



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

To: Commission Members
From: Jonathan Wayne, Executive Director
Date: June 12, 2009
Re: Proposed Rule-Making – AMENDED TO REFLECT UPDATES IN
LEGISLATION

Thank you again for being available on June 15th to consider initiating a rule-making process under the Maine Administrative Procedure Act. The proposed insertions and deletions are attached, along with a draft summary of the proposed amendments. Some of the proposed amendments reflect statutory changes in four bills that were adopted by the 124th Legislature. I have attached the statutory changes (the relevant provisions are noted with an asterisk) in case you would like to refer to them.

If you decide to initiate a rule-making on June 15th, you could hear public comment at your regularly scheduled meeting on July 30th and could finally adopt any rule amendments at your regular meeting on September 24th. All of the proposed changes would be routine technical, and would not need to be reviewed by the Legislature.

Thank you.



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To: Commission Members
From: Jonathan Wayne, Executive Director
Date: June ____, 2009
Re: Explanation of Proposed Changes to Ethics Commission Rules

Chapter 1

Section 2(2)(A) – Location of Commission Office

The Commission staff proposes updating the reference to the Commission's location to be consistent with the Commission's new office space at 45 Memorial Circle in Augusta.

Section 3(1) – Regular Meetings of the Commission

Commissioner Francis Marsano proposes changes to the rule regarding Commission meetings (Section 3). Under the proposed change to Section 3(1), the Commission would select its meeting dates for an election year at the Commission's meeting in January of that year. The Commission would be required to adhere to the selected dates unless the Commission changed the dates at a properly called meeting. In other (odd-numbered) years, the Chair would call an organizational meeting at which the Commission would set monthly meeting dates which best appear to meet the needs of the Commission.

Section 3(2) – Special Meetings of the Commission

Under the changes proposed by Commissioner Marsano, if the Commission holds a special meeting, each member of the Commission must receive, if possible, written notice of the time, place, and purpose of the meeting at least 24 hours before the meeting. If not

possible, the Commission staff must give notice to the Commission members by phone, fax, e-mail or other means. Commission members may notify the staff of his or her preference for notification. The Commission staff would prepare a log of the notices which the staff has provided to the Commissioners.

Section 3(3) – Agenda for Commission Meeting

After preparing the agenda for a Commission meeting, the Executive Director would mail the agenda to each Commissioner at least seven days before the meeting. The Chair of the Commission may approve a different schedule for the mailing of the agenda, if the Chair provides notice to the other Commissioners of the change in schedule and the reasons for the change.

Section 6(7) – Contributions Received by a Candidate before a Primary Election

Under the Commission's current rule, any contributions received by a candidate before a primary election are deemed to be for the primary election. Thus, a contributor who wishes to contribute for both the primary and the general election must wait until after the primary election to make the general election contribution.

Under Chapter 286 of the Public Laws of 2009 (please see Section 10, attached), the Legislature has directed the Commission to adopt a rule that allows candidates to accept contributions to be used for a general election during the primary election period, provided that the contributions are segregated and the candidate designates the contribution to be for the primary or general election.

Section 6(8) – Contributions by Minors

Candidates for state office in Maine are under contribution limitations that are among the strictest in the nation. Beginning around September 10, 2009, a contributor may give up to \$350 per election to a legislative or county candidate and up to \$750 per election to a gubernatorial candidate. Candidates seeking to qualify for Maine Clean Election Act funding may collect seed money contributions of up to \$100 per contributor at the beginning of their campaigns. In the 2010 elections, candidates for Governor seeking Maine Clean Election Act funding will be *required* to collect at least \$40,000 in seed money contributions.

Given these limitations, the Commission staff believes it may be advisable for the Commission to articulate a standard for when a candidate may attribute a contribution to a minor (an individual of 17 years or younger). We propose a rule that is based on a federal regulation (11 C.F.R. 110.19, attached). Under this regulation, a minor may make a campaign contribution if the minor makes the decision to contribute knowingly and voluntarily, the funds for the contribution are owned or controlled by the minor, and the funds do not consist of a gift provided to the minor for purposes of allowing the minor to make a contribution.

Section 11 – Reporting Schedule for Ballot Question Committees

Under 21-A M.R.S.A. § 1056-B(1), ballot question committees are organizations other than PACs which spend more than \$5,000 to influence a ballot question. In Chapter 190, of the Public Laws of 2009 (Section A-20, attached), the Legislature amended § 1056-B(1)

so that ballot question committees are required by statute to file reports according to the same schedule as PACs. The Legislature also deleted the requirement that the Commission establish a filing schedule for ballot question committees. Accordingly, the Commission staff proposes to delete Section 11 from Chapter 1 of the Commission's rules.

Section 12(2) – Contributions from Lobbyists During the Legislative Session

In Chapter 286 (Section 1), the Legislature clarified that a PAC may not accept a contribution from a lobbyist during the legislative session if a member of the Maine Legislature or other covered official is a treasurer, officer, or primary fundraiser or decision-maker of the PAC. The Commission staff proposes changes to Section 12(2) to be consistent with these statutory changes. Chapter 286 is expected to become effective on or around September 10, 2009.

Chapter 3

Section 2(3)(B) and C – Seed Money Contributions for Candidates for Governor

The Commission staff proposes changes to these sections to be consistent with Chapter 363. Under Sections 2 and 5 of the law, a gubernatorial candidate seeking Maine Clean Election Act funding could collect up to a maximum of \$200,000 in seed money contributions and would be *required* to collect up to \$40,000 in seed money from registered Maine voters. Chapter 363 is now effective because it was enacted as emergency legislation.

Section 2(F) – Verification of Voter Registration

In 2008, as authorized by 21-A M.R.S.A. § 1125(3), the Commission began permitting Maine voters to make \$5 qualifying contributions to MCEA candidates with a credit or debit card on the Commission's website. For the 2010 elections, the Commission staff intends that the Commission's website will verify whether a contributor is registered to vote in Maine by comparing the name and address of the contributor to information derived from the Maine's Central Voter Registration System. This operational change is reflected in the proposed rule.

Section 3(1) – Requesting Certification as a Maine Clean Election Act

Under Chapter 363, Section 3, gubernatorial candidates seeking MCEA funding must obtain certain documents for the required \$40,000 in seed money contributions provided by registered Maine voters, such as a written acknowledgement card signed by the contributor. The documents relating to these contributions must be submitted to the Commission during the qualifying period. The Commission staff proposes a change to the Commission's rule to reflect the new requirement.

Section 4(4) – Permitting MCEA Candidates to Accept Contributions

Under the design of the MCEA, candidates in the public financing program are generally forbidden from accepting contributions. The MCEA contains an exception if the Commission determines that the revenues in the Maine Clean Election Fund are insufficient to make payments to candidates. (21-A M.R.S.A. § 1125(13)) In that case, the Commission may authorize candidates to accept and to spend contributions.

In Resolve Chapter 128, the Legislature directed the Commission to adopt a rule implementing Section 1125(13). In fact, the Commission already has an existing rule that addresses the statute (Section 4(4)). The Commission staff proposes changes to the rule to improve its operation in the 2010 elections, if necessary.

In the proposed rule amendment, the staff proposes that the MCEA expenditure guidelines (attached) would *not* apply to the spending of traditional campaign contributions raised by MCEA candidates. You may wish to consider taking the opposite approach (*i.e.*, that the expenditure guidelines apply to all campaign expenditures of MCEA candidates made after certification, even if some of those funds are traditional campaign contributions.)

Section 5(3)(G) – Matching Funds Maximum

In LD 1380, the Legislature amended the maximum amounts of matching funds which gubernatorial candidates may receive in the primary election. The Commission staff proposes a change in this section to be consistent with statute.

Section 5(3)(K) – Calculating Matching Funds if an MCEA Candidate is Authorized to Accept Campaign Contributions.

The calculation of matching funds is determined by 21-A M.R.S.A. § 1125(9). Under the rule amendment proposed by the Commission staff, if the Commission has authorized an MCEA candidate to accept traditional campaign contributions, those contributions are

counted toward that candidate's total revenues for purposes of calculating matching funds in that race.

Thank you for your consideration of these proposed rule amendments.

Chapter 1: PROCEDURES

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

SECTION 1. DEFINITIONS

In addition to the definitions provided in Title 21-A, chapters 1, 13, and 14, the following definitions shall apply to the rules of the Commission, unless the context otherwise requires:

1. **Act.** "Act" means the Maine Clean Election Act, Title 21-A, chapter 14.
2. **Association.** "Association" means a group of two or more persons, who are not all members of the same immediate family, acting in concert.
3. **Campaign Deficit.** "Campaign deficit" means debts, liabilities, and unmet financial obligations from all previous campaigns as reported to the Commission on campaign termination report forms required by Title 21-A, chapter 13, subchapter II [§1017(9)].
4. **Campaign Surplus.** "Campaign surplus" means money, equipment, property and other items of value remaining after retiring previous campaign deficit as reported to the Commission on campaign termination report forms required by Title 21-A, chapter 13, subchapter II [§1017(9)].
5. **Candidate.** "Candidate" has the same meaning as in Title 21-A, chapter 1, subchapter I [§1(5)], and includes individuals running for office as a write-in candidate.

INFORMATIONAL NOTE: All contributions made after the day of the general election to a candidate who has liquidated all debts and liabilities associated with that election are deemed to be made in support of the candidate's candidacy for a subsequent election, pursuant to section 4.2.A(5)(e) of this rule. A candidate who collects funds subsequent to an election for purposes other than retiring campaign debt is required to register with the Commission. Title 21- A, chapter 13, subchapter II [§1013-A].

6. **Certified Candidate.** "Certified candidate" has the same meaning as in the Act [§ 1122(1)].
7. **Commission.** "Commission" means the Commission on Governmental Ethics and Election Practices established by Title 5, §12004-G, subsection 33, and 1 M.R.S.A. §1001 *et seq.*
8. **Contribution.** "Contribution" has the same meaning as in Title 21-A, chapter 13, subchapter II [§1012(2)].

9. **Election.** "Election" means any primary, general or special election for Governor, State Senator or State Representative. The period of a primary election begins on the day a person becomes a candidate as defined in 21-A M.R.S.A. §1(5) and ends on the date of the primary election. The period of a general election begins on the day following the previous primary election and ends on the date of the general election. The period of a special election begins on the date of proclamation of the special election and ends on the date of the special election.
10. **Expenditure.** "Expenditure" has the same meaning as in Title 21-A, chapter 13, subchapter II [§1012(3)].
11. **Fund.** "Fund" means the Maine Clean Election Fund established by the Act [§1124].
12. **In-Kind Contribution.** "In-kind contribution" means any gift, subscription, loan, advance or deposit of anything of value other than money 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 ballot question.
13. **Member.** A "member" of a membership organization includes all persons who currently satisfy the requirements for membership in the membership organization, have affirmatively accepted the membership organization's invitation to become a member, and either:
 - A. pay membership dues at least annually, of a specific amount predetermined by the membership organization; or
 - B. have some other significant financial attachment to the membership organization, such as significant investment or ownership stake in the organization; or
 - C. have a significant organizational attachment to the membership organization that includes direct participatory rights in the governance of the organization, such as the right to vote on the organization's board, budget, or policies.

Members of a local union are considered to be members of any national or international union of which the local union is a part, of any federation with which the local, national, or international union is affiliated, and of any other unions which are members or affiliates of the federation. Other persons who have an enduring financial or organizational attachment to the membership organization are also members, including retired members or persons who pay reduced dues or other fees regularly to the membership organization.
14. **Nonparticipating Candidate.** "Nonparticipating candidate" has the same meaning as in the Act [§1122(5)].
15. **Participating Candidate.** "Participating candidate" has the same meaning as in the Act [§1122(6)].

