

# Maine Ethics Commission

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## 2023 MCEA Study Report

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## **Introduction**

This study report on the Maine Clean Election Act (MCEA) program is presented by the Maine Commission on Governmental Ethics and Election Practices (Ethics Commission). Enacted by Maine voters in 1996, the MCEA was the first system of full public campaign funding available to candidates for state office in the country. The program has provided a public funding option for candidates for the Maine Legislature and Governor since 2000.

This report examines the amount of campaign funding available to each candidate in the 2018-2022 elections, total payments to all candidates, candidate participation in the program, and how candidates spent MCEA funds.

## **History of the Maine Clean Election Act**

The MCEA program was initiated in 2000. From 2000 to 2010, MCEA candidates in contested races were able to receive matching public funds based on spending by opponents and independent expenditures, in addition to the initial primary and general election payments all MCEA candidates received; this was a key component to keeping legislative races competitive. The matching funds component was discontinued in 2011 when the U.S. Supreme Court (and a subsequent ruling by the U.S. District Court for Maine) ruled matching funds were unconstitutional. This resulted in lower levels of MCEA funding in 2012 and 2014 and decreased participation in the program. In 2016, the program was redesigned after a citizen initiative created increased funding levels for the program whereby MCEA candidates could submit supplemental qualifying contributions (QCs) to receive additional funds; a change that ultimately resulted in a stronger program and increased participation.

## **How the Maine Clean Election Act Works**

### *The Qualifying Period and Certification*

Candidates indicate their intention to be MCEA-financed when they register for campaign finance reporting with the Ethics Commission. Participating candidates also submit a signed Declaration of Intent, affirming they will follow all the program rules and statutes while participating in the program. To receive MCEA funding a candidate must submit the proper

materials for certification. A complete certification packet consists of the minimum number of valid qualifying contributions (QCs), a list of contributors, and a Seed Money Report. There are different standards and limits for candidates depending on the office they are running for.

	<b>Required # of QCs</b>	<b>Total Seed Money Limit</b>	<b>Qualifying Period Starts</b>	<b>Deadline for Certification</b>
<b>House</b>	60	\$1,000	January 1 of election year	April 20 of election year
<b>Senate</b>	175	\$3,000	January 1 of election year	April 20 of election year
<b>Governor</b>	3,200	\$200,000	October 15 of year prior to election	April 1 of election year

To be valid, a QC must be collected during the qualifying period and not more than five business days before the signed Declaration of Intent is received by the Ethics Commission. Candidates collect QCs from registered voters in their district to show that they have the support of their constituents to participate in the MCEA program. A contributor gives \$5 as a donation to the Maine Clean Election Fund and signs a Receipt & Acknowledgment Form to affirm they are making this contribution from their personal funds for the candidate to receive public funding.

While a candidate is working to qualify for funding, they may (but are not required to) collect seed money contributions to fund their initial campaign activities, such as travel, bank fees, palm cards and door hangers. Seed money is contributions of no more than \$100 from individuals, up to the maximum amount allowed for the race. Candidates must report all contributions and expenditures made with seed money on a Seed Money Report; any remaining balance of seed money is deducted from their initial disbursement of MCEA funds.

Participating candidates must turn in a complete certification packet no later than 5:00 p.m. on the deadline consisting of all QCs and accompanying original signed forms; a complete list of the individuals who gave QCs; the Seed Money Report; and a Request for Certification form affirming they are aware of and have submitted all required materials.

Ethics Commission staff carefully evaluate all materials submitted by the candidate to ensure they have met the standards of the program before certifying the candidate as qualified for the MCEA and authorizing any disbursement of funds. Qualified candidates may continue to submit

additional QCs up to three weeks before the date of the election in order to receive supplemental MCEA funds for the general election.

### ***Use of MCEA Funds***

Once certified an MCEA candidate receives an initial disbursement for the primary election; successful primary candidates and unenrolled candidates receive the bulk of their funds for the general election. Certified candidates are only allowed to use MCEA funds for their campaign; they cannot accept donations of any kind from any other source. MCEA candidates must spend their MCEA funds on campaign-related purchases only. There are restrictions on how MCEA candidates can pay for secondary campaign expenses, such as mileage reimbursements, food, and staff.

When they file their last campaign finance report, MCEA candidates must return to the Ethics Commission any unspent MCEA funds, as well as the proceeds of the sale of any equipment purchased with public funds.

