



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

To: Commission
From: Jonathan Wayne, Executive Director
Date: October 17, 2023
Re: Proposed Rulemaking

The Commission staff recommends commencing a rulemaking to invite public comment on proposed amendments to the Commission's rules. If adopted, the amendments would be "routine technical," which means that the amendments would become legally binding without authorization by the Maine Legislature.

Following the August 23, 2023 meeting, the Commission staff revised the amendments to Chapter 1, § 10(5), which relates to independent expenditure determinations by the Commission. The revised proposal is attached for your consideration (revisions made in response to the August 23 discussion are highlighted in yellow). We have also attached research on the independent expenditure reporting requirements in other states and some 2023 chapter laws for your reference. Except for Chapter 1, § 10(5), the proposed amendments are the same as presented at the August 23 meeting

If you preliminarily support the current proposal, we suggest initiating a rulemaking. By email, we would invite comments from all persons who have signed up to receive notices from our department. The Commission would hold a public hearing at its meeting on November 29 and receive comments through mid-December. In January 2024, the Commission would decide whether it was ready to adopt any amendments.

Chapter 1, § 3(1)&(6) – Selection of Meeting Dates and Quorum Requirements

If the Commission is comfortable with the current practice for how Commission meeting dates are set, the staff proposes an amendment consistent with that practice. The amendments would also modify the quorum rule to reflect that Commission members

may participate in meetings remotely. After consulting with the Commission’s counsel, the staff recommends removing a paragraph concerning the number of members that must be present in person to hold a formal hearing. Our view is that this issue can be addressed on a case-by-case basis. This has not been a problem in the past. If a policy needs to be adopted concerning how many members must be present in person for formal hearings, that can be addressed in the Commission’s policy on remote participation, rather than the rules.

Chapter 1, § 6(12) – Revenue to a Political Committee from a Game Night

The Legislature enacted P.L. 2023, Ch. 391 (attached) which authorizes political action committees, party committees, and ballot question committees to hold a once annual “game night” to raise revenue. The Commission is directed to adopt rules concerning how political committees will report proceeds from the game night.

Chapter 1, § 10(3)(E) – Receiving Independent Expenditure Reports by Fax

In P.L. 2023, Chapter 324, § 14 (attached), the Legislature removed provisions allowing campaign finance reports to be filed provisionally by fax, provided that the original report is received by the Commission within five days. Chapter 324 was the result of the Commission’s legislation, which the Commission approved for submission to the Legislature on November 30, 2022. The proposed rule amendment would reflect this change in statute.

Chapter 1, § 10(5) – Independent Expenditure Determinations on Communications Leading up to an Election

Under 21-A M.R.S. § 1019-B, if an individual or organization spends money on a communication that names or depicts a clearly identified candidate and is disseminated to the public in the 28 days before a primary election or after Labor Day, the spender is required to file an independent expenditure (IE) report unless the spender demonstrates that the expenditure did not have a purpose or effect of influencing an election. In P.L. 2023, Chapter 324, §§ 10-13 (attached), the Legislature revised the procedures for how the Commission makes this determination. The proposed amendments to Chapter 1, §

10(5) incorporate the new “purpose or effect of” standard. The Commission’s executive director would make the initial determination, which could be appealed to the Commission. The rule would be updated to reflect that, since 2021, § 1019-B no longer establishes a rebuttable presumption.

Following the Commission’s August 23, 2023 meeting, the Commission staff revised the proposed amendments to reduce the risk that these procedures would delay the filing of independent expenditure reports. In the current proposal, the rules would explicitly encourage persons to request an IE determination early. Appeals to the Commission would need to be made within two days of the determination by the executive director. If the Commission or its executive director determined that an IE report was required, the rules would not establish an automatic grace period for the report to be filed. Instead, the Commission’s standard late-filing penalty procedures would presumptively apply. In the current proposal, the rules would give the Commission or its executive director the option to extend the deadline for a short period for good cause. If the report was filed within the extension period, the report would not be considered late. If the Commission views this discretion as too generous, it could be deleted from the proposal.

Chapter 1, § 15 – Simplified Procedures for Certain Political Action Committees and Ballot Question Committees

In 2021, the Legislature enacted a bill submitted by the Commission that was intended to equalize the requirements for political action committees and ballot question committees (registration, bank account, record-keeping, and financial reporting). P.L. 2021, Chapter 217, attached. Another significant change in Ch. 217 was a requirement that all election-influencing contributions and expenditures flow through a separate “campaign bank account,” rather than a bank account containing the general funds of the persons or organization that established the committee.

Chapter 217 contained three provisions that would allow the Commission to adopt simplified procedures, particularly in the case where an individual qualifies as a ballot questions committee because they have spent more than \$5,000 to support or oppose a ballot question:

- 21-A M.R.S. § 1052-A(6): the Commission is authorized to adopt simplified registration procedures for an individual registering as a ballot question committee,
- 21-A M.R.S. § 1054(3): the Commission may adopt procedures by rule for waiving the requirement to maintain a separate campaign account upon a showing by a committee that a separate account would be administratively burdensome, including but not limited to committees organized outside Maine or an individual who registers as a ballot question committee, and
- 21-A M.R.S. § 1057(5): the Commission may adopt by rule simplified record-keeping requirements for an individual registering as a ballot question committee.

The staff proposes a new section 15 in the Commission’s Chapter 1 rules to set out these simplified procedures.

Chapter 3, § 9(2) – Qualifying Period for Replacement Candidates

In 2023, the Legislature considered major substantive rule amendments by the Commission, including one that would address the Maine Clean Election Act qualifying period for candidates who are seeking to replace a candidate who has withdrawn, died, or has become ineligible. The Legislature chose to address this topic through enacting a new subsection of statute, 21-A M.R.S. § 1125(11-A). P.L. 2023, Chapter 211, attached. The new law states that the qualifying period begins when the Secretary of State receives a notice of withdrawal or declares a vacancy and directs the Commission to adopt a rule to establish the end of the qualifying period.

The new law also specifies that if a person seeking to replace a party nominee has collected qualifying contributions and then fails to win their party’s nomination at a nominating caucus, the Commission must return the qualifying contributions to the contributors unless the contributor authorizes the deposit of the qualifying contributions into the Maine Clean Election Fund. This would be an exception to the Commission’s new rule that the Commission will generally not return qualifying contributions made by check or money order once they have been submitted to the Commission.

Thank you for your consideration of these amendments.

Chapter 1: PROCEDURES

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

SECTION 3. MEETINGS

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



Commission. Notice that the matter has been placed on the agenda for a Commission hearing will be given by certified mail to both the Legislator and the complainant not less than 10 days before the date set for a hearing.

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

C. **Contents of Notice**

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

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

6. **Quorum.** Every decision of the Commission must be made at a meeting at which at least 3 members of the Commission ~~are present and voting~~ participate and vote. 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~~ remotely consistent with the Commission's policy on remote participation. ~~That member~~ Members who participate remotely 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 6. CONTRIBUTIONS AND OTHER RECEIPTS

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12. A political action committee, ballot question committee or party committee registered with the Department of Public Safety pursuant to Title 17, section 1832 may hold one game night per calendar year to raise revenue through games of chance provided that they disclose the financial activity consistent with this rule.
- A. The committee shall keep a written account of all participants in the game night who have paid, in the aggregate, an amount greater than the applicable contribution reporting threshold as an entry fee or to pay for chips, tokens, food, or other costs. The record shall contain the participant's name and address, and the total amount paid. If the participant has purchased food, memorabilia, or other goods at the game night, the committee may deduct the value of the item(s) from the amount of the payment. The committee is not required to keep a record of participants whose payments are less than or equal to the contribution reporting threshold or payments made to a third-party vendor at the event, such as a food truck.
- B. The contribution reporting threshold is \$50 for political action committees and ballot question committees and \$200 for the committees of political parties.
- C. In the next regularly scheduled campaign finance report, the committee shall report the proceeds of the game night as contributions. The committee shall itemize contributions that exceed the contribution reporting threshold. Contributions that do not exceed the threshold may be reported as an unitemized lump sum. The committee shall report as in-kind contributions any goods or services received in support of the game night, such as items to be awarded as prizes, or the donation of food or an event space. Costs incurred by the committee in connection with the game night shall be reported as expenditures.



SECTION 10. REPORTS OF INDEPENDENT EXPENDITURES

1. **General.** Any person, party committee, political committee or political action committee that makes any independent expenditure in excess of \$250 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
- (1) 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!"; or

- (2) is susceptible of no reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate.
- C. "Independent expenditure" has the same meaning as in Title 21-A §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 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 in accordance with the following schedule:
- A. *[Repealed]*
- B. *[Repealed]*
- (1) **60-Day Pre-Election Report.** A report must be filed by 11:59 p.m. on the 60th day before the election is held and be complete as of the 61st day before the election.
- (2) **Two-Day Report.** From the 60th day through the 14th day before an election, a report must be filed within two calendar days of the expenditure.
- (3) **One-Day Report.** After the 14th day before an election, a report must be filed within one calendar day of the expenditure.

For purposes of the filing deadlines in this paragraph, if the expenditure relates to a legislative or gubernatorial election and the filing deadline occurs on a weekend, holiday, or state government shutdown day, the report must be filed on the deadline. If the expenditure relates to a county or municipal election, the report may be filed on the next regular business day.

- 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.
- D. A separate 24-Hour Report is not required for expenditures reported in an independent expenditure report.



~~E. An independent expenditure report may be provisionally filed by facsimile or by electronic mail to an address designated by the Commission, as long as the facsimile or electronic copy is filed by the applicable deadline and an original of the same report is received by the Commission within five calendar days thereafter.~~

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.]

5. **Rebuttable Presumption. Requests for an Independent Expenditure Determination.**

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 and is disseminated during the 28 days before a primary election, the 35 days before a special election or from Labor Day to the general election ~~will be presumed to be~~ is 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~~ demonstrates to the Commission that the expenditure did not have a purpose or effect of influencing the nomination, election or defeat of ~~a~~ the 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. §1019-B(1)(B):
- (1) news stories and editorials, unless the facilities distributing the communication are owned or controlled by the candidate, the candidate's immediate family, 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~~ Title 21-A M.R.S.A. §1019-B(1)(B) and is greater than \$250 per candidate per election, the person making the expenditure must file an independent expenditure report or request a determination by the Commission that the cost of the communication is not an independent expenditure. The person may make the request by submitting a signed written statement affirming that the expenditure was not made with the intent to influence **did not have a purpose of, and will not have an effect of, influencing** 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. Any independent expenditure of \$250 or less per candidate per election does 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 applicable ~~presumption period applies to~~ date of dissemination for purposes of Title 21-A M.R.S.A. §1019-B(1)(B) is 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~~ Title 21-A M.R.S.A. §1019-B(1)(B), 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~~ Title 21-A M.R.S.A. §1019-B(1)(B) 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. Persons requesting a determination that no independent expenditure report is required are encouraged to submit their requests early, if possible before making the expenditure for the communication. 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.
- H. The Commission's Director shall make an initial determination by a preponderance of the evidence whether the cost was incurred with a purpose of, or had the effect of, influencing the nomination, election or defeat of a candidate in accordance with Title 21-A M.R.S.A. §1019-B(2). Any person may appeal the Director's determination to the Commission within two days of their receipt of the determination or the posting of the determination to the Commission's website, whichever is earlier.
- I. If the Director or Commission determines that an independent expenditure report was required and the report is not filed by the deadline in subsection 3(B), the late-filing penalty in Title 21-A M.R.S.A. §1020-A shall apply. The late filer may pay the penalty or request a waiver. In the alternative, the Director or Commission may, for good cause, extend the deadline to file the report for a short period after the determination sufficient for the person to file the report without delay. If the report is filed within the extension period, the report will be considered on time.



SECTION 15. SIMPLIFIED REGISTRATION AND REPORTING PROCEDURES FOR CERTAIN POLITICAL COMMITTEES

1. **Waivers of the separate campaign account requirement.** A political action committee or ballot question committee may apply for a waiver of the requirement in 21-A M.R.S. § 1054 to maintain a separate campaign bank account on the grounds that maintaining a separate account would be administratively burdensome. The Commission's Director shall make the initial decision on the application. The committee may appeal the Director's decision to the Commission. The Director and the Commission shall consider expected or actual expenditures aggregating more than \$25,000 as a factor in opposition to a waiver, except for a ballot question committee that consists of a single individual.

The committee receiving the waiver shall disclose all expenditures made for activities to initiate or influence a campaign in Maine and operational expenditures that promote or support those activities. The committee may pro-rate operational expenditures based on the portion that may reasonably be attributed to initiating or influencing a Maine campaign. The committee shall disclose all contributions made to or received by the committee for the purpose of initiating or influencing a campaign and any other funds used to make reported expenditures. The committee shall maintain records of these contributions and expenditures in accordance with 21-A M.R.S. § 1057.

2. **Individual qualifying as a ballot question committee.** An individual who qualifies as a ballot question committee may file a simplified registration form that discloses contact information for the individual and for any treasurer or other person authorized to file campaign finance reports. The registration must also include the ballot question the individual expects to support or oppose. If the individual is sharing fundraising or spending decisions with another person, they shall comply with the full registration requirements of 21-A M.R.S. § 1052-A.

In lieu of full compliance with the record-keeping requirements in Title 21-A, section 1057, subsections 1-4, an individual qualifying as a ballot question committee shall keep a vendor invoice or receipt for every expenditure in excess of \$50 made for the purpose of initiating or influencing a Maine campaign, and records of any contributions from a donor that has provided contributions exceeding \$50 in the aggregate for purposes of initiating or influencing the campaign.



Chapter 3: MAINE CLEAN ELECTION ACT AND RELATED PROVISIONS

SECTION 9. RECOUNTS, VACANCIES, WRITE-IN CANDIDATES, SPECIAL ELECTIONS

1. **Recounts.** Certified candidates may not spend Fund revenues for purposes of a recount or a court challenge to the results of a recount, but they may receive donations for these purposes in accordance with 21-A M.R.S.A. §1018-B. The Commission will make the initial distribution for the general election no later than three days after the Secretary of State submits the tabulation of primary election results to the Governor in accordance with Title 21-A, section 722 [§1125(7)(C)]. If there is a recount governed by Title 21-A, chapter 9, subchapter III, article III [§737-A], the primary election winner may spend Fund revenues consistent with the following provisions:
 - 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.
 - A. 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 begins when the Secretary of State receives a notice of withdrawal or declares a vacancy, whichever occurs earlier. The Commission's Director shall determine the end of the qualifying period.
 - 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 the qualifying period begins when the Secretary of State receives a notice of withdrawal or declares a vacancy, whichever occurs earlier. The qualifying period ends on the until 30th 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~~ begins when the Secretary of State receives a notice of withdrawal or declares a vacancy, whichever occurs earlier. The Commission's Director shall determine the end of the qualifying period.

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.

E. **Certification, Payments and Returns of Maine Clean Election Act Funds.** The Commission shall certify that replacement candidates have met the requirements to receive Maine Clean Election Act funding and shall make payments to the candidates in accordance with sections 3, 5, and 6 of this chapter. If a replacement candidate has not spent all Maine Clean Election Act funds for purposes of their nomination or election, the candidate shall return unspent funds upon the filing of the 42-day post-election report in accordance with section 8, subsection 2(B).

3. Write-In Candidates

A. Write-in candidates are subject to the registration requirements of Title 21-A M.R.S.A. §1013-A and the campaign finance reporting requirements of §1017, as soon as they qualify as a nominee pursuant to 21-A M.R.S.A §723, file a declaration of write-in candidacy with the Secretary of State pursuant to 21-A M.R.S.A. §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.
6. **Challenges to Election Results in Court.** If the results of an election are challenged in a court proceeding, a certified candidate may solicit and accept donations to finance attorneys’ fees or other litigation costs. The donations must be within the limitations of section 1015, except that no limitation applies to donations from party committees and caucus campaign committees and from attorneys, consultants and their firms that are donating their services without reimbursement. The Commission may adopt procedures for the financial disclosure of these activities.



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
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To: Commission
From: Martha Currier, Assistant Director
Date: October 18, 2023
Re: Independent Expenditure Reporting Across the United States

This memo will provide comparative information regarding independent expenditure (IE) reporting laws in other states as requested by Commissioner Neumann at the August 2023 meeting.

In Maine, independent expenditure reports are required when a person or committee spends more than \$250 on a communication that expressly advocates for the election or defeat of a clearly identified candidate. The deadline for reporting varies depending how close to the election the expenditure is made, which could be 60 days, 48 or 24 hours. Historically, both Mainers and the Legislature have supported timely campaign finance disclosures. The Commission has had few compliance issues with the current reporting structure and deadlines. Interestingly, the simple approach taken by our independent expenditure laws are not shared across the country.

The National Conference on State Legislatures has compiled a [list](#) of IE laws summarizing the requirements to file. Interestingly, 17 states have different filing thresholds for committees and non-committees, meaning if they are already registered as a political committee, they have different triggers to file IE reports. Most states – 15 – require IE reporting for expenditures over \$1,000, however, some of them are in the aggregate not just a singular expense for a race. Twelve states require reporting when any amount is spent on an IE. Maine’s filing requirements fall into the middle of the pack with 19 other states who trigger reporting with \$100-\$500 in expenditures.

The deadlines for reporting IEs vary greatly with more than half the states having a mix of deadlines that are quarterly, monthly or a mix based on the phase of the election cycle when the expenditure is made. It is difficult to provide a concise overview. A significant number of states have one-day reporting in the last seven, ten, or 14 days before an election. Maine may be an outlier in requiring two-day reporting for a full sixty days before a general election. The current procedures work

effectively in providing prompt notice of IEs to candidates and the public. The Commission staff is happy to do more work on this, but our current thinking is that if we want to propose a change in the schedule, we will include that in a future rulemaking.

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

H.P. 683 - L.D. 1088

An Act to Update the Gambling Laws to Allow Once-annual Game Nights for Eligible Organizations and Registered Political Committees

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

Sec. 1. 17 MRSA §1832, sub-§1, as amended by PL 2021, c. 136, §5, is further amended to read:

1. License or registration required. Except as provided in sections 1837-A and 1837-B, a person, firm, corporation, committee, association or organization may not hold, conduct or operate a game of chance without a license issued by or, as applicable, without registering with the Gambling Control Unit in accordance with this section. A license is not required when a game of chance constitutes social gambling. For purposes of this section, "committee" means a party committee, political action committee or ballot question committee registered and required to file reports under Title 21-A, chapter 13.

Sec. 2. 17 MRSA §1832, sub-§2-B is enacted to read:

2-B. Once-annual game night registration. The Gambling Control Unit may accept a registration from an eligible organization described in subsection 2 or a committee to conduct once in a calendar year a game night, referred to in this section as "a game night," which may include the operation or conduct of card games and games of chance. The proceeds from the game night must be dedicated to a verifiable charitable purpose, except that, if the registrant is a committee, the proceeds must be for the purpose of fund-raising. An eligible organization or committee seeking to register to conduct a game night under this subsection shall register in the manner prescribed by the Gambling Control Unit and shall maintain records in the same manner as described under section 1839, except that disposition of funds reports for card games allowed under this subsection are not required to be submitted to the Gambling Control Unit but must be maintained in the same manner as other records.

Sec. 3. 17 MRSA §1832, sub-§3, as amended by PL 2017, c. 284, Pt. KKKKK, §15, is further amended to read:

3. Must be 18 years of age. The Gambling Control Unit may not accept a registration to conduct a game night, a game of chance, a raffle or certain tournament games or accept

an application from or issue a license for card games and certain tournament games under this section to a person or representative of an eligible organization or committee who is not 18 years of age or older.

Sec. 4. 17 MRSA §1832, sub-§4, as amended by PL 2017, c. 284, Pt. KKKKK, §15, is further amended to read:

4. Municipal approval required. An eligible organization described in subsection 2 applying for a license to conduct a card game and tournament games requiring a license or an eligible organization or committee registering to conduct a game night under subsection 2-B shall obtain written approval from the local governing authority where the game or the game night is to be operated or conducted. This written approval must be submitted with the application to the Gambling Control Unit as described in subsection 5.

Sec. 5. 17 MRSA §1832, sub-§5-A is enacted to read:

5-A. Once-annual game night application. An eligible organization described in subsection 2 or committee seeking to register to conduct a game night shall submit an application to the Gambling Control Unit. The application must be in a form provided by the Gambling Control Unit and must be signed by a duly authorized officer of the eligible organization or committee. The application must include the full name and address of the eligible organization or committee, a full description of the card games or games of chance to be operated or conducted, the location where the game night is to be conducted and any other information determined necessary by the Gambling Control Unit for the issuance of a registration to conduct a game night, including but not limited to membership lists, bylaws, documentation showing the organization's nonprofit status or charitable designation, if applicable, documentation showing the committee's registration under Title 21-A, chapter 13, if applicable, and documentation verifying the purpose of the game night's proceeds. A game night must be conducted in accordance with section 1835-B. If the game night will be conducted, pursuant to section 1835-B, subsection 2, by employees of a distributor licensed under section 1840, the application must include the full name and address of the licensed distributor and any other information determined necessary by the Gambling Control Unit.

Sec. 6. 17 MRSA §1832, sub-§6, as amended by PL 2017, c. 284, Pt. KKKKK, §15, is further amended to read:

6. Multiple licenses. The Gambling Control Unit may issue more than one license or registration to conduct or operate a game governed by this chapter simultaneously to an eligible organization described in subsection 2. Each game governed by this chapter must have a separate license, the nature of which must be specified on the license, except that a registration issued under subsection 2-B for a game night may allow for multiple card games and games of chance to be operated or conducted simultaneously by the eligible organization or committee described in subsection 2-B without separate licenses or registrations.

Sec. 7. 17 MRSA §1834, sub-§4-A is enacted to read:

4-A. Once-annual game night. The fee for a registration to conduct a game night under section 1832, subsection 2-B is \$100.

Sec. 8. 17 MRSA §1835-B is enacted to read:

§1835-B. Conduct of once-annual game night

1. Wagers or entry fees; definitions. The following provisions apply to a game night registered under section 1832, subsection 2-B. For purposes of this section, "eligible organization" means an organization described in section 1832, subsection 2 and "committee" has the same meaning as in section 1832, subsection 1.

A. An eligible organization or committee registered to conduct a game night under section 1832, subsection 2-B may charge an entry fee to the game night, the proceeds of which must be used as described in section 1832, subsection 2-B and to cover the costs of conducting the game night.

B. Card games and games of chance operated or conducted at a game night must use tokens or other devices approved by the Gambling Control Unit by rule. No money or thing of value may be wagered on a card game or game of chance operated or conducted at a game night.

C. An eligible organization or committee may award prizes to an individual as a result of that individual's participation in card games and games of chance operated or conducted during the game night. Prior to the game night, the eligible organization or committee shall determine the available prizes and shall identify those prizes in its application for registration. The Gambling Control Unit may establish, as necessary, rules regarding acceptable prizes.

2. Conduct of once-annual game night. A game night must be conducted by members or employees of the eligible organization or committee conducting the game night or by employees of a distributor licensed under section 1840 who leases gambling apparatus or implements for the purposes of the game night. Any gambling apparatus or any other implements of gambling that are used in the operation or conduct of card games or games of chance during the game night must be leased by the eligible organization or committee from a distributor licensed under section 1840.

3. Persons under 18 years of age. An eligible organization or committee conducting a game night or the employees of a distributor licensed under section 1840 authorized to conduct the game night pursuant to subsection 2 may not permit a person under 18 years of age to take part in the game night.

4. Location; frequency. A registration issued for a game night must specify the location where the eligible organization or committee may operate the game night. An eligible organization or committee may conduct no more than one game night in any 12-month period.

5. "Donation" not to provide an exclusion. The word "donation" printed on any item associated with a game night does not exclude the sponsoring organization or committee from complying with this chapter.

Sec. 9. 17 MRSA §1840, sub-§2, as amended by PL 2017, c. 284, Pt. KKKKK, §28, is further amended by amending the first blocked paragraph to read:

A nonresident manufacturer or distributor of gambling apparatus or implements doing business in the State must have an agent in this State who is licensed as a distributor. A distributor may not sell, market or otherwise distribute gambling apparatus or implements to a person or organization, except to persons or eligible organizations described under section 1832, subsection 2 licensed or registered to operate or conduct games under this

chapter or registered to conduct a special raffle under section 1837-A or to eligible organizations and committees registered to conduct a game night under section 1832, subsection 2-B. A distributor may not lease or loan or otherwise distribute free of charge any gambling apparatus or implements to an organization eligible to operate a game under this chapter, except that a distributor may lease gambling apparatus or implements to an agricultural society registered to operate games of chance on the grounds of the agricultural society and during the annual fair of the agricultural society as long as the distributor does not charge the agricultural society an amount in excess of 50% of the gross revenue from any game conducted under this chapter.

Sec. 10. 17 MRSA §1840, sub-§5, as amended by PL 2017, c. 284, Pt. KKKKK, §28, is further amended to read:

5. ~~Agricultural societies; lease~~ Lease agreements. When a gambling apparatus or implement is leased as provided in subsection 2 to an agricultural society or to an eligible organization or committee registered under section 1832, subsection 2-B, the distributor shall forward to the Gambling Control Unit a copy of the lease agreement and shipment approval prior to delivery of the gambling apparatus or implement. The terms of the lease must include, but are not limited to, the name of the lessor; address of the lessor; name of the lessee; address of the lessee; description of the gambling apparatus or implement; serial number, model name or number of the gambling apparatus or implement; and all prices and payments for the lease. Each lease must be for a specific period of time no longer than the duration of the annual fair of that lessee or the game night under section 1832, subsection 2-B, and each gambling apparatus must have its own separate lease. Gambling apparatus or implements leased under this section:

A. May be operated only for the exclusive benefit of an eligible organization or committee under section 1832, subsection 2-B or for the exclusive benefit of the agricultural society, except that the agricultural society may pay a distributor up to 50% of gross gaming revenue in accordance with subsection 2; and

B. Must bear the name and address of the distributor.

Sec. 11. 21-A MRSA §1006 is enacted to read:

§1006. Proceeds of game night

A party committee, political action committee or ballot question committee registered under this chapter that conducts a game night pursuant to Title 17, section 1832, subsection 2-B shall report to the commission all proceeds from the game night in a manner prescribed by rule by the commission. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

S.P. 647 - L.D. 1630

**An Act Regarding Campaign Finance and Lobbying Disclosure and
Enforcement of Income Source Reporting Requirements**

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

Sec. 1. 1 MRSA §1016-C, as amended by PL 2021, c. 132, §1, is further amended to read:

§1016-C. Reports by legislative candidates

A candidate, as defined in Title 21-A, section 1, subsection 5, for the Legislature who is not required to file a report under section 1016-G shall file a report containing the same information required of Legislators under section 1016-G no later than 5 p.m. on August 15th preceding the general election unless the candidate withdraws from the election in accordance with Title 21-A, section 374-A by that date. A candidate shall file statements electronically as is required of Legislators under section 1016-G, subsection 5. If the candidate fails to file the statement by the August 15th, the commission may assess penalties in accordance with section 1016-G, subsection 3.

Sec. 2. 1 MRSA §1016-G, sub-§3, as amended by PL 2019, c. 534, §5, is further amended to read:

3. Penalties. Penalties for violations of this section are as follows.

A. Failing to file a statement within 15 days of having been notified by the commission is subject to a civil violation for which a fine of not more than \$100 may be adjudged penalty not to exceed \$250 for a Legislator or \$100 for a candidate payable to the commission. A statement is not considered filed unless it substantially conforms to the requirements of this subchapter and is properly signed. The commission shall determine whether a statement substantially conforms to the requirements of this subchapter.

B. The intentional filing of a false statement is a Class E crime. If the commission concludes that it appears that a Legislator has willfully filed a false statement, it shall refer its findings of fact to the Attorney General. If the commission determines that a Legislator has willfully failed to file a statement required by this subchapter or has

willfully filed a false statement, the Legislator is presumed to have a conflict of interest on every question.

Within 3 business days of a filing deadline, the commission shall mail a notice to a Legislator or candidate who has failed to file a statement required under this subchapter. If a Legislator or candidate does not file the statement within 15 days of the notice, the commission shall mail a notice of a preliminary penalty of \$250 for a Legislator or \$100 for a candidate pursuant to paragraph A. The Legislator or candidate may request a waiver of the penalty within 15 days of the penalty notice. If no request is made, the preliminary penalty of \$250 for a Legislator or \$100 for a candidate is final. If the Legislator or candidate requests a waiver, the commission shall consider the request at its next meeting for a determination of the final penalty, if any. The commission staff shall confirm a final penalty in a written determination to the Legislator or candidate who did not file the statement on time. The commission's determination may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C. Penalties assessed pursuant to this subsection may be enforced in accordance with Title 21-A, section 1004-B.

Sec. 3. 3 MRSA §319, sub-§1, as repealed and replaced by PL 2011, c. 179, §7, is amended to read:

1. Failure to file registration or report. Any person who fails to file a registration or report as required by this chapter ~~may be assessed a fine~~ is subject to a civil penalty, payable to the commission, of \$100 for every month the person fails to register or is delinquent in filing a report pursuant to section 317. If a registration or report is filed late, the commission shall send a notice of the finding of violation and preliminary penalty. The notice must provide the lobbyist with an opportunity to request a waiver of the preliminary penalty. If a lobbyist files a report required pursuant to section 317 within 24 hours after the deadline, the amount of the preliminary penalty is \$50. The preliminary penalty is increased by \$50 for each successive violation during a lobbying year. The commission may waive the ~~fine or~~ penalty in whole or in part if the commission determines the failure to register or report was due to mitigating circumstances or the ~~fine or~~ penalty is disproportionate to the level of experience of the lobbyist or the harm suffered by the public from the late registration or report. For purposes of this subsection, "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 ~~fine or~~ penalty in whole or in part;
- B. An error by the commission; or
- C. Circumstances determined by the commission to warrant the waiver of the ~~fine or~~ penalty in whole or in part, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with this chapter, including, but not limited to, unexplained delays in Internet service.