16. **Qualifying Contribution.** “Qualifying Contribution” has the same meaning as in the Act [§1122(7)].
17. **Qualifying Period.** “Qualifying period” has the same meaning as in the Act, except that for special elections, vacancies, withdrawals, deaths, disqualifications or replacements of candidates, the qualifying period shall be the period designated in section 8 of this chapter [§1122(8)].
18. **Seed Money Contribution.** “Seed money contribution” has the same meaning as in the Act [§1122(9)].
19. **Write-In Candidate.** “Write-in candidate” means a person whose name does not appear on the ballot under the office designation to which a voter may wish to elect the candidate and who has filed a declaration to be a write-in candidate pursuant to 21-A M.R.S.A. §722-A.

SECTION 2. ORGANIZATION

1. **Commission.** The Commission on Governmental Ethics and Election Practices is an independent agency of the State, consisting of five (5) members appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over legal affairs and confirmation by the Legislature in accordance with Title 1, §1002, subsection 1. The Commission members will elect one member to serve as Chair. Except for the Chair, the members of the Commission have no individual authority.
2. **Office**
 - A. The Commission employs such staff as may be authorized by the Legislature. A Director supervises the staff and is responsible for all day-to-day operations. In the interim between Commission meetings, the Director reports to the Chair, who acts on behalf of the Commission on certain administrative matters. The Commission’s offices are located ~~in the Public Utilities Commission Building at 242 State Street~~ at 45 Memorial Circle in Augusta, where any filing or written submission may be made between the hours of 8 a.m. and 5 p.m. on any day when state government offices are open, except that filings by facsimile or electronic means, where otherwise permitted by statute or rule, may be transmitted at any time. The office has a mailing address of 135 State House Station, Augusta, Maine 04333.
 - B. All records of the Commission are maintained in these offices, where they are available for inspection or copying, except as particular records are made confidential by law. The cost of copying Commission documents is set by the Director of the Commission, subject to reasonable limitations and approval of the Commission.
 - C. During any period when the position of Director is vacant, the Chair of the Commission will appoint an acting Director.

SECTION 3. MEETINGS

1. **Regular Meetings.** ~~The Commission shall meet at least once per month in any year in which primary and general elections are held.~~ The Commission shall meet at least once each month in any year in which primary and general elections are held. The Commission Chair, or if a Chair has not yet been selected, the Senior Commissioner in terms of service on the Commission, shall set a date for a meeting in January of the year of required monthly meetings. The dates of monthly meetings for each month of the year shall be selected at that meeting and shall be adhered to unless changed at a properly called meeting. In years not meeting the foregoing requirements, the Chair shall call for an organization meeting to set monthly meeting dates which best appear to meet the needs of the Commission.
2. **Special Meetings.** The Commission may meet at any time at the call of the Secretary of State, the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Commission, or a majority of its members. ~~Each member of the Commission must have at least 24 hours notice of the time, place and purpose of the meeting. If written notice is not feasible, telephone notice satisfies the foregoing requirement.~~ Each member of the Commission must have at least 24 hours notice of the time, place and purpose of the meeting in writing unless written notice is not possible. In such case notice must be given by the staff by phone, fax, e-mail or other means available. Each Commissioner may notify the staff of his or her preference for notification and the staff shall prepare a log of its actions in notifying Commissioners.
3. **Agenda.** The Director will prepare a written agenda for each meeting of the Commission. The agenda will contain items of business to be considered, staff findings and recommendations, and will include the date, time and location of the meeting. ~~When possible, the agenda will be mailed to each Commission member at least 7 days before the meeting.~~ The agenda must be mailed to each Commissioner at least 7 days before the meeting unless a different schedule is approved by the Chair who shall provide notice to the Commissioners of the change and the reasons therefore.
4. **Notice.** In addition to the public notice required by the public meetings law, 1 M.R.S.A. §406, notice of Commission meetings shall be given to those directly involved in a matter pending before the Commission, as follows:
 - A. **Legislative Ethics.** When a properly filed request or referral is made for an advisory opinion on a question of legislative ethics, notice that the matter has been placed on the agenda for a Commission meeting will be given by mail to the Legislator whose circumstances or conduct is at issue, or to the Presiding Officer of either House referring the inquiry. When a complaint alleging a violation of the laws on legislative ethics is filed, the Legislator will be informed promptly of the nature of the allegations and the existence of any investigation by the Commission. Notice that the matter has been placed on the agenda for a Commission hearing will be given by certified mail to both the Legislator and the complainant not less than 10 days before the date set for a hearing.
 - B. **Campaign Reports and Finances Law; Lobbyist Disclosure Law.** Notice of the Commission's consideration of any noncompliance with the requirements of

the Campaign Reports and Finances Law, the Maine Clean Election Act, or Lobbyist Disclosure Law will be provided to any person or organization alleged to have committed a violation and to any person who has officially requested a Commission investigation or determination, except that notice of the Commission's consideration of issuing subpoenas to conduct an investigation need not be given.

C. **Contents of Notice**

(1) The notice will include the date, time, and location of the Commission meeting. If mail notice of a meeting is not feasible, the staff will make best efforts to give oral notice to Commission members or to those entitled to notice under this provision.

5. **Public Meetings.** All meetings, hearings or sessions of the Commission will be open to the general public unless, by an affirmative vote of at least 3 members, the Commission requires the exclusion of the public, pursuant to 1 M.R.S.A. §1005 or 1 M.R.S.A. §1013(3).

6. **Quorum.** Every decision of the Commission must be made at a meeting at which at least 3 members of the Commission are present and voting. When it is impossible or impractical for a member of the Commission to travel to Augusta to attend a meeting in person, the member may participate in the meeting by telephone. That member will be considered present at the meeting and part of the quorum.

At least 2 members must be present in person for the conduct of a meeting or public hearing before the Commission. If fewer than 3 members are present in person for a hearing, however, objections to rulings of the presiding officer concerning the conduct of the hearing must be preserved until a meeting of the Commission at which a quorum is present in person. The presiding officer at a meeting or public hearing must be present in person.

7. **Minutes**

A. The Director will prepare minutes of each business meeting of the Commission. These minutes will be the official record of Commission meetings, and will accurately record all matters considered.

B. The minutes will record any executive session of the Commission and its subject matter, but will not report the proceedings of the executive session. Likewise, minutes will not be taken of any public hearing held by the Commission, since hearings are separately recorded.

SECTION 4. INITIATION OF PROCEEDINGS

1. **Legislative Ethics.** The Commission is authorized to investigate and make advisory recommendations to either House of the Maine Legislature concerning legislative conflicts of interest or any breach of the legislative ethics set forth in 1 M.R.S.A.

of the investigation would place the Commission or another investigatory office at a substantial disadvantage may be held in executive session pursuant to 1 M.R.S.A. §§ 405(6)(E), 1005, and 1013(3). Any oral testimony compelled by a subpoena issued by this provision will be presented to the Commission or its staff. When a matter is ready for presentation to the Commission, the Director, in consultation with Counsel, will prepare a summary of findings and recommendations for inclusion on the agenda.

2. **By the Commission.** Once any matter is reached on the agenda of a Commission meeting, the Commission will control any further investigation or proceedings. No hearings will be held except by direction of the Commission. On a case-by-case basis, the Commission may authorize its Chair, Director, or any ad hoc committee of its members, to conduct further investigative proceedings on behalf of the Commission between Commission meetings. Any authorization so conferred will be fully reflected in the minutes of the Commission meeting.

SECTION 6. CONTRIBUTIONS AND OTHER RECEIPTS

1. The date of a contribution is the date it is received by a candidate, an agent of the candidate, a candidate's committee, a party committee and its agents, or a political action committee and its agents.
2. A loan is a contribution at the time it is made unless the loan was made by a financial institution in the State of Maine in the ordinary course of business. Loans continue to be contributions until they are repaid. Loans are subject to the candidate contribution limitations, except for loans made by the candidate, the candidate's spouse, or a financial institution in the State of Maine in the ordinary course of business. The Commission may consider any reported loan to be a cash contribution if it remains unpaid four years after the election in which it was incurred.
3. Candidates and political action committees must report the name, address, occupation and employer of each individual contributor who gives, in the aggregate, more than \$50 for the reporting period. The reporting is required for private contributions raised by privately financed candidates and for seed money contributions to candidates participating in the Maine Clean Election Act. Candidates, political action committees, and party committees must make a reasonable effort to obtain the employment information of the contributor. If a candidate or committee is unable to obtain the information from the contributor in response to a request, the candidate or committee shall indicate "information requested" in the occupation and employer sections of the campaign finance report.
4. Unless specifically exempted under Title 21-A M.R.S.A. §§ 1012 and 1052 or this section, the provision of any goods or services without charge or at a charge that is less than the usual and customary charge for such goods or services is an in-kind contribution. Examples of such goods and services include, but are not limited to: equipment, facilities, supplies, personnel, advertising, and campaign literature. If goods or services are provided at less than the usual and customary charge, the amount of the in-kind contribution is the difference between the usual and customary charge and the amount charged the candidate or political committee.

5. An employer that has authorized an employee to provide services without charge to a candidate or political committee during the employee's paid work-time has made an in-kind contribution to the candidate or political committee. No contribution has been made if the employee is providing services as a volunteer outside of the employee's paid work-time.
6. A commercial vendor that has extended credit to a candidate or political committee has not made a contribution if the credit is extended in the ordinary course of the vendor's business and the terms are substantially similar to extensions of credit made to nonpolitical customers that are of similar risk and size of obligation. The Commission shall presume any debt that remains unpaid more than six months after the election in which the debt was incurred to be a contribution to the candidate or political committee unless the candidate or committee provides clear and convincing evidence to the Commission that they intend to raise funds or take other measures to satisfy the debt. The Commission shall determine whether any debt that remains unpaid for more than four years after the election should be deemed a contribution to the candidate or committee. The Commission may take into consideration any evidence it believes is relevant, including evidence that the creditor did not intend to make a contribution to the candidate or committee or that the candidate or committee is unable to pay the debt.
7. For the purposes of the limitations imposed by 21-A M.R.S.A. §1015(1), 21-A M.R.S.A. §1015(2), 21-A M.R.S.A. §1015(3), and 21-A M.R.S.A. §1056, the following guidelines shall apply:

Ch. 286, § 10

- A. ~~All contributions made to a candidate through the day of the primary election for which the candidate seeks office are deemed to be made in the primary election.~~ For all contributions received through the day of the primary election by candidates enrolled in a political party, the candidate shall designate on the applicable campaign finance report whether the candidate received the contribution for purposes of influencing the primary or the general election. If a candidate receives a contribution before the primary election and designates it for the general election, the candidate must deposit the contribution in an account that is separate from all funds received for the primary election and may not use the contribution in any way to promote the candidate's nomination in the primary election.
- B. Notwithstanding division (c) below, if a candidate loses in the primary, all contributions made to that candidate for the purpose of liquidating debts and liabilities associated with the candidate's candidacy are deemed to be made in the primary election.
- C. All contributions made to a general election candidate from the day after the primary election through the date of the general election ~~for which the candidate seeks office~~ are deemed to be made in the general election.
- D. Notwithstanding division (e) below, all contributions made after the general election to a general election candidate for the purpose of reducing debts and liabilities associated with the candidate's candidacy are deemed to be made in the general election.

- E. All contributions made after the day of the general election to a candidate who has liquidated all debts and liabilities associated with that election are deemed to be made in support of the candidate's candidacy for a subsequent election.
 - F. Subparagraphs A through E above shall apply to any write-in candidate who has qualified under 21-A M.R.S.A. §723, or who has received contributions or made expenditures with the intent of qualifying as a candidate.
8. An individual who is 17 years old or younger (a Minor) may make contributions to a candidate if
- A. The decision to contribute is made knowingly and voluntarily by the Minor;
 - B. The funds, goods, or services contributed are owned or controlled by the Minor, such as income earned by the Minor, the proceeds of a trust for which the Minor is the beneficiary, or funds withdrawn by the Minor from a financial account opened and maintained in the Minor's name; and
 - C. The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another individual.

SECTION 7. EXPENDITURES

1. **Expenditures by Consultants, Employees, and Other Agents of a Political Campaign.** Each expenditure made on behalf of a candidate, political committee, or political action committee by any person, agency, firm, organization, etc., employed or retained for the purpose of organizing, directing, managing or assisting the candidate, the candidate's committee, or the political action committee must be reported separately by the candidate or committee as if made or incurred by the candidate or committee directly. The report must include the name of the third party vendor or payee to whom the expenditure was made, the date of the expenditure, and the purpose and amount of the expenditure. It is not sufficient to report only the total retainer or fee paid to the person, agency, firm, organization, etc., if that retainer or fee was used to pay third party vendors or payees for campaign-related goods and services.
2. **Expenditures by Political Action Committees.** In addition to the requirements set forth in 21-A M.R.S.A. §1060(4), the reports must contain the purpose of each expenditure and the name of each payee and creditor.
3. **Timing of Reporting Expenditures**
 - A. Placing an order with a vendor for a good or service; signing a contract for a good or service; the delivery of a good or the performance of a service by a vendor; or a promise or an agreement (including an implied one) that a payment will be made constitutes an expenditure, regardless whether any payment has been made for the good or service.

SECTION 11. ~~REPORTS OF BALLOT QUESTION CAMPAIGN ACTIVITY BY PERSONS AND ORGANIZATIONS OTHER THAN POLITICAL ACTION COMMITTEES~~

Ch. 190, § A-20

When a person or organization is required under 21-A M.R.S.A. §1056-B to file reports because of contributions or expenditures of more than \$1,500 made in support of or in opposition to a ballot question, the reports must be filed according to the following schedule:

1. ~~Quarterly Reports.~~ Reports must be filed by 11:59 p.m. on the following deadlines until the date of the election on which the question is on the ballot:
 - A. ~~A report must be filed on January 15th and be complete as of January 5th;~~
 - B. ~~A report must be filed on April 10th and be complete as of March 31st;~~
 - C. ~~A report must be filed on July 15th and be complete as of July 5th; and~~
 - D. ~~A report must be filed on October 10th and be complete as of September 30th.~~
2. ~~Pre and Post Election Reports.~~ The person or organization must also file the following reports by 11:59 p.m. on the following deadlines:
 - A. ~~A report must be filed on the 11th day before the election is held and be complete as of the 14th day before the election.~~
 - B. ~~A report must be filed on the 42nd day after the election is held and be complete as of the 35th day after the election.~~
3. ~~24 Hour Reports.~~ Any contribution or expenditure in excess of \$500 made after the 14th day before the election and more than 24 hours before the election must be reported within 24 hours of that contribution or expenditure or by noon of the first business day after the contribution or expenditure, whichever is later.

SECTION 12. CAMPAIGN CONTRIBUTIONS DURING LEGISLATIVE SESSION

1. **Seed Money Contributions.** Legislators and other individuals covered by Title 1 M.R.S.A. §1015(3)(B) may not intentionally solicit or accept a seed money contribution from a lobbyist or lobbyist associate during any period of time in which the Legislature is convened until final adjournment.
2. **Acceptance of Contributions through Political Action Committees.** ~~During a legislative session, political action committees that are closely associated with a Legislator, such as committees organized to elect a candidate or Legislator to a leadership position or committees organized to elect the candidates of a legislative caucus, may not intentionally solicit or accept a contribution from a lobbyist, lobbyist associate, or employer. During the legislative session, these political action committees may accept contributions from individuals and organizations that are not lobbyists, lobbyist associates, and their employers. Lobbyists, lobbyist associates, and employers may not contribute to political action committees closely associated with a Legislator during a legislative session, unless their contributions are segregated in a fund that is not used to influence the election or defeat of any incumbent Legislators. During a~~

Ch. 286, § 1

legislative session, lobbyists, lobbyist associates, and their employers may not intentionally give, offer or promise a contribution to a political action committee, ballot question committee, or party committee of which the Governor, a member of the Legislature, a constitutional officer, or staff or agent of these officials is a treasurer, officer, or primary fund-raiser or decision maker. During the session, these political committees may not intentionally solicit or accept a contribution from lobbyists, lobbyist associates, or their employers, but they may accept contributions from other individuals and organizations.

3. **Making a Contribution through a Political Action Committee.** During a legislative session, an organization that employs a lobbyist may not make a contribution through a political action committee with which the organization is affiliated or direct that the affiliated political action committee make a contribution to a Legislator.
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STATUTORY AUTHORITY: 1 M.R.S.A. §1003(1); 21-A M.R.S.A. §1126.

EFFECTIVE DATE:
April 29, 1987

AMENDED:

December 28, 1991
December 14, 1994

REPEALED AND REPLACED:

November 1, 1998; also converted to MS Word format

NON-SUBSTANTIVE CHANGES:

December 3, 1998 - minor spelling and formatting

AMENDED:

May 9, 2005 – effective date of routine technical language adopted (signed by Chair) on January 14, 2004 and signed by an Assistant Attorney General on February 19, 2004, filing 2005-133

May 9, 2005 – effective date of routine technical language adopted (signed by Chair) on April 8, 2005 and signed by an Assistant Attorney General on April 28, 2005, filing 2005-134

May 4, 2005 – date of filing with the Secretary of State of Provisional Adoption (major substantive) language signed by Chair on April 8, 2005 and by an Assistant Attorney General on April 28, 2005, filing LR-2005-15, submitted by the Commission to the Legislature for review

October 12, 2005 – effective date of final adoption of major substantive language signed by Chair on July 13, 2005 and filed with the Secretary of State on September 12, 2005, filing 2005-379

April 25, 2007 – effective date of routine technical language adopted (signed by Chair) on April 6, 2007 and signed by an Assistant Attorney General on April 17, 2007, effective April 25, 2007, filing 2007-144

March 15, 2008 – filing 2008-116

April 12, 2009 – filing 2009-152

Chapter 3: MAINE CLEAN ELECTION ACT AND RELATED PROVISIONS

SECTION 1. APPLICABILITY

This chapter applies to candidates running for Governor, State Senator and State Representative who choose the alternative campaign financing option established by the Maine Clean Election Act for elections to be held beginning in the year 2000. Candidates participating in the Maine Clean Election Act must comply with these rules and all other applicable election and campaign laws and regulations. Some sections in this chapter also apply to and impose obligations on privately financed candidates and political committees that raise contributions and make expenditures in races involving Maine Clean Election Act candidates.

SECTION 2. PROCEDURES FOR PARTICIPATION

1. **Declaration of Intent.** A participating candidate must file a Declaration of Intent within five days of collecting qualifying contributions. The Commission will provide a form for this purpose.
2. **Content.** The Declaration of Intent must include the following information:
 - A. an affirmation that the candidate is seeking certification as a Maine Clean Election Act candidate;
 - B. an affirmation that the candidate understands that any qualifying contributions collected more than five days before filing the Declaration of Intent will not be counted toward the eligibility requirement;
 - C. an affirmation that the candidate has not accepted any contributions, except for seed money contributions, after becoming a candidate;
 - D. an affirmation that the candidate has disposed of any campaign surplus before becoming a candidate for the new election, as required by paragraph 3.C [Campaign Surplus] of this section;
 - E. an affirmation that if the candidate has any campaign deficit, that the candidate will not accept contributions to repay that deficit as a participating candidate or certified candidate, except that the candidate may forgive any campaign loans to himself or herself made during any previous campaigns;
 - F. an affirmation that the candidate will continue to comply with applicable seed money restrictions and other requirements of the Act including, but not limited to, procedures for collecting qualifying contributions;
 - G. an affirmation that the candidate has read and will comply with the Commission's guidelines on permissible expenditures; and

- H. authorization by the candidate for the Commission, its agents or representatives to conduct financial audits of the candidate's campaign financial records and account(s).

3. **Seed Money Restrictions**

- A. **General.** After becoming a candidate and before certification, a participating candidate may collect and spend only seed money contributions. The restrictions on seed money contributions apply to both cash and in-kind contributions.

B. **Total Amount**

- (1) A participating candidate must limit the candidate's total seed money contributions to the following amounts:
- (a) fifty two hundred thousand dollars for a gubernatorial candidate;
 - (b) one thousand five hundred dollars for a candidate for the State Senate; or
 - (c) five hundred dollars for a candidate for the State House of Representatives.
- (2) Notwithstanding any other provision of this chapter, a candidate may carry forward to a new candidacy of that candidate campaign equipment or property, subject to the reporting requirements of Title 21-A, chapter 13 [Campaign Reports and Finances].
- (3) The Commission periodically will review these limitations and, through rulemaking, revise these amounts to ensure effective implementation of the Act.

Ch. 363, § 2

- C. **Required seed money for gubernatorial candidates.** To qualify to receive Maine Clean Election Act funding, a candidate for Governor must collect at least \$40,000 in seed money contributions from registered voters in Maine during the qualifying period. The candidate must obtain documentation of the contributions as required by the Act [§1125(2-B)].

Ch. 363, § 5

- E. D. **Campaign surplus.** A candidate who has carried forward campaign surplus according to Title 21-A, chapter 13, subchapter II [§1017(8) and §1017(9)], and who intends to become a participating candidate, must dispose of campaign surplus in accordance with the requirements of Title 21-A, chapter 13, subchapter II [§1017(8)]; provided, however, that a candidate may carry forward only those portions of campaign surplus that comply with the provisions of this Act regarding seed money contributions [§§ 1122(9) and 1125(2)]. Any campaign surplus (excluding campaign equipment or property) carried forward under this provision will be counted toward that candidate's total seed money limit.

INFORMATIONAL NOTE: The Commission will provide educational materials to all former candidates who have a campaign surplus describing the requirement

that individuals must dispose of campaign surplus to remain eligible for participation as a Maine Clean Election Act candidate.

D. E. Return of Contributions Not in Compliance with Seed Money Restrictions. A participating candidate who receives a contribution exceeding the seed money per donor restriction or the total amount restriction must immediately return the contribution and may not cash, deposit, or otherwise use the contribution.

E. F. Case-by-Case Exception. A participating candidate who has accepted contributions or made expenditures that do not comply with seed money restrictions may petition the Commission to remain eligible for certification as a Maine Clean Election Act candidate. The Commission may approve the petition and restore a candidate's eligibility for certification if the candidate successfully establishes all of the following criteria:

- (1) the failure to comply was the result of an unintentional error;
- (2) the candidate immediately returned all contributions that did not comply with seed money restrictions or paid for goods or services contributed that did not comply with seed money restrictions;
- (3) the candidate petitioned the Commission promptly upon becoming aware of the unintentional error; and
- (4) the failure to comply did not involve expenditures by the participating candidate significantly in excess of seed money total amount restrictions or otherwise constitute systematic or significant infractions of seed money restrictions.

F. G. After becoming a candidate and prior to certification, accepting a loan from any source including a financial institution and spending money received in the form of a loan, are violations of the seed money restrictions of the Act.

G. H. Other. A seed money contributor may also make a qualifying contribution to the same participating candidate provided that the contributor otherwise meets the requirements for making a qualifying contribution.

4. **Qualifying Contributions**

A. General. A participating candidate may collect qualifying contributions only during the relevant qualifying period. Qualifying contributions collected more than five days before filing a Declaration of Intent with the Commission will not be counted toward the eligibility requirement. Qualifying contributions must be acknowledged and reported on forms provided by the Commission.