### ***Audits***

In addition to the routine compliance reviews of each filed campaign finance report conducted by Ethics Commission staff, the Ethics Commission audits a random selection of 20-25% of all legislative MCEA candidates, and all gubernatorial MCEA candidates. This ensures compliance with the MCEA's requirements, and to help the Ethics Commission learn about common mistakes so staff guidance can be improved in the future.

Historically, most of the audits result in no serious findings of misuse, fraud, or mistakes, indicating the program is used responsibly and as intended by candidates.

## **Participation by Legislative Candidates - 2018 through 2022**

There were 373 candidates for the state legislature in the 2018 general election. 206 of whom participated in the MCEA program, a 55% participation rate. 2018 continued the trends of previous years with Democratic candidates twice as likely to use the program than Republican candidates.

In 2020, the total number of candidates for the general election dropped sharply, likely due to the COVID pandemic. Although the participation rate held steady at 55%, it represented only 192 out of 348 candidates participating in the MCEA program. Though there were fewer Republican candidates than in 2018, they used the program at a slightly higher rate than in previous elections, particularly in Senate races. Conversely, while most Democratic candidates still used the MCEA program, the participation rates fell slightly from their 2018 marks.

The 2022 general election represented a return to “normal” campaigning after the pandemic’s 2020 disruption. There were 329 candidates on the ballot in the general election. 214 of those participated in the MCEA program, a 60% participation rate. Candidates across all caucuses were more likely to use the program than they were in 2020. As it was in both 2018 and 2020, Senate candidates were more likely to use the program than House candidates.

**RATE OF PARTICIPATION BY POLITICAL CAUCUS - OVERALL**

	<b>2018</b>	<b>2020</b>	<b>2022</b>
<b>Democratic</b>	79%	72%	77%
<b>Republican</b>	32%	39%	42%
<b>Green Independent</b>	0%	17%	50%
<b>Unenrolled</b>	62%	54%	53%

**RATE OF PARTICIPATION BY SEAT – OVERALL**

	<b>2018</b>	<b>2020</b>	<b>2022</b>
<b>House</b>	51%	52%	56%
<b>Senate</b>	72%	68%	75%

**RATE OF PARTICIPATION BY MAJOR PARTY - DETAIL**

	<b>2018</b>	<b>2020</b>	<b>2022</b>
<b>House (D)</b>	77%	71%	77%
<b>House (R)</b>	27%	32%	35%
<b>Senate (D)</b>	86%	74%	80%
<b>Senate (R)</b>	56%	67%	71%

### AVERAGE TOTAL RECEIPTS - COMPARISON

	2018	2020	2022
House - MCEA	\$7,734	\$9,301	\$9,876
House - TF	\$4,371	\$5,436	\$6,171
Senate - MCEA	\$40,750	\$48,676	\$49,880
Senate - TF	\$16,967	\$17,034	\$24,584

The program continues to represent a viable and competitive option for candidates. The table above shows that candidates using the MCEA program, on average, had access to more funds than their traditionally financed (TF) counterparts. Additionally, most legislators elected in 2018, 2020, and 2022 participated in the MCEA program.

### PARTICIPATION BY ELECTED LEGISLATORS

	Percentage of Legislators Who Participated in the MCEA
129 <sup>th</sup> Legislature	63%
130 <sup>th</sup> Legislature	59%
131 <sup>st</sup> Legislature	62%

### Program Cost - Legislative Candidates

Since 2016, the first year that supplemental payments were made available to MCEA candidates, the total cost of the program for legislative candidates has steadily increased culminating with a record high of \$4.5 million in 2022, as shown in the chart on the next page. The cost increase is due mainly to the adjustment by Ethics Commission staff every two years to the MCEA payment amounts to remain commensurate with inflation. These adjustments have affected not only the basic payment but also the supplemental payment amounts. A secondary factor is that, over time, candidates have been successful in qualifying for greater numbers of supplemental payments.

At first glance, the nearly \$700,000 increase year over year from 2020 to 2022 seems like a disproportionately steep jump when plotted next to the increases of earlier election years, which fell more into the range of \$300,000. This fails to consider the lower overall number of candidates on the 2020 ballot. The first year of the pandemic took its toll in every arena of public and private life and campaigns were no exception. Without the depressing force of the pandemic, there likely would have been more candidates running for office in 2020 and the cost of the program would have been higher.

