



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

To: Commissioners
From: Jonathan Wayne, Executive Director
Date: October 19, 2016
Re: Statute Changes for your Consideration at the October 26, 2016 Meeting

Thank you for your consideration of proposed legislation at the September 28 meeting. Following this memo are some additional proposals for your consideration. (They include the provisions that you approved in September.)

I may have one or two provisions to propose for the November meeting. Thank you, again.

MAINE REVISED STATUTES
TITLE 21-A, CHAPTER 13: CAMPAIGN REPORTS AND FINANCES

SUBCHAPTER I
GENERAL PROVISIONS

21-A § 1001. Definitions

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

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

2. Election. “Election” means any primary, general or special election for state, county or municipal offices ~~as defined in municipalities subject to~~ Title 30-A, section 2502, subsection 1 and any referendum, including a municipal referendum in municipalities subject to Title 30-A, section 2502, subsection 2.

3. Person. “Person” means an individual, committee, firm, partnership, corporation, association or organization.

This section defines “election” for Chapter 13 of the Maine Election Law, which sets out the registration and reporting responsibilities for candidates, political action committees, ballot question committees and party committees. Because this chapter relates to both candidate and ballot question elections (such as bonds, citizen initiatives and peoples veto referenda), we propose amending the definition of “election” to include ballot questions.

FYI - the proposed definition relies on the term “referendum,” which is defined in Title 21-A, § 1(36) to mean “an election for the determination of a question.” Under Title 30-A, § 2052, municipal elections in towns and cities with a population of 15,000 or more are governed by Chapter 13 (the candidates and PACs file registration and campaign finance reports with the municipal clerk, rather than the Commission.)

21-A § 1006. Statistical report.

By April 1, 2018, and annually thereafter, the commission shall prepare a statistical report summarizing campaign finance activity to influence state elections. The report must cover the preceding five election years in which statewide ballot questions were scheduled and the five election years in which primary and general elections for legislative office were held. The report must include total spending by committees to influence candidate and ballot question elections, median and total spending by candidates, total independent expenditures by office, sources of contributions to candidates and committees, and any other information regarding campaign finance and political activity as determined by the commission's executive director.

The Commission staff proposes adding another duty to the Commission, which is to publish an annual report of financial activity to influence elections. Such reports can provide helpful historical background for Legislators, advocates, the press and researchers. We expect that the annual publication deadline of April 1 will provide sufficient time to compile the required information without sacrificing other priorities.

21-A § 1013-A. Registration

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3. Party committees. The state, congressional district, and county and municipal committees of parties shall submit to the commission their state party committees the names and addresses of all their officers and of their treasurers and the name and address of the principal paid employee, if any, within ~~30~~ 10 days after the appointment, election or hiring of these persons. Municipal committees must file copies of the same information with the commission and the municipal clerk. ~~District, county and municipal committees that provide their state party committees with the information required by this subsection to be submitted to the commission have met that requirement.~~ No later than the ~~2nd Monday in April~~ June 15th of each year in which a general election is scheduled, the state committee of a party shall submit to the commission a consolidated report, including the information required under this subsection, of the names, mailing addresses and electronic mail addresses of the chair and treasurer of for the congressional district, county and municipal committees of that party, or other officer if no chair or treasurer has been appointed.

The Commission staff proposes that the local party committees provide their officer information to the state party committee (rather than the Commission), and the state party committee would provide a consolidated report to the Commission by June 15th (after the state conventions). We propose to receive the chair and treasurer for each committee (or other officer if there is no chair or treasurer). Our proposal retains the current requirement in law that municipal committees file their officer information with the local clerk.

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21-A § 1017. Reports by candidates

1. Federal candidates. (REPEALED)

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

A. In any calendar year, other than a gubernatorial election year, in which the candidate or the candidate's political committee has received contributions in excess of \$1,000 or made or authorized expenditures in excess of \$1,000, reports must be filed no later than 11:59 p.m. on July 15th of that year and January 15th of the following calendar year. These reports must include all contributions made to and all expenditures made or authorized by or on behalf of the candidate or the candidate's treasurer as of the end of the preceding month, except those covered by a previous report.

B. Reports must be filed no later than 11:59 p.m. on the 42nd day before the date on which an election is held and must be complete as of the 49th day before that date. If a report was not filed under paragraph A, the report required under this paragraph must cover all contributions and expenditures through the 49th day before the election.

