crasnick added.

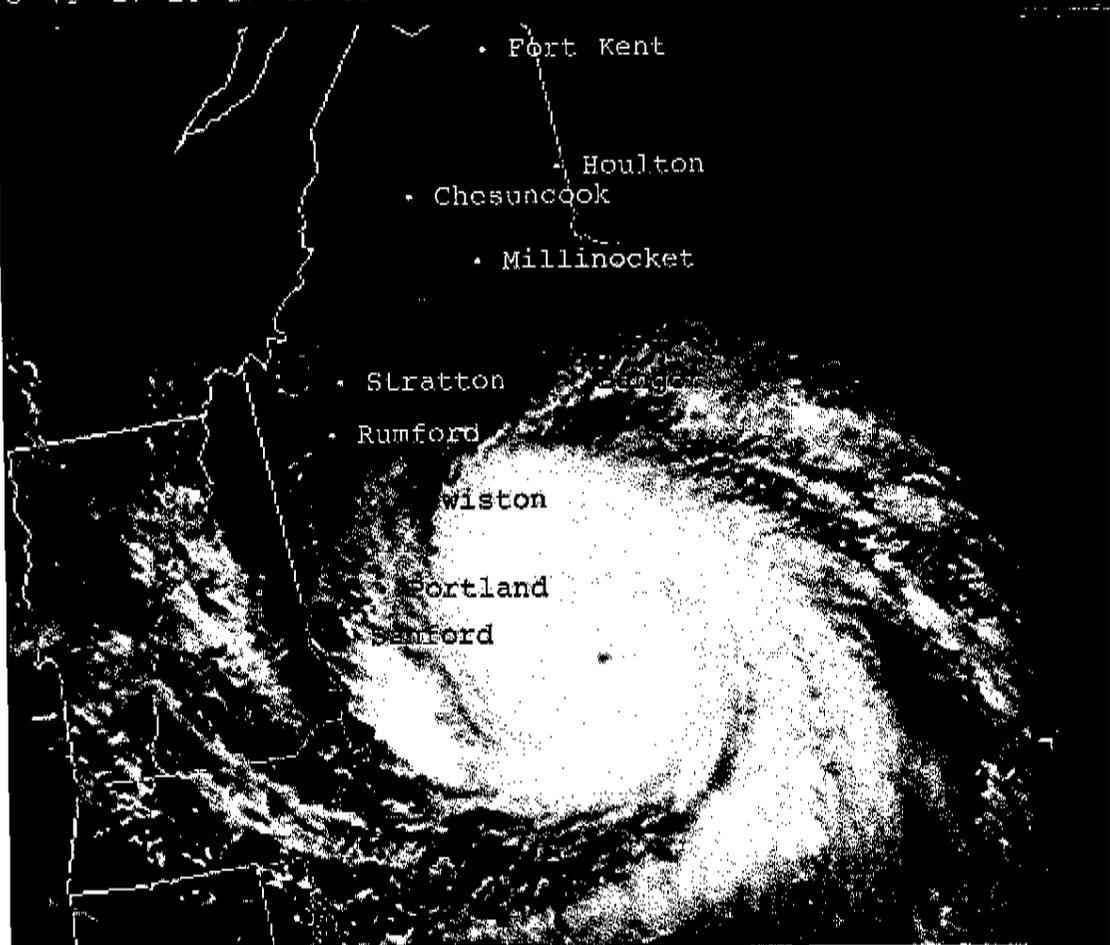
The group has a website, [www.stophurricanetabor.com](http://www.stophurricanetabor.com) that details the initiative and contains a complete “fraud forecast.” The site also has a link to a recent PBS report about the national far-right groups that are behind TABOR initiatives across the country.

PAID POLITICAL ADVERTISEMENT

Exhibit  
C

TUES 7 NOV 2006 Maine Visible Satellite

5 18 21 24 27 30 33 36 39 42 45 48 51 54 57 60 63 66 69 72



# HURRICANE TABOR WIPES OUT REAL TAX REFORM

A major storm is bearing down on Maine voters, and the radar shows it will wipe out any chance for real tax reform in Maine. It's called TABOR — Question 1 on the Nov. 7 ballot.

**FORECAST: TABOR IS A FRAUD — IT WILL NOT CUT YOUR TAXES**

**TABOR** will make tax cuts virtually impossible by changing the law so that it takes just a one-third minority to block tax reform.

**TABOR** takes control away from local taxpayers.

**TABOR** gives Augusta total control — lawmakers can change it or even ignore it.

**TABOR** is sponsored by the same incompetent national and far-right special interests that returned us to sky-high deficits, developed a flawed and dangerous foreign policy, and led the tragic response to Hurricane Katrina.

*"[TABOR] is a policy bludgeon that leaves governments less able to respond to opportunities and unexpected fiscal burdens." — Quote from Maine Sunday Telegram editorial, 8/27/06*

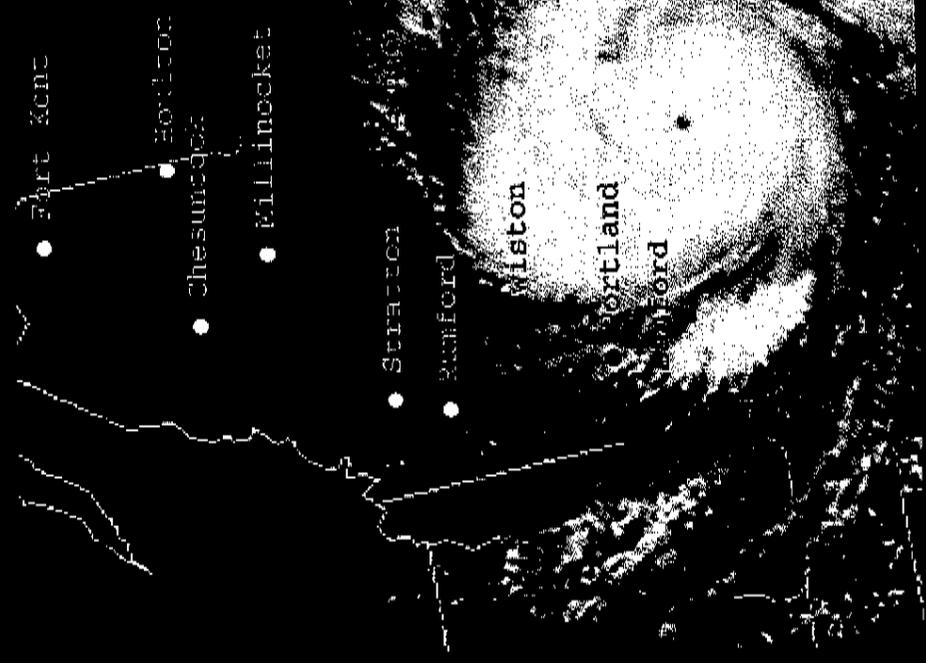
## DON'T BE TRICKED BY TABOR VOTE NO ON QUESTION 1

[www.StopHurricaneTABOR.com](http://www.StopHurricaneTABOR.com)

D

TUES 7 NOV 2006 Maine Visible Satellite

21 24 27 30 33 36 39 42 45 48 51 54 57 60 63 66



**HURRICANE**

**WIPES OUT  
REAL TAX REFORM**

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Democracy Maine  
One City Center  
Portland, ME 04101

# DON'T BE TRICKED BY TABOR VOTE NO ON QUESTION 1

*A major storm is bearing down on Maine voters,  
and the radar shows it will wipe out any chance  
for real tax reform in Maine. It's called TABOR —  
Question 1 on the Nov. 7 ballot.*



## FORECAST: TABOR IS A FRAUD — IT WILL NOT CUT YOUR TAXES

**TABOR** will make tax cuts virtually impossible by changing the law so that it takes just a one-third minority to block tax reform.

**TABOR** takes control away from local taxpayers.

**TABOR** gives Augusta total control — lawmakers can change it or even ignore it.

**TABOR** is sponsored by the same incompetent national and far-right special interests that returned us to sky-high deficits, developed a flawed and dangerous foreign policy, and led the tragic response to Hurricane Katrina.

*"[TABOR] is a policy bludgeon that leaves governments less able to respond to opportunities and unexpected fiscal burdens."*

— Maine Sunday Telegram, 8/27/06

**www.StopHurricaneTABOR.com**

**Exhibit  
E**

**STATE OF MAINE**  
**COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES**  
 Mail: 135 State House Station, Augusta, Maine 04333-0135  
 Tel: (207)287-6221 FAX: (207)287-6775 Website: /www.maine.gov/ethics

**REPORTS OF CONTRIBUTIONS AND EXPENDITURES  
 BY PERSONS OTHER THAN  
 POLITICAL ACTION COMMITTEES  
 (21-A M.R.S.A. § 1056-B)**

Any person who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of \$1,500 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the Commission.

**NAME OF PERSON:** Democracy Maine

(Person means an individual, committee, firm, partnership, corporation, association, group or organization.)

**Mailing address:** One City Center, 4<sup>th</sup> Floor

**City, zip code:** Portland, ME 04101

**Telephone number** 207-831-9840 **Fax** 207-871-7189 **E-mail** info@democracymaine.org

**NAME OF TREASURER:** Jonathan A. Crasnick

(or other officer or employee authorized to file this report, if person reporting is other than an individual)

**Mailing address:** One City Center, 4<sup>th</sup> Floor

**City, zip code:** Portland, ME 04101

**Telephone number** 207-776-0521 **Fax** 207-781-7189 **E-mail** jcrasnick@democracymaine.org

The purpose for receiving contributions and making expenditures is (check one):

to SUPPORT \_\_\_ or OPPOSE X ballot question number (if known) 1 or the ballot question regarding  
LABOR

**TYPE OF REPORT AND FILING PERIOD (check one)**

**Type of report:**

**Due date:**

**Filing period:**

6-day pre-primary

June 7, 2006

January 1, 2006 to June 1, 2006

42-day post-primary

July 25, 2006

June 2, 2006 to July 18, 2006

6-day pre-general

November 1, 2006

July 19, 2006 to October 26, 2006

42-day post-general

December 19, 2006

October 27, 2006 to December 12, 2006

Other (specify): \_\_\_\_\_

Amendment to: \_\_\_\_\_

**I CERTIFY THAT THE INFORMATION IN THIS REPORT IS TRUE, CORRECT AND COMPLETE.**

\_\_\_\_\_  
 Person's/Authorized Official's signature

\_\_\_\_\_  
 Date

## DEMOCRACY MAINE

Page 1 of 1  
(Schedule A only)

Name of PERSON \_\_\_\_\_

**SCHEDULE A  
CASH CONTRIBUTIONS**

Include cash contributions only. Itemize contributions aggregating in excess of \$100 in this election from the same source.  
Do not include in-kind contributions or loans on this schedule.

DATE RECEIVED	Contributor's name, mailing address, zip code (Contributions in excess of \$100)	Amount
9-28-06	David Anderson, 202 West Rd, Waterboro, ME 04087	\$100.00
9-29-06	Colton Babcock, 291 River Rd, Newcastle, ME 04553	\$100.00
9-29-06	Colin Baker, 17 Poland Rd, Freeport, ME 04032	\$100.00
9-30-06	Maryane Burns, 28 Elm St, Topsham, ME 04086	\$50.00
10-1-06	Nancy Anderson, 47 Sturdivant Rd, Cumberland, ME 04110	\$250.00
10-2-06	Maryane Burns, 28 Elm St, Topsham, ME 04086	\$50.00
10-6-06	Ann Schonberger, 40 Garland St., Bangor, ME 04401	\$150.00
		\$800.00
	<b>1. Total cash contributions this page only</b>	
	<i>Complete lines 2-4 on last page of Schedule A only:</i>	\$0.00
	<b>2. Total from attached Schedule A pages</b>	
		\$275.00
	<b>3. Aggregate of cash contributions of \$100 or less not itemized</b>	
		\$1075.00
	<b>4. Total cash contributions this reporting period (Add lines 1, 2 &amp; 3)</b>	

Democracy Maine  
Name of PERSON

Page 1 of 2  
(Schedule B only)

**SCHEDULE B  
EXPENDITURES**

Enter expenditures made aggregating in excess of \$100 in this election. Do not include in-kind expenditures on this schedule.

Date of Expenditure	Name of Payee or Creditor and Purpose of Expenditure	Amount
7-24-06	Savvy, Inc. Media Consulting	\$1000.00
8-18-06	The Potholm Group Polling/Message Development	\$8000.00
8-23-06	Savvy, Inc. Media Consulting	\$1000.00
9-8-06	The Potholm Group Polling/Message Development	\$8000.00
9-15-06	Hattaway Communications Message Development	\$1750.00
9-25-06	Savvy, Inc. Media Consulting	\$1000.00
9-27-06	Bangor Daily News Political Advertising	\$9586.98
9-27-06	Portland Press Herald Political Advertising	\$12285.00
1. Total expenditures this page only		\$42621.98
<i>Complete lines 2-4 on last page of Schedule B only:</i>		
2. Total from attached Schedule B pages		
3. Aggregate of cash expenditures of \$100 or less not itemized		
4. Total cash expenditures this reporting period (Add lines 1, 2 & 3)		

Democracy Maine  
Name of PERSON

Page 2 of 2  
(Schedule B only)

**SCHEDULE B  
EXPENDITURES**

Enter expenditures made aggregating in excess of \$100 in this election. Do not include in-kind expenditures on this schedule.

Date of Expenditure	Name of Payee or Creditor and Purpose of Expenditure	Amount
10-4-06	US Postal Service Postage for Mailing(s)	\$156.00
10-10-06	US Postal Service Postage for Mailing(s)	\$390.00
10-12-06	The Forecaster Political Advertising	\$1050.00
10-13-06	US Postal Service Postage for Mailing(s)	\$390.00
10-13-06	Maine Municipal Association Materials for Mailing(s)	\$229.80
10-23-06	US Postal Service Postage for Mailing(s)	\$507.00
10-23-2006	Savvy, Inc. Media Consulting	\$1000.00
	1. Total expenditures this page only	\$3722.80
	Complete lines 2-4 on last page of Schedule B only: 2. Total from attached Schedule B pages	\$42621.98
	3. Aggregate of cash expenditures of \$100 or less not itemized	\$180.52
	5. Total cash expenditures this reporting period (Add lines 1, 2 & 3)	\$46525.30



**Exhibit  
F**

**STATE OF MAINE**  
**COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES**  
 Mail: 135 State House Station, Augusta, Maine 04333-0135  
 Tel: (207)287-6221 FAX: (207)287-6775 Website: /www.maine.gov/ethics

**REPORTS OF CONTRIBUTIONS AND EXPENDITURES**  
**BY PERSONS OTHER THAN**  
**POLITICAL ACTION COMMITTEES**  
**(21-A M.R.S.A. § 1056-B)**

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NAME OF PERSON Democracy Maine

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Mailing address: One City Center, 4<sup>th</sup> Floor  
 City, zip code: Portland, ME 04101

Telephone number: 2078319840 Fax 2078717189 E-mail info@democracymaine.org

NAME OF TREASURER: Jonathan A. Crasnick

(or other officer or employee authorized to file this report, if person reporting is other than an individual)

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 City, zip code: Portland, ME 04101

Telephone number: 2077760521 Fax 2078717189 E-mail jcrasnick@democracymaine.org

The purpose for receiving contributions and making expenditures is (check one):  
 to SUPPORT \_\_\_ or OPPOSE X ballot question number (if known) 1 or the ballot question regarding  
TABOR

TYPE OF REPORT AND FILING PERIOD (check one)

Type of report:

Due date:

Filing period:

- |   |                          |  |
|---|--------------------------|--|
| <input type="checkbox"/> 6-day pre-primary              | June 7, 2006             | January 1, 2006 to June 1, 2006              |
| <input type="checkbox"/> 42-day post-primary            | July 25, 2006            | June 2, 2006 to July 18, 2006                |
| <input type="checkbox"/> 6-day pre-general              | November 1, 2006         | July 19, 2006 to October 26, 2006            |
| <input checked="" type="checkbox"/> 42-day post-general | <u>December 19, 2006</u> | <u>October 27, 2006 to December 12, 2006</u> |

Other (specify): \_\_\_\_\_

Amendment to: \_\_\_\_\_

I CERTIFY THAT THE INFORMATION IN THIS REPORT IS TRUE, CORRECT AND COMPLETE.

Jonathan A Crasnick  
 Person's/Authorized Official's signature

December 19, 2006  
 Date

Democracy Maine

Page 1 of 1  
(Schedule A only)

Name of PERSON

**SCHEDULE A  
CASH CONTRIBUTIONS**

Include cash contributions only. Itemize contributions aggregating in excess of \$100 in this election from the same source.  
Do not include in-kind contributions or loans on this schedule.

DATE RECEIVED	Contributor's name, mailing address, zip code (Contributions in excess of \$100)	Amount
11/13/2006	Maxine Sclar, 509 Chandlers Wharf, Portland, ME 04101	\$100.00
11/13/2006	Julian Fischer, PO Box 38, Port Clyde, ME 04855	\$250.00
	1. Total cash contributions this page only	\$350.00
	Complete lines 2-4 on last page of Schedule A only: 2. Total from attached Schedule A pages	\$0.00
	3. Aggregate of cash contributions of \$100 or less not itemized	\$280.00
	4. Total cash contributions this reporting period (Add lines 1, 2 & 3)	\$630.00

Democracy Maine  
Name of PERSON

Page 1 of 1  
(Schedule B only)

**SCHEDULE B  
EXPENDITURES**

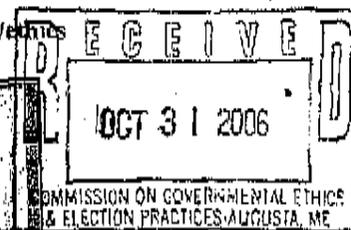
Enter expenditures made aggregating in excess of \$100 in this election. Do not include in-kind expenditures on this schedule.

Date of Expenditure	Name of Payee or Creditor and Purpose of Expenditure	Amount
10/27/2006	MaineToday.com Online Anti TABOR advertisements	\$500.00
11/28/2006	Daylight Communications Graphic Designs for Anti TABOR advertisements and website	\$11,163.84
12/06/06	MaineToday.com Online Anti TABOR advertisements	\$500.00

STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

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Tel: (207)287-6221 FAX: (207)287-6775 Website: /www.maine.gov/ethics

REPORTS OF CONTRIBUTIONS AND EXPENDITURES  
BY PERSONS OTHER THAN  
POLITICAL ACTION COMMITTEES  
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Mailing address: One City Center, 4<sup>th</sup> Floor  
City, zip code: Portland, ME 04101

Telephone number 207-831-9840 Fax 207-871-7189 E-mail info@democracymaine.org

NAME OF TREASURER: Jonathan A. Crasnick  
(or other officer or employee authorized to file this report, if person reporting is other than an individual)

Mailing address: One City Center, 4<sup>th</sup> Floor  
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Telephone number 207-776-0521 Fax 207-781-7189 E-mail jcrasnick@democracymaine.org

The purpose for receiving contributions and making expenditures is (check one):  
to SUPPORT  or OPPOSE  ballot question number (if known) 1 or the ballot question regarding  
**TABOR**

TYPE OF REPORT AND FILING PERIOD (check one)

<u>Type of report:</u>	<u>Due date:</u>	<u>Filing period:</u>
<input type="checkbox"/> 6-day pre-primary	June 7, 2006	January 1, 2006 to June 1, 2006
<input type="checkbox"/> 42-day post-primary	July 25, 2006	June 2, 2006 to July 18, 2006
<input checked="" type="checkbox"/> 6-day pre-general	November 1, 2006	July 19, 2006 to October 26, 2006
<input type="checkbox"/> 42-day post-general	December 19, 2006	October 27, 2006 to December 12, 2006
<input type="checkbox"/> Other (specify): _____		
<input type="checkbox"/> Amendment to: _____		

I CERTIFY THAT THE INFORMATION IN THIS REPORT IS TRUE, CORRECT AND COMPLETE.

Jonathan A. Crasnick  
Person's/Authorized Official's signature

10-30-06  
Date



10/31/2006 15:17 2072876775

ETHICS COMMISSION

PAGE 03/56

Democracy Maine  
Name of PERSON

Page 1 of 2  
(Schedule B only)

**SCHEDULE B  
EXPENDITURES**

Enter expenditures made aggregating in excess of \$100 in this election. Do not include in-kind expenditures on this schedule.

Date of Expenditure	Name of Payee or Creditor and Purpose of Expenditure	Amount
7-24-06	Savvy, Inc. Media Consulting	\$1000.00
8-18-06	The Potholm Group Polling/Message Development	\$8000.00
8-23-06	Savvy, Inc. Media Consulting	\$1000.00
9-8-06	The Potholm Group Polling/Message Development	\$8000.00
9-15-06	Hattaway Communications Message Development	\$1750.00
9-25-06	Savvy, Inc. Media Consulting	\$1000.00
9-27-06	Bangor Daily News Political Advertising	\$9586.98
9-27-06	Portland Press Herald Political Advertising	\$12285.00
	1. Total expenditures this page only	\$42621.98
	2. Total from attached Schedule B pages <i>Complete lines 2-4 on last page of Schedule B only.</i>	
	3. Aggregate of cash expenditures of \$100 or less not itemized	
	4. Total cash expenditures this reporting period (Add lines 1, 2 & 3)	

10/31/2006 15:17 2072876775

ETHICS COMMISSION

Page 2 of 2  
(Schedule B only)Democracy Maine  
Name of PERSON**SCHEDULE B  
EXPENDITURES**

Enter expenditures made aggregating in excess of \$100 in this election. Do not include in-kind expenditures on this schedule.

Date of Expenditure	Name of Payee or Creditor and Purpose of Expenditure	Amount
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	1. Total expenditures this page only	\$3722.80
	Complete lines 2-4 on last page of Schedule B only: 2. Total from attached Schedule B pages	\$42621.98
	3. Aggregate of cash expenditures of \$100 or less not itemized	\$180.52
	4. Total cash expenditures this reporting period (Add lines 1, 2 & 3)	\$46525.30

Democracy Maine  
Name of PERSON

Page 1 of 1  
(Schedule C only)

SCHEDULE C

IN-KIND CONTRIBUTIONS/EXPENDITURES

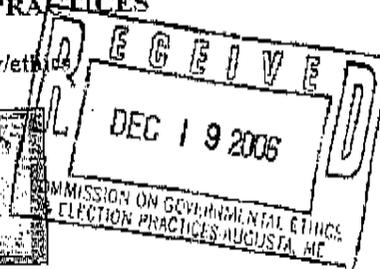
With respect to all items and services received and expended, enter the date received/expended, a description of the item or service, and the fair market value. Enter contributor/payee or creditor only. If the fair market value of donated item or service is more than \$100.

Date of Contribution or Expenditure	Name of Contributor/Payee or Creditor	Description of goods, services, discounts or facilities received/expended	Fair market value
1. Total in-kind contributions/expenses this page only			\$0.00
2. <i>Complete lines 2-3 on last page of Schedule C.</i> Total from attached Schedule C pages			\$0.00
3. Total in-kind contributions received and expended this reporting period (Add lines 1 & 2)			\$0.00

STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

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Tel: (207)287-6221 FAX: (207)287-6775 Website: /www.maine.gov/ethics

REPORTS OF CONTRIBUTIONS AND EXPENDITURES  
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NAME OF PERSON Democracy Maine

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City, zip code: Portland, ME 04101

Telephone number: 2078319840 Fax 2078717189 E-mail info@democracymaine.org

NAME OF TREASURER: Jonathan A. Crasnick

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Mailing address: One City Center, 4<sup>th</sup> Floor  
City, zip code: Portland, ME 04101

Telephone number: 2077760521 Fax 2078717189 E-mail jcrasnick@democracymaine.org

The purpose for receiving contributions and making expenditures is (check one):

to SUPPORT  or OPPOSE  ballot question number (if known) 1 or the ballot question regarding TABOR

TYPE OF REPORT AND FILING PERIOD (check one)

Type of report:

Due date:

Filing period:

- 6-day pre-primary
- 42-day post-primary
- 6-day pre-general
- 42-day post-general

- June 7, 2006
- July 25, 2006
- November 1, 2006
- December 19, 2006

- January 1, 2006 to June 1, 2006
- June 2, 2006 to July 18, 2006
- July 19, 2006 to October 26, 2006
- October 27, 2006 to December 12, 2006

Other (specify): \_\_\_\_\_

Amendment to: \_\_\_\_\_

I CERTIFY THAT THE INFORMATION IN THIS REPORT IS TRUE, CORRECT AND COMPLETE.

Jonathan A. Crasnick  
Person's/Authorized Official's signature

December 19, 2006  
Date



Democracy Maine  
Name of PERSON

Page 1 of 1  
(Schedule B only)

**SCHEDULE B  
EXPENDITURES**

Enter expenditures made aggregating in excess of \$100 in this election. Do not include in-kind expenditures on this schedule.

Date of Expenditure	Name of Payee or Creditor and Purpose of Expenditure	Amount
10/27/2006	MaineToday.com Online Anti TABOR advertisements	\$500.00
11/28/2006	Daylight Communications Graphic Designs for Anti TABOR advertisements and website	\$11,163.84
12/06/06	MaineToday.com Online Anti TABOR advertisements	\$500.00
	1. Total cash expenditures this page only	\$12,163.84
	2. Total from attached Schedule B pages <i>Complete lines 2-4 on last page of Schedule B only:</i>	\$0.00
	3. Aggregate of cash contributions of \$100 or less not itemized	\$0.00
	4. Total cash contributions this reporting period. (Add lines 1, 2 & 3)	\$12,163.84

Democracy Maine  
Name of PERSON

Page 1 of 1  
(Schedule C only)

**SCHEDULE C**

**IN-KIND CONTRIBUTIONS/EXPENDITURES**

With respect to all items and services received and expended, enter the date received/expended, a description of the item or service, and the fair market value. Enter contributor/payee or creditor only. If the fair market value of donated item or service is more than \$100.

Date of Contribution or Expenditure	Name of Contributor/Payee or Creditor	Description of goods, services, discounts or facilities received/expended	Fair market value
<b>1. Total in-kind contributions/expenditures this page only</b>			<b>\$0.00</b>
<i>Complete lines 2-3 on last page of Schedule C:</i>			
<b>2. Total from attached Schedule C pages</b>			<b>\$0.00</b>
<b>3. Total in-kind contributions received and expended this reporting period (Add lines 1 &amp; 2)</b>			<b>\$0.00</b>

**Exhibit  
G**

*Maine Voices Against Extremism*

One City Center, 4<sup>th</sup> Floor  
Portland, ME 04101  
(207) 831-9840  
[www.democracymaine.org](http://www.democracymaine.org)

JAN. 27, 2006  
FOR IMMEDIATE RELEASE

PORTLAND – Members of Democracy Maine expressed disappointment Friday with the decision by Senator Susan Collins to vote to confirm Samuel Alito to the US Supreme Court. At the same time, they urged Sen. Olympia Snowe to oppose the nomination.

“It’s disappointing, but it’s another example of Senator Collins not being as moderate as she claims to be,” said Jonathan Crasnick, director of Democracy Maine. “It’s an example of Senator Collins not being moderate at all. She has voted against her own values and her own stated beliefs and once again, has enabled President Bush to push his conservative agenda.

“We are urging Senator Snowe to show her independence from the Bush Administration and the conservative extremists by voting no on Alito,” Crasnick continued. “She has said that her priority is to protect a woman’s right to choose. If that is true, a no vote is the only vote she can make in good conscience.”

Formed by Portland businessman Robert CS Monks, attorney Anthony Buxton and political activist Jacqueline Potter, Democracy Maine provides an alternative voice against the growing influence of the far right.

*Contact: Jon Crasnick,*



*Maine Voices Against Extremism*

One City Center, 4<sup>th</sup> Floor  
Portland, ME 04101  
(207) 831-9840  
[www.democracymaine.org](http://www.democracymaine.org)

FEB 2, 2006  
FOR IMMEDIATE RELEASE

PORTLAND – Members of Democracy Maine again expressed concerns about Senators Snowe’s and Collins’ votes to confirm Samuel Alito to the US Supreme Court and their failure to filibuster the vote.

“As members of the Gang of 14 it was their responsibility to filibuster under extraordinary situations,” said Jonathan Crasnick, Director of Democracy Maine. “What constitutes an extraordinary situation has never been outlined by Senator Snowe or Senator Collins. Judge Alito’s memo from 1985 shows that he does not believe that a woman’s right to choose is protected by the constitution. He has prejudged the most controversial issue that will come before the court. If that is not an extraordinary issue, what is?”

Robert CS Monks, a Portland Businessman and co-founder of Democracy Maine expressed concern over Senator Collins’ off handed dismissal of groups critical of her vote.

“While Senator Snowe seemed to have a genuine struggle over this complex issue, it is troubling that Senator Collins has dismissed any criticism of her vote, and tried to denigrate the legitimate concerns of Maine citizens.

Formed by Portland businessman Robert CS Monks, attorney Anthony Buxton and political activist Jacqueline Potter, Democracy Maine provides an alternative voice against the growing influence of the far right.

***Contact: Jon Crasnick,***



*Maine Voices Against Extremism*

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[www.democracymaine.org](http://www.democracymaine.org)

April 17, 2006  
FOR IMMEDIATE RELEASE

## **DEMOCRACY MAINE FILES BRIEF SUPPORTING TABOR DECISION**

PORTLAND – Democracy Maine has filed a “friend of the court” brief with the Maine Supreme Court in support of a lower court decision upholding the statutory deadline for submitting petition signatures for the taxpayer bill of rights referendum.

The detailed brief, filed by Friday’s deadline, cites numerous court cases around the country to support its argument that Secretary of State Matthew Dunlap did not have the discretion to accept petition signatures after the deadline established in statute. Democracy Maine believes that while there is no foul play involved in the current situation, leaving it up to the discretion of state officials on whether to accept referendum signatures after the deadline erodes confidence in the electoral process and sets a bad precedent.

“The citizen’s initiative process is very important to democracy,” said Jon Crasnick, executive director of Democracy Maine. “It has clear legislative and constitutional rules regarding its implementation. Strict compliance with those rules is necessary to protect the integrity of the process. Otherwise, the system becomes arbitrary and capricious, leading to confusion and uneven application of the law.”

Crasnick said the Superior Court decision cited numerous examples where strict enforcement of rules is required. “If I show up at City Hall with my absentee ballot 10 minutes after the deadline, I don’t get to vote, and they’re not going to listen to any excuses. There was a deadline for filing our court brief on Friday. I doubt the justices would have allowed us to make our argument if we submitted it three days later.

“On the other hand, if the court allows petition signatures to be submitted a day late, what happens next time on a different referendum when signatures are submitted two days late, or five days late? If we say it’s OK to ignore the deadline in this case, where do we draw the line next time?”

In its court brief, Democracy Maine argues, “With the power of the ballot initiative inevitably comes the potential for abuse and the consequent need to establish – and enforce – a regulatory regime to stand vigil over the lawful exercise of that valued franchise. In this appeal our concern is not with the substance of electoral measures. Our concern today is with process. If the established initiative process is scrupulously observed, the substance will be left to the voters.”

The brief cites a California case concerning requirements for referendum signatures and petitions in which the court held, “These requirements serve to safeguard the integrity of the electoral process, and to provide elections officials with orderly and clear procedures for determining whether a measure is qualified for the local ballot.”

In a similar case in South Carolina, where some petition signatures were submitted by the deadline but others were not, the state Supreme Court refused to place the referendum measure on the ballot saying, “When, as here, the statute is plain and unambiguous, it becomes the duty of the court to apply it literally because the legislative design is unmistakable.”

The year-old Democracy Maine was founded by Maine citizens who wished to expose and combat the effect on America of the growing levels of partisan extremism that exist in American Government today. For more information see [www.democracymaine.org](http://www.democracymaine.org).

***For more information or a copy of the group’s brief, contact Jon Cranick,***



*Maine Voices Against Extremism*

June 19, 2006

FOR IMMEDIATE RELEASE

## **DEMOCRACY MAINE CALLS ON ENVIRO GROUPS TO SUPPORT WIND POWER**

PORTLAND – Democracy Maine today called on the state’s major environmental groups to reconsider their opposition to a proposed wind power project for western Maine.

Robert CS Monks, co-founder of Democracy Maine, said that while environmental groups have for many years encouraged the development of Maine-based renewable energy sources, several of those same groups are now opposing the Redington Wind Farm project proposed near Sugarloaf, one of the largest renewable energy projects ever proposed for Maine.

“As a society, we have to begin reducing our dependence on foreign energy sources,” Monks said. “We have to take measures to address global climate change, perhaps the most significant issue of our time. This wind power project is a small step in that direction, but an important one that we must be willing to take. And the state’s major environmental groups should be showing leadership on this issue, not fighting it.”

Democracy Maine was founded more than a year ago to confront extremism that is preventing real problems from being solved, and Monks said the knee-jerk opposition to the wind power project from environmental groups is another example.

“Why aren’t the large environmental groups willing to stand up and support a major renewable energy project, exactly the kind of project they’ve been talking about for 20 years,” he asked. “Environmental groups can no longer be in opposition to viable clean and renewable energy projects. They have to be proactive and assume a leadership role. There are no easy answers, but

we're all going to need to compromise in order to address the challenges of global warming and our dependence on fossil fuels.”