**TOTAL COST OF LEGISLATIVE MCEA PROGRAM**

	<b>Total MCEA Payments Authorized to Candidates</b>
<b>2018</b>	\$3,552,017
<b>2020</b>	\$3,868,858
<b>2022</b>	\$4,568,030

***Supplemental QC Trends***

The table below shows the different levels of MCEA supplemental payments received in the 2018, 2020 and 2022 elections. Overall, there is a clear trend showing that candidates are working toward receiving the maximum number of supplemental payments and not simply accepting the basic level of payment. Ultimately, if this trend continues it may lead to financial instability in the program.

Supplemental Payment Levels	House			Senate		
	2018	2020	2022	2018	2020	2022
0	45	29	26	6	5	4
1	30	28	20	9	5	5
2	23	14	18	7	3	6
3	8	14	20	7	7	8
4	16	17	12	3	6	5
5	12	9	14	3	3	4
6	7	9	10	5	2	4
7	5	7	7	2	2	6
8	9	17	33	9	15	12

Candidates who used the MCEA program in a previous election are more likely to qualify for the same amount of funding or higher than they are to reduce their efforts. Taking a snapshot of the MCEA-qualified candidates in 2018, 2020, 2022 provides a pool of 120 two- and three-time program participants. Only 24% of repeat users qualified for less MCEA funding in subsequent elections; 33% stayed at the same level of funding and 43% qualified for more. While it is impossible to know why a candidate in a certain election year achieves the funding level they earn, anecdotal evidence suggests that, for many candidates, knowing that they have successfully collected a certain number of qualifying contributions in a prior election makes it more likely they will set out to collect that same number or more again.

***How legislative candidates spend their money***

For the last three election cycles, the top ten expenditure types have remained the same, and for the first five, the order of those has remained fixed as well. Most campaigns rely first and foremost on the services of mail houses to produce and send out mailers to households in their district. The second most common category of spending is printed materials, such as campaign signs, palm cards, and stickers. Online ads, newspaper and print advertising, and radio spots round out the top five. MCEA candidates are routinely choosing to spend their campaign funds in ways that reach the most voters in the most cost-effective ways, with online and social media advertising now far outstripping newspaper and radio advertising.

<b>Category</b>	<b>2018</b>	<b>2020</b>	<b>2022</b>
Mail house and direct mail (including postage)	\$1,350,367	\$1,530,720	\$1,708,806
Printed campaign materials (palm cards, signs, etc.)	\$638,094	\$527,533	\$900,938
Social media and online advertising	\$286,122	\$438,284	\$483,455
Newspaper and print media ads	\$242,174	\$279,694	\$246,962
Radio ads and production costs	\$164,185	\$195,787	\$212,620

The following five expenditure types make up the bottom of the top ten highest spending:

- TV/Cable ads, production, and media buyer costs
- Personnel and campaign staff, consulting, and independent contractor costs <sup>1</sup>

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<sup>1</sup> Before 2020, this expenditure category did not exist. 2018 data represents the sum of the two categories it replaced: Consultant Fees (CNS) and Salary Payments (SAL).



- Professional services (graphic design, legal services, photography, etc.)
- Postage and mailbox fees
- Travel (mileage and lodging, etc.)

The most notable increase in cost across these categories has been in Personnel (campaign staff, consultants, etc.). In 2018, MCEA candidates spent \$78,989 on payments to campaign staff and consultants. In 2022 that amount nearly doubled, for a total of \$150,870.

### ***Gubernatorial Program***

The discussion of participation rates and cost so far in this report has related to legislative candidates only. One of the features of the 2015 redesign of the MCEA program was to provide higher levels of funding for gubernatorial candidates. It remains to be seen whether the current qualifying requirements and levels of funding will be successful in attracting candidates for governor in 2026 and beyond.

The 2018 gubernatorial election was a very open race in which 12 candidates for governor qualified for the primary and/or general election ballots. Three of these 12 candidates qualified for MCEA funding. One candidate for governor, who was not enrolled in a political party, qualified for about \$1.3 million in MCEA funding. She did not win the general election. Two party candidates qualified for roughly \$700,000 in MCEA funds for their primary elections but did not win their party nominations.

