

# Agenda Item #1

## CHAPTER 14 - Post-Election Responsibilities for MCEA Candidates

- Address Change Notification
- Election Night Parties and Thank-You Notes
- Returning Unauthorized Matching Funds and Unspent MCEA Funds
- Sale of Campaign Property
- Commission Review of Campaign Expenditures
- Sources of Income Statement for Elected Legislators

### Notify Commission of Changes of Address and Phone Number

During and after the campaign, it is important for candidates and treasurers to notify the Commission directly when their address and/or telephone number changes. If the Commission is not notified, the candidate may miss important notices, filing deadlines, or opportunities to complete the Commission's review of the campaign.

### Election Night Parties and Post-Election Thank-You's

Candidates may spend limited amounts of MCEA funds on election night parties, thank-you notes, or advertising to thank supporters or voters:

- \$250 for State Representative candidates;
- \$500 for State Senate candidates; and
- \$2,500 for gubernatorial candidates.

Candidates may also use their personal funds for election night parties and post-election thank-you's.

### Return of "Unauthorized" Matching Funds

If a MCEA candidate has received matching funds that the candidate was not authorized to spend, the candidate must return the funds within two weeks of the candidate's last election. For candidates in the 2006 general election, this deadline will be November 21, 2006. The Commission will notify the candidate of this unauthorized amount of matching funds.

### Return of Unspent MCEA Funds

All candidates are required to return any MCEA funds that the candidate was authorized to spend but did not. These funds must be returned by the deadline for the post-election campaign finance report 42 days after the election. The Commission will verify that this amount appears to be consistent with the expenditures that have been reported by the candidate. If there is a discrepancy, the Commission will request that the candidate resolve it by amending the reported expenditures to accurately reflect actual payments of MCEA funds.

### Sale of Property that Could be Converted to Personal Use

After the election, MCEA candidates must sell any campaign property purchased with public funds that could be converted to the personal use of the candidate or campaign staff (e.g., computers, fax machines, printers, cell phones). The candidates are required to sell the goods at fair market value and return the proceeds to the Ethics

## Title 21-A, §1125, Terms of participation

**8. Amount of fund distribution.** By July 1, 1999 of the effective date of this Act, and at least every 4 years after that date, the commission shall determine the amount of funds to be distributed to participating candidates based on the type of election and office as follows.

A. For contested legislative primary elections, the amount of revenues to be distributed is the average amount of campaign expenditures made by each candidate during all contested primary election races for the immediately preceding 2 primary elections, as reported in the initial filing period subsequent to the primary election, for the respective offices of State Senate and State House of Representatives. [2003, c. 453, §1 (amd).]

B. For uncontested legislative primary elections, the amount of revenues distributed is the average amount of campaign expenditures made by each candidate during all uncontested primary election races for the immediately preceding 2 primary elections, as reported in the initial filing period subsequent to the primary election, for the respective offices of State Senate and State House of Representatives. [2003, c. 453, §1 (amd).]

C. For contested legislative general elections, the amount of revenues distributed is the average amount of campaign expenditures made by each candidate during all contested general election races for the immediately preceding 2 general elections, as reported in the initial filing period subsequent to the general election, for the respective offices of State Senate and State House of Representatives. [2003, c. 688, Pt. A, §21 (amd).]

D. For uncontested legislative general elections, the amount of revenues to be distributed from the fund is 40% of the amount distributed to a participating candidate in a contested general election. [2003, c. 453, §1 (amd).]

E. For gubernatorial primary elections, the amount of revenues distributed is \$200,000 per candidate in the primary election. [2003, c. 453, §1 (new).]

F. For gubernatorial general elections, the amount of revenues distributed is \$400,000 per candidate in the general election. [2003, c. 453, §1 (new).]

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

[2003, c. 688, Pt. A, §21 (amd).]

**9. Matching funds.** When any campaign, finance or election report shows that the sum of a candidate's expenditures or obligations, or funds raised or borrowed, whichever is greater, alone or in conjunction with independent expenditures reported under section 1019-B, exceeds the distribution amount under subsection 8, the commission shall issue immediately to any opposing Maine Clean Election Act candidate an additional amount equivalent to the reported excess. Matching funds are limited to 2 times the amount originally distributed under subsection 8, paragraph A, C, E or F, whichever is applicable.

[2003, c. 688, Pt. A, §22 (rpr).]

**10. Candidate not enrolled in a party.** An unenrolled candidate certified by April 15th preceding the primary election 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. For an unenrolled candidate not certified by April 15th at 5:00 p.m. the deadline for filing qualifying contributions is 5:00 p.m. on June 2nd preceding the general election. An unenrolled candidate certified after April 15th at 5:00 p.m. is eligible for revenues from the fund in the same amounts as a general election candidate, as specified in subsections 7 and 8.

[2001, c. 465, §6 (amd).]

**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.

[IB 1995, c. 1, §17 (new).]

**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. 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.

[IB 1995, c. 1, §17 (new).]

- (2) **Actual Expenses.** Actual expenses include the pro rata, campaign-related share of vehicle depreciation or lease payments, maintenance and repairs, gasoline (including gasoline taxes), oil, insurance, and vehicle registration fees, etc. For reimbursement using this method, the candidate must maintain detailed records reflecting use of the vehicle for campaign-related purposes. The records must include the dates the vehicle was used for campaign-related purposes, the total mileage the vehicle was used for campaign-related purposes, the total mileage the vehicle was used for all purposes during the period for which reimbursement is made, and the percentage of total vehicle usage that the vehicle was used for campaign-related purposes.
2. **Reporting by Participating and Certified Candidates.**
    - A. **General.** Participating and certified candidates must comply with applicable reporting requirements set forth in Title 21-A, chapter 13, subchapter II [§ 1017].
    - B. **Return of Matching Fund Advances and Unspent Fund Revenues.** Matching Fund advance revenues that have not been authorized for spending and unspent Fund revenues shall be returned to the Fund as follows:
      - (1) **Unauthorized Matching Funds.** Candidates must return all Matching Fund advance revenues for which no spending authorization was issued prior to an election to the Commission by check or money order payable to the Fund within 2 weeks following the date of the election.
      - (2) **Unspent Fund Revenues for Unsuccessful Primary Election Candidates.** Upon the filing of the 42-day post-primary election report for a primary election in which a certified candidate was defeated, that candidate must return all unspent Fund revenues to the Commission by check or money order payable to the Fund.
      - (3) **Unspent Fund Revenues for All General and Special Election Candidates.** Upon the filing of the 42-day post-election report for a general or special election, all candidates must return all unspent Fund revenues to the Commission by check or money order payable to the Fund.
    - C. **Liquidation of Property and Equipment.** Property and equipment that is not exclusive to use in a campaign (e.g., computers and associated equipment, etc.) that has been purchased with Maine Clean Election Act funds loses its campaign-related purpose following the election. Such property and equipment must be liquidated at its fair market value and the proceeds thereof reimbursed to the Maine Clean Election Fund as unspent fund revenues in accordance with the schedule in paragraph B above.
      - (1) The liquidation of campaign property and equipment may be done by sale to another person or purchase by the candidate.
      - (2) Liquidation must be at the fair market value of the property or equipment at the time of disposition. Fair market value is determined by what is fair,

THOMAS J. BOSSIE

01/02/2007

CANDIDATE'S FULL NAME

Date Submitted

**SCHEDULE F  
SUMMARY SECTION  
(MAINE CLEAN ELECTION ACT CANDIDATES)**

<b>CASH ACTIVITY</b>		
	<b>TOTAL FOR THIS PERIOD</b>	<b>TOTAL FOR CAMPAIGN</b>
1. CASH BALANCE FROM LAST REPORT (if any)	2,364.72	
2. MAINE CLEAN ELECTION ACT Payments	+ 1,715.40	10,857.57
3. SALE OF CAMPAIGN PROPERTY (Schedule E, Part II)	+ 0.00	0.00
4. OTHER CASH RECEIPTS (Interest, etc.)	+ 0.00	0.00
5. MINUS TOTAL EXPENDITURES (total of all Schedule B pages)	- 0.00	6,777.45
6. CASH BALANCE AT CLOSE OF PERIOD (lines 1 + 2 + 3 + 4 - 5)	= 4,080.12	
7. CASH NOT AUTHORIZED TO SPEND	0.00	
8. CASH AUTHORIZED TO SPEND (line 6 - 7)	4,080.12	

**OTHER ACTIVITY THIS REPORTING PERIOD**

9. TOTAL UNPAID DEBTS AT CLOSE OF PERIOD (total all Schedule D pages)	0.00	
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matching funds

Candidate ID# 1658

Office Sought Representative

District 101

Salutation Mr.

First Name Thomas

Middle Name J.

Last Name Bossie

Party Democratic

Registrar Sandy

Replacement

Enter Replacements

Date	Amount	Unauthorized Amount	Returned	Remaining
	\$0.00		\$0.00	\$2,868.20
			\$0.00	\$4,080.12
Total:				

Filter Options

- Show All
- Authorized Balance
- Unauthorized Balance

Record: 14 of 238 of 317

Form View

## Contacts with Thomas Bossie Requesting Return of Public Funds

Date	Mode	Comments/Results
11/8/06	Letter	Staff mailed letter to all MCEA candidates requesting return of funds.
11/28/06	Telephone	Candidate Registrar Sandy Thompson called Bossie's work phone and left message with colleague and fellow candidate Geoffrey Heckman. Sandy called Bossie's home phone and spoke to him. He said that he thought his treasurer (his son) already sent the check; will check with his treasurer. If it wasn't sent out, it will be mailed this week.
12/1/06	Telephone and e-mail (attached)	Sandy left message and sent e-mail that we did not receive the check this week.
12/10/06	Telephone	Sandy left message that we did not receive the check yet.
12/11/06	Letter	Sandy sent certified letter requesting funds.
12/20/06	Telephone	Sandy left messages at his home # and work # (spoke with Geoffrey Heckman, who he works with, that Bossie's report late and that unauthorized funds not received and asked him to give Bossie this message).
12/20/06	Telephone	Sandy also called Democratic staffer Paul Brunetti and left a message asking for his assistance in getting Bossie to return unauthorized amount and filing report.
12/20/06	Telephone	Bossie returned Sandy's call. He said he would get his report filed and that the check for the unauthorized amount was mailed out certified registered mail on Monday 12/18/2006. Sandy told him that we have not received it yet. He said we should get it.
1/2/07	Letter	Jonathan Wayne sent letter by certified and regular mail requesting return of funds and informing him that this matter would be scheduled for the January 19th meeting. Jonathan left voicemail messages at his home and work phones.
1/9/07	Telephone	Sandy left voicemail message on his work phone (774-0999) informing him that he is scheduled for the Jan 19th meeting.
1/9/07	Telephone	Sandy spoke to Democratic staffer Paul Brunetti who said that he saw Bossie last week and asked him about repayment. Bossie said that "everything was taken care of."



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

November 8, 2006

Mr. Thomas J. Bossie  
74 Point Sebago Rd.  
Casco, ME 04015

Dear Mr. Bossie:

Thank you for your cooperation as a Maine Clean Election Act (MCEA) candidate this year. This is to request that your campaign repay \$2,866.20, which is the amount of matching funds paid to you which you were not authorized to spend. Please pay this amount by November 21, 2006 by submitting a check or money order payable to the Maine Clean Election Fund in the enclosed envelope.

You are also required to pay off all obligations and return all other unspent MCEA funds no later than December 19, 2006 when you file the 42-day post-election report. If you wish to pay those obligations prior to November 21 and submit a single check, we would welcome that.

Please do not enter these amounts in e-filing when you file your post-election report.

If you have any questions, please telephone the Commission staff at 287-4179. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sandy Thompson".

Sandy Thompson  
Candidate Registrar

cc: Treasurer

**Thompson, Sandy**

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**From:** Thompson, Sandy  
**Sent:** Friday, December 01, 2006 4:56 PM  
**To:** 'sebago32@yahoo.com'  
**Cc:** Brown, Nathaniel T  
**Subject:** Please mail check for \$2,866.20 -Return of Unauthorized Matching Funds  
**Importance:** High

Dear Tom Bossie – I left a message for you on your work and home voice mails too. We did not receive a check this week. If you did send it out on Wed, please let Nat Brown know by calling him at 287-7652 or by e-mailing him on Monday (I will be out until Thursday). We will probably receive you check on Monday (no later than Monday) and everything will be okay. If we don't get it, you may have to stop payment and issue new check. Hopefully we will get it on Monday. Thanks.

Sandy Thompson  
Candidate Registrar  
Maine Commission on Governmental Ethics  
and Election Practices  
Website: [www.maine.gov/ethics](http://www.maine.gov/ethics)



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

December 11, 2006

Mr. Thomas J. Bossie  
74 Point Sebago Road  
Casco, ME 04015

**BY CERTIFIED MAIL**

Dear Mr Bossie:

On November 9, 2006, the Commission sent you a letter requesting that \$2,866.20 in unauthorized matching funds be returned to the Commission. As of the date of this letter, the Commission has not received the unauthorized amount of matching funds.

I called you on 11/28/2006 and on 12/1/2006 and left messages reminding you that the return of the unauthorized matching funds was late and that the Commission needed to receive a check by 12/2/2006. I also e-mailed you on 12/2/2006 reiterating this and asking you to confirm whether you had mailed a check. I was under the impression that you mailed it prior to 11/28/2006 and I was concerned that it got lost. My telephone messages and e-mail have gone unanswered. Therefore, I am notifying you for a second time that the return of unauthorized matching funds is late.

Chapter 3, Section 7(2)(B) of the Commission's Rules requires that unauthorized matching funds be returned to the Commission within two weeks following the election. The deadline for the return of general election unauthorized matching funds was November 21, 2006. 21-A M.R.S.A. § 1127 states that a person who violates any provision of this chapter or rules of the commission is subject to a fine of up to \$10,000 per violation payable to the fund. **The staff of the Commission will schedule this matter for the January meeting of the Commission if the funds are not returned promptly.**

Please remember that your campaign must close by December 12 and your final campaign finance report (42-Day Post General) must be filed by Dec 19 by 5 p.m. If you have any questions, please call me at 207-287-7651. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sandy Thompson".

Sandy Thompson  
Candidate Registrar

cc: Ian Bossie, Treasurer (regular mail)

Tom Bossie's  
signature for  
12/11/06 letter



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	A. Signature 	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
1. Article Addressed to:  Thomas J. BOSSIE 74 Point Sebago Rd Casco, ME 04015  ST	B. Received by (Printed Name)	C. Date of Delivery 12/20/06
2. Article Number (Transfer from service label)	D. Is delivery address different from item 1? <input type="checkbox"/> Yes if YES, enter delivery address below: <input type="checkbox"/> No  3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
7005 3110 0000 2803 6341		*S Form 3811, August 2001    Domestic Return Receipt    102595-02-M-1540



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

January 2, 2007

Thomas J. Bossie  
74 Point Sebago Road  
Casco, ME 04015

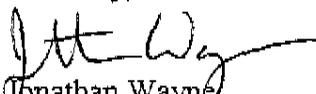
Via: E mail,  
Standard Mail and  
**CERTIFIED/RECEIPT REQUESTED**

Dear Mr. Bossie:

This is to follow up on the three letters we have sent you requesting that you return all Maine Clean Election Act funds which your 2006 campaign did not spend, and that you file the campaign finance report that was due on December 19, 2006. If the Ethics Commission does not receive these by Thursday, January 11, 2007 your name and your treasurer's name will be printed on the public agenda for the Ethics Commission's January 19, 2007 meeting. These unspent funds include more than \$2,800 in public funds which your campaign was not authorized to spend.

If you have previously written a check to return these amounts, please **cancel** that check and return the funds through a **new** check. Please telephone Candidate Registrar Sandy Thompson at 287-7651 if you have any questions.

Sincerely,

  
Jonathan Wayne  
Executive Director

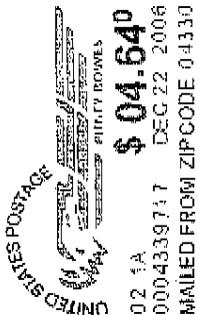
cp  
cc: Ian T. Bossie, Treasurer

Tom Bossie  
"refused"  
1/2/07  
letter

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



7805 3110 0000 2803 6884



12-28-07  
1-6-07  
Bossie

- BOSSIE
- MOVED, LEFT NO ADDRESS
- FORWARDING ORDER EXPIRED
- ATTEMPTED, NOT KNOWN
- UNCLAIMED  REFUSED
- NO SUCH STREET
- NO SUCH NUMBER
- INSUFFICIENT ADDRESS



RETURNED TO SENDER



Registrar	Salutation	First Name	Middle Name	Last Name	UnauthRemaining	Date of Call - Comments
Gavin	Representative	Darren	M.	Hall	\$7,510.43	
Gavin	Mr.	David	A.	Higgins	\$5,565.12	
Gavin	Representative	James	M.	Schatz	\$6,592.31	
Gavin	Mr.	Donald	E.	Shepley	\$7,421.89	
Gavin	Ms.	Kerry	A.	Sullivan	\$6,388.00	
Gavin	Mr.	Robert	P.	Walker	\$8,352.63	
Nat	Representative	Richard	J.	Burns	\$5,688.76	
Nat	Representative	John		Eder	\$7,508.34	
Nat	Mr.	Jeffrey	B.	Ferland	\$8,717.00	12/11
Nat	Mr.	Paul		Nixon	\$8,325.32	(Call - 2/11/07) (W) left message (w/Carol H)
Nat	Ms.	Ann	E.	Peoples	\$4,496.06	spoke to him at home, will be mailing
Nat	Representative	H. Stedman		Seavey	\$8,338.50	(10) 774-0999 > left message
Sandy	Mr.	Thomas	J.	Bossie	\$2,866.20	spoke to him 11/27, will be sending 11/28
Sandy	Mr.	Timothy	A.	Carter	\$5,060.36	spoke to him 11/27, will be sending 11/28
Sandy	Representative	Bruce	C.	Hanley	\$8,451.63	743-8188 documented > 743-2947
Sandy	Ms.	Priscilla	J.	Jenkins	\$8,504.02	377-9011 will send it in 11/29
Sandy	Ms.	Lani		Kelly	\$38,849.34	in one mail 11/28
Sandy	Representative	Leila	J.	Percy	\$4,840.83	389-2133 left message
Sandy	Representative	Wright	H.	Pinkham	\$7,401.87	566-0101 Rocheli Hatch (traveller) left me
Sandy	Ms.	Jane		Sease	\$3,778.12	721-8675 will call traveller

thought he sent it already if not will send immediately

Bossie - 42-PG 1,715.40  
 6 PG 4,142.40  
 8,724.00  
 5,857.80  
 786 20 amount.  
 5857.80

Bossie  
 12/10 @ 9:06 AM (H) → call phone - no answer  
 left message @ home

9:40pm

Dadd Thompson - problem w/ Mac forgot that had to find PC

MAC didn't work

call back - left message - would check w/ J.W and call back <sup>nsm</sup>

2/20 9:06 - called 653-2277 Tan Bossie @ 653-2277

TOM BOSSIE

left message that 42-Day report is late; need to file by 5pm today so not more than 1 day late penalties are accruing.

9:09AM called 653-3741 Δ or disconnected

9:15AM called 774-0999(W) - left message that report is late + <sup>42</sup> matching funds need to be return immediately.

he called back later - sent in reg mail on Monday.

Salley Chand, 457-2197 - ok; everything is ok -

~~8/16~~

= Late  
 = Non Files 12/20/06 4:30  
 left second message (MTH)  
 report check: Sandy

12/20/2006

filed  
 56-9387  
 2 53-9230

Office Sought	Last	First	Last Of Filed Date
Representative	Curtis 3052	Philip	12/20
County Commissioner	Dutremble	Richard	Called (H) left message
Representative	Lansley 183-191	Scott	Called; No financial activity, Mailed at Mont Tues?
Representative - 2 dup late	Bossie spouse to	Thomas	Called left message @ home; (Susan W) + Scott
Senate	Greenwood J. Hunt	Randall	Called - measure + work + left messages on 8/7/2006 2:49:58 PM -12-3
Representative	Ellis will give message	Rachel	11/2/2006 5:18:59 PM
Senate	Snowe-Mello to Tom	Lois	11/2/2006 7:31:08 PM
Representative	Cressey	Philip	11/5/2006 7:26:58 PM
Representative	Soule	Laura	11/6/2006 3:53:22 PM
Representative	Bradley	James	11/8/2006 7:37:54 PM
Representative	Gedat	Roy	11/9/2006 4:25:07 PM
Representative	Purnell II	Kevin	11/10/2006 2:56:31 PM
County Commissioner	Giroux	Richard	11/11/2006 5:48:49 PM
Representative	Sirois	Lawrence	11/12/2006 8:34:26 PM
County Commissioner	Mills	Bobby "B"	11/15/2006 5:13:51 PM
Senate	Foley	Nelson	11/16/2006 12:49:24 PM
Senate	Bryant	Bruce	11/17/2006 2:13:19 PM
Representative	Potvin	Ronald	11/17/2006 3:55:25 PM
Representative	Hanley	Stephen	11/18/2006 1:03:05 PM
Representative	Arsenault	Reginald	11/18/2006 8:56:11 PM
Representative	Reny	Joshua	11/20/2006 12:39:30 PM
Representative	Bailey	William	11/20/2006 5:18:20 PM
Representative	Hamper	James	11/23/2006 12:06:35 PM
Representative	Thomson	George	11/24/2006 8:11:40 PM
Representative	Davis	Kimberly	11/27/2006 9:13:04 AM
Representative	Finley	Donna	11/28/2006 9:18:24 AM
Representative	Harvell	Lance	11/28/2006 10:32:01 AM
Representative	Saviello	Thomas	11/28/2006 12:34:47 PM
Governor	NaPier	Phillip	11/29/2006 11:45:00 AM
Representative	Cebra	Richard	11/29/2006 2:55:20 PM
County Commissioner	Layman	Gloria	11/29/2006 8:30:56 PM
County Commissioner	Boetsch	Charles	11/30/2006 2:33:54 PM
Representative	Canavan	Marilyn	11/30/2006 2:40:24 PM
Representative	Crockett	Patsy Gar	11/30/2006 2:53:50 PM
Register of Deeds	Godin	Diane	12/1/2006 2:22:05 PM
Representative	Knight	L. Gary	12/1/2006 4:08:04 PM
County Treasurer	Auclair	Nancy	12/1/2006 5:10:34 PM
County Commissioner	Furbish	Jeffrey	12/2/2006 8:15:37 PM
Representative	Finch	Edward	12/4/2006 11:36:15 AM
Representative	Carrier	Guy	12/4/2006 2:58:31 PM
Senate	Weston	Carol	12/5/2006 1:14:10 PM
County Commissioner	Berry	Donald	12/5/2006 2:36:26 PM
Representative	Bryant-Deschenes	Joan	12/6/2006 11:02:05 AM
Representative	Craven	Margaret	12/7/2006 6:36:36 AM
Representative	Sykes	Richard	12/7/2006 2:39:30 PM
Representative	Turner	Marlee	12/7/2006 4:05:09 PM
Representative	Smith	Paula	12/7/2006 4:31:55 PM
Representative	Percy	Leila	12/7/2006 4:37:09 PM

e-mailed 12/20 too.  
 Called; No financial activity, Mailed at Mont Tues?  
 Called left message @ home; (Susan W) + Scott  
 Called - measure + work + left messages  
 on 8/7/2006 2:49:58 PM -12-3  
 12/20  
 12-18-2006  
 Tom Bossert sent to us  
 re unauthorized  
 matching fund payment  
 Check # 12/21

THOMAS J. BOSSIE

(Schedule B Only)

CANDIDATE'S FULL NAME

**SCHEDULE B  
EXPENDITURES**

- **Itemize each expenditure made during the reporting period.**
- **Enter the date, payee, expenditure type, and amount for each expenditure.**
- **For expenditure types which require a remark, enter a description of the goods and services purchased.**
- **Only enter expenditures that have actually been paid. Enter unpaid debts and obligations on Schedule D.**

**Expenditures paid with non-campaign funds:** Whenever an expenditure is made on behalf of a candidate with funds other than campaign funds, the campaign must reimburse that expenditure with campaign funds. Following the instructions above, enter the information for the vendor that actually provided the goods or services. In the remarks section, include the name of the person reimbursed and any other required remarks.

Expenditure Types Requiring <b>NO</b> Remark		Expenditure Types Which <b>REQUIRE</b> Remark	
PRT	Print media ads	SAL	Campaign workers' salaries
TVN	TV or cable ads, production costs	CNS	Campaign consultants
RAD	Radio ads, production costs	PRO	Other professional services
LIT	Campaign literature (printing and graphics)	EQP	Equipment
POS	Postage for U.S. Mail	FND	Fundraising events
MHS	Mail house (all services purchased)	TRV	Travel (fuel, mileage, lodging, etc.)
PHO	Phone banks, automated telephone calls	OTH	Other
FOD	Food for campaign events, volunteers		
OFF	Office rent and utilities		
WEB	Internet and e-mail		
POL	Polling and survey research		
RTA	Return of authorized MCEA funds		
RTU	Return of unauthorized MCEA funds		

DATE EXPENDITURE MADE	NAME OF EACH PAYEE	EXPENDITURE TYPE (use code from above)	REMARK (if the expenditure type requires a remark, describe all goods and services purchased)	AMOUNT
7/19/2006	FAITH BAKER	PRT	PRESS RELEASE	40.00
7/25/2006	POINT SEBAGO RESORT	CNS	OUTING	448.70

Name: Thomas J. Bossie  
District #101  
2006 House

Home Phone: (207)653-3741  
Work Phone: (207)774-0999  
Cell #:  
E-Mail: sebago32@yahoo.com  
Fax#:

2006 Vendor: n/a yes no  
If no, 2006 Vendor Form Received: yes no

Notes

1/2 Left messages request return of NCEA funds and  
filing of 12/1a report (at home, work) - JW

# Agenda Item #2



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

To: Commission Members  
From: Jonathan Wayne  
Date: January 11, 2007  
Re: Is MERI a political action committee?

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Earlier this year the Commission received a complaint against the Maine Economic Research Institute (MERI) filed by John R. Hanson, Executive Director of the Maine State Building and Construction Trades Council. It concerned a publication entitled Roll Call 2006 that was distributed as an insert in Maine newspapers in late July. At its August meeting, the Commission considered the allegations in Mr. Hanson's complaint, and voted to dismiss the complaint.

At the meeting, the question arose of whether MERI is a political action committee (PAC) that would require it to register with the Commission and report its contributions and expenditures in regular campaign finance reports. The Commission postponed its consideration of the issue for a future meeting.

#### **MERI's History of Rating Legislators**

MERI describes itself as follows: it is a nonpartisan, not-for-profit corporation dedicated to improving Maine's economy and business environment by providing objective information to enhance economic policy-making. It conducts nonpartisan research and tracks legislator performance on critical business and economic issues. It publishes periodic educational documents and reports, some of which include records of votes taken by Legislators on business-related legislation. Businesses are invited to "subscribe" to MERI in order to receive its research and publications, and to participate in its activities. MERI does not consider its subscribers to be members of the organization.

MERI was formed in 1999. It has published ratings of legislators' voting records for some years. My general understanding is that mostly its legislative ratings were directed to its subscribers until 2004, when MERI produced its first Voter Guide. It published 50,000 copies of the 2004 Voter Guide, which was a fold-up publication similar in size to a road map.

In 2005, MERI published a new publication entitled Roll Call, which contained ratings of legislative votes for the 2005 session in a newspaper format.

Last year, the Roll Call was updated to take into consideration both the 2005 and 2006 sessions. In July 2006, MERI distributed about 244,000 copies of its 2006 Roll Call to the public as inserts in Maine newspapers. In October 2006, it distributed another

244,000 copies of a similar publication, the MERI Report, as an insert in Maine newspapers.

### **Dispute: MERI's Publications are Intended to Influence Elections**

In Mr. Hanson's complaint, he argued that the August 2006 Roll Call should be understood as a political document intended to influence elections. MERI denies this. It states that "[a]ll presentations of MERI's data are intended for educational purposes, rather than to influence elections." It noted that its review of legislation is not weighted to favor one party over another, that State legislators of all political persuasions are treated equally, and party affiliation neither helps nor hinders a legislator from scoring above or below a benchmark.

The Commission has heard previously the criticism of MERI publications that their descriptions and graphics appear designed to help and hurt candidates. The 2004 publication was entitled "2004 Voter Guide", which might naturally be understood by readers as intending to "guide" their voting. The "rating key" indicates that some ratings are in the "Helps Economy" range, while others are in the "Hurts Economy" range. The rating key also describes some ratings as "Very Strong" and "Very Weak". Those with a rating above 75 receive a yellow star, which may be understood as a stamp of approval. The "help economy" legislators receive a green bar and the "hurt economy" legislators receive a red bar. Candidates who receive low ratings in the 2004 Voter Guide have expressed that these value judgments suggest to readers how they should vote.

The MERI Report that was distributed as an insert in 244,000 newspapers in October 2006 (about one month before the general election) does contain some objective elements that focus the readers' attention on the upcoming election rather than the Legislators' performance in the 122<sup>nd</sup> Legislature. These elements might lead you to conclude that at least part of the purpose of the October 2006 MERI report was to influence voters in the general election. For example:

- A number of former Legislators who were 2006 candidates were included in the MERI Report, even though they did not have "economic performance" in the 2005-06 Legislature on which to report.
- A number of outgoing representatives or former Legislators who were challenging State Senators were grouped adjacent to their opponents who were running for re-election, with a box around them. One candidate has a green bar and perhaps a yellow star, while the other has a red bar – which could suggest a comparison. The outgoing representatives were listed according to the Senate seat for which they are running, not the House seat they were vacating.
- The individuals listed are referred to as "candidates," and the MERI Report suggests looking to its website to see reviews of the candidates' survey responses.

### **Staff Conclusion on the PAC Issue**

Regardless of whether the MERI Report itself is viewed as political in nature, the staff concludes that MERI as an organization does not qualify as a political action committee under the current definition. I have attached the definition of a PAC in 21-A M.R.S.A. §1052(5).

MERI argues that it does not qualify as a PAC under the "segregated fund" test in paragraph (5)(A)(1) of the definition. It states that it "does not have any segregated funds to pay for any of its publications, nor has it solicited or received funds that were directed to MERI to produce any particular publication." It argues that it does not qualify as a "funding and transfer mechanism" under paragraph (5)(A)(2):

Without the movement of money from one source through MERI as a conduit to another source the § 1052(5)(A)(2) definition does not apply .... Any funds that MERI receives are deposited into its general treasury. MERI does not dedicate its revenue to specific projects; rather it sets out an annual program of activities and pays for its activities as they arise. If sufficient funding is available, it executes its entire annual program, and if not, parts of the program are not implemented.

Given the description of MERI's funding and expenditures for its publications, the Commission staff concludes that MERI does not qualify as a PAC under 1052(5)(A)(1) or (2). In addition, although the major purpose test is not explicit in paragraphs (5)(A)(1) or (2), it does not appear that MERI's major purpose is to influence elections.

### **Recommendations on Law and Rule Changes**

The staff's consideration of the PAC definition and the voter guide issue in this matter has underscored again the ambiguity of the current statutory definition and the lack of guidance regarding voter guides and legislative scorecards. The staff proposes some changes in these areas elsewhere on the January 19<sup>th</sup> agenda.

(5) Any unreimbursed travel expenses incurred and paid for by a political action committee that volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$100 with respect to any election; and

(6) Any communication by any political action committee member that is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office.

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

**A. Includes:**

(1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to influence the outcome of an election, including a candidate or question;

(2) Any person who serves as a funding and transfer mechanism and spends money to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State;

(3) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question; and

(4) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and spends more than \$1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition, including the collection of signatures for a direct initiative, in this State; and

**B. Does not include:**

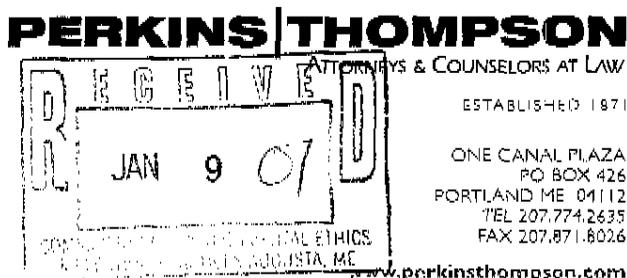
(1) A candidate or a candidate's treasurer under section 1013-A, subsection 1;

(2) A candidate's authorized political committee under section 1013-A, subsection 2; or

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

**21A § 1053. Registration**

Every political action committee that accepts contributions, incurs obligations or makes expenditures in the aggregate in excess of \$1,500 in any single calendar year to initiate, support, defeat or influence in any way a campaign, referendum, initiated petition, including the collection of signatures for a direct initiative, candidate, political committee or another political action committee must register with the Commission, within 7 days of accepting those contributions, incurring those obligations or making



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**VIA FACSIMILE, ELECTRONIC AND FIRST CLASS MAIL**

January 8, 2007

David B. McConnell  
dmccconnell@perkinsthompson.com

Mr. Jonathan Wayne, Executive Director  
Maine Commission on Governmental Ethics and Election Practices  
135 State House Station  
Augusta, Maine 04333

Dear Jonathan:

This letter is in response to your letter of November 17, 2006. In your letter you requested a written response as to whether any of MERI's activities require it to register as a Political Action Committee (PAC). By organizational design and by its actions, all activities that MERI engages in, including the publication and distribution of products, are outside the definitions of a PAC under 21-A M.R.S.A. §1052.