More than a dozen environmental and conservation groups have been granted intervener status in opposition to the project for the upcoming hearings before the Land Use Regulation Commission. Developers of the Redington Wind Farm have proposed the construction of 30 wind turbines along Redington Pond Range and Black Nubble Mountain, a few miles from the Sugarloaf ski resort.

“Environmental groups have long preached the dangers of our fossil-fuel based economy,” Monks added. “Here’s a project that will provide clean, renewable electrical power for 40,000 Maine homes, reduce pollution by 800,000 pounds per day, and help cut the emissions that cause global warming. Why aren’t environmental groups cheering?”

Monks said he understands some of the objections to the project, such as the impacts on wildlife and views in the area. “But they pale in comparison to the devastating effects from our continued reliance on fossil fuels for our energy,” he said.



*Maine Voices Against Extremism*

One City Center, 4<sup>th</sup> Floor  
Portland, ME 04101  
(207) 831-9840  
[www.democracymaine.org](http://www.democracymaine.org)

JUNE 26, 2006  
FOR IMMEDIATE RELEASE

## **MAINE OFFICIALS, OPINION LEADERS GET FREE TICKETS TO “AN INCONVENIENT TRUTH”**

PORTLAND – Democracy Maine has sent complimentary tickets to dozens of state officials and opinion leaders for the opening night in Portland of “An Inconvenient Truth,” Al Gore’s documentary about the effects of global climate change.

Formal invitations were sent last week to the governor, state legislative leaders, members of the legislature’s Utilities Committee, the Public Utilities Commission and the Land Use Regulations Commission. In addition, media commentators and local radio talk show hosts were also invited to attend the movie, which opens at 7 p.m. Wednesday, June 28<sup>th</sup> at The Movies on Exchange Street.

Democracy Maine purchased about 70 tickets to the movie and mailed invitations instructing people to pick them up at the box office Wednesday night.

“We believe that it’s important for people to see this movie, particularly those in charge of energy policy here in Maine,” said Jon Crasnick, executive director of Democracy Maine. “If anyone thinks there is still a debate over human-induced global climate change, they’ll think differently after seeing this movie. We hope they’ll come away with a renewed urgency to address this critical issue.”

Gore’s movie presents the latest scientific facts about global warming with captivating images and graphics. The movie is playing to packed houses and has received wide critical acclaim. Roger Ebert of the Chicago Sun Times

said, "In 39 years, I have never written these words in a movie review, but here they are: You owe it to yourself to see this film. If you do not, and you have grandchildren, you should explain to them why you decided not to."

Crasnick said he hopes the movie will encourage state leaders to do more to develop alternative energy sources and reduce dependence on foreign oil and gas. It should also help expose the massive disinformation campaign by the energy industries to raise doubts about global warming and reframe it as a "debate" despite overwhelming scientific evidence to the contrary.

"It'll be interesting to see who takes us up on the offer," he said. "The movie deals with the most critical issue of our time, and none of us can afford any longer to look the other way."

The year-old Democracy Maine was founded by Maine citizens who wished to expose and combat the effect on America of the growing levels of partisan extremism that exist in American Government today. For more information see [www.democracymaine.org](http://www.democracymaine.org).

***For more information, contact Jon Crasnick, 776-0521.***



*Maine Voices Against Extremism*

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Portland, ME 04101  
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July 30, 2006

FOR RELEASE AFTER 6 P.M.

## **DEMOCRACY MAINE URGES LURC TO SUPPORT REDINGTON WIND FARM**

SUGARLOAF, USA – The executive director of Democracy Maine tonight urged the Maine Land Use Regulation Commission to approve the Redington Wind Farm project as a way to address local climate change and reduce our dependency on fossil fuels.

Appearing before the commission on the hottest day of the year, Jon Crasnick of Democracy Maine called global warming our greatest threat, and said the proposed wind farm will help address that threat by reducing the emissions that cause global warming.

“This project will thus help reduce emissions of global warming-producing CO2 which causes heat waves, droughts for farmers, smog and asthma, rising sea levels and coastal flooding, reduced maple syrup production, and risk the viability of our ski industry at Sugarloaf, Saddleback and Sunday River,” Crasnick said. “It will help diversify the energy supply mix to Maine, as both Maine and New England are overly-dependent upon the fossil fuels, especially natural gas, which is subject to severe price spikes and instability.”

Crasnick took particular aim at a proposal to reduce the 30-turbines to 18 and build them only on Black Nubble mountain.

“The “Black Nubble only” option is a red herring and advocating it will only kill the project,” he said. “Democracy Maine was founded by individuals possessing a wide range of knowledge and experience with political, business, and energy issues. Our own internal analysis has helped us

conclude that the 'Black Nubble only' approach is an unreasonable option that does not take into account the economics surrounding a wind power project. It will not work."

Crasnick said LURC "should accept the lesser of two competing harms" and approve the Redington Wind Farm project.

"Uniquely, we are in a position to provide leadership and support for a project that will significantly reduce those elements that cause global warming," he said. "As human beings and environmentalists, and as caretakers of this planet we need to do everything we can to prevent global warming. We should provide leadership, not deterrence for a viable wind project."

The year-old Democracy Maine was founded by Maine citizens who wished to expose and combat the effect on America of the growing levels of partisan extremism that exist in American Government today. "We have come to view environmental issues as a battle of extremes and see this proposed project as a compromise and a viable new option," he said.

For more information see [www.democracymaine.org](http://www.democracymaine.org).



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SEPT. 6, 2006  
FOR IMMEDIATE RELEASE

## **GINGRICH APPEARANCE SHOWS ADVANCE OF FAR-RIGHT INTO MAINE**

PORTLAND – The appearance today in Portland of former Congressman Newt Gingrich is further evidence of the advance and influence of the conservative far right in Maine, said Jon Crasnick, executive director of Democracy Maine.

Gingrich is speaking today at a fundraiser for the Maine Heritage Policy Center, the conservative think-tank and author of the upcoming TABOR referendum on November's ballot.

"Gingrich is one of the chief architects of policies that have shifted the tax burden away from the rich and onto the backs of working men and women," Crasnick said. "His 'Contract on America' has only served to increase the gap between the rich and poor, and returned us to sky-high deficits. His advice on economic and tax policies is as good as his advice on the sanctity of marriage."

Crasnick said Gingrich's appearance in Maine is more evidence of the advance and influence of the far right in Maine. The Maine Heritage Policy Center has a tradition of bringing conservative national figures to speak at its annual functions. Former speakers have included Americans for Limited Government Director Grover Norquist, and former Bush White House Chief of Staff Andrew Card.

"Newt Gingrich does not share the values of Maine's citizens," said Crasnick. "Maine has a tradition of sending moderate, compassionate leaders to Washington, people who are thoughtful and fair. It's ironic to see the Maine Heritage Policy Center paying Newt Gingrich to come to Maine at a time when we need real solutions for real people, not hypocrisy from discredited right-wing politicians."



*Maine Voices Against Extremism*

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Sept. 28, 2006  
FOR IMMEDIATE RELEASE

## **DEMOCRACY MAINE BEGINS CAMPAIGN TO EXPOSE TABOR AS A FRAUD**

PORTLAND – Democracy Maine today announced its campaign in opposition to Question One, otherwise known as TABOR, which the group says is a fraud on the voters of Maine.

The group intends to reach voters through newspaper and radio ads, direct mail and other media to tell the facts about TABOR.

“TABOR is a fraud,” said Jon Crasnick, executive director of Democracy Maine, the year-old organization that was founded to confront partisan extremism that is preventing real problems from being solved. “It will not restrain spending by the Legislature in any way, it will hurt local control, not strengthen it, and it will make real tax reform almost impossible. This is exactly the opposite of what the proponents of TABOR are telling the voters. That’s why it’s a fraud.”

Democracy Maine’s campaign began this week with on-line banner ads warning voters about “Hurricane Tabor.”

“TABOR is not a local, home-grown solution to Maine’s unique problems, even though the proponents claim it is” Crasnick said. “This is being brought into Maine by the same incompetent national and far-right special interests that returned us to sky-high deficits, developed a flawed and dangerous foreign policy, and led the tragic response to hurricane Katrina.

“We need to improve government and make it more efficient, not wipe it out,” Crasnick added.

The group has a website, [www.stophurricanetabor.com](http://www.stophurricanetabor.com) that details the initiative and contains a complete “fraud forecast.” The site also has a link to a recent PBS report about the national far-right groups that are behind TABOR initiatives across the country.



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November 1, 2006  
FOR IMMEDIATE RELEASE

## **DISCLOSURE LINKS PRO TABOR FUNDS TO OUT OF STATE CONSERVATIVE GROUP**

PORTLAND – Campaign finance reports filed today confirms that the pro-TABOR campaign is being funded largely by Americans for Limited Government, a national conservative group headed by New York millionaire Howard Rich, who is known for funding TABOR-like initiatives in states across the country.

Forms filed today with the Secretary of State's Office shows Rich's group contributed \$112,000 in cash and in-kind contributions.

"We're not surprised," said Democracy Maine's Executive Director Jonathan Crasnick. "We've known all along that TABOR is part of a national conservative strategy that has been brought to Maine and is secretly financed by conservative special interests."

A recent PBS special reported on the national far-right groups that are behind TABOR initiatives across the country. Democracy Maine's campaign against TABOR has included newspaper ads, direct mail, radio interviews and emails, all of which have tried to inform Maine voters on TABOR's connections to out-of-state conservative groups.

"We've been confident all along that TABOR's connections to the far-right would become known," said Crasnick. "We just thought it would be sooner than a week before the election. Despite the claims by the proponents, TABOR was not created in Maine.

“What’s worse,” Crasnick continued, “Is that TABOR proponents have tried to hide their far-right connections while at the same time criticizing TABOR opponents for accepting out of state money. Apparently, they’re not concerned about hypocrisy.

“It was important to TABOR supporters that Maine voters not know where these funds came from. But now voters know that TABOR is not from Maine and it’s not for Maine.”

Democracy Maine has a website, [www.stophurricaneabor.com](http://www.stophurricaneabor.com) that details the initiative and contains a complete “fraud forecast.” The site also has a link to a recent PBS report about the national far-right groups that are behind TABOR.

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Wednesday, February 1, 2006

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### Snowe, Collins consent on Alito

By BART JANSEN, Washington  
D.C. Correspondent

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WASHINGTON — Sen.  
Olympia Snowe joined Sen.  
Susan Collins on Tuesday in  
supporting Judge Samuel

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Alito's confirmation to the Supreme Court, in votes that critics said betrayed their reputation as moderates and supporters of abortion rights. The Maine Republicans joined the 58-42 majority to confirm Alito in a largely party-line vote. Only one Republican - Sen. Lincoln Chafee of Rhode Island - opposed Alito, while four Democrats supported him.

The confirmation touched off harsh criticism of Snowe and Collins because of opinions that Alito wrote during 15 years on the 3rd U.S. Circuit Court of Appeals. Critics said the opinions hurt privacy rights, civil rights and environmental protections.

But Snowe argued that she couldn't predict how Alito would rule in future cases. She explained that she decided he would approach each case with an open mind after a month studying Alito's decisions, his testimony before the Judiciary Committee and the Senate's role in confirmation votes.

