

**Maine Citizen's Guide to the
Referendum Election**

Tuesday, November 3, 2015



**In Accordance with
the August 4, 2015 Proclamation of the Secretary of State and with
the Acts Passed by the 127th Legislature
at the First Regular Session**

**Matthew Dunlap
Secretary of State**

Appropriation 010-29A-4213-012

Question 1: Citizen's Initiative

Do you want to change Maine law to allow publicly financed state candidates to qualify for additional funds under certain limits and rules in the Maine Clean Election Act, to improve the disclosure of who pays for political ads, and to increase penalties for violations of campaign finance law?

STATE OF MAINE

“An Act To Strengthen the Maine Clean Election Act, Improve Disclosure and Make Other Changes to the Campaign Finance Laws”

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

Sec. 1. 1 MRSA c. 25, sub-c. 3 is enacted to read:

SUBCHAPTER 3

GUBERNATORIAL TRANSITION

§1051. Gubernatorial transition committee

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

- A. "Commission" means the Commission on Governmental Ethics and Election Practices.
- B. "Election cycle" means the period beginning on the day after the general election for any state, county or municipal office and ending on the day of the next general election for that office.

2. Transition and inaugural activities; funding. A person may solicit and accept donations for the purpose of financing costs related to the transition to office and inauguration of a new Governor. A person who accepts donations for these purposes must establish a committee and appoint a treasurer who is responsible for keeping records of donations and for filing a financial disclosure statement required by this section. All donations received must be deposited in a separate and segregated account and may not be commingled with any contributions received by any candidate or political committee or any personal or business funds of any person. An individual who has served as a treasurer of any candidate committee or political action committee in the same election cycle may not serve as treasurer of a gubernatorial transition committee.

3. Registration with the commission and financial disclosure statement. A committee established pursuant to this section shall register and file a financial disclosure statement with the commission as required by this subsection.

- A. The committee shall register with the commission within 10 days after appointment of a treasurer. The registration must include the name and mailing addresses of the members of the committee, its treasurer and all individuals who are raising funds for the committee.
- B. The financial disclosure statement must contain the names, addresses, occupations and employers of all donors who have given money or anything of value in a total amount exceeding \$50 to the committee, including in-kind donations of goods or services, along with the amounts and dates of the donations. Donors who have given donations with a total value of \$50 or less may be disclosed in the aggregate without itemization or other identification.

C. Any outstanding loan, debt or other obligation of the committee must be disclosed as a donation.

D. The financial disclosure statement must identify the amounts, dates, payees and purposes of all payments made by the committee.

E. An interim financial disclosure statement must be filed by 5:00 p.m. on January 1st following the gubernatorial election and must be complete as of 10 days prior to that date. The final financial disclosure statement must be filed by 5:00 p.m. on February 15th following the gubernatorial election and must be complete as of that date.

4. Limitation on fund-raising activity. A committee established pursuant to this section may accept donations until January 31st of the year following the gubernatorial election.

5. Prohibited donations during a legislative session. A committee established pursuant to this section may not directly or indirectly solicit or accept a donation from a lobbyist, lobbyist associate or employer during any period of time in which the Legislature is convened before final adjournment. A lobbyist, lobbyist associate or employer may not directly or indirectly give, offer or promise a donation to a committee established pursuant to this section during any period of time in which the Legislature is convened before final adjournment.

6. Anonymous donations. A committee established pursuant to this section may not accept an anonymous donation in excess of \$50.

7. Disposing of surplus funds. Prior to the filing of the final financial disclosure statement under subsection 3, paragraph E, any surplus funds remaining in the committee's account must be refunded to one or more donors, donated to a charitable organization that qualifies as a tax-exempt organization under 26 United States Code, Section 501(c)(3) or remitted to the State Treasurer.

8. Rulemaking. The commission may establish by routine technical rule, adopted in accordance with Title 5, chapter 375, subchapter 2-A, forms and procedures for ensuring compliance with this section.

