



FINANCING DEMOCRACY

ENSURING CANADA'S POLITICAL FINANCING REGIME MEETS NEW REALITIES

DISCUSSION GUIDE

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Public Policy Forum

1400 - 130, rue Albert Street

Ottawa, ON, Canada, K1P 5G4

Tel/Tél: 613.238.7858

www.ppforum.ca

WITH THANKS TO OUR CO-CONVENOR

The Office of the Chief Electoral Officer, commonly known as Elections Canada, is an independent, non-partisan agency that reports directly to Parliament. Its mission is to ensure that Canadians can exercise their democratic rights to vote and be a candidate.

Elections Canada is responsible for administering the political financing provisions under the *Canada Elections Act*, which establishes a detailed set of rules for political entities, including electoral district associations, nomination contestants, leadership contestants, third parties, political parties and candidates. Elections Canada's responsibilities in this regard include reviewing for compliance with the Act and publishing the returns of those entities, administering the reimbursement of election expenses to eligible candidates (after a general election or by-election) and to parties (after a general election), and administering audit subsidies payable to auditors for candidates and registered associations.



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Ensuring Canada's Political Financing Regime Meets New Realities

Introduction

The state of democracy in Canada (and elsewhere) is evolving as it confronts new realities posed by digital technologies, fake news, shifting conceptions of citizenship, the rise of populism and the constant campaign. Elections are a cornerstone of our democracy. They, and the laws that govern their administration, must be able to respond to new challenges.

Over the past decade and a half the political financing regime in the *Canada Elections Act* has seen substantive changes and has grown considerably in complexity and scope. While some adjustments are currently underway in Parliament, now is an opportune time to take a fresh look at political financing in Canada to examine the consequences of the changes made in the last 15 years and, in particular, to assess what further revisions or adaptations are needed to meet new realities.

The Public Policy Forum, in partnership with Elections Canada, is pleased to invite you to join us as a participant for a daylong roundtable on political financing in Canada, with a focus on public and private financing, transparency and campaign spending. Issues that could arise in the discussion include: the extent to which the state should be funding political entities and the implications of doing so; the appropriate levels for capping donations and/or spending; the extent to which the activities of third parties ought to be regulated; the desirability of regulating spending, campaigning and advertising outside of the writ period; the history of jurisprudence affecting the regulation of money in politics; and the complications and challenges associated with enforcing political finance regulations.

As a result of the Roundtable, Elections Canada will be better informed of emerging themes and considerations related to political financing in Canada. Elections Canada will also be in a stronger position to provide sound advice to Parliament and to formulate recommendations following the next general election.

This discussion paper provides background information on the federal political financing regime in Canada to assist participants in preparing for the roundtable on October 11. The paper is divided into the three subthemes that will structure our discussion: public and private financing, transparency and campaign spending limits. It is not meant to limit the scope of our conversation; it merely serves as a starting point.

Public and Private Financing: Where do political entities get their money?

Political contributions are an important way for individuals to express their support for political parties, electoral district associations, candidates, contestants and third parties.¹ In *Figuroa v. Canada* (2003), the Supreme Court of Canada acknowledged the right of Canadians “to play a meaningful role in the electoral process.” Arguably, this is connected to their ability to lend their support to political entities. Political contributions are a concrete way to demonstrate support for individuals, organizations and the values and ideas that they represent.

Connected to this, there is a general public interest in having a strong and robust competition of ideas and values. Political parties and candidates are the essential actors that breathe life into this competition. For that reason, in addition to contributions from individuals, political parties and candidates receive public financial support in the form of electoral expense reimbursements.

Political contributions to parties, candidates, electoral district associations and leadership contestants are subsidized through tax credits, so there is a public component to these contributions as well. Moreover, subject to given thresholds set out in the Act, partial electoral campaign expense reimbursements are available to both candidates and registered political parties in amounts determined by their spending during election periods up to their spending limits. Individuals are permitted by law to donate \$1,550 per year to each political party and \$1,550 in total to all registered electoral district associations, contestants in nominations, and candidates of each political party. See Appendix: Political Financing Facts and Figures, Table 1 for an overview of contribution limits for each political entity.

Of course, it costs money to make money. Parties have to engage in intense fundraising efforts in order to bring in the money that they get through individual contributions. Since the elimination of corporate and trade union donations over the last fifteen years, parties rely more heavily on individual donations that are capped at \$1,550.

The per-vote subsidy existed in Canada from 2004 until it was phased out completely in 2015. The per-vote subsidy was egalitarian in its objective in the sense that the expressed preferences of nearly all voters were represented in the allocation of resources to parties. Every vote counted – precisely for \$1.75 per year per vote, adjusted for inflation. It also helped to lend predictability to political parties’ budgets in that they knew how much money they would get through the subsidy each year and could plan accordingly. Though the most popular parties got the most votes, the per vote subsidy helped to level the playing field between the major parties by providing a base amount of financial support for each party that received at least two percent of the national vote.

¹ Note that in addition to contributions from individuals, third parties can also receive contributions from corporations and associations that carry on business in Canada as well as trade unions that hold bargaining rights for employees in Canada.

Appendix, Figure 1 provides the total amounts received by all political parties, candidates, electoral district associations, nomination and leadership contestants from public and private sources of funding since 2000. Figure 2 indicates the total contributions made to those same entities between specified ranges, from \$0 to \$200, \$201 to \$500, \$501 to \$750, \$751 to \$1,200, and over \$1,200. Figure 3 indicates the total number of individuals who provided contributions within those same ranges. From 2000 to 2016 the vast majority of individuals have provided contributions under \$200. Lastly, for an overview of the financial status of political parties and their electoral district associations see Appendix, Figure 4.

The roundtable will begin with a discussion on private and public sources of funding for political entities. The primary objective of the discussion is to generate a critical dialogue about the proper role of the state in financing the activities of political entities. The classification of political entities as either public or private institutions – or both – is one way of thinking about this discussion.

A number of questions will be posed for this discussion; here are a few prospective discussion questions to consider in advance of the meeting:

- **Should the state finance political entities? If yes, are the current support levels appropriate or should the state do more? What would be the implications?**
- **Ought the limits on individual contributions be reconsidered? Should they be increased, or decreased?**
- **Is it an important objective to keep foreign money out of private donations? If so is there a way to do this more effectively?**

Transparency

Transparency is a fundamental principle underpinning political finance regulations in Canada and elsewhere. Disclosure requirements have been part of our political finance regulations since 1974. They are meant to bring transparency and accountability to the system by preventing secrecy around contributions and providing Canadians with the information needed to understand whether there is a risk of undue influence of politicians by private donors. In line with this objective, the names and addresses of individuals who donate over \$200 to political parties, candidates, contestants and electoral district associations are disclosed along with the amounts of their contributions so that we can see who is donating to whom and in what amounts.

Specific disclosure requirements vary according to the entity in question. Reporting requirements apply to political parties, electoral district associations, candidates, nomination contestants, leadership contestants and to third parties that engage in election advertising. Appendix, Table 2 provides an overview of reporting requirements for each political entity.

There is a common perception that wealthy individuals use their donations not only to support political parties and their leaders, but also to buy time with them at events, like fundraising dinners and galas, so as to have opportunities to discuss issues of importance to them. This can be seen as having the effect of enabling privileged access to decision makers, as wealthy people who are invited to private fundraisers are getting more access than others.

In the spring of 2017, the federal government introduced legislation that intends to increase transparency around what have been labeled “cash for access events.” Essentially, the bill requires that all regulated fundraisers where one individual is required to pay or have previously contributed more than \$200 to attend must be advertised publicly five days in advance, and the names and partial addresses of attendees (except for those under 18, support staff, employees, volunteers, or media) will be made public and must be reported to Elections Canada within 30 days of the event.

The *Canada Elections Act* requires that third parties register with the Chief Electoral Officer once the writ is issued and immediately upon incurring election advertising expenses of \$500 or more, and must report their contributions and expenses (for the purpose of election advertising) within four months of the election. A cursory look at the third party reports for the 2015 election demonstrates the variety of organizations that are engaging in elections advertising. There were small groups that are active primarily or exclusively during elections, like 101 Reasons to Vote Against Harper, Vote Against Harper, Stand Up for Canada, Voters for Honest Politicians and We Love Canada. The list also includes larger, more complex organizations like the United Steelworkers, the Public Service Alliance of Canada and Fair Vote Canada that, in addition to other activities, seek to influence the outcome of elections by communicating messages in direct (or indirect) support or opposition to candidates and parties. The reports indicate the amount of resources spent on such efforts.

Following the 2015 election, there were allegations that American donors had influenced the activities of Canadian third parties through their contributions. Several Canadian senators, as well as the Senate Committee on Legal and Constitutional Affairs, have expressed concerns with “loopholes” in the *Canada Elections Act* regarding foreign contributions. The current legislation prohibits only foreign efforts to “induce” voters. This does not prohibit foreign funds raised by third parties from being used for election purposes if they are not given to the third party directly for this purpose. Moreover, foreign contributions to third parties outside the six-month period prior to the drop of the writ need not be reported at all. The Senate committee is calling for more frequent auditing of third parties and more comprehensive disclosure requirements.

Questions to consider in advance of the meeting include:

- **How do the activities of third parties affect political competition in Canada? Should only election advertising incurred by third parties be regulated?**

- **Is there other information that political entities should be obliged to include in their reports? For example, should political entities be obligated to include contributors' employer information in their reports?**
- Do transparency requirements achieve a reasonable balance with Canadians' right to privacy?

Campaign Spending Limits

In addition to limits on the size of individual donations, our political finance regime places limits on how much political parties, candidates and third parties spend during election campaigns (See Appendix, Table 3). This helps to ensure that money does not unduly determine the outcome of elections. Spending limits level the playing field between competitors so that no one can drastically outspend the others. This approach assumes that money is relevant to politics, but acknowledges that it should not make all the difference.

The amount that a registered political party is entitled to spend during an election campaign is determined by a formula that takes into account the number of electors per electoral district (riding), the number of ridings in which the party has a candidate and the length of the campaign period. The amount that candidates can spend is determined by a similar formula that takes into account the number of electors, the size and population density of the electoral district and the length of the campaign. So, candidates in more populous ridings get to spend more than candidates in more sparsely populated ridings. Though campaigns are normally 37 days in length, the 2015 campaign was 79 days, which increased election spending significantly. The Minister of Democratic Institutions has stated that she plans to introduce legislation that could potentially limit the length of the writ period.

For a breakdown of total election expense limits for parties and party candidates, respectively, in the last three general elections see Appendix, Tables 4 and 5. These tables also indicate the total amount elections expenses and the percent of the limit spent for parties and party candidates.

Appendix, Figure 5 focuses in on candidate spending and shows that in the last six general elections (with the exception of 2004) a majority of electoral districts had only one candidate who spent over 75% of the candidate expense limit.

For third party actors, the base amount that they can spend on national election advertising during a campaign period is \$150,000. Of this base amount, third parties can spend no more than \$3,000 can be spent in direct support or opposition of a candidate in a particular riding. The limits are adjusted for inflation. The limit on election advertising is adjusted on a daily pro-rated basis if the campaign goes longer than 37 days.

For the 2015 general election the limit was \$439,410.81, and no more than \$8,788.22 could be spent in a particular electoral district. Of the 114 third parties that registered, 95 spent between \$0 and \$100,000; nine spent between \$101,000 and \$200,000; four spent between \$201,000 and \$300,000; three spent between \$301,000 and \$400,000

and three spent more than \$400,000. Prior to the 2015 general election, the most spent by a third party was \$179,936.

For an overview of the number of registered third parties, their expense limits, and the total amount spent on election advertising by third parties in the last six general elections see Appendix, Table 6. Figure 6 shows the number of third parties that spent a percentage range of the expense limit in the last six general elections. The vast majority of third parties spent between zero and 10% of the expense limit, while very few third parties (three in 2015, two in 2008, and two in 2000) spent between 90 and 100% of the limit.

The fact that this limit applies only to election advertising is significant; spending on activities that fall outside the scope of this definition is not limited. For example, when third parties conduct polls, this activity is not caught under the definition and so not subject to spending limits. Election advertising does not include: telephone calls made to electors; door-to-door canvassing (unless canvassers distribute election advertising; messages sent or posted for free on social media platforms; messages sent by e-mail, text or other messaging services; or content posted on a website.

The third session of the roundtable discussion is focused on spending limits as applied to political parties, candidates, and third parties. The increased length of the 2015 campaign, as well as the availability of new methods of communicating with voters via social media and micro-targeted campaigns, invites a conversation about whether current spending limits are appropriate. Social media not only allows for frequent, inexpensive communication between political entities and potential supporters, but it also provides a new vehicle for recruiting contributions both small and large.

Questions to consider in advance of the session include:

- **What does the modern campaign look like in terms of how money is spent?**
- **How do political parties and candidates communicate with us and how much does it cost?**
- **Are current spending limits high enough or are they too high?**

Appendix: Political Financing Facts and Figures

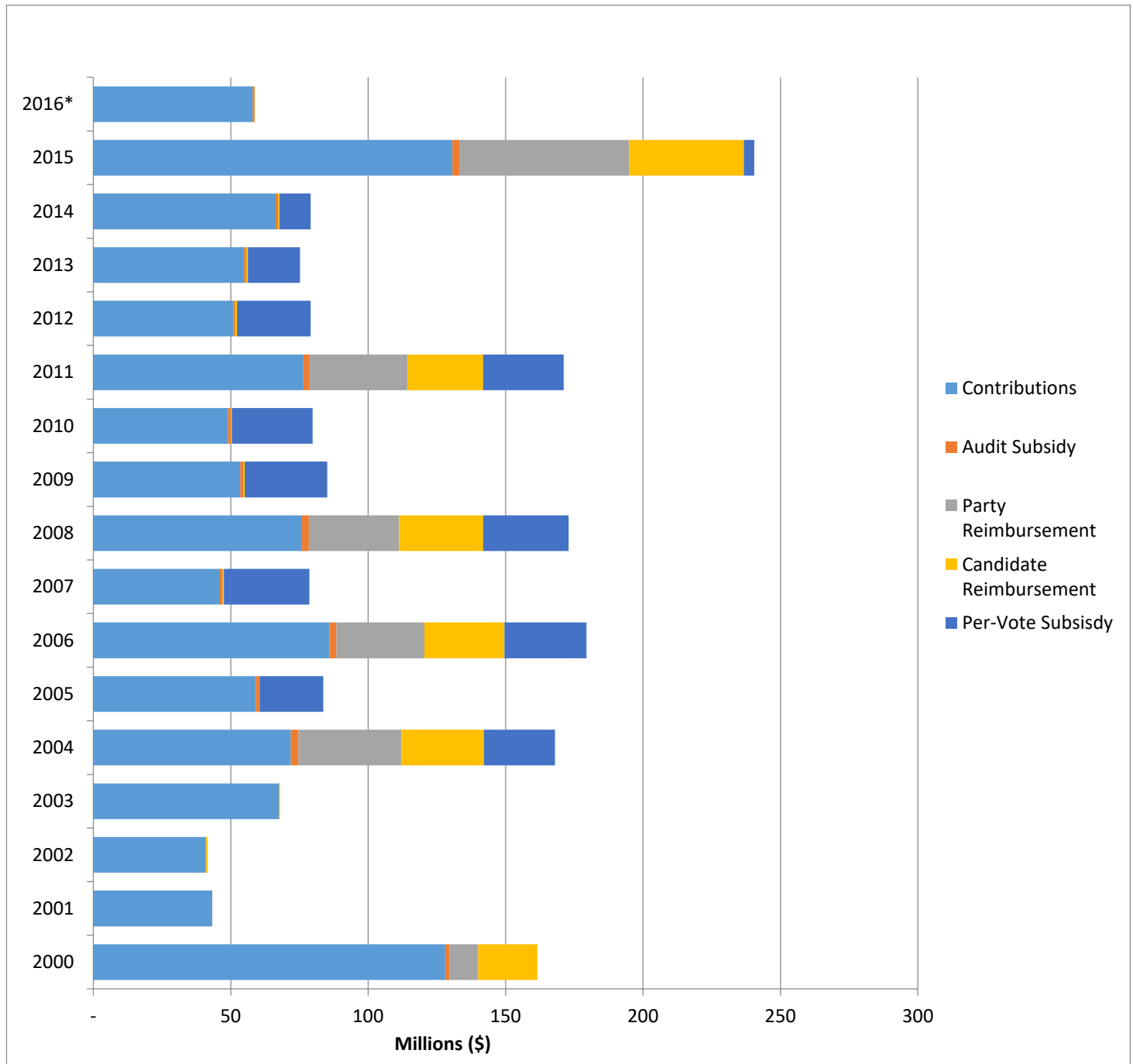
Table 1: Limits on Contributions*, Loans and Loan Guarantees by Political Entities