"It's a tough one," Snowe said. "Do I have concerns? Yes. But I try to be fair in my application, knowing what I know today. It's hard, there's no question."

Basically, each senator said that although she didn't agree with Alito on every decision, he was rated "highly qualified" by the



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American Bar Association and fellow judges said he approached each case fairly and reasonably.

"This vote reflects my careful consideration of the nominee," Collins said. "I was particularly influenced by the fact that there was a broad consensus among judges who had served with Judge Alito, whether they were liberals or conservatives, whether they were appointed by Democratic presidents or Republican presidents, that he was able to put aside any personal views or biases and carefully apply the law and Constitution to the facts of a case. That's what I'm looking for in a Supreme Court justice."

Criticism of the senators came from a variety of Maine advocacy groups, including a coalition of 40 groups encompassing Planned Parenthood, the National Organization for Women, the AFL-CIO and the Sierra Club, among others.

"By voting to confirm Judge Alito, Senator Snowe is jeopardizing the fundamental rights and freedoms of Maine people," said Sarah Standiford, executive director of the Maine Women's Lobby. "The people of Maine look to Senator Snowe to uphold their values and beliefs, particularly when the future of our clean air and clean water, workplace protections and privacy rights are at stake."

Another group, Democracy Maine, which was formed by businessman Robert C.S. Monks, attorney Anthony Buxton and political activist Jacqueline Potter, said the vote revealed that Snowe and Collins aren't as moderate as they portray themselves back home.

"They get all this praise for being moderate, but time after time for judicial confirmations and other issues, they follow the Bush administration's agenda," said Jonathan Crasnick, the group's director.

Collins noted that she has opposed two of Bush's judicial nominees, that she was a member of the bipartisan group of 14 senators who set a threshold for filibustering nominees of "extraordinary circumstances" that Alito didn't cross, and that she routinely produces bipartisan legislation.

CQ Weekly, a nonpartisan magazine that covers Congress, routinely finds that the three Republicans most likely to break ranks with their colleagues are Chafee, Snowe and Collins, in that order. When majorities of each party voted on opposite sides of a bill in 2005, Snowe sided with Republicans 56 percent of the time and Collins 59 percent of the time.

"Even a cursory review of my voting record demonstrates that I stand tall for what I believe in, that I reflect the views of the majority of Mainers and that I vote in a very moderate way," Collins said. "There are some left-wing groups who would love to try to portray me as what I am not, but any fair review of my record would demonstrate that that is not accurate."

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Alito succeeds Justice Sandra Day O'Connor, who was pivotal in decisions on campaign-finance law, the death penalty, affirmative action and abortion.

Much of the criticism of Snowe and Collins focused on the conflict between their support for abortion rights and Alito's statement on a 1985 job application that "the Constitution does not protect a right to an abortion."

Alito told senators at his confirmation hearing that he has great respect for Roe v. Wade as precedent, but he refused to commit to upholding it.

"I would approach the question with an open mind and I would listen to the arguments that were made," Alito said.

Snowe said she was reluctant to predict how he would vote on future cases because he had come down on both sides in appeals cases. She noted that many conservatives voted to confirm Justice Ruth Bader Ginsburg, considered one of the court's more liberal members, because of her qualifications.

"It was a very complicated question," Snowe said. "We can surmise, we can speculate, but at the end of the day we do not truly know."

Crasnick argued that Snowe, who faces re-election this year, should be held accountable. He said the controversy surrounding Alito getting a seat on the country's highest court justified "extraordinary circumstances" for a filibuster.

"I think she's going to have to answer to it," Crasnick said. "There will be a lot of chances where he could affect women's privacy, and that's something Senator Snowe will have to answer to."

But Snowe said she heard from Mainers - including Democrats - who concluded that Alito seemed fair-minded.

"I gave it my very best approach," Snowe said. "I know people aren't always going to agree with me. But hopefully they will respect how I arrived at my judgment. It was with considerable thought and review."

*Bart Jansen can be contacted at 202-488-1119 or at:*

[bjansen@pressherald.com](mailto:bjansen@pressherald.com)

#### Reader Comments

Will Sen. Olympia Snowe's vote on the Alito confirmation affect your vote in her bid for re-election?

Becky of Fryeburg, Me  
Feb 3, 2006 6:34 AM

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## Group files brief in support of rejecting petitions - Boston.com

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**Group files brief in support of rejecting petitions****AP** Associated Press

April 17, 2006

PORTLAND, Maine —A nonprofit political group has filed a friend-of-the-court brief with the Maine supreme court in support of a lower court decision to reject petitions filed with the secretary of state's office calling for a referendum on a government spending cap.

Democracy Maine cited court cases around the country to support its argument that Secretary of State Matthew Dunlap did not have the discretion to accept petition signatures for a so-called taxpayer bill of rights, or TABOR, after the statutory deadline.

The citizen's initiative process to get referendum questions on the ballot has clear rules, said Jon Crasnick, executive director of Democracy Maine. The group's filing concerns itself with the process, not with the substance of the initiative, he said.

"Strict compliance with those rules is necessary to protect the integrity of the process," Crasnick said. "Otherwise, the system become arbitrary and capricious, leading to confusion and uneven application of the law."

TABOR supporters turned in petitions calling for a referendum with 54,127 signatures to the secretary of state on Oct. 21, 2005.

Another 4,024 signatures were submitted the next business day, Oct. 24. The failure to deliver all the petitions by the earlier date was attributed to an oversight.

Critics said Dunlap erred by allowing the additional signatures to be submitted. Without those signatures, the petitioners failed to meet the threshold of at least 50,519 signatures.

A legal challenge was filed against Dunlap's decision, and Justice Donald Marden this month reversed the decision. If Marden's ruling stands, it will block a statewide vote on the initiative.

A notice of appeal was filed in the Maine Supreme Judicial Court the next day on behalf of Mary Adams, who championed the petition effort. The TABOR initiative would limit annual spending increases for state and local governments and schools to the rate of inflation plus increases in population.

Arguments are scheduled to be heard before the supreme court on April 25. ■

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Referendum rules must be followed, group says



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Tuesday, April 18, 2006

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Referendum rules must be followed,  
group says

Associated Press

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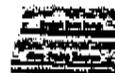
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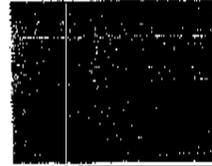
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## Elections

Front Page | News

Tuesday, April 25, 2006

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MAINE VOICES: *Jonathan Crasnick*

Also on this page:  
[About the Author](#)

### Lower court's TABOR ruling right for democracy

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Imagine showing up 15 minutes after the polls close on Election Day and arguing with the clerk that you should be allowed to vote anyway.

#### About the Author

Jonathan Crasnick is the executive director of Democracy Maine, a nonprofit group which has filed a "friend of the court" brief opposing the secretary of state's decision on the TABOR petitions.

Maybe you got stuck in traffic, or your watch stopped or you overslept. Whatever, your intent was to cast your vote and you should be allowed to do so. At least, that's your argument.

[To top of story](#)

Of course, no town or city clerk would buy it. The polls close at 8 p.m. Anyone showing up after that time is not eligible to vote.

This is not some arbitrary rule. This is just one of many rules and deadlines we have to ensure an orderly democracy, one free of corruption and uneven application.

Now we have the proponents of the Taxpayer's Bill of Rights offering similar "the dog ate my homework" excuses as to why their proposal should be allowed on November's ballot.

They submitted petition signatures to the Maine Secretary of State's Office on Friday, Oct. 21, 2005, just making the one-year statutory deadline for submission of valid signatures.

## Lower court's TABOR ruling right for democracy

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But - oops - they left behind a box of signatures that wasn't turned in until the following Monday morning, after the deadline had passed. Without the late box, the TABOR group didn't have enough signatures to qualify for the ballot.

But Secretary of State Matt Dunlap accepted the late signatures anyway, arguing that the TABOR folks meant to turn them in, so what's the harm?

It was courteous of the secretary of state to put the interests of those who signed the TABOR petitions ahead of strict application of the law. But it was wrong. Here's why.

- It's a bad precedent. If the signatures in this case are allowed to be submitted two days after the deadline, where will the line be drawn next time? Three days? Ten days? A month?

The citizen-initiated referendum process is an important right that is enjoyed by only a handful of states. Confidence in the process must be maintained, and one way to do that is to impose an established set of rules that everyone - even the TABOR folks - must follow.

- It's arbitrary. Dunlap says he opposes TABOR, but allowed the signatures to be submitted after the deadline anyway. But Dunlap will not be the secretary of state forever. Suppose some future secretary of state who is personally opposed to a certain referendum question disallows signatures that are submitted late, but allows them for something he or she agrees with.

The strict one-year deadline is imposed to ensure that the process is even-handed. Everyone gets treated equally. The law simply doesn't give Dunlap or any future secretary of state discretion in this matter, and we should be thankful that it doesn't.

Courts have always rejected late petitions. In similar cases across the country, courts have almost always thrown out petition signatures that were filed after the deadline, and for good reason.

This requirement that the deadline must be strictly enforced in order to preserve the integrity, honesty and confidence in the referendum process is repeated in court case after court case involving late filing of petitions.

In fact, the only case we could find where the courts agreed to accept petitions after the filing deadline involved truly extenuating circumstances: The petitioners repeatedly tried to file their signatures on time, but the clerk's office that was supposed to accept the petitions was inexplicably closed.

No such circumstance exists here. The TABOR petitioners knew the statutory deadline, submitted their petitions in accordance with the deadline - and came up short.

To suggest that the late signatures were valid so there's no harm

**Lower court's TABOR ruling right for democracy**

Page 3 of 3

in counting them is like telling a police officer who has stopped you for drunk driving that, well, since no one was run over, there's no reason to make an arrest.

There's a larger issue at stake. To ensure trust and confidence in our democratic system and the citizen-initiative process, the rules must be strictly enforced.

Dunlap was wrong to give the TABOR petitioners a special exemption, and the Maine Supreme Judicial Court should tell him so when it finally rules on this issue.

- *Special to the Press Herald*

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Tuesday, June 20, 2006

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### Group urges opponents of \$150 million wind farm to reconsider position

Associated Press

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A nonprofit political group on Monday called on environmental groups to reconsider their opposition to a \$150 million wind farm proposed for western Maine.

Democracy Maine was co-founded last year by Robert C.S. Monks, a real estate developer, to confront what the group calls political extremism. Monks criticized the "knee-jerk opposition" to a proposal by Maine Mountain Power to build 30 wind turbines on top of Black Nubble and Redington Pond Range mountains near Sugarloaf USA ski resort.

The turbines would generate enough power for about 40,000 households annually, resulting in the removal of tons of pollutants a day from traditional power plants, according to project backers.

Maine's Land Use Regulation Commission has granted intervenor status to 13 organizations, including Maine Audubon, the Appalachian Trail Conservancy and the Maine Appalachian Mountain Club.

The groups say the 90-megawatt farm threatens rare species of plants and animals, and its 260-foot towers would diminish the

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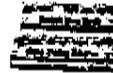
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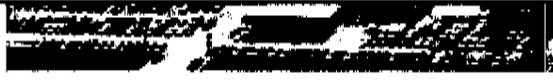
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# Sun Journal

## Tilting at foes of wind power

By **Bonnie Washuk**, Staff Writer  
Thursday, July 13, 2006

LEWISTON - Few Maine environmental groups are supporting a proposed wind farm near Sugarloaf Mountain - and that is prompting criticism from others worried about global warming.