C. Reports must be filed no later than 11:59 p.m. on the 11th day before the date on which an election is held and must be complete as of the 14th day before that date.

D. Any single contribution of \$1,000 or more received or any single expenditure of \$1,000 or more made after the 14th day before the election and more than 24 hours before 11:59 p.m. on the day of the election must be reported within 24 hours of that contribution or expenditure, if the candidate has an opponent who is on the ballot or who is a declared write-in candidate. The candidate or treasurer is not required to include in this report expenditures for overhead expenses or compensation paid to an employee or other member of the campaign staff who has received payments at regular intervals that have been disclosed in previously filed campaign finance reports. As used in this paragraph, "overhead expenses" includes, but is not limited to, rent, utility payments, taxes, insurance premiums or similar administrative expenses.

Under this proposal, a candidate who does not have an opponent in a primary, general or special election would not be required to file 24-Hour Reports in the last 13 days before the election. (The candidate would disclose his or her contributions and expenditures in the regular report due 42 days after the election.) This proposal has been amended slightly since your September meeting to acknowledge write-in candidates who have declared themselves to the Secretary of State at least 45 days before the election.

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

A. In any calendar year in which an election for the candidate's particular office is not scheduled, when any candidate or candidate's political committee has received contributions in excess of \$500 or made or authorized expenditures in excess of \$500, reports must be filed no later than 11:59 p.m. on July 15th of that year and January 15th of the following calendar year. These reports must include all contributions made to and all expenditures made or authorized by or on behalf of the candidate or the treasurer of the candidate as of the end of the preceding month, except those covered by a previous report.

B. Reports must be filed no later than 11:59 p.m. on the 11th day before the date on which an election is held and must be complete as of the 14th day before that date. If a report was not filed under paragraph A, the report required under this paragraph must cover all contributions and expenditures through the 14th day before the election.

C. Any single contribution of \$1,000 or more received or any single expenditure of \$1,000 or more made after the 14th day before any election and more than 24 hours before 11:59 p.m. on the day of any election must be reported within 24 hours of that contribution or expenditure, if the candidate has an opponent who is on the ballot or who is a declared write-in candidate. The candidate or treasurer is not required to include in this report expenditures for overhead expenses or compensation paid to an employee or other member of the campaign staff who has received payments at regular intervals that have been disclosed in previously filed campaign finance reports. As used in this paragraph, "overhead expenses" includes, but is not limited to, rent, utility payments, taxes, insurance premiums or similar administrative expenses.

Under this proposal, a candidate who does not have an opponent in a primary, general or special election would not be required to file 24-Hour Reports in the last 13 days before the election. (The candidate would disclose his or her contributions and expenditures in the regular report due 42 days after the election.) This proposal has been amended slightly since your September meeting to acknowledge write-in candidates who have declared themselves to the Secretary of State at least 45 days before the election.

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5. Content. A report required under this section must contain the itemized accounts of contributions received during that report filing period, including the date a contribution was received, and the name, address, occupation, principal place of business, if any, and the amount of the contribution of each person who has made a contribution or contributions aggregating in excess of \$50. The report must contain the itemized expenditures made or authorized during the report filing period, the date and purpose of each expenditure and the name and address of each payee and creditor and any refund that a payee has made to the candidate or an agent of the candidate. If the payee is a member of the candidate's household or immediate family, the candidate must disclose the candidate's relationship to the payee in a manner prescribed by the

commission. The report must contain a statement of any loan to a candidate by a financial institution in connection with that candidate's candidacy that is made during the period covered by the report, whether or not the loan is defined as a contribution under section 1012, subsection 2, paragraph A. The candidate and the treasurer are jointly and severally responsible for the timely and accurate filing of each required report.

In campaign finance reports filed with the Commission, PACs, BQCs and state and local party committees are required to disclose both the name and the address of each payee. Candidates have not been required to report the address – only the name. The address can sometimes be necessary to identifying the specific vendor which sold the goods or services to the candidate. Some candidates purchase goods and services from vendors located outside Maine or from individuals or businesses under assumed names that are hard to identify. Within Maine, there are dozens of post offices and retail stores with the same name but different locations. Around half of the candidates for the Legislature participate in the Maine Clean Election Act program and it is important to understand how they have spent their public campaign funds. (This statute covers gubernatorial, legislative, and county candidates, as well as municipal candidates in about a dozen towns or cities with a population of 15,000 or more.)