9. Enforcement and penalty. The commission shall administer and enforce this subchapter. A person who violates this subchapter is subject to a civil penalty not to exceed \$10,000, payable to the State and recoverable in a civil action.

Sec. 2. 21-A MRSA §1004-C is enacted to read:

§1004-C. Enhanced penalties for violations with aggravating circumstances

Notwithstanding any maximum penalty otherwise set forth in this chapter, when assessing a penalty or monetary sanction, the commission may double the authorized penalty or monetary sanction for a violation occurring less than 28 days prior to an election day and may triple the authorized penalty or monetary sanction for a violation occurring less than 14 days prior to an election day.

Sec. 3. 21-A MRSA §1014, sub-§2-B is enacted to read:

2-B. Top 3 funders; independent expenditures. A communication that is funded by an entity making an independent expenditure as defined in section 1019-B, subsection 1 must conspicuously include the following statement:

"The top 3 funders of (name of entity that made the independent expenditure) are (names of top 3 funders)."

The information required by this subsection may appear simultaneously with any statement required by subsection 2 or 2-A. A communication that contains a visual aspect must include the statement in written text. A communication that does not contain a visual aspect must include an audible statement. This statement is required only for communications made through broadcast or cable television, broadcast radio, Internet audio programming, direct mail or newspaper or other periodical publications.

A cable television or broadcast television communication must include both an audible and a written statement. For a cable television or broadcast television communication 30 seconds or less in duration, the audible statement may be modified to include only the single top funder.

The top funders named in the required statement consist of the funders providing the highest dollar amount of funding to the entity making the independent expenditure since the day following the most recent general election day.

A. For purposes of this subsection, "funder" includes:

(1) Any entity that has made a contribution as defined in section 1052, subsection 3 to the entity making the independent expenditure since the day following the most recent general election day; and

(2) Any entity that has given a gift, subscription, loan, advance or deposit of money or anything of value, including a promise or agreement to provide money or anything of value whether or not legally enforceable, except for transactions in which a fair value is given in return, since the day following the most recent general election day.

B. If funders have given equal amounts, creating a tie in the ranking of the top 3 funders, the tie must be broken by naming the tying funders in chronological order of the receipt of funding until 3 funders are included in the statement. If the chronological order cannot be discerned, the entity making the independent expenditure may choose which of the tying funders to include in the statement. In no case may a communication be required to include the names of more than 3 funders.

C. The statement required under this subsection is not required to include the name of any funder who has provided less than \$1,000 to the entity making the independent expenditure since the day following the most recent general election day.

D. If only one or 2 funders must be included pursuant to this subsection, the communication must identify the number of funders as "top funder" or "top 2 funders" as appropriate. If there are no funders required to be included under this subsection, no statement is required.

E. When compiling the list of top funders, an entity making an independent expenditure may disregard any funds that the entity can show were used for purposes unrelated to the candidate mentioned in the communication on the basis that funds were either spent in the order received or were strictly segregated in other accounts.

F. In any communication consisting of an audio broadcast of 30 seconds or less or a print communication of 20 square inches or less, the requirements of this subsection are satisfied by including the name of the single highest funder only.

G. If the list of funders changes during the period in which a recurring communication is aired or published, the statement appearing in the communication must be updated at the time that any additional payments are made for that communication.

H. The commission may establish by routine technical rule, adopted in accordance with Title 5, chapter 375, subchapter 2-A, forms and procedures for ensuring compliance with this subsection. Rules adopted pursuant to this paragraph must ensure that the information required by this subsection is effectively conveyed for a sufficient duration and in a sufficient font size or screen size where applicable without undue burden on the ability of the entity to make the communication. The rules must also provide an exemption for types of communications for which the required statement would be impossible or impose an unusual hardship due to the unique format or medium of the communication.