In comparison, the 2022 gubernatorial election was relatively closed, featuring an incumbent governor running for reelection and a challenger who had previously served as governor for two terms. Neither of these major party candidates were opposed in their primary elections. The general election included a third candidate (unenrolled) who ran a limited campaign. None of these three gubernatorial candidates chose to participate in the MCEA program. Both party nominees had successfully financed their previous statewide campaigns through traditional campaign contributions.

Because of the large amount of MCEA funding available to gubernatorial candidates, the qualifying requirements are necessarily high. To qualify for the basic level of participation, a candidate for governor must collect at least 3,200 valid qualifying contributions. In 2022, a certified MCEA candidate in a contested primary election would have received \$437,125. If that

candidate submitted another 3,200 valid qualifying contributions before the primary election deadline, they would have received an additional \$655,700 in supplemental payments. If that candidate was successful in the primary election, they would have received an initial payment of \$655,675 for the general election. Another 9,600 valid QCs would have resulted in up to \$1,530,000 in supplemental payments.

In total, a 2022 candidate for governor could have qualified for a maximum amount of \$3,278,500 in MCEA funding. Although no candidates for governor chose to participate in the MCEA program in 2022, hypothetically this total of \$3,278,500 may have been sufficient to run a competitive campaign. In 2022, the major party challenger to the governor spent roughly \$2.6 million. The incumbent governor spent \$5.8 million, which was almost twice as much as the previous highest-spending gubernatorial campaign in Maine.

In order to qualify for the maximum level of MCEA funding, however, a candidate for governor must collect 16,000 QCs, which is a daunting organizational and administrative challenge for any candidate. Since the 2015 redesign, only one candidate has participated in the MCEA program for a general election. The 2018 candidate, who did not have the backing of a political party, collected around 7,000 QCs through the efforts of paid staff and volunteers. Based on this one example, it is difficult to extrapolate how achievable it is for a future major party nominee or unenrolled candidate to qualify for the very highest levels of funding available for MCEA candidates for governor.

## **Future Considerations**

As with any successful program, increased participation and outside influences will affect the cost of the program, which can make financial forecasting difficult. In some long-term scenarios, revenue to the Maine Clean Election Fund may be insufficient to make required payments to candidates. In the future, some legislative adjustments to the program may be necessary to avoid a shortfall or to strengthen the long-term fiscal health of the program.

Currently the Ethics Commission reviews and adjusts contribution levels for both traditional and MCEA candidates every two years based on the Consumer Price Index (CPI). Contribution levels must be adjusted to ensure candidates can obtain enough financing to be competitive in

their races. However, fluctuations in the economy can artificially increase contribution rates beyond what is needed for a candidate to remain competitive.

The amount for a QC has not increased, nor has the number of QCs necessary for certification and supplemental payments. The table below compares payment amounts for 2022 with projected payment amounts for 2024.

	House		Senate	
	2022	2024	2022	2024
*Uncontested Primary	\$550	\$625	\$2,175	\$2,500
*Contested Primary	\$2,725	\$3,125	\$10,925	\$12,475
Uncontested General	\$1,650	\$1,875	\$6,550	\$7,475
Contested General	\$5,475	\$6,225	\$21,850	\$24,925
Supplemental Payment (15 QCs)	\$1,375	\$1,550	\$5,475	\$6,225
* Will be reduced if all Seed Money is not spent by the candidate.				

The cost to run the MCEA program for 2024 will increase 14% for House campaigns and 15% for Senate campaigns compared to the 2022 election cycle. Comparatively, in 2020 the increase was 4.5% higher than 2018, and the 2022 election was 3.4% higher than 2020. Additionally, although there will not be a gubernatorial election in 2024, the contribution limits were updated for inflation and are 14% higher than 2022 and will be updated after the 2024 election. If two or more candidates for governor were to qualify for general election funding in 2026, that could create a financial strain on the program, especially considering the higher MCEA payment amounts due to 2022’s high inflation rates.

Legislative adjustments to the MCEA program could be helpful in increasing revenue to the program through the deposit of QCs. In 2022, when a House candidate turned in 60 valid QCs (\$300) they could receive up to \$6,025, depending on whether they spent all their Seed Money and had a contested primary and general election. Every additional 15 valid QCs (\$45) will earn

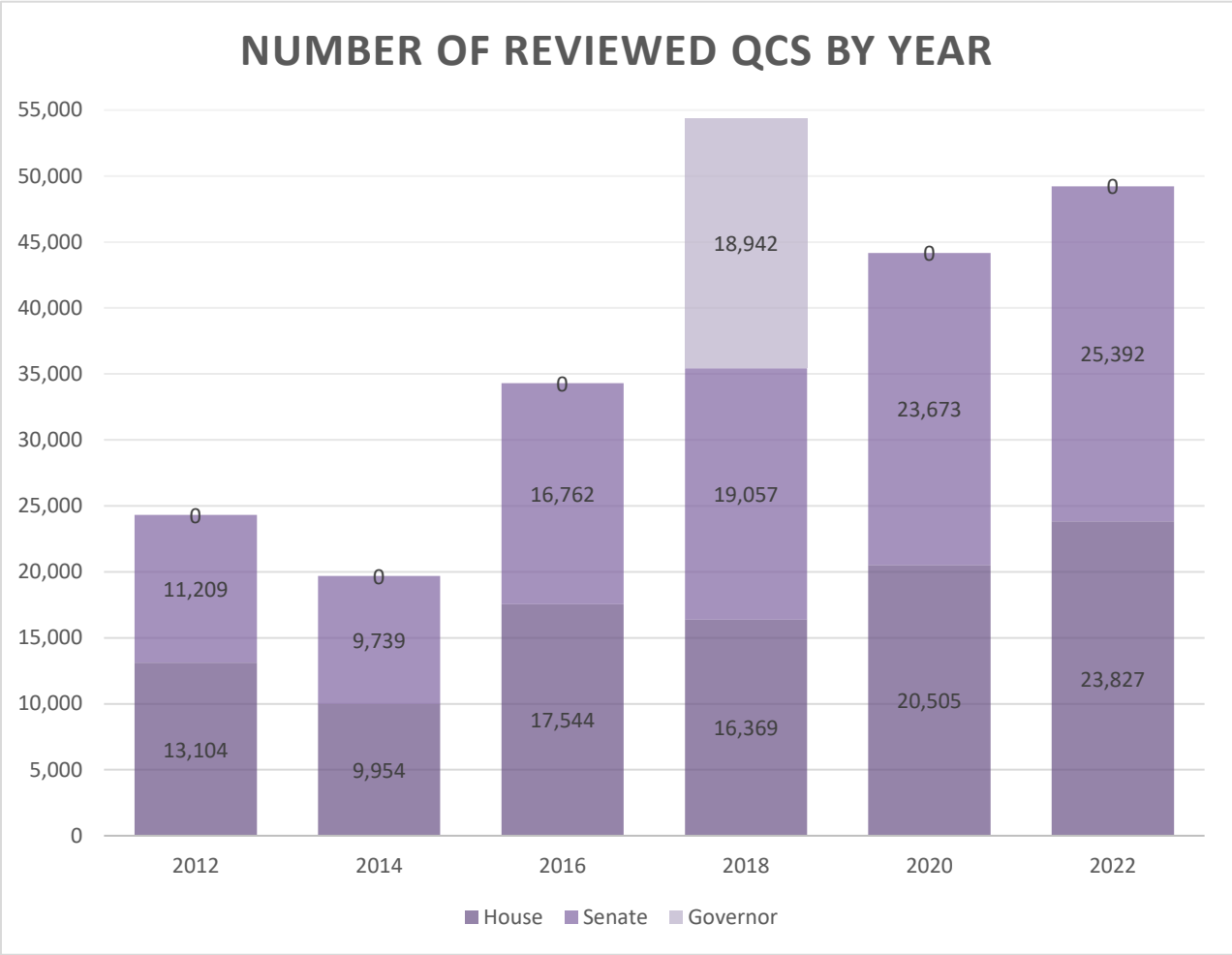
them a supplemental payment of \$1,375. Increasing a QC from \$5 to \$10 would result in additional revenue to the program. Alternatively, the QC amount could be reviewed biennially, like contribution limits, to increase revenue.

Another option would be to adjust the number of QCs necessary for certification and supplemental payments. Currently House candidates must submit 60 valid QCs and Senate candidates must submit 175 valid QCs for certification. If candidates were required to submit more QCs, such as 75 for a House candidate and 200 for a Senate candidate, that would result in a greater number of QCs being deposited into the Maine Clean Election Fund.

In the long-term, the Legislature may wish to look at controlling the total cost of the program through resetting the amounts of payments to MCEA candidates or limiting the number of supplemental payments for which a MCEA candidate may qualify. If a temporary shortfall were to arise in 2026 or later, the Legislature could address the shortfall through a temporary fix such as providing the Commission with greater discretion to set payment amounts or returning some of the net \$6.6 million that was transferred out of the Maine Clean Election Fund during 2003-2015 to fill in gaps in the overall state budget.

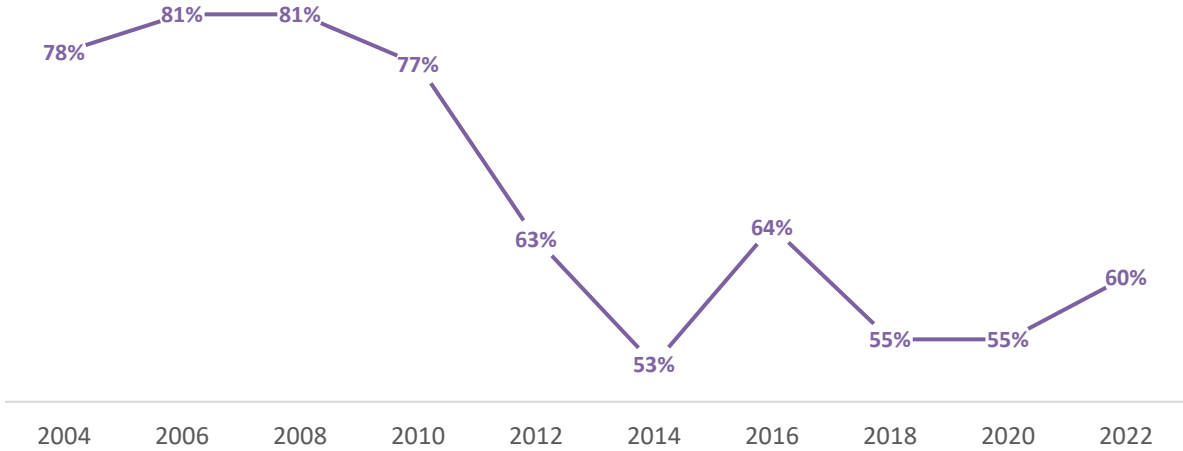
## **Conclusions**

Overall, the MCEA program continues to be successful and a popular alternative to traditional financing. Participation trends remain consistent. Candidate compliance with the program rules remains high. However, it is possible that temporary shortfalls could develop, and legislative adjustments may be necessary to ensure that the MCEA program is functioning as intended by Maine voters and remains in good fiscal health.



Commission staff carefully reviews each Qualifying Contribution for compliance with the program’s statutes and rules.

### GENERAL ELECTION MCEA PARTICIPATION



Participation rates sharply declined after the removal of the matching funds component in 2011 but have been rebounding since that was replaced in 2015 with the ability for MCEA candidates to earn supplemental payments.

# Maine Clean Election Act Overview 2006 – 2022

## ◆ PARTICIPATION BY LEGISLATIVE CANDIDATES

	MCEA Candidates in General Election	Total Candidates in General Election	Percentage of MCEA Candidates
<b>2006</b>	313	386	81%
<b>2008</b>	303	373	81%
<b>2010</b>	295	385	77%
<b>2012</b>	242	384	63%
<b>2014</b>	199	378	53%
<b>2016</b>	227	357	64%
<b>2018</b>	206	373	55%
<b>2020</b>	192	348	55%
<b>2022</b>	214	359	60%

## ◆ PARTICIPATION BY ELECTED LEGISLATORS

	Percentage of Legislators Who Participated in the MCEA
<b>123<sup>rd</sup> Legislature</b>	84%
<b>124<sup>th</sup> Legislature</b>	85%
<b>125<sup>th</sup> Legislature</b>	80%
<b>126<sup>th</sup> Legislature</b>	70%
<b>127<sup>th</sup> Legislature</b>	58%
<b>128<sup>th</sup> Legislature</b>	64%
<b>129<sup>th</sup> Legislature</b>	63%
<b>130<sup>th</sup> Legislature</b>	59%
<b>131<sup>st</sup> Legislature</b>	62%