Political Entity	2017 annual limit**	2017 limit** per election called	Notes
To each registered party	\$1,550	Not applicable	-
In total to all the registered associations, nomination contestants and candidates of each registered party	\$1,550	Not applicable	A nomination contestant is permitted to give an additional \$1,000 in total per contest in contributions, loans and loan guarantees to his or her own campaign; A candidate is permitted to give a total of \$5,000 in contributions, loans and loan guarantees to his or her campaign and is also permitted to give an additional \$1,550 in total per year in contributions, loans and loan guarantees to other candidates, registered associations and nomination contestants of each party.
In total to all leadership contestants in a particular contest	\$1,550	Not applicable	A leadership contestant is permitted to give a total of \$25,000 in contributions, loans and loan guarantees to his or her campaign, and an additional \$1,550 in total per year in contributions, loans and loan guarantees to other leadership contestants.
To each independent candidate	n/a	\$1,550	-
To each third party	There are no limits on contributions or loans given to third parties.		

* The contribution limits apply to: total contributions, the unpaid balance of loans made during the contribution period and the amount of any loan guarantees made during the contribution period that an individual is still liable for. The sum of these three amounts cannot at any time exceed the contribution limit.

** The limits increase by \$25 on January 1st in each subsequent year.

Figure 1: Total Contributions and Direct Public Funding for Regulated Federal Parties, Candidates, Electoral District Associations (EDAs), Nomination Contestants and Leadership Contestants, 2000-2016 (in 2016 dollars)



* As of July 31, 2017, 12 political parties and 96 EDA's have not submitted their annual financial return for 2016, some may have an extension and none have been audited.

Figure 2: Amount of Contribution Dollars within specified ranges, 2000 to 2016 (in 2016 dollars)

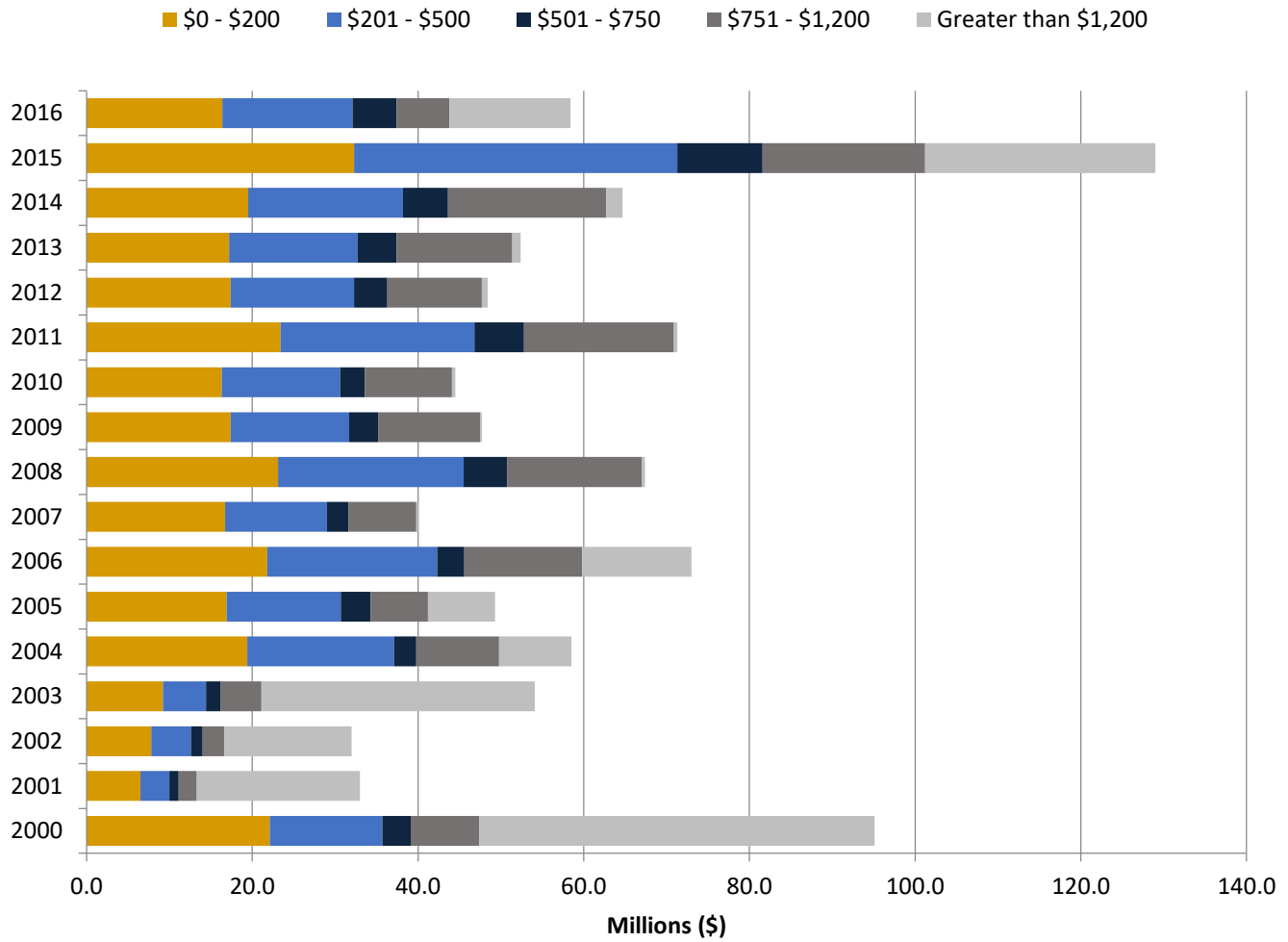


Figure 3: Number of Individual Contributors that provided contributions within specified ranges (2000-2016)