Sec. 4. 21-A MRSA §1014, sub-§4, as amended by PL 2011, c. 389, §12, is further amended to read:

4. Enforcement. A violation of this section may result in a civil penalty of no more than \$5,000 100% of the amount of the expenditure in violation, except that an expenditure for yard signs lacking the required information may result in a maximum civil penalty of \$200. In assessing a civil penalty, the commission shall consider, among other things, how widely the communication was disseminated, whether the violation was intentional, whether the violation occurred as the result of an error by a printer or other paid vendor and whether the communication conceals or misrepresents the identity of the person who financed it. If the person who financed the communication or who committed the violation corrects the violation within 10 days after receiving notification of the violation from the commission by adding the missing information to the communication, the commission may decide to assess no civil penalty.

Sec. 5. 21-A MRSA §1019-B, sub-§1, ¶B, as amended by PL 2013, c. 334, §15, is further amended to read:

B. Is presumed 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 24 28 days, including election day, before a primary election; ~~or during~~ the 35 days, including election day, before a ~~general~~ ~~or~~ special election; or from Labor Day to a general election day.

Sec. 6. 21-A MRSA §1019-B, sub-§4, as amended by PL 2013, c. 334, §16, is further amended to read:

4. 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, the report 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. 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 expenditure aggregating in excess of \$100 in any one candidate's election, the date and purpose of each expenditure and the name of each payee or creditor. The report must state whether the 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 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. The commission may adopt procedures requiring the

electronic filing of an independent expenditure report, as long as the commission receives the statement made under oath or affirmation set out in paragraph B by the filing deadline and the commission adopts an exception for persons who lack access to the required technology or the technological ability to file reports electronically. The commission may adopt procedures allowing for the signed statement to be provisionally filed by facsimile or electronic mail, as long as the report is not considered complete without the filing of the original signed statement.

~~This subsection takes effect August 1, 2011.~~

Sec. 7. 21-A MRSA §1020-A, sub-§4-A, ¶¶A to C, as enacted by PL 2001, c. 714, Pt. PP, §1 and affected by §2, are amended to read:

- A. For the first violation, ~~4%~~ 2%;
- B. For the 2nd violation, ~~3%~~ 4%; and
- C. For the 3rd and subsequent violations, ~~5%~~ 6%.

Sec. 8. 21-A MRSA §1020-A, sub-§5-A, as amended by PL 2011, c. 558, §§4 and 5, is further amended to read:

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, D-1 or F; and section 1017, subsection 4, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late;

A-1. Five thousand dollars for reports required under section 1019-B, subsection 4, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is ~~4/5~~ 100% of the amount reported late;

B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is ~~4/5~~ 100% of the amount reported late;

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; or

D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B.

Sec. 9. 21-A MRSA §1062-A, sub-§3, as amended by PL 2007, c. 443, Pt. A, §39, is further amended to read:

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, ~~4%~~ 2%;
- B. For the 2nd violation, ~~3%~~ 4%; and
- C. For the 3rd and subsequent violations, ~~5%~~ 6%.

Any penalty of less than \$10 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.

Sec. 10. 21-A MRSA §1062-A, sub-§4, as amended by PL 2011, c. 389, §49, is further amended to read:

4. Maximum penalties. The maximum penalty under this subchapter is \$10,000 for reports required under section 1056-B or section 1059, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is ~~4/5~~ 100% of the amount reported late.

Sec. 11. 21-A MRSA §1062-A, sub-§8-A, as amended by PL 2009, c. 190, Pt. A, §31, is further amended to read:

8-A. Penalties for failure to file report. The commission may assess a civil penalty for failure to file a report required by this subchapter. The maximum penalty for failure to file a report required under section 1056-B or section 1059 is \$10,000 or the amount of financial activity not reported, whichever is greater.

Sec. 12. 21-A MRSA §1062-B, as enacted by PL 2013, c. 334, §32, is amended to read:
§1062-B. Failure to keep records

A committee that fails to keep records required by this chapter may be assessed a fine of up to ~~\$2,500~~ \$10,000 or the amount of financial activity for which no records were kept, whichever is greater. In assessing a fine, the commission shall consider, among other things, whether the violation was intentional, whether the violation occurred as the result of an error by someone outside the control of the committee, whether the committee intended to conceal its financial activity, the amount of financial activity that was not documented and the level of experience of the committee's volunteers and staff.

Sec. 13. 21-A MRSA §1122, sub-§3-A is enacted to read:

3-A. Election cycle. "Election cycle" means the period beginning on the day after the general election for any state, county or municipal office and ending on the day of the next general election for that office.

Sec. 14. 21-A MRSA §1124, as amended by PL 2011, c. 389, §50, is further amended to read:

§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 and additional qualifying contributions required under section 1125 when those contributions are submitted to the commission;
- B. ~~Two~~ Three 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 State Controller 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~~ in tax expenditures as defined in Title 36, section 199-A, subsection 2. This section may not affect the funds distributed to the Local Government Fund under Title 30-A, section 5681.
- C. Revenue from a tax checkoff 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~~ In the case of 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-A and section 1127.

~~**3. Determination of fund amount.** 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 or an advance on revenues to be transferred pursuant to subsection 2, paragraph B.~~

4. Report on fund amount; operating margin. By January 1st of each year the commission shall provide to the Legislature and the Governor a report of its projection of the revenues and expenditures of the Maine Clean Election Fund for the subsequent 4-year period. The commission shall include in the report an operating margin of 20% to ensure sufficient funds in the event of higher-than-expected participation in the Maine Clean Election Act. If any such report shows that the projected revenue for the subsequent 4-year period exceeds the projected expenses for that 4-year period plus the 20% operating margin, the commission shall notify the Legislature and the Governor and request that the amount of expected funding that exceeds the expected demand on the fund plus the operating margin be transferred to the General Fund. The Department of Administrative and Financial Services, Bureau of Revenue Services shall assist the commission with revenue projections required by this subsection. If at any time the commission determines that projected revenue is not sufficient to cover the projected demand for funds in the 4-year period plus the operating margin, the commission may submit legislation to request additional funding.

Sec. 15. 21-A MRSA §1125, sub-§2, ¶¶B and C, as enacted by IB 1995, c. 1, §17, are amended to read:

B. ~~One thousand five hundred~~ Three thousand dollars for a candidate for the State Senate; or

C. ~~Five hundred~~ One thousand dollars for a candidate for the State House of Representatives.

Sec. 16. 21-A MRSA §1125, sub-§2-A, ¶C, as amended by PL 2009, c. 302, §11 and affected by §24, is further amended to read:

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

Sec. 17. 21-A MRSA §1125, sub-§2-B, as amended by PL 2009, c. 524, §14, is repealed.

Sec. 18. 21-A MRSA §1125, sub-§3, ¶A, as amended by PL 2007, c. 240, Pt. F, §1 and c. 443, Pt. B, §6, is further amended to read:

A. For a gubernatorial candidate, at least ~~3,250~~ 3,200 verified registered voters of this State must support the candidacy by providing a qualifying contribution to that candidate;

Sec. 19. 21-A MRSA §1125, sub-§3-A is enacted to read:

3-A. Additional qualifying contributions. Participating candidates may collect and submit to the commission additional qualifying contributions at the times specified in subsection 8-E. The commission shall credit a candidate with either one qualifying contribution or one additional qualifying contribution, but not both, from any one contributor during the same election cycle. If any candidate collects and submits to the commission qualifying contributions or additional qualifying contributions that cannot be credited pursuant to this subsection, those qualifying contributions or additional qualifying contributions may be refunded to the contributor or deposited into the Maine Clean Election Fund at the discretion of the candidate.

Sec. 20. 21-A MRSA §1125, sub-§5, ¶C-1, as enacted by PL 2009, c. 363, §5, is repealed.

Sec. 21. 21-A MRSA §1125, sub-§6-A, as amended by PL 2009, c. 302, §12 and affected by §24, is further amended to read:

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 a candidacy would result in the distribution of revenues under subsections 7 and ~~8-A~~ 8-F for certified candidates in a contested election.