The forms must include:

- (1) the name, residential address and signature of the contributor;
- (2) an affirmation by the contributor that the contribution was made with his or her personal funds, in support of the candidate and that the contributor

did not receive anything of value in exchange for his or her signature and contribution;

- (3) a clear and conspicuous statement that the candidate is collecting signatures and qualifying contributions in order to obtain public funding to finance the candidate's campaign;
- (4) the signature of the municipal registrar or his or her designee verifying the voter registration of the contributors listed on the form; and
- (5) the signature of any person, other than the candidate, who circulated the forms and collected signatures and contributions, whether the services were provided for compensation or on a volunteer basis, affirming that he or she collected the qualifying contributions, that the contributor signed the form in the circulator's presence, that to the best of the circulator's knowledge and belief each signature is the signature of the person whose name it purports to be and that the contribution came from the personal funds of the contributor, that the circulator did not give anything of value to the contributor in exchange for the contribution and signature, and that the circulator did not represent the purpose of collecting the contributions and signatures to be for any purpose other than obtaining public funds to finance the candidate's campaign; the form must also include the residential and mailing addresses and telephone number of the circulator.

B. Required Number of Qualifying Contributions. A participating candidate must obtain the number of qualifying contributions during the qualifying period as required by the Act [§1122(7); §1122(8); §1125(3)].

C. Exchanges for Qualifying Contributions Prohibited

- (1) A participating candidate or an agent of that candidate may not give or offer to give a payment, gift, or anything of value in exchange for a qualifying contribution.
- (2) This provision does not prohibit a participating candidate or that candidate's agent from collecting qualifying contributions at events where food or beverages are served, or where campaign promotional materials are distributed, provided that the food, beverage, and campaign materials are offered to all persons attending the event regardless of whether or not particular persons make a qualifying contribution to the participating candidate.
- (3) This provision does not prohibit a candidate from using seed money to pay the fee for a money order provided the qualifying contributor pays the \$5 amount reflected on the money order as permitted by 21-A M.R.S.A. §1125(3).

D. Checks Drawn on Business Accounts. Qualifying contributions must be made with the personal funds of the contributor. The Commission will not count a check drawn from an account with a business name toward the eligibility

requirements, unless the name of the contributor is included in the name of the account or the candidate submits a written statement from the contributor indicating that he or she uses the business account for personal expenses.

E. **Family Members.** Family members, domestic partners, and live-in caregivers who reside in a single household may make qualifying contributions in the form of a single check or money order of more than \$5 provided that:

- (1) all contributors sign the receipt and acknowledgement form;
- (2) all contributors are registered to vote at the address of the household; and
- (3) all contributions are made with the personal funds of the contributors.

F. **Verification of Registered Voters**

(1) Before submitting qualifying contributions to the Commission, a participating candidate must establish that contributors who made qualifying contributions to that candidate are registered voters.

(2) For qualifying contributions made by check or by money order, a A participating candidate must obtain written verification from the Registrar of the number of persons providing qualifying contributions who are registered voters within the electoral division for the office the candidate is seeking.

(3) For contributions made over the Internet, the Commission may establish an automated system of verifying the voter registration of the contributors based on data derived from the Central Voter Registration System.

~~(3)~~(4) Upon request of a participating candidate, and within 10 business days after the date of the request, the Registrar must verify the names of contributors of qualifying contributions who are registered voters within the electoral division for the office the candidate is seeking.

G. **Timing of Verification.** For purposes of this chapter, the Commission will deem verification of registered voters by the Registrar at any time during the qualifying period to be an accurate verification of voter registration even if the registration status of a particular voter may have changed at the time the Commission determines certification of the participating candidate. Proof of voter verification submitted after the qualifying period will not be accepted by the Commission and those qualifying contributions will not be counted toward the number required for certification.

Ch. 190, § B-1,
21-A M.R.S.A.
§ 1125(3)

SECTION 3. CERTIFICATION OF PARTICIPATING CANDIDATES

1. **Request for Certification.** A participating candidate may submit a completed request for certification to the Commission at any time during the qualifying period but not later than 5:00 p.m. on the last day of the relevant qualifying period. The request will be deemed

complete and considered for certification only when the candidate has submitted to the Commission:

- A. the qualifying contributions attached to the corresponding original receipt and acknowledgement forms that have been verified by the Registrar(s) of the electoral division for the office the candidate is seeking;
- B. for gubernatorial candidates, the following documentation for required seed money contributions as required by the Act ([1125(2-B)]: the acknowledgement forms signed by the contributors of seed money, list of seed money contributions, photocopies of checks or money orders received from seed money contributors, and bank or merchant account statements which list contributions made by credit or debit card;
- ~~B. C.~~ a list of all contributors and their town or city of residence, sorted alphabetically by the contributor's last name;
- ~~C. D.~~ a seed money report of contributions, expenditures, and obligations made or incurred after becoming a candidate, including a report of any unspent seed money; and
- ~~D. E.~~ a signed request for certification on a form provided by the Commission which contains an affirmation by the candidate that he or she has complied with all seed money and qualifying contribution requirements, has established a separate federally-insured bank account for campaign purposes and, if applicable, that any person who circulated receipt and acknowledgement forms and collected qualifying contributions acted with the candidate's knowledge and consent, and any other information relevant to the certification process.
- ~~E. F.~~ A candidate may request an extension of time to comply with paragraphs ~~B, C, and D~~, D, D, and E. The Commission staff shall grant all reasonable requests or state in writing the reasons for denying the request. The Commission and the Commission staff may not grant an extension of time to comply with paragraph A or B.

Ch. 363, § 3

2. **Order of Review.** The Commission will review candidate requests for certification in the order in which they are received, except that it will give priority to those candidates who are in a contested primary election.
3. **Unspent Seed Money.** In order to distribute funds expeditiously, the Commission will deduct from the initial distribution from the Fund to a certified candidate an amount equal to the amount of unspent seed money reported by that candidate.
4. **Certification.** The Commission will certify a candidate as a Maine Clean Election Act candidate upon the participating candidate's satisfaction of the requirements of the Act [§1125] and this chapter.
5. **Appeals.** Any appeals challenging a certification decision by the Commission must be in accordance with the Act [§1125(14)].

SECTION 4. FUND ADMINISTRATION

1. **Coordination with State Agencies.** The Commission will coordinate with the Office of the Controller and other relevant State agencies to ensure the use of timely and accurate information regarding the status of the Fund.
2. **Publication of Fund Revenue Estimates.** By September 1st preceding each election year, the Commission will publish an estimate of revenue in the Fund available for distribution to certified candidates during the upcoming year's election. The Commission will update the estimate of available revenue in the Fund after April 15th of an election year and again within 30 days after the primary election in an election year.
3. **Computation of Disbursement Amounts.** By July 1, 1999, and at least every 4 years after that date, the Commission will determine the amount of revenue to be distributed to certified candidates based on the type of election and office in accordance with the Act [§1125(8)].
4. **Distributions Not to Exceed Amount in Fund.**

Ch. 128, § 2

- A. **Authorization by Commission to accept contributions.** If the Commission determines that the revenues in the Fund ~~are~~ may be insufficient to ~~meet~~ distributions ~~make payments~~ under this chapter, the Commission will permit certified candidates to accept and spend contributions in accordance with the Act [§1125(13)]. The candidates may not accept money from any contributor exceeding the limitations set forth in the Act [§1125(13)]. Any seed money collected from a contributor during the qualifying period shall be counted toward the limitations. Depending on the timing and amount of the projected shortfall, the Commission shall determine whether the contributions will replace initial payments, matching funds which the candidate may become entitled to receive under the Act, or both.
- B. **Written notice to candidates.** The Commission will notify participating and certified candidates in writing of any projected shortfall in the Fund and will specify timelines and procedures for compliance with this ~~chapter~~ subsection in the event of ~~any such~~ a shortfall. The written notice to the candidate will indicate to the candidates whether they can spend the contributions upon receipt or must await further written authorization from the Commission staff.
- C. **Procedures for candidates.** The candidates must deposit any authorized contributions into the campaign account into which Maine Clean Election Act funds have been deposited. The candidate will disclose all contributions received in regular campaign finance reports. The candidate may spend the contributions only if authorized by the Commission staff. Unauthorized expenditures of contributions will be considered a violation of this rule. The Commission's expenditure guidelines for Maine Clean Election Act funds will not apply to the spending of the contributions authorized under this subsection.

SECTION 5. DISTRIBUTION OF FUNDS TO CERTIFIED CANDIDATES

1. Fund Distribution

- A. **Establishment of Account.** Upon the certification of a participating candidate, the Commission will establish an account with the Office of the Controller, or such other State agency as appropriate, for that certified candidate. The account will contain sufficient information to enable the distribution of revenues from the Fund to certified candidates by the most expeditious means practicable that ensures accountability and safeguards the integrity of the Fund.
- B. **Manner of Distribution of Fund.** The Commission will authorize distribution of revenues from the Fund to certified candidates by the most expeditious means practicable that ensures accountability and safeguards the integrity of the Fund. Such means may include, but are not limited to:
- (1) checks payable to the certified candidate or the certified candidate's political committee; or
 - (2) electronic fund transfers to the certified candidate's or the certified candidate's political committee's campaign finance account.

2. Timing of Fund Distributions

- A. **Distribution of Applicable Amounts.** The Commission will authorize the initial distribution of applicable amounts from the Fund to certified candidates in accordance with the time schedule specified in the Act [§1125(7)] and this Chapter.
- B. **Matching Fund Allocations.** At any time after certification, revenues from the Fund may be distributed to certified candidates in accordance with subsection 3, below.
- C. **Advances**
- (1) To facilitate administration of the Matching Fund Provision of this chapter, and to encourage participation in the Act, the Commission may authorize the advance distribution of revenues from the Fund to certified candidates. In determining whether to authorize such advances and the amounts of any such advances, the Commission will consider the amount of revenue in the Fund, the number of certified candidates, the number of nonparticipating candidates, and information contained in campaign finance and independent expenditure reports.

- (2) A certified candidate may only draw upon, spend or otherwise use, such advance Fund distributions after receiving written notification from the Commission authorizing a matching fund allocation in a specified amount. Written notification by the Commission may be by letter, facsimile or electronic means.

3. **Matching Fund Provision**

- A. **General.** The Commission will authorize immediately an allocation of matching funds to certified candidates in accordance with the Act when the Commission determines that the eligibility for receipt of matching funds has been triggered [§1125(9)].
- B. **Matching Fund Computation Involving Only Certified Candidates**
 - (1) For each certified candidate, the Commission will:
 - (a) add to the initial distribution amount for that election:
 - (i) the sum of any matching funds previously provided for that election, and
 - (ii) the sum of independent expenditures made in support of each certified candidate; and
 - (b) subtract the sum of independent expenditures made in opposition to each certified candidate.
 - (2) The Commission will compare the final computed amounts and will immediately authorize a matching fund allocation equal to the difference to the certified candidate with the lesser amount.
 - (3) In computations involving only certified candidates, the Commission will not use seed money raised or unspent funds remaining after a primary election in computing the amount of matching funds.
- C. **Matching Fund Computation Based on Nonparticipating Candidates' Receipts or Expenditures.** In races in which there is at least one certified and one nonparticipating candidate, and the matching fund computation is triggered by the financial activity of nonparticipating candidate, including any independent expenditures in support of the nonparticipating candidate:
 - (1) The Commission will first determine the applicable amount for the nonparticipating candidate

- (a) by adding:
 - (i) the sum of the nonparticipating candidate's expenditures, obligations and in-kind contributions, or the sum of the nonparticipating candidate's cash and in-kind contributions and loans, including surplus or unspent funds carried forward from a previous election to the current election, whichever is greater, and
 - (ii) the sum of independent expenditures made in support of the same nonparticipating candidate; and
 - (b) by subtracting the sum of independent expenditures made in opposition to the same nonparticipating.
- (2) The Commission then will determine the applicable amount for the certified candidate
- (a) by adding:
 - (i) the amount of the initial distribution for that election;
 - (ii) the sum of independent expenditures made in support of the certified candidate;
 - (iii) the sum of matching fund allocations already provided to the certified candidate; and
 - (iv) the amount of:
 - a) any seed money raised by an enrolled certified candidate in a primary or special election or by a replacement candidate in a general election; or
 - b) any unspent funds carried forward from the primary election to the subsequent general election by an enrolled certified candidate in a general election; or
 - c) any seed money raised and, if applicable, any other distribution received prior to the general election distribution by an unenrolled certified candidate in a general or special election; and
 - (b) by subtracting the sum of independent expenditures made in opposition to the same certified candidate.
- (3) The Commission will compare the final computed amounts and, if the amount for the certified candidate is less than the amount for the nonparticipating candidate, will immediately authorize a matching fund allocation equal to the difference to the certified candidate.