Due to a change in the Commission's electronic filing system in 2014, the online forms used by candidates to enter contributions called for them to enter an address for their payees. Almost all candidates entered an address without questioning it. (We can recall receiving only one complaint in 2014.) The Commission staff proposes requiring candidates to disclose the address of each payee.

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8. Disposition of surplus. A candidate or treasurer of a candidate registered under section 1013-A or qualified under sections 335 and 336 or sections 354 and 355 must dispose of a surplus exceeding \$100 within 4 years of the election for which the contributions were received by:

§ 1017(8) requires candidates to dispose of unspent campaign funds within four years of the election for which they were raised. This statute applies only to traditionally financed candidates who have raised campaign contributions – not to Maine Clean Election Act (MCEA) candidates. The Commission staff proposes acknowledging that the candidate (rather than the campaign treasurer) will more often be the person making the post-election decision how to dispose of surplus funds.

- A. Returning contributions to the candidate's or candidate's authorized political committee's contributors, as long as no contributor receives more than the amount contributed;
- B. A gift to a qualified political party within the State, including any county or municipal subdivision of such a party;
- C. An unrestricted gift to the State. A candidate for municipal office may dispose of a surplus by making a restricted or unrestricted gift to the municipality;

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

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

D-2. Spending the funds to pay expenses related to a recount of the candidate's election;

In response to questions by candidates, the Commission staff proposes permitting candidates to spend surplus funds for a recount. This proposal may rarely be needed, because candidates do not necessarily need to incur any expenses for a recount. Legal representation is usually provided for free by the political parties. Current law (§ 1018-B) forbids MCEA funds to be spent for a recount.

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

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

G. Paying for any expense incurred in the proper performance of the office to which the candidate is elected, as long as each expenditure is itemized on expenditure reports; and

H. A gift to a charitable or educational organization that is not prohibited, for tax reasons, from receiving such a gift.

The choice must be made by the candidate for whose benefit the contributions were made.

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

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

2. Expenditures to influence a campaign. A party committee shall report all expenditures made to influence a campaign, as defined in section 1052, subsection 1. The party committee shall report:

A. The name of each candidate, political committee, political action committee or party committee;

B. The office sought by a candidate and the district that the candidate seeks to represent; and

C. The date, amount and purpose of each expenditure.

3. Other expenditures. Operational expenses and other expenditures that are not made to influence a campaign, as defined in section 1052, subsection 1 must be reported separately. The party committee shall report:

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

4. Filing schedule. (REPEALED)

4-A. Filing schedule. A state party committee shall file its reports according to the following schedule. All reports required under paragraphs A, B and C must be filed by 11:59 p.m. on the day of the filing deadline.

A. A state party committee shall file quarterly reports: Quarterly reports must be filed by 11:59 p.m.:

- (1) On January 15th and must be complete up to December 31st;
- (2) On April 10th and must be complete up to March 31st;
- (3) On July 15th and must be complete up to June 30th; and
- (4) On October 5th and must be complete up to September 30th.

In §§ 1017-A(4-A) and 1059(2), the Commission staff proposes statutory changes to clarify the filing schedule for state party committees and political action committees (PACs). These changes would also affect ballot question committees, which by statute are under the same filing deadlines as PACs. We are not seeking to change the current filing schedules. Rather, we are attempting to clarify the statutory language to reflect current practice.

B. During any year in which primary and general elections are held, a state party committee shall file primary and general election reports: General and primary election reports must be filed by 11:59 p.m.:

- (1) On the 11th day before the date on which the election is held and must be complete up to the 14th day before that date; and
- (2) On the 42nd day after the date on which the election is held and must be complete up to the 35th day after that date.

C. In any other election year, if a state party committee has received contributions or made expenditures for the purpose of influencing a ballot question election, special election or municipal candidate or referendum election subject to Title 30-A, section 2502, the committee shall file pre-election and post-election reports: Pre-election and post-election reports for special elections, referenda, initiatives, bond issues or constitutional amendments must be filed by 11:59 p.m.:

- (1) On the 11th day before the date on which the election is held and must be complete up to the 14th day before that date; and

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

Paragraphs B and C set out when state party committees must file reports 11 days before and 42 days after an election. Under this proposal, during a candidate election year (even-numbered year), the reports would be due before and after the primary and general elections. During odd-numbered years, the reports would be due only if the state party were spending money to influence a ballot question election, special election, or municipal election in a town or city with a population of 15,000 or more.

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

E. If a committee is required to file a report 11 days before an election pursuant to paragraphs B or C, the A state party committee shall report any single contribution of \$5,000 or more received or any single expenditure of \$1,000 or more made after the 14th day before the election and more than 24 hours before 5:00 p.m. on the day of the election within 24 hours of that contribution or expenditure. The committee is not required to include in this report expenditures for overhead expenses or compensation paid to an employee or other member of the campaign staff who has received payments at regular intervals that have been disclosed in previously filed campaign finance reports. As used in this paragraph, "overhead expenses" includes, but is not limited to, rent, utility payments, taxes, insurance premiums or similar administrative expenses.

Paragraph D requires state party committees to file a 24-Hour Report of large contributions and expenditures that occur during the last 13 days before an election. The purpose of this requirement is to give voters access to last-minute financial activity to influence them at the ballot box. The proposal clarifies that state party committees would need to file 24-Hour Reports before each primary and general election. Please note that the reports would be required before a primary or general election even if the contribution or expenditure was not for the purpose of influencing the election. During odd-numbered years, the 24-Hour Reports would be required during the 13 days before an election only if the state party committee were spending money to influence that election.

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

- A. Reports filed during an election year must be filed with the commission by 11:59 p.m. on:
 - (1) July 15th and be complete as of June 30th;
 - (2) The 11th day before the date on which the general election is held and must be complete up to the 14th day before that date; and

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

B. Reports filed during a nonelection year must be filed by 11:59 p.m. on:

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

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

C. A committee shall report any single contribution of \$5,000 or more received or any expenditure of \$1,000 or more made after the 14th day before ~~any a~~ general election and more than 24 hours before 11:59 p.m. on the day of the election within 24 hours of that contribution or expenditure. The committee is not required to include in this report expenditures for overhead expenses or compensation paid to an employee or other member of the campaign staff who has received payments at regular intervals that have been disclosed in previously filed campaign finance reports. As used in this paragraph, "overhead expenses" includes, but is not limited to, rent, utility payments, taxes, insurance premiums or similar administrative expenses.

Party committees formed at the municipal or county level (e.g., the Cumberland County Democratic Committee, or the Bangor Republican Committee) are required to file campaign finance reports if they raise or spend \$1,500 or more during a calendar year. Depending when that threshold is met during an election year, the committee may be required to file reports on July 15th, eleven days before a general election, and the January 15th after the general election. The proposed change clarifies that a 24-Hour Report is required only for large contributions or expenditures made before a general election.

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

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

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

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

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

21-A § 1018-B. Recounts of elections

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

2. Limitations. After an election, candidates may receive donations for purposes of a recount. The donations must be within the limitations of section 1015, except that no limitation applies to donations from party committees and caucus campaign political action committees and from attorneys, consultants and their firms that are donating their services without reimbursement. Candidates may not spend revenues received under Chapter 14 for recount expenditures.

For several election cycles, the four political action committees (PACs) formed by the Democratic and Republican caucuses of the Maine Senate and House of Representatives have been financially active in promoting their party's nominees to the House and the Senate. These caucus-organized PACs disclose their donors and expenditures as required by law and (in the experience of the Commission staff) have generally been cooperative in complying with campaign finance law. They operate under the same requirements as other PACs, although they may donate unlimited amounts to a candidate in a recount (§ 1018-B(2)) and Maine Clean Election Act candidates may have a leading role in a caucus-organized PAC (§ 1125(6-F)).

In order to avoid any ambiguity in identifying a caucus PAC, the Commission staff proposes a section below (§ 1053-C) which defines a new term "caucus political action committee." Each of the four party leaders would designate their caucus PAC by letter to the Commission.

For your reference, these PACs are currently named the House Democratic Campaign Committee, the Senate Democratic Campaign Committee, the House Republican Majority Fund, and the Maine Senate Republican Majority PAC.

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

1. Registration. A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of ~~\$10~~ \$100. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

Some candidates for legislative and county office do not register with the Commission even after multiple attempted contacts by the Commission staff. In the late spring of the election year, the Commission sometimes needs to initiate an enforcement process in order to persuade some individuals to register. The Commission staff proposes increasing the penalty for failing to register from \$10 to \$100. The current penalty of \$10 is so small that it has little punitive value. Whether the office is municipal, county, or legislative, the public deserves to have each candidate for public office file a simple form providing contact information and identifying a treasurer and other officers.

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SUBCHAPTER IV REPORