

FLASH REPORT

MONEY IN POLITICS PROJECT



REPORT #12

Focus on BETR/
BETE: Does
Campaign Cash Help
Explain the Survival
of a “Risky” Tax
Refund Program?





ABOUT THIS SERIES

The Money in Politics Project is a series of twelve reports about the role and effect of money on Maine politics. The reports combine a review of publicly available campaign finance data with on-the-ground analysis of how money influences Maine's elections, government, and public policy. **Maine Citizens for Clean Elections** launched this project because money in politics is an issue of vital concern to the people of Maine, one that goes to the heart of our democratic system.

The *Money in Politics Project* is a program of **Maine Citizens for Clean Elections**, a nonpartisan organization that has been working in the public interest to advocate for, increase public support for, defend and improve the Maine Clean Election Act and related campaign finance law since 1995. MCCE is a 501(c)(3) organization.

The *Money in Politics Project* team includes Andrew Bossie, John Brautigam, Ann Luther, BJ McCollister, Nolan Reichl, and Alison Smith. MCCE appreciates the efforts of many others whose contributions enhanced this report.



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Focus on BETR/BETE: Does Campaign Cash Help Explain the Survival of a “Risky” Tax Refund Program?

It is a common refrain in Augusta: “All the fat has been trimmed from the budget. Every program has been scrutinized and cut to the bone.”

But, despite all the belt-tightening, the state continues to award millions in refunds and tax exemptions each year through programs that have been called “risky” by an independent non-partisan watchdog because they provide no proven benefit to the public.

Two tax benefit programs repeatedly questioned by independent observers outside Augusta are the Business Equipment Tax Reimbursement and the Business Equipment Tax Exemption (“BETR/BETE”)¹.

In the case of BETR/BETE, the public may have reason to wonder whether political favoritism carried by campaign contributions has been a factor in the creation and endurance of a “risky” program.

MCCE takes no position on the merits of BETR/BETE. And there is no smoking gun, quid pro quo here: no money has traded hands to create or perpetuate these benefits.

But public policy should be made on the basis of a rational assessment of the costs and benefits of any given option. That process should not be corrupted by private special interest campaign

¹ 36 M.R.S.A. §6651 et seq.

money, and the public should have full confidence in the integrity of the democratic process and its policy outcomes.

The ongoing story of BETR/BETE and the cash contributions made by beneficiaries of the program is a story the public should hear and understand.

Highlights

- Twenty-three out of the top 25 beneficiaries of the BETR/BETE program are active campaign contributors, giving over \$2.3 million since 2000.
- These 25 entities received over \$135 million in tax relief under BETR/BETE in the last four years.
- BETR/BETE has endured for years as a state economic development policy despite an independent non-partisan report published in 2006 labeling the program “a high risk” on eight out of thirteen tests commonly applied to such programs.
- A large portion—78%—of the campaign money given by these businesses went to influence a variety of citizen initiatives and issue-oriented political action committees.

- BETR/BETE beneficiaries contributed 19.4% of their political giving to caucus PACs, leadership PACs, or party committees.
- Partly because of Maine’s relatively low candidate contribution limits, only 2.1% of the money given by these businesses went directly to candidate campaigns.

Part I: BETR/BETE

What is BETR/BETE? Large machinery and equipment owned by a business is subject to property tax in the same way that an individual may pay tax on a home or parcel of land. Some have argued that taxing equipment deters investment and hence slows job growth. Accordingly, in 1995 the administration of Governor Angus King launched a state program to reimburse businesses that are subject to local property taxes on equipment. The Business Equipment Tax Reimbursement or “BETR” was later expanded by creating the Business Equipment Tax Exemption program, an attempt to completely exempt business equipment from property taxes, essentially making the BETR benefit permanent going forward. The transition from BETR to BETE is still underway, as property subject to BETR is retired or otherwise taken out of service.

BETR/BETE refunds 100% of the local property tax paid on eligible property for the first twelve years after it is acquired. The reimbursement rate is 75% for year thirteen, and is thereafter reduced by five percent annually until it reaches 50%.

In theory, business equipment may help promote job growth or provide other economic benefits, providing at least a possible rationale for reducing these taxes. In practice, the benefits are hard to see, and the payment of the tax reimbursement is not conditioned on job growth or retention. The state does not measure the benefits or even require the recipients of these cash payments to create any public benefit at all.

The complete list of BETR/BETE beneficiaries is a “who’s who” of Maine business, including some of the largest companies in the state, as well as local branches of multi-national companies. **FIGURE I2-2** It also includes numerous smaller businesses. In 2012, Maine paid out \$52.7 million to approximately 1,800 businesses through this program. Verso Paper is consistently the largest beneficiary, with refunds exceeding \$4 million annually. Other entries include banks, construction companies, insurance companies, amusement parks, chiropractors, dentists, health clubs, coffee shops, and even law firms. The list

includes several companies with refunds as small as \$100 or less.

The program has existed for over 15 years, during which time it has been questioned and faced legislative threats. In fact, Governor Paul LePage’s biennial budget released January 11, 2013 included a temporary curtailment in the BETR/BETE benefit program, which would have saved the state tens of millions of dollars.

Governor LePage’s proposal was greeted by a storm of protest from the businesses affected. Dozens of lobbyists, business managers, and citizens testified at the Appropriations Committee hearing. Employers were joined by the United Steelworkers Union in opposition to the one-year reduction in BETR/BETE payments. Many witnesses linked the tax benefits to job growth or retention at their respective facilities.

Although that testimony is plausible for many manufacturing facilities, there are reasons to believe that this economic development program may be vulnerable to exploitation. For example, under state law even a facility that has fired its employees and “permanently ceased all productive operations” can continue to collect the BETR/BETE tax refund so

BETR/BETE and Retail Stores

Policymakers have never given a clear justification for providing BETR/BETE tax benefits to a retail giant such as Wal-Mart. In fact, the statute was amended in 2005 to exclude equipment in retail facilities larger than 100,000 square feet. Yet even that exclusion was limited to new equipment; property subject to the tax in 2006 was grandfathered to continue receiving the benefit. Accordingly, Wal-Mart received \$4.1 million in tax refunds through BETR/BETE between 2006 and 2009.

long as a “good faith effort” is made to sell the facility to another business.²

Its application in the retail context also has been questioned (see side bar).

So although BETR/BETE might have a logical justification in some circumstances, it was enacted without basic accountability measures considered to be “best practices” in the world of economic development policy.

Part II: The OPEGA Report

Seven years ago the non-partisan Office of Program Evaluation and Government Accountability (“OPEGA”) issued an analysis of several state incentive programs including BETR/BETE, concluding that many showed little or no public benefit³. In that report OPEGA concluded that BETR/BETE was a “high risk” program—one with a significant chance of imposing costs on the Maine taxpayer without adequate justification or proven tangible benefits. **FIGURE 12-1**

The OPEGA report was a clear call for strong legislative action to either substantiate the benefits of BETR/BETE and other risky programs, or terminate them. Yet neither has occurred.

Notwithstanding Governor LePage’s 2013 budget proposal, BETR/BETE has not been reformed significantly since the OPEGA report, and its goals and outcomes remain murky.

A proposal to reduce BETR/BETE payments to Maine businesses is one

³ Office of Program Evaluation & Government Accountability of the Maine State Legislature, *Economic Development Programs in Maine - EDPs Still Lack Elements Critical for Performance Evaluation and Public Accountability*, Report No. SR-ED-05 (Dec. 2006) (“OPEGA report”).

FIGURE 12-1

OPEGA Analysis: Business Equipment Tax Reimbursement and the Business Equipment Tax Exemption



Source: OPEGA report, page 55.

² 36 M.R.S.A. §6662.

The “Double Dip”

One of the factors considered in the OPEGA report is whether a state program “overlaps” with other incentives designed for similar purposes. The BETR/BETE tax benefit has been vulnerable to that criticism, since nothing in the law prohibited businesses claiming a tax refund for equipment under BETR/BETE from simultaneously receiving a property tax discount for the same equipment under a municipal Tax Increment Financing arrangement. Critics pointed out that businesses were therefore “double-dipping”—receiving a tax “refund” greater than the amount of taxes paid.⁴ The double dip was at least partially addressed by 2006 legislative changes that make property covered by a TIF ineligible for BETE in the future.

⁴ “Return of the Double Dip,” Bangor Daily News, Feb. 27, 2001 page a10.

BETE beneficiaries can use these gifts to assure their access and influence in Augusta. **FIGURE I2-3**

A relatively small amount—2.1%—went directly to privately funded candidates. Maine’s Clean Election system, together with relatively low contribution limits, has greatly reduced the amount of money legislative and gubernatorial candidates receive for their campaigns directly from businesses. At a total of \$48,865, this is a relatively small portion of the political activity of the BETR/BETE beneficiaries.

option under consideration by a task force seeking to balance the current budget. Meanwhile, a separate group is discussing how to make BETE a permanent fixture in state tax policy.

In this era of dramatic fiscal cutbacks, how has this tax loophole continued to endure despite the harsh criticism of the OPEGA report? Does campaign giving play a role in perpetuating BETR/BETE, or does this “risky” tax package survive solely on its merits?

This report analyzes the political contributions made by companies that benefit from the BETR/BETE tax breaks. Although we can’t judge whether the program is worth the tens of millions in scarce resources the state spends, the public has an interest in understanding those contributions as it ponders whether Maine should continue a tax benefit program labeled “high risk” by OPEGA.

Part III: Political Contributions by BETR/BETE Recipients

While the future of BETR/BETE continues to be discussed in Augusta, MCCE has undertaken an analysis of the political contributions of the

25 companies receiving the largest BETR/BETE tax refund payments. According to BETR/BETE information posted on Maine.gov website, the tax benefit payments received by these 25 businesses were worth over \$31 million last year and over \$138 million since 2009.

These companies are major players in Maine campaign funding, having given a total of \$2.3 million in political contributions in Maine since 2000. This is in addition to contributions to federal candidates, party committees, or PACs. According to data posted on the Maine Ethics Commission website, only two of the 25 companies—Shaw’s and Rumford Paper—appear to have refrained from political giving in Maine.

These contributors spread their \$2.3 million in contributions among various types of political action committees, candidate campaigns, and political party organizations.

A total of 22% of the contributions went to influence candidate campaigns. Of that, 19% given by the top 25 BETR/BETE beneficiaries went to caucus PACs, leadership PACs, and political party committees. These recipients are at the heart of the battle for political power in Augusta. It is easy to see how BETR/

The great majority—78%—of their contributions went to issue PACs which mostly support (or oppose) referendum campaigns. Although that money does not go directly to policymakers or candidates, it remains a concern for a variety of reasons. When any one contributor spends a large amount of money fighting a public referendum campaign, that company may dominate the public debate and have a disproportionate impact on the democratic process.

Moreover, such issue advocacy may appear unrelated to the interests of specific lawmakers, but the reality is more complicated. Often a PAC is formed by legislators with a political stake in the outcome of a referendum. In those cases, the PAC’s fundraising raises many of the same issues as fundraising for a leadership PAC controlled by one of the same individuals.

For example, the No Higher Taxes for Maine PAC was an issue PAC organized in 2009 by legislative leaders fighting the people’s veto of a tax package supported by those leaders. The PAC raised over half a million dollars attempting (unsuccessfully) to stop the people’s veto.

Contributions Given by Top BETR/BETE Beneficiaries

FIGURE I2-2

| 2012 BETR/BETE Benefit Rank | Company | Contributions to Issue PACs (includes miscellaneous PACs) | Contributions to Partisan Caucus, Leadership and Party Affiliated Committees | Direct Contributions to Candidates | Total Political Contributions | BETR/BETE Benefit Amount FY 2012 | 4-Year BETR/BETE Benefit Amount (FY 2009-2012) |
|--------------------------------|--------------------------------|---|--|--|----------------------------------|-------------------------------------|--|
| 1 | Verso Paper/IP | \$118,523 | \$72,500 | \$13,750 | \$204,773 | \$4,062,513 | \$18,453,379 |
| 2 | Bath Iron Works | \$54,250 | \$46,750 | \$3,600 | \$104,600 | \$3,436,124 | \$13,545,474 |
| 3 | SD Warren/Sappi | \$35,600 | \$12,600 | \$2,875 | \$51,075 | \$2,879,843 | \$11,296,115 |
| 4 | Katahdin Paper/Cate St.Capital | \$0 | \$0 | \$2,000 | \$2,000 | \$2,416,347 | \$9,673,502 |
| 5 | National Semiconductor | \$96,000 | \$32,450 | \$6,750 | \$135,200 | \$1,967,855 | \$8,906,618 |
| 6 | Nestle Waters North America | \$528,963 | \$98,250 | \$5,950 | \$633,163 | \$1,848,025 | \$9,475,638 |
| 7 | Twin Rivers Paper Company | \$1,000 | \$250 | \$500 | \$1,750 | \$1,503,628 | \$1,904,157 |
| 8 | Tambrands | \$81,812 | \$0 | \$0 | \$81,812 | \$1,332,517 | \$6,132,803 |
| 9 | Madison Paper | \$16,500 | \$200 | \$500 | \$17,200 | \$1,143,740 | \$5,032,849 |
| 10 | Hannaford Bros. | \$107,030 | \$0 | \$150 | \$107,180 | \$1,092,151 | \$3,690,688 |
| 11 | LL Bean Inc | \$500,029 | \$450 | \$0 | \$500,479 | \$960,238 | \$4,788,957 |
| 12 | McCain Foods USA, Inc | \$35,000 | \$19,100 | \$2,000 | \$56,100 | \$897,169 | \$4,195,735 |
| 13 | Woodland Pulp/Domtar | \$57,057 | \$0 | \$0 | \$57,057 | \$823,521 | \$3,505,849 |
| 14 | Lincoln Paper and Tissue | \$100 | \$9,000 | \$1,400 | \$10,500 | \$780,665 | \$2,604,210 |
| 15 | Wal Mart Stores East LP | \$6,000 | \$107,650 | \$5,390 | \$119,040 | \$695,431 | \$4,112,040 |
| 16 | General Electric Company | \$2,030 | \$0 | \$500 | \$2,530 | \$662,786 | \$3,108,288 |
| 17 | Shaw's | \$0 | \$0 | \$0 | \$0 | \$651,491 | \$2,579,279 |
| 18 | Rumford Paper | \$0 | \$0 | \$0 | \$0 | \$627,549 | \$6,270,342 |
| 19 | Great Lakes Hydro America | \$250 | \$1,000 | \$1,250 | \$2,500 | \$565,567 | \$2,471,487 |
| 20 | Fairchild Semiconductor | \$80,000 | \$0 | \$0 | \$80,000 | \$552,213 | \$2,932,303 |
| 21 | Dragon Products | \$1,500 | \$1,500 | \$2,250 | \$5,250 | \$498,961 | \$2,044,283 |
| 22 | TD Bank | \$35,420 | \$25,000 | \$250 | \$60,670 | \$455,508 | \$3,043,198 |
| 23 | Irving Forest Products | \$60,000 | \$25,000 | -\$250 | \$84,750 | \$425,183 | \$1,819,921 |
| 24 | The Dingley Press | \$10,000 | \$0 | \$0 | \$10,000 | \$412,611 | \$1,947,822 |
| 25 | Barber Foods | \$3,250 | \$916 | \$0 | \$4,166 | \$397,206 | \$1,622,232 |
| | | \$1,830,314 | \$452,616 | \$48,865 | \$2,331,794 | \$31,088,842 | \$135,157,169 |

In short, although 78% of the contributions from BETR/BETE beneficiaries went toward issue PACs or referendum campaigns, even those contributions have a bearing on political favoritism when making policy on tax and budgetary issues such as BETR/BETE.

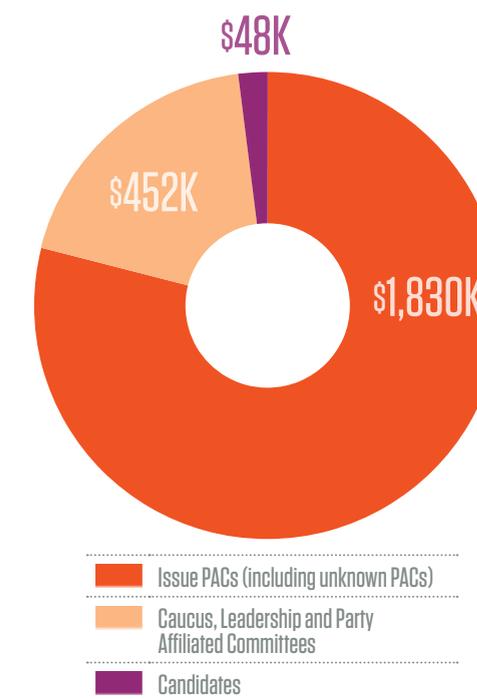
As noted above, 19% of the contributions from BETR/BETE beneficiaries went to caucus PACs, leadership PACs, or political party committees. MCCE has analyzed the partisan leaning of these recipients and how the various BETR/BETE beneficiaries allocated their contributions. FIGURE I2-4 These contributors give to both sides of the aisle, but slightly favor Republican interests. Republican-leaning PACs took in \$273,250, while Democratic-leaning entities received \$179,366.

Conclusion

Large campaign contributions can influence public policy in many undemocratic ways. They can affect policy directly by influencing the outcome of a citizen's initiative; they can influence policy indirectly by tilting individual candidate elections thereby changing the makeup of the legislature; or they may have an indirect effect by

FIGURE I2-3

Who Receives Contributions from BETR/BETE Beneficiaries



Is BETR/BETE a “milker”?

Federal lawmakers sardonically refer to some bills as “milkers” – legislation that invokes fear (or hope) among special interests and therefore creates powerful opportunities to “milk” those interests for campaign contributions as the legislative process grinds on. Some bills have the benefit of raising fear or expectations among wealthy interests on both sides of an issue, therefore creating “double milkers.” Maine law prohibits lawmakers from soliciting donations during a legislative session, but that does not prohibit “milking” these businesses the day before the session convenes or the day after adjournment, nor does it bar lawmaker’s associates and others from raising funds at any time of the year. From this perspective, it is the lawmakers rather than the contributors at the heart of our campaign finance woes.

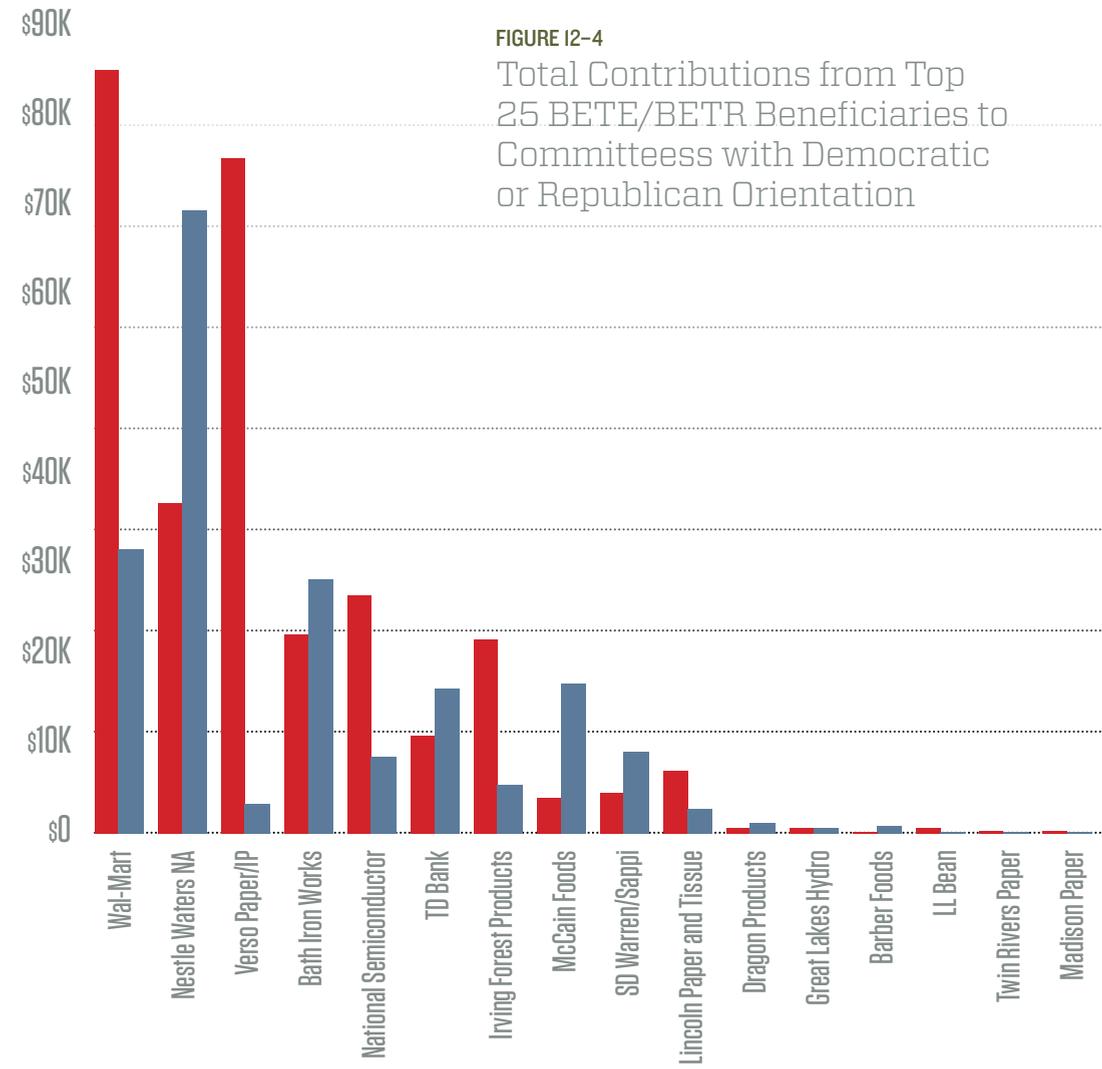
changing the behavior of individual legislators once elected.

One antidote to these channels of influence is public education. In this report MCCE hopes to educate the public by laying out the political giving by businesses that benefit from a tax program that has been labelled as “high risk” in an objective third-party review.

Despite that critical assessment more than six years ago, the legislature has been unable or unwilling to impose any significant reforms on BETR/BETE, and continues to pay out millions in tax reimbursements without requiring evidence of job growth or other economic benefits. This begs the question, “Why?”

MCCE has issued this report because we believe the public needs a full understanding of the campaign contributions made by these interested contributors before voters can fairly assess the performance of our lawmakers and the programs they support.

The public’s faith in our democratic process is best assured by understanding the links between large special interest contributions in Maine campaigns and the formation of public policy.



Note: Katahdin Paper Company LLC/Cate Street Capital, Tambrands, Hannaford, Woodland Pulp/Domtar, General Electric, Shaws, Rumford Paper, Fairchild Semiconductor, and The Dingley Press made no contributions to PACs with a partisan orientation.

PREVIOUS REPORTS

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REPORT#2

Profiles in Fundraising — The Leader Board: Maine's Top Legislative Fundraisers and How They Earned Their Spots

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