Sec. 22. 21-A MRSA §1125, sub-§7, as amended by PL 2009, c. 302, §15 and affected by §24 and amended by c. 363, §7, is further amended to read:

7. Timing of initial fund distribution. The commission shall distribute to certified candidates revenues from the fund in amounts determined under ~~subsection 8-A~~ subsections 8-B to 8-D 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 the end of the qualifying period of the election year, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested primary election.

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. 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.

Sec. 23. 21-A MRSA §1125, sub-§7-B is enacted to read:

7-B. Timing of supplemental fund distribution. The following provisions govern the timing of supplemental fund distributions.

A. For gubernatorial candidates, any supplemental primary or general election distributions made pursuant to subsection 8-B must be made within 3 business days of certification by the commission of the required number of additional qualifying contributions.

B. For legislative candidates, any supplemental general election distributions made pursuant to subsections 8-C and 8-D must be made within 3 business days of certification by the commission of the required number of additional qualifying contributions.

Sec. 24. 21-A MRSA §1125, sub-§8-A, as amended by PL 2011, c. 558, §§6 and 7, is repealed.

Sec. 25. 21-A MRSA §1125, sub-§§8-B to 8-F are enacted to read:

8-B. Distributions to participating gubernatorial candidates. Distributions from the fund to participating gubernatorial candidates must be made as follows.

A. For an uncontested primary election, the total distribution of revenues is \$200,000 per candidate.

B. For a contested primary election, the amount of revenues distributed is as follows:

(1) The initial distribution of revenues is \$400,000 per candidate;

(2) For each increment of 800 additional qualifying contributions a candidate collects and submits pursuant to subsection 8-E, not to exceed a total of 3,200 additional qualifying contributions, the supplemental distribution of revenues to that candidate is \$150,000; and

(3) The total amount of revenues distributed for a contested primary election may not exceed \$1,000,000 per candidate.

C. For an uncontested general election, the total distribution of revenues is \$600,000 per candidate.

D. For a contested general election, the amount of revenues distributed is as follows:

(1) The initial distribution of revenues is \$600,000 per candidate;

(2) For each increment of 1,200 additional qualifying contributions a candidate collects and submits pursuant to subsection 8-E, not to exceed a total of 9,600 additional qualifying contributions, the supplemental distribution of revenues to that candidate is \$175,000; and

(3) The total amount of revenues distributed for a contested general election may not exceed \$2,000,000 per candidate.

8-C. Distributions to participating candidates for State Senate. Distributions from the fund to participating candidates for the State Senate must be made as follows.

A. For an uncontested primary election, the total distribution of revenues is \$2,000 per candidate.

B. For a contested primary election, the total distribution of revenues is \$10,000 per candidate.

C. For an uncontested general election, the total distribution of revenues is \$6,000 per candidate.

D. For a contested general election, the amount of revenues distributed is as follows:

(1) The initial distribution of revenues is \$20,000 per candidate;

(2) For each increment of 45 additional qualifying contributions a candidate collects and submits pursuant to subsection 8-E, not to exceed a total of 360 additional qualifying contributions, the supplemental distribution of revenues to that candidate is \$5,000; and

(3) The total amount of revenues distributed for a contested general election may not exceed \$60,000 per candidate.

8-D. Distributions to participating candidates for State House of Representatives. Distributions from the fund to participating candidates for the State House of Representatives must be made as follows.

A. For an uncontested primary election, the total distribution of revenues is \$500 per candidate.

B. For a contested primary election, the total distribution of revenues is \$2,500 per candidate.

C. For an uncontested general election, the total distribution of revenues is \$1,500 per candidate.

D. For a contested general election, the amount of revenues distributed is as follows:

(1) The initial distribution of revenues is \$5,000 per candidate;

(2) For each increment of 15 additional qualifying contributions a candidate collects and submits pursuant to subsection 8-E, not to exceed a total of 120 additional qualifying contributions, the supplemental distribution of revenues to that candidate is \$1,250; and

(3) The total amount of revenues distributed for a contested general election may not exceed \$15,000 per candidate.