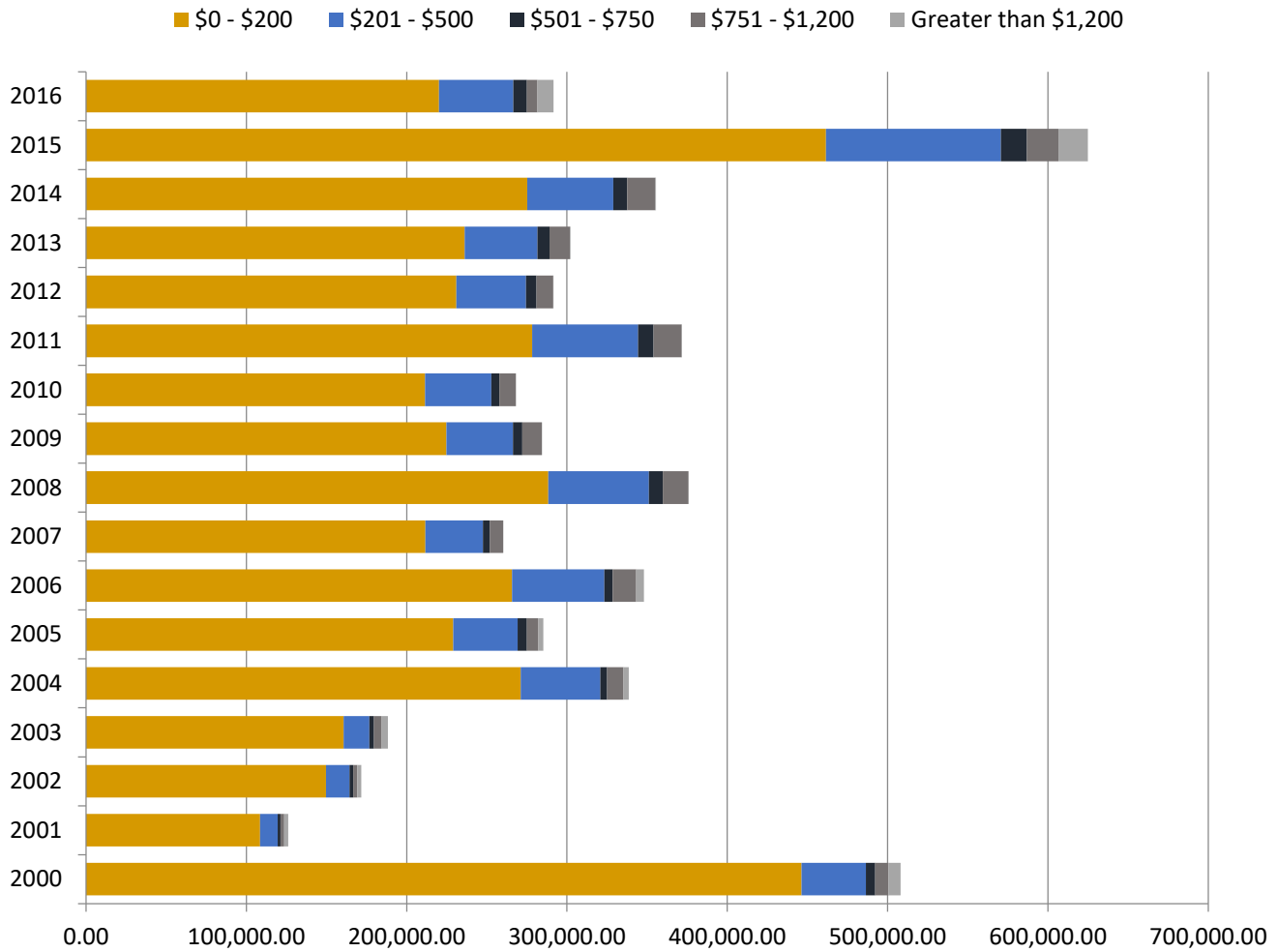
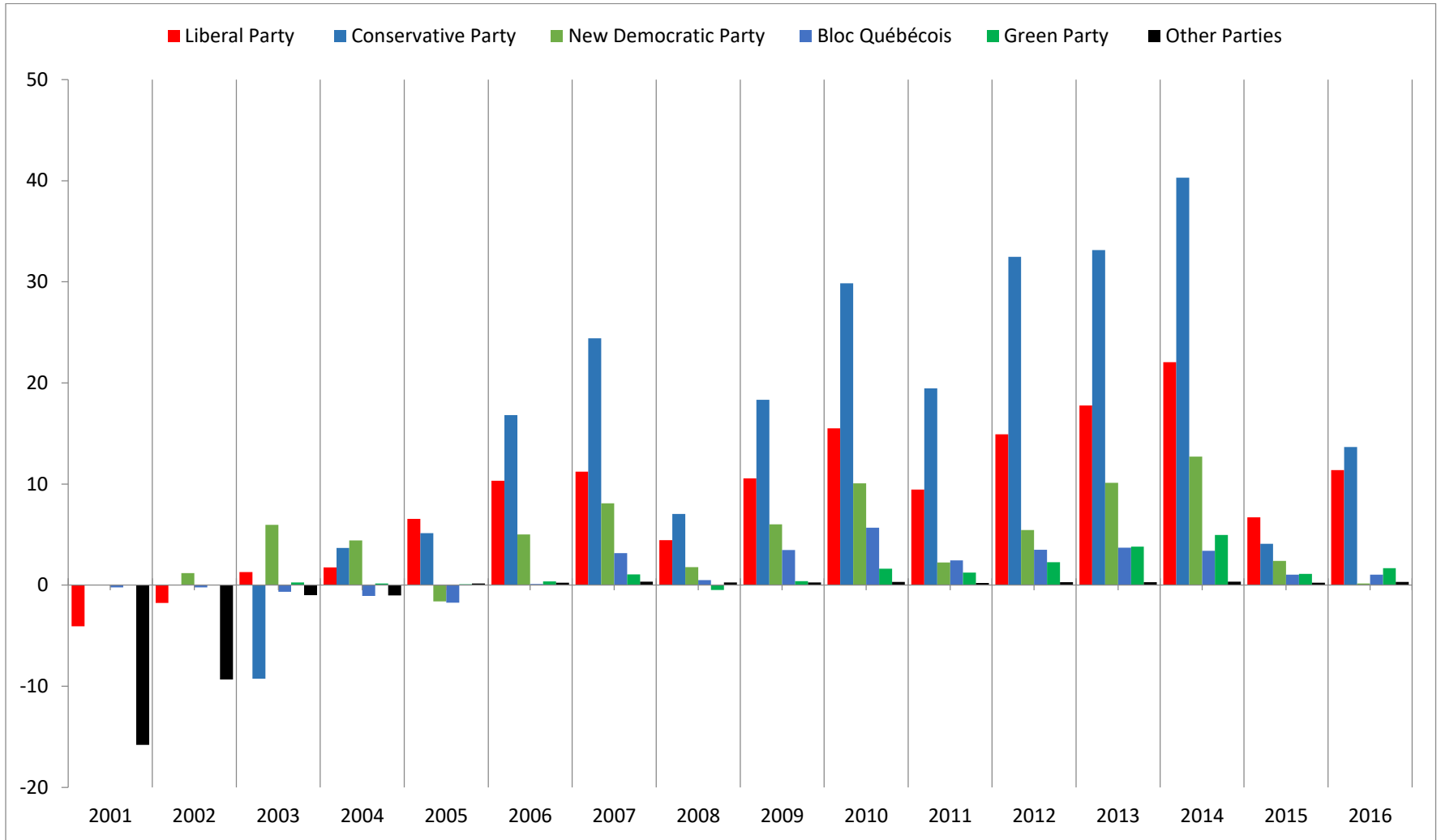


Figure 4: Net Asset Position*, by Each Registered Party and Affiliated EDA's, 2001-2016 (in 2016 dollars)



* Equity amount reported in the financial statements of parties and electoral district associations.

Table 2: Reporting Requirements for Federal Political Entities

Entity	Return	Deadline	Requirement
Registered Political Party	Statement of assets and liabilities	Six months after registration	Mandatory
	Quarterly return	30 days after the end of the quarter	Mandatory (if received 2% of votes cast nationally or 5% of votes cast in all electoral districts where it endorsed candidates in the last general election)
	Financial transactions return	June 30 each year	Mandatory
	General election expenses return	Eight months after the election	Mandatory
Registered Electoral District Association	Statement of assets and liabilities	Six months after registration	Mandatory
	Financial transactions return	May 31 each year	Mandatory; include auditor's report if contributions or expenses equalled \$5,000 or more in the year
Candidate	Electoral campaign return	Four months after election day	Mandatory
Nomination Contestant	Nomination campaign return	Four months after selection date (or election day in certain circumstances)	Only when \$1,000 or more received in contributions or incurred in nomination campaign expenses; include auditor's report if contributions or nomination contest expenses equalled \$10,000 or more for the contest
Leadership Contestant	Report on contributions	On registration	Mandatory
	Two interim reports on contributions	Three weeks before and two days before end of contest	Mandatory if \$10,000 or more received in contributions or incurred in leadership campaign expenses
	Leadership campaign return	Six months after end of contest	Mandatory; include auditor's report if \$5,000 or more received in contributions or incurred in leadership campaign expenses
Third Party	Election advertising report	Four months after election day	Only if \$500 or more incurred in election advertising expenses; include auditor's report if \$5,000 or more incurred in advertising expenses

Table 3: Expenses Limits by Federal Political Entity

Entity	Formula	2015 General Election	
		Lowest Limit	Highest Limit
Registered Political Parties	Formula based on the number of names on the preliminary or revised lists of electors for each electoral district that the registered party runs a candidate in, and on the length of the election period.	\$119,542.99	\$54,936,320.15
Registered Electoral District Associations	Not Applicable	Not Applicable	Not Applicable
Candidates	Formula based on the number of names on the preliminary or revised lists of electors for each electoral district, and on the length of the election period.	\$169,928.60	\$279,227.99
Nomination Contestants	20% of the amount allowed for a candidate's election expenses in the same riding during the previous general election	\$13,926.95	\$26,870.35
Leadership Contestants	Not Applicable	Not Applicable	Not Applicable
Third Parties	\$150,000 for a 37-day election period. Limits are increased by 1/37th for each day in excess of 37 days.	Not Applicable	\$439,411

Table 4: Election Expenses by Political Party during the 2008, 2011 and 2015 General Elections (in 2016 dollars)