In your letter, you explain that "the argument that MERI is a PAC appears to rest on whether it could be considered a 'funding and transfer mechanism' because it has received funds specifically for the production of its 2004 Voter Guide, the 2006 Roll Call, and any other publications that are arguably circulated to voters to influence elections." MERI does not have any segregated funds to pay for any of its publications, nor has it solicited or received funds that were directed to MERI to produce any particular publication.

21-A M.R.S.A. §1052(5)(A)(2) defines as a PAC "[a] person who serves as a funding and transfer mechanism and spends money to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State..." The phrase "funding and transfer mechanism" is not defined by statute. When a statutory term is undefined, Maine courts rely on dictionary definitions for guidance. *See Holt v. Watson*, 2005 ME 33, ¶ 6, 868 A.2d 893 n. 4.

Merriam-Online Dictionary defines the verb "transfer" as "to convey from one person, place, or situation to another." Black's Law Dictionary defines the verb as "[t]o convey or remove from one place, person, etc. to another." This plain meaning interpretation of a PAC as a means of moving money from one source to another is an essential part of the (A)(2) definition, and is further supported by reference to the statutory definition of "contribution" which includes funds received by a political action committee which are to be transferred to any candidate, committee, campaign or organization..." 21-A M.R.S.A. §1052(3)(C).

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Without the movement of money from one source through MERI as a conduit to another source, the § 1052(5)(A)(2) definition does not apply. As described above, even under the broader interpretation outlined in your November 17 letter, MERI is not a PAC.

Any funds that MERI receives are deposited into its general treasury. MERI does not dedicate its revenue to specific projects; rather it sets out an annual program of activities and pays for its activities as they arise. If sufficient funding is available, it executes its entire annual program, and if not, parts of the program are not implemented.

MERI's role is to perform research and analysis and to educate the public as to its findings. MERI's education function includes publications, symposia, and other opportunities to speak to a broad range of people.

MERI's purpose is to promote a healthy economy in Maine and all of its activities are geared to that end, rather than to influence elections or promote any political agenda. To the contrary, MERI's Board is drawn from members of both major political parties, and the bellwether legislation that MERI uses for its objective legislative rating system is selected through a methodologically neutral survey of Maine employers, rather than through any techniques designed to favor any particular political ideology.

A brief description of MERI and its activities follows:

### **The MERI Mission**

MERI is an independent, nonpartisan, not-for-profit corporation governed by a board of directors who are business owners, CEOs, and senior staff representing a diverse group of Maine employers. MERI is dedicated to improving Maine's economy and business environment by providing objective information to enhance economic policy-making. Committed to a healthy economy and quality jobs, MERI conducts nonpartisan research and tracks legislator performance on critical business and economic issues.

As an integral part of achieving MERI's economic goals it publishes periodic educational documents and reports. MERI's publications are no different in aim and content than the many other educational reports published by a number of other organizations in Maine, as shown by their responses to your "Questionnaire Regarding Voter Guides and Legislative Ratings in the 2004 and 2006 Elections" ("the Questionnaire"). Like MERI, these organizations produce compilations of voting records in a particular interest area as a service to the public. As the Maine League of Conservation Voters noted in its response to the Questionnaire: "These compilations distill complex information that most citizens are not able to take the time to research, and are of interest to an audience beyond the groups' members or donors." That is certainly true of the MERI compilations. Some of the other organizations that publish compilations include:

*Maine People's Alliance*  
*Maine League of Conservation Voters*

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*Maine AFL-CIO*  
*Environment Maine*  
*Maine Women's Lobby*<sup>#</sup>  
*Natural Resources Council of Maine*<sup>#</sup>  
*Maine – National Federation of Independent Businesses*  
*Sportsman's Alliance of Maine*  
*The Katahdin Institute*  
*Planned Parenthood of Northern New England*<sup>\*</sup>  
*Family Planning Association of Maine*  
*National Rifle Association*  
*Consumers for Affordable Health Care Coalition*<sup>\*</sup>

MERI's data on the economic performance of state legislators have been based on the performance of the full Maine State Legislature and are presented as such applying the same methodology to each state legislator. All state legislators are reviewed from an economic point of view similar to reports from other state organizations expressing, for example, an environmental point of view. Since MERI's methodology treats all Maine State Legislators exactly the same it is explicitly fair to each legislator. MERI's review system is not weighted to favor one party over another – over the years some Democrats and Independents have scored above the 55% benchmark while some Republicans have fallen below the 55% benchmark. State legislators of all political persuasions are treated equally and party affiliation neither helps nor hinders a legislator from scoring above or below the benchmark.

MERI scores are not intended to nudge voters toward a particular party, but rather to provide Maine citizens with information about the voting records of their representatives with respect to legislation important to Maine's economy. MERI hopes and assumes that citizens will review data from a variety of sources when they consider public policy questions.

**MERI Has Made Every Reasonable Effort to Ensure It Complies with All Applicable Laws.**

MERI has made every reasonable effort to ensure it complies with all laws and regulations for all its activities. Shortly after MERI was formed, staff and legal counsel met with and sent follow-up correspondence to the former Director of the Maine Commission on Governmental Ethics and Election Practices, William C. Hain, III (*see attached letter from November 1, 1999*) affirming a meeting with him on MERI's status as a 501(c)(6). MERI followed-through with a meeting and an exchange of letters (*see attachments*) with you in August 2004, to ensure that MERI's new

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<sup>#</sup> Maine Women's Lobby and Natural Resources Council of Maine reported in the Questionnaire that they do not publish voter guides or legislative ratings. However, both groups actually did publish "scorecards" of legislators and challengers. A copy of that scorecard information is attached to this letter.

<sup>\*</sup> Planned Parenthood of Northern New England and Consumers for Affordable Health Care reported in the Questionnaire that they do not publish voter guides or legislative ratings. However, Planned Parenthood submitted a "2006 Legislative Report" and Consumers for Affordable Health Care submitted a "2006 Voter Guide" along with their Questionnaire responses which are not qualitatively different from the legislative report produced by MERI.

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products stayed within the letter of the law. Most recently, MERI met again with you and the Commission's Assistant Director, Paul Lavin on June 28, 2006. This most recent meeting was to inform you about MERI's 2006 publication plans and to provide you and your staff with drafts of MERI's planned publications for 2006. When you mentioned that calling MERI's compilation a "Voter Guide" might imply that it was intended to influence elections, MERI changed the name and format of the publication to address that concern, because MERI did not, and does not, attempt to influence elections. You wrote back to MERI on August 4, 2006 (*see attached letter*), offering your opinion that MERI's planned publications for 2006 do not appear to contain express advocacy within the meaning of Chapter 1, §10(2) of the Commission's Rules such that MERI would be required to file an independent expenditure report. From the date of MERI's founding, MERI has worked diligently to ensure that it stays within the bounds of its charter and all applicable laws and regulations.

**MERI's Goal Is To Promote a Strong Economy – Not to Advance a Particular Political Agenda.**

MERI's central purpose is to create an environment that will foster a healthy economy, strong businesses, and quality jobs. The issues that MERI identifies as fundamental to a strong economy are not arbitrarily selected. Instead, they are identified by Maine employers from around the state, through the use of scientifically designed and executed surveys. Sixty-six percent of the employers providing MERI guidance through their responses to these surveys are small businesses with 50 or fewer employees. Thus, MERI's work is guided by those issues most critical to the success of small Maine businesses—the very backbone of Maine's economy. MERI's approach and methodology are strictly and exclusively driven by economic concerns. MERI presents all of its analysis for educational purposes only.

MERI is designed to consider all relevant economic issues with a broad view that captures key issues that cut across Maine's economy. To help maintain its economic perspective and avoid politicizing the process, MERI's Board of Directors includes members from both major political parties and those not affiliated with any political party. The Board's diverse political affiliation and MERI's mission keep its focus on the economy and away from inserting any political points of view in its work. It is MERI's Board of Directors - Maine business leaders – who use the results of the politically neutral survey to decide what legislation is used in MERI's calculation of its ratings of legislators.

While each case is different, the Commission's ruling last month that the Maine Heritage Policy Center ("MHPC") is not a PAC provides some instructive precedent in this area. Despite the fact that MHPC drafted the TABOR referendum, solicited contributions for its passage, accepted contributions earmarked for the same purpose, and used a significant proportion of its staff resources to campaign for TABOR, the Commission found that MHPC had enough non-political interests and activities that it should not be considered a PAC. In contrast, MERI does not draft or take positions on legislation, endorse candidates or solicit or receive donations to pay for its publications.

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Similarly, the principal PAC case cited by counsel for Mr. Lindemann is distinguishable from the facts in this instance. In *Iowans for Tax Relief v. Campaign Finance Disclosure Commission*, 331 N.W.2d 862 (Iowa 1983), the Iowa Supreme Court found that an organization that was not a PAC at the time that it was founded had taken on enough characteristics of a PAC over time to be treated as a PAC. The organization in question, Iowans for Tax Relief ("IFTR"), explicitly amended its articles of incorporation to delete a prohibition against receiving and using contributions for supporting or opposing a ballot issue, and formed a committee to conduct a campaign for passage of a constitutional amendment limiting taxes. *Iowans for Tax Relief*, 331 N.W.2d at 864-65. The committee raised money to try to pass such legislation and 95% of its contributions were funneled directly to it through IFTR. *Id.* at 865. Applying Maine's PAC definition to the IFTR activity, the contribution pass-through alone would constitute the "funding and transfer mechanism" described in 21-A M.R.S.A. §1052(5)(A)(2). In contrast, as described above, MERI neither directs its money to other candidates or PACs, nor does it raise and receive contributions to pay for its publications.

### **Conclusion**

None of MERI's activities violate any aspect of Maine law or regulations, nor do they require MERI to register as a political action committee (PAC) under 21-A M.R.S.A. §1052 and §1053. All presentations of MERI's data are intended for educational purposes, rather than to influence elections.

### **Background Information Requested**

#### **2004 MERI Voter Guide**

##### **(1) How many copies of the 2004 Voter Guide were printed and sold or distributed?**

A: MERI printed 50,000 of the 2004 Voter Guides depicting all 300 plus candidates for the state legislature; the funds used to produce the publication came from MERI's general treasury rather than from any segregated fund. After the Guides were printed, they were offered for sale to offset the cost of production; a small number were used for development work (given away) and all MERI's Subscribers received copies as part of their subscription. All MERI sales and distributions to subscribers were completed more than 21 days before the 2004 elections.

##### **(2) Describe how the 2004 Voter Guide was distributed, including whether through political organizations such as political action committees, party organizations, and candidate committees.**

A: How purchasers of the 2004 Voter Guides distributed them is not known to MERI, however MERI completed all sales and deliveries of the product more than 21 days before the 2004 elections; MERI Subscribers received their copies by mail more than 21 days before the 2004 elections; Guides distributed for development were either mailed as part of a package soliciting a subscription to MERI or delivered in person as part of a solicitation for a subscription after the 2004 elections as samples of MERI's products.

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**(3) (request for copies – request filled)**

**(4) Were the design and printing costs of the 2004 Voter Guide covered through payments received from recipients, funds from the organization's general treasury, or money from other sources specifically given to MERI to produce the 2004 Voter Guide?**

**A:** The funds used to print and distribute this publication came from MERI's general treasury. Sales of the Guides helped to offset the cost of design and printing.

#### **2006 Roll Call**

**(5) How many copies of the 2006 Roll Call were distributed this year?**

**A:** Approximately 244,000 were distributed through newspaper inserts in July of 2006; several thousand additional copies were sold in June and July 2006; all MERI Subscribers received copies as part of their subscription in June 2006; and some copies were used in development work.

**(6) Describe how the 2006 Roll Call was distributed, including whether through political organizations such as political action committees, party organizations, and candidate committees.**

**A:** As described in the answer to (5), the vast majority of 2006 Roll Calls were distributed through newspaper inserts in July of 2006. For those copies sold, we do not know how they were distributed, however all sales took place in June-July 2006.

**(7) (request for copies – request filled)**

**(8) Were the design and printing costs of the 2006 Roll Call covered through payments received from recipients, funds from the organization's general treasury, or money from other sources specifically given to MERI to produce the 2006 Roll Call?**

**A:** The newspaper inserts were paid for through MERI's general treasury as educational materials. MERI also offered Roll Call for sale to help offset the cost of design and printing.

#### **Other Publications**

**(9) Identify any other 2004 or 2006 publications in which your ratings were made available to Maine voters at large (as opposed to your subscribers), including through intermediaries such as political groups.**

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**A:** All MERI products can be purchased by the public. Major production in 2006 included two versions of the MERI Report. The first is in a fold-up format. The second version of the MERI Report was as a newspaper insert similar to the 2006 Roll Call insert.

**(10) Provide similar information requested in questions (2)-(4) and (6)-(8) above.**

**A:** (2&6) *Describe how the products were distributed, including whether through political organizations such as political action committees, party organizations, and candidate committees.*

All products were sold, sent to subscribers, and distributed more than 21 days prior to the 2006 elections. The fold-up version of 2006 MERI Report was sold, provided to subscribers as part of their subscriptions, and used for development (similar to other products described above). The insert version of the 2006 MERI Report was inserted in and distributed through newspapers similar to the 2006 Roll Call product.

*(3&7) request for copies – request filled*

*(4&8) Were the design and printing costs covered through payments received from recipients, funds from the organization's general treasury, or money from other sources specifically given to MERI to produce the products?*

MERI paid for design and production of these publications with funds from its general treasury. Some of the costs were offset by sales.

*(5) How many copies of these products were distributed this year?*

Forty thousand of the fold-up versions of the 2006 MERI Report were sold, distributed to subscribers, and used for development. Approximately 244,000 copies of the insert version of the MERI Report were distributed through newspapers; several thousand additional copies were sold; all MERI subscribers received copies as part of their subscription; and some copies were used in development work.

Thank you for the opportunity to provide additional information about MERI and its work. Ed McLaughlin and I will be available at the Commission meeting on January 19 to answer any additional questions that Commission members or staff may have about MERI.

Sincerely,



David B. McConnell  
Attorney for Maine Economic Research Institute

Enclosures

cc: Edward J. McLaughlin

## From Project Vote Smart

### Maine Women's Lobby

Year: 2005

Issue: Gender Issues

Website: <http://www.mainewomen.org/newsletters.htm>

Email: [info@mainewomen.org](mailto:info@mainewomen.org)

Maine Women's Lobby

Post Office Box 15

Hallowell, ME 04347

Phone: 207-622-0851

Fax: 207-621-2551

"The Maine Women's Lobby is dedicated to legislative action on behalf of Maine women and girls. Since our formation in 1978, we have held true to the vision that women and girls should have economic security, access to health care, and freedom from violence and discrimination."

The following ratings indicate the degree that each elected official supported the interests of the organization in that year.

#### Maine Women's Lobby Ratings:

<u>State</u>	<u>Office</u>	<u>District</u>	<u>Name</u>	<u>Party</u>	<u>Ratings</u>
ME	State Senate	1	<u>Mary Black Andrews</u>	Republican	0
ME	State Senate	2	<u>Richard A. Nass</u>	Republican	13
ME	State Senate	3	<u>Jonathan T.E. Courtney</u>	Republican	13
ME	State Senate	4	<u>Nancy B. Sullivan</u>	Democrat	100
ME	State Senate	5	<u>Barry J. Hobbins</u>	Democrat	100
ME	State Senate	6	<u>Philip L. Bartlett</u>	Democrat	100
ME	State	7	<u>Lynn Bromley</u>	Democrat	86

	Senate				
ME	State Senate	8	<u>Ethan King Strimling</u>	Democrat	100
ME	State Senate	9	<u>Michael F. Brennan</u>	Democrat	100
ME	State Senate	10	<u>Betheda G. 'Beth' Edmonds</u>	Democrat	100
ME	State Senate	11	<u>Karl W. Turner</u>	Republican	86
ME	State Senate	12	<u>William G. 'Bill' Diamond</u>	Democrat	88
ME	State Senate	13	<u>David R. Hastings</u>	Republican	63
ME	State Senate	14	<u>Bruce S. Bryant</u>	Democrat	88
ME	State Senate	15	<u>Lois A. Snowe-Mello</u>	Republican	0
ME	State Senate	16	<u>Margaret R. 'Peggy' Rotundo</u>	Democrat	100
ME	State Senate	17	<u>John M. Nutting</u>	Democrat	100
ME	State Senate	18	<u>Chandler E. Woodcock</u>	Republican	38
ME	State Senate	19	<u>Arthur F. Mayo</u>	Democrat	100
ME	State Senate	20	<u>Dana L. Dow</u>	Republican	38
ME	State Senate	21	<u>Scott W. Cowger</u>	Democrat	88
ME	State Senate	22	<u>Christine R. Savage</u>	Republican	25
ME	State Senate	23	<u>Carol Weston</u>	Republican	13
ME	State Senate	24	<u>Elizabeth H. 'Libby' Mitchell</u>	Democrat	100
ME	State Senate	25	<u>Kenneth T. Gagnon</u>	Democrat	100
ME	State Senate	26	<u>S. Peter Mills</u>	Republican	88
ME	State	27	<u>Paul T. Davis</u>	Republican	0

	Senate				
ME	State Senate	28	<u>Dennis S. Damon</u>	Democrat	100
ME	State Senate	29	<u>Kevin L. Raye</u>	Republican	75
ME	State Senate	30	<u>Elizabeth M. Schneider</u>	Democrat	100
ME	State Senate	31	<u>Richard W. Rosen</u>	Republican	75
ME	State Senate	32	<u>Joseph C. Perry</u>	Democrat	75
ME	State Senate	33	<u>Debra D. Plowman</u>	Republican	13
ME	State Senate	34	<u>Dean F. Clukey</u>	Republican	13
ME	State Senate	35	<u>John L. Martin</u>	Democrat	75

## Natural Resources Council of Maine

Year: 2004

Issue: Environmental Issues

Website: <http://www.maineenvironment.org>

Email: [nrcm@nrcm.org](mailto:nrcm@nrcm.org)

Natural Resources Council of Maine

3 Wade Street

Augusta, ME 04330

Phone: 800-287-2345

Fax: 207-622-4343

"Protecting, conserving, and restoring Maine's environment, now and for future generations."

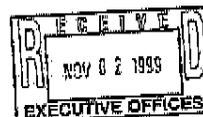
The following ratings indicate the degree that each elected official supported the interests of the organization in that year.

### Natural Resources Council of Maine Ratings:

<u>State</u>	<u>Office</u>	<u>District</u>	<u>Name</u>	<u>Party</u>	<u>Ratings</u>
ME	Challenger		<u>Sharon Treat</u>	Democrat	100
ME	Challenger		<u>Peggy A. Pendleton</u>	Democrat	67
ME	SO-Treasurer		<u>David G. Lemoine</u>	Democrat	100
ME	Challenger		<u>Kenneth F. Lemont</u>	Republican	33
ME	SO-Secretary of State		<u>Matthew G. Dunlap</u>	Democrat	100
ME	Challenger		<u>Bonita J. Breault</u>	Democrat	67
ME	Challenger		<u>Albion D. Goodwin</u>	Democrat	50
ME	Challenger		<u>William T. Rogers</u>	Republican	0
ME	Challenger		<u>Paul R. Hatch</u>	Democrat	67
ME	Challenger		<u>Pamela H. Hatch</u>	Democrat	67
ME	Challenger		<u>Oscar C. Stone</u>	Republican	0
ME	State Senate	1	<u>Mary Black Andrews</u>	Republican	33

ME	State Senate	2	<u>Richard A. Nass</u>	Republican	33
ME	State Senate	3	<u>Jonathan T.E. Courtney</u>	Republican	0
ME	State Senate	4	<u>Nancy B. Sullivan</u>	Democrat	67
ME	State Senate	7	<u>Lynn Bromley</u>	Democrat	100
ME	State Senate	8	<u>Ethan King Strimling</u>	Democrat	100
ME	State Senate	9	<u>Michael F. Brennan</u>	Democrat	100
ME	State Senate	10	<u>Betheda G. 'Beth' Edmonds</u>	Democrat	100
ME	State Senate	11	<u>Karl W. Turner</u>	Republican	67
ME	State Senate	14	<u>Bruce S. Bryant</u>	Democrat	67
ME	State Senate	15	<u>Lois A. Snowe- Mello</u>	Republican	0
ME	State Senate	16	<u>Margaret R. 'Peggy' Rotundo</u>	Democrat	100
ME	State Senate	18	<u>Chandler E. Woodcock</u>	Republican	33
ME	State Senate	19	<u>Arthur F. Mayo</u>	Democrat	33
ME	State Senate	21	<u>Scott W. Cowger</u>	Democrat	100
ME	State Senate	22	<u>Christine R. Savage</u>	Republican	33
ME	State Senate	23	<u>Carol Weston</u>	Republican	33
ME	State Senate	25	<u>Kenneth T. Gagnon</u>	Democrat	67
ME	State Senate	26	<u>S. Peter Mills</u>	Republican	67
ME	State Senate	27	<u>Paul T. Davis</u>	Republican	33
ME	State Senate	28	<u>Dennis S. Damon</u>	Democrat	100
ME	State Senate	31	<u>Richard W. Rosen</u>	Republican	33
ME	State Senate	32	<u>Joseph C. Perry</u>	Democrat	67
ME	State Senate	35	<u>John L. Martin</u>	Democrat	67

PERKINS, THOMPSON, HINCKLEY & KEDDY  
 A PROFESSIONAL CORPORATION  
 ATTORNEYS AND COUNSELORS AT LAW  
 ONE CANAL PLAZA - P.O. BOX 420  
 PORTLAND, MAINE 04112-0420



DOUGLAS S. GARR  
 dgarr@pthklaw.com

AREA CODE 207  
 TELEPHONE 774-2836  
 FAX 871-8038

November 1, 1999

William C. Hain, III, Director  
 Commission on Governmental, Ethics and Elections Practices  
 135 State House Station  
 Augusta, ME 04333-0135

Re: Compliance with Maine Election Laws Title 21-A M.R.S.A.

Dear Mr. Hain:

Thank you for taking the time in your busy schedule to meet with Ed McLaughlin, Director of the Maine Economic Research Institute (MERI) and myself, legal counsel to MERI, on Friday, October 22, 1999. Based on our conversation and the material enclosed herewith, we are seeking clarification and confirmation that MERI need not register or report under the provisions of Title 21-A M.R.S.A. §§ 1001-1105, Campaign Reports and Finances, or the provisions of §§ 1121-1128, The Maine Clean Election Act.

As we indicated to you on October 22, MERI is a non-profit Maine Corporation organized under the laws of the State of Maine. MERI will be seeking tax-exempt status under Section 501(c)(6) of the Internal Revenue Code. MERI's Mission Statement and Primary Purpose set forth at Article II of its Bylaws is as follows:

"Maine Economic Research Institute will file as a tax exempt 501(c)(6) organization. Its primary purpose is to improve Maine's business environment by providing objective information to enhance economic policy making".

I also enclose herewith Attachments 1, 3 and 7 to the 501(c)(6) Application for tax exempt status (which should remain confidential) to better inform you as to the detailed description of the organization's proposed activities.

MERI is not organized for the purpose of influencing the nomination or election of any person to state or county office. MERI is not organized to influence the outcome of any election, candidate or question. MERI, or its personnel, may, from time to time, have incidental communications with persons who are elected state officials or who are seeking election to state or county office to better inform them of MERI's Mission Statement and to share with them information on business issues which are deemed important to improving Maine's business environment.

William Hain, III  
November 1, 1999  
Page 2

Based on our careful review and analysis of the aforementioned state statutes and their regulations, we do not believe MERI falls within the definition of a "Political Action Committee" nor will it or make contributions or expenditures consistent with the definitions thereof set forth at Title 21-A M.R.S.A. §1052 of sub-chapter 4, Reports by Political Action Committees. Based on this analysis, our previous conversations with you regarding MERI's statement of purpose and the enclosed information, it is our understanding that you do not believe that MERI needs to register or report as a Political Action Committee in the State of Maine. We believe that MERI's past, present and future activities will be consistent with its statement of purpose and the enclosed information.

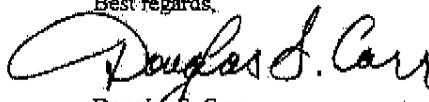
We believe that all conduct which might be deemed to constitute political activities should be undertaken by a specific Political Action Committee ("PAC"). It is contemplated that when such activity is to be considered, it shall be undertaken by such a PAC which will be organized consistent with the laws of the State of Maine prior to the undertaking of such activity. All such activity shall be undertaken solely within the PAC, separate and apart from the activities of MERI.

Should you require additional information or have any questions regarding this letter or the enclosures, please contact me at the above address and number. Should you believe that it would be helpful for us to schedule a subsequent follow up meeting with you or your staff to review this letter and the enclosed information, please contact me or Ed McLaughlin so that we may arrange a mutually convenient time for a such a meeting in the immediate future.

If this letter is consistent with your understanding and does not require further clarification, we would appreciate a written response confirming there is no present obligation on the part of MERI to register as a PAC as the purpose and activities of MERI do not constitute political action or otherwise bring MERI within the applicable laws requiring registration and filing as a PAC.

Thank you for kind assistance in this matter.

Best regards,



Douglas S. Carr

DSC/tmr  
Enclosures

cc: Edward J. McLaughlin



# MAINE ECONOMIC RESEARCH INSTITUTE



11 August 2004

**EDWARD J. McLAUGHLIN**  
PRESIDENT & CEO

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*The Jackson Laboratory*

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*Wayfarer Marine Corp.*

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**Jonathan Wayne, Executive Director**  
**Maine Commission on Government Ethics &  
Election Practices**  
135 State House Station  
Augusta, Maine 04333-0135

Dear Mr. Wayne:

I appreciate your willingness to provide guidance in helping to understand how the Commission on Government Ethics & Election Practices' (*hereinafter the "Commission"*), new Chapter 448 rules will work, and for the opportunity to discuss with you the mission of the Maine Economic Research Institute. I also appreciate that you were willing to discuss these matters on an informal basis as I believe this is the best way to do business and that relationships are what really make the intent of legislation successful. Your help has been very professional and very informative. Thank you.

However, my current sense that there is considerable confusion by many about the new rules, and that the rules themselves beg for much more clarity, has compelled me to write this letter. It seems that the new rules are a developing product at this stage with firm interpretation yet to come. As such, I need to ensure that my understanding of our conversations to-date is correct.

In our discussions I introduced you to the Maine Economic Research Institute (MERI), its nonpartisan research and analysis mission, and our subscriber based structure. I also informed you about my earlier discussions with your predecessor about MERI's mission of research, analysis, and reporting. As part of the introduction, I showed you some of MERI's current products and informed you about how we use and distribute them. Of particular focus was our most recent product—MERI's Voter Guide which we will begin selling sometime in August of this year. It is my understanding that your view, and that of your predecessor is that MERI's activities and ongoing products do not require MERI to file any reports with the Commission. It is also my understanding that you believe, in consultation with the Commission's assigned Assistant Attorney General, that MERI's new Voter Guide will not trigger any reporting requirement by MERI to the Commission.

In addition, it is my understanding that as long as MERI is selling its Voter Guide and using individual copies for development work (*for the purpose of*

*Powerful Information For Effective Action®*

7 UNIVERSITY DRIVE . AUGUSTA, MAINE 04330-9412

business: (207) 622-0075 . fax: (207) 622-0271 . email: info@meri.org . website: www.meri.org

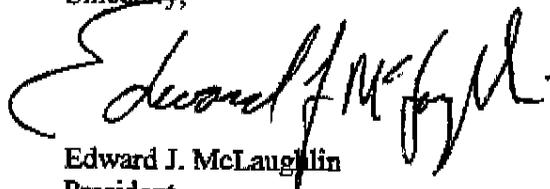
Page 2  
MERI/Ethics Commission  
11 August 2004

*encouraging sales*), that MERI will not have the responsibility for assigning value to the Voter Guide for reporting purposes. The value of the Voter Guide will be the purchase price paid, and that it may or may not be the buyer's responsibility to report the Voter Guide's value to the Commission. It is our understanding that it will not be MERI's responsibility to report or file with the Commission.

Finally, we discussed MERI's regular speaking engagements where we travel the state speaking primarily to business groups about our research. During these briefings we discuss our methodology, our research, survey results, and economic research by others. MERI does not at any time advocate for or against the election or defeat of any candidate. My understanding is that you do not see any issues with our briefings that would require reporting to the Commission.

I trust I have correctly described our conversations to-date and interpreted your views on the issues we have covered. If this letter misstates or inaccurately summarizes any of our several conversations or does not accurately reflect your view of the position of the Commission with respect to the MERI activities, please notify us in writing at once. I want to reiterate my appreciation for your helpful response to my questions and your willingness to work constructively with us on these important issues.

Sincerely,



Edward J. McLaughlin  
President



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

August 17, 2004

Edward J. McLaughlin  
Maine Economic Research Institute  
7 University Drive  
Augusta, Maine 04430-9412

Dear Mr. McLaughlin:

This is in response to your letter of August 11. Your letter is generally correct, and may be relied upon by the Maine Economic Research Institute (MERI). As long as MERI does not exceed the scenarios described in the fourth and fifth paragraphs of the letter (at the bottom of the first page, and running onto the second page), MERI does not appear to meet the legal definition of a political action committee in 21-A M.R.S.A. Section 1052(5) and would not be required to file reports of independent expenditures under 21-A M.R.S.A. Section 1019-B. If it engaged in activities not described in the letter, however, it could be required to file reports with the Commission.

I've enjoyed meeting with you and getting to know more about MERI. Please telephone me at 287-6219 if you have any questions.

Sincerely,

Jonathan Wayne  
Executive Director

08/04/2006 16:36

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ETHICS COMMISSION

PAGE 01/05



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

August 4, 2006

Edward J. McLaughlin  
President and CEO  
Maine Economic Research Institute  
7 University Drive  
Augusta, ME 04330-0371

Dear Mr. McLaughlin:

This letter is to confirm the advice I gave to you at our recent meeting. Since then, John R. Hanson, Executive Director of the Maine State Building and Construction Trades Council, has filed a complaint against the Maine Economic Research Institute (MERI) relating to its 2006 Roll Call publication. My understanding is that this publication was distributed as an insert in Maine newspapers around July 24, 2006.

At the meeting, you outlined the mission of MERI and its activities. You described:

- the research conducted by the organization, including the senior management survey and the public survey regarding business issues;
- MERI's analysis of how legislation of interest to the business community, especially its tracking of about 15 bills per year, is determined by your advisory committee and survey of government relations professionals;
- your reporting of analysis results in the Almanac of Maine Politics and a voter guide, which was published for the first time in 2004; and
- MERI's organizational structure, which includes subscriber businesses and a board of directors which you described as bipartisan.

You mentioned that in 2004 MERI printed 50,000 copies of a voter guide which was distributed by organizations and individuals that had purchased the guides from MERI. In 2005, MERI produced for the first time a publication entitled Roll Call. You stated that it was your intention to publish a 2006 Roll Call, which would be distributed as an insert in newspapers in July. If I have misstated any details of our conversation, please feel free to correct my recollection.

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
WEBSITE: [WWW.MAINE.GOV/ETHICS](http://WWW.MAINE.GOV/ETHICS)

Edward J. McLaughlin

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August 4, 2006

## **Independent Expenditure Reporting**

### *Applicable Law*

Up until the last 21 days before an election (including on election day), an independent expenditure is a payment by an organization or person other than a candidate for a communication that expressly advocates the election or defeat of a clearly identified candidate. (See 21-A M.R.S.A. §1019-B(1)(A)) Express advocacy is defined in Chapter 1, §10(2) of the Commission's Rules, and involves such phrases such as "Vote for the Governor", "Re-elect your Representative" or other words, which in context, can have no reasonable meaning other to urge the election or defeat of a clearly identified candidate.

Less than 21 days before an election, the definition of what is an independent expenditure is much broader: an independent expenditure is presumed to have been made if the communication merely names or depicts a clearly identified candidate and if a Maine Clean Election Act candidate is in the race. (21-A M.R.S.A. §1019-B(1)(B))

The presumption is rebuttable. The organization paying for the communication may attempt to rebut the presumption by submitting a written statement to the Ethics Commission explaining that the purpose of the communication was other than to influence an election. If a rebuttal statement is filed, the Commission must decide whether the expenditures were made to influence the nomination, election, or defeat of a candidate.

Making an independent expenditure of more than \$100 in support of, or in opposition to, a candidate requires the filing of an independent expenditure report with the Commission. The reporting form is available on the Commission's website at [www.maine.gov/ethics](http://www.maine.gov/ethics).

Under the Commission's rules ((Chapter 1, Section 10(5)(E)), the date of dissemination of the communication is the date of the postmark, hand-delivery, or broadcast of the communication.

In 2005, the Commission amended its independent expenditure rule (Chapter 1, Section 10) in order to address questions that arose in the 2004 elections. Those wishing to learn more about independent expenditures should refer to:

- 21-A M.R.S.A. §1019-B
- Chapter 1, Section 7(3) (defining, in general, what actions constitute making an expenditure)
- Chapter 1, Section 10 (describing independent expenditure reporting)
- The independent expenditure reporting form
- Educational materials on independent expenditure reporting that will be available soon on the Commission's website.

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ETHICS COMMISSION

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Edward J. McLaughlin

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August 4, 2006

*Ethics Commission's Consideration of MERI Voter Guide in 2004*

In 2004, the Commission received two complaints regarding the MERI voter guide. The first involved a candidate who requested matching funds on the basis of the distribution of the MERI voter guide by a business in her district. The Commission determined that less than \$100 was spent in the candidate's race, so no matching funds were awarded. The Commission did not rule on whether the MERI voter guide was intended to influence the election, or was purely educational in nature.

The Commission received a second complaint that a bank was distributing the MERI voter guide to employees or customers, but that complaint was withdrawn.

**Implications for MERI and Distributors of its Publications***Would MERI's distribution of the 2006 Roll Call directly to voters require an independent expenditure report?*

At our meeting, you informed me that MERI would like to distribute the 2006 Roll Call by having it included as an insert in newspapers. I scanned the publication quickly and informed you that – presuming that the Roll Call does not include express advocacy – it would not require the reporting of an independent expenditure provided that it was distributed to voters more than 21 days before an election.

Since the meeting, I have had a chance to review the copy of the 2006 Roll Call supplied by Mr. Hanson. In my personal opinion, it does not appear to contain express advocacy as defined by Chapter 1, Section §10(2) of the Commission's Rules. Accordingly, its distribution to voters more than 21 days before the election would not require the filing of an independent expenditure report.

Please keep in mind that my opinion as Commission staff director is not binding on the Commission, and the final decision on any allegation of a reporting failure is made by the members of the Commission.

*Would other organizations' distribution of MERI's voter guide to voters require those organizations to file an independent expenditure report?*

My general understanding is that MERI does not intend to distribute the 2006 voter guide directly to voters. Instead, you intend to sell the guide to organizations and individuals that will distribute them to members or voters, or use the guides in other ways.

I have not seen your 2006 version of the MERI voter guide. I did have occasion to review MERI's 2004 voter guide, and in my opinion it did not contain express advocacy. If the 2006 guide included the same type of language as its predecessor and were

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ETHICS COMMISSION

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Edward J. McLaughlin

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August 4, 2006

distributed to voters more than 21 days before the election, that would not require the organizations who distributed the guide to file an independent expenditure report.

If, however, the organizations distributed the guide to voters within the last 21 days leading up to the election, the 21-day presumption would apply because candidates are named and depicted in the publication. Unless the presumption were rebutted, the organizations would be required to file an independent expenditure report if more than \$100 was spent in any single candidate's race.

**Is MERI a political action committee?**

Although you did not raise the question, at our meeting I suggested we discuss the issue of whether MERI qualifies as a political action committee (PAC) under the Election Law. You related that before MERI was formed you met with my predecessor, William Hain, and described the planned mission and activities of MERI. He advised you that MERI would not be considered a political action committee. At that time, I presume you had no inclination that you would be publishing a voter guide or Roll Call that would be directed toward the general public, and that MERI's activities have expanded since that meeting. You and I met in August 2004, and I sent you the attached advice letter dated August 17, 2004.

The term PAC is defined in 21-A M.R.S.A. §1052(5)(A). I indicated to you that MERI does not appear to qualify as a PAC under paragraphs 5(A)(1), (3), and (4). The question of whether MERI is a PAC under paragraph 5(A)(2) is not an easy one because the term "funding and transfer mechanism" is not a defined term:

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

**A. Includes: ...**

(2) A person who serves as a funding and transfer mechanism and spends money to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State ....

At the meeting, I advised that if MERI continues to increase its activities designing and printing publications directed toward the public at large, that will add to the perception that MERI is a political organization in the sense that it is raising and spending money not simply to educate its subscriber-businesses but also to influence the way members of the public vote. Such a perception does not necessarily mean that the organization meets the definition of a PAC under paragraph 5(A)(2), but it is something that you and your board may want to consider. Whether MERI solicits or receives funds from its members,

Edward J. McLaughlin

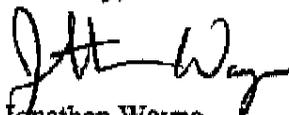
- 5 -

August 4, 2006

or from other sources, to support its activities relating to elections would also be a factor in evaluating the applicability of this part of the PAC definition.

Thank you for your efforts to ensure that MERI complies with the requirements of the Election Law and Commission Rules. Please telephone me at 287-4179 if you have any questions.

Sincerely,



Jonathan Wayne  
Executive Director

cc: Douglas S. Carr, Esq.  
David B. McConnell, Esq.

**Wayne, Jonathan**

---

**From:** Maine State Building Trades Council [buildingtrades@hotmail.com]  
**Sent:** Tuesday, January 09, 2007 3:02 PM  
**To:** Wayne, Jonathan  
**Subject:** January 19th Commission Meeting

Dear Director Wayne:

I appreciate your keeping me informed about the Commission's work relative to the issue of so-called "Voter Guides," and Legislative scorecards published and distributed to the general public by non-profit and not-for-profit organizations. Following on your last notice rescheduling the December agenda to this month, I fully anticipated and planned on being in attendance.

As it has turned out, a serious conflict has emerged in my schedule which effectively precludes my participation in this important Commission meeting.

As one who is somewhat responsible for raising this matter in the first place, I am very disappointed in this turn of events and the irreconcilable problem it poses.

In August of 2006, I submitted for the Commission's consideration, a great deal of supporting material. I would stand by that submission and simply reiterate that our position is that the widespread and costly public distribution of the material produced and published by the Maine Economic Research Institute (and perhaps others) should be appropriately identified and disclosed. It should be clear that there is a political intent here, namely that certain identified candidates should be considerably favored over others based on the interest and orientation of the sponsoring organization. We believe this is particularly true in the case of MERI because of the methodology it utilized in arriving at its ratings.

Objective study requires that a methodology be constructed in a fashion such that others following the same process will come up with pretty much the same results. As I pointed out in August, MERI's methodology, by its own admission, is primarily subjectively based on perspectives, impressions, biases and attitudes of mostly unidentified lobbyists. Not all economic development issues which came before the Maine Legislature were included in the tabulation and others which were included are arguably debatable by yet other practitioners in the field of business and/or economic development as to their impact and efficacy.

Again, I am sorry I am not able to be on hand for this Commission meeting. Should the matter be continued, or otherwise carried over to some future date, please let me know.

Thank you for your help and consideration in this regard.

Sincerely,

John R. Hanson, Executive Director  
Maine State Building and Construction  
Trades Council

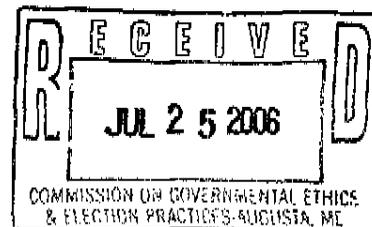
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# Maine State Building and Construction Trades Council

277 Hinckley Road, P.O. Box 249, Clinton, Maine 04927

July 24, 2006



Mr. Jonathan Wayne, Executive Director  
Maine Ethics Commission  
135 State House Station  
Augusta, Maine 04333

Dear Director Wayne:

Please consider this letter a formal complaint filing in the matter of an insert published in today's Bangor Daily News by the Maine Economic Research Institute. This "Report on the 122<sup>nd</sup> Maine State Legislature..." purports to provide "...an Economic Point of View." However, no listing of specific bills or Legislative Documents is included to provide a reader with the specific issues used in determining each Legislator's rating. Moreover, while suggesting the report is compiled from the perspective of creating a "healthy" economy, strong businesses, and quality jobs, there is significantly widespread and legitimate difference of scholarly economic and political opinion as to precisely what best promotes these objectives.

What is at issue in this instance is that this publication represents itself to the general public as something of an authority on what constitutes meaningful ingredients to building a strong economy. A review of several of the Legislative issues, published elsewhere by the Institute, (see: [www.fixmaine.com](http://www.fixmaine.com)) raise profound questions about its characterizations and subsequent Legislative ratings.

The Maine Building and Construction Trades Council would argue that the Maine Economic Research Institute is a special interest organization, and as such is promoting a political perspective and agenda not only to its members, supporters and subscribers, but to the public at large. Clearly, this political fact should be acknowledged and indicated on the Report, as is in this case, the State of Maine Seal, (suggesting we might note some official authority or endorsement). At the very least, it would seem appropriate to attach some disclaimer to better inform readers as to the political nature of the publication.

Finally, whatever the eventual outcome of this complaint, the Trades Council is persuaded that there is a need for greater public awareness of issues so critical to our system of government and the shaping of public policy. We look forward to participating in the discussion.

Sincerely,

A handwritten signature in black ink, appearing to read "John R. Hanson".

John R. Hanson, Executive Director

Xc: Bangor Daily News  
[info@me-ri.org](mailto:info@me-ri.org)

Maine Sunday Telegram  
Sunday, August 13, 2006

**MAINE VOICES: Michael Hillard and David Vail**

## **RECENT RATING OF STATE LAWMAKERS NOT A COMPREHENSIVE ONE**

### **ABOUT THE AUTHORS**

**Michael Hillard** is a professor of economics at the University of Southern Maine.  
**David Vail** is Adams-Catlin professor of economics at Bowdoin College and a member of the Governor's Steering Committee on Natural Resource-based Industries.

Former General Motors President Charles Wilson once infamously claimed, "What's good for General Motors is good for America."

That is the attitude behind a recent rating of Maine legislators produced by the Maine Economic Research Institute. It chose a set of bills important to business, rated legislators plus or minus based on whether they "voted with business," and translated positive scores directly into a "helps economy" overall rating.

As economists working on Maine policy issues and as citizens wanting our fellow voters to be well-informed, we support the idea of a guide that evaluates legislators' records.

But we disagree with MERI's philosophy and take issue with its flawed, one-sided ratings. We can imagine a more accurate and even-handed approach.

MERI claims to go about its legislative rating in a nonpartisan and scientific way. It begins with a survey of businesses to determine what they think is essential to their success and ability to create jobs. This is used to select a pool of bills on which to assess legislators.

MERI then employs an unnamed group of 14 "government affairs representatives" - that is, business lobbyists - to further assess legislators' voting records. So, despite the use of its survey, legislators' final scores rest heavily on the personal judgments of an unnamed group of business lobbyists.

We find three fundamental flaws in MERI's 2005-06 scorecard. First, it includes several bills that reflect a knee-jerk anti-labor, anti-consumer, anti-government view of the world.

Thus, a "good" legislator voted against bills to continue unemployment benefits for laid-off part-time workers, to require that a hazardous workplace be declared safe before resuming operation, to require that drug manufacturers disclose clinical trial information to the public, and to set an advisory referendum on whether to pursue a revenue-neutral tax reform.

Many economists and, we expect, even some in the business community would view these bills as contributions to the economy and, more importantly, to Mainers' well-being.

Second, a few odd bills sneak in that seem to have nothing substantive to do with economic development, but rather reflect either special interests or ideological orientations.

This category includes legislation to criminalize environmental terrorism (there is no evidence that this is holding back Maine's economy), and a bill preventing employers from treating workers as "captive audiences" for political indoctrination.

Finally, MERI surprisingly omits important legislation that happened to be proposed by Democrats and passed with bipartisan support.

Notable among these bills were the elimination of the business equipment tax, creation of a Maine Regulatory Fairness Board to cut through bureaucratic red-tape, establishment of a state business court, increased higher education funding, and R&D and transportation bonds.

In sum, virtually every Republican legislator gets a gold star and every Democrat the equivalent of a black eye. Further, they hide this partisan result by not identifying the party affiliation of each legislator.

In our view, a more useful scorecard would give significant weight to legislators' positions on state functions that positively support Maine's economy. One is encouraging new business development through startup financial and technical assistance and help with negotiating the regulatory system. Another is support for policies that respond to chronic economic distress in Maine's remote "rim counties."

Perhaps most important is adequate financing for education at all levels, including for the adult work force. In our value system, a crucial state role is providing a safety net to vulnerable groups such as elders, the unemployed and the poor.

Finally, reforming Maine's tax system to reduce the high volatility of state revenue without increasing the total tax bite would promote fiscal and economic stability.

A voter guide reflecting these values and analyses would produce legislator ratings quite different from MERI's. It would give credit where credit is due, on both sides of the partisan aisle.

In reviewing the 2006 legislative session, the Maine Chamber of Commerce's conclusion is closer to the mark than MERI's ratings: "Successes, led by BETR reform, highlight positive year for businesses at State House - Session marked by bipartisan effort."

- Special to the Telegram

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**LETTER TO THE EDITOR**  
**BANGOR DAILY NEWS**  
**Wed. July 26, 2006**

### **MERI'S 'ME-FIRST' VISION**

I was surprised that the insert in the Bangor Daily News from the so-called Maine Economic Research Institute (MERI) was not labeled a political advertisement ("Roll Call 2006," July 24).

This big business lobby group lavished a green score on all Republican state legislators but one, with the most ultra-conservative Republican lawmakers given gold stars. In contrast, every single Democrat without exception was savaged with the political equivalent of a scarlet letter.

No objective basis whatsoever was provided for such a blatant partisan conclusion in their publication. I guess I'm not surprised that MERI is up to its same old dirty tricks.

In 2003, this Republican front group scored a vote to prevent childhood cancer as bad for Maine's economy. It seems that traditional family values, like protecting our children's health and future well-being, have no place in MERI's "me-first" vision for Maine.

Michael Belliveau  
Hudson

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The Times Record

**timesrecord.com**  
Maine's Mid-coast Starts Here

## MERI makes no bones: Yes, it is pro-business

*Victoria Wallack@TimesRecord.Com*

04/19/2006

AUGUSTA — This story is part of a series of profiles on Maine organizations that attempt to influence the Legislature, the governor and the media through their research and advocacy.

When legislators are asked to decide on bills dealing with taxes, business regulations or wages and benefits in this state, inevitably somebody in the Statehouse halls makes a crack about how the vote will affect their MERI rating.

For the uninitiated, the acronym stands for the Maine Economic Research Institute and the rating is based on 15 or so bills a year that are being monitored by two self-avowed statistical "nerds," who rent a small office in the Maine State Chamber of Commerce building in Augusta.

Since 1999, MERI has been keeping track of the voting records of all legislators in both the House and Senate and trying to let business people know how the candidate they may be supporting is treating their interests in Augusta.

Democrats criticize the rating system as being stacked against them — pitting business issues against consumers. Invariably, Republicans get the highest scores while Democrats end up near the bottom.

But Ed McLaughlin, who runs the organization, said it's not about politics.

"I don't care if the Statehouse is all Democratic as long as they treat the economy well," said McLaughlin, who was once a registered Democrat, but is now independent. He quickly adds he doesn't care if it's all Republican either, as long as the votes are pro-business.

McLaughlin, who served as the commissioner of agriculture in the King administration, was approached by a group of business leaders to start MERI in 1999 based on the success of a program in North Carolina that helped launch about two dozen similar organizations nationwide.

"They thought the Maine economy could and should be a lot better," he said, but no one was holding legislators' feet to the fire on their voting records.

"There was no need to be accountable on economic issues," because no one was watching, McLaughlin said, and all candidates say they support jobs and a strong economy when they are running.

Glen Foss, a former manager with Madison Paper who joined McLaughlin in 2001, was once one of those business leaders. He supported candidates based on what they said but not on what they did for business.

Once he saw his senator's MERI rating, he stopped his support. "If I'd known what his MERI rating was I never would have given it and never did again," Foss said.

Half of the MERI rating is based on actual roll call votes made by legislators on an average of 15 bills each session. Those bills are selected through a winnowing process that starts with a list of broad topics identified in a senior management survey.

McLaughlin said the survey is sent out to 3,500 businesses and about 20 percent are returned. "Taxes are an enormous issue," he said.

They also get advice on what bills to watch from a survey of about 90 business lobbyists, who identify what's important to them. A smaller group of 14 lobbyists forms an advisory board, which meets every two weeks to make recommendations as the session moves along, but the ultimate decision on what bills are used is made by the board of directors. Its chairman is Peter Vigue of Cianbro, but even critics agree the board is made up of Republicans, Democrats and independents.

Legislators are told what bills MERI is watching through a "Watch List" issued four times during the long session of the Legislature and three times in the short one, in the second year.

The list changes depending on whether a bill is killed in committee, amended or replaced with something deemed more important.

The other half of a legislator's end-of-session score is affected by the 90 lobbyists MERI consults. They report back on how individuals act in committee or even in the halls. The idea is a legislator can work behind the scenes to defeat a bill, but then vote in favor on the floor to keep his constituents happy.

That so-called "qualitative" piece of the overall score is criticized by Democrats, who generally get anywhere from single digits to mid-30 ratings based on a possible 100 points.

"It's some group of unidentified people's opinion of you," said Rep. Ben Dudley, D-Portland, the new head of the state's Democratic Party.

Dudley, who got a score of 5 1/2 for 2005, said Democrats largely feel "no matter how you vote, they're going to make you look bad."

Sen. Richard Nass, R-York, who got a 96 1/2, thinks the rating system may be a little too nuanced, saying the organization should just tell people "who the black hats and the white hats are." That said, he thinks the rating system has made a difference by measuring how legislators vote on jobs and the economy.

"It think it's the best thing that has happened on behalf of the citizens of Maine in my 12 years as a legislator," Nass said.

MERI is a not-for-profit, tax-exempt, 501 c-6, business organization — a designation that is also given to chambers of commerce. The bulk of its money comes from subscribers, who pay a fee to belong and get the growing number of report cards the group puts out. Additional sales of those reports also brings in up to 20 percent of the money the organization has to spend.

The group claims 325 subscribers or businesses, including local chambers and trade associations, and McLaughlin said his goal is to get 1,500. In the first year there were just 40, he said.

Tax returns from 2004 show MERI had revenue of \$332,000, and McLaughlin said that is now up to between \$370,000 and \$400,000.

The greatest chunk of that money goes into salary and benefits for the two-man office. McLaughlin earned \$105,000 in 2004, not including pension and other benefits.

The second biggest expense is the production of its legislative report cards, which include a paperback almanac every two years, voter guides and an annual roll call or interim report on the two-year legislative session. The organization also spends money on market research to track voter opinion on business issues.

At the center of all its publications are the MERI ratings, and McLaughlin and Foss are always looking for new ways to reach the public with the scores. Between the two of them, they do 70 presentations a year.

One of their newer publications, Roll Call, goes out in bulk to chambers and business associations, and they encourage business members to hand it out to their employees.

While the latest one was just eight pages, with an explanation of the bills used in the rating process and a few short articles and graphs along with the individual legislators' rankings, McLaughlin said the feedback shows people want it more to the point.

"They just want the ratings and pictures," of senators and representatives next to their score, McLaughlin said. "The feedback we got was there were too many words."

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**TESTIMONY OF Ed McLaughlin**  
**Maine Commission on Governmental Ethics and Election Practices**  
**23 August 2006**

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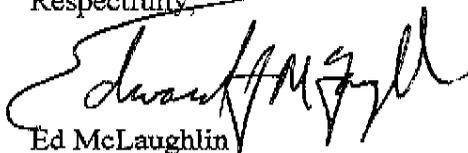
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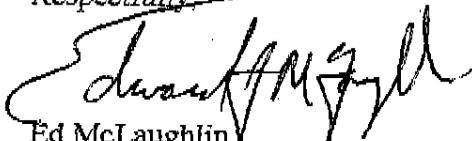
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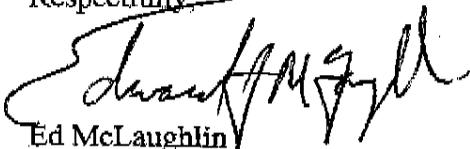
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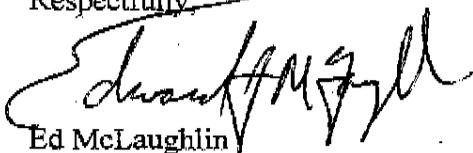
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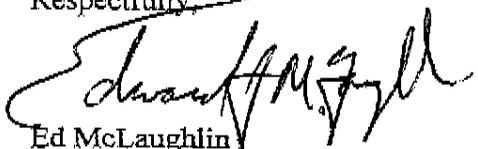
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# Agenda Item #3

Proposed  
statutory  
change

## 21A § 1052. Definitions

...

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

#### A. Includes:

(1) Any separate or segregated fund established by any corporation, membership organization, nonprofit, cooperative, or labor, or other organization whose purpose is to influence the outcome of an election, including a candidate or question;

(1-A) Any organization that has as its major purpose influencing the nomination or election of any person to political office, or initiating, promoting, or defeating a campaign, referendum or initiative in this State, and that raises contributions or makes expenditures in excess of \$1,500 for that purpose; and

~~(2) Any person who serves as a funding and transfer mechanism and spends money to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State;~~

~~(3) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question; and~~

~~(4) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and spends more than \$1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition, including the collection of signatures for a direct initiative, in this State; and~~

#### B. Does not include:

(1) A candidate or a candidate's treasurer under section 1013-A, subsection 1;

(2) A candidate's authorized political committee under section 1013-A, subsection 2; or

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

### 21A § 1052-A. Requirement to form a political action committee

An organization that does not have as its major purpose influencing elections in this State is required to form an affiliated political action committee as set forth in this section.

1. Influencing candidate elections. An organization other than an authorized candidate committee or party committee may not make expenditures in excess of \$5,000 in any one year for the purpose of influencing the nomination or election of any person to

political office unless the expenditures are made from a political action committee or are made as a contribution to a candidate or authorized candidate committee, political action committee, or a party committee.

**2. Influencing ballot question elections.** An organization other than an authorized candidate committee or party committee may not make expenditures in excess of \$5,000 in any one year for the purpose of initiating, promoting or defeating a campaign, referendum or initiative unless the expenditures are made from a political action committee or are made as a contribution to a candidate or authorized candidate committee, political action committee, or a party committee.

~~2. Influencing ballot question elections. An organization other than an authorized candidate committee or party committee may not make expenditures in excess of \$5,000 in any one year for the purpose of initiating, promoting or defeating a campaign, referendum or initiative unless the expenditures are made from a political action committee or are made as a contribution to a candidate or authorized candidate committee, political action committee, or party committee. The purposes of this section. Communications for voters include advertisements on television, radio and print media; literature mailed or distributed to voters by mail or other means; prerecorded automated telephone calls and scripted calls from live callers; electronic messages; signs; bumper stickers; and other means of outdoor advertising.~~

Narrower alternative – focuses on expenditures for communications only

**3. Commingling prohibited.** The monetary assets of a political action committee must be maintained in a separate account and may not be commingled with other funds, such as other funds of an affiliated organization or the personal funds of an officer the political action committee.

**21A § 1056 B. Reports of contributions and expenditures by persons**

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

**1. Filing requirements.** A report required by this section must be filed with the Commission according to a reporting schedule that the Commission shall establish that takes into consideration existing campaign finance reporting schedule requirements in section 1059.

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

~~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.~~

**21A § 1060-A. Reporting by an affiliated political action committee**

A political action committee which is affiliated with another organization shall report contributions in compliance with this section.

**1. Funds earmarked to influence elections.** The political action committee must report as contributions any funds received from an affiliated organization which were earmarked by the original contributor to influence elections. Contributions earmarked to influence elections include:

A. funds which the contributor specified were given to influence, promote, or oppose a candidate election or ballot question or which the contributor specified should be provided to the affiliated political action committee;

B. funds contributed in response to a solicitation which would lead the contributor to believe that the funds would be used specifically for the purpose of influencing, promoting or opposing a candidate election or ballot question; and

C. funds which can reasonably be determined to have been provided by the contributor for the purpose of influencing, promoting or opposing a candidate election or ballot question when viewed in the context in which the contribution was given and the recipient's activities regarding the election.

**2. Transfers from affiliated organization.** If an organization transfers funds from its general treasury to an affiliated political action committee which have not been earmarked by the original contributor to influence elections, the transferred funds must be reported by the political action committee as a contribution from the affiliated organization.

**3. Donated staff.** An organization that provides services by its employees to assist an affiliated political action committee is not required to compensate the employees from the segregated funds of the political action committee. The political action committee shall report the received services as an in-kind contribution.

# Agenda Item #4



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

To: Commission Members and Counsel  
From: Jonathan Wayne, Executive Director  
Date: January 11, 2007  
Re: Voter Guides, Legislative Scorecards, and Reports on Legislative Votes

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As part of the staff's consideration of whether the Maine Economic Research Institute qualifies as a political action committee, the staff sent out a questionnaire to 14 organizations that publish a voter guide, legislative scorecard, or legislative report which analyzes votes taken by members of the Legislature.

The responses show that at least 11 of the organizations either publish a voter guide or legislative scorecard. I have attached the organizations' responses and publications, and a chart summarizing their responses.

#### **Method of Tabulation**

Most of the publications assign a "+" or other positive value if the Legislator voted favorably on the bill in the view of the organization, and a "-" if the Legislator voted unfavorably. Almost all of the publications tabulate the votes into a single score or rating that is listed for each Legislator or candidate.

#### **Distribution**

In several cases, the publications are distributed only to the organization's members. (Not all of the organizations have members.) Most of the publications were sent by mail in June or July 2006 after the conclusion of the legislative session. A couple of the organizations distributed scorecards door-to-door to introduce themselves or to recruit new members. Usually, the publications are posted on the organization's website.

Four of the organizations distributed the publications to individuals who were not members or subscribers:

- Environment Maine (scorecard used for canvassing)
- Planned Parenthood of Northern New England (not a membership organization)
- Maine League of Conservation Voters (not a membership organization)
- Maine Economic Research Institute (distributed as newspaper inserts)

## **Purpose of the Voter Guides, Legislative Scorecards, and Legislative Reports**

In the view of the Commission staff, these publications can serve multiple purposes:

- educating the members of an organization about how individual Legislators voted on legislation of interest;
- applying pressure on Legislators to vote favorably in future sessions through increased attention to specific votes;
- encouraging grass-roots lobbying on issues of interest to the organization by increasing awareness of specific legislative issues;
- informing the public at large about issues important to the organization; and
- influencing readers to vote for or against candidates depending on their legislative records.

These are valuable activities that are protected by the First Amendment of the U.S. Constitution and that benefit public policy-making in Maine.

### **Should the voter guides and legislative scorecards be regulated by the state's campaign finance law?**

One important purpose of the campaign finance law and the Commission's rules is to encourage the disclosure of contributions and expenditures made to influence candidate elections. The disclosure helps the public understand how interest groups are influencing Maine elections, and the sources of funding for their efforts. The Commission should be careful, however, not to interfere with organizations' First Amendment rights to communicate points of view about political issues.

When publications serve multiple purposes, it can be difficult to distinguish whether they are purely informational or are intended to influence elections. The complaint against the Maine Economic Research Institute (MERI) could be viewed as an example of this difficulty. The complainant, John Hanson, strongly views the MERI Roll Call as a political document that is intended to influence elections whereas MERI argues that the purpose of the publication is to improve Maine's business environment by providing objective information.

### **Proposed Rule**

The Commission staff has drafted a proposed rule to identify those voter guides and scorecards which most clearly seem developed for purposes of influencing candidate elections. Our purpose in proposing the rule is to respond to inquires of whether the campaign finance law and the Commission is doing the best job of encouraging disclosure of financial activity intended to influence elections. The rule was developed quickly, and could certainly benefit from comments by affected organizations and by further consideration and research by Commission staff.

The rule focuses on three key elements:

- Is the publication distributed within the last 60 days before an election?
- Is the publication distributed significantly to people who are not members of the organization?
- Are more than 500 copies distributed?

If the answer to the three questions is yes, the rule would impose a presumption that expenditures for the publication were made for the purpose of influencing the election. If a complaint were filed regarding the organization, it could certainly attempt to rebut the presumption. The rule is designed to take a light-handed approach of imposing a presumption, rather than a hard-and-fast line.

### **Effect of Proposed Rule**

The effect of the proposed rule would be to put research, educational, and advocacy organizations on notice that if they publish voter guides or legislative scorecards that are covered by the rule, there is a likelihood that the Commission will consider them to be published for the purpose of influencing elections. This could have two effects:

- it may encourage organizations to fund the covered materials through a political action committee which would meet the disclosure purposes of the law; and
- if a dispute developed before the Commission as to whether an independent expenditure report were required to be filed because of a publication, it would be harder for the potential filer to argue to the Commission that it presumed that the publication would be viewed as purely informational.

The staff suggests you approve the rule for public comment purposes so it can be given further consideration.

## **Chapter 1, Section 7. Expenditures**

### **7. Printed voter guides and legislative scorecards**

- A. An organization's expenditures on printed voter guides, legislative scorecards, or similar publications will be presumed to be made to influence an election if more than 500 copies of the publication are distributed to individuals who are not members of the organization within 60 days of a general election.
  
- B. If any matter is pending before the Commission regarding an organization that has incurred expenditures covered by paragraph 7(A), the organization may attempt to rebut the presumption with whatever evidence it believes is relevant, including:
  - 1. the content of the publication;
  - 2. the timing and mode of distribution; and
  - 3. other purposes served by the publication, such as education or recruitment of new members.

References to the election, to individuals as "candidates," or to voting will be considered as factors in favor of the presumption.

Organization	Title of Document	Printed Version	Distributed Significantly to Non-Members	How many printed in 2004	How many printed in 2006	How were they primarily distributed in 2006
Environment Maine	Legislative Scorecard	Yes	Yes	---	20,000	Issued after the Legislature is over, beginning in June. Distributed via canvass (door-to-door).
Maine League of Conservation Voters	Environmental Scorecard	Yes	Yes	31,500	25,180	Released in July 2006. Fewer distributed than printed.
Planned Parenthood of Northern New England (PPNNE)	Legislative Report	Yes	Yes	---	6,000	Mailed to donors, volunteers, staff, visitors to website requesting info
Maine Economic Research Institute	Roll Call; MERI Report; Voter Guide (2004)	Yes	Yes	50,000	488,000	Primarily as inserts in newspapers in July and October 2006
Maine People's Alliance	Voting Index (in newsletter)	Yes	No	25,000	35,000	Mailed to members in June 2006; handed out to new members door-to-door
Sportsman's Alliance of Maine	List in newsletter	Yes	No	10,000	10,000	As part of monthly newsletter to members
The Katahdin Institute	Maine Prosperity Scorecard	Yes	No	---	5,000	Not distributed. Made available by request and at events.
Consumers for Affordable Health Care	Voter Guide	Yes	No	---	600	Manually to subscribers and dues-paying members
National Federation of Independent Business	Voting Record	Yes	No	4,200	4,000	Via direct mail to members
Christian Civic League of Maine	Voter Guide (on line only)	No				
Family Planning Action Fund of Maine; PPNNE; Maine Women's Lobby (collaboration)	Voting Records (on-line only)	No				
Maine Women's Lobby	Uncertain					
Natural Resources Council of Maine	Uncertain					
Maine AFL-CIO	Did not respond					

# Agenda Item #5



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

To: Commission Members and Counsel

From: Jonathan Wayne, Executive Director

Date: January 10, 2007

Re: Remedies for Inadequate Documentation of Candidates' Expenditures  
of Maine Clean Election Act Funds

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As you are aware, the Commission staff has embarked on a new program of auditing 20% of legislative candidates receiving Maine Clean Election Act (MCEA) funds and all four MCEA candidates for governor. While the Commission has always reviewed all expenditures as reported to the Commission, this is the first time we have systematically reviewed the underlying documentation for the expenditures. The Commission's auditor, Vincent W. Dinan, has found a very high rate of compliance with the requirement that MCEA funds be spent on campaign-related expenditures. In most cases, he has found only minor reporting problems which he has directed that the candidates fix through amending their campaign finance reports.

We believe these audits are valuable in that they educate candidates about the responsibilities for MCEA candidates and because they reassure the Legislature and the taxpayers that the public funds paid to candidates are kept accountable. These audits were not performed in the 2000, 2002, and 2004 elections.

#### **Records Required to be Kept by MCEA Candidates**

The MCEA requires candidates to keep an invoice or other document from the vendor stating the particular goods and services purchased, for every expenditure in excess of \$50. The campaigns are also required to keep proof of payment to the vendor, such as a cancelled check, credit card statement, or a receipt from the vendor. The MCEA does not require that all participating candidates submit these documents to the Commission. Rather, all MCEA candidates are required to obtain and keep these records for two years after the final campaign finance report for the election.

Vincent has completed about one-half of the audits of the legislative candidates. He discovered that a minority of them did not obtain the required records at the time the expenditures were made or misplaced the records. In almost all cases, during the audit process the candidate or treasurer has been able to obtain acceptable documentation after-the-fact. Sometimes this has required multiple requests and patient explanations by Vincent.

## Choice of Remedies

The candidates' failure to keep records has raised a question of how the Commission and its staff should proceed if a candidate cannot provide the documentation required by the Election Law. The question is difficult when – as in most cases – the expenditures are properly reported and the Commission staff has no evidence that the MCEA funds were misspent. In the view of the Commission staff, these cases should be brought to your attention at a public meeting. In February and March, we are intending to bring 2 - 3 examples.

The Commission staff sees three options for the Commission and its staff:

**(1) Finding of violation in audit report.** If the undocumented expenditure was properly reported and there's no reason to believe the expenditure was misspent (not campaign-related), the staff – or the Commission at a public meeting - could accept the expenditure and take no action other than to find the candidate in violation for failing to document the expenditure in the audit report. Under this option, the State would, in effect, be trusting candidates that they reported expenditures on the campaign-related expenditures that were disclosed in campaign finance reports. If necessary, the Commission could require testimony at a public meeting regarding how the funds were spent.

**(2) Disallow the expenditure.** The Commission could “disallow” the expenditure and request that the candidate repay the amount of the expenditure to the Commission. Vincent has drafted the short attached memo discussing that option. Disallowing the expenditure would be analogous to what occurs in many governmental settings when a firm or person requesting reimbursement from a public agency lacks sufficient documentation. For example:

- Most governmental agencies would presumably be unwilling to reimburse a contractor for equipment purchased in the performance of providing services to the agency if the contractor is unable to produce the required receipt or invoice of goods or services purchased.
- Many employers – public and private - will not reimburse an employee for travel or meal costs if the employee is not able to produce a bill or receipt showing the goods or services purchased.

While these standards may not be exactly appropriate for candidates participating in the Maine Clean Election Act, they may be instructive to consider.

The downside of disallowing an expenditure is that many observers would consider it too harsh to impose a repayment obligation on a candidate, particularly when there was no evidence that the public funds were misspent. One alternative is to adopt a more lenient standard for 2006 candidates on the theory that

candidates are not aware of the importance of the record-keeping requirements, and to apply a stricter approach in the 2008 elections.

**(3) Civil penalty.** If the Commission or staff believes that the candidate has spent MCEA funds on reported expenditures that were campaign-related but not properly documented, it may seem more appropriate to assess a penalty for failing to obtain the required documentation. The Commission could, for example, use a sliding scale of \$100 to \$2,500 for these violations. The penalty would function as a sanction against candidates who did not keep the required documentation.

In addition, on a case-by-case basis the Commission may wish to consider a combination of options 2 (disallowance) and 3 (penalty).

### **Policy on Undocumented Reimbursements for Travel Expenses**

Maine Clean Election Act candidates may choose to pay for travel expenses themselves or to have their campaigns reimburse them. Campaign workers are eligible to pay up to \$100 of travel expenses from their personal funds in the course of volunteering for a MCEA campaign. After that, they must seek reimbursement from the Commission.

If a MCEA candidate chooses to use MCEA funds to reimburse themselves or others for car travel, they are required to keep specific records. Because of the personal nature of car use, these records are important in proving to the state that public funds have been spent for campaign – rather than personal – purposes.

#### *Current Reimbursement Methods*

The method of calculating the amount of the reimbursement is very specific under the Commission's current rules, and the candidate may pick one of two methods. The campaign may reimburse the candidate or others at the rate of 36 cents per mile (the current rate of reimbursement by the State of Maine to its employees for its expenses). Alternatively, the candidate may calculate total expenditures for gas, insurance, depreciation, etc. for a period of time and pro-rate them so that only campaign-related travel is reimbursed with public funds.

#### *Current Requirement to Keep Records*

Whether the candidate chooses to reimburse at the rate of 36 cents per mile or based on the pro-rated method, the Commission's rule requires candidates to keep a record (such as a log) that includes the date of travel, number of miles traveled, origin, destination, purpose of travel, and total amount claimed for reimbursement.

*Staff Findings regarding 2006 Candidates*

In conducting reviews of reported expenditures and in conducting audits, the Commission's auditor Vincent W. Dinan has found widespread non-compliance with both the rate of reimbursement and the requirement to keep a log.

*Policy for 2006 Candidates and Going Forward*

The staff would like to recommend leniency for 2006 candidates who may not have understood the reimbursement rates and the importance of the record-keeping requirements. We recommend a stricter approach in 2008 – perhaps disallowing all travel expenditures which were not properly documented.

We propose that any policy you adopt on these issues be included in the Chapter 3 rules of the Commission, which would be submitted to the Legislature for its approval. As a result, the policy that would be in effect in 2008 would be known in advance by the Legislature and would have met its approval. I have attached a proposed rule.

**DOCUMENTATION STANDARDS  
REQUIRED TO SUPPORT  
CAMPAIGN EXPENDITURES**

**By Vincent W. Dinan, Staff Auditor**

Typically in most financial control systems found in government and industry, expenditures of organizational funds are supported by several documents:

- A purchase requisition which establishes the authority for the acquisition.
- A purchase order or contract issued by an authorized individual that sets forth the materials /services being purchased, the terms and conditions of the sale, and the price of the acquisition.
- A vendor invoice setting forth the materials/services provided and the costs.
- Payment document verifiable through a third party, e.g., bank, credit card company, cash receipt.
- Receiving report providing proof of receipt of the materials purchased.

In the area of "clean election" funding and in order to prove that materials and services have been bought for an allowable campaign purpose, the following documentation at a minimum is key and should be required: (1) a vendor invoice or closely related record that identifies the items purchased and the amount charged, and (2) documentation of payment. Payment documentation should be independently verifiable, and may include cancelled checks, debit card and credit card bank documentation, and cash receipts.

Determination of Allowability

The Commission's auditor examines expenditures reported by candidates on their campaign finance reports. The auditor traces selected expenditures from the campaign finance reports back to source documentation, which may include original vendor invoices, cancelled checks, cash receipts, and credit and debit card transaction documentation. The purpose of the examination is to verify that MCEA funds have been paid to the vendor as reported, and that such funds have been expended for a purpose permitted under the Maine Clean Election Act and the Commission's rules governing campaign expenditures.

Generally accepted auditing standards established to guide the practice of auditing require that the auditor make an objective compliance determination of cost allowability based on unimpeachable documentation. Accordingly, if a campaign expenditure is supported by a vendor invoice that describes the item purchased, the quantity purchased,

**Documentation Standards for Campaign Expenditures****Page 2**

and the price charged, and payment from campaign funds is clearly documented, e.g., cancelled check drawn on the campaign bank account, and the expenditure is for goods or services permitted under the Act or the Commission's rules, then, the expenditure should be deemed allowable. If on the other hand, one or more components of required expenditure documentation are absent, the allowability of the expenditure is called into question. Audit techniques are designed to facilitate objective judgments about demonstrated facts; therefore, if a candidate cannot provide acceptable documentary support for his or her campaign expenditures, the Commission should disallow the expenditure and require the candidate to re-pay the campaign fund for the amount of the disallowance. Adherence to established auditing standards that have evolved in both government and industry over the decades promotes system integrity and confidence in the Commission's decision-making apparatus. A more relaxed approach focusing more on subjective opinion will only erode trust in and support for the "clean elections" process.

## Title 21-A, §1125, Terms of participation

*Current  
statute*

**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; [2005, c. 542, §5 (new).]
- B. A vendor invoice stating the particular goods or services purchased for every expenditure of \$50 or more; and [2005, c. 542, §5 (new).]
- 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. [2005, c. 542, §5 (new).]

The treasurer shall preserve the records for 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. [2005, c. 542, §5 (new).]

**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. [IB 1995, c. 1, §17 (new).]

**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 as follows.

- A. A challenger may appeal to the full commission within 7 days of the certification decision. The appeal must be in writing and must set forth the reasons for the appeal. [2005, c. 301, §32 (amd).]
- B. Within 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. The appellant has the burden of providing evidence to demonstrate that the commission decision was improper. The commission must rule on the appeal within 3 days after the completion of the hearing. [IB 1995, c. 1, §17 (new).]
- C. A challenger may appeal the decision of the commission in paragraph B by commencing an action in Superior Court according to the procedure set forth in section 356, subsection 2, paragraphs D and E. [IB 1995, c. 1, §17 (new).]
- D. A candidate whose certification by the commission as a Maine Clean Election Act candidate is revoked on appeal must return to the commission any unspent revenues distributed from the fund. If the commission or court find that an appeal was made frivolously or to cause delay or hardship, the commission or court may require the moving party to pay costs of the commission, court and opposing parties, if any. [IB 1995, c. 1, §17 (new).]

[2005, c. 301, §32 (amd).]

IB 1995, Ch. 1, §17 (NEW).  
 PL 2001, Ch. 465, §4-6 (AMD).  
 PL 2003, Ch. 270, §1,2 (AMD).  
 PL 2003, Ch. 448, §5 (AMD).  
 PL 2003, Ch. 453, §1,2 (AMD).  
 PL 2003, Ch. 688, §A21,22 (AMD).  
 PL 2005, Ch. 301, §29-32 (AMD).  
 PL 2005, Ch. 542, §3-5 (AMD).

Proposed  
rule

## SECTION 7. RECORD KEEPING AND REPORTING

1. Record Keeping by Participating and Certified Candidates. Participating and certified candidates must comply with applicable record keeping requirements set forth in Title 21-A, chapter 13, subchapter II [§1016], and chapter 14 [§1125(12-A)]. Failure to keep or produce the records required to be kept under Title 21-A and these rules is a violation of the Act. The Commission may impose a penalty or require the return of funds for expenditures lacking supporting documentation or both if a candidate is found in violation of the record keeping requirements. In addition to these specific actions, the Commission may also take any other action authorized under Title 21-A.
  - A. Fiduciary Responsibility for Funds. All funds provided to a certified candidate or to a candidate's authorized political committee must be segregated from, and may not be commingled with, any other funds, other than unspent seed money. Matching fund advance revenues for which no spending authorization has been issued must be deposited in a federally insured account financial institution until the candidate receives and may not be used until the candidate receives authorization to spend those funds.
  - B. Meal Expenses. A candidate or treasurer must obtain and keep a record for each meal expenditure of more than \$50. The record must include itemized bills for the meals, the names of all participants in the meals, the relationship of each participant to the campaign, and the specific, campaign-related purpose of each meal.
  - C. Vehicle Travel Expenses. A candidate or treasurer must obtain and keep a record of vehicle travel expenses for which reimbursements are made from campaign funds. Reimbursement may must be based on the standard mileage rate prescribed for employees of the State of Maine for the calendar year in which the election occurs, using either the standard mileage rate or actual expenses. The candidate must use one method exclusively during an election campaign. For each trip for which reimbursement is made, a record should be maintained showing the dates of travel, the number of miles traveled, the origination, destination and purpose of the travel, and the total amount claimed for reimbursement. A

candidate may reimburse himself or herself for vehicle travel expenses at a rate less than the standard mileage rate. A candidate may also reimburse a volunteer for vehicle travel expenses at a rate less than the standard mileage rate as long as the difference does not exceed \$100 per volunteer per election. The Commission may disallow any vehicle travel reimbursements for which the candidate or the treasurer cannot produce an accurate record.

- ~~(1) Standard Mileage Rate. The standard mileage rate is a set rate per mile that a candidate may use to compute reimbursable vehicle travel expenses. Reimbursement should be calculated using the standard mileage rate currently prescribed for employees of the State of Maine. For each trip for which reimbursement is made, a record should be maintained showing the dates of travel, the number of miles traveled, the origination, destination and purpose of the travel, and the total amount claimed for reimbursement.~~
- ~~(2) Actual Expenses. Actual expenses include the pro rata, campaign-related share of vehicle depreciation or lease payments, maintenance and repairs, gasoline (including gasoline taxes), oil, insurance, and vehicle registration fees, etc. For reimbursement using this method, the candidate must maintain detailed records reflecting use of the vehicle for campaign-related purposes. The records must include the dates the vehicle was used for campaign-related purposes, the total mileage the vehicle was used for campaign-related purposes, the total mileage the vehicle was used for all purposes during the period for which reimbursement is made, and the percentage of total vehicle usage that the vehicle was used for campaign-related purposes.~~

# Agenda Item #6



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

To: Commission Members and Counsel  
From: Paul Lavin  
Date: January 12, 2007  
Re: Statutory Changes for Your Consideration at the January 19th Meeting

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The Ethics Commission is specifically authorized to introduce legislation relating to areas within its jurisdiction. The attached proposal contains all the proposed changes that you considered at the November and December meetings. There are some changes in the statutes that are not discussed in this memo. Those changes mostly comprise of word and structure changes and do not consist of any substantive changes.

**Proposed Changes to Chapter 13 of Title 21-A**

**21-A M.R.S.A. §1002 – Meetings of commission**

The proposed change eliminates the requirement that the Commission's office remain open until 8:00 p.m. on election nights. The Commission staff has not experienced any demand for assistance from the staff during that time period.

**Exclusions to the definitions of contribution and expenditures**

**21-A M.R.S.A. §§1012(2)(B)(4-A) and (3)(B)(5-A)**

This exclusion currently refers to the unreimbursed travel expenses incurred and paid by the candidate or the candidate's spouse. The change specifies that the expenses be campaign-related and adds reimbursements to the candidate's domestic partner.

**21-A M.R.S.A. §§1012(2)(B)(7) and (3)(B)(10)**

This exclusion refers to compensation paid by a party committee to an employee who provides advice to a candidate for no more than 20 hours in an election. Earlier this year, the Commission issued an advisory opinion in response to a request by the two major parties regarding this exclusion. A plain reading of the current law is that the party committee can pay for a staff person to work for 20 hours per candidate per election without the compensation being considered a contribution or expenditure on behalf of the candidate. The kind of work the party employee can provide is limited to providing "advice," which the Commission interpreted narrowly as counseling a candidate about what actions to take regarding his or her campaign.

The staff recommends limiting the amount of compensation that would be excluded from the definitions of contribution and expenditure to 20 hours per party employee (rather than per candidate) per election. The staff also recommends changing the word “advice” to “assistance.” This change would allow party committees to provide a range of services to candidates, including advice, depending on the needs of the candidate.

**21-A M.R.S.A. §1012(5) – Party candidate listing**

During the election, the Commission staff fielded several questions from party committees about including federal candidates in a party candidate listing or using specific content that may fall outside the limits of the law. The staff proposes changing the party candidate listing requirements specifically to allow the inclusion of Maine candidates for federal office as long as federal laws and regulations were not violated by doing so. In addition, the staff proposes including the use of campaign slogans and campaign or party committee logos in the list of acceptable content for party candidate listings.

**21-A M.R.S.A. §1013-A(1)(C) – Statement regarding voluntary spending limits**

Under the current law, candidates seeking MCEA certification are required to sign the Statement of Voluntary Spending Limits as are privately-financed candidates. However, instead of agreeing to voluntary spending limits, the MCEA candidate is merely stating that he or she has filed a declaration of intent to become an MCEA candidate and will be bound by the Act’s spending limits. To obtain MCEA certification, a candidate must agree to limit his or her campaign spending to the amount of public funds made available to the candidate. The staff does not believe that any purpose is served in also requiring MCEA candidates to sign and file another statement other than the Declaration of Intent. However, the staff will propose to the Commission a change in the rule regarding the Declaration of Intent to provide more emphasis to the spending limitations to which an MCEA candidate must agree.

**21-A M.R.S.A. §1014 – Publication or distribution of political statements**

The staff proposes the following changes to the requirements regarding the “paid for” disclosure statement:

1. Eliminating the requirement for a disclosure statement on radio and television advertisements paid for by the candidate or the candidate’s committee;
2. Extending the time period to which the disclosure statement requirement applied from 21 to 60 days prior to a general election and creating an exemption for communications not intended to influence the election or defeat of a candidate;
3. Extending the prohibition against broadcasting a communication without the disclosure to newspapers omitting the disclosure on political advertisements appearing on online versions of the newspaper and including agents of a person operating a broadcast station among those subject to the prohibition.
4. Changing the time period for determining a fine if there is a violation of the disclosure requirement from 10 days to 20 days before an election. Currently, if a communication made more than 10 days before an election does not have the disclosure statement, the person who financed the communication has 10 days to

- correct the deficiency or be fined up to \$100. If the communication is made within 10 days of the election, the person who financed the communication could be fined up to \$200. The staff believes that the time period is too close to the election to be an effective deterrent against violations of this requirement. The change also proposes a requirement that the person who financed the communication or committed the violation within 20 days of an election to correct the violation within 10 days of being notified by the Commission.
5. Limiting the time period to which the disclosure statement requirement applied to automated phone calls to 21 days before a primary election and 60 days before an election and adding a requirement that scripted live phone calls also contain the disclosure statement. Voter identification research would be exempt.

#### **21-A M.R.S.A. §1015 – Limitations on contributions and expenditures**

The staff proposes extending the exemption from contribution limits to a candidate's domestic partner. The enumeration of entities other than individuals to which the contribution limits apply is changed to include all the entities listed in the definition of "person" in §1001(3). This does not broaden the reach of the limitation but removes possible confusion as to which entities the contribution limit applies.

The proposed change to §1015(4) seeks to clarify that the prohibition against earmarked contributions in this subsection applies only to contributions which are made directly or indirectly to an intermediary or conduit and which are specifically earmarked by the contributor to be contributed by that intermediary or conduit to a candidate. The statute currently reads as though earmarked contributions are only one of other types of contributions covered under this prohibition. However, the apparent intent of the statute is only to prohibit earmarked contributions that are transferred to a candidate by a conduit. This issue came before the Commission in the request for an advisory opinion by the two major parties and when the issue was raised by the "Maine for Mills" PAC. This change is consistent with the Commission's advisory opinion to the parties.

#### **21-A M.R.S.A. §1015-A – Corporate contributions**

Under the current statute, two or more businesses that share common owners or officers are considered a single contributor for purposes of the \$250 or \$500 contribution limit for candidates. The proposed change would clarify that a sole proprietorship and its owner would also be considered a single contributor.

#### **21-A M.R.S.A. §1017 – Reports by candidates**

The staff proposes eliminating the requirement that candidates for federal office file federal campaign finance reports with the Commission. These reports are available on to the public on the Federal Election Commission's website.

**Six-Day Pre-Election Report.** The staff proposes changing the filing deadline and reporting period for the last report filed prior to an election. Currently, the report is due 6 days before the election and must be complete as of the 12th day before an election. The change would require that the report be filed by the 11th day before an election and be complete as of the 14th day before and election. The major advantages of this change are

that 1) candidates will know sooner that the sixth day before an election what the other candidates in the election have raised and spent, 2) the Commission staff will have more complete information upon which to base the calculation of matching funds, and 3) candidates will not have to deal with the filing of a report in the last week of campaigning. One possible downside to the change is that candidates and their treasurers will only have three days from the end of the reporting period to complete and file the report.

**24-Hour Report.** Currently, there are two different 24-Hour Reports. One type of report applies to all candidates and covers certain contributions and expenditures occurring after the 12th day before an election. The other applies only to certain privately-financed candidates with MCEA opponents and covers certain expenditures occurring after the 14th day before an election. The staff proposes eliminating the second 24-Hour Report and changing the reporting period for the first.

All candidates would be required to file 24-Hour Reports after the 14th day before an election for any contribution aggregating \$1,000 or more from a single contributor and any single expenditure of \$1,000 or more for gubernatorial candidates, and for any contribution aggregating \$500 or more from a single contributor and any single expenditure of \$500 or more for legislative, county and municipal candidates.

This proposal has relatively little impact on gubernatorial candidates. More MCEA candidates and privately-financed candidates who do not have an MCEA opponent or who are not required to file accelerated reports may have to file 24-Hour Reports because the relevant amount has dropped from \$1,000 to \$500 for them. The trigger amount is also slightly lower for privately-financed Senate candidates with MCEA opponents (from \$750 to \$500). However, the staff is in favor of streamlining the filing requirements for candidates regarding these reports and believes that these changes will result in more useful information for candidates during the last two weeks of the campaign.

**Accelerated reporting schedule.** The staff proposes simplifying the determination of whether privately-financed candidates with MCEA opponents need to file accelerated reports. Currently, these privately-financed candidates are required to file reports when they have raised or spent more than 101% of the amount initially distributed to their MCEA opponents. The staff proposes changing that triggering amount to the exact amount of the initial distribution. In addition, the proposed change would eliminate the requirement for privately-financed candidates to file affidavits in lieu of accelerated reports if they have not reached the 100% amount. Under this proposed change, privately-financed candidates would only be required to file periodic accelerated reports if they have crossed the threshold amount. The staff also proposes changing the deadline and reporting period for the last accelerated report before an election to the 6th day (instead of the 12th day) before an election and a reporting period covering up to the 8th day (instead of the 14th) before an election. With the recommended change to the regular filing schedule for all candidates, requiring accelerated report filers to file 6 days before the election will allow the staff to determine whether additional amounts of matching funds are due MCEA candidates.

Currently, campaigns with total receipts or expenditures aggregating less than \$500 per election do not have to file itemized reports. The staff proposes eliminating this exemption.

The staff also proposes increasing the threshold amount which triggers the requirement to file semiannual reports from \$50 to \$100 and clarifying the requirement that candidates who have a campaign surplus exceeding \$100 must dispose of that surplus within 4 years of the election for which the contributions were received according to the statutory guidelines.

The requirement that a replacement candidate file a report 15 days after appointment or 6 days before an election is eliminated. Instead, replacement candidates would only file the appropriate regular campaign finance reports that come due after their appointment.

**21-A M.R.S.A. §1017-A – Reports of contributions and expenditures by party committees**

The staff proposes a change to the filing schedules for all county party committees. All party committees would be required to file a report on the 11th day before a general election which shall be complete as of the 14th day before the election.

The staff also proposes making the requirement to file 24 hour reports the same for all party committees.

**21-A M.R.S.A. §1017-B – Records (new section)**

This new section would require party committees to keep and maintain records for contributions and expenditures that exceed \$50. Currently, there is no requirement that party committee retain records.

**21-A M.R.S.A. §1018 – Reports by party committees**

The staff proposes eliminating the requirement that state party committees file their FEC reports with the Commission. These reports are available to the public on the FEC website.

**21-A M.R.S.A. §1019-B – Reports of Independent Expenditures**

In November, the staff proposed for your consideration the extension of the time period during which a communication that mentions a clearly identified candidate would be presumed to be an independent expenditure if there was a MCEA candidate in that race. The original proposal was to extend the “rebuttable presumption” period from 21 days to 60 days prior to an election. In response to the comments made by the Commission and interested parties at the November meeting, the staff proposes changing the time period during which the rebuttable presumption under §1019-B(1)(B) applies from the current 21 days before each election to 21 days prior to a primary election and 60 days prior to a general election.

The staff also proposes that the independent expenditure report contain a description of the communication subject to the expenditure.

**21-A M.R.S.A. §1020-A – Failure to file on time**

The staff proposes changing the amount of a penalty that may be waived from under \$5.00 to under \$10.00. The number of required notices sent to candidates who have failed to file a report is reduced from five to three.

**21-A M.R.S.A. §1051 – Application and §1058 – Reports; qualifications for filing**

In 1999, the Legislature increased the fundraising and spending threshold for an organization to register as a PAC from \$50 to \$1,500. At that time, the Legislature did not change the \$50 threshold in §1058 that requires filing financial reports by PACs, and did not change the \$50 threshold in the introductory §1051. The Commission staff recommends amending these thresholds to \$1,500 for the sake of consistency. This would have no practical effect on financial reporting by PACs, because PACs are only required to file financial reports if they are registered with the Commission.

Under the proposed changes, out-of-state PACs would no longer be required to file reports they file in their home state.

**21-A M.R.S.A. §1053 – Registration**

The staff proposes simplifying the content of the registration form for PACs by eliminating these currently required elements: disclosing whether a committee is a continuing one; identifying where the PAC's funds are deposited; identifying the form in which the PAC is organized; itemizing the PAC's financial assets, real and personal property, investments, cash, and any "other form of wealth;" and contributions to committee. These elements are either confusing to PACs, do not disclose useful information, disclose private banking information, or are contained in subsequently filed reports. However, at the time of registration, PACs would be required to report all pre-registration financial activity to the Commission on forms developed by the staff.

The staff also proposes that the Commission have some flexibility to waive the requirement to file an updated registration form for newly formed PACs or in cases in which to do so would be an administrative burden on the PAC.

**21-A M.R.S.A. §1055 – Publication or distribution of political statements (for PACs)**

The staff proposes eliminating the separate section on the "paid for" disclosure requirement for PACs, because §1014 already is applicable to PACs.

**21-A M.R.S.A. §1057 – Record-keeping for PACs**

Under current law, PACs must keep "receipts" for all expenditures for four years, but those receipts may be in the form of cancelled checks which provide no documentation of the goods or services purchased. This documentation is not submitted to the Commission except if the Commission requests it. In 2006, the Commission staff occasionally requested some documentation from PACs and party committees relating to independent expenditures.

The proposed change requires PACs to keep an invoice or receipt from a vendor stating the particular goods or services purchased for every expenditure of over \$50 (similar to the requirement for candidates). With the MCEA in place, PACs are increasingly choosing to use their funds to pay third-party vendors rather than to make contributions to candidates. The Commission staff believes a vendor invoice or receipt is superior to a cancelled check as an audit trail that can be used to verify reported expenditures.

If the Commission views the proposed requirement as too burdensome, perhaps it would consider an alternative requirement that PACs must keep bank records for all expenditures and vendor invoices for larger expenditures (e.g., over \$250).

#### **21-A M.R.S.A. §1059 – Report; filing requirements**

Subsection 1 is removed because it duplicates the description of report content in §1060. The 6-day pre-election report is changed to an 11-day pre-election report consistent with the changes in the candidate and party filing schedule. The time period for filing 24 hour reports is changed from 12 days to the 14 days before an election.

The staff proposes a change in the itemization of expenditures to include the name each candidate, committee, referendum, or initiated petition on whose behalf the expenditure was made.

#### **21-A M.R.S.A §1061 – Dissolution of committees**

The proposed change clarifies the circumstances under which a PAC can terminate and its reporting obligations upon termination.

### **Proposed Changes to the Maine Clean Election Act**

#### **21-A M.R.S.A §1122(3-A) – Definition of immediate family**

A proposed change in §1125(6) (restrictions on MCEA expenditures) requires that the Act contain a definition of “immediate family.” The definition incorporates the definition contained in 21-A M.R.S.A. §1(20) which covers members of the candidate’s and the candidate spouse’s immediate family. The proposed definition expands it to include the candidate’s domestic partner and members of the candidate’s domestic partner’s immediate family.

#### **21-A M.R.S.A. §1122(7) – Qualifying Contribution**

Under the current law, there is a requirement that the qualifying contributions be “acknowledged by a written receipt that identifies the name and address of the donor on forms provided by the commission.” To implement this requirement, the Commission’s “Qualifying Contribution Receipt and Acknowledge Form” requires the candidate to acknowledge receiving the contribution and the contributor to acknowledge that he or she made the contribution with his or her own funds for which they received nothing in exchange. The staff thinks that the statute should have clearer and stronger requirements regarding the contributor’s and the candidate’s acknowledgements. The proposed change would require the contributor to acknowledge three things – that the contribution was

made with his or her own funds, that it was made in support of the candidate, and that he or she received nothing of value in exchange for the contribution. The candidate would have to acknowledge that the contribution was obtained with his or her knowledge and approval and that nothing of value was given in exchange for the contribution.

Another change explicitly addresses the issue that qualifying contributions will only count toward a candidate's required amount if the contributor is a registered voter in the electoral district in which the candidate is running at the time the contribution was made and if the municipal registrar has verified the contributor's voter registration prior to the applicable deadline for final submittal to the Commission. In the case of one candidate in the last election who ultimately did not qualify for MCEA funding, an argument was raised that as long as the contributor was registered at the time the contribution was made, it did not matter if the voter registration was verified prior to the applicable deadline for submitting qualifying contributions. The practice and intent has always been that the registration had to be verified prior to the deadline. The staff makes this proposal to remove any doubt that the contributor's voter registration must be verified at least by the applicable deadline for the candidate.

#### **21-A M.R.S.A. §1122(9) – Seed Money Contribution**

The Commission staff proposes a requirement that only Maine residents can make seed money contributions. Even though collecting seed money is not a requirement under current law (see the proposed change under §1125(5) regarding a seed money minimum requirement for gubernatorial candidates), it is an indicator of basic support for a candidate, especially in a gubernatorial race, which requires a statewide effort to collect qualifying contributions. In 2006, two gubernatorial candidates seeking public funds collected very large amounts of out-of-state seed money contributions (67% and 47%); other gubernatorial candidates only collected between 5% and 10% from individuals outside Maine. With so much public funding at stake for gubernatorial candidates, the staff believes that it is sensible that seed money contributions be restricted to only Maine residents. Also, this change will assist the staff in verifying compliance with the requirement that seed money actually be contributed with the personal funds of the contributor.

The staff also does not believe that this proposed change will have a burdensome effect on legislative candidates. Most legislative candidates already raise nearly all of their seed money contributions from Maine residents. In addition, the maximum that they can raise (\$1,500 for Senate candidates and \$500 for House candidates) is considerable less than the maximum for gubernatorial candidates (\$50,000).

The proposed change also removes the description of seed money restrictions from the definitional section and moves it to the section on terms of participation.

#### **21-A M.R.S.A. §1124(2) – Sources of funding**

In 2003, the law was amended to allow the Commission three opportunities to request an advance of the General Fund transfers in 2005, 2007, and 2008. This was a self-expiring

provision after the last opportunity to request such a transfer on July 31, 2006. The staff proposes eliminating these expired provisions from the Act.

As a part of this section, the Commission is required to report to the legislative and executive branches by January 1st if the Commission determines that there will not be sufficient funds for the upcoming calendar year. This section also requires the Commission to publish, by September 1st preceding an election year, an estimate of the funds available for the next election and the likely demand for them (21-A M.R.S.A. §1124(3)). The staff proposes removing the current text of §1124(3) and replacing it with the text from §1124(2). This will require the Commission to report to the legislative and the executive branches by January 1st, if it determines that there will not be sufficient funds for an upcoming election.

One of the sources of funding in the Act is the transfer of a candidate's unspent seed money contributions remaining after certification. In practice, instead of requiring the candidates to actually transfer unspent seed money contributions to the Fund, the Commission has reduced the amount of a candidate's initial primary distribution by the amount of unspent seed money. The staff proposes eliminating that provision from §1124(2).

**21-A M.R.S.A. §1125(2-A) – Seed money report (new section)**

The requirement to report seed money contributions and expenditures is moved to a new subsection (2-A). The proposed change also requires that a candidate report the name, residential address, occupation, and employee for every seed money contributor. The staff also proposes that the Commission have the discretion to require gubernatorial candidates to obtain the seed money contributor's signature on a contribution card, attesting that the seed money contribution was made with the contributor's personal funds and was not reimbursed by any other source. The staff proposes this change as another means by which to ensure and verify compliance with MCEA requirements by gubernatorial candidates when large amounts of public funds could be disbursed.

**21-A M.R.S.A. §1125(2-B) – Seed money restrictions (new section)**

The staff also proposes adding a new subsection (2-B) for seed money restrictions, which will contain all of the seed money restrictions now contained in the definition of seed money in §1122(9) currently. The new subsection would allow a candidate to use unspent seed money after certification to pay for obligations incurred during the qualifying period but includes an express prohibition against using MCEA funds received after certification to pay for any goods or services received prior certification. It specifically states that goods and services received prior to certification can only be paid for with seed money contributions and that a candidate cannot raise or spend seed money after certification.

**21-A M.R.S.A. §1125(3) – Qualifying contributions**

Under current law, there is no requirement that contributors sign money orders when they are used for qualifying contributions. The staff recommends to candidates that they have contributors sign money orders. Many do, but there is still the potential for abuse. The

Commission has seen two high-profile cases in which money orders may have been used fraudulently. The staff proposes that money orders must be signed by the contributor in order to be considered valid qualifying contributions.

Several candidates suggested that the Commission devise a procedure by which qualifying contributions may be given by means of a debit or credit card or over the internet. The proposed change gives the Commission the discretion to establish those procedures by rule. The staff does not see a problem with collecting qualifying contributions in this manner as long as the candidate can produce documentation that the individual did in fact make the contribution.

#### **21-A M.R.S.A. §1125(4) – Filing with commission**

The proposed change would add the requirement that a candidate must also submit receipt and acknowledgement forms, proof of verification of voter registration, and a completed seed money report during the qualifying period along with the qualifying contributions. Currently, the requirement to submit those documents is only in the Commission's rules. Because they are fundamental to the certification process, the staff believes they should be in the statute.

#### **21-A M.R.S.A. §1125(5) – Certification of Maine Clean Election Act candidates**

The staff proposes adding a requirement that gubernatorial candidates must raise a minimum of \$10,000 in seed money contributions as one of the criteria for certification. As with other proposed changes to the requirements for gubernatorial candidates, this change would require gubernatorial candidates to demonstrate that they have the support of Maine residents and that they have sufficient funds to launch and maintain a statewide effort to collect qualifying contributions. As was evident from the last election, gubernatorial candidates have to raise and spend seed money contributions for this purpose or they will not be successful in obtaining enough valid qualifying contributions. As the Commission is aware, one gubernatorial candidate raised well under \$10,000 in seed money, but was found to have used MCEA funds to pay campaign staff for services rendered in the qualifying period. The change merely reflects the reality that gubernatorial candidates must raise and spend funds to collect qualifying contributions and will not be an undue burden on candidates.

The proposed change would expressly provide the Commission's Executive Director with the authority to make decisions regarding certification. This is currently the practice.

The staff proposes lengthening the time period for processing a gubernatorial candidate's request for certification from 3 business days to 5 business days. Even without any of the other proposed changes being implemented, it is necessary for the staff to have sufficient time to review and verify the candidate's submission thoroughly. With the proposed changes requiring additional documentation and a higher number of qualifying contributions, a longer time period is crucial.

The other changes regarding the certification requirements and revocation of certification were presented to the Commission at its November meeting.

**21-A M.R.S.A. §1125(6) – Restrictions on contributions and expenditures for certified candidates**

This proposed change would prohibit candidates from using MCEA funds to make payments to themselves, their immediate family, and affiliated business or non-profit entities, except for the payments of goods or property purchased by the campaign. A candidate would not be able to use MCEA funds to pay for the services provided by the candidate or the candidate's immediate family or affiliated business entities. Immediate family members would have to provide services on a volunteer basis. The change is made in response to issues in past campaigns in which family members received significant amounts of MCEA funds, which the campaign could not satisfactorily justify. The public perception that some candidates funnel public funds to family members is very damaging to the Act. Most candidates will not be affected by this change.

**21-A M.R.S.A. §1125(6-A) – Assisting a person to become an opponent**

This proposed provision was submitted to the Commission for consideration earlier in 2006. It is the result of several situations where there were credible allegations that a MCEA candidate recruited and assisted another person to become a candidate in the same race as the MCEA candidate. The assistance was mostly given by gathering signatures to get on the ballot and to file the necessary paperwork with the Secretary of State and the Ethics Commission. Under current law, these actions would not be a violation of the Act even though they are clearly meant to manipulate the process to get more MCEA funds for a contested election. The proposed change would make those actions a violation of the Act, which could result in the denial, or revocation of certification and monetary penalties.

**21-A M.R.S.A. §1125(8) – Amount of fund distribution**

Under current law, any gubernatorial candidate who meets the April 15th deadline and who qualifies for MCEA funding would be eligible to receive \$200,000 as the initial primary distribution amount, regardless of whether the candidate had a primary opponent or, in the case of an unenrolled candidate, was in a primary election at all. The proposed change creates an initial primary distribution amount of \$80,000 (40% of the contested amount) for gubernatorial candidates who are unopposed in a primary election or who are unenrolled.

**21-A M.R.S.A. §1125(10) – Candidate not enrolled in a party**

The change is a rewording of the section on the timing and distribution amounts for certified unenrolled candidates. It does not change the meaning or requirements of the provision but adds more clarity and detail.

**21-A M.R.S.A. §1125(14) – Appeals**

There are three major features to this proposed change. First, it allows the Commission to extend the time period in which it must hold a hearing on an appeal of a certification decision upon the agreement of the parties or for cause. Second, it provides a clearer standard for the appellant's burden. The current law requires the appellant to provide evidence to demonstrate that the Commission's decision was improper. The proposed

standard is that the appellant prove that the Commission's decision was in error as a matter of law or was based on factual error. Third, the proposed change brings the Commission's appeal process in compliance with Maine's Administrative Procedures Act and outlines the procedure for appealing the decision of the Superior Court to the Law Court.

One minor change is extending the time period in which the Commission must rule on the appeal from 3 days to 5 business days after the completion of the hearing.

### **Proposed Changes to the Lobbyist Disclosure Law**

#### **3 M.R.S.A. §312-A – Definitions**

Section 312-A (7)(C) was written into the original bill in 1993 that also proposed to amend the definition of "lobbying" to include the phrase "or to solicit or urge others to communicate directly" with any official in the Legislature, etc. *See* L.D. 1390, § 5, amending 3 M.R.S.A. § 312-A (9) (116<sup>th</sup> Legis. 1993). That phrase was deleted by Senate Amendment "A" (S-317) to that bill, which was ultimately adopted as P.L. 1993, c. 446. It would have been more consistent for the Senate to have deleted the new language in section 312-A (7)(C) as part of the same amendment, but that language apparently was overlooked. The staff proposes removing that language from the statute.

The staff also proposes including "domestic partner" in the definition of "immediate family."

#### **3 M.R.S.A. §315 – Registration docket**

In 2006, P.L. 2005, c. 613, §1 created a new section in the statute (§315-A) regarding the lobbyist docket and the disclosure of lobbyist information on the Commission's website. Section 315 should have been repealed but was overlooked.

#### **3 M.R.S.A. §321 – Powers and duties of Commission**

One major responsibility of the Commission is to receive the annual registration of lobbyists and receive their monthly and annual reports of their activities. Many lobbyists presume that the Commission has the statutory authority to investigate non-compliance with the reporting requirements, but in fact it does not. The proposed statutory change would authorize the Commission to investigate non-compliance when it is brought to the Commission's attention by requiring the lobbyist, client, or others to provide requested information or documents. Most lobbyists and clients are very cooperative in providing requested information, so it is anticipated that the subpoena authority would be used very rarely. Nevertheless, it would be helpful to encourage compliance.

**CHAPTER 13**  
**CAMPAIGN REPORTS AND FINANCES**

**SUBCHAPTER I**  
**GENERAL PROVISIONS**

**21A § 1001. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Commission.** "Commission" means the Commission on Governmental Ethics and Election Practices established under Title 1, section 1002.

**2. Election.** "Election" means any primary, general or special election for state, county or municipal offices as defined in Title 30-A, section 2502, subsection 1.

**3. Person.** "Person" means an individual, committee, firm, partnership, corporation, association, ~~group~~ or organization.

**21A § 1002. Meetings of commission**

The Commission shall meet in Augusta for the purposes of this chapter at least once per month in any year in which primary and general elections are held and every 2 weeks in the 60 days preceding an election. In the 28 days preceding an election, the Commission shall meet in Augusta within one calendar day of the filing of any complaint or question with the Commission. Agenda items in the 28 days preceding an election must be decided within 24 hours of the filing unless all parties involved agree otherwise. Meetings may be held over the telephone if necessary, as long as the Commission office remains open for attendance by complainants, witnesses and other members of the public. Notwithstanding Title 1, chapter 13, telephone meetings of the Commission are permitted only during the 28 days prior to an election when the Commission is required to meet within 24 hours of the filing of any complaint or question with the Commission. The Commission office must be open with adequate staff resources available to respond to inquiries and receive complaints from 8 a.m. until at least 5:30 p.m. on the Saturday, Sunday and Monday immediately preceding an election ~~and from 8 a.m. until at least 8 p.m. on election day~~. The Commission shall meet at other times on the call of the Secretary of State, the Speaker of the House, the President of the Senate, the chair or a majority of the members of the Commission, as long as all members are notified of the time, place and purpose of the meeting at least 24 hours in advance.

## 21-A § 1004-A. Penalties

The Commission may assess the following penalties in addition to the other monetary sanctions authorized in this chapter.

**1. Late campaign finance report.** A person that files a late campaign finance report containing no contributions or expenditures may be assessed a penalty of no more than \$100.

**2. Contribution in excess of limitations.** A person that accepts or makes a contribution that exceeds the limitations set out in section 1015, subsections 1 and 2 may be assessed a penalty of no more than the amount by which the contribution exceeded the limitation.

**3. Contribution in name of another person.** A person that makes a contribution in the name of another person, or that knowingly accepts a contribution made by one person in the name of another person, may be assessed a penalty not to exceed \$5,000.

**4. Substantial misreporting.** A person that files a campaign finance report that substantially misreports contributions, expenditures or other campaign activity may be assessed a penalty not to exceed \$5,000.

**5. Material false statements.** A person that makes a material false statement or that makes a statement that includes a material misrepresentation in a document that is required to be submitted to the Commission, or that is submitted in response to a request by the Commission, may be assessed a penalty not to exceed \$5,000.

When the Commission has reason to believe that a violation has occurred, the Commission shall provide written notice to the candidate, party committee, political action committee, committee treasurer or other respondent and shall afford them an opportunity to appear before the Commission before assessing any penalty. In determining any penalty under subsections 3, 4 and 5, the Commission shall consider, among other things, the level of intent to mislead, the penalty necessary to deter similar misconduct in the future and the harm suffered by the public from the incorrect disclosure.

**SUBCHAPTER II**  
**REPORTS ON CAMPAIGNS FOR OFFICE**

**21A § 1012. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

- 1. Clearly identified.** "Clearly identified," with respect to a candidate, means that:
  - A. The name of the candidate appears;
  - B. A photograph or drawing of the candidate appears; or
  - C. The identity of the candidate is apparent by unambiguous reference.
- 2. Contribution.** The term "contribution:"
  - A. Includes:
    - (1) A gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing the nomination or election of any person to state, county or municipal office or for the purpose of liquidating any campaign deficit of a candidate, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;
    - (2) A contract, promise or agreement, express or implied, whether or not legally enforceable, to make a contribution for such purposes;
    - (3) Funds received by a candidate or a political committee that are transferred to the candidate or committee from another political committee or other source; and
    - (4) The payment, by any person other than a candidate or a political committee, of compensation for the personal services of other persons that are provided to the candidate or political committee without charge for any such purpose; and
  - B. Does not include:
    - (1) The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;
    - (2) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities by the individual on behalf of any candidate does not exceed \$100 with respect to any election;
    - (3) The sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if the charge to the candidate is at least equal to the cost of the food or beverages to the vendor and if the cumulative value of the food or beverages does not exceed \$100 with respect to any election;

- (4) Any unreimbursed travel expenses incurred and paid for by an individual who volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$100 with respect to any election;
- (4-A) Any unreimbursed campaign-related travel expenses incurred and paid for by the candidate or the candidate's spouse or domestic partner;
- (5) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution of a party candidate listing;
- (6) Documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this Title, lists of registered voters and voter identification information, created, obtained or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party;
- (7) Compensation paid by a ~~political~~ state party committee to ~~anits~~ employees of that party for the following purposes:
  - (a) Providing ~~advice~~ no more than a total of 20 hours of assistance from its employees to any one candidate ~~for a period of no more than 20 hours~~ in any election;
  - (b) Recruiting and overseeing volunteers for campaign activities involving 3 or more candidates; or
  - (c) Coordinating campaign events involving 3 or more candidates;
- (8) Campaign training sessions provided to 3 or more candidates;
- (8-A) Costs paid for by a party committee in connection with a campaign event at which 3 or more candidates are present;
- (8-B) Wood or other materials used for political signs that are found or contributed if not originally obtained by the candidate or contributor for campaign purposes;
- (8-C) The use or distribution of any communication, as described in section 1014, obtained by the candidate for a previous election and fully paid for during that election;
- (9) The use of offices, telephones, computers and similar equipment when that use does not result in additional cost to the provider; or
- (10) Activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention a clearly identified candidate.

**3. Expenditure.** The term "expenditure:"

A. Includes:

- (1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination or election of any person to political office, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;
- (2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure;
- (3) The transfer of funds by a candidate or a political committee to another candidate or political committee; and
- (4) A payment or promise of payment to a person contracted with for the purpose of supporting or opposing any candidate, campaign, political committee, political action committee, political party, referendum or initiated petition or circulating an initiated petition; and

B. Does not include:

- (1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless the facilities are owned or controlled by any political party, political committee, ~~or~~ candidate, or candidate's immediate family;
- (1-A) Any communication distributed through a public access television station if the communication complies with the laws and rules governing the station and all candidates in the race have an equal opportunity to promote their candidacies through the station;
- (2) Activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention a clearly identified candidate;
- (3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;
- (4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities does not exceed \$100 with respect to any election;
- (5) Any unreimbursed travel expenses incurred and paid for by an individual who volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$100 with respect to any election;
- (5-A) Any unreimbursed campaign-related travel expenses incurred and paid for by the candidate or the candidate's spouse or domestic partner;

- (6) Any communication by any person that is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office;
- (7) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution of a party candidate listing;
- (8) The use or distribution of any communication, as described in section 1014, obtained by the candidate for a previous election and fully paid for during that election campaign;
- (9) Documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this Title, lists of registered voters and voter identification information, created or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party;
- (10) Compensation paid by a ~~political~~ state party committee to ~~assist~~ employees of that party for the following purposes:
  - (a) Providing ~~advice~~ no more than a total of 20 hours of assistance from its employees to any one candidate ~~for a period of no more than 20 hours~~ in any election;
  - (b) Recruiting and overseeing volunteers for campaign activities involving 3 or more candidates; or
  - (c) Coordinating campaign events involving 3 or more candidates;
- (10-A) Costs paid for by a party committee in connection with a campaign event at which 3 or more candidates are present;
- (11) Campaign training sessions provided to 3 or more candidates;
- (11-A) Wood or other materials used for political signs that are found or contributed if not originally obtained by the candidate or contributor for campaign purposes; or
- (12) The use of offices, telephones, computers and similar equipment when that use does not result in additional cost to the provider.

**4. Exploratory committee. (REPEALED)**

**5. Party candidate listing.** "Party candidate listing" means any communication that meets the following criteria.

- A. The communication lists the names of at least 3 candidates for election to public office.
- B. The communication is distributed through public advertising such as broadcast stations, cable television, newspapers and similar media, and through direct mail, telephone, electronic mail, publicly accessible sites on the Internet or personal delivery.

C. The treatment of all candidates in the communication is substantially similar, except for any requirement under federal law applicable to communications regarding federal candidates.

D. The content of the communication is limited to:

- (1) The identification of each candidate, with which pictures may be used;
- (2) The offices sought;
- (3) The offices currently held by the candidates;
- (4) The party affiliation of the candidates and a brief statement, including campaign slogans, about the party's or the candidates' positions, philosophy, goals, accomplishments or biographies;
- (5) Encouragement to vote for the candidates identified; ~~and~~
- (6) Information about voting, such as voting hours and locations; and
- (7) Campaign or party logos.

If the communication contains language outside the categories of this paragraph, it does not qualify as a party candidate listing.

#### **21A § 1013-A. Registration**

**1. Candidates, their treasurers and political committees.** A candidate shall register the candidate's name and the name of a treasurer with the Commission at least once in each legislative biennium, as provided in this section. A candidate may have only one treasurer, who must be appointed pursuant to paragraph A or B. For purposes of this section, "legislative biennium" means the term of office a person is elected to serve in the Legislature.

A. No later than 10 days after becoming a candidate and before accepting contributions, making expenditures or incurring obligations, a candidate for state or county office or a candidate for municipal office who has not filed a written notice in accordance with section 1011, subsection 2, paragraph A shall appoint a treasurer. The candidate may serve as treasurer. The candidate may have only one treasurer, who is responsible for the filing of campaign finance reports under this chapter. A candidate shall register the candidate's name and address and the name and address of the treasurer appointed under this section no later than 10 days after the appointment of the treasurer. A candidate may accept contributions personally or make or authorize expenditures personally, as long as the candidate reports all contributions and expenditures to the treasurer. The treasurer shall make a consolidated report of all income and expenditures and provide this report to the Commission.

- (1) A candidate may appoint a deputy treasurer to act in the absence of the treasurer. The deputy treasurer, when acting in the absence of the treasurer, has the same powers and responsibilities as the treasurer. When a treasurer dies or resigns, the deputy treasurer may not assume the position of treasurer unless the candidate appoints the deputy treasurer to the position of treasurer. The candidate shall report the name and address of the deputy treasurer to the Commission no later than 10 days after the deputy treasurer has been appointed.

B. A candidate may authorize one political committee to promote the candidate's election. No later than 10 days after appointing a political committee and before accepting contributions, making expenditures or incurring obligations, a candidate for state, county or municipal office shall appoint a treasurer of the political committee. The treasurer of the political committee is responsible for filing campaign finance reports under this chapter. No later than 10 days after appointing a political committee, the candidate shall register with the Commission the following information regarding the political committee:

- (1) The name of the committee;
- (2) The name and address of the committee's treasurer;
- (3) The name of the candidate who authorized the committee; and
- (4) The names and addresses of the committee's officers.

C. No later than 10 days after becoming a candidate, as defined in section 1, subsection 5, a candidate for the office of State House of Representatives or Senate shall file in writing a statement declaring that the candidate agrees to accept voluntary limits on political expenditures or that the candidate does not agree to accept voluntary limits on political expenditures, as specified in section 1015, subsections 7 to 9, ~~or that the A~~ candidate who has filed a declaration of intent to become certified as a candidate under the Maine Clean Election Act is not required to file the written statement required by this subsection.

The statement filed by a candidate who voluntarily agrees to limit spending must state that the candidate knows the voluntary expenditure limitations as set out in section 1015, subsection 8 and that the candidate is voluntarily agreeing to limit the candidate's political expenditures and those made on behalf of the candidate by the candidate's political committee or committees, the candidate's party and the candidate's immediate family to the amount set by law. The statement must further state that the candidate does not condone and will not solicit any independent expenditures made on behalf of the candidate.

The statement filed by a candidate who does not agree to voluntarily limit political expenditures must state that the candidate does not accept the voluntary expenditure limits as set out in section 1015, subsection 8.

~~The statement filed by a candidate who has filed a declaration of intent under the Maine Clean Election Act must state that the candidate will be bound by the expenditure limitations imposed by that Act.~~

**21A § 1013-B. Removal of treasurer; filling vacancy of treasurer; substantiation of records of treasurer; notification to commission**

A candidate may remove any treasurer that the candidate has appointed. In case of a vacancy in the position of treasurer of a candidate or treasurer of a political committee before the obligations of the treasurer have been performed, the candidate shall serve as treasurer from the date of the vacancy until the candidate appoints a successor and reports the name and address of the successor to the Commission. The candidate shall file a written statement of resignation of a

treasurer of a candidate or a treasurer of a political committee and until that statement has been filed, the resignation is not effective. An individual who vacates the position of treasurer by reason of removal or resignation shall certify in writing the accuracy of the treasurer's records to the succeeding treasurer. A succeeding treasurer may not be held responsible for the accuracy of the predecessor's records.

**21A § 1014. Publication or distribution of political statements**communications

**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 radio or television station is not required to state the address of the candidate or committee that financed the communication.

**2. Not authorized by candidate.** If the communication described in subsection 1 is not authorized by a candidate, a candidate's authorized political committee or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication. If the communication is in written form, the communication must contain at the bottom of the communication in 10-point bold print, Times New Roman font, the words "NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE."

**2-A. Other Communications.** ~~If a communication~~ Whenever a person makes an expenditure to finance a communication that names or depicts a clearly identified candidate and that is disseminated during the 21 days before a primary election and 60 days before a general election through the media described in subsection 1, the communication must state the name and address of the person who made or financed the communication and a statement that the communication was or was not authorized by the candidate. The disclosure is not required if the communication was not made for the purpose of influencing the candidate's nomination for election or election.

**3. Broadcasting prohibited without disclosure.** No person operating a broadcasting station or agent of that person within this State may broadcast any communication, as described in subsections 1 ~~and through 2-A~~, without an oral or written visual announcement of the ~~name of~~

~~the person who made or financed the expenditure for the communication~~ disclosure required by this section.

**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. Any in-kind contributions of printed materials used or distributed by a candidate, political committee or political action committee must include the name or title of that candidate, political committee or political action committee as the authorizing agent for the printing and distribution of the in-kind contribution.

The use or distribution of in-kind printed materials contributed to a candidate, political committee or political action committee must be reported as an expenditure on the campaign finance report of that candidate, political committee or political action committee.

**3-B. Newspapers.** A newspaper may not publish a communication described in subsection 1 ~~or through 2-A~~ without including the disclosure required by this section. For purposes of this subsection, "newspaper" includes any printed material intended for general circulation or to be read by the general public, including a version of the newspaper displayed on a website owned or operated by the newspaper. When necessary, a newspaper may seek the advice of the Commission regarding whether or not the communication requires the disclosure.

**4. Enforcement.** An expenditure, communication or broadcast made within ~~10~~ 20 days before the election to which it relates that results in a violation of this section may result in a civil fine of no more than \$200. The person who financed the communication or who committed the violation shall correct the violation within 10 days after receiving notification of the violation from the commission. An expenditure, communication or broadcast made more than ~~10~~ 20 days before the election that results in a violation of this section may result in a civil fine of no more than \$100 if the violation is not corrected within 10 days after the ~~candidate~~ person who financed the communication or other person who committed the violation receives notification of the violation from the Commission. If the Commission determines that a person violated this section with the intent to misrepresent the name or address of the person who made or financed the communication, or whether the communication was or was not authorized by the candidate, the Commission may impose a fine of no more than \$5,000 against the person responsible for the communication. Enforcement and collection procedures must be in accordance with section 1020-A.

**5. ~~Automated~~ Telephone calls.** Prerecorded Automated telephone calls and scripted live telephone communications that name a clearly identified candidate during the 21 days before a primary election and the 60 days before a general election must clearly state the name of the person who made or financed the expenditure for the communication, except for prerecorded automated telephone calls paid for by the candidate that use the candidate's voice in the telephone call and that are made in support of that candidate. Telephone calls made for the purposes of researching the views of voters are not required to include the disclosure.

**21A § 1015. Limitations on contributions and expenditures**

**1. Individuals.** An individual may not make contributions to a candidate in support of the candidacy of one person aggregating more than \$500 in any election for a gubernatorial candidate or more than \$250 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.

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

**3. Aggregate contributions.** No individual may make contributions to candidates aggregating more than \$25,000 in any calendar year. This limitation does not apply to contributions in support of a candidate by that candidate or ~~his~~ that candidate's spouse or domestic partner.

**4. Political committees; intermediaries.** For the purpose of the limitations imposed by this section, contributions made to any political committee authorized by a candidate to accept contributions on the candidate's behalf are considered to be contributions made to that candidate.

For the purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, ~~including contributions~~ which are in any way earmarked or otherwise directed through an intermediary or conduit to the candidate, are considered to be contributions from that person to the candidate. The intermediary or conduit shall report the original source and the intended recipient of the contribution to the Commission and to the intended recipient.

**5. Other contributions and expenditures.** Any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate.

The financing by any person of the dissemination, distribution or republication, in whole or in part, of any broadcast or any written or other campaign materials prepared by the candidate, the candidate's political committee or committees or their authorized agents is considered to be a contribution to that candidate.

**6. Prohibited expenditures.** A candidate, a treasurer, a political committee, a party or party committee, a person required to file a report under this subchapter or their authorized agents may not make any expenditures for liquor to be distributed to or consumed by voters while the polls are open on election day.

**7. Voluntary limitations on political expenditures.** A candidate may voluntarily agree to limit the total expenditures made on behalf of that candidate's campaign as specified in section 1013-A, subsection 1, paragraph C and subsections 8 and 9.

**8. Political expenditure limitation amounts.** Total expenditures in any election for legislative office by a candidate who voluntarily agrees to limit campaign expenditures as provided in subsection 7 are as follows:

- A. For State Senator, \$25,000; and
- B. For State Representative, \$5,000; ~~and~~
- C. ~~For State Senator or State Representative as a candidate certified under the Maine Clean Election Act, to the extent authorized by that Act.~~

Expenditure limits are per election and may not be carried forward from one election to another. For calculation and reporting purposes, the reporting periods established in section 1017 apply.

**9. Publication of list.** The Commission shall ~~publish~~ make available to the public a list of the candidates for State Representative and State Senator who have agreed to voluntarily limit total expenditures for their campaigns as provided in section 1013-A, subsection 1, paragraph C.

For the purposes of subsections 7 and 8 and this subsection, "total expenditures" means the sum of all expenditures made to influence a single election that are made by a candidate or made on the candidate's behalf by the candidate's political committee or committees, the candidate's party or the candidate's immediate family.

#### **21A § 1015-A. Corporate contributions**

Contributions made by a for-profit or a nonprofit corporation including a parent, subsidiary, branch, division, department or local unit of a corporation, and contributions made by a political committee or political action committee whose contribution or expenditure activities are financed, maintained or controlled by a corporation are considered to be made by that corporation, political committee or political action committee.

**1. Single entities.** Two or more entities are treated as a single entity if the entities:

- A. Share the majority of members of their boards of directors;
- B. Share 2 or more officers;
- C. Are owned or controlled by the same majority shareholder or shareholders; or
- D. Are in a parent-subsidiary relationship.

**2. Sole proprietorships.** A sole proprietorship and its owner are treated as a single entity.

#### **21A § 1016. Records**

Each treasurer shall keep detailed records of all contributions received and of each expenditure that the treasurer or candidate makes or authorizes, as provided in this section. When reporting contributions and expenditures to the Commission as required by section 1017, the treasurer shall certify the completeness and accuracy of the information reported by that treasurer.

**1. Segregated funds.** All funds of a political committee and campaign funds of a candidate must be segregated from, and may not be commingled with, any personal funds of the candidate, treasurer or other officers, members or associates of the committee. Personal funds of the candidate used to support the candidacy must be recorded and reported to the treasurer as contributions to the political committee, or the candidate if the candidate has not authorized a political committee.

**2. Report of contributions and expenditures.** A person who receives a contribution or makes an expenditure for a candidate or political committee shall report the contribution or expenditure to the treasurer within 5 days of the receipt of the contribution or the making of the expenditure. A person who receives a contribution in excess of \$10 for a candidate or a political committee shall report to the treasurer the amount of the contribution, the name and address of the person making the contribution and the date on which the contribution was received.

**3. Record keeping.** A treasurer shall keep a detailed and exact account of:

A. All contributions made to or for the candidate or committee, including any contributions by the candidate;

B. The name and address of every person making a contribution in excess of \$10, the date and amount of that contribution and, if a person's contributions in any report filing period aggregate more than \$50, the account must include the contributor's occupation and principal place of business, if any. If the contributor is the candidate or a member of the candidate's immediate family, the account must also state the relationship. For purposes of this paragraph, "filing period" is as provided in section 1017, subsections 2 and 3-A;

C. All expenditures made by or on behalf of the committee or candidate; and

D. The name and address of every person to whom any expenditure is made and the date and amount of the expenditure.

**4. Receipts preservation.** A treasurer shall obtain and keep a receipted bill, stating the particulars, for every expenditure in excess of \$50 made by or on behalf of a political committee or a candidate and for any such expenditure in a lesser amount if the aggregate amount of those expenditures to the same person in any election exceeds \$50. The treasurer shall preserve all receipted bills and accounts required to be kept by this section for 2 years following the final report required to be filed for the election to which they pertain, unless otherwise ordered by the Commission or a court.

## **21A § 1017. Reports by candidates**

**1. Federal candidates.** ~~The treasurer of the campaign committee of each candidate for federal office shall file with the Commission a copy of the complete report required of them under federal law on the same date that those reports are required to be filed under federal law.~~

**2. Gubernatorial candidates.** A treasurer of a candidate for the office of Governor shall file reports with the Commission as follows. Once the first required report has been filed, each subsequent report must cover the period from the ~~completion~~ end date of the prior report filed.

A. In any calendar year, other than a gubernatorial election year, in which the candidate or the candidate's political committee has received contributions in excess of \$1,000 or made or authorized expenditures in excess of \$1,000, reports must be filed no later than 5:00 p.m. on July 15th of that year and January 15th of the following calendar year. These reports must include all contributions made to and all expenditures made or authorized by or on behalf of the candidate or the candidate's treasurer as of the end of the preceding month, except those covered by a previous report.

B. Reports must be filed no later than 5:00 p.m. on the 42nd day before the date on which an election is held and must be complete as of the 49th day before that date. If a report was not filed under paragraph A, the report required under this paragraph must cover all contributions and expenditures through the completion date.

C. Reports must be filed no later than 5:00 p.m. on the ~~611~~th day before the date on which an election is held and must be complete as of the ~~1214~~th day before that date.

D. Contributions aggregating \$1,000 or more from any one contributor or single expenditures of \$1,000 or more, made after the ~~1214~~th day before the election, and more than 24 hours before 5:00 p.m. on the day of the election, must be reported within 24 hours of those contributions or expenditures.

E. Reports must be filed no later than 5:00 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date.

F. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of \$50100 shown in the reports described in paragraph E must be reported as provided in this paragraph. The treasurer of a candidate or political committee with a surplus or deficit in excess of \$50100 shall file reports semiannually with the Commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports ~~may either~~ will be considered timely if filed electronically or in person with the Commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section.

G. Unless otherwise specified in this subsection, reports must be complete back to the ~~completion end~~ date of the previous report filing period. The reports described in paragraph E, if filed with respect to a primary election, are considered previous reports in relation to reports concerning a general election.

H. Reports with respect to a candidate who seeks nomination by petition for the office of Governor must be filed on the same dates that reports must be filed with respect to a candidate who seeks that nomination by primary election.

### **3. Other candidates. (REPEALED)**

**3-A. Other candidates.** A treasurer of a candidate for state or county office other than the office of Governor shall file reports with the Commission and municipal candidates shall file reports with the municipal clerk as follows. Once the first required report has been filed, each subsequent report must cover the period from the ~~completion end~~ date of the prior report filed.

A. In any calendar year in which an election for the candidate's particular office is not scheduled, when any candidate or candidate's political committee has received contributions in excess of \$500 or made or authorized expenditures in excess of \$500, reports must be filed no later than 5:00 p.m. on July 15th of that year and January 15th of the following calendar year. These reports must include all contributions made to and all

expenditures made or authorized by or on behalf of the candidate or the treasurer of the candidate as of the end of the preceding month, except those covered by a previous report.

B. Reports must be filed no later than 5:00 p.m. on the ~~611~~th day before the date on which an election is held and must be complete as of the ~~1214~~th day before that date. If a report was not filed under paragraph A, the report required under this paragraph must cover all contributions and expenditures through the ~~completion date~~ the 14th day before the election.

C. Contributions aggregating ~~\$1,000~~ \$500 or more from any one contributor or single expenditures of ~~\$1,000~~ \$500 or more, made after the ~~1214~~th day before any election and more than 24 hours before 5:00 p.m. on the day of any election must be reported within 24 hours of those contributions or expenditures.

D. Reports must be filed no later than 5:00 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date.

E. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of ~~\$50~~100 shown in the reports described in paragraph D must be reported as provided by this paragraph. The treasurer of a candidate with a surplus or deficit in excess of ~~\$50~~100 shall file reports semiannually with the Commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports ~~may either~~ will be considered timely if filed electronically or in person with the Commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section.

F. Reports with respect to a candidate who seeks nomination by petition must be filed on the same dates that reports must be filed by a candidate for the same office who seeks that nomination by primary election.

**3-B. Accelerated reporting schedule.** Additional reports are required from nonparticipating ~~Maine Clean Election Act~~ candidates, as defined in section 1122(5), pursuant to this subsection.

A. In addition to other reports required by law, any candidate for Governor, State Senate or State House of Representatives who is not certified as a Maine Clean Election Act candidate under chapter 14 and who receives, spends or obligates more than ~~1% in excess of~~ the primary or general election distribution amounts for a Maine Clean Election Act candidate in the same race shall file by any means acceptable to the Commission, within 48 hours of that event, a report with the Commission detailing the candidate's total campaign contributions, including any campaign balance from a previous election, obligations and expenditures to date.

B. A nonparticipating candidate ~~with a Maine Clean Election Act opponent~~ who is required to file a report required under paragraph A shall file the following additional reports detailing the candidate's total campaign contributions, including any campaign balance from a previous election, obligations and expenditures to date, unless ~~that candidate signs an affidavit by the date the report is due~~ occurs prior to the filing of the, attesting that the candidate has not received, spent or obligated an amount sufficient to ~~require a report~~ required under paragraph A:

- (1) A report filed not later than 5:00 p.m. on the 42nd day before the date on which an election is held and complete as of the 44th day before that date;
- (2) For gubernatorial candidates, A report filed no later than 5:00 p.m. on the ~~21st~~25th day before the date on which an election is held and complete as of the ~~23rd~~27th day before that date; ~~and~~
- (3) A report filed no later than 5:00 p.m. on the ~~12~~18th day before the date on which an election is held and complete as of the ~~14~~20th day before that date; ~~and~~
- (4) A report filed no later than 5:00 p.m. on the 6th day before date on which an election is held and complete as of the 8th day before that date.

C. ~~A candidate who is required to file a report under paragraph A must file with the Commission an updated report that reports single expenditures in the following amounts that are made after the 14th day before an election and more than 24 hours before 5:00 p.m. on the date of that election:~~

- (1) ~~For a candidate for Governor, a single expenditure of \$1,000;~~
- (2) ~~For a candidate for the state Senate, a single expenditure of \$750; and~~
- (3) ~~For a candidate for the state House of Representatives, a single expenditure of \$500.~~

~~A report filed pursuant to this paragraph must be filed within 24 hours of the expenditure.~~

~~The Commission shall provide forms to facilitate compliance with this subsection. The Commission shall notify a candidate within 48 hours if an amount reported on any report under paragraph B exceeds 1% in excess of the primary or general election distribution amounts for a Maine Clean Election Act candidate in the same race and no report has been received under paragraph A.~~

**4. New candidate or nominee.** A candidate for nomination or a nominee chosen to fill a vacancy under chapter 5, subchapter III is subject to section 1013-A, subsection 1, except that the candidate shall register the name of a treasurer or political committee and all other information required in section 1013-A, subsection 1, paragraphs A and B within 7 days after the candidate's appointment or at least 6 days before the election, whichever is earlier. ~~The person required to file a report under section 1013-A, subsection 1 shall file a campaign report under this section 15 days after the candidate's appointment or 6 days before the election, whichever is earlier. The report must include all contributions received and expenditures made through the completion date. The report must be complete as of 4 days before the report is due. Subsequent reports must be filed on the schedule set forth in this section. The candidate must file all subsequent reports required under this section.~~ The candidate must file all subsequent reports required under this section. The Commission shall send notification of this

requirement and registration and report forms to the candidate and the candidate's treasurer immediately upon notice of the candidate's and treasurer's appointments.

**5. Content.** A report required under this section must contain the itemized accounts of contributions received during that report filing period, including the date a contribution was received, and the name, address, occupation, principal place of business, if any, and the amount of the contribution of each person who has made a contribution or contributions aggregating in excess of \$50. The report must contain the itemized expenditures made or authorized during the report filing period, the date and purpose of each expenditure and the name of each payee and creditor. ~~Total contributions with respect to an election of less than \$500 and total expenditures of less than \$500 need not be itemized.~~ The report must contain a statement of any loan to a candidate by a financial institution in connection with that candidate's candidacy that is made during the period covered by the report, whether or not the loan is defined as a contribution under section 1012, subsection 2, paragraph A. ~~Until December 31, 1992, the candidate is responsible for the timely and accurate filing of each required report. Beginning January 1, 1993,~~ The candidate and the treasurer are jointly and severally responsible for the timely and accurate filing of each required report.

**5-A. Valuation of contributions sold at auction.** Any contribution received by a candidate that is later sold at auction shall be reported in the following manner.

A. If the contribution is sold at auction before the commencement of the appropriate reporting period specified in subsections 1 to 4, or during that period, the value of the contribution is deemed to be the amount of the purchase price paid at auction.

B. If the contribution is sold after the termination of the appropriate reporting period specified in subsections 1 to 4, the value of the contribution is the difference between the value of the contribution as originally reported by the treasurer and the amount of the purchase price paid at auction. Unless further reports are filed in relation to a later election in the same calendar year, the disposition of any net surplus or deficit in excess of \$50 resulting from the difference between the auction price and the original contribution value must be reported in the same manner as provided in subsection 2, paragraph F or subsection 3-A, paragraph E, as appropriate.

**6. Forms.** Reports required by this section not filed electronically must be on forms prescribed, prepared and sent by the Commission to the treasurer of each registered candidate at least 7 days before the filing date for the report. Establishment of or amendments to the campaign report filing forms required by this section must be by rule. Persons filing reports may use additional pages if necessary, but the pages must be the same size as the pages of the form. Although the Commission mails the forms for required reports to candidates who are exempt from filing electronically, failure to receive forms by mail does not excuse treasurers, committees and other persons who must file reports from otherwise obtaining the forms or from late filing penalties.

Rules of the Commission establishing campaign report filing forms for candidates are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**7. Reporting exemption. (REPEALED)**

**7-A. Reporting exemption.** A candidate is exempt from reporting as provided by this subsection.

A. A candidate may, at the time the candidate registers under section 1013-A, notify the Commission that the candidate and the candidate's agents, if any, will not personally accept contributions, make expenditures or incur obligations associated with that candidate's candidacy. The notification must be sworn and notarized. A candidate who provides this notice to the Commission is not required to appoint a treasurer and is not subject to the filing requirements of this subchapter if the statement is true.

B. The notice provided to the Commission under paragraph A may be revoked. Prior to revocation, the candidate must appoint a treasurer. The candidate may not accept contributions, make expenditures or incur obligations before the appointment of a treasurer and the filing of a revocation notice are accomplished. A revocation notice must be in the form of an amended registration, which must be filed with the Commission no later than 10 days after the appointment of a treasurer. The candidate and the candidate's treasurer, as of the date the revocation notice is filed with the Commission, may accept contributions, make expenditures and incur obligations associated with the candidate's candidacy. Any candidate who fails to file a timely revocation notice is subject to the penalties prescribed in section 1020-A, subsection 4, up to a maximum of \$5,000. Lateness is calculated from the day a contribution is received, an expenditure is made or an obligation is incurred, whichever is earliest.

**8. Disposition of surplus.** A treasurer of a candidate registered under section 1013-A or qualified under sections 335 and 336 or sections 354 and 355 ~~may~~ must dispose of a surplus exceeding \$50100 within 4 years of the election for which the contributions were received by:

A. Returning contributions to the candidate's or candidate's authorized political committee's contributors, as long as no contributor receives more than the amount contributed;

B. A gift to a qualified political party within the State, including any county or municipal subdivision of such a party;

C. An unrestricted gift to the State. A candidate for municipal office may dispose of a surplus by making a restricted or unrestricted gift to the municipality;

D. Carrying forward the surplus balance to a political committee established to promote the same candidate for a subsequent election;

D-1. Carrying forward the surplus balance for use by the candidate for a subsequent election;

E. Transferring the surplus balance to one or more other candidates registered under section 1013-A or qualified under sections 335 and 336 or sections 354 and 355, or to political committees established to promote the election of those candidates, provided that the amount transferred does not exceed the contribution limits established by section 1015;

F. Repaying any loans or retiring any other debts incurred to defray campaign expenses of the candidate;

- G. Paying for any expense incurred in the proper performance of the office to which the candidate is elected, as long as each expenditure is itemized on expenditure reports; and
- H. A gift to a charitable or educational organization that is not prohibited, for tax reasons, from receiving such a gift.

The choice must be made by the candidate for whose benefit the contributions were made ~~and distribution of the entire surplus by one or more of the methods prescribed in this subsection must be completed within 4 years of the election for which the contributions were received.~~

**9. Campaign termination report forms.** The Commission shall provide each candidate required to report campaign contributions and expenditures with a campaign termination report form. A candidate shall file the campaign termination report with the Commission as required in this subsection. The campaign termination report must be complete as of June 30th of the year following the campaign of the previous year. This form must show any deficits or surpluses to be carried over to the next campaign. Funds not carried forward to the next campaign must be disposed of as provided in section 1017, subsection 8. Campaign reporting is as follows.

- A. Candidates with surplus campaign funds following an election shall file termination reports no later than July 15th of the year following the campaign of the previous year.
- B. Candidates with a campaign deficit following an election shall file termination reports no later than July 15th of the year following the campaign of the previous year.
- C. Candidates with a deficit who will not participate in the next election for the same office shall file semiannual reports until the deficit is liquidated.
- D. Candidates who collect funds subsequent to an election for purposes other than retiring campaign debt shall register with the Commission pursuant to section 1013-A.

**10. Electronic filing.** Beginning January 1, 2006, the treasurer of a candidate or committee that has receipts or expects to have receipts of more than \$1,500 shall file each report required by this section through an electronic filing system developed by the Commission. The Commission may make an exception to this electronic filing requirement if a candidate or committee submits a written request that states that the candidate or committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted by April 15th of the election year, except that a candidate registered according to subsection 4 shall have 10 business from the date of registration to submit a request to the Commission. The Commission shall grant all reasonable requests for exceptions.

#### **21A § 1017-A. Reports of contributions and expenditures by party committees**

**1. Contributions.** A party committee shall report all contributions in cash or in kind from ~~an individual~~ single contributor that in the aggregate in a campaign total more than \$200. The party committee shall report the name, mailing address, occupation and place of business of each contributor. Contributions of \$200 or less must be reported, and these contributions may be reported as a lump sum.

**2. Expenditures on behalf of candidates, others.** A party committee shall report all expenditures in cash or in kind of the committee made on behalf of a candidate, political

committee, political action committee or party committee registered under this chapter. The party committee shall report:

- A. The name ~~and address~~ of each candidate, ~~and the identity and address of a campaign or political committee, political action committee, or party committee;~~
- B. The office sought by a candidate and the district that the candidate seeks to represent; and
- C. The date, ~~and amount~~ and purpose of each expenditure.

**3. Other expenditures.** Operational expenses and other expenditures in cash or in kind of the party committee that are not made on behalf of a candidate, committee or campaign must be reported ~~as a separate item~~ separately. The party committee shall report:

- A. The name and address of each payee or recipient;
- B. The reason or purpose for the expenditure; and
- C. The date and amount of each expenditure.

**4. Filing schedule. (REPEALED)**

**4-A. Filing schedule.** A state party committee shall file its reports according to the following schedule.

- A. Quarterly reports must be filed by 5:00 p.m.:
  - (1) On January 15th and must be complete up to January 5th;
  - (2) On April 10th and must be complete up to March 31st;
  - (3) On July 15th and must be complete up to July 5th; and
  - (4) On October 10th and must be complete up to September 30th.
- B. General and primary election reports must be filed by 5:00 p.m.:
  - (1) On the ~~61~~11th day before the date on which the election is held and must be complete up to the ~~12~~14th day before that date; and
  - (2) On the 42nd day after the date on which the election is held and must be complete up to the 35th day after that date.
- C. Reports of spending to influence special elections, referenda, initiatives, bond issues or constitutional amendments must be filed by 5:00 p.m.:
  - (1) On the ~~61~~11th day before the date on which the election is held and must be complete up to the ~~12~~14th day before that date; and
  - (2) On the 42nd day after the date on which the election is held and must be complete up to the 35th day after that date.

D. A state party committee that files an election report under paragraph B or C is not required to file a quarterly report under paragraph A when the deadline for that quarterly report falls within 10 days of the filing deadline established in paragraph B or C.

E. A state party committee shall report any expenditure of \$500 or more, made after the ~~12~~14th day before the election and more than 24 hours before 5:00 p.m. on the day of the election, within 24 hours of that expenditure.

**4-B. Filing schedule for municipal, district and county party committees.** Municipal, district and county party committees shall file reports according to the following schedule.

A. Reports filed during an election year must be filed with the Commission by 5:00 p.m. on:

(1) July 15th and be complete as of June 30th;

(2) ~~October 27th and be complete as of October 22nd~~ the 11th day before the date on which the election is held and must be complete up to the 14th day before that date; and

(3) January 15th and be complete as of December 31st.

B. Reports filed during a nonelection year must be filed on by 5:00 p.m.:

(1) July 15th and be complete as of June 30th; and

(2) January 15th and be complete as of December 31st.

C. Any ~~contribution or expenditure~~ of ~~\$1,000~~ \$500 or more made after the ~~12~~14th day before any election and more than 24 hours before 5:00 p.m. on the day of the ~~that~~ election must be reported within 24 hours of that ~~contribution or expenditure~~.

**4-C. Electronic filing.** Beginning January 1, 2006, state party committees shall file each report required by this section through an electronic filing system developed by the Commission. The Commission may make an exception to this electronic filing requirement if a party committee submits a written request that states that the party committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted by March 1st of the election year. The Commission shall grant all reasonable requests for exceptions.

**5. Penalties.** A party committee is subject to the penalties in section 1020-A, subsection 4.

**6. Notice; forms.** A state party committee shall notify all county, district and municipal party committees of the same political party of the party committee reporting requirements. The party committees shall obtain the necessary forms from the Commission to complete the filing requirements.

**7. Exemption.** Any party committee receiving and expending less than \$1,500 in one calendar year is exempt from the reporting requirements of this section for that year.

**8. Municipal elections.** When a party committee makes contributions or expenditures on behalf of a candidate for municipal office subject to this subchapter, it shall file a copy of the reports required by this section with the clerk in that candidate's municipality.

### **21A § 1017-B. Records**

Any party committee that makes expenditures which aggregate in excess of \$50 to any one or more candidates, committees or campaigns in this State shall keep records as provided in this section. Records required to be kept under subsections 1, 2 and 3 shall be retained by the party committee until 10 days after the next election following the election to which the records pertain.

**1. Details of records.** The treasurer of a party committee must record a detailed account of:

- A. All expenditures made to or on behalf of a candidate, campaign or committee;
- B. The identity and address of each candidate, campaign or committee;
- C. The office sought by a candidate and the district he seeks to represent, for candidates which a party committee has made an expenditure to or on behalf of; and
- D. The date of each expenditure.

**2. Receipts.** The treasurer of a party committee must retain a vendor invoice or receipt stating the particular goods or services purchased for every expenditure in excess of \$50.

**3. Record of contributions.** The treasurer of a party committee must keep a record of all contributions to the committee, by name and mailing address, of each donor and the amount and date of the contribution. This provision does not apply to aggregate contributions from a single donor of \$50 or less in an election. When any donor's contributions to a party committee exceed \$50, the record must include the aggregate amount of all contributions from that donor.

### **21A § 1018. Reports by party committees**

**1. State committee; federal reports.** ~~The state committee of each party shall file with the Commission a copy of the complete report required of them under federal law on the same date that those reports are required to be filed under federal law.~~

**2. Party committee. (REPEALED)**

### **21A § 1018-B Recounts of elections**

**1. Reporting.** Candidates who are involved in a recount of an election shall file a report 90 days after the election containing itemized accounts of cash, goods and services received for the recount and payments made by the candidate for the recount. The reports must be made on forms prepared and sent by the Commission. Persons donating services to the candidate are required to provide the candidate with an estimate of the value of the services donated. Political action committees and party committees making expenditures for a candidate's recount shall identify on their regularly filed reports that the expenditures were made for the purposes of a recount.

**2. Limitations.** Candidates may receive donations without limitation for purposes of a recount from party committees and caucus campaign committees and from attorneys,

consultants and their firms that are donating their services without reimbursement.  
Candidates may not spend revenues received under chapter 14 for recount expenditures.

**21A § 1019. Reports of independent expenditures (REPEALED)**

**21A § 1019-A. Reports of membership communications**

Any membership organization or corporation that makes a communication to its members or stockholders expressly advocating the election or defeat of a clearly identified candidate shall report any expenses related to such communications aggregating in excess of \$50 in any one candidate's election race, notwithstanding the fact that such communications are not expenditures under section 1012, subsection 3, paragraph A. Reports required by this section must be filed with the Commission on forms prescribed and prepared by the Commission and according to a reporting schedule that the Commission shall establish by rule.

**21A §1019-B. Reports of independent expenditures**

**1. Independent expenditures; definition.** For the purposes of this section, an "independent expenditure":

A. Is any expenditure made by a person, party committee, political committee or political action committee, other than by contribution to a candidate or a candidate's authorized political committee, for any communication that expressly advocates the election or defeat of a clearly identified candidate; and

B. Is presumed in races involving a candidate who is certified as a Maine Clean Election Act candidate under section 1125, subsection 5 to be any expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and is disseminated during the 21 days, including election day, before a primary election; the ~~21~~60 days, including election day, before a general election; or during a special election until and on election day.

**2. Rebutting presumption.** A person presumed under this section to have made an independent expenditure may rebut the presumption by filing a signed written statement with the Commission within 48 hours of making the expenditure stating that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate, supported by any additional evidence the person chooses to submit. The Commission may gather any additional evidence it deems relevant and material and must determine by a preponderance of the evidence whether the cost was incurred with intent to influence the nomination, election or defeat of a candidate.

**3. Report required; content; rules.** A person, party committee, political committee or political action committee that makes independent expenditures aggregating in excess of \$100 during any one candidate's election shall file a report with the Commission. In the case of a municipal election, a copy of the same information must be filed with the municipal clerk.

A. A report required by this subsection must be filed with the Commission according to a reporting schedule that the Commission shall establish by rule that takes into consideration existing campaign finance reporting requirements and matching fund

provisions under chapter 14. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

B. A report required by this subsection must contain an itemized account of each ~~contribution or expenditure~~ aggregating in excess of \$100 in any one candidate's election, the date and purpose of each ~~contribution or expenditure~~, a description of all communications related to the expenditure, and the name of each payee or creditor. The report must state whether the ~~contribution or expenditure~~ is in support of or in opposition to the candidate and must include, under penalty of perjury, as provided in Title 17-A, section 451, a statement under oath or affirmation whether the ~~contribution or expenditure~~ is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate or an authorized committee or agent of the candidate.

C. A report required by this subsection 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.

## **21A § 1020. Failure to file on time (REPEALED)**

### **21A § 1020-A. Failure to file on time**

**1. Registration.** A candidate that fails to register the name of a candidate, treasurer or political committee with the Commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of \$100. The Commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

**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 ~~before~~ by 5:00 p.m. on the date it is due. Except as provided in subsection 7, the Commission shall determine whether a report satisfies the requirements for timely filing. The Commission may waive a penalty if the Commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or 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 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;

C. Failure to receive notice of the filing deadline; or

D. 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.

**3. Municipal campaign finance reports.** Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the Commission of any late reports subject to a penalty.

**4. Basis for penalties. (REPEALED)**

**4-A. Basis for penalties.** The penalty for late filing of a report required under this subchapter, except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B, is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

- A. For the first violation, 1%;
- B. For the 2nd violation, 3%; and
- C. For the 3rd and subsequent violations, 5%.

Any penalty of less than \$510 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A registration or report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the Commission, as long as the facsimile copy is filed by the applicable deadline and an original of the same report is received by the Commission within 5 calendar days thereafter.

The penalty for late filing of an accelerated campaign finance report as required in section 1017, subsection 3-B may be up to but no more than 3 times the amount by which the contributions received or expenditures obligated or made by the candidate, whichever is greater, exceed the applicable Maine Clean Election Fund disbursement amount, per day of violation. The Commission shall make a finding of fact establishing when the report was due prior to imposing a penalty under this subsection. A penalty for failure to file an accelerated campaign finance report must be made payable to the Maine Clean Election Fund. In assessing a penalty for failure to file an accelerated campaign finance report, the Commission shall consider the existence of mitigating circumstances. For the purposes of this subsection, “mitigating circumstances” has the same meaning as in subsection 2.

**5. Maximum penalties. (REPEALED)**

**5-A. Maximum penalties.** Penalties assessed under this subchapter may not exceed:

- A. Five thousand dollars for reports required under section 1017, subsection 2, paragraph B, C, D, E or H; section 1017, subsection 3-A, paragraph B, C, D or F; section 1017, subsection 4; and section 1019-B, subsection 3;
- B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E;

- C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E;
- D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B; or
- E. Three times the unreported amount for reports required under section 1017, subsection 3-B, if the unreported amount is less than \$5,000 and the Commission finds that the candidate in violation has established, by a preponderance of the evidence, that a bona fide effort was made to file an accurate and timely report.

**6. Request for a commission determination.** Within 3 days following the filing deadline, a notice must be ~~forwarded~~sent to a candidate and treasurer whose registration or campaign finance report is not received by 5:00 p.m. on the deadline date, informing them of the basis for calculating penalties under subsection 4 and providing them with an opportunity to request a commission determination. The notice must be sent by certified United States mail. Any request for a determination must be made within 10 calendar days of receipt of the Commission's notice. The 10-day period during which a determination may be requested begins on the day a recipient signs for the certified mail notice of the proposed penalty. If the certified letter is refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter. A candidate or treasurer requesting a determination may either appear in person or designate a representative to appear on the candidate's or treasurer's behalf or submit a notarized written explanation of the mitigating circumstances for consideration by the Commission.

**7. Final notice of penalty.** If a determination has been requested by the candidate and made by the Commission~~After a commission meeting~~, notice of the Commission's final determination and the penalty, if any, imposed pursuant to this subchapter must be sent to the candidate and the treasurer.

If no determination is requested, the Commission staff shall calculate the penalty as prescribed in subsection 4 and shall mail final notice of the penalty to the candidate and treasurer. A detailed summary of all notices must be provided to the Commission.

**8. Failure to file report.** The Commission shall notify a candidate who has failed to file a report required by this subchapter, in writing, informing the candidate of the requirement to file a report. The notice shall be sent by certified mail. ~~If a candidate fails to file a report after 3 written communications notices have been sent by~~ from the Commission, the Commission shall ~~send up to 2 more written communications~~ a final notice by certified mail informing the candidate of the requirement to file and that the matter may be referred to the Attorney General for criminal prosecution. A candidate who fails to file a report as required by this subchapter after the Commission has sent the communications required by this subsection is guilty of a Class E crime.

**8-A. Penalties for failure to file report.** The penalty for failure to file a report required under this subchapter may not exceed the maximum penalties as provided in subsection 5-A.

**9. List of late-filing candidates.** The Commission shall prepare a list of the names of candidates who are late in filing a report required under section 1017, subsection 2, paragraph C

or D or section 1017, subsection 3-A, paragraph B or C within 30 days of the date of the election and shall make that list available for public inspection.

**10. Enforcement.** The Commission staff has the responsibility for collecting the full amount of any penalty and has all necessary powers to carry out this responsibility. Failure to pay the full amount of any penalty levied under this subchapter is a civil violation by the candidate, treasurer, political party or other person whose campaign finance activities are required by this subchapter to be reported. Thirty days after issuing the notice of penalty, the Commission shall report to the Attorney General the name of any person who has failed to pay the full amount of any penalty. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty. This action must be brought in the Superior Court for Kennebec County or the District Court, 7th District, Division of Southern Kennebec.

**SUBCHAPTER IV**  
**REPORTS BY POLITICAL ACTION COMMITTEES**

**21A § 1051. Application**

This subchapter applies to the activities of political action committees organized in and outside this State that accept contributions, incur obligations or make expenditures in an aggregate amount in excess of ~~\$50~~ \$1,500 in any one calendar year for the election of state, county or municipal officers, or for the support or defeat of any campaign, as defined in this subchapter.

This subchapter does not apply to any broadcast time concerning any referendum campaign, as defined in section 1, subsection 36, which is provided by a broadcaster in accordance with the requirements of the Federal Communications Act, United States Code, Title 47, Section 315, generally referred to as the "Fairness Doctrine."

**21A § 1052. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Campaign.** "Campaign" means any course of activities for a specific purpose such as the initiation, promotion or defeat of a candidate or question, including:

- A. The referendum procedure under the Constitution of Maine, Article IV, Part Third, Section 17;
- B. The initiative procedure under the Constitution of Maine, Article IV, Part Third, Section 18;
- C. An amendment to the Constitution of Maine under Article X, Section 4;
- D. Legislation expressly conditioned upon ratification by a referendum vote under the Constitution of Maine, Article IV, Part Third, Section 19;
- E. The ratification of the issue of bonds by the State or any agency thereof; and
- F. Any county or municipal referendum.

**2. Committee.** "Committee" means any political action committee, as defined in this subchapter, and includes any agent of a political action committee.

**3. Contribution.** "Contribution" includes:

- A. A gift, subscription, loan, advance or deposit of money or anything of value made to a political action committee, except that a loan of money by a financial institution made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;
- B. A contract, promise or agreement, expressed or implied whether or not legally enforceable, to make a contribution to a political action committee;

C. Any funds received by a political action committee that are to be transferred to any candidate, committee, campaign or organization for the purpose of promoting, defeating or initiating a candidate, referendum, political party or initiative, including the collection of signatures for a direct initiative, in this State; or

D. The payment, by any person or organization, of compensation for the personal services of other persons provided to a political action committee which is used by the political action committee to promote, defeat or initiate a candidate, campaign political party, referendum or initiated petition in this State.

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

A. Includes:

(1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, made for the purpose of influencing the nomination or election of any person to political office; or for the initiation, support or defeat of a campaign, referendum or initiative, including the collection of signatures for a direct initiative, in this State;

(2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure for the purposes set forth in this paragraph; and

(3) The transfer of funds by a political action committee to another candidate or political committee; and

B. Does not include:

(1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless these facilities are owned or controlled by any political party, political committee, ~~or~~ candidate, or candidate's immediate family;

(2) Activity designed to encourage individuals to register to vote or to vote, if that activity or communication does not mention a clearly identified candidate;

(3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;

(4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by a political action committee in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities by the political action committee on behalf of any candidate does not exceed \$100 with respect to any election;

(5) Any unreimbursed travel expenses incurred and paid for by a political action committee that volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$100 with respect to any election; and

(6) Any communication by any political action committee member that is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office.

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

A. Includes:

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

B. Does not include:

- (1) A candidate or a candidate's treasurer under section 1013-A, subsection 1;
- (2) A candidate's authorized political committee under section 1013-A, subsection 2;  
or
- (3) A party committee under section 1013-A, subsection 3.

**21A § 1053. Registration**

Every political action committee that accepts contributions, incurs obligations or makes expenditures in the aggregate in excess of \$1,500 in any single calendar year to initiate, support, defeat or influence in any way a campaign, referendum, initiated petition, including the collection of signatures for a direct initiative, candidate, political committee or another political action committee must register with the Commission, within 7 days of accepting those contributions, incurring those obligations or making those expenditures, on forms prescribed by the Commission. These forms must include the following information and any additional information reasonably required by the Commission to monitor the activities of political action committees in this State under this subchapter:

**1. Identification of committee.** The names and mailing addresses of the committee, its treasurer, its principal officers, ~~and the identity names~~ of any candidates, or Legislators who are involved with the committee in a fund-raising or decision-making capacity, or and all other individuals who are the primary fund-raisers and decision makers for the committee;

~~2. **Status.** A statement whether the political action committee is a continuing one;~~

~~3. **Depository of funds.** The names and addresses of the depositories in which funds of the committee are kept and the account numbers of each depository account;~~

~~4. **Form of organization.** The form or structure of organization, including cooperatives, corporations, voluntary associations, partnerships or any other structure by which the committee functions. The date of origin or incorporation must also be specified;~~

~~5. **Assets.** The total assets of the committee available to influence elections in this State at the time of registration to be itemized and to include deposits in financial institutions, real property, personal property, investments, cash and any other form of wealth available to the committee;~~

**6. Statement of support or opposition.** A statement indicating the positions of the committee, support or opposition, with respect to a candidate, political committee, referendum, initiated petition or campaign, if known at the time of registration. If a committee has no position on a candidate, campaign or issue at the time of registration, the committee must inform the Commission as soon as the committee knows this information; and

~~7. **Contributions to committee.** The names and mailing addresses of contributors who donate in excess of \$50 each year to the committee with amount or value of each contribution at the time of registration. Any person who makes contributions on an installment basis, the total of which exceeds \$50 in the calendar year, is considered a contributor to be identified under this subsection.~~

Every change in information required by this section must be included in an amended registration form submitted to the Commission within 10 days of the date of the change. The committee must file an updated registration form every 2 years between January 1st and March 1st of an election year. The Commission may waive this requirement for newly registered political action committees or other registered political action committees for whom filing an updated registration form would cause an administrative burden disproportionate to the public benefit of updated information.

At the time of registration, the political action committee must report all pre-registration financial activity to the Commission.

#### **21A § 1054. Appointment of treasurer**

Any political action committee required to register under section 1053 must appoint a treasurer before ~~making any expenditure, as defined in this chapter~~ registering with the Commission. The treasurer shall retain, for a minimum of 4 years, all receipts, including cancelled checks, of expenditures made in support of or in opposition to a campaign, political committee, political action committee, referendum or initiated petition in this State.

#### **21A § 1055. Publication or distribution of ~~statements~~ political communications**

~~When a~~ A political action committee that makes an expenditure to finance a communication expressly advocating the election or defeat of a candidate ~~or that names or depicts a clearly-~~

~~identified candidate is subject to the requirements of section 1014 of this chapter, through broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails and other similar types of general public political advertising and through flyers, handbills, bumper stickers and other nonperiodical publications, the communication must clearly and conspicuously state the name and address of the political action committee that authorized, made or financed the expenditure for the communication and that the communication has been authorized by the political action committee.~~

~~A person operating a broadcasting station within this State may not broadcast any such communication without an oral or visual announcement of the name and address of the political action committee that made or financed the expenditure for the communication.~~

~~A newspaper may not publish a communication described in this section without including the disclosure required by this section. For purposes of this paragraph, "newspaper" includes any printed material intended for general circulation or to be read by the general public. When necessary, a newspaper may seek the advice of the Commission regarding whether or not the communication requires the disclosure.~~

~~An expenditure, communication or broadcast that results in a violation of this section may result in a civil penalty of no more than \$200. Enforcement and collection procedures must be in accordance with section 1062-A.~~

## **21A § 1057. Records**

Any political action committee that makes expenditures which aggregate in excess of \$50 to any one or more candidates, committees or campaigns in this State shall keep records as provided in this section. Records required to be kept under subsections 1, 2 and 3 shall be retained by the political action committee until 10 days after the next election following the election to which the records pertain.

**1. Details of records.** The treasurer of a political action committee must record a detailed account of:

- A. All expenditures made to or in behalf of a candidate, campaign or committee;
- B. The identity and address of each candidate, campaign or committee;
- C. The office sought by a candidate and the district he seeks to represent, for candidates which a political action committee has made an expenditure to or in behalf of; and
- D. The date of each expenditure.

**2. Receipts.** The treasurer of a political action committee must retain a vendor invoice or receipt stating the particular goods or services purchased for every expenditure in excess of \$50~~all receipts of expenditures made for a candidate, committee or campaign in this State.~~ Receipts may be in the form of cancelled checks.

**3. Record of contributions.** The treasurer of a political action committee must keep a record of all contributions to the committee, by name and mailing address, of each donor and the amount and date of the contribution. This provision does not apply to aggregate contributions from a single donor of which do not exceed \$50 or less each for an general election, primary election and/or referendum campaign. When any donor's contributions to a political action

committee exceed \$50, the record must include the aggregate amount of all contributions from that donor.

**21A § 1058. Reports; qualifications for filing**

A political action committee that is registered with the Commission or that accepts contributions, or makes expenditures and incurs obligations in an aggregate amount in excess of ~~\$50~~ \$1,500 on any one or more campaigns for the office of Governor, for state or county office or for the support or defeat of a referendum or initiated petition shall file a report on its activities in that campaign with the Commission on forms as prescribed by the Commission. A political action committee organized in this State required under this section to file a report shall file the report for each filing period under section 1059. ~~A political action committee organized outside this State shall file with the Commission on Governmental Ethics and Election Practices of this State a copy of the report that the political action committee is required to file in the state in which the political action committee is organized. The political action committee shall file the copy only if it has expended funds or received contributions or made expenditures in this State. The copy of the report must be filed in accordance with the schedule of filing in the state where it is organized. If contributions or expenditures are made relating to a municipal office or referendum, the report must be filed with the clerk in the subject municipality.~~

**21A § 1059. Report; filing requirements**

Committees required to register under section 1053 shall file reports in compliance with this section. All reports must be filed no later than 5:00 p.m. on the filing deadline.

~~**1. Contents; quarterly reports and election year reports.** The reports required under subsection 2, paragraphs A, B and C, must contain the following:~~

- ~~A. Itemized expenditures required by the Commission to closely monitor the activities of political action committees;~~
- ~~B. Aggregate expenditures, listed by candidate or political committee, for the reporting period for which the report is filed;~~
- ~~B-1. Cumulative expenditures, listed by candidate or political committee, aggregating the expenditures made during preceding reporting periods in the same calendar year and during the reporting period for which the report is filed;~~
- ~~C. The total cumulative balance from all preceding reporting periods; and~~
- ~~D. In the report required to be filed under subsection 2, paragraph B, subparagraph 2, a summary of all expenditures made during the calendar year in which the election was held.~~

~~The Commission may accept computer printout sheets that contain the information required by this chapter.~~

**2. Reporting schedule.** Committees shall file reports according to the following schedule.

- A. Quarterly reports shall be filed:
  - (1) On January 15th and must be complete as of January 5th;
  - (2) On April 10th and must be complete as of March 31st;

(3) On July 15th and must be complete as of July 5th; and

(4) On October 10th and must be complete as of September 30th.

B. General and primary election reports shall be filed:

(1) On the ~~611~~th day before the date on which the election is held and must be complete as of the ~~4214~~th day before that date; and

(2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date.

C. Reports of spending to influence special elections, referenda, initiatives, bond issues or constitutional amendments shall be filed:

(1) On the ~~611~~th day before the date on which the election is held and must be complete as of the ~~4214~~th day before that date; and

(2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date.

D. A committee that files an election report under paragraph B or C is not required to file a quarterly report when the deadline for that quarterly report falls within 10 days of the filing deadline established in paragraph B or C.

E. A committee shall report any expenditure of \$500 or more, made after the ~~4214~~th day before the election and more than 24 hours before 5:00 p.m. on the day of the election, within 24 hours of that expenditure.

**3. Report of expenditures made after the 11th day and more than 48 hours before any election. (REPEALED)**

**4. Special election reports. (REPEALED)**

**5. Electronic filing.** Beginning January 1, 2006, committees shall file each report required by this section through an electronic filing system developed by the Commission. The Commission may make an exception to this electronic filing requirement if a committee submits a written request that states that the committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted ~~no later than March 1, 2006 or~~ within 30 days of the registration of the committee, ~~whichever is later.~~ The Commission shall grant all reasonable requests for exceptions.

#### **21A § 1060. Content of reports**

The reports must contain the following information and any additional information required by the Commission to monitor the activities of political action committees:

**1. Identification of candidates.** The names ~~and mailing addresses~~ and offices sought of any all candidates whom the committee supports, intends to support or seeks to defeat. ~~The report must indicate the office that the candidate is seeking, the political party represented by the candidate, if any, the date of the contest and whether the contest is an election or a primary;~~

**2. Identification of committees; parties.** The names ~~and mailing addresses of any all~~ political committees or political party committees supported in any way by the registrant committee;

**3. Identification of referendum or initiated petition.** The referenda or initiated petitions which the committee supports or opposes ~~and the names and mailing addresses of the organizations to which expenditures were made;~~

**4. Itemized expenditures.** An itemization of each expenditure made ~~to support or oppose on behalf of~~ any candidate, campaign, political committee, political action committee, ~~political party committee, or to support or oppose~~ a referendum or initiated petition, including the date, payee and purpose of the expenditure; ~~and the address of the payee~~ name of each candidate, campaign, political committee, political action committee, or party committee on whose behalf the expenditure was made; and each referenda or initiated petition supported or opposed by the expenditure. If expenditures were made to a person described in section 1012, subsection 3, paragraph A, subparagraph (4), the report must contain the name of the person; the amount spent by that person on behalf of the candidate, campaign, political committee, political action committee, ~~political party committee,~~ referendum or initiated petition, including, but not limited to, expenditures made during the signature-gathering phase; the reason for the expenditure; and the date of the expenditure. The Commission may specify the categories of expenditures that are to be reported to enable the Commission to closely monitor the activities of political action committees;

**5. Aggregate expenditures.** An aggregation of expenditures and cumulative aggregation of expenditures to a candidate, campaign, political committee, political action committee, party committee, referendum or initiated petition;

**6. Identification of contributions.** Names, occupations, places of business and mailing addresses of contributors who have given more than \$50 to the political action committee after the committee has registered under section 1053 in the reporting period, and the amount contributed by each donor and the date of ~~each~~ contribution. ~~The information already reported as required by section 1053, subsection 7 should not be duplicated;~~ and

**7. Other expenditures.** Operational expenses and other expenditures in cash or in kind that are not made on behalf of a candidate, committee or campaign.