"It's frustrating," said Robert Monks, co-founder of Democracy Maine, a group created to combat partisan extremism. "It's fiddling while Rome's burning."

Critics say environmentalists are too worried about birds, vegetation and spoiled views, and not worried enough about the planet.

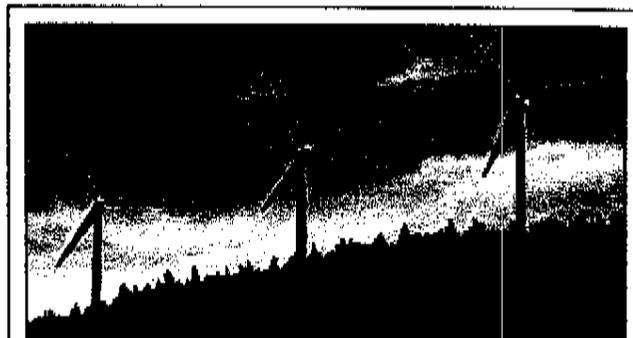
Traditionally, Maine environmentalists have focused locally, but the dynamics of environmental problems have changed, Monks said.

"We just can't look parochially," he said. "We have to avoid 'not in my back yard' issues. Wind power is one step, a sober, thoughtful, sustainable energy that can begin to replace fossil fuel."

Most environmentalists say they favor wind power, but not at the Redington Township site, which is near the Appalachian Trail and the Sugarloaf/USA ski resort, said Beth Nagusky, director of the governor's Office of Energy Independence.

"It is perhaps a failure to look at the big picture," said Nagusky, a former Natural Resources Council of Maine staffer. There are environmental concerns about the Redington Township windmills, but there is no energy solution that doesn't have some drawbacks, she said.

"We're not going to keep the lights on with conservation," Nagusky said.



**Russ Dillingham/Sun Journal**

Three of the 11 towers rise above the treeline at the wind farm in Searsburg, Vt.

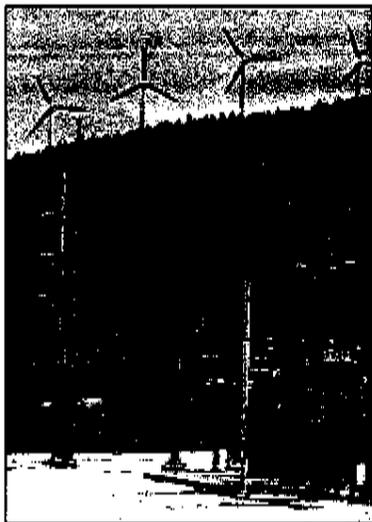
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Public hearings on the \$150 million project, which would produce enough fossil-free electricity to power 40,000 households, are scheduled for Aug. 2-4 at Sugarloaf/USA.

The project is proposed by Maine Mountain Power, owned by Endless Energy Corp. and Edison Mission Group of Irvine, Calif.

### 'Cherished landscape'

For weeks Maine's best-known environmental group, the Natural Resources Council of Maine, has urged Mainers to see Al Gore's movie about the looming horrors of global warming.



Russ Dillingham/Sun Journal

The electricity generated from the turbines is collected in the facility in the foreground before being sent out to the power grid at the Searsburg Windfarm in Vermont.

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But NRCM, which plans to announce its position at the public hearing in August, seems poised to oppose the Redington wind farm.

The group has two priorities: developing renewable energy and strongly protecting Maine's wild places. "Those two strongly clash," in the Redington project, said spokesman Peter Didisheim.

"We're not opposed to wind power," he said. The NRCM has endorsed other wind farms, including one being built in Mars Hill in Aroostook County.

But allowing huge turbines on Redington Township mountains would harm what he called a "cherished landscape."

Except for Katahdin, no other place in Maine has mountains so rugged that provide such a wilderness hiking experience, Didisheim said. A flock of windmills would take away from that.

"The windmills would be 420 feet tall. That's the size of a 747 stood upright," Didisheim said. Some of the turbines would be about 1 mile from the Appalachian Trail.

Considering the location, environmental opposition is no surprise, Didisheim said. "I'd be hard-pressed to identify a location that would be more controversial than where this Maine Mountain Power proposes to

locate."

Maine Audubon agrees.

On its Web page, Maine Audubon said it recognizes the need for wind power, but the project would put "at excessive risk a number of ecological, recreational and scenic resources."

The turbines would fragment and diminish one of the largest road-free areas in the state. The mountain area has 17 rare species of plants and animals, including the Bicknell's thrush. The area also has "rare, sub-alpine forest" that needs protection, Maine Audubon said.

### Birds, views 'pale' to planet

One environmental group, the Conservation Law Foundation, favors the project.

CLF officially has a neutral position, but favors the 30 turbines because it's a solution to global warming pollution, said Director Robert Gardiner. The foundation isn't officially in favor until steps have been taken to reduce biological impacts, he said. In practical terms, "we are going to appear in favor."

Like other groups, CLF is concerned about harm to the high-elevation habitat. Regardless of how the turbines are built, there'd be negative impacts, Gardiner said.

But it would be a shame for the hearings to focus only on the plight of birds, "considering that other areas are being torn up for coal mining," Gardiner said.

"You have to take a very big-picture look," he said. "Global warming is rapidly being recognized as the major problem facing the world." Maine faces flooding along the coast and big changes in habitat.

"A lot of environmentalists are hoping backyard windmills can solve our problems," he said. That won't be enough, Gardiner said.

Protecting birds, mountain views and vegetation "pale" compared to global warming problems, he said.

"It's time for environmentalists and everybody to embrace renewable energy projects that do make sense."

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## Gingrich: Rethink positions on Iran

Complete Maine News Index

**SOUTH PORTLAND, Maine (AP) – Former House Speaker Newt Gingrich says it's time for the United States to get tough with Iran's Islamic theocracy.**

Speaking before a conservative public policy group Wednesday, Gingrich said Americans should take threats by Iranian leaders seriously before they acquire nuclear weapons.

"We have real enemies and they would like to kill us,"

Gingrich, the Georgia Republican who engineered a GOP congressional takeover in 1994, said at the Maine Heritage Center Policy Center's annual luncheon.

Gingrich told reporters it's time for Americans to "profoundly rethink" their position on Iran and be prepared to take all necessary steps to safeguard the United States.

Gingrich said the United States is paying for former President Bill Clinton's foreign policies which he said gave Americans "eight years of appeasing the world and provided an opportunity for Osama bin Laden to bomb two U.S. embassies and the USS Cole."

"You don't appease your enemies -- you defeat them," Gingrich said. "We have to take this seriously because the next time we won't just lose a building or an airplane -- we will potentially lose a city."



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Iran faces the prospect of sanctions after rejecting United Nations demands for a uranium enrichment shutdown.

Iran's president, Mahmoud Ahmadinejad, has said that the solution to the Middle East crisis is to destroy Israel. He has sought to debate President Bush, but the White House dismissed the suggestion, calling it a "diversion" from international concerns over Iran's nuclear program.

The executive director leader of Democracy Maine, a group founded last year to combat what it sees as extremism in politics, said Gingrich's appearance underscores the increasing influence of the conservative far right in Maine.

"Newt Gingrich does not share the values of Maine's citizens," said the group's Jonathan Crasnick.



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Thursday, September 7, 2006

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## Gingrich criticizes Dirigo Health plan

By JUSTIN ELLIS, Staff Writer

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**SOUTH PORTLAND** - Former Georgia Republican congressman Newt Gingrich on Wednesday likened the state's Dirigo Health program to a car with three flat tires, saying if it isn't fixed, the program, like the car, can't go forward.

Speaking at a fundraiser attended by more than 200 people at the Sable Oaks Marriott, Gingrich said the state is pumping taxpayer money into a failed program and needs to find a replacement.

"Look at its cost, look how many people it's covering, look at the fact that you have actually had a larger increase in the uninsured than most states," Gingrich said.

The former speaker of the U.S. House of Representatives was in Maine

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to speak at the Maine Heritage Policy Center's Freedom and Opportunity Luncheon.

Gingrich's criticism of Democratic Gov. John Baldacci's Dirigo Health program drew applause from the crowd. Conservatives have regularly criticized the program, designed to provide health insurance to the state's 130,000 uninsured and cut Maine's health care costs.

Gingrich, whose name often appears among potential Republican presidential candidates, spoke on topics ranging from health care reform and economic policy to an insider's view on party politics.

Gingrich said he is in favor of the Taxpayer Bill of Rights, a measure on Maine's Nov. 7 ballot that would limit spending at the local and state levels by tying increases to specific growth rates like inflation and population change.

"I think it is such a good idea that I hope we can actually get a parallel bill introduced in Washington next year, to create an American Taxpayer Bill of Rights, to put a straitjacket on the federal government's (economic) growth," Gingrich said.

Republican gubernatorial candidate Chandler Woodcock and Mary Adams, the Garland activist who spearheaded the referendum drive for TABOR, attended the speech.

Under TABOR, spending and fee hikes over the set limit would require a two-thirds approval from a governing body, such as a city council. The increases would then need the approval of a majority of voters. The proposal's language was originally drafted by the Maine Heritage Policy Center.

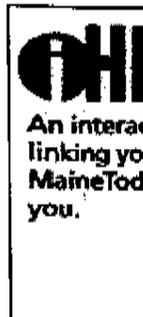
Gingrich served in Congress 20 years and was one of the creators of the so-called "Contract with America," which helped Republicans gain a majority in the U.S. House in 1994.

Jon Crasnick, executive director of Democracy Maine, said in a prepared statement that Gingrich does not share Maine's values. The nonprofit group opposes TABOR. "Maine has a tradition of sending moderate, compassionate leaders to Washington, people who are thoughtful and fair," it said.

Hilary Schneider, policy director for the advocacy group Consumers for Affordable Health Care, characterized Gingrich's remarks as "misleading and misusing data just for political purposes."

People at the event Wednesday said Gingrich offered a refreshing perspective.

Michael Solomon said he supports Gingrich's idea of a free-market approach to health care. "If someone else is paying the bill, people tend to be cavalier and irresponsible," Solomon said.





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### Gingrich calls for hard line with Iran

By A.J. Higgins

Thursday, September 07, 2006 - Bangor Daily News <<  
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**SOUTH PORTLAND** - While Iranian officials continued Wednesday to dodge discussions about their nuclear ambitions, former U.S. House Speaker Newt Gingrich insisted now is the time to take a hard line against the Islamic theocracy.

"We have real enemies and they would like to kill us," said the Georgia Republican during his visit to Maine. "They say that every day. Iranian President Mahmoud Ahmadinejad says that he can imagine a world where Israel and the United States no longer exist. Well, we better take that pretty darn seriously before they get nuclear weapons. And I think all of us underestimate how hard this is going to be."

Earlier Wednesday, the Associated Press reported Iran had postponed a tentative meeting with a top European Union official - a step that seemed to dim prospects the country will make concessions to limit its nuclear program. Iran insists its nuclear program is for peaceful energy uses only but the United States and some Europeans believe the regime seeks nuclear weapons.

Gingrich was in Maine on Wednesday as the featured speaker for The Maine Heritage Policy Center's annual Freedom and Opportunity Luncheon. The Center is a conservative think tank that has been a moving force behind this fall's ballot question to establish spending caps through the approval of a Taxpayer Bill of Rights. The organization's fundraiser attracted more than 300 members and guests, including state GOP luminaries like former Maine gubernatorial candidate Peter Cianchette, current gubernatorial candidate Chandler Woodcock, state Senate GOP floor leader Paul Davis and former House GOP leader Joe Bruno.

During a meeting with reporters, Gingrich said it was time for all Americans to "profoundly rethink" their position on Iran and be prepared to take all necessary steps to safeguard the United States.

"If the country is asked to choose between doing what it takes to protect the

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## Gingrich calls for hard line with Iran - A.J. Higgins

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country from Iran, North Korea and terrorism or the left wing of the Democratic party's policy of weakness, withdrawal and appeasement, everything I'm seeing indicates the country would vote 2-1 in favor of strength," Gingrich said.

Gingrich said the United States is still paying for President Bill Clinton's foreign policies which he said gave Americans "eight years of appeasing the world" and provided the opportunity for Osama bin Laden to bomb two U.S. embassies and the USS Cole.

"You don't appease your enemies - you defeat them," he said. "We have to take this seriously because the next time we won't just lose a building or an airplane - we will potentially lose a city."

While Republicans cheered Gingrich at the Sable Oaks in South Portland, Democrats deplored the former speaker's visit to the state. Jon Crasnick, executive director of Democracy Maine, said in a prepared statement that Gingrich's reception was "further evidence of the advance and influence of the conservative far right in Maine."

"Gingrich is one of the chief architects of policies that have shifted the tax burden away from the rich and onto the backs of working men and women," Crasnick said. "His 'contract with America' has only served to increase the gap between the rich and poor and returned us to sky-high deficits."

Crasnick said Gingrich did not share the values of Maine's citizens, adding it was "ironic" to see the Maine Heritage Policy Center paying Newt Gingrich to come to Maine "at a time when we need real solutions for real people, not hypocrisy from discredited right-wing politicians."

**Reader Comments****Submit your comments and photos (photos optional)**

**Sergei, Raleigh, N., - 09/07/06**

Gingrich is a hypocritical nut. It's about time someone took a hard line on him!

**A.J. Higgins**

[ajhiggins@bangordailynews.net](mailto:ajhiggins@bangordailynews.net)  
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## Gingrich Urges U.S.: Get Tough with Iran

Thursday, September 07, 2006

**SOUTH PORTLAND, Maine** — Former House Speaker Newt Gingrich says it's time for the United States to get tough with Iran's Islamic theocracy.

Speaking before a conservative public policy group Wednesday, Gingrich said Americans should take Iranian leaders' threats seriously, before they acquire nuclear weapons.

"We have real enemies and they would like to kill us," said Gingrich, the Georgia Republican who engineered a GOP congressional takeover in 1994.

Gingrich, attending the Maine Heritage Center Policy Center's annual luncheon, said it's time for Americans to "profoundly rethink" their position on Iran and be prepared to take all necessary steps to safeguard the United States.

He said the United States is paying for former President Clinton's foreign policies, which he said gave Americans "eight years of appeasing the world and provided an opportunity for Osama bin Laden to bomb two U.S. embassies and the USS Cole."

"You don't appease your enemies \_ you defeat them," Gingrich said. "We have to take this seriously because the next time we won't just lose a building or an airplane \_ we will potentially lose a city."

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Iran faces the prospect of sanctions after rejecting United Nations demands to suspend its uranium enrichment. The country insists it has a right to enrich to generate nuclear power, but suspicions are growing it wants to develop nuclear warheads.

Iran's president, Mahmoud Ahmadinejad, has said that the solution to the Middle East crisis is to destroy Israel. He has sought to debate President Bush, but the White House dismissed the suggestion, calling it a "diversion" from international concerns over Iran's nuclear program.

The executive director of Democracy Maine, a group founded last year to combat what it sees as extremism in politics, said Gingrich's appearance underscores the increasing influence of the conservative far right in Maine.

"Newt Gingrich does not share the values of Maine's citizens," said the group's Jonathan Crasnick.

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## TABOR Hangover

Written by Victoria Wallack

Thursday, November 09, 2006

### Nonprofits' Role on Ballot Questions May be Examined

**AUGUSTA** — The state Ethics Commission appears ready to open Pandora's Box on when nonprofits should be required to file disclosure forms on how much staff time or money they spend to influence the vote on ballot questions.

The issue was raised in a complaint against the conservative Maine Heritage Policy Center and its support of the Taxpayer Bill of Rights, also known as TABOR.

.....  
 "The Imprint of Place: Maine Printmaking 1800-2005," by David P. Becker 2006; Center for Maine Contemporary Art with Down East Books, Hardcover, 136 pages; \$35

The TABOR initiative was defeated by voters in Tuesday's elections.

While the commission discussed the issue at its meeting in Augusta last week, it stopped short of ruling on whether the policy center should have to report the staff time it has devoted to TABOR.

"It's a huge issue with enormous public policy implications," said Commissioner Andrew Ketterer. "Other groups appear to be similarly situated."

The commission voted unanimously to look at what effect stricter reporting requirements could have on other nonprofits that take a stand on referendums. Commissioner Jean Ginn Marvin removed herself from the debate, saying she sat on the Maine Heritage Policy Center board of directors.

The complaint against the Maine Heritage Policy Center was brought by Carl Lindemann, currently of Texas, who used to live in Maine and was a liberal guest commentator on WGAN radio.

Lindemann argued that while the policy center and its staff—including Director Bill Becker—have participated in multiple debates on TABOR and commented to the press, the organization has not filed any disclosure forms indicating the value of its staff time, or where it gets its money.

"This is a major player in a very serious political issue and the funding is opaque," he said.

TABOR, Question 1 on the Nov. 7 ballot, would have capped spending at all levels of government and required a two-thirds vote of the Legislature or local governing body and a majority vote on the ballot to override those caps or raise any taxes or fees, even ones for budgets that fall within the spending limit.

While Lindemann tried to argue that the policy center should be considered a political action committee, the Ethics Commission staff and the commission itself said it didn't meet the criteria.

They agreed the policy center exists for reasons other than to support TABOR, and has not raised money to advocate its passage.

It was less clear, however, whether the center should have to file less burdensome disclosures.

Under a rule passed by the Legislature in 2000, persons or organizations other than political action committees that spend in excess of \$1,500 "for the purpose of initiating, promoting, defeating or influencing in any way a ballot question" are supposed to file so-called 1056-B forms.

Attorney Dan Billings, speaking on behalf of the policy center, argued a lot of organizations would get caught in that net if the statute were broadly interpreted.

"Lots of organizations, particularly government organizations, are very active in the Taxpayers Bill of Rights," Billings said.

He referred to a newsletter he got at home from MSAD 75 in Topsham, which called for defeating the referendum.

"I don't know what they spent for this," he said, holding up the newsletter, but "with a well compensated superintendent ... it wouldn't take very much to get over the \$1,500" when considering the value of staff time.

Billings had argued previously that even the Catholic Church could be required to file since it, too, had studied the issue and come out against TABOR.

**The Ellsworth American. :: TABOR Hangover**

Other nonprofits have filed the 1056-B forms, including the Maine Center for Economic Policy, the Maine Women's Lobby and Democracy Maine. But many more have not, Billings argued, including school districts, municipalities and chambers of commerce.

Jon Crasnick of Democracy Maine said the policy center should be required to file, as his organization has done, because it has been so visible in the TABOR campaign.

"They have advocated," he said. "They've participated in debates on TABOR as many as three times a day."

"Even if they haven't raised any money, their activities should be reported as in-kind contributions to the pro-TABOR PAC," Crasnick said.

The Ethics Commission will meet before the end of the year to discuss how the law should be interpreted and enforced.

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## Ethics panel receives TABOR complaint documents

KENNEBEC JOURNAL *Morning Sentinel*

Tuesday, November 28, 2006

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### Blethen Maine Newspapers

Back in October, Carl Lindemann filed a complaint with the state ethics commission, targeting the Maine Heritage Center, the think tank that drafted the Taxpayer Bill of Rights proposal.

Lindemann, a self-described citizen watchdog, said the center was campaigning for TABOR but wasn't disclosing its finances to the state.

Commissioners took no action on his initial complaint, and Lindemann said he was advised to come back with some solid evidence in hand.

That is what he did Monday, submitting an 11-page report to the commission, including documents that Lindemann says prove that the policy center broke election law and deceived ethics commissioners.

An attorney for the center responded swiftly, saying staffers there broke no laws.

He also criticized TABOR opponents for engaging in dirty politics after the November election.

The proposed TABOR law would have set limits on government spending. Voters on Nov. 7 defeated the referendum, 54 to 46 percent.

The case initiated by Lindemann returns on Dec. 12 for further review by the state Commission on Governmental Ethics and Election Practices.

## Ethics panel receives TABOR complaint documents

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"I think we have more than enough evidence to warrant an investigation," said Jon Crasnick, director of a nonprofit group called Democracy Now, and an ally of Lindemann.

Crasnick and Dennis Bailey, leader of the political action committee opposing TABOR, released the new documents obtained by Lindemann.

Jonathan Wayne, executive director of the commission, also released the report after his own review on Monday.

Lindemann's report included four attached documents: A \$125 personal check made out as a donation to the Maine Heritage Policy Center, specifying support of TABOR; a handwritten note from the donor voicing support of TABOR; a form letter from the center, thanking the donor for the check; and a

handwritten thank you note signed by Maine Heritage Policy Center president Bill Becker. The name of the donor was David Briney, listing a Denver, Colo., home address.

Messages left at a Denver telephone matching that name were not returned by Monday night.

Lindemann said the documents show the center was directly lobbying for TABOR and accepting donations earmarked specifically for its passage -- allegations that leaders of the center have denied.

At the Oct. 31 meeting of the ethics commission, attorney Dan Billings, representing the center, said staffers had not solicited or received any contributions to influence the outcome of the TABOR vote. That was one reason why the center should remain exempt from financial disclosure laws, Billings said. He also said the center is exempt because it is a public policy institute concerned with education, not campaigning.

On Monday, Billings said Lindemann's report was a political set-up, designed to smear the reputation of the Maine Heritage Policy Center. "They are playing dirty politics," Billings said. He noted that the donation check and letter were dated Nov. 1, the day after his statements at the ethics commission meeting. "The timing of this is not a coincidence."

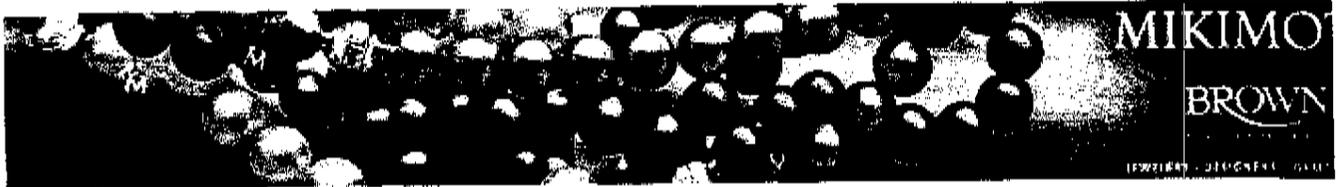
Billings said the staff at the heritage center did not have time to screen every donation coming in. In hindsight, Billings would have changed the wording of the form letter sent out by the center. But he stood by his basic assertions: No one at the center violated any laws, and they did not directly advocate passage of TABOR.