Party name	2008			2011			2015**		
	Total election expenses subject to the limit	Election expenses limit	% of limit	Total election expenses subject to the limit	Election expenses limit	% of limit	Total election expenses subject to the limit	Election expenses limit	% of limit
Liberal	14,624,207	20,014,303	73%	19,507,746	21,025,793	93%	43,118,967	54,936,320	78%
Conservative	19,506,347	19,999,231	98%	19,519,995	20,955,089	93%	41,871,574	54,936,320	76%
NDP	16,820,244	20,063,430	84%	20,408,058	21,025,793	97%	29,758,425	54,936,320	54%
Bloc Québécois	4,879,604	5,066,811	96%	5,347,816	5,373,818	100%	2,670,624	13,701,143	19%
Green Party	2,795,800	19,751,413	14%	1,924,478	20,764,345	9%	3,908,024	54,893,641	7%
Other*	86,812	1,098,823	8%	113,764	1,250,616	9%	244,059	3,766,303	6%

* Average election expenses limit was used as these limits vary between each of the other parties

** Limits for 2015 are higher than in previous general elections due to changes brought to the CEA in 2014. Under the new provisions, if the election period is longer than 37 days, the limits are increased by 1/37th for each day in excess of 37 days.

Table 5: Election Expenses by Party Candidates during the 2008, 2011 and 2015 General Elections (in 2016 dollars)

Party name	2008				2011				2015**			
	Total election expenses subject to the limit	Average election expenses subject to the limit	Average election expenses limit	% of limit	Total election expenses subject to the limit	Average election expenses subject to the limit	Average election expenses limit	% of limit	Total election expenses subject to the limit	Average election expenses subject to the limit	Average election expenses limit	% of limit
Liberal	13,528,340	44,648	88,036	51%	14,578,015	47,485	91,704	52%	23,417,171	68,874	218,795	31%
Conservative	19,460,375	63,183	88,118	72%	19,667,794	64,064	91,714	70%	28,872,588	85,675	218,706	39%
NDP	6,730,135	22,584	88,041	26%	7,125,708	23,752	91,728	26%	17,091,213	51,171	218,857	23%
Bloc Québécois	3,952,404	52,699	87,683	60%	4,400,544	58,674	91,684	64%	2,245,692	28,791	223,455	13%
Green Party	1,951,204	7,805	88,047	9%	1,792,014	7,226	91,983	8%	3,074,742	12,448	218,790	6%
Other	669,651	3,700	87,670	4%	597,214	3,878	92,080	4%	890,523	5,118	218,774	2%

** Limits for 2015 are higher than in previous general elections due to changes brought to the CEA in 2014. Under the new provisions, if the election period is longer than 37 days, the limits are increased by 1/37th for each day in excess of 37 days.

Figure 5: Number of Electoral Districts with Candidate Election Expenses greater than 75% of the limit, 2000 to 2015
General Elections

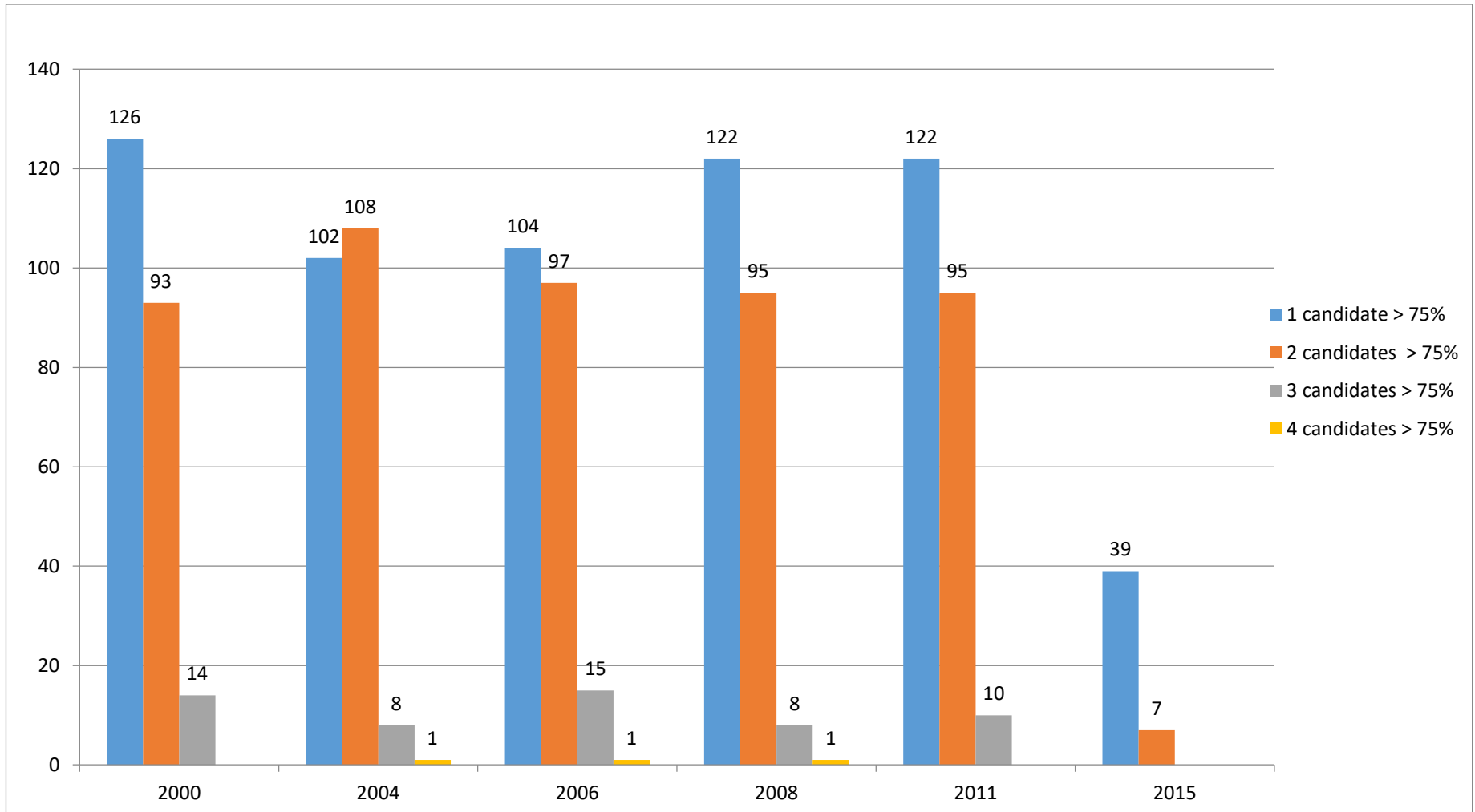
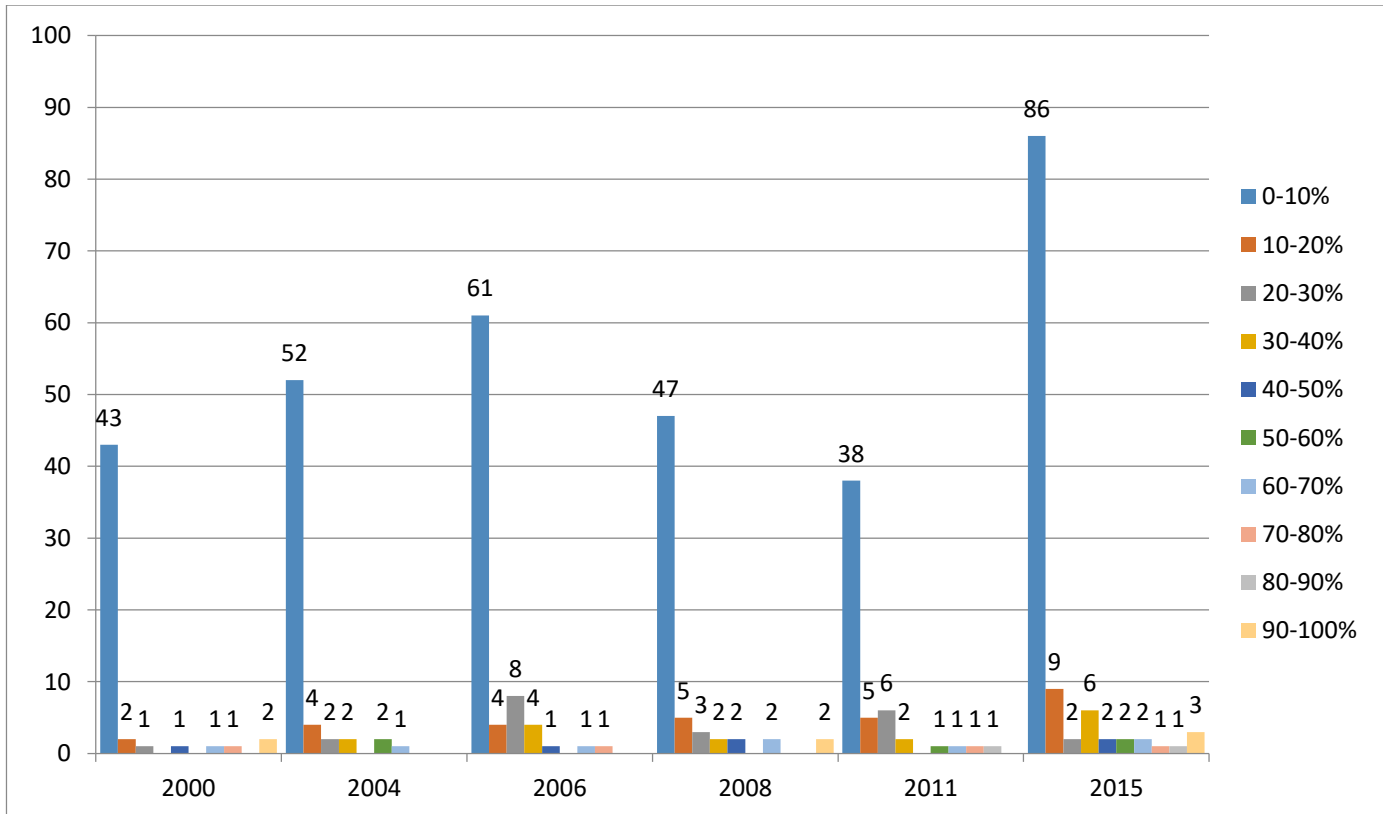


Table 6: Third Parties' Election Advertising Spending in Canada (2000-2015 General Elections) (in 2016 dollars)

General Election Year	Number of Third Parties	Total Election Advertising Expenses Incurred by Third Parties
2015*	114	6,134,345
2011	55	1,340,874
2008	63	1,416,467
2006	80	1,288,041
2004	63	883,259
2000	50	912,869

*Note Limits for 2015 are higher than in previous general elections due to changes brought to the CEA in 2014. Under the new provisions of the Act, if the election period is longer than 37 days, the limits are increased by 1/37th for each day in excess of 37 days.

Figure 6: Number of Third Parties by Percentage of Expense Limit Spent, 2000 to 2015 General Elections





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