8-E. Collection and submission of additional qualifying contributions. Participating candidates may collect and submit additional qualifying contributions in accordance with subsection 3-A to the commission as follows:

A. For gubernatorial candidates, no earlier than October 15th of the year before the year of the election and no later than 3 weeks before election day; and

B. For legislative candidates, no earlier than January 1st of the election year and no later than 3 weeks before election day.

Additional qualifying contributions may be submitted to the commission at any time in any amounts in accordance with the schedules in this subsection. The commission shall make supplemental distributions to candidates in the amounts and in accordance with the increments specified in subsections 8-B to 8-D. If a candidate submits additional qualifying contributions prior to a primary election in excess of the number of qualifying contributions for which a candidate may receive a distribution, the excess qualifying contributions must be counted as general election additional qualifying contributions if the candidate has a contested general election, but supplemental distributions based on these excess qualifying contributions may not be distributed until after the primary election.

8-F. Amount of distributions. On December 1 of each even-numbered year the commission shall review and adjust the distribution amounts in subsections 8-B to 8-D based on the Consumer Price Index as reported by the United States Department of Labor, Bureau of Labor Statistics. If an adjustment is warranted by the Consumer Price Index, the distribution amounts must be adjusted, rounded to the nearest amount divisible by \$25. When making adjustments under this subsection, the commission may not change the number of qualifying contributions or additional qualifying contributions required to trigger an initial distribution or an increment of supplemental distribution. The commission shall post information about the distribution amounts including the date of any adjustment on its publicly accessible website and include this information with any publication to be used as a guide for candidates.

Sec. 26. 21-A MRSA §1125, sub-§10, as amended by PL 2011, c. 389, §56 and affected by §62, is further amended to read:

10. Candidate not enrolled in a party. An unenrolled candidate for the Legislature who submits the required number of qualifying contributions and other required documents under subsection 4 by 5:00 p.m. on April 20th 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, 8-C and 8-A 8-D. Revenues for the general election must be distributed to the candidate ~~no later than 3 days after certification~~ as specified in subsection 7. An unenrolled candidate for Governor who submits the required number of qualifying contributions and other required documents under ~~subsections 2-B and~~ subsection 4 by 5:00 p.m. on April 1st preceding the primary election and who is certified is eligible for revenues from the fund in the same amounts and at the same time as an uncontested primary election gubernatorial candidate and a general election gubernatorial candidate as specified in subsections 7 and ~~8-A 8-B~~. Revenues for the general election must be distributed to the candidate for Governor ~~no later than 3 days after the primary election results are certified~~ as specified in subsection 7.

Sec. 27. 21-A MRSA §1125, sub-§13-A, as amended by PL 2011, c. 558, §9, is further amended to read:

13-A. 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 subsection ~~8-A 8-E~~, the commission may permit certified candidates to accept and spend contributions, reduced by any seed money contributions, aggregating no more than the applicable contribution limits established by the commission pursuant to section 1015, up to the applicable amounts set forth in subsection ~~8-A 8-F~~ according to rules adopted by the commission.

~~This subsection takes effect September 1, 2011.~~

Sec. 28. 36 MRSA §199-E is enacted to read:

§199-E. Elimination of certain tax expenditures

No later than 45 days after the effective date of this section the committee shall report out to the Legislature legislation to permanently eliminate corporate tax expenditures totaling \$6,000,000 per biennium, prioritizing for elimination low-performing, unaccountable tax expenditures with little or no demonstrated economic development benefit as determined by the Office of Program Evaluation and Government Accountability established in Title 3, section 991.

SUMMARY

This initiated bill makes the following changes to the laws governing campaign finance reporting and disclosure and the Maine Clean Election Act.