- D. **Matching Fund Computation Not Involving a Nonparticipating Candidate.** In races in which there are two or more certified candidates and at least one nonparticipating candidate,
- (1) if the matching fund computation is triggered by an independent expenditure in support of or opposition to a certified candidate, and
 - (2) the campaign totals, including independent expenditures, of any nonparticipating candidate in the race are equal to or less than the campaigns totals, including independent expenditures, of at least one certified candidate in the race; then
 - (3) the matching fund computation must be completed according to the procedure in paragraph B of this subsection.
- E. The Commission will make computations promptly upon the filing of campaign finance reports and independent expenditure reports.
- F. To prevent the abuse of the Matching Fund Provision, the Commission will not base any calculation on independent expenditures that, although containing words of express advocacy, also contain other words or phrases that have no other reasonable meaning than to contradict the express advocacy. For example, expenses related to a communication saying, "Vote for John Doe -- he's incompetent and inexperienced," will not be considered a communication in support of John Doe in the calculation of matching funds.
- G. **Matching Fund Cap.** Matching funds are limited as provided in the Act [§1125(9)]. ~~to 2 times the amount originally distributed to a certified candidate from the Fund for that election.~~ Certified candidates are not entitled to cumulative matching funds for multiple opponents.
- H. **Other.** Any distribution based on reports and accurate calculations at the time of distribution is final, notwithstanding information contained in subsequent reports.
- I. **Coordination with Other State Agencies.** The Commission will coordinate with the Office of the Controller and other relevant State agencies to implement a mechanism for the distribution of Fund revenues to certified candidates that is expeditious, ensures public accountability, and safeguards the integrity of the Fund.
- J. **Disbursements with No Campaign Value.** If a privately financed candidate has received monetary contributions which are disbursed in ways that do not in any way influence the nomination or election of the candidate, those receipts will not be considered by the Commission in calculating matching funds for his or her opponent. Such disbursements may include repaying a loan received by the candidate, refunding a contribution to a contributor, or transferring funds to a party or political committee for purposes that do not relate to the candidate's race.
- K. **Treatment of Authorized Contributions to Certified Candidates.** If a certified candidate has been authorized to collect and spend contributions pursuant to section 1125(13) of the Act and Section 4(4) of this chapter, the amount of

private contributions that the candidate has been authorized to spend shall be treated as Fund revenues received by the candidate for the purpose of calculating matching funds.

4. **Advance Purchases of Goods and Services for the General Election**

- A. If, prior to the primary election, a candidate purchases or receives in-kind contributions of consulting services, or the design, printing, or distribution of campaign literature and advertising, including radio and television advertising, but uses or will use a preponderance of those services exclusively for the general election, then the portion used or to be used for the general election must be counted as a general election receipt or expenditure in calculating the amount of matching funds for any certified candidate in the same race.
- B. If a certified candidate in a general election believes that an opponent, or person or committee making an independent expenditure, has failed to disclose an advance purchase for the general election, the certified candidate shall submit a written request for an investigation to the Commission no later than August 30 of the election year, or within 30 days of the opponent's filing of the 42-day post-primary report, whichever is later. The request must identify the pre-primary election expenditure that is believed to be for the general election and must state a specific basis for believing that the goods and services purchased were not used for the primary election.
- C. The Commission will request a response from the opposing candidate or other respondent, and will make a determination whether the expenditure should be counted toward the certified candidate's eligibility for matching funds.

SECTION 6. LIMITATIONS ON CAMPAIGN EXPENSES

A certified candidate must:

- 1. limit the candidate's campaign expenditures and obligations to the applicable Clean Election Act Fund distribution amounts plus any authorized matching fund allocations;
- 2. not accept any contributions unless specifically authorized in writing to do so by the Commission in accordance with the Act [§1125(2) and §1125(13)];
- 3. use revenues distributed from the Fund only for campaign-related purposes as outlined in guidelines published by the Commission, and not for personal or any other use;
- 4. not use revenues distributed from the Fund to purchase goods to sell for profit;
- 5. not spend more than the following amounts of Fund revenues on post-election parties, thank you notes, or advertising to thank supporters or voters:
 - A. \$250 for a candidate for the State House of Representatives;
 - B. \$750 for a candidate for the State Senate; and
 - C. \$2,500 by a gubernatorial candidate.

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Improve the Maine Clean Election Act

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 1 MRSA §1015, sub-§3, ¶B, as amended by PL 2005, c. 301, §3, is further amended to read:

B. The Governor, a member of the Legislature or any constitutional officer or the staff or agent of the Governor, a member of the Legislature or any constitutional officer may not intentionally solicit or accept a contribution from a lobbyist, lobbyist associate or employer during any period of time in which the Legislature is convened before final adjournment, except for a qualifying contribution as defined under Title 21-A, section 1122, subsection 7. A lobbyist, lobbyist associate or employer may not intentionally give, offer or promise a contribution, other than a qualifying contribution, to the Governor, a member of the Legislature or any constitutional officer or the staff or agent of the Governor, a member of the Legislature or any constitutional officer during any time in which the Legislature is convened before final adjournment. These prohibitions apply to direct and indirect solicitation, acceptance, giving, offering and promising, whether through a political action committee, political committee, political party or otherwise contributions directly and indirectly solicited or accepted by, or given, offered and promised to a political action committee, ballot question committee or party committee of which the Governor, a member of the Legislature, a constitutional officer or the staff or agent of these officials is a treasurer, officer or primary fund-raiser or decision maker.

Sec. 2. 21-A MRSA §1015, sub-§1, as amended by PL 2007, c. 443, Pt. A, §10, is further amended to read:

1. Individuals. An individual may not make contributions to a candidate in support of the candidacy of one person aggregating more than ~~\$500~~\$750 in any election for a gubernatorial candidate or more than ~~\$250~~\$350 in any election for any other candidate. This limitation does not apply to contributions in support of a candidate by that candidate or that candidate's spouse or domestic partner. Beginning December 1, 2010, contribution limits in accordance with this subsection are adjusted every 2 years based on the Consumer Price Index as reported by the United States Department of Labor, Bureau of Labor Statistics and rounded to the nearest amount divisible by \$25. The commission shall post the current contribution limit and the amount of the next adjustment and the date that it will become effective on its publicly accessible website and include this information with any publication to be used as a guide for candidates.

Sec. 3. 21-A MRSA §1015, sub-§2, as amended by PL 2007, c. 443, Pt. A, §11, is further amended to read:

2. Committees; corporations; associations. A political committee, political action committee, other committee, firm, partnership, corporation, association or organization may not make contributions to a candidate in support of the candidacy of one person aggregating more than ~~\$500~~\$750 in any election for a gubernatorial candidate or more than ~~\$250~~\$350 in any election for any other

candidate. Beginning December 1, 2010, contribution limits in accordance with this subsection are adjusted every 2 years based on the Consumer Price Index as reported by the United States Department of Labor, Bureau of Labor Statistics and rounded to the nearest amount divisible by \$25. The commission shall post the current contribution limit and the amount of the next adjustment and the date that it will become effective on its publicly accessible website and include this information with any publication to be used as a guide for candidates.

Sec. 4. 21-A MRSA §1122, sub-§7, ¶A, as amended by PL 2009, c. 190, Pt. B, §1, is further amended to read:

A. Of \$5 or more in the form of a check or a money order payable to the fund and signed by the contributor in support of a candidate or made over the Internet in support of a candidate according to the procedure established by the commission;

Sec. 5. 21-A MRSA §1122, sub-§8, ¶B, as amended by PL 2001, c. 465, §3, is further amended to read:

B. For State Senate or State House of Representatives participating candidates, the qualifying period begins January 1st of the election year and ends at 5:00 p.m. on April ~~15th~~20th of that election year ~~unless the candidate is unenrolled, in which case the period ends at 5:00 p.m. on June 2nd of the election year or the next business day following April 20th if the office of the commission is closed on April 20th.~~

Sec. 6. 21-A MRSA §1125, sub-§3, ¶B, as enacted by IB 1995, c. 1, §17, is amended to read:

B. For a candidate for the State Senate, at least ~~150~~175 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate; or

Sec. 7. 21-A MRSA §1125, sub-§3, ¶C, as enacted by IB 1995, c. 1, §17, is amended to read:

C. For a candidate for the State House of Representatives, at least ~~50~~60 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate.

Sec. 8. 21-A MRSA §1125, sub-§8, ¶D, as amended by PL 2003, c. 453, §1, is further amended to read:

D. For uncontested legislative general elections, the amount of revenues to be distributed from the fund is ~~40%~~33% of the amount distributed to a participating candidate in a contested general election.

Sec. 9. 21-A MRSA §1125, sub-§12-C is enacted to read:

12-C. Payments to political committees. If a certified candidate makes a payment of fund revenues to a political action committee or party committee, the candidate shall include in reports required under this section a detailed explanation of the goods or services purchased according to forms and procedures developed by the commission that is sufficient to demonstrate that the payment was

made solely to promote the candidate's election.

* **Sec. 10. Commission to adopt rules regarding general election contributions during primary election cycle.** No later than December 1, 2009, the Commission on Governmental Ethics and Election Practices shall adopt rules that authorize candidates to accept contributions to be used for a general election campaign during the primary election period. The rules must require that contributions be segregated and declared as primary or general election contributions and that general election campaign contributions may not be borrowed to support a primary election campaign. Rules adopted in accordance with this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

Effective 90 days following adjournment of the 124th Legislature, First Regular Session, unless otherwise indicated.

Please see
Sec. A-20,
~~public~~
B-1, and B-3.

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Amend the Laws Governing Campaign Finance Reports and the Maine Clean Election Act

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 21-A MRSA §1011, 2nd ¶, as enacted by PL 1995, c. 483, §2, is amended to read:

Candidates for municipal office as defined in Title 30-A, section 2502, subsection 1 ~~and referenda as defined in Title 30-A, section 2502, subsection 2~~ are governed by this subchapter, with the following provisions:

Sec. A-2. 21-A MRSA §1014, sub-§1, as amended by PL 2007, c. 443, Pt. A, §9, is further amended to read:

1. Authorized by candidate. Whenever a person makes an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, campaign signs or other outdoor advertising facilities, publicly accessible sites on the Internet, direct mails or other similar types of general public political advertising or through flyers, handbills, bumper stickers and other nonperiodical publications, the communication, if authorized by a candidate, a candidate's authorized political committee or their agents, must clearly and conspicuously state that the communication has been so authorized and must clearly state the name and address of the person who made or financed the expenditure for the communication. The following forms of political communication do not require the name and address of the person who made or authorized the expenditure for the communication because the name or address would be so small as to be illegible or infeasible: ashtrays, badges and badge holders, balloons, campaign buttons, clothing, coasters, combs, emery boards, envelopes, erasers, glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic cups, pencils, pens, plastic tableware, 12-inch or shorter rulers, swizzle sticks, tickets to fund-raisers and similar items determined by the commission to be too small and unnecessary for the disclosures required by this section. A communication financed by a candidate or the candidate's committee ~~that is made through a broadcasting station~~ is not required to state the address of the candidate or committee that financed the communication.