Sec. 4. 21-A MRSA §1002, sub-§2, as amended by PL 2011, c. 389, §2, is repealed.

Sec. 5. 21-A MRSA §1002, sub-§4, as amended by PL 2011, c. 389, §2, is repealed.

Sec. 6. 21-A MRSA §1003, sub-§3-A, as amended by PL 2019, c. 323, §3, is further amended by amending the first blocked paragraph to read:

The commission may disclose investigative working papers or discuss them at a public meeting, except for the information or records subject to a privilege against discovery or use as evidence, if the information or record is ~~materially~~ relevant to a memorandum or interim or final report by the commission staff or a decision by the commission concerning an audit, investigation or other enforcement matter. A memorandum or report on the audit or investigation prepared by staff for the commission may be disclosed at the time it is submitted to the commission, as long as the subject of the audit or investigation has an opportunity to review it first to identify material that the subject of the audit or investigation considers privileged or confidential under some other provision of law.

Sec. 7. 21-A MRSA §1004-B, as enacted by PL 2009, c. 302, §3, is amended to read:

§1004-B. Enforcement of penalties assessed by the commission

The commission staff shall collect the full amount of any penalty and the return of Maine Clean Election Act funds required by the commission to be returned for a violation of the statutes or rules administered by the commission and has all necessary powers to carry out these duties. Failure to pay the full amount of any penalty assessed by the commission or return of Maine Clean Election Act funds is a civil violation by the candidate, treasurer, party committee, political action committee or other person. Thirty days after issuing the notice of penalty or order for the return of funds, the commission shall report to the Attorney General the name of any person who has failed to pay the full amount of any penalty or to return Maine Clean Election Act funds unless the commission has provided an extended deadline for payment. ~~The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty or order for the return of Maine Clean Election Act funds.~~ The Attorney General shall enforce the violation in a civil action to collect up to 3 times the outstanding amount of the penalty or unreturned Maine Clean Election Act funds. This action must be brought in the Superior Court for Kennebec County or the District Court, 7th District, Division of Southern Kennebec.

Sec. 8. 21-A MRSA §1014, sub-§5-A is enacted to read:

5-A. Text messages. Text messages sent with the assistance of mass distribution technology that is paid for by a person must clearly and conspicuously state the name of the person who made or financed the expenditure if:

- A. The text message expressly advocates the election or defeat of a candidate; or
- B. The text message contains a link to a website that expressly advocates the election or defeat of a candidate.

Sec. 9. 21-A MRSA §1015, sub-§3, as amended by PL 2007, c. 443, Pt. A, §12, is repealed.

Sec. 10. 21-A MRSA §1019-B, sub-§1, ¶B, as amended by PL 2021, c. 132, §7, is further amended to read:

- B. Unless the person, party committee or political action committee making the expenditure demonstrates under subsection 2 that the expenditure ~~was not intended to~~

~~influence~~ did not have a purpose or effect of influencing the nomination, election or defeat of the candidate, is made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and is disseminated during the 28 days, including election day, before a primary election; during the 35 days, including election day, before a special election; or from Labor Day to a general election day.

Sec. 11. 21-A MRSA §1019-B, sub-§2, as amended by PL 2021, c. 132, §8, is further amended to read:

2. Commission determination. A person, party committee or political action committee may request a determination that an expenditure that otherwise meets the definition of an independent expenditure under subsection 1, paragraph B is not an independent expenditure by filing a signed written statement with the commission within 7 days of disseminating the communication stating that the cost was not incurred with ~~the intent to influence~~ a purpose of influencing the nomination, election or defeat of a candidate, supported by any additional evidence the person, party committee or political action committee chooses to submit. The commission may gather any additional evidence it determines relevant and material ~~and~~. The commission shall determine by a preponderance of the evidence whether the cost was incurred with intent to influence a purpose of, or had the effect of, influencing the nomination, election or defeat of a candidate. In order to make this determination, the commission shall consider whether the language and other elements of the communication would lead a reasonable person to conclude that the communication had a purpose of, or had the effect of, influencing an election. The commission may consider other factors, including, but not limited to, the timing of the communication, the recipients of the communication or, if the communication is a digital communication, any links to publicly accessible websites related to the nomination, election or defeat of a candidate. The commission's executive director shall make an initial determination on the request, which must be posted on the commission's publicly accessible website. Any person may appeal the initial determination, which must be considered by the commission at the next public meeting that is feasible.

Sec. 12. 21-A MRSA §1019-B, sub-§4, ¶B, as amended by PL 2015, c. 350, §6, is further amended to read:

B. A report required by this subsection must contain an itemized account of each expenditure in excess of \$250 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~~ unsworn falsification, as provided in Title 17-A, section 451-453, 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.

Sec. 13. 21-A MRSA §1019-B, sub-§4, ¶C, as amended by PL 2013, c. 334, §16, is further amended to read:

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.~~

Sec. 14. 21-A MRSA §1020-A, sub-§4-A, as amended by IB 2015, c. 1, §7, is further amended to read:

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

Any penalty of less than \$10 \$25 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.~~

Sec. 15. 21-A MRSA §1055-A, sub-§1, as amended by PL 2019, c. 323, §21, is further amended to read:

1. Communications to influence ballot question elections. Whenever a person makes an expenditure exceeding \$500 expressly advocating through broadcasting stations, cable television systems, prerecorded automated telephone calls or scripted live telephone calls, 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, for or against an initiative or referendum that is on the ballot, the communication must clearly and conspicuously state the name and address of the person who made or financed the expenditure for the communication, except that telephone calls must clearly state only the name of the person who made or financed the expenditure for the communication. A digital communication costing more than \$500 that includes a link to a publicly accessible website expressly advocating for or against an initiative or referendum that is on the ballot must clearly and conspicuously state the name of the person who made or financed the expenditure, unless the digital communication is excluded under subsection 2. Telephone surveys that meet generally accepted standards for polling research and that are not conducted for the purpose of influencing the voting position of call recipients are not required to include the disclosure.

Sec. 16. 21-A MRSA §1062-A, sub-§3, as amended by IB 2015, c. 1, §9, 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, 2%;
- B. For the 2nd violation, 4%; and
- C. For the 3rd and subsequent violations, 6%.

Any penalty of less than \$10 ~~§25~~ 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. 17. 21-A MRSA §1125, sub-§3, ¶J, as enacted by PL 2019, c. 323, §29, is amended to read:

J. A payment, gift or anything of value may not be given in exchange for a qualifying contribution. It is a violation of this chapter for a participating candidate or an agent of the participating candidate to misrepresent the purpose of soliciting qualifying contributions and obtaining the contributor's signed acknowledgment or submit any fraudulent contributions to the commission, as defined by the rules of the commission.

Sec. 18. 21-A MRSA §1125, sub-§12-A, ¶C, as amended by PL 2013, c. 334, §34, is further amended to read:

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

Sec. 19. 21-A MRSA §1125, sub-§12-A, ¶E, as amended by PL 2013, c. 334, §34, is further amended to read:

E. A contemporaneous document such as an invoice, contract or timesheet that specifies in detail the services provided by a vendor who was paid in excess of \$500 for the election cycle for providing campaign staff or consulting services to a candidate; ~~and~~

Sec. 20. 21-A MRSA §1125, sub-§12-A, ¶F is enacted to read:

F. If a candidate for the Legislature pays at least \$3,000 to a member of the campaign staff, records for the number of hours and type of work performed by the member each day. The candidate or treasurer shall submit those records to the campaign at least once per month.