1. It authorizes the establishment of gubernatorial transition committees for the purpose of raising money to finance a Governor-elect's inauguration and transition into office and establishes requirements regarding disclosure and acceptance of donations from persons involved in lobbying.
2. It amends the Maine Clean Election Act by adding a system of optional supplemental funding for participating Maine Clean Election Act candidates who collect additional qualifying contributions.
3. It establishes new baseline initial distribution amounts for Maine Clean Election Act candidates.
4. It authorizes the Commission on Governmental Ethics and Election Practices to impose enhanced penalties for campaign finance violations occurring shortly before election day.
5. It increases the baseline penalties for failure to file required reports.
6. It increases the maximum penalties for certain campaign finance violations.
7. It requires communications that are independent expenditures to include a conspicuous statement listing the top 3 funders of the entity making the independent expenditure.
8. It increases the amount of the annual transfer to the Maine Clean Election Fund from \$2,000,000 to \$3,000,000.
9. It requires the Commission on Governmental Ethics and Election Practices to report annually on the Maine Clean Election Fund's projected needs, including an operating margin of 20%.
10. It repeals the seed money requirement for gubernatorial candidates.
11. It adjusts the number of qualifying contributions required for initial certification of gubernatorial candidates from 3,250 to 3,200 to correspond to the increments established for supplemental funds distributions.
12. It doubles the seed money cap for legislative candidates.
13. It provides rule-making authority for the Commission on Governmental Ethics and Election Practices regarding several of the statutory changes.

14. It directs the joint standing committee of the Legislature having jurisdiction over taxation matters to report out legislation to eliminate corporate tax expenditures totaling \$6,000,000 per biennium, prioritizing low-performing tax expenditures.

Intent and Content
Prepared by the Office of the Attorney General

This citizen-initiated legislation makes a number of changes to the Maine Clean Election Act and other provisions of Maine's campaign finance laws.

The initiative would amend the Maine Clean Election Act to:

- increase the amount of the initial distribution of public funds to gubernatorial and legislative candidates, with different amounts specified depending on whether the candidate is in a contested or uncontested primary, and a contested or uncontested general election;
- allow qualifying candidates to obtain additional public funds during the campaign by collecting \$5 contributions from more registered voters within their districts, up to a specified cap;
- increase the maximum amount of seed money that a legislative candidate may raise in donations up to \$100 per donor while the candidate is seeking to qualify for public funding;
- eliminate the requirement that a candidate for Governor collect at least \$40,000 in seed money contributions in order to qualify for public funding; and
- increase from two million to three million dollars the amount of funding that must be transferred into the Maine Clean Election Fund each year and require that this revenue be generated by reducing tax expenditures. "Tax expenditures" are losses of state revenue attributed to laws that provide special exclusions, exemptions or deductions, or allow special credits, preferential rates of tax or deferral of tax liability.

The Legislature's Joint Standing Committee on Taxation would be directed to report out legislation recommending the permanent elimination of six million dollars of corporate tax expenditures in each biennium, placing a priority on eliminating the tax expenditures that have been determined by the Legislature's Office of Program Evaluation and Government Accountability to produce "little or no demonstrated economic development benefit." The legislation does not define what constitutes a "corporate" tax expenditure.

The initiated legislation also includes two new disclosure provisions. First, any organization or "entity" that acts independently of a candidate and funds political advertisements or other communications expressly advocating for or against a candidate on broadcast or cable television, broadcast radio, Internet audio programming, newspapers, magazines or direct mail, would have to identify in the communication the top three donors who gave the entity \$1,000 or more during the election cycle. Second, any committee formed to collect donations to fund activities related to the inauguration of a new Governor and the transition to a new administration would have to register with the Commission on Governmental Ethics and Election Practices and file financial disclosure statements listing the names, addresses, occupations and employers of each donor who contributes more than \$50, and all expenditures made by the committee. Lobbyists and those who employ a

lobbyist would be prohibited from making donations to this type of committee during a regular or special session of the Legislature.

The initiative would increase both the baseline and maximum penalties for violations of existing campaign finance laws, including violations for failure to file and for late filing of campaign finance reports by candidates, party committees and political action committees, and for failure to maintain records of campaign donations and expenditures. It also would authorize the Commission to impose enhanced penalties for violations that occur less than 28 days before an election.

The Commission on Governmental Ethics and Election Practices would be responsible for administering the provisions of this proposed law and would be authorized to adopt rules to implement it.