#### **21A § 1061. Dissolution of committees**

Whenever any political action committee ~~disbands or determines that it will no longer solicit or accept any contributions, incur any obligations, will no longer be incurred and no make any expenditures will be made to~~ or on behalf of any candidate, political committee, ~~or political party committee, or political action committee,~~ or to initiate, support, defeat or influence in any way the outcome of a referendum, initiated petition, ~~or election or primary,~~ and the committee has no outstanding loans, debts or other obligations, the committee shall file a termination report that includes all financial activity from the end date of the previous reporting period through the date of termination with the Commission ~~on Governmental Ethics and Election Practices.~~ If a termination report is not filed, the committee shall continue to file periodic reports as required in this chapter.

#### **21A § 1062-A. Failure to file on time**

**1. Registration.** A political action committee required to register under section 1053 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 of \$250.

**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 before 5:00 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 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.

**3. Basis for penalties.** The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

- A. For the first violation, 1%;
- B. For the 2nd violation, 3%; and
- C. For the 3rd and subsequent violations, 5%.

Any penalty of less than \$510 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered calendar year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the Commission, as long as an original of the same report is received by the Commission within 5 calendar days thereafter.

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

**5. Request for a commission determination.** Within 3 days following the filing deadline, a notice must be forwarded to the principal officer and treasurer of the political action committee whose report is not received by 5:00 p.m. on the deadline date, informing them of the basis for calculating penalties under subsection 3 and providing them with an opportunity to request a commission determination. The notice must be sent by certified United States mail. A request for determination must be made within 10 calendar days of receipt of the Commission's notice. The 10-day period during which a determination may be requested begins on the day a recipient signs for the certified mail notice of the proposed penalty. If the certified letter is refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter. A principal officer or treasurer requesting a determination may either appear in person or designate a representative to appear on the principal officer's or treasurer's behalf or submit a notarized written explanation of the mitigating circumstances for consideration by the Commission.

**6. Final notice of penalty.** After a commission meeting, notice of the final determination of the Commission and the penalty, if any, imposed pursuant to this subchapter must be sent to the principal officer and the treasurer of the political action committee.

If no determination is requested, the Commission staff shall calculate the penalty based on the provision of subsection 3 and shall mail final notice of the penalty to the principal officer and to the treasurer of the political action committee. A detailed summary of all notices must be provided to the Commission.

**7. List of late-filing committees.** The Commission shall prepare a list of the names of political action committees that are late in filing a report required under section 1059, subsection 2, paragraph B, subparagraph (1); or section 1059, subsection 2, paragraph C or D ~~or section 1059, subsection 3 A, paragraph B or C~~ within 30 days of the date of the election and shall make that list available for public inspection.

**8. Failure to file.** A person who fails to file a report as required by this subchapter within 30 days of the filing deadline is guilty of a Class E crime, except that, if a penalty pursuant to subsection 8-A is assessed and collected by the Commission, the State may not prosecute a violation under this subsection.

**8-A. Penalties for failure to file report.** The maximum penalty for failure to file a report required under 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.

**9. Enforcement.** The Commission staff has the responsibility for collecting the full amount of any penalty and has all necessary powers to carry out this responsibility. Failure to pay the full amount of any penalty levied under this subchapter is a civil violation by the political action committee and its treasurer. Thirty days after issuing the notice of penalty, the Commission shall report to the Attorney General the name of any political action committee, along with the name of its treasurer, that has failed to pay the full amount of any penalty. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty. This action must be brought in the Superior Court for Kennebec County or the District Court, 7th District, Division of Southern Kennebec.

CHAPTER 14  
THE MAINE CLEAN ELECTION ACT

21A § 1122. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Certified candidate.** "Certified candidate" means a candidate running for Governor, State Senator or State Representative who chooses to participate in the Maine Clean Election Act and who is certified as a Maine Clean Election Act candidate under section 1125, subsection 5.

**2. Commission.** "Commission" means the Commission on Governmental Ethics and Election Practices established by Title 5, section 12004-G, subsection 33.

**3. Contribution.** "Contribution" has the same meaning as in section 1012, subsection 2.

**3-A. Immediate family.** "Immediate family" has the same meaning as in section 1(20) and includes a candidate's domestic partner and the immediate family of the candidate's domestic partner.

**4. Fund.** "Fund" means the Maine Clean Election Fund established in section 1124.

**5. Nonparticipating candidate.** "Nonparticipating candidate" means a candidate running for Governor, State Senator or State Representative who does not choose to participate in the Maine Clean Election Act and who is not seeking to be certified as a Maine Clean Election Act candidate under section 1125, subsection 5.

**6. Participating candidate.** "Participating candidate" means a candidate who is running for Governor, State Senator or State Representative who is seeking to be certified as a Maine Clean Election Act candidate under section 1125, subsection 5.

**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, signed by the contributor and made in support of a candidate;

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;

C. Made during the designated qualifying period~~and obtained with the knowledge and approval of the candidate;~~ and

D. That the contributor acknowledged was made with his or her personal funds and in support of the candidate and was not given in exchange for anything of value; and that the candidate acknowledged was obtained with the candidate's knowledge and approval and that nothing of value was given in exchange for the contribution, ~~is acknowledged by a written receipt that identifies the name and address of the donor on forms provided by the commission.~~

**8. Qualifying period.** "Qualifying period" means the following.

A. For a gubernatorial participating candidate, the qualifying period begins November 1st immediately preceding the election year and ends at 5:00 p.m. on April 15th 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.

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 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.

**9. Seed money contribution.** "Seed money contribution" means a contribution of no more than \$100 ~~per individual~~ made to a participating candidate by an individual who is a Maine resident, including a ~~contribution from the candidate or the candidate's family. To be eligible for certification, a candidate may collect and spend only seed money contributions subsequent to becoming a candidate as defined by section 1, subsection 5 and throughout the qualifying period.~~ 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. Prior to certification, a candidate may obligate an amount greater than the seed money collected if the value of the goods and services received from a vendor does not exceed the amount paid to the vendor. A candidate may not collect or spend seed money contributions after certification as a Maine Clean Election Act candidate. ~~A seed money contribution must be reported according to procedures developed by the commission.~~

## **21A § 1124. The Maine Clean Election Fund established; sources of funding**

**1. Established.** The Maine Clean Election Fund is established to finance the election campaigns of certified Maine Clean Election Act candidates running for Governor, State Senator and State Representative and to pay administrative and enforcement costs of the commission related to this Act. The fund is a special, dedicated, nonlapsing fund and any interest generated by the fund is credited to the fund. The commission shall administer the fund.

**2. Sources of funding.** The following must be deposited in the fund:

A. The qualifying contributions required under section 1125 when those contributions are submitted to the commission;

B. Two million dollars of the revenues from the taxes imposed under Title 36, Parts 3 and 8 and credited to the General Fund, transferred to the fund by the Treasurer of State on or before January 1st of each year, beginning January 1, 1999. These revenues must be offset in an equitable manner by an equivalent reduction within the administrative divisions of the legislative branch and executive branch agencies. This section may not affect the funds distributed to the Local Government Fund under Title 30-A, section 5681.

~~If the commission determines that the fund will not have sufficient revenues to cover the likely demand for funds from the Maine Clean Election Fund in an upcoming calendar year, by January 1st the commission shall provide a report of its projections of the~~

~~balances in the Maine Clean Election Fund to the Legislature and the Governor and may request that the State Controller make the following transfers to the Maine Clean Election Fund from the General Fund:~~

- ~~(1) Up to \$2,000,000 no later than February 28, 2006, reflecting an advance of the transfer of the amounts that would be received on or before January 1, 2007 pursuant to this paragraph;~~
- ~~(2) Up to \$2,000,000 no later than July 31, 2006, reflecting an advance of the transfer of the amounts that would be received on or before January 1, 2008 pursuant to this paragraph; and~~
- ~~(3) Up to \$1,500,000 no later than September 1, 2004, reflecting a partial advance of the transfer of the amounts that would be received on or before January 1, 2005 pursuant to this paragraph;~~
- C. Revenue from a tax check off program allowing a resident of the State who files a tax return with the State Tax Assessor to designate that \$3 be paid into the fund. If a husband and wife file a joint return, each spouse may designate that \$3 be paid. The State Tax Assessor shall report annually the amounts designated for the fund to the State Controller, who shall transfer that amount to the fund;
- ~~D. Seed money contributions remaining unspent after a candidate has been certified as a Maine Clean Election Act candidate;~~
- E. Fund revenues that were distributed to a Maine Clean Election Act candidate and that remain unspent after the candidate has lost a primary election or after all general elections;
- F. Other unspent fund revenues distributed to any Maine Clean Election Act candidate who does not remain a candidate throughout a primary or general election cycle;
- G. Voluntary donations made directly to the fund; and
- H. Fines collected under section 1020-A, subsection 4 and section 1127.

~~**3. Determination of fund amount.** By September 1st preceding each election year, the commission shall publish an estimate of revenue in the fund available for distribution to certified candidates during the upcoming year's elections and an estimate of the likely demand for clean elections funding during that election. If the commission determines that the fund will not have sufficient revenues to cover the likely demand for funds from the Maine Clean Election Fund in an upcoming election, by January 1st the commission shall provide a report of its projections of the balances in the Maine Clean Election Fund to the Legislature and the Governor. The commission may submit legislation to request additional funding.~~

### **21A § 1125. Terms of participation**

**1. Declaration of intent.** A participating candidate must file a declaration of intent to seek certification as a Maine Clean Election Act candidate and to comply with the requirements of this chapter. The declaration of intent must be filed with the commission prior to or during the qualifying period, except as provided in subsection 11, according to

forms and procedures developed by the commission. A participating candidate must submit a declaration of intent within 5 business days of collecting qualifying contributions under this chapter, ~~or the~~ ~~Qualifying contributions collected more than 5 business days before the declaration of intent has been filed will not be counted toward the eligibility requirement in subsection 3.~~

**2. ~~Restrictions on e~~Contributions limits for participating candidates.** Subsequent to becoming a candidate as defined by section 1, subsection 5 and prior to certification, a participating candidate may not accept contributions, except for seed money contributions. A participating candidate must limit the candidate's total seed money contributions to the following amounts:

- 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 report.** Seed money contributions and expenditures must be reported according to procedures developed by the commission. A candidate must report the name, residential address, and the occupation and employer of every individual contributor. The commission may require a gubernatorial candidate to submit, with the seed money report, a contribution card or other form signed by the contributor attesting that the seed money contribution was made with his or her personal funds, and was not reimbursed by any source.

**2-B. Seed money restrictions.** To be eligible for certification, a candidate may collect and spend only seed money contributions subsequent to becoming a candidate as defined by section 1, subsection 5 and prior to certification. Unless excluded from the definition of contribution in section 1012(2)(B), all goods and services received prior to certification must be paid for with seed money contributions. Prior to certification, a candidate may obligate an amount greater than the seed money collected for goods and services but may only receive that portion of goods and services which has been paid for or will be paid for with seed money. A candidate may not solicit, accept or collect seed money contributions after certification as a Maine Clean Election Act candidate. A certified candidate may use any unspent seed money remaining after certification to make campaign-related expenditures subject to the same restrictions and guidelines for expenditures of fund revenues, except that a certified candidate may use unspent seed money to pay for goods and services received prior to certification. It shall be a violation of this chapter for a candidate to use fund revenues received after certification to pay for goods and services received prior to certification. 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.

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

- A. For a gubernatorial candidate, at least 2,500 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 in the amount of \$5, which is a qualifying contribution, 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 rule a procedure for a qualifying contribution to be made by a credit or debit transaction and by electronic funds transfer over the internet.

It shall be a violation of this chapter for a candidate or an agent of the candidate to misrepresent to a potential contributor the nature and purpose of qualifying contribution or the purpose of obtaining the contributor's signed acknowledgement.

**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.

**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 ~~or not~~ 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;
  - C-1. If the candidate is a gubernatorial candidate, raised at least fifteen thousand dollars in seed money contributions;
- 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; ~~and~~
  - 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 or certification revoked on the basis of fraud or other substantial violations of this chapter or chapter 13;

D-4. Not failed to pay any civil penalty assessed by the Commission under this title, except that a candidate shall have 3 business days from the date of the request for certification to pay the outstanding penalty and remain eligible for certification; and

E. Otherwise met the requirements for participation in this Act.

The commission or its executive director shall certify a candidate complying with the requirements of this section as a Maine Clean Election Act candidate as soon as possible after final submittal of qualifying contributions and other supporting documents required under subsection 4 and but no later than 3 business days for legislative candidates and 5 business days for gubernatorial candidates after final submittal of qualifying contributions. The commission and its executive director may take additional time if further investigation is necessary to verify compliance with the Act, provided that the commission shall notify the affected candidate regarding the anticipated schedule for conclusion of the investigation.

~~Upon certification, a candidate must transfer to the fund any unspent seed money contributions.~~ A certified candidate must comply with all requirements of this Act after certification and throughout the primary and general election periods. Failure to do so is a violation of this chapter.

**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 nature and purpose of the qualifying contribution or the reason for obtaining a 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.

The determination to revoke the certification of a candidate shall be made by a vote of the members of the commission after an opportunity for a hearing. A candidate whose certification is revoked must return all unspent funds to the commission within three 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.

**6. Restrictions on contributions and expenditures for certified candidates.** After certification, a candidate must limit the candidate's campaign expenditures and obligations, including outstanding obligations, to the revenues distributed to the candidate from the fund and any unspent seed money remaining after certification, and may not accept any contributions unless specifically authorized by the commission. Candidates may also accept and spend interest earned on fund revenues in campaign bank accounts. All revenues distributed to a certified candidate from the fund must be used for campaign-related purposes. The candidate, the treasurer, the candidate's committee authorized pursuant to section 1013-A, subsection 1 or any agent of the candidate and committee may not use these revenues for any but campaign-related purposes. Candidates may not spend fund revenues on payments to the candidate, a member of the candidate's immediate family, or to a business or non-profit entity affiliated with the candidate, except to make payment for goods or property provided to the candidate's campaign. Services provided to the campaign by members of the candidate's immediate family must be provided on a volunteer basis and may not be paid for or reimbursed by the campaign with fund revenues. The commission shall publish guidelines outlining permissible campaign-related expenditures.

**6-A. Assisting a person to become an opponent.** A candidate or a person who later becomes a candidate and who is seeking certification under subsection 5, or an agent of that candidate, may not assist another person in qualifying as a candidate for the same office if such candidacy would result in the distribution of revenues under subsections 7 and 8 for certified candidates in a contested election.

**7. Timing of fund distribution.** The commission shall distribute to certified candidates revenues from the fund in amounts determined under subsection 8 in the following manner.

- A. Within 3 days after certification, for candidates certified prior to March 15th of the election year, revenues from the fund must be distributed as if the candidates are in an uncontested primary election.
- B. Within 3 days after certification, for all candidates certified between March 15th and April 15th of the election year, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested primary election.
- B-1. For candidates in contested primary elections receiving a distribution under paragraph A, additional revenues from the fund must be distributed within 3 days of March 15th of the election year.
- C. ~~Within~~ No later than 3 days after the primary election results are certified, for general election certified candidates, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested general election.

Funds may be distributed to certified candidates under this section by any mechanism that is expeditious, ensures accountability and safeguards the integrity of the fund.

**7-A. Deposit into account.** The candidate or committee authorized pursuant to section 1013-A, subsection 1, shall deposit all revenues from the fund in a campaign account with a bank or other financial institution. The campaign funds must be segregated from, and may not be commingled with, any other funds.

**8. Amount of fund distribution.** By July 1, 1999 of the effective date of this Act, and at least every 4 years after that date, the commission shall determine the amount of funds to be distributed to participating candidates based on the type of election and office as follows.

A. For contested legislative primary elections, the amount of revenues to be distributed is the average amount of campaign expenditures made by each candidate during all contested primary election races for the immediately preceding 2 primary elections, as reported in the initial filing period subsequent to the primary election, for the respective offices of State Senate and State House of Representatives.

B. For uncontested legislative primary elections, the amount of revenues distributed is the average amount of campaign expenditures made by each candidate during all uncontested primary election races for the immediately preceding 2 primary elections, as reported in the initial filing period subsequent to the primary election, for the respective offices of State Senate and State House of Representatives.

C. For contested legislative general elections, the amount of revenues distributed is the average amount of campaign expenditures made by each candidate during all contested general election races for the immediately preceding 2 general elections, as reported in the initial filing period subsequent to the general election for the respective offices of State Senate and State House of Representatives.

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

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

E-2. For uncontested gubernatorial primary elections, the amount of revenues distributed is \$80,000 per candidate in the primary election.

F. For gubernatorial general elections, the amount of revenues distributed is \$400,000 per candidate in the general election.

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 ~~campaign, finance or election report required under this chapter or chapter 13~~ shows that the sum of a candidate's expenditures or obligations, ~~or funds raised or borrowed contributions and loans, or fund revenues received,~~ whichever is greater, ~~alone or~~ 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, distribution amount under subsection 8,~~ the commission shall issue immediately to ~~any~~ the opposing ~~Maine Clean Election Act~~ certified candidate an additional amount equivalent to the ~~reported excess~~ difference. Matching funds are limited to 2 times the amount originally distributed under subsection 8, paragraph A, C, E or F, whichever is applicable.

**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 certified 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, For an unenrolled candidate not certified by April 15th at 5:00 p.m. the deadline for filing must submit the required number of qualifying contributions and the other required documents under subsection 4 is by 5:00 p.m. on June 2nd preceding the general election. An unenrolled candidate certified after April 15th at 5:00 p.m. If certified, the candidate is eligible for revenues from the fund in the same amounts as a general election candidate, as specified in subsections 7 and 8. Revenues for the general election must be distributed to the candidate no later than 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. 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.

**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 7 days of the certification decision. The appeal must be in writing and must set forth the reasons for the appeal.

B. Within 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, provided 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 ~~providing evidence to demonstrate~~ proving that the ~~commission certification~~ decision was ~~improper in error~~ as a matter of law or was based on factual error. The commission must rule on the appeal within 35 business days after the completion of the hearing.

C. A challenger may appeal the decision of the commission in paragraph B by commencing an action in Superior Court ~~according to the procedure set forth in section 356, subsection 2, paragraphs D and E~~ within 5 days of the date of the commission's decision. The action shall be conducted in accordance with Rule 80C of the Maine Rules of Civil Procedure, except that the court shall issue its written decision within 20 days of the date of the commission's decision. Any aggrieved party may appeal the decision of the Superior Court by filing a notice of appeal within 3 days of that decision. The record on appeal must be transmitted to the Law Court within 3 days after the notice of appeal is filed, and after filing the notice of appeal, the parties shall have 4 four days to file briefs and appendices with the clerk of the court. The court shall consider the case as soon as possible after the record and briefs have been filed and shall issue its decision within 14 days of the decision of the Superior Court.

D. A candidate whose certification ~~by the commission~~ as a Maine Clean Election Act candidate is ~~revoked~~ reversed on appeal must return to the commission any unspent revenues distributed from the fund. If the commission or court finds that an appeal was made frivolously or to cause delay or hardship, the commission or court may require the moving party to pay costs of the commission, court and opposing parties, if any.

## CHAPTER 15 LOBBYIST DISCLOSURE PROCEDURES

### 3 § 312-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following words have the following meanings.

**7. Expenditure.** "Expenditure" means anything of value or any contract, promise or agreement to transfer anything of value, whether or not legally enforceable. ~~Expenditure includes:~~

A. Repealed.

~~B. A payment of compensation to a lobbyist by a person employing, retaining or contracting for the services of the lobbyist separately or jointly with other persons;~~

~~C. A payment for or in connection with soliciting or urging other persons to enter into direct communication with a public official.~~

**7-A. Immediate family.** "Immediate family" means a person's spouse or domestic partner and dependent children.

### 3 § 315. Registration docket

~~The Commission shall prepare and maintain a docket for the registration of lobbyists and employers of lobbyists required to register pursuant to this chapter. The registration docket and all supplementary files of information and materials filed pursuant to this chapter must be open to public inspection during the office hours of the Commission. The docket must contain the name of the lobbyist and the person employing the lobbyist; the business address of each; the nature of the business of the person employing the lobbyist; and a statement as to the compensation that the lobbyist will receive for lobbying services or, if an exact amount is unascertainable, the basis upon which the lobbyist will charge for services. This docket must be updated on a weekly basis and arranged and indexed as follows:~~

~~**1. Employers of lobbyists.** An alphabetical listing of those persons who have employed a lobbyist, which listing must indicate the names of all lobbyists employed by the employer; and~~

~~**2. Lobbyists.** An alphabetical listing of those persons employed as lobbyists, which listing must indicate the names of all persons by whom each lobbyist is employed.~~

~~Upon termination of the employment of a lobbyist and the reporting of that termination by the employer, the fact of the termination and the date of the termination must be entered under the name of both the employer and the lobbyist.~~

~~The docket must be reestablished annually by the Commission and the docket for any year must be maintained and be available for public inspection in the office of the Commission for 4 years from the expiration of the docket.~~

### **315-A. Registration docket; disclosure website**

**1. Registration.** The Commission shall prepare and maintain a docket for the registration of lobbyist and employers of lobbyists required to register pursuant to this chapter. The registration docket and all supplementary files of information and materials filed pursuant to this chapter must be open to public inspection during the office hours of the Commission. The docket must contain the name of the lobbyist and the person employing the lobbyist, the business address of each, the nature of the business of the person employing the lobbyist and a statement as to the compensation that the lobbyist will receive for lobbying services, or if an exact amount is not ascertainable, the basis upon which the lobbyist will charge for services. This docket must be updated on a monthly basis and arranged and indexed as follows:

A. An alphabetical listing of those persons who have employed a lobbyist, which listing must indicate the names of all lobbyists employed by the employer; and

B. An alphabetical listing of those persons employed as lobbyists, which listing must indicate the names of all persons by whom each lobbyist is employed.

The docket must be reestablished annually by the Commission and the docket for any year must be maintained and be available for public inspection in the office of the Commission for four (4) years from the expiration of the docket.

**2. Disclosure website.** The Commission shall develop and maintain a publicly accessible website that displays:

A. A list of all persons who have employed a lobbyist during the current year;

B. A list of all lobbyists and lobbyist associates registered for the year;

C. A profile of each registered lobbyist and lobbyist associate, including contact information, the name of the lobbyist's employer or employers, and if provided by the lobbyist or lobbyist associate, a photograph of the lobbyist or lobbyist associate;

D. A profile of each person employing a lobbyist, including contact information for the employer, and a list of lobbyists and lobbyist associates engaged by the employer; and

E. For each employer, a list of all legislative actions that have been the subject of lobbying for the year, including hyperlinks to the summary page of the Legislature's publicly accessible website for each legislative document listed.

### **3 § 321. Powers and duties of the Commission**

In order to carry out the purposes of this chapter, the Commission shall have the following powers and duties.

**1. Furnishing of forms.** The Commission shall furnish forms to persons required to register or file reports.

**2. Availability of copying facilities.** The Commission shall make copying facilities available to the public during regular office hours and, notwithstanding any other provisions of law fixing the cost of such services, shall charge the actual cost of such services.

**3. Filing of voluntary information.** The Commission may accept and file any information voluntarily supplied that exceeds the requirements of this chapter.

**4. Preservation of registrations and reports.** The Commission shall preserve all registrations and reports filed pursuant to this chapter for 4 years from date of receipt and may dispose of same.

**5. Acceptance or rejection of forms.** The Commission may prescribe forms for all documents required or permitted to be filed with the Commission and may refuse to accept documents not filed on those forms.

**6. Refusal of filing.** The Commission may refuse to accept any document that is not legible or that can not be clearly reproduced photographically.

**7. Review reports for completeness.** The Commission may reject reports that are incomplete.

**8. Investigations.** The Commission may undertake audits and investigations to determine the facts concerning the registration and reporting of lobbyists and their employers. For this purpose, the Commission may subpoena witnesses and records and take evidence under oath.

94-270 COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

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, section 12004-G, subsection 33, and 1 M.R.S.A. section 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.

## 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, section 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 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 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 ~~will~~shall meet at least once per month in any year in which primary and general elections are held~~four times during the course of any year in which a general election is held, and at least twice during every other year. A tentative schedule of meetings for each calendar year will be adopted at the first meeting in each year. A meeting will be held as early as possible after the appointment of (a) new commission member(s) in each even-numbered year to select a Chair.~~
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.
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.
4. Notice. In addition to the public notice required by the public meetings law, 1 M.R.S.A. Section 406, notice of Commission meetings will be given to those directly involved or affected by matters 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 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.
  
- C. Other Matters.
  - (1) With respect to any other matter presented to the Commission, notice will be given to the person or organization whose conduct is at issue, and to any complainant, except as provided in Section 3, subsection 1, paragraph B of these rules.
  
  - (2) 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. Section 1005 or 1 M.R.S.A. Section 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. Sections 1001 - 1023. The Commission's opinion may be sought by three methods, or the Commission may act on its own motion.
  - A. Legislator's Own Conduct.
    - (1) A Legislator seeking an advisory opinion with respect to his or her own circumstances or conduct should make a written request for an opinion, setting forth the pertinent facts with respect to the legislative matter at issue and the circumstances of the Legislator giving rise to the inquiry.
    - (2) The request will be officially filed only when received at the offices of the Commission. The Director will promptly send a copy of the request to the Chair, and the matter will be

placed on the agenda for the next Commission meeting, or if necessary, at a special meeting.

- (3) An oral request by a Legislator for an opinion with respect to his or her own circumstances will not be considered an official request for an advisory opinion, and a Legislator making such a request will be so notified, by letter, and encouraged to file a written request.

B. Complaints. Any written complaint will be included in the agenda of the next Commission meeting.

- (1) Complaint by a Legislator. Copies of any sworn complaint filed by a Legislator will promptly be sent to the Legislator against whom the complaint has been lodged and to the Commission Chair, in each case identifying the Legislator making the complaint. A complaint invokes the Commission's authority only if made under oath and only if it addresses an alleged conflict of interest relating to circumstances arising during the term of the legislature then in office.

(2) Other Complaints.

- (a) The Director will review each complaint to determine whether the matter relates to the Commission's statutory mandate. When a complaint is filed, the Director, in consultation with Commission Counsel, will review the matter to determine whether the complaint has sufficient merit to warrant recommending the calling of a meeting. When a meeting is called, the Commission will determine in executive session whether to hear the complaint. If the nature of the complaint clearly does not fall within the scope of the Commission's jurisdiction, the Director will so notify the complainant by letter within 14 days of receiving the complaint. In such cases, the respondent need not be notified. The Commission may reverse any administrative decision.
- (b) An oral complaint by any person alleging a conflict of interest concerning any legislator does not constitute a complaint under 1 M.R.S.A. Section 1013(2)(B), and a person registering such a complaint will be so notified, by letter.

- C. Referral by Presiding Officer. When a Legislator has requested an advisory opinion from the Presiding Officer of the House of which he/she is a member, and the Presiding Officer has referred the inquiry directly to the Commission, the Director will arrange a meeting of the Commission as soon as possible to consider the question.
2. Election Campaign Reporting.
- A. Report Review. The Commission staff will review all filings made reports filed pursuant to 21-A M.R.S.A., ~~Sections 1001—1062~~ chapters 13 and 14 to ~~ascertain any apparent violations of~~ verify compliance with the filing reporting requirements set by statute or rule. ~~Reports and registrations will be checked for violations against a standardized checklist.~~ Notice of any omission, error, or violation will be given by mail to the filer and a copy of the notice and any other communication made to or from the filer relating to the problem(s) will be placed in the filer's record. The Commission will establish a reasonable time period for the filer to ~~The notice will include a request that the filer remedy any omission or error within 15 days of the date of the notice.~~ If the filer fails to respond within that time frame, the Commission staff may extend the time ~~contact the filer to establish a reasonable grace period within which the filer must comply or place~~ or place ~~. If the filer does not rectify the problem, the matter will be placed on the agenda of the next Commission meeting, along with all documents relating to the case. Additionally, any apparent violations or occurrences of substantial nonconformance with the requirements of the law will be placed on the agenda of the next meeting, including, but not limited to, the following:~~
- ~~(1) Failure to properly sign a required report,~~
  - ~~(2) Failure to file a required report or registration,~~
  - ~~(3) Late filing of a required report or registration outside the grace period,~~
  - ~~(4) Failure to disclose contributions received or expenditures made of more than \$500 in the aggregate on reports due after the 12th day before an election, or~~
  - ~~(5) Exceeding contribution limitations. For the purposes of the limitations imposed by 21-A M.R.S.A. Section 1015(1), 21-A M.R.S.A. Section 1015(2), 21-A M.R.S.A. Section 1015(3),~~

and 21-A M.R.S.A. Section 1056, the following guidelines shall apply:

- ~~(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.~~
  - ~~(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 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.~~
- ~~(6) Divisions (a) through (e) above shall apply to any write-in candidate who has qualified under 21-A M.R.S.A. Section 723, or who has received contributions or made expenditures with the intent of qualifying as a candidate.~~
- ~~B. The Commission will determine whether a report substantially conforms to the requirements of the law. At each meeting, the Director will submit a summary of all cases resolved administratively. The Commission may reverse any administrative decision.~~
- C. Late Reports and Registrations. Where required by statute, notice of failure to file a required report will be timely sent by Commission staff. When a report or registration is filed late, the Director's recommendations will be based on the following considerations:

- (1) Lateness of report or registration,
- (2) Reason for lateness,
- (3) Kind of report (more stringent application for pre-election reports),
- (4) Amount of campaign funds not properly reported,
- (5) Previous record of the filer, and
- (6) Good faith effort of the filer to remedy the matter; and
- (7) Whether the late filing had an effect on a certified candidate's eligibility for matching funds.

- D. Reports of noncompliance with the provisions of the campaign registration and reporting laws that may come to the attention of the Commission staff from any source other than review of the reports filed will be reported to the Commission Chair. Any person (as defined in 21-A M.R.S.A. Section 1001) may make an official request for a Commission investigation or determination by filing a written request at the Commission's office, setting forth such facts with sufficient details as are necessary to specify the alleged violation. Statements should be made upon personal knowledge. Statements which are not based upon personal knowledge must identify the source of the information which is the basis for the request, so that respondents and Commission staff may adequately respond to the request. A copy of any such written request will be promptly mailed to the Commission Chair as well as to the candidate or organization alleged to have violated the statutory requirements. An official request will be placed on the agenda of the next Commission meeting.
- E. An oral report of a violation, or a written request containing insufficient detail to specify the violation charged, does not constitute an official request for a Commission determination, and a person registering such a complaint will be so notified. ~~The Director will list any oral report of a violation, or insufficient written report, on the agenda of the Commission's next meeting, but no action will be taken except upon the Commission's initiative. The person alleged to have committed a violation will be notified of the Commission meeting.~~
- F. If the Director and Counsel are in agreement that the subject matter of a request for an investigation is clearly outside the jurisdiction of

the Commission, the staff may forward the request to the appropriate authority or return it to the person who made the request, provided that the staff notifies the Commission members of the action at the next Commission meeting.

- G. The signature of a person authorized to sign a report or form constitutes certification by that person of the completeness and accuracy of the information reported. The use of a password in filing an electronic report constitutes certification of the completeness and accuracy of the report.
- H. A political action committee which only has outstanding loan obligations or less than \$500 in total outstanding debts for goods and services received may submit a written request for permission from the Commission to dissolve if the committee will no longer solicit or accept any contributions, incur any obligations, make any expenditures to or on behalf of any candidate, political committee or party committee, or political action committee or to initiate, support, defeat or influence in any way the outcome of a referendum, initiated petition, or election. The Commission will determine whether the committee should amend any previously filed report. If granted permission to dissolve, the committee must file a termination report as required under 21-A M.R.S.A. §1061.

3. Lobbyist Disclosure Procedures.

- A. Report Review. The Commission staff will monitor all filings made pursuant to 3 M.R.S.A. Section 311 et seq. for timeliness, legibility, and completeness. The staff will send the lobbyist a notice of any apparent reporting deficiency, including failure to use prescribed forms. The notice will include a request that the deficiency be corrected within 15 business days of the notice. If remedy is not made, it will be noted on the agenda of the next Commission meeting. The Commission may reject reports that are incomplete or illegible.
- B. Late Registrations and Reports. Notice will be given by mail to any lobbyist whose registration, monthly disclosure report, or annual report is delinquent. In the case of a late monthly report, the notice must be mailed within 7 business days following the filing deadline for the report. In the case of late annual reports and registrations, the notice must be mailed within 15 business days following the filing deadline. The notice must include a statement specifying the amount assessed. A penalty of \$100 will be assessed the lobbyist for every month that a monthly disclosure report is late and a penalty of \$200 will be assessed the lobbyist and employer for

every month a registration or annual report is filed late. For purposes of 3 M.R.S.A. Section 319(1), the month will end on the 15th day of the month following the month in which a report was due. Any failure to submit a required report, registration, or penalty fee will be noted on the Commission agenda.