Sec. A-3. 21-A MRSA §1014, sub-§3-A, as enacted by PL 1991, c. 839, §9, is amended to read:

3-A. In-kind contributions of printed materials. A candidate, political committee or political action committee shall report on the campaign finance report as a contribution to the candidate, political committee or political action committee any contributions of in-kind printed materials to be used in the support of a candidate or in the support or defeat of a ~~cause to be voted upon at referendum~~ ballot question. Any in-kind contributions of printed materials used or distributed by a

question and that ~~spends~~receives contributions or makes expenditures aggregating more than \$1,500 in a calendar year for that purpose, including for the collection of signatures for a direct initiative or referendum in this State; and

(5) Any organization that does not have as its major purpose promoting, defeating or influencing candidate elections but that ~~spends~~receives contributions or makes expenditures aggregating more than \$5,000 in a calendar year for the purpose of promoting, defeating or influencing in any way the nomination or election of any candidate to political office; and

Sec. A-17. 21-A MRSA §1053, last ¶, as enacted by PL 2007, c. 443, Pt. A, §29, is repealed.

Sec. A-18. 21-A MRSA §1053-A is enacted to read:

§ 1053-A. Municipal elections

Organizations that qualify as political action committees under section 1052, subsection 5 and that are organized to influence elections on the municipal ballot in towns or cities with a population of 15,000 or more shall register and file reports with the municipal clerk as required by Title 30-A, section 2502. The reports must be filed in accordance with the reporting schedule in section 1059 and must contain the information listed in section 1060. A political action committee registered with the commission and that receives contributions or makes expenditures relating to a municipal election shall file a copy of the report containing such contributions or expenditures with the clerk in the subject municipality.

Sec. A-19. 21-A MRSA §1053-B is enacted to read:

§ 1053-B. Out-of-state political action committees

A political action committee organized outside of this State shall register and file reports with the commission in accordance with sections 1053 and 1058. The committee is not required to register and file reports if the committee's only financial activity within the State is to make contributions to candidates, party committees, political action committees or ballot question committees registered with the commission or a municipality and the committee has not raised and accepted any contributions during the calendar year to influence an election or campaign in this State.

Sec. A-20. 21-A MRSA §1056-B, as amended by PL 2007, c. 477, §4, is further amended to read:

§ 1056-B. Ballot question committees

Any person not defined as a political action committee who ~~solicits and~~ receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of \$5,000 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a ~~report~~reports with the commission in accordance with this section. In the case of a municipal election, a copy of the same information must be filed with the clerk of that municipality. Within 7 days of receiving contributions or making expenditures that exceed \$5,000, the person shall register with the commission as a ballot question committee. For the purposes of this section, expenditures include paid staff time spent for the purpose of influencing in any way a ballot question.

The commission must prescribe forms for the registration, and the forms must include specification of a treasurer for the committee, any other principal officers and all individuals who are the primary fund-raisers and decision makers for the committee. In the case of a municipal election, the registration and reports must be filed with the clerk of that municipality.

* **1. Filing requirements.** A report required by this section must be filed with the commission according to the reporting schedule that the commission shall establish that takes into consideration existing campaign finance reporting schedule requirements in section 1059. After completing all financial activity, the committee shall terminate its campaign finance reporting in the same manner provided in section 1061. The committee shall file each report required by this section through an electronic filing system developed by the commission unless granted a waiver under section 1059, subsection 5.

2. Content. A report must contain an itemized account of each expenditure made to and contribution received from a single source aggregating in excess of \$100 in any election; the date of each contribution; the date and purpose of each expenditure; and the name and address of each contributor, payee or creditor; and the occupation and principal place of business, if any, for any person who has made contributions exceeding \$100 in the aggregate. The filer is required to report only those contributions made to the filer for the purpose of initiating, promoting, defeating or influencing in any way a ballot question and only those expenditures made for those purposes. The definitions of "contribution" and "expenditure" in section 1052, subsections 3 and 4, respectively, apply to persons required to file ballot question reports.

2-A. Contributions. For the purposes of this section, "contribution" includes, but is not limited to:

- A. Funds that the contributor specified were given in connection with a ballot question;
- B. Funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically for the purpose of initiating, promoting, defeating or influencing in any way a ballot question;
- C. Funds that can reasonably be determined to have been provided by the contributor for the purpose of initiating, promoting, defeating or influencing in any way a ballot question when viewed in the context of the contribution and the recipient's activities regarding a ballot question; and
- D. Funds or transfers from the general treasury of an organization filing a ballot question report.

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.

4. Records. A person filing a report required by this section shall keep records as required by this subsection for ~~one year~~ 4 years following the election to which the records pertain.

- A. The filer shall keep a detailed account of all contributions made to the filer for the purpose of

1. Registration. A political action committee required to register under section 1053 or 1053-B or a ballot question committee required to register under section 1056-B that fails to do so in accordance with section 1053 or that fails to provide the information required by the commission for registration may be assessed a forfeiture fine of \$250.

Sec. A-29. 21-A MRSA §1062-A, sub-§2, as amended by PL 2007, c. 443, Pt. A, §38, is further amended to read:

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission by 11:59 p.m. on the date it is due. Except as provided in subsection 6, the commission shall determine whether a required report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if it is disproportionate to the level of experience of the person filing the report or to the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

- A. A valid emergency of the committee treasurer determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part;
- B. An error by the commission staff; or
- C. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service.

Sec. A-30. 21-A MRSA §1062-A, sub-§4, as enacted by PL 1995, c. 483, §21, is amended to read:

4. Maximum penalties. The maximum ~~penalties~~penalty under this subchapter ~~are~~is \$10,000 for reports required under section 1056-B or section 1059, ~~subsection 2, paragraphs B, C and E and~~ ~~\$5,000 for reports required under section 1059, subsection 2, paragraph A.~~

Sec. A-31. 21-A MRSA §1062-A, sub-§8-A, as enacted by PL 2003, c. 628, Pt. A, §9, is amended to read:

8-A. Penalties for failure to file report.The commission may assess a civil penalty for failure to file a report required by this subchapter. The maximum penalty for failure to file a report required under section 1056-B or section 1059, ~~subsection 2, paragraph B, C or E~~ is \$10,000. ~~The maximum penalty for failure to file a report required under section 1059, subsection 2, paragraph A is \$5,000.~~

PART B

Sec. B-1. 21-A MRSA §1122, sub-§7, as amended by PL 2007, c. 443, Pt. B, §2, is further amended to read:

7. Qualifying contribution. "Qualifying contribution" means a donation:

A. Of \$5 in the form of a check or a money order payable to the fund, and signed by the contributor and made in support of a candidate or made over the Internet in support of a candidate according to the procedure established by the commission;

* B. Made by a registered voter within the electoral division for the office a candidate is seeking and whose voter registration has been verified by the municipal registrar according to procedures established by the commission;

C. Made during the designated qualifying period; and

D. That the contributor acknowledges was made with the contributor's personal funds and in support of the candidate and was not given in exchange for anything of value and that the candidate acknowledges was obtained with the candidate's knowledge and approval and that nothing of value was given in exchange for the contribution, on forms provided by the commission.

Sec. B-2. 21-A MRSA §1125, sub-§5, ¶D-3, as enacted by PL 2007, c. 443, Pt. B, §6, is amended to read:

D-3. Not ~~had prior requests for certification denied on the basis of substantial violations otherwise substantially violated the provisions~~ of this chapter or chapter 13 ~~or certification revoked under subsection 5-A, paragraphs C to G;~~

Sec. B-3. 21-A MRSA §1128, as enacted by IB 1995, c. 1, §17, is amended to read:

§ 1128. Study report

By ~~January 30, 2002~~ March 15, 2011 and every ~~four~~ 4 years after that date, the commission shall prepare for the joint standing committee of the Legislature having jurisdiction over legal affairs a report documenting, evaluating and making recommendations relating to the administration, implementation and enforcement of the Maine Clean Election Act and Maine Clean Election Fund.

* **Sec. B-4. Routine technical rules.** Notwithstanding the Maine Revised Statutes, Title 21-A, section 1126, rules adopted to establish procedures for verifying the voter registration of individuals making qualifying contributions are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Effective 90 days following adjournment of the 124th Legislature, First Regular Session, unless otherwise indicated.

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Amend the Maine Clean Election Laws Governing Gubernatorial Candidates

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation makes changes to the Maine Clean Election Act for funding of gubernatorial candidates, including increasing seed money contributions; and

Whereas, the window within which prospective candidates for the 2010 gubernatorial race must make a decision concerning whether to accept Maine Clean Election Act funds is closing rapidly; and

Whereas, in order for a prospective gubernatorial candidate to make a fully informed decision regarding participation as a Maine Clean Election Act candidate, it is imperative that the changes made by this legislation take effect as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 21-A MRSA §1122, sub-§8, ¶A, as amended by PL 2001, c. 465, §3, is further amended to read:

A. For a gubernatorial participating candidate, the qualifying period begins ~~November 1st~~ October 15th immediately preceding the election year and ends at 5:00 p.m. on April ~~15th~~ 1st of the election year ~~unless the candidate is unenrolled, in which case the period ends at 5:00 p.m. on June 2nd of the election year.~~

Sec. 2. 21-A MRSA §1125, sub-§2, ¶A, as enacted by IB 1995, c. 1, §17, is amended to read:

A. ~~Fifty~~ Two hundred thousand dollars for a gubernatorial candidate;

Sec. 3. 21-A MRSA §1125, sub-§2-B is enacted to read:

2-B. Seed money required for gubernatorial candidates; documentation. For seed money contributions that a candidate for Governor collects to satisfy the requirement in subsection 5, paragraph C-1, the candidate shall obtain the contributor's name, residence address, mailing address, telephone number if provided by the contributor and other information required for reporting under section 1017, subsection 5. For these contributions, the candidate shall submit to the commission during the qualifying period:

A. A contribution acknowledgment form as determined by the commission, to be completed by each person that contributes seed money, that includes the name, residence address, mailing

address, optional telephone number and signature of the person making the seed money contribution acknowledging that the contribution was made with the person's personal funds and will not be reimbursed by any source;

B. A list of the seed money contributions in a format determined by the commission that includes the name and mailing address of the contributor;

C. For seed money contributions received by check or money order, photocopies of the check or money order; and

D. For seed money contributions received by debit or credit card, a bank or merchant account statement that contains the cardholder's name and that otherwise meets the requirements specified by the commission in order to verify compliance with subsection 5, paragraph C-1.

The commission may permit the submission of an online or electronic acknowledgment form as required by paragraph A for seed money contributions made via the Internet.

Sec. 4. 21-A MRSA §1125, sub-§4, as amended by PL 2007, c. 443, Pt. B, §6, is further amended to read:

4. Filing with commission. A participating candidate must submit qualifying contributions, receipt and acknowledgement forms, proof of verification of voter registration and a seed money report to the commission during the qualifying period according to procedures developed by the commission, except as provided under subsection 11. ~~Candidates for Governor shall also submit photocopies of all seed money contributions received by check or money order, bank or merchant account statements of contributions received by credit or debit card and bank or other account statements for the campaign account.~~

Sec. 5. 21-A MRSA §1125, sub-§5, ¶C-1 is enacted to read:

 C-1. As a gubernatorial candidate, collected at least \$40,000 in seed money contributions from registered voters in the State;

Sec. 6. 21-A MRSA §1125, sub-§5-A, as enacted by PL 2007, c. 443, Pt. B, §6, is amended to read:

5-A. Revocation of certification. The certification of a participating candidate may be revoked at any time if the commission determines that the candidate or an agent of the candidate:

A. Did not submit the required number of valid qualifying contributions;

B. Failed to qualify as a candidate by petition or other means;

C. Submitted any fraudulent qualifying contributions or qualifying contributions that were not made by the named contributor;

D. Misrepresented to a contributor the purpose of the qualifying contribution or obtaining the contributor's signature on the receipt and acknowledgement form;

E. Failed to fully comply with the seed money restrictions;

F. Knowingly accepted any contributions, including any in-kind contributions, or used funds other than fund revenues distributed under this chapter to make campaign-related expenditures without the permission of the commission;

G. Knowingly made a false statement or material misrepresentation in any report or other document required to be filed under this chapter or chapter 13; or

H. Otherwise substantially violated the provisions of this chapter or chapter 13; or

I. As a gubernatorial candidate, failed to properly report seed money contributions as required by this section.

The determination to revoke the certification of a candidate must be made by a vote of the members of the commission after an opportunity for a hearing. A candidate whose certification is revoked shall return all unspent funds to the commission within 3 days of the commission's decision and may be required to return all funds distributed to the candidate. In addition to the requirement to return funds, the candidate may be subject to a civil penalty under section 1127. The candidate may appeal the commission's decision to revoke certification in the same manner provided in subsection 14, paragraph C.