If approved, this citizen initiated legislation would take effect 30 days after the Governor proclaims the official results of the election.

A "YES" vote is to enact the initiated legislation.

A "NO" vote opposes the initiated legislation.

Fiscal Impact Statement **Prepared by the Office of Fiscal and Program Review**

This citizen's initiative provides optional supplemental funding for participating candidates upon collection of additional qualifying contributions. It also increases initial distribution amounts for qualifying candidates and increases from \$2,000,000 to \$3,000,000 the annual transfer from the General Fund to the Maine Clean Election Fund. The Commission on Governmental Ethics and Election Practices will require an Other Special Revenue Funds allocation of \$20,115 in fiscal year 2015-16 for one limited-period Project position to process additional qualifying contributions. The Commission will also require an Other Special Revenue Funds allocation of \$931,037 in fiscal year 2015-16 for payments to qualified candidates related to optional supplemental funding. Other Special Revenue Funds revenue to the Commission will increase by \$44,600 in fiscal year 2015-16 from collection of additional qualifying contributions.

Correctional and Judicial Impact

Increases the number of civil suits.

The collection of additional fines may also increase General Fund revenue by minor amounts.

Public Comments

Public comment in support of Question 1

Comment submitted by:

Mainers for Accountable Elections
PO Box 4572
Portland, Maine 04112

Question 1, placed on the ballot by a grassroots, citizen-led effort, will keep our representatives honest and accountable to the people of Maine.

Spending in our elections is out of control. Wealthy special interests and their lobbyists are dominating the process. That's why Question 1 is so important.

It will:

- **Increase fines and penalties for those who break our election laws** so that politicians are accountable to everyday Mainers – not wealthy special interests, corporations and their lobbyists who make big campaign contributions.
- **Demand transparency and shine a light on special interest money in our elections** by requiring outside groups spending money in support or against candidates to list their top three funders on any ads they buy. This will ensure that Maine voters know who is trying to influence their vote.
- **Encourage strict campaign spending and contribution limits** by strengthening clean election funding so that candidates can run for office without being beholden to wealthy special interests and corporations.

Bottom line, Mainers deserve politicians who work for us. When politicians depend on contributions from the wealthy special interest groups and their lobbyists—they work for them and the priorities that matter to everyday people get ignored. Question 1 will put our government back in the hands of Mainers, so that politicians will focus on the issues that matter to us like education and creating jobs.

We urge Mainers to vote Yes on Question 1 on November 3, 2015 so that we can strengthen our democracy and ensure we have a government that is truly of, by and for the people – not government bought and paid for by the wealthiest individuals and special interests.

For more information about Question 1 visit www.accountableelections.org.

The printing of this public comment does not constitute an endorsement by the State of Maine, nor does the State warrant the accuracy or truth of any statements made in the public comment.

Public Comments

Public comment in opposition to Question 1

Comment submitted by:

Jon Reisman
10 Murphy Pt. Rd.
Cooper, ME 04657

The initiative is a progressive assault on freedom and the 1st Amendment. A yes vote is a vote for regulated and constrained speech and association, taxpayer subsidized politicians and further imposing the regulatory state on campaigns and elections.

Campaign finance “reforms” always produce loopholes, crises and eventually more “reforms”. Freedom of speech, especially political speech, comes first. Vote No on 1

A yes vote will:

- chill and abridge political speech
- grow state regulation of campaigns and elections
- empower the state to impose fines equal to 100% of whatever funds are involved
- be paid for by undetermined cuts in previously awarded business tax incentives
- increase state spending and subsidies on and for politicians

A yes vote will not:

- increase transparency. Bundling and donation chains make the requirements to disclose the three largest donors a joke
- increase participation. Being identified, and possibly vilified or even fired, as a donor to a particular cause will not increase participation.
- Prevent the Koch brothers from promoting freedom and limited government
- Repeal Citizens United
- Decrease cronyism or corruption

A no vote is a vote for freedom:

- Freedom of speech
- Freedom of association

Put freedom first and vote No on 1.