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

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H.P. 1099 - L.D. 1485

**An Act to Modify the Requirements for Political Action Committees and
Ballot Question Committees**

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

Sec. 1. 21-A MRSA §1, sub-§3-A, as enacted by PL 2019, c. 563, §1, is amended to read:

3-A. Ballot question committee. "Ballot question committee" ~~means a person required to register as a ballot question committee under section 1056-B~~ has the same meaning as in section 1052, subsection 2-A.

Sec. 2. 21-A MRSA §1, sub-§29-A, as enacted by PL 2019, c. 563, §2, is amended to read:

29-A. Political action committee. "Political action committee" ~~means a person required to register as a political action committee under section 1052-A~~ has the same meaning as in section 1052, subsection 5.

Sec. 3. 21-A MRSA §1052, as amended by PL 2019, c. 563, §3, is further amended to read:

§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 to influence the nomination or election of a candidate or to initiate or influence any of the following ballot measures:

- A. A people's veto referendum under the Constitution of Maine, Article IV, Part Third, Section 17;
- B. A direct initiative of legislation 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. A referendum vote on a measure enacted by the Legislature and 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, or any ballot question committee required to be registered under section 1056-B~~ or ballot question committee and includes any agent of a political action committee or ballot question committee.

2-A. Ballot question committee. "Ballot question committee" means a person that receives contributions or makes expenditures aggregating in excess of \$5,000 for the purpose of initiating or influencing a campaign, other than a campaign for the nomination or election of a candidate. The term "ballot question committee" does not include a political action committee or an exempt donor.

3. Contribution. "Contribution" includes:

A. A gift, subscription, loan, advance or deposit of money or anything of value made to ~~or received by 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;~~ for the purpose of initiating or influencing a campaign, including but not limited to:

(1) Funds that the contributor specified were given, in whole or in part, in connection with a campaign;

(2) Funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically, in whole or in part, for the purpose of initiating or influencing a campaign; and

(3) Funds that can reasonably be determined to have been provided by the contributor for the purpose of initiating or influencing a campaign when viewed in the context of the contribution and the recipient committee's activities regarding a campaign;

A-1. Any funds deposited or transferred into the campaign account described in section 1054;

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 initiating or influencing a campaign; or

D. The payment, by any person or organization, of compensation for the personal services of other persons provided to a ~~political action~~ committee that is used by the ~~political action~~ committee to initiate or influence a campaign.

"Contribution" does not include a loan of money by a financial institution made in accordance with applicable banking laws and regulations and in the ordinary course of business.

3-A. Exempt donor. "Exempt donor" means a person that has not received contributions for the purpose of influencing a campaign in the prior 2 years and whose only payments of money to influence a campaign in the prior 2 years are:

A. Contributions of money to candidates, party committees, political action committees or ballot question committees registered with the commission or a municipality; or

B. Payments for goods or services with an aggregate value of no more than \$100,000 contributed to candidates, party committees, political action committees or ballot question committees registered with the commission or a municipality.

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 initiating or influencing a campaign;

(1-A) Any purchase, payment, distribution, loan, advance, deposit or gift of money made from the campaign account described in section 1054;

(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, cable television system, newspaper, magazine or other periodical publication, unless these facilities are owned or controlled by any political party, political committee, candidate or the spouse or domestic partner of a candidate;

(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 \$250 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 a~~ committee member that is not made for the purpose of influencing the nomination or election of any person to state or county office; and

(7) Any payments to initiate a people's veto referendum or the direct initiative of legislation made prior to the submission of an application to the Department of the Secretary of State as provided in section 901.

4-A. Influence. "Influence" means to promote, support, oppose or defeat.

4-B. Initiate. "Initiate" includes the collection of signatures and related activities to qualify a state or local initiative or referendum for the ballot.

4-C. Leadership political action committee. "Leadership political action committee" means a political action committee, other than a caucus political action committee under section 1053-C, that was directly or indirectly established by a current member of the Legislature or that is directly or indirectly maintained or controlled by a current member of the Legislature.

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 or other organization ~~whose purpose is to initiate or influence a campaign; that receives contributions or makes expenditures aggregating more than \$2,500 in a calendar year for the purpose of influencing the nomination or election of a candidate to political office; and~~

~~(4) Any person, including any corporation or association, other than an individual, that has as its major purpose initiating or influencing a campaign and that receives contributions or makes expenditures aggregating more than \$1,500 in a calendar year for that purpose; and~~

~~(5) Any person, including any corporation or association, other than an individual, that does not have as its major purpose influencing candidate elections but that receives contributions or makes expenditures aggregating more than \$5,000 \$2,500 in a calendar year for the purpose of influencing the nomination or election of any candidate to political office; 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 1, paragraph B;

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

~~(4) An organization whose only payments of money in the prior 2 years for the purpose of influencing a campaign in this State are contributions to candidates, party committees, political action committees or ballot question committees registered with the commission or a municipality and that has not raised and accepted any contributions during the calendar year for the purpose of influencing a campaign in this State exempt donor.~~

Sec. 4. 21-A MRSA §1052-A, as amended by PL 2019, c. 563, §4, is further amended to read:

§1052-A. Registration

A ~~political action~~ committee shall register with the commission and amend its registration as required by this section. A registration is not timely filed unless it contains all the information required in this section.

1. Deadlines to file and amend registrations. A ~~political action~~ committee shall register and file amendments with the commission according to the following schedule.

A. A political action committee as defined under section 1052, subsection 5, paragraph A, subparagraph (1) or ~~(4) that receives (5) shall register with the commission within 7 days of receiving~~ contributions or ~~makes making~~ expenditures in the aggregate in excess of \$1,500 and a ~~political action committee as defined under section 1052, subsection 5, paragraph A, subparagraph (5) that receives contributions or makes~~ expenditures in the aggregate in excess of \$5,000 for the purpose of influencing the nomination or election of any candidate to political office shall register with the commission within 7 days of exceeding the applicable amount \$2,500.

A-1. A ballot question committee shall register with the commission within 7 days of receiving contributions or making expenditures in the aggregate in excess of \$5,000.

A-2. A registered committee that does not qualify for an exception to registration pursuant to subsection 1-A shall register as a political action committee or ballot question committee, as applicable, within 7 days of exceeding the \$10,000 threshold specified in subsection 1-A.

B. A ~~political action~~ committee shall amend the registration within 10 days of a change in the information that ~~political action~~ committees are required to disclose under this section.

C. A ~~political action~~ committee shall file an updated registration form between January 1st and March 1st of each year in which a general election is held. The commission may waive the updated registration requirement for a newly registered political action committee or other registered ~~political action~~ committee if the commission determines that the requirement would cause an administrative burden disproportionate to the public benefit of the updated information.

1-A. Exceptions to registration. The following exceptions to the registration requirements in subsection 1 apply to registered committees.

A. A registered political action committee that receives contributions or makes expenditures of \$10,000 or less in the aggregate for the purpose of influencing one or more ballot question campaigns in a calendar year is not required to register as a ballot question committee. If a registered political action committee's only expenditures to influence ballot question campaigns in an election year are monetary contributions to registered ballot question committees, the political action committee is not required to register as a ballot question committee regardless of the aggregated amount of such contributions.

B. A registered ballot question committee that receives contributions or makes expenditures of \$10,000 or less in the aggregate for the purpose of influencing the

nomination or election of one or more candidates in a calendar year is not required to register as a political action committee. If a registered ballot question committee's only expenditures to influence candidate elections in an election year are monetary contributions to registered political action committees, party committees or candidates, the ballot question committee is not required to register as a political action committee regardless of the aggregated amount of such contributions.

2. Disclosure of treasurer and officers. A ~~political action~~ committee must have a treasurer and a principal officer. The same individual may not serve in both positions, unless the committee is an individual registering as a ballot question committee. The ~~political action~~ committee's registration must contain the names and addresses of the following individuals:

- A. The treasurer of the ~~political action~~ committee;
- B. A principal officer of the ~~political action~~ committee;
- C. Any other individuals who are primarily responsible for making decisions for the ~~political action~~ committee;
- D. The individuals who are primarily responsible for raising contributions for the ~~political action~~ committee; and
- E. The names of any other candidates or Legislators who have a significant role in fund-raising or decision-making for the ~~political action~~ committee.

3. Other disclosure requirements. A ~~political action~~ committee's registration must also include the following information:

- A. A statement indicating the specific candidates, categories of candidates or campaigns or ballot questions that the ~~political action~~ committee expects to support or oppose;
- B. If the ~~political action~~ committee is formed to influence the election of a single candidate, the name of that candidate;
- C. The form or structure of the organization, such as a voluntary association, membership organization, corporation or any other structure by which the ~~political action~~ committee functions, and the date of origin or incorporation of the organization;
- D. If the ~~political action~~ committee has been formed by one or more for-profit or nonprofit corporations or other organizations for the purpose of initiating or influencing a campaign, the names and addresses of the corporations or organizations;
- E. The name of the account that the ~~political action~~ committee will use to deposit contributions and make expenditures pursuant to section 1054, and the name and address of the financial institution at which the account is established; ~~and~~

E-1. A certification of whether the committee is a leadership political action committee; and

F. Any additional information reasonably required by the commission to monitor the activities of ~~political action~~ committees in this State under this subchapter.

4. Acknowledgment of responsibilities. The treasurer, principal officer and any other individuals who are primarily responsible for making decisions for the ~~political action~~ committee shall submit a signed statement acknowledging their responsibilities on a form

prescribed by the commission within 10 days of registering the ~~political-action~~ committee. The signed acknowledgment statement serves as notification of the responsibilities of the ~~political-action~~ committee to comply with the financial reporting, record-keeping and other requirements of this chapter and the potential personal liability of the treasurer and principal officer for civil penalties assessed against the ~~political-action~~ committee. The commission shall notify the ~~political-action~~ committee of any individual who has failed to submit the acknowledgment statement. Failure to return the acknowledgment statement is a violation of this subchapter for which a fine of \$100 may be assessed against the ~~political-action~~ committee. This section also applies to individuals named in an updated or amended registration required by this subsection who have not previously submitted an acknowledgment statement for the ~~political-action~~ committee with the commission.

5. Resignation and removal. An individual who resigns as the treasurer, principal officer or primary decision maker of a ~~political-action~~ committee shall submit a written resignation statement to the commission. An individual's resignation is not effective until the commission receives the written resignation statement from the individual. If an individual is involuntarily removed from the position of treasurer, principal officer or primary decision maker by the ~~political-action~~ committee, the ~~political-action~~ committee shall notify the commission in writing that the individual has been removed from the position. The commission may prescribe forms for these purposes.

6. Modified registration. The commission may adopt simplified registration procedures and forms for an individual registering as a ballot question committee to initiate or influence a ballot question.

Sec. 5. 21-A MRSA §1053-A, as amended by PL 2019, c. 563, §5, is further amended to read:

§1053-A. Municipal elections

If an organization qualifies as a ~~political-action~~ committee under section 1052, subsection 5 or is a ballot question committee required to register under section 1056-B 2 and that organization receives contributions or makes expenditures to influence a municipal campaign in towns or cities with a population of 15,000 or more, that organization must register and file reports with the municipal clerk as required by Title 30-A, section 2502. The reports must be filed in accordance with the reporting schedule in section 1059 and must contain the information listed in section 1060. A committee registered with the commission and that receives contributions or makes expenditures relating to a municipal election shall file a copy of the report containing such contributions or expenditures with the clerk in the subject municipality. The commission retains the sole authority to prescribe the content of all reporting forms. The commission does not have responsibility to oversee the filing of registrations or campaign finance reports relating to municipal campaigns. If a municipal clerk becomes aware of a potential violation of this subchapter that the clerk considers to be substantial, the clerk may refer the matter to the commission for enforcement. The commission may conduct an investigation if the information referred by the municipal clerk shows sufficient grounds for believing that a violation may have occurred. After conducting the investigation, if the commission determines that a violation of this subchapter has occurred, the commission may assess penalties provided in this subchapter.

Sec. 6. 21-A MRSA §1054, as amended by PL 2019, c. 563, §7, is repealed and the following enacted in its place:

§1054. Appointment of treasurer; segregated campaign account

1. Appointment of treasurer. A committee required to register under section 1052-A shall appoint a treasurer before registering with the commission.

2. Segregated campaign account. A committee registered under section 1052-A shall establish a separate account in a bank or other financial institution, referred to in this section as a "campaign account." The committee shall deposit all funds contributed to or received by the committee for the purpose of initiating or influencing a campaign in the campaign account and shall finance all of the committee's expenditures to initiate or influence the campaign through the campaign account. If a business or corporate entity has established the committee, the campaign account must be segregated from the general treasury funds of the entity that established the committee. If the committee is established by one or more individuals, the campaign account must be segregated from and not commingled with the personal funds of those individuals.

3. Exceptions. The commission may adopt procedures by rule for waiving the requirement under subsection 2 to maintain a segregated campaign account upon a showing by a committee that a separate account would be administratively burdensome, including but not limited to committees organized outside this State or an individual who registers as a ballot question committee. If the committee was formed by another organization, that other organization may pay its employees for their campaign-related activities on behalf of the committee through its own treasury, rather than the campaign account. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

Sec. 7. 21-A MRSA §1054-A, as amended by PL 2019, c. 563, §8, is further amended to read:

§1054-A. Duties and liabilities of the treasurer, principal officer and primary decision maker of political action committees

1. Duties of the treasurer. The treasurer of the ~~political action~~ committee shall ensure that the ~~political action~~ committee files and amends the ~~political action~~ committee's registration, files complete and accurate financial reports with the commission and maintains the ~~political action~~ committee's records as required by this chapter and the commission's rules. The treasurer is responsible for the ~~political action~~ committee's performance of these duties regardless of whether the treasurer has delegated administrative tasks related to these duties to another individual.

2. Joint responsibilities of the treasurer and principal officer. The treasurer and the principal officer are jointly responsible for the ~~political action~~ committee's compliance with the requirements of this chapter and the commission's rules. The treasurer and principal officer are responsible for accepting and responding to notices and correspondence from the commission on behalf of the ~~political action~~ committee.

3. Participation in spending decisions. An individual who is the treasurer, principal officer or primary decision maker of the ~~political action~~ committee and who has signed the acknowledgment statement required by section 1052-A, subsection 4 is deemed to have participated in the spending decisions of the ~~political action~~ committee until the

commission receives the individual's resignation statement or a notice of the individual's involuntary removal from the ~~political-action~~ committee.

4. Financial liability. The commission may hold the treasurer and principal officer jointly and severally liable with the ~~political-action~~ committee for any fines assessed against the ~~political-action~~ committee for violations of this chapter and chapter 14. In addition, the commission may assess all or part of a fine against any other agent of the ~~political-action~~ committee who is directly responsible for a violation, including individuals who have resigned or have been removed involuntarily from the ~~political-action~~ committee. In deciding whether to assess a penalty against a treasurer, principal officer or any other individual, the commission may consider, among other things, whether the individual had actual knowledge of the action that constituted the violation or had authorized that action and whether the violation was intentional or caused by an error by a vendor or someone outside the control of the ~~political-action~~ committee.

Sec. 8. 21-A MRSA §1056-B, as amended by PL 2019, c. 323, §23 and c. 563, §11, is repealed.

Sec. 9. 21-A MRSA §1057, as amended by PL 2019, c. 563, §12, is further amended to read:

§1057. Required records for ~~political-action~~ committees

Any ~~political-action~~ committee that is required to register under section 1052-A or 1053-B shall keep records as provided in this section for 4 years following the election to which the records pertain.

1. Details of records. The treasurer of a ~~political-action~~ committee shall record a detailed account of:

- A. All expenditures made to or in behalf of a candidate, campaign or ~~political-action~~ committee;
- B. The identity of each candidate, campaign or ~~political-action~~ committee;
- C. The office sought by a candidate and the district the candidate seeks to represent, for candidates that 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 shall retain a vendor invoice or receipt stating the particular goods or services purchased for every expenditure in excess of \$50 to initiate or influence a campaign.

3. Record of contributions. The treasurer of a ~~political-action~~ committee shall keep a record of all contributions to the ~~political-action~~ 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 ~~for an election 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.

4. Account statements. The treasurer of a ~~political-action~~ committee shall keep account statements relating to the deposit of funds of the ~~political-action~~ committee required by section 1054.

5. Simplified record-keeping requirements. The commission may adopt by rule simplified record-keeping requirements for an individual registering as a ballot question committee to initiate or influence a ballot question. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

Sec. 10. 21-A MRSA §1059, first ¶, as amended by PL 2019, c. 323, §24, is further amended to read:

A committee required to register under section 1052-A, or 1053-B or 1056-B shall file an initial campaign finance report within 7 days of registration or within 14 days of having been required to register, whichever comes first, and thereafter shall file reports in compliance with this section. All reports must be filed by 11:59 p.m. on the day of the filing deadline, except that reports submitted to a municipal clerk must be filed by the close of business on the day of the filing deadline.

Sec. 11. 21-A MRSA §1060, as amended by PL 2019, c. 563, §§14 to 16, is further amended to read:

§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 of and offices sought by all candidates ~~whom~~ whose campaigns the ~~political action~~ committee supports, or intends to support or seeks to defeat influence;

2. Identification of committees; parties. The names of all political committees or party committees supported in any way by the ~~political action~~ committee;

3. Identification of referendum or initiated petition ballot question campaigns. ~~The referenda or initiated petitions~~ ballot question campaigns that the ~~political action~~ committee supports or opposes intends to initiate or influence;

4. Itemized expenditures. An itemization of each expenditure made to initiate or influence any campaign, including the date, payee and purpose of the expenditure; and the name of each candidate, ~~campaign, political committee, political action committee or party committee supported or opposed~~; and each referendum 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, 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~~ An itemization of each contribution of more than \$50 made to or received by the committee for the purpose of initiating or influencing a campaign, including the name, occupation, places of business

and mailing addresses ~~address of contributors who have given more than \$50 to the political action committee in the reporting period~~ each contributor and the amount and date of each ~~the~~ contribution, ~~except that an organization qualifying as a political action committee under section 1052, subsection 5, paragraph A, subparagraph (5) is required to report only those contributions made to the organization for the purpose of influencing a ballot question or the nomination or election of a candidate to political office and all transfers to or funds used to support the political action committee from the general treasury of the organization;~~ and

6-A. Funds deposited into campaign account. Any funds deposited into or transferred into the campaign account described in section 1054, including but not limited to funds from the general treasury of an organization that is required to establish a committee; and

7. Other expenditures payments. Operational expenses and any other expenditures that are not made on behalf of a candidate, committee or campaign, except that an organization qualifying as a political action committee under section 1052, subsection 5, paragraph A, subparagraph (5) is required to report only those expenditures made for the purpose of influencing a campaign payments made from the campaign account described in section 1054.

Sec. 12. 21-A MRSA §1125, sub-§6-F, as amended by PL 2019, c. 635, §6, is further amended to read:

6-F. Participation in political action committees. A participating candidate or a certified candidate may not establish a political action committee for which the candidate is a treasurer or principal officer or for which the candidate is primarily responsible for fund-raising or decision making. This prohibition applies between April 1st immediately preceding a general election through:

- A. The date on which the candidate withdraws from a race;
- B. The date of the primary election or general election for a candidate who loses either election; or
- C. January 1st immediately preceding the next general election for a candidate who wins the general election.

This prohibition also applies to a participating candidate or certified candidate in a special election, except that the prohibition begins on the date of the candidate's nomination. This subsection does not prohibit a participating candidate or certified candidate, including a certified candidate who wins a general or special election, from engaging in fund-raising or decision making for a caucus political action committee, ~~a ballot question committee or a political action committee formed for the purpose of promoting or opposing a ballot question.~~ This prohibition applies to a participating candidate or certified candidate regardless of the date on which the political action committee was established.

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-THREE

—
S.P. 113 - L.D. 247

An Act Regarding Replacement Candidates Under the Maine Clean Election Act

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

Sec. 1. 21-A MRSA §1125, sub-§1, as amended by PL 2019, c. 323, §27, is further amended to read:

1. Declaration of intent. A participating candidate shall 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 or 11-A, according to forms and procedures developed by the commission. Qualifying contributions collected more than 5 business days before the declaration of intent has been filed will not be counted toward the eligibility requirements in subsection 3 or 3-A.

Sec. 2. 21-A MRSA §1125, sub-§4, as amended by PL 2009, c. 363, §4, is further amended to read:

4. Filing with commission. A participating candidate must submit qualifying contributions, receipt and acknowledgement forms, proof of verification of voter registration and a seed money report to the commission during the qualifying period according to procedures developed by the commission, except as provided under subsection 11 or 11-A.

Sec. 3. 21-A MRSA §1125, sub-§11, as enacted by IB 1995, c. 1, §17, is amended to read:

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; or recounts, vacancies, withdrawals or replacement candidates.

Sec. 4. 21-A MRSA §1125, sub-§11-A is enacted to read:

11-A. Vacancies, withdrawals or replacement candidates. If a candidate dies, withdraws or is disqualified before an election, the qualifying period for any replacement

candidate begins when the Secretary of State receives a notice of withdrawal or declares a vacancy, whichever occurs earlier. The commission shall establish by rule the end of the qualifying period for a replacement candidate and procedures for certification, disbursement of fund revenues and return of unspent fund revenues for races involving vacancies, withdrawals or replacement candidates. Qualifying contributions collected by a replacement candidate under this subsection may not be deposited into the fund until the replacement candidate has been nominated and, if the replacement candidate is not officially nominated, the commission shall return the qualifying contributions to the contributors, unless the contributor authorizes the deposit of the qualifying contribution into the fund. Rules of the commission adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. 21-A MRSA §1126, as amended by PL 2001, c. 465, §7, is further amended to read:

§1126. Commission to adopt rules

The commission shall adopt rules to ensure effective administration of this chapter. These rules must include but ~~must~~ may not be limited to procedures for obtaining qualifying contributions, certification as a Maine Clean Election Act candidate, circumstances involving special elections, ~~vacancies~~, recounts, ~~withdrawals or replacements~~, collection of revenues for the fund, distribution of fund revenue to certified candidates, return of unspent fund disbursements, disposition of equipment purchased with clean election funds and compliance with the Maine Clean Election Act. Rules of the commission required by this section are major substantive rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.