- C. Suspensions. The Commission may suspend any person from lobbying who fails to file a required report or pay an assessed fee. A notice of the suspension must be mailed to the lobbyist by U.S. Certified Mail within three days following the suspension. Reinstatement will occur on the date the required report or payment is received in the Commission office. A notice of the reinstatement must be mailed to the lobbyist by U.S. Certified Mail or given directly to the lobbyist within three days following receipt of the required report or payment.
- D. Request for Penalty Waiver. A lobbyist may request a waiver of any late penalty the lobbyist incurs. The request must be made in writing to the Commission and must state the reason for the delinquency. Any such request must be noted on the agenda of the next Commission meeting. Only the Commission may grant penalty waivers.
- E. Request for Waiver of Nonsession Reporting Requirement. A lobbyist may request a waiver of the monthly nonsession reporting requirement set forth in 3 M.R.S.A. Section 317(4) if the lobbyist does not expect to be engaged in lobbying when the Legislature is not in session. The Director is authorized to provisionally grant such waivers pending approval by the Commission. Provisional waivers may be granted only where a request is properly filed, the statement properly completed, and where there is no apparent reason to doubt the statement is true. During the period in which the waiver is effective, reports will not be required. If lobbying is resumed during the period for which the waiver was granted, the lobbyist must file a monthly disclosure report for the month or months lobbying was conducted.
- F. Faxing Duly Executed Lobbyist Registration, Reports. Any registration or report required by 3 M.R.S.A. ch. 15 may be provisionally filed by transmission of a facsimile copy of the duly executed report to the Commission, provided that the original of the same report is received by the Commission within 5 calendar days thereafter.

## SECTION 5. FACT FINDING AND INVESTIGATIONS

1. Before Commission Meeting. With respect to any inquiry, report or request for Commission action properly filed in accordance with the preceding section, the Director may conduct such preliminary fact finding as is deemed prudent and desirable. When the Director and Counsel find a basis for a preliminary investigation, they will recommend such steps to the Chair as necessary. Pursuant to reviewing reports or finding of fact, the Director, in consultation with Counsel, will prepare a summary of findings and recommendations for inclusion on the agenda. The Chair is authorized to issue subpoenas in the name of the Commission to compel the attendance of witnesses or the production of records, documents or other evidence when the Chair and the Commission's Counsel are in agreement that the testimony or evidence sought by the subpoena is ~~likely to be of critical importance~~ necessary to disposition of the matter; and to issue any subpoena in the name of the Commission on behalf of any person having a statutory right to an agency subpoena. Any oral testimony compelled by a subpoena issued by this provision will be presented ~~initially and exclusively to the Commission or its staff.~~
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.
42. 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 domestic partner, or a financial institution in the State of Maine in the ordinary course of business.
23. €Privately financed 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 traditionally financed candidates and for seed money contributions to~~ Candidates participating in the Maine Clean Election Act must report the name, address, occupation and employer for all seed money contributors. Candidates and political action committees must make a reasonable effort to obtain the employment information of the contributor. If a candidate or political action 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.

34. Unless specifically exempted under Title 21-A M.R.S.A. Sections 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.
45. 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.
56. 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 ~~debtors~~ customers that are of similar risk and size of obligation.
7. For the purposes of the limitations imposed by 21-A M.R.S.A. Section 1015(1), 21-A M.R.S.A. Section 1015(2), 21-A M.R.S.A. Section 1015(3), and 21-A M.R.S.A. Section 1056, the following guidelines shall apply:
- 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.
- 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 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. Section 723, or who has received contributions or made expenditures with the intent of qualifying as a candidate.

## SECTION 7. EXPENDITURES

1. Expenditures By Consultants, Employees, and Other Agents of a Political Campaign. Each expenditures of campaign funds 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 shall be deemed expenditures by the candidate or committee. Such expenditures 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 payment was made, the date of the payment, 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. Section 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.
  - B. Expenditures must be reported at the earliest of the following events:
    - (1) The placement of an order for a good or service;
    - (2) The signing of a contract for a good or service;
    - (3) The delivery of a good or the performance of a service by a vendor;
    - (4) A promise or an agreement (including an implied one) that a payment will be made; or
    - (5) The making of a payment for a good or service.
  - C. At the time the duty to report an expenditure arises, the person submitting the report is required to determine the value of goods and services to be rendered (preferably through a written statement from the vendor) and to report that value as the amount of the expenditure. If the expenditure involves more than one candidate election, the report must include an allocation of the value to each of those candidate elections.
4. Advance Purchases of Goods and Services for the General Election.
  - A. Consulting services, or the design, printing or distribution of campaign literature or advertising, including the creation and broadcast of radio and television advertising, contracted or paid for prior to the primary election must be received prior to the primary election in order to be considered primary election expenditures.
  - B. If the Commission receives a complaint stating that a candidate or a committee purchased goods or services before a primary election for use in the general election, the Commission may request that the candidate or committee distinguish which of the goods and services were used in the primary election and which were used in the general election.
5. All campaign-related payments made with the personal funds or credit card of the a-candidate or by an individuals authorized by the candidate

~~for the purpose of influencing the candidate's nomination or election must be reported as expenditures in the reporting period during which the payment to the vendor or payee is made, including payments made with the personal funds or credit card of the candidate or authorized individual. The candidate must report the name of the vendor or payee to whom the payment was made, the date of the payment, and the purpose and amount of the expenditure. When the expenditure is reported, the candidate should indicate the person making who made the payment by entering "Paid by [name of candidate or supporter]" in the remarks section of the expenditure schedule. It is not sufficient to report only the name of the candidate or authorized individual to whom reimbursement was made and the total amount of the reimbursement if it covers multiple expenditures.~~

6. Multiple expenditures for bank fees ~~and for vehicle travel~~ may be reported in an aggregate amount, provided that the candidate or committee identifies the time period of the expenditures in the remarks section of the report.

## SECTION 8. PROHIBITED COMMUNICATIONS

Commission members shall not discuss any specific case under investigation, or any case which may reasonably be expected to be the subject of investigation, as long as the matter is pending before the Commission ~~and, where applicable, until anybody to whom the Commission renders an advisory opinion has concluded its action and any appeals therefrom have been exhausted.~~ After the Commission has made its final determination regarding the matter, Commission members may discuss it with members of the press or other interested persons.

## SECTION 9. ACCELERATED REPORTING SCHEDULE

1. General. In addition to other reports required by law, any candidate for Governor, State Senator or State Representative who is not certified as a Maine Clean Election Act candidate under Title 21-A, section 1121 et seq., and who has a certified candidate as an opponent in an election must comply with the following reporting requirements on forms prescribed, prepared, and provided by the Commission.

INFORMATIONAL NOTE: Title 21-A, section 1017 prescribes reporting requirements for candidates.

2. ~~401%~~100% Report. Any candidate subject to this section, who receives, spends or obligates more than ~~4%~~ 1% in excess of the primary or general election distribution amounts for a Maine Clean Election Act candidate opponent in the same race, must file with the Commission, within 48 hours

of such receipt, expenditure, or obligation, a report detailing the candidate's total campaign contributions, receipts, expenditures and obligations to date. The Commission will notify all candidates who have an opposing certified candidate of the applicable distribution amounts and of the 101% Report reporting requirement.

3. After filing a 100% Report, a ~~Any traditionally privately~~ funded candidate with a Maine Clean Election Act opponent shall file additional accelerated reports according to the following schedule. ~~†The candidate following three reports detailing must report the candidate's total campaign's total contributions, obligations and expenditures to dates of the last day of the applicable reporting period., except that a candidate who has not received, spent, or obligated the amount sufficient to require a report under subsection 2 may file an affidavit, by the date the report is due, attesting that the candidate has not received, spent or obligated that amount. The candidate is only required to file accelerated reports with due dates occurring after the date of the filing of the 100% Report.~~
  - A. 42-Day Accelerated Report must be a report filed not later than 5:00 p.m. on the 42nd day before the date on which an election is held that is complete as of the 44th day before the date of that election;
  - B. For gubernatorial candidates only, 25-Day Accelerated Report must be a report filed not later than 5:00 p.m. on the 24<sup>th</sup> 25th day before the date on which an election is held that is complete as of the 23<sup>rd</sup> 27th day before the date of that election; ~~and~~
  - C. 18-Day Accelerated Report must be a report filed not later than 5:00 p.m. on the 42<sup>th</sup> 18th day before the date on which an election is held that is complete as of the 44<sup>th</sup> 20th day before the date of that election; ~~and.~~
  - D. 6-Day Accelerated Report must be filed no later than 5:00 p.m. on the 6th day before the date on which an election is held that is complete as of the 8th day before the date of that election
4. ~~24-Hour Report. Any candidate who is required to file a 101% report must file an updated report with the Commission reporting single expenditures of \$1,000 or more by candidates for Governor, \$750 by candidates for State Senator, and \$500 by candidates for State Representative made after the 14th day before any election and more than 24 hours before 5 p.m. on the date of that election. The report must be submitted to the Commission within 24 hours of those expenditures.~~

5. Filing by Facsimile or Electronic Means. For purposes of this section, reports may be filed by facsimile or by other electronic means acceptable to the Commission, and such reports will be deemed filed when received by the Commission provided that the original of the same report is received by the Commission within 5 calendar days thereafter.

## SECTION 10. REPORTS OF INDEPENDENT EXPENDITURES

1. General. Any person, party committee, political committee or political action committee that makes an independent expenditure aggregating in excess of \$100 per candidate in an election must file a report with the Commission according to this section.
2. Definitions. For purposes of this section, the following phrases are defined as follows:
  - A. "Clearly identified," with respect to a candidate, has the same meaning as in Title 21-A, chapter 13, subchapter II.
  - B. "Expressly advocate" means any communication that uses phrases such as "vote for the Governor," "reelect your Representative," "support the Democratic nominee," "cast your ballot for the Republican challenger for Senate District 1," "Jones for House of Representatives," "Jean Smith in 2002," "vote Pro-Life" or "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Woody," "defeat" accompanied by a picture of one or more candidate(s), "reject the incumbent," or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say "Pick Berry," "Harris in 2000," "Murphy/Stevens" or "Canavan!".
  - C. "Independent expenditure" has the same meaning as in Title 21-A, section 1019-B. Any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate and is not an independent expenditure.
3. Reporting Schedules. Independent expenditures must be reported to the Commission in accordance with the following provisions:

A. Independent expenditures aggregating in excess of \$100 per candidate per election but not in excess of \$250 made by any person, party committee, political committee or political action committee must be reported to the Commission in accordance with the following reporting schedule, except that expenditures made in the last 11 days before an election must be reported within 24 hours of the expenditure.

(1) Quarterly Reports.

- (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-Election Report. A report must be filed on the 12th day before the election is held and be complete as of that day.

If the total of independent expenditures made to support or oppose a candidate exceed \$100, each subsequent amount spent to support or oppose the candidate must be reported as an independent expenditure. As long as the total amount spent with respect to the candidate does not exceed \$250, all reports must be filed according to the deadlines in this paragraph. If the total amount spent per candidate exceeds \$250, the reports must be filed in accordance with paragraph B.

[NOTE: FOR EXAMPLE, IF A COMMITTEE MAKES THREE \$80 EXPENDITURES IN SUPPORT OF A CANDIDATE ON SEPTEMBER 20, THE 15TH DAY BEFORE THE ELECTION AND THE 8TH DAY BEFORE THE ELECTION, THOSE THREE EXPENDITURES MUST BE REPORTED ON OCTOBER 10th, AND THE 12TH AND 7TH DAYS BEFORE THE ELECTION, RESPECTIVELY.]

B. Independent expenditures aggregating in excess of \$250 per candidate per election made by any person, party committee, political committee or political action committee must be reported to the Commission within 24 hours of those expenditures. If any additional expenditures, regardless of amount, increase the total spent per candidate above the threshold of \$250, each additional expenditure must be reported within 24 hours.

[NOTE: FOR EXAMPLE, IF A COMMITTEE HAS REPORTED INDEPENDENT EXPENDITURES TOTALING \$300 IN SUPPORT OF A CANDIDATE, AND THE COMMITTEE MAKES AN ADDITIONAL \$50 INDEPENDENT EXPENDITURE IN SUPPORT OF THE CANDIDATE, THE ADDITIONAL \$50 EXPENDITURE MUST BE REPORTED WITHIN 24 HOURS.]

- C. Reports must contain information as required by Title 21-A, chapter 13, subchapter II (§§ 1016-1017-A), and must clearly identify the candidate and indicate whether the expenditure was made in support of or in opposition to the candidate. Reports filed after the eighth day before an election must include the following information:
1. the date on which the person making the expenditure placed the order with the vendor for the goods or services;
  2. the approximate date when the vendor began providing design or any other services in connection with the expenditure;
  3. the date on which the person making the expenditure first learned of the total amount of the expenditure; and
  4. a statement why the expenditure could not be reported by the eighth day before the election.
4. Multi-Candidate Expenditures. When a person or organization is required to report an independent expenditure for a communication that supports multiple candidates, the cost should be allocated among the candidates in rough proportion to the benefit received by each candidate.
- A. The allocation should be in rough proportion to the number of voters who will receive the communication and who are in electoral districts of candidates named or depicted in the communication. If the approximate number of voters in each district who will receive the communication cannot be determined, the cost may be divided evenly among the districts in which voters are likely to receive the communication.

[NOTE: FOR EXAMPLE, IF CAMPAIGN LITERATURE NAMING SENATE CANDIDATE X AND HOUSE CANDIDATES Y AND Z ARE MAILED TO 10,000 VOTERS IN X'S DISTRICT AND 4,000 OF THOSE VOTERS RESIDE IN Y'S DISTRICT AND 6,000 OF THOSE VOTERS LIVE IN Z'S DISTRICT, THE ALLOCATION OF

THE EXPENDITURE SHOULD BE REPORTED AS: 50% FOR X, 20% FOR Y, and 30% FOR Z.]

- B. If multiple county or legislative candidates are named or depicted in a communication, but voters in some of the candidates' electoral districts will not receive the communication, those candidates should not be included in the allocation.

[NOTE: FOR EXAMPLE, IF AN EXPENDITURE ON A LEGISLATIVE SCORECARD THAT NAMES 150 LEGISLATORS IS DISTRIBUTED TO VOTERS WITHIN A TOWN IN WHICH ONLY ONE LEGISLATOR IS SEEKING RE-ELECTION, 100% OF THE COST SHOULD BE ALLOCATED TO THAT LEGISLATOR'S RACE.]

- C. If a candidate who has received matching funds because of a multi-candidate communication believes that he or she deserves additional matching funds because the communication disproportionately concerns his or her race, the Commission may grant additional matching funds in proportion to the relative treatment of the candidates in the communication.

5. Rebuttable Presumption. Under Title 21-A M.R.S.A. §1019-B(1)(B), an expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate in a race involving a Maine Clean Election Act candidate and that is disseminated during the 21 days before a primary election and 60 days before a general election will be presumed to be an independent expenditure, unless the person making the expenditure submits a written statement to the Commission within 48 hours of the expenditure stating that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate.

- A. The following types of communications may be covered by the presumption if the specific communication satisfies the requirements of Title 21-A M.R.S.A. §1019-B(1)(B):

- (1) Printed advertisements in newspapers and other media;
- (2) Television and radio advertisements;
- (3) Printed literature;
- (4) Recorded telephone messages;
- (5) Scripted telephone messages by live callers; and
- (6) Electronic communications.

This list is not exhaustive, and other types of communications may be covered by the presumption.

- B. The following types of communications and activities are not covered by the presumption, and will not be presumed to be independent expenditures under Title 21-A M.R.S.A. Section 1019-B(1)(B):
- (1) news stories and editorials, unless the facilities distributing the communication are owned or controlled by the candidate or a political committee;
  - (2) activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not name or depict a clearly identified candidate;
  - (3) any communication from a membership organization to its members or from a corporation to its stockholders if the organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person for state or county office;
  - (4) the use of offices, telephones, computers, or similar equipment when that use does not result in additional cost to the provider; and
  - (5) other communications and activities that are excluded from the legal definition of “expenditure” in the Election Law.
- C. If an expenditure is covered by the presumption and is greater, in the aggregate, than \$100 per candidate per election, the person making the expenditure must file an independent expenditure report or a signed written statement that the expenditure was not made with the intent to influence the nomination, election or defeat of a candidate. The filing of independent expenditure reports should be made in accordance with the filing schedule in subsections 3(A) and 3(B) of this rule. Independent expenditures aggregating \$100 or less per candidate per election do not require the filing of an independent expenditure report or a rebuttal statement.
- D. If a committee or association distributes copies of printed literature to its affiliates or members, and the affiliates or members distribute the literature directly to voters, the ~~21-day~~relevant rebuttable presumption period applies to the date on which the communication is disseminated directly to voters, rather than the date on which the committee or association distributes the literature to its affiliates or members.

- E. For the purposes of determining whether a communication is covered by the presumption, the date of dissemination is the date of the postmark, hand-delivery, or broadcast of the communication.
- F. An organization that has been supplied printed communications covered by the presumption and that distributes them to voters must report both its own distribution costs and the value of the materials it has distributed, unless the organization supplying the communications has already reported the costs of the materials to the Commission. If the actual costs of the communications cannot be determined, the organization distributing the communication to voters must report the estimated fair market value.
- G. If a person wishes to distribute a specific communication that appears to be covered by the presumption and the person believes that the communication is not intended to influence the nomination, election or defeat of a candidate, the person may submit the rebuttal statement to the Commission in advance of disseminating the communication for an early determination. The request must include the complete communication and be specific as to when and to whom the communication will be disseminated.

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

When a person or organization is required under 21-A M.R.S.A. Section 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 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 file the following reports:
  - A. A report must be filed on the 6th day before the election is held and be complete as of the 12th 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 12th 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. Section 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.
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.

## 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 2.0 format.

AMENDED: January 14, 2004 (date of adoption of routine technical amendments)  
April 8, 2005 (date of adoption of routine technical amendments)  
April 8, 2005 (date of provisional adoption of major substantive amendments)  
July 13, 2005 (date of final adoption of major substantive amendments)

## 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 traditionally 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 ~~before~~ 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 ~~has not collected~~ any qualifying contributions collected more than five days before signing 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. ~~information identifying the candidate's treasurer, political committee, campaign finance account, social security number, and/or federal tax identification number;~~ 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 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.

- C. 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-B)]. 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. 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. 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. After becoming a candidate and prior to certification, Aaccepting a loan from any source including a financial institution ~~prior to certification, or~~and spending money received in the form of a loan, ~~is~~are violations of the seed money restrictions of the Act.
- G. 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 and only after filing a Declaration of Intent with the Commission will not be counted toward the eligibility requirement. Qualifying contributions must be acknowledged and reported on using forms provided by the Commission. ~~The forms will include an affirmation by the contributor that the contributor received nothing of value in exchange for the signature and contribution.~~

The forms must include:

- (1) the name, residential address, telephone number, 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 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) 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) 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.
- ~~H. Submission of Verified Qualifying Contributions. A participating candidate may submit a completed request for certification to the~~

~~Commission at any time during the qualifying period. The request will be deemed complete and the candidate will be certified only if:~~

- ~~(1) the request is accompanied by the original signed qualifying contributions forms that have been verified by the Registrar(s) of the electoral division for the office the candidate is seeking; or~~
- ~~(2) the candidate submits to the Commission during the qualifying period a statement that such signature forms have been submitted to the Registrar(s) for verification on a specific date and the verified signature forms will be received by the Commission within 10 business days thereafter, and submits to the Commission during the qualifying period photocopies of the signature forms.~~

### 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. After final submission of qualifying contributions, but not later than 5:00 p.m. on the last day of the relevant qualifying period, a participating candidate may request certification as a Maine Clean Election Act candidate. the original signed receipt and acknowledgement forms that have been verified by the Registrar(s) of the electoral division for the office the candidate is seeking;
- B. All participating candidates must submit the qualifying contributions in alphabetical order to the Commission along with qualifying contribution attached to the appropriate receipt and acknowledgement forms and an alphabetical list of contributors and their town or city of residence, sorted alphabetically by contributor last name; of qualifying contributions when applying for certification as a Maine Clean Election Act candidate. Candidates who do not submit the required number of original qualifying contributions within the qualifying period will not be certified.
- C. The Commission will review candidate applications 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. 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. 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.

2. ~~Reporting. Together with the request for certification, a participating candidate must report all seed money contributions received, any other contributions received, and expenditures and obligations made after becoming a candidate.~~ 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. Together with the request for certification, a participating candidate must report any 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 ~~Bureau of Accounts and Control~~ 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. If the Commission determines that the Fund will~~

not have sufficient revenues to cover the likely demand for funds from the Maine Clean Election Fund in an upcoming election, by January 1st the Commission shall provide a report of its projections of the balances in the Fund to the Legislature and Governor. 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. If the Commission determines that the revenues in the Fund are insufficient to meet distributions under this chapter, the Commission will permit certified candidates to accept and spend contributions in accordance with the Act [§ 1125(13)]. 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 in the event of any such shortfall.

## 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 ~~Bureau of Accounts and Control~~ 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 ~~[sec. 3.4]~~.

~~INFORMATIONAL NOTE: An initial distribution from the Fund will not be made to a candidate until the Commission has certified that candidate in accordance with the provisions of the Act and this chapter. The initial distribution may be delayed if a candidate submits a list of qualifying contributors to the Registrar for verification during the last 10 business days of the qualifying period.~~

- 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 ~~M~~atching ~~F~~und 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. Computation and Distribution. The Commission will determine a certified candidate's allocation of matching funds, if any, in the following manner:~~

~~(1) The Commission first will add --~~

- ~~(a) the sum of an opposing candidate's expenditures and obligations, or funds raised and borrowed, whichever is greater, including surplus or unspent funds carried forward from a previous primary, general, or special election to the current election; and~~
- ~~(b) the sum of the independent expenditures made expressly advocating the defeat of the certified candidate or the election of the same opposing candidate.~~

~~(2) The Commission then will subtract --~~

- ~~(a) the sum of the independent expenditures made expressly advocating the defeat of the same opposing candidate; and~~
- ~~(b) the sum of the independent expenditures made expressly advocating the election of the certified candidate; and~~
- ~~(c) the sum of any matching funds already provided to the certified candidate; and~~
- ~~(d) the sum of any seed money raised in computing matching fund eligibility for a primary, general, or special election, as applicable; or any surplus or unspent funds carried forward from a previous primary election to the subsequent general election in computing matching fund eligibility for a general election.~~

~~(3) If the final computed amount is greater than the applicable distribution amount for the certified candidate, then the Commission will immediately authorize the distribution of a Matching Fund allocation to the certified candidate equal to that excess.~~

- ~~(4) The Commission will make computations promptly upon the filing of campaign finance reports and independent expenditure reports.~~
- ~~(5) 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.~~

B. Matching Fund Computation Involving Only Certified Candidates. If all candidates in a race are 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) 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.
- (3) 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.

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

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 should 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.
- GG. Matching Fund Cap. Matching funds are limited 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.
- DH. Other. Any distribution based on reports and accurate calculations at the time of distribution is final, notwithstanding information contained in subsequent reports.
- EI. Coordination with Other State Agencies. The Commission will coordinate with the ~~Bureau of Accounts and Control~~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.
- FJ. Disbursements With No Campaign Value. If a traditionally 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.
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 a preponderance of consulting services, or the design, printing, or distribution of campaign literature and advertising, including radio and television advertising, purchased prior to the primary election by an opponent of a certified Maine Clean Election Act candidate prior to the primary are used 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 ~~the~~ any certified Maine Clean Election Act 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 Fund distribution amounts plus any unspent seed money remaining after certification and any authorized ~~M~~matching ~~F~~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.

The candidate may also use his or her personal funds for these purposes; and

- 6. not use revenues distributed from the Fund for the payment of fines, forfeitures, or civil penalties, or for the defense of any enforcement action of the Commission.

## SECTION 7. RECORD KEEPING AND REPORTING

- 1. Record Keeping by Participating and Certified Candidates. Participating and certified candidates and their treasurers must comply with applicable record keeping requirements set forth in Title 21-A, chapter 13, subchapter II [§1016], and chapter 14 [§1125(12-A)]. Failure to keep or produce the records required to be kept under Title 21-A and these rules is a violation of the Act for which the Commission may impose a penalty. The Commission may also require the return of funds for expenditures lacking supporting documentation if a candidate or treasurer is found in violation of the record keeping requirements. The candidate or the treasurer shall have an opportunity to be heard prior to any Commission decision imposing a penalty or requiring the return of funds under this section. In addition to these specific actions, the Commission may also take any other action authorized under Title 21-A.
  - A. Fiduciary Responsibility for Funds. All funds provided to a certified candidate or to a candidate's authorized political committee must be segregated from, and may not be commingled with, any other funds, other than unspent seed money. Matching fund advance revenues for which no spending authorization has been issued must be deposited in a federally insured ~~account~~financial institution until the candidate receives and may not be used until the candidate receives authorization to spend those funds.
  - B. Meal Expenses. A candidate or treasurer must obtain and keep a record for each meal expenditure of more than \$50. The record must include itemized bills for the meals, the names of all participants in the meals, the relationship of each participant to the campaign, and the specific, campaign-related purpose of each meal.

C. Vehicle Travel Expenses. A candidate or treasurer must obtain and keep a record of vehicle travel expenses for which reimbursements are made from campaign funds. Reimbursement ~~may~~ must be based on the standard mileage rate prescribed for employees of the State of Maine for the calendar year in which the election occurs, using either the standard mileage rate or actual expenses. The candidate ~~must use one method exclusively during an election campaign.~~ For each trip for which reimbursement is made, a record should be maintained showing the dates of travel, the number of miles traveled, the origination, destination and purpose of the travel, and the total amount claimed for reimbursement. A candidate may reimburse himself or herself for vehicle travel expenses at a rate less than the standard mileage rate. A candidate may also reimburse a volunteer for vehicle travel expenses at a rate less than the standard mileage rate as long as the difference does not exceed \$100 per volunteer per election. The Commission may disallow any vehicle travel reimbursements for which the candidate or the treasurer cannot produce an accurate record.

~~(1) Standard Mileage Rate. The standard mileage rate is a set rate per mile that a candidate may use to compute reimbursable vehicle travel expenses. Reimbursement should be calculated using the standard mileage rate currently prescribed for employees of the State of Maine. For each trip for which reimbursement is made, a record should be maintained showing the dates of travel, the number of miles traveled, the origination, destination and purpose of the travel, and the total amount claimed for reimbursement.~~

~~(2) Actual Expenses. Actual expenses include the pro rata, campaign-related share of vehicle depreciation or lease payments, maintenance and repairs, gasoline (including gasoline taxes), oil, insurance, and vehicle registration fees, etc. For reimbursement using this method, the candidate must maintain detailed records reflecting use of the vehicle for campaign-related purposes. The records must include the dates the vehicle was used for campaign-related purposes, the total mileage the vehicle was used for campaign-related purposes, the total mileage the vehicle was used for all purposes during the period for which~~

~~reimbursement is made, and the percentage of total vehicle usage that the vehicle was used for campaign-related purposes.~~

2. Reporting by Participating and Certified Candidates.
  - A. General. Participating and certified candidates must comply with applicable reporting requirements set forth in Title 21-A, chapter 13, subchapter II [§ 1017].
  - B. Return of Matching Fund Advances and Unspent Fund Revenues. Matching Fund advance revenues that have not been authorized for spending and unspent Fund revenues shall be returned to the Fund as follows:
    - (1) Unauthorized Matching Funds. Candidates must return all ~~M~~atching ~~F~~und advance revenues for which no spending authorization was issued prior to an election to the Commission by check or money order payable to the Fund within 2 weeks following the date of the election.
    - (2) Unspent Fund Revenues for Unsuccessful Primary Election Candidates. Upon the filing of the 42-day post-primary election report for a primary election in which a certified candidate was defeated, that candidate must return all unspent Fund revenues to the Commission by check or money order payable to the Fund, except that a gubernatorial candidate may be allowed to reserve up to \$1,000 in order to defray expenses associated with an audit by the Commission.
    - (3) Unspent Fund Revenues for All General and Special Election Candidates. Upon the filing of the 42-day post-election report for a general or special election, all candidates must return all unspent Fund revenues to the Commission by check or money order payable to the Fund, except that a gubernatorial candidate may be allowed to reserve up to \$2,500 in order to defray expenses associated with an audit by the Commission.
  - C. Liquidation of Property and Equipment. Property and equipment that is not exclusive to use in a campaign (e.g., computers and associated equipment, etc.) that has been purchased with Maine Clean Election Act funds loses its campaign-related purpose following the election. Such property and equipment must be liquidated at its fair market value and the proceeds thereof

reimbursed to the Maine Clean Election Fund as unspent fund revenues in accordance with the schedule in paragraph B above.

- (1) The liquidation of campaign property and equipment may be done by sale to another person or purchase by the candidate.
- (2) Liquidation must be at the fair market value of the property or equipment at the time of disposition. Fair market value is determined by what is fair, economic, just, equitable, and reasonable under normal market conditions based upon the value of items of similar description, age, and condition as determined by acceptable evidence of value.

## SECTION 8. RECOUNTS, VACANCIES, WRITE-IN CANDIDATES, SPECIAL ELECTIONS

1. Recounts. After a primary election, if there is a recount governed by Title 21- A, chapter 9, subchapter III, article III [§ 737-A], and either the leading candidate or the 2nd-place candidate is a certified candidate, the following provisions will apply:
  - A. If the margin between the leading candidate and the 2nd-place candidate is less than 1% of the total number of votes cast in that race and a recount is presumed necessary, the certified candidate immediately must halt the expenditure of revenues disbursed to the candidate from the Fund upon receiving notice of the recount until the recount is complete.
  - B. If the recount results in a changed winner, the certified candidate who originally received the disbursement must return any unspent distributions from the Fund to the Commission, payable to the Fund. If the new winner is a certified candidate, the Commission will distribute the applicable disbursement amount to the candidate.
  - C. If the margin between the leading candidate and 2nd-place candidate is 1% or greater of the total number of votes cast in that race and the 2nd-place candidate requests a recount, the leading candidate, if a certified candidate, is not required to freeze expenditures of the disbursement.
  - D. If the recount results in a changed winner, the certified candidate must return any unspent distributions from the Fund to the Commission, payable to the Fund. If the new winner is a certified candidate, the Commission will distribute the applicable disbursement amount to the candidate.

2. Death, Withdrawal, or Disqualification of a Candidate During Campaign.
  - A. Death, Withdrawal, or Disqualification Before Primary Election. If a candidate dies, withdraws, or is disqualified before the primary election, the Commission will establish a qualifying period during which any replacement candidate may become a participating candidate, collect qualifying contributions, and apply to become a certified candidate.
  - B. Death, Withdrawal, or Disqualification After the Primary Election and before 5:00 p.m. on the 2nd Monday in July Preceding the General Election. If a candidate dies, withdraws, or is disqualified before 5:00 p.m. on the 2nd Monday in July preceding the general election, any replacement candidate will have a qualifying period from the time of the candidate's nomination until 30 days after the 4th Monday in July as a participating candidate to collect qualifying contributions and request certification.
  - C. Death, Withdrawal, or Disqualification after 5:00 p.m. on the 2nd Monday in July Preceding the General Election. If a candidate dies, withdraws, or is disqualified after 5:00 p.m. on the 2nd Monday in July preceding the general election, the Commission will establish a qualifying period during which any replacement candidate may become a participating candidate, collect qualifying contributions, and apply to become a certified candidate.
  - D. Replacement Candidates Who Are Participating Candidates. Any replacement candidate choosing to become a participating candidate must otherwise comply with the requirements of this chapter and the Act including, but not limited to, seed money limits and qualifying contribution requirements. The Commission will notify any replacement candidates of the opportunity to participate in the Act and the procedures for compliance with this chapter during a special election.
3. Write-In Candidates.
  - A. Write-in candidates are subject to the registration requirements of Title 21-A M.R.S.A. Section 1013-A and the campaign finance reporting requirements of Section 1017, as soon as they qualify as a nominee pursuant to 21-A M.R.S.A. Section 723, file a declaration of write-on candidacy with the Secretary of State pursuant to 21-A M.R.S.A. Section 722-A, or receive contributions or make expenditures with the intent of qualifying as a candidate in the primary or general election, whichever first occurs.

- B. Write-in candidates may not participate in the Maine Clean Election Act, except as provided in paragraph C.
  - C. A write-in candidate in a primary election who becomes a party's nominee may participate in the Maine Clean Election Act for the general election. The Commission will establish a qualifying period during which the candidate may become a participating candidate, collect qualifying contributions, and apply to become a certified candidate.
  - D. A candidate who is participating in the Maine Clean Election Act and who has no opponent listed on the ballot will be presumed to be in an uncontested election even if there are one or more individuals running as write-in candidates. The participating candidate may rebut this presumption by presenting evidence to the Commission that the write-in opponent(s) received or spent substantial campaign funds. Based upon the evidence presented, the Commission may make a determination that it is a "contested election" and make a distribution of public funds to the participating candidate on that basis.
4. Special Election When One or More Candidates Desire to Become Certified Candidates. If a vacancy occurs in the office of Governor, Senator, or Representative because an incumbent dies, resigns, becomes disqualified, or changes residence to another electoral division, and a special election will be held to fill the vacant office, the following provisions apply:
- A. The Commission, in consultation with the Secretary of State, will establish a qualifying period during which any candidate in a special election may decide to become a participating candidate, collect qualifying contributions, and apply to become a certified candidate; and
  - B. Any candidate in a special election must otherwise comply with the requirements of this chapter and the Act including, but not limited to, seed money limits and qualifying contribution requirements. The Commission will notify any candidates of the opportunity to participate in the Act and the procedures for compliance with this chapter during a special election.
5. Return of Unspent Fund Revenues. Any time a certified candidate withdraws, is disqualified, or dies before an election, the candidate or the candidate's agent must return to the Commission all unspent amounts

distributed to the candidate by check or money order payable to the fund,  
within 2 weeks of the termination of the candidacy.

STATUTORY AUTHORITY:

1 M.R.S.A. § 1003(1); 21-A M.R.S.A. § 1126.

EFFECTIVE DATE:

November 1, 1998

NON-SUBSTANTIVE CHANGES:

December 3, 1998 - minor spelling and formatting.

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