Sec. 7. 21-A MRSA §1125, sub-§7, ¶B, as amended by PL 2001, c. 465, §4, is further amended to read:

B. Within 3 days after certification, for all candidates certified between March 15th and ~~April 15th~~the end of the qualifying period of the election year, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested primary election.

Sec. 8. 21-A MRSA §1125, sub-§8, ¶E, as enacted by PL 2003, c. 453, §1, is amended to read:

E. For contested gubernatorial primary elections, the amount of revenues distributed is ~~\$200,000~~\$400,000 per candidate in the primary election.

Sec. 9. 21-A MRSA §1125, sub-§8, ¶E-1 is enacted to read:

E-1. For uncontested gubernatorial primary elections, the amount of revenues distributed is \$200,000 per candidate in the primary election.

Sec. 10. 21-A MRSA §1125, sub-§9, as amended by PL 2007, c. 443, Pt. B, §6, is further amended to read:

9. Matching funds. When any report required under this chapter or chapter 13 shows that the sum of a candidate's expenditures or obligations, contributions and loans, or fund revenues received, whichever is greater, in conjunction with independent expenditures reported under section 1019-B, exceeds the sum of an opposing certified candidate's fund revenues, in conjunction with independent expenditures, the commission shall issue immediately to the opposing certified candidate an additional amount equivalent to the difference. Matching funds for certified candidates for the Legislature are limited to 2 times the amount originally distributed under subsection 8, paragraph A or C, whichever is

* applicable. Matching funds for certified gubernatorial candidates in a primary election are limited to 2 times $\frac{1}{2}$ the amount originally distributed under subsection 8, paragraph E for contested candidates and subsection 8, paragraph E-1 for uncontested candidates. Matching funds for certified gubernatorial candidates in a general election are limited to the amount originally distributed under subsection 8, paragraph F.

Sec. 11. 21-A MRSA §1125, sub-§10, as amended by PL 2007, c. 443, Pt. B, §6, is further amended to read:

10. Candidate not enrolled in a party. An unenrolled candidate for the Legislature who submits the required number of qualifying contributions and other required documents under subsection 4 by 5:00 p.m. on April 15th preceding the primary election and who is certified is eligible for revenues from the fund in the same amounts and at the same time as an uncontested primary election candidate and a general election candidate as specified in subsections 7 and 8. Otherwise, an unenrolled candidate for the Legislature must submit the required number of qualifying contributions and the other required documents under subsection 4 by 5:00 p.m. on June 2nd preceding the general election. If certified, the candidate is eligible for revenues from the fund in the same amounts as a general election candidate, as specified in subsection 8. Revenues for the general election must be distributed to the candidate no later than 3 days after certification. An unenrolled candidate for Governor who submits the required number of qualifying contributions and other required documents under subsections 2-B and 4 by 5:00 p.m. on April 1st preceding the primary election and who is certified is eligible for revenues from the fund in the same amounts and at the same time as an uncontested primary election gubernatorial candidate and a general election gubernatorial candidate as specified in subsections 7 and 8. Revenues for the general election must be distributed to the candidate for Governor no later than 3 days after the primary election results are certified.

* **Sec. 12. Routine technical rules.** Notwithstanding the Maine Revised Statutes, Title 21-A, section 1126, rules adopted by the Commission on Governmental Ethics and Election Practices to implement this Act are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 13. Application. This Act applies to gubernatorial candidates seeking certification under the Maine Clean Election Act beginning with primary and general elections in 2010, regardless of when a gubernatorial candidate registered as a candidate with the Commission on Governmental Ethics and Election Practices or when the candidate filed a declaration of intent with the commission under the Maine Revised Statutes, Title 21-A, section 1125, subsection 1.

Sec. 14. Appropriations and allocations. The following appropriations and allocations are made.

ETHICS AND ELECTION PRACTICES, COMMISSION ON GOVERNMENTAL

Governmental Ethics and Election Practices - Commission on 0414

Initiative: Reduces funding for the Maine Clean Election Fund based upon changes in seed money requirements and matching funds for gubernatorial candidates.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	(\$800,000)	(\$600,000)

OTHER SPECIAL REVENUE FUNDS TOTAL

(\$800,000)

(\$600,000)

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective 90 days following adjournment of the 124th Legislature, First Regular Session, unless otherwise indicated.

Please see
Sec. 2

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Resolve, To Reduce Funding to Maine Clean Election Act Candidates

Sec. 1 Funding reduced for Maine Clean Election Act candidates. Resolved: That, notwithstanding the Maine Revised Statutes, Title 21-A, chapter 14 and Public Law 2009, chapter 213, Part NNNN, the amount distributed to certified candidates for the Legislature by the Commission on Governmental Ethics and Election Practices pursuant to the Maine Clean Election Act during the 2010 election cycle must be equal to the amount distributed to certified candidates for the Legislature by the commission during the 2008 election cycle; and be it further



Sec. 2 Distributions to certified candidates; rules. Resolved: That, notwithstanding Public Law 2009, chapter 213, Part NNNN, sections 1 to 3, the Commission on Governmental Ethics and Election Practices shall distribute Maine Clean Election Act funds to certified legislative candidates in accordance with section 1 and to gubernatorial candidates in accordance with the Maine Revised Statutes, Title 21-A, section 1125. The commission shall also establish rules to implement Title 21-A, section 1125, subsection 13. The rules must set forth procedures for certified Maine Clean Election Act candidates to accept and spend contributions if the commission determines that revenues in the Maine Clean Election Fund are insufficient to make distributions to certified candidates. Rules adopted in accordance with this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The commission shall publish the adopted rules on its publicly accessible website and in a guidebook distributed to certified candidates. The commission shall report back to the Joint Standing Committee on Legal and Veterans Affairs by February 15, 2010 on how the distributions provided by Title 21-A, chapter 14 are to be made; and be it further

Sec. 3 Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

ETHICS AND ELECTION PRACTICES, COMMISSION ON GOVERNMENTAL

Governmental Ethics and Election Practices - Commission on 0414

Initiative: Reduces funding for Maine Clean Election Act candidates.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	(\$353,000)	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$353,000)	\$0

- A. Fifty thousand dollars for a gubernatorial candidate;
- B. One thousand five hundred dollars for a candidate for the State Senate; or
- C. Five hundred dollars for a candidate for the State House of Representatives.

The commission may, by rule, revise these amounts to ensure the effective implementation of this chapter.

2-A. Seed money restrictions. To be eligible for certification, a participating candidate may collect and spend only seed money contributions subsequent to becoming a candidate and prior to certification. A participating candidate may not solicit, accept or collect seed money contributions after certification as a Maine Clean Election Act candidate.

A. All goods and services received prior to certification must be paid for with seed money contributions, except for goods and services that are excluded from the definition of contribution in section 1012, subsection 2, paragraph B. It is a violation of this chapter for a participating candidate to use fund revenues received after certification to pay for goods and services received prior to certification.

B. Prior to certification, a participating candidate may obligate an amount greater than the seed money collected, but may only receive that portion of goods and services that has been paid for or will be paid for with seed money. A participating candidate who has accepted contributions or made expenditures that do not comply with the seed money restrictions under this chapter may petition the commission to remain eligible for certification as a Maine Clean Election Act candidate in accordance with rules of the commission, if the failure to comply was unintentional and does not constitute a significant infraction of these restrictions.

C. Upon requesting certification, a participating candidate shall file a report of all seed money contributions and expenditures. If the candidate is certified, any unspent seed money will be deducted from the amount distributed to the candidate as provided in subsection 8.

3. Qualifying contributions. Participating candidates must obtain qualifying contributions during the qualifying period as follows:

- A. For a gubernatorial candidate, at least 3,250 verified registered voters of this State must support the candidacy by providing a qualifying contribution to that candidate;
- B. For a candidate for the State Senate, at least 150 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate; or
- C. For a candidate for the State House of Representatives, at least 50 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate.

* A payment, gift or anything of value may not be given in exchange for a qualifying contribution. A candidate may pay the fee for a money order that is a qualifying contribution in the amount of \$5 as long as the donor making the qualifying contribution pays the \$5 amount reflected on the money order. Any money order fees paid by a participating candidate must be paid for with seed money and reported in accordance with commission rules. A money order must be signed by the contributor to be a valid qualifying contribution. The commission may establish by routine technical rule, adopted in accordance with Title 5, Chapter 375, subchapter 2-A, a procedure for a qualifying contribution to be made by a credit or debit transaction and by electronic funds transfer over the Internet. Records containing information provided by individuals who have made qualifying contributions over the Internet are confidential, except for the name of the individual making the contribution, the date of the contribution, the individual's residential address and the name and office sought of the candidate in whose support the contribution was made.

It is a violation of this chapter for a participating candidate or an agent of the participating candidate to misrepresent the purpose of soliciting qualifying contributions and obtaining the contributor's signed acknowledgment.

4. Filing with commission. A participating candidate must submit qualifying contributions, receipts and acknowledgment forms, proof of verification of voter registration and a seed money report to the commission during the qualifying period according to procedures developed by the commission, except as provided under subsection 11. Candidates for Governor shall also submit photocopies of all seed money contributions received by check or money order, bank or merchant account statements of contributions received by credit or debit card and bank or other account statements for the campaign account.

5. Certification of Maine Clean Election Act candidates. Upon receipt of a final submittal of qualifying contributions by a participating candidate, the commission or its executive director shall determine whether the candidate has:

- A. Signed and filed a declaration of intent to participate in this Act;
- B. Submitted the appropriate number of valid qualifying contributions;
- C. Qualified as a candidate by petition or other means;
- D. Not accepted contributions, except for seed money contributions, and otherwise complied with seed money restrictions;
 - D-1. Not run for the same office as a nonparticipating candidate in a primary election in the same election year;
 - D-2. Not been found to have made a material false statement in a report or other document submitted to the commission;
 - D-3. Not had prior requests for certification denied on the basis of substantial violations of this chapter or Chapter 13 or certification revoked under subsection 5-A, paragraphs C to G;

If the immediately preceding election cycles do not contain sufficient electoral data, the commission shall use information from the most recent applicable elections.

* **9. Matching funds.** When any report required under this chapter or Chapter 13 shows that the sum of a candidate's expenditures or obligations, contributions and loans, or fund revenues received, whichever is greater, in conjunction with independent expenditures reported under section 1019-B, exceeds the sum of an opposing certified candidate's fund revenues, in conjunction with independent expenditures, the commission shall issue immediately to the opposing certified candidate an additional amount equivalent to the difference. Matching funds for certified candidates for the Legislature are limited to two times the amount originally distributed under subsection 8, paragraph A or C, whichever is applicable. Matching funds for certified gubernatorial candidates in a primary election are limited to two times the amount originally distributed under subsection 8, paragraph E. Matching funds for certified gubernatorial candidates in a general election are limited to the amount originally distributed under subsection 8, paragraph F.