## ◆ RATE OF PARTICIPATION BY POLITICAL CAUCUS

	<b>2014</b>	<b>2016</b>	<b>2018</b>	<b>2020</b>	<b>2022</b>
<b>House (D)</b>	<b>77%</b> (105/137)	<b>80%</b> (115/143)	<b>77%</b> (107/139)	<b>71%</b> (96/135)	<b>77%</b> (102/133)
<b>House (R)</b>	<b>22%</b> (32/144)	<b>45%</b> (60/134)	<b>27%</b> (37/138)	<b>32%</b> (40/126)	<b>35%</b> (48/137)
<b>Senate (D)</b>	<b>80%</b> (28/35)	<b>79%</b> (27/33)	<b>86%</b> (31/36)	<b>74%</b> (26/35)	<b>80%</b> (28/35)
<b>Senate (R)</b>	<b>43%</b> (15/35)	<b>56%</b> (19/34)	<b>56%</b> (18/32)	<b>67%</b> (22/33)	<b>71%</b> (25/35)
<b>Green, Unenrolled</b>	<b>63%</b> (19/30)	<b>54%</b> (7/13)	<b>46%</b> (13/28)	<b>42%</b> (8/19)	<b>58%</b> (11/19)

Key: **Percentage of Participation** (Number of Participating Candidates / Total Number of Candidates)

◆ PARTICIPATION BY CANDIDATES FOR GOVERNOR

	MCEA Candidates in Primary Election Only	MCEA Candidates in General Election
2002	James Libby (R)	Jonathan Carter (G)
2006	Peter Mills (R)	Barbara Merrill (U) Chandler Woodcock (R) Pat LaMarche (G)
2010	Patrick McGowan (D) Peter Mills (R)	Elizabeth Mitchell (D)
2014	Gubernatorial Program Suspended for 2014	
2018	Garrett Paul Mason (R) Elizabeth Sweet (D)	Teresea Hayes (U)
2022	No Gubernatorial Candidates Qualified for Funding in 2022	

◆ TOTAL PAYMENTS TO MCEA CANDIDATES\*

Election Year	Legislative	Gubernatorial	Total
2002	\$2,088,899	\$1,216,669	\$3,305,568
2004	\$2,799,617	N/A	\$2,799,617
2006	\$3,347,775	\$3,534,615	\$6,882,390
2008	\$2,954,035	N/A	\$2,954,035
2010	\$3,301,006	\$2,999,774	\$6,300,780
2012	\$2,102,850	N/A	\$2,102,850
2014	\$1,990,380	N/A	\$1,990,380
2016	\$3,344,830	N/A	\$3,344,830
2018	\$3,552,017	\$2,723,011	\$6,275,028
2020	\$3,868,858	N/A	\$3,868,858
2022	\$4,568,030	N/A	\$4,568,030

\*Payment totals are amounts that candidates were authorized to spend (before any return of unspent funds).

◆ FUNDING LEVELS FOR MCEA CANDIDATES IN THE 2022 GENERAL ELECTION

	Basic Payment Only	1 Supp. Payment	2 Supp. Payments	3 Supp. Payments	4 Supp. Payments	5 Supp. Payments	6 Supp. Payments	7 Supp. Payments	8 Supp. Payments
<b>HOUSE CANDIDATES per level (Total candidates = 160)</b>	26	20	18	20	12	14	10	7	33
<b>Amount per candidate</b>	\$5,475	\$6,850	\$8,225	\$9,600	\$10,975	\$12,350	\$13,725	\$15,100	\$16,475
<b>SENATE CANDIDATES per level (Total candidates = 54)</b>	4	5	6	8	5	4	4	6	12
<b>Amount per candidate</b>	\$21,850	\$27,325	\$32,800	\$38,275	\$43,750	\$49,225	\$54,700	\$60,175	\$65,650
<b>Total payments to House candidates for the general election</b>	<b>Total payments to Senate candidates for the general election</b>		<b>Total payments to all MCEA candidates for the general election</b>						
\$1,709,968.10	\$2,510,150.59		\$4,220,118.69						

Note: All MCEA candidates in the 2022 general election received a basic payment for the general election. Some replacement candidates and all unopposed candidates received basic payments that were less than the amounts indicated above. Candidates in contested races were eligible for up to eight supplemental ("Supp.") payments. Unopposed candidates were not eligible for supplemental payments.