Generally, groups whose purpose is to influence elections are defined as political action committees. They are required to file reports of contributions and expenditures. Other groups that have broader missions, but still spend more than \$1,500 to influence a campaign, are required to file less detailed reports.

Ethics commissioners will determine whether the Maine Heritage Policy Center falls into either of those categories.

Lindemann, a former radio commentator in Portland, said he worked with an attorney to make sure the documents were obtained legally. He asked ethics commissioners to use their power of subpoena to review the center's records and interview witnesses under oath.

Wayne said the commission has never taken those steps, but it is one option available. Those options range from no action to a full investigation of the policy center's receipts and expenses related to TABOR. Wayne said he will consult on the matter with assistant attorney general Phyllis Gardiner, who advises the commission.



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## Citizen accuses TABOR group of breaking state election law

By *TREVOR MAXWELL*, Staff Writer

Portland Press Herald / Maine Sunday Telegram

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Tuesday, November 28, 2006

In October, Carl Lindemann filed a complaint with the state ethics commission targeting the Maine Heritage Policy Center, the think tank that drafted the Taxpayer Bill of Rights ballot proposal.

Lindemann, a self-described citizen watchdog, said the center was campaigning for TABOR but wasn't disclosing its finances to the state.

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That is what he did on Monday, submitting an 11-page report to the commission, including documents that Lindemann says prove that the policy center broke election law and deceived ethics commissioners.

An attorney for the center responded swiftly, saying staffers there broke no laws. He blasted TABOR opponents for engaging in dirty politics after the election.

The TABOR law would have set limits on government spending. Voters rejected the plan on Nov. 7, 54 percent to 46 percent.

The case initiated by Lindemann will return on Dec. 12 for further review by the state Commission on Governmental Ethics and Election Practices.

"I think we have more than enough evidence to warrant an investigation," said Jon Crasnick, director of a nonprofit group called Democracy Now, and an ally of Lindemann. Crasnick and Dennis Bailey, leader of the political action committee that opposed TABOR, released the new documents obtained by Lindemann.

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## Citizen accuses TABOR group of breaking state election law

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Wayne said the commission has never taken those steps but it is one option available. Those options range from no action to a full investigation of the policy center's receipts and expenses related to TABOR.

Wayne said he will consult on the matter with Assistant Attorney General Phyllis Gardiner, who advises the commission.

*Staff Writer Trevor Maxwell can be contacted at 791-6451 or at:*

*[tmaxwell@pressherald.com](mailto:tmaxwell@pressherald.com)*

### Reader comments

**Dave** of Portland, me  
Nov 28, 2006 7:56 AM

For the love that is all holy!!! These anti americans have already ruined any chance for real reform with their sky is falling scare tactics and bullying...now they have nothing better to do than waste more state money on frivaless investigations? Heres an idea....why not investigate where a gov with 38% of the vote and a lower approval rating got all his money?

BTW Dont any of these people have jobs they should be at instead of casting futher ruin on our state in its final gasps under the crushing weight of 32 years of demcratic ruin?

# Sun Journal

## Author of TABOR accused of violation

By David Farmer , Staff Writer

Tuesday, November 28, 2006

PORTLAND - The Maine Heritage Policy Center, the author of the Taxpayer Bill of Rights, has been accused of flouting state law - and perhaps federal law as well - with its activities during this year's election.

Democracy Maine, a nonprofit public advocacy organization that opposed TABOR, made public new documents Monday that it says prove that MHPC misled the state's ethics commission and show that it should be required to file financial disclosures about its political activities.

In a presentation to reporters, Jonathan Crasnick, Democracy Maine's executive director, and Dennis Bailey, a consultant for the group and one of its founders, revealed a photocopy of a check sent to the Maine Heritage Policy Center from David A. Briney of Denver, Colo., on Nov. 1. Reporters also received copies of a handwritten letter that accompanied the contribution and a "thank you" letter sent to Briney from the center.

The information appears to contradict October testimony, both in writing and delivered in person, before the Maine Commission on Governmental Ethics and Election Practices.

Only one David Briney could be found in telephone and Internet listings for Denver. Messages left at the number Monday were not returned.

In October, former Mainer and current Texan Carl Lindemann sought an investigation into the policy center's role in supporting TABOR, which appeared as Question 1 on November's ballot and was ultimately defeated by voters.

In response to Lindemann's request, the ethics commission asked the center for information and received a written response on Oct. 26 from its lawyer, Dan Billings. Billings defended the Maine Heritage Policy Center's role in support of TABOR and argued that it was not required to disclose its financial activities.

"While MHPC's activities may influence the referendum on the Maine Taxpayer Bill of Rights, MHPC's (sic) has not solicited or accepted contributions or made expenditures for the purpose of initiating, promoting, defeating, or influencing in any way the outcome of the referendum."

Along with Bill Becker, the center's president and executive director, Billings gave similar testimony during an ethics commission meeting on Oct. 31. The commission ultimately decided that the center should not have to submit a financial disclosure before the Nov. 7 election and that it would consider the issue further at its Dec. 12 meeting.

The center is incorporated as a 501(c)3 nonprofit, public policy think tank. Contributions to the center are tax deductible, but there are limits to the political activity it is allowed to conduct.

"During the campaign, we felt certain that the Maine Heritage Policy Center was not complying with the law - not only Maine law but federal law with their tax exempt status," Bailey said.

"They were operating, essentially, as the press arm of the campaign," Bailey said.

The documents presented Monday include a copy of a check from Briney made out to the Maine Heritage

policy Center for \$125 on Nov. 1, the day after the commission's meeting. In the memo field, it says: "For TABOR support." In the handwritten note that accompanied the check, Briney wrote to Becker: "I found out about your work for passing the Taxpayer Bill of Rights in Maine ... and want to give my support to it."

Becker confirmed that the contribution was received and accepted, and that he had sent the response, which was also released Monday. In his letter to Briney dated Nov. 6, the day before the election, Becker wrote: "We are very grateful for this donation, and will use it to advance our mission of promoting The Taxpayer Bill of Rights, a solution that will benefit all people of Maine."

"The Maine Heritage Policy Center has deceived Maine voters, and they have deceived the Maine ethics commission," Bailey said.

Not so, Becker said on Monday. "I don't think it contradicts testimony before the ethics commission at all."

"People support us for a variety of reasons," including the center's support for TABOR, its opposition to Dirigo Health and for other market-based government reforms, Becker said. "We cover a wide range of issues."

"We're not involved in direct advocacy," Becker said, adding that the center never said "vote for" or "support" TABOR, which would trigger the financial disclosures.

Maine law on the topic is broad and open to interpretation, a task the commission will consider on Dec. 12. The law requires groups that aren't political action committees but nonetheless solicit and receive contributions and make expenditures of more than \$1,500 for the "purpose of initiating, promoting, defeating or influencing in any way a ballot question" to file a report with the ethics commission.

The Maine Heritage Policy Center has not filed the disclosure reports with the ethics commission and says that it is not required to. So far, the commission has agreed.

## Complaint revived against pro-TABOR backers

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## Complaint revived against pro-TABOR backers

By **SUSAN M. COVER**  
 Staff Writer  
**KENNEBEC JOURNAL** / Morning Sentinel

Saturday, January 20, 2007

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AUGUSTA — A Texas man alleged in court papers Friday that the state ethics commission acted irresponsibly when it ruled on a case involving the Maine Heritage Policy Center.

Carl Lindemann, a former Maine resident who now lives in Texas, filed an appeal in Kennebec County Superior Court to challenge a decision issued by the commission in December.

The decision followed an October complaint filed by Lindemann against the conservative Portland think-tank that alleged that the group didn't file paperwork to disclose its involvement in the Taxpayer Bill of Rights campaign. He asked the commission to launch a full investigation of the group's finances.

But the commission opted to require the Center only to file a form that discloses how much it spent on activities related to the campaign. That form is due Monday.

In his appeal, Lindemann asks the court to send the matter back to the commission and require it to perform a "full and formal investigation of the finances and activities" of the center.

Also Friday, the commission met to discuss some of the issues brought forward by Lindemann and others over the last two years. The commission voted to send recommendations to the Legislature that would change the definition of political action committee.

In an interview, Lindemann said the commission used unreliable information to make its decision regarding the Maine Heritage Policy Center.

"Any decision made was based on information that was suspect," he said.

The complaint alleges officials for the policy center lied to the commission by denying that the group accepted any money specifically earmarked for the Taxpayer Bill of Rights campaign.

However, Lindemann asked a college friend to send money to the group to support the campaign, and later presented the commission with a letter from the center thanking the man for his support.

Center attorney Daniel Billings of Waterville said any money collected went into a general fund that supports all of the center's activities and was not segregated so it could be spent only on the TABOR campaign.

The Maine Heritage Policy Center wrote the legislation that later became a ballot measure rejected by Maine voters in November. Billings and policy center Executive Director Bill Becker insist they did not try to encourage voters to support the initiative.

Instead, they say the center played an educational role in providing information at public forums and in the media. It did not purchase advertising or pay to send mail directly to voters, Billings said.

He doubted the court would consider Lindemann's appeal.

"It's hard for me to come up with a reason Mr. Lindemann is an aggrieved party," Billings said. "He was in

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# Complaint revived against pro-TABOR backers

no way harmed by the decision."

Billings said the only party with legal standing to appeal is the Maine Heritage Policy Center, which has decided not to challenge the decision.

In its December decision, the commission ruled that the center did not meet the state's definition of a political action committee, but that it must file a different form to disclose that fact that it spent more than \$1,500 to influence the outcome of the campaign.

Commission members said they did not believe the policy center, founded in 2001, had "as its major purpose" the goal of passing the Taxpayer Bill of Rights. At least some of the issues raised by Lindemann and his attorney, John Branson of Portland, were discussed Friday by the ethics commission at its regular meeting.

Commission Executive Director Jonathan Wayne presented the commission with two options that would change the definition of a political action committee. After a discussion, the commission voted to send both options to the Legislature for consideration.

Wayne recommends getting rid of the 1056-B form that Maine Heritage and others are currently required to file. That would be replaced by a requirement that any group that spends more than \$5,000 to influence a ballot question must form a political action committee.

One option would only count money spent on communicating with voters, such as advertising, signs, and bumper stickers. The other definition is more broad and covers any expenditure of more than \$5,000 in any one year to promote or defeat a question.

If any changes are made, they should provide the public with better and more complete information, said Jonathan Crasnick of Democracy Maine, a group that promotes open government.

"Democracy Maine believes that the people need to know who is funding organizations that attempt to influence the outcomes of elections," he said. "The current system is flawed, and this commission should be careful not to recommend changes that could create loopholes."

Susan Cover -- 623-1056

scover@centrmaine.com

## Reader comments

**tiredtaxpaye** of central, ME  
Jan 20, 2007 8:55 AM  
next time the taxpayer bill of rights will pass.as we can see the democrats continue to raise taxes.....

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