10. Candidate not enrolled in a party. An unenrolled candidate who submits the required number of qualifying contributions and other required documents under subsection 4 by 5:00 p.m. on April 15th preceding the primary election and who is certified is eligible for revenues from the fund in the same amounts and at the same time as an uncontested primary election candidate and a general election candidate as specified in subsections 7 and 8. Otherwise, an unenrolled candidate must submit the required number of qualifying contributions and the other required documents under subsection 4 by 5:00 p.m. on June 2nd preceding the general election. If certified, the candidate is eligible for revenues from the fund in the same amounts as a general election candidate, as specified in subsection 8. Revenues for the general election must be distributed to the candidate no later than three (3) days after certification.

11. Other procedures. The commission shall establish by rule procedures for qualification, certification, disbursement of fund revenues and return of unspent fund revenues for races involving special elections, recounts, vacancies, withdrawals or replacement candidates.

12. Reporting; unspent revenue. Notwithstanding any other provision of law, participating and certified candidates shall report any money collected, all campaign expenditures, obligations and related activities to the commission according to procedures developed by the commission. If a certified candidate pays fund revenues to a member of the candidate's immediate family or a business or nonprofit entity affiliated with a member of the candidate's immediate family, the candidate must disclose the family relationship in a manner prescribed by the commission. Upon the filing of a final report for any primary election in which the candidate was defeated and for all general elections that candidate shall return all unspent fund revenues to the commission. In developing these procedures, the commission shall utilize existing campaign reporting procedures whenever practicable. The commission shall ensure timely public access to campaign finance data and may utilize electronic means of reporting and storing information.

12-A. Required records. The treasurer shall obtain and keep;

A. Bank or other account statements for the campaign account covering the duration of the campaign;

B. A vendor invoice stating the particular goods or services purchased for every expenditure of \$50 or more; and

C. A record proving that a vendor received payment for every expenditure of \$50 or more in the form of a cancelled check, receipt from the vendor or bank or credit card statement identifying the vendor as the payee.

The treasurer shall preserve the records for two (2) years following the candidate's final campaign finance report for the election cycle. The candidate and treasurer shall submit photocopies of the records to the Commission upon its request.

12-B. Audit requirements for candidates for Governor. The commission shall audit the campaigns of candidates for Governor who receive funds under this chapter to verify compliance with election and campaign laws and rules. Within one month of declaring an intention to qualify for public financing, a candidate for Governor, the campaign's treasurer and any other relevant campaign staff shall meet with the staff of the commission to discuss audit standards, expenditure guidelines and record-keeping requirements.

13. Distributions not to exceed amount in fund. The Commission may not distribute revenues to certified candidates in excess of the total amount of money deposited in the fund as set forth in section 1124. Notwithstanding any other provisions of this chapter, if the commission determines that the revenues in the fund are insufficient to meet distributions under subsections 8 or 9, the commission may permit certified candidates to accept and spend contributions, reduced by any seed money contributions, aggregating no more than \$500 per donor per election for gubernatorial candidates and \$250 per donor per election for State Senate and State House candidates, up to the applicable amounts set forth in subsections 8 and 9 according to rules adopted by the commission.

14. Appeals. A candidate who has been denied certification as a Maine Clean Election Act candidate, the opponent of a candidate who has been granted certification as a Maine Clean Election Act candidate or other interested persons may challenge a certification decision by the commission or its executive director as follows.

A. A challenger may appeal to the full commission within seven (7) days of the certification decision. The appeal must be in writing and must set forth the reasons for the appeal.

B. Within five (5) days after an appeal is properly made and after notice is given to the challenger and any opponent, the commission shall hold a hearing, except that the commission may extend this period upon agreement of the challenger and the candidate whose certification is the subject of the appeal, or in response to the request of either party upon a showing of good cause. The appellant has the burden of proving that the certification decision was in error as a matter of law or was based on factual error. The commission must rule on the appeal within five (5) business days after the completion of the hearing.



2008 EXPENDITURE GUIDELINES

For Maine Clean Election Act Candidates

Candidates must spend Maine Clean Election Act (MCEA) funds for campaign-related purposes and not for other purposes such as the candidate's personal benefit, party-building, or to promote another candidate's campaign.

- **Expenditures for "campaign-related purposes" are those which are traditionally accepted as necessary to promote the election of a candidate to political office. Candidates using MCEA funds must also take into account the public nature of the funds, the underlying objectives of the MCEA, and the reasonableness of the expenditures under the circumstances. In Maine, traditional campaign expenses have included:**
 - Printing and mailing costs;
 - Political advertising expenses;
 - Campaign communications such as signs, bumper stickers, T-shirts, or caps with campaign slogans, etc.;
 - Office supplies;
 - Campaign events (e.g., food, rent of tent or hall, etc.);
 - Campaign staff expenses;
 - Campaign travel expenses, such as fuel and tolls; and
 - An entry fee for an event organized by a party committee, charity, or community organization or an ad in an event publication, as long as the expenditure benefits the candidate's campaign;

- **Candidates may not use MCEA funds for personal expenses. This means candidates may not borrow from or use MCEA funds for personal or other non-campaign expenses, even if temporarily and with the intention of repaying the funds. Personal expenses are for goods and services that the candidate would otherwise purchase independently of the campaign, such as:**
 - Day-to-day household food items and supplies;
 - Vehicle and transportation expenses unrelated to the campaign;
 - Mortgage, rent, or utility payments for the candidate's personal residence, even if part of the residence is being used by the campaign; and
 - Clothing, including attire for political functions such as business suits or shoes.

- **Maine Clean Election Act funds may not be spent to:**
 - make independent expenditures supporting or opposing any candidate, ballot measure, or political committee;
 - assist in any way the campaign of any candidate other than the candidate for whom the funds were originally designated;
 - contribute to another candidate, a political committee, or a party committee, other than in exchange for goods and services;
 - pay a consultant, vendor, or campaign staff, other than in exchange for campaign goods or services;
 - make a thank-you gift (including a gift card) to a volunteer or supporter;
 - compensate the candidate for services provided by the candidate;
 - make a donation to a charity or a community organization, other than in exchange for campaign goods or services;
 - promote political or social positions or causes other than the candidate's campaign;
 - pay civil penalties, fines, or forfeitures to the Commission, or defend the candidate in enforcement proceedings brought by the Commission; or
 - assist the candidate in a recount of an election.

■ Guidelines on Selected Issues

- *Electronics and Other Personal Property.* Goods purchased with MCEA funds that could be converted to personal use after the campaign (e.g., computers, fax machines, and cellular telephones) must be reported on Schedules B and E of the candidate reporting form. No later than 42 days after the general election, the goods must be sold at fair market value and the proceeds returned to the Maine Clean Election Fund. Candidates are welcome to lease electronic and other equipment.
- *Food.* Candidates may spend a reasonable amount of MCEA funds on food for campaign events or to feed volunteers while they are working. Legislative candidates may not use MCEA funds to purchase food that is consumed only by the candidate and/or the candidate's spouse.
- *Car Travel.* MCEA campaigns may reimburse the candidate or campaign workers for their car travel, as long as the person reimbursed has kept a travel log. For 2008, the campaign may make a travel reimbursement up to the number of miles traveled (as reported in the log) multiplied by \$0.42. Campaigns must keep the travel logs for two years, and provide them to the Commission if requested. Candidates and their spouses or domestic partners may spend any amount of their personal funds for campaign travel without seeking reimbursement. Other individuals may spend up to \$100 of their personal funds to pay for travel without making a contribution to the campaign.
- *Lodging.* Candidates may use MCEA funds to pay for lodging if necessary for campaign purposes, but must keep lodging expenses reasonable.
- *Post-Election Notes and Parties.* Candidates may spend up to the following maximum amounts of MCEA funds on post-election parties, thank you notes, or advertising to thank supporters or voters: \$250 for State Representative candidates and \$500 for State Senate candidates. Candidates may also use personal funds for these purposes.
- *Campaign Training.* Candidates may use MCEA funds for tuition or registration costs to receive training on campaigning or policy issues.
- *Salary and Compensation.* Candidates may use MCEA funds to pay for campaign-related services by staff or consultants, provided that compensation is made at or below fair market value and sufficient records are maintained to show what services were received. Documentation must include a description of the labor performed by the staff member or consultant, and an itemization of any goods or services purchased from other vendors including date, vendor, and amount.

■ Required Record-Keeping

The MCEA requires participating campaigns to keep two documents for every expenditure over \$50: (1) an invoice from the vendor listing the goods or services purchased, and (2) a canceled check or other acceptable proof of payment to the vendor. Please select a treasurer who will be responsible about keeping these records.

■ Auditing and Compliance

In 2008, the Commission staff will audit at least 20% of MCEA candidates and will review all receipts and expenditures disclosed by MCEA candidates in campaign finance reports. The Commission frequently requests additional information from candidates to verify that public funds were spent for campaign-related purposes. Candidates who misuse public funds may be required to repay some or all public funds received, may be liable for civil penalties, and may be referred to the State Attorney General for possible criminal prosecution.

§ 110.17

11 CFR Ch. I (1-1-07 Edition)

§ 110.17 Price index increase.

(a) *Price index increases for party committee expenditure limitations and Presidential candidate expenditure limitations.* The limitations on expenditures established by 11 CFR 110.7 and 110.8 shall be increased by the percent difference between the price index, as certified to the Commission by the Secretary of Labor, for the 12 months preceding the beginning of the calendar year and the price index for the base period.

(1) Each expenditure limitation so increased shall be the expenditure limitation in effect for that calendar year.

(2) For purposes of this paragraph (a), the term *base period* means calendar year 1974.

(b) *Price index increases for contributions by persons, by political party committees to Senatorial candidates, and the bi-annual aggregate contribution limitation for individuals.* The limitations on contributions established by 11 CFR 110.1(b) and (c), 110.2(e), and 110.5, shall be increased only in odd-numbered years by the percent difference between the price index, as certified to the Commission by the Secretary of Labor, for the 12 months preceding the beginning of the calendar year and the price index for the base period.

(1) The increased contribution limitations shall be in effect as provided in 11 CFR 110.1(b)(1)(ii), 110.1(c)(1)(ii), 110.2(e)(2) and 110.5(b)(3).

(2) For purposes of this paragraph (b) the term *base period* means calendar year 2001.

(c) *Rounding of price index increases.* If any amount after the increases under paragraph (a) or (b) of this section is not a multiple of \$100, such amount shall be rounded to the nearest multiple of \$100.

(d) *Definition of price index.* For purposes of this section, the term *price index* means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

(e) *Publication of price index increases.* In every odd-numbered year, the Commission will publish in the FEDERAL REGISTER the amount of the expenditure and contribution limitations in ef-

fect and place such information on the Commission's Web site.

[67 FR 69949, Nov. 19, 2002]

§ 110.18 Voting age population.

There is annually published by the Department of Commerce in the FEDERAL REGISTER an estimate of the voting age population based on an estimate of the voting age population of the United States, of each State, and of each Congressional district. The term *voting age population* means resident population, 18 years of age or older.

[63 FR 457, Jan. 3, 2003]

§ 110.19 Contributions by minors.

An individual who is 17 years old or younger (a Minor) may make contributions to any candidate or political committee that in the aggregate do not exceed the limitations on contributions of 11 CFR 110.1 and 110.5, if—

(a) The decision to contribute is made knowingly and voluntarily by the Minor;

(b) The funds, goods, or services contributed are owned or controlled by the Minor, such as income earned by the Minor, the proceeds of a trust for which the Minor is the beneficiary, or funds withdrawn by the Minor from a financial account opened and maintained in the Minor's name; and

(c) The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another individual.

[70 FR 5568, Feb. 3, 2005]

§ 110.20 Prohibition on contributions, donations, expenditures, independent expenditures, and disbursements by foreign nationals (2 U.S.C. 441e, 36 U.S.C. 510).

(a) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Disbursement* has the same meaning as in 11 CFR 300.2(d).

(2) *Donation* has the same meaning as in 11 CFR 300.2(e).

(3) *Foreign national* means—

(i) A foreign principal, as defined in 22 U.S.C. 611(b); or

(ii) An individual who is not a citizen of the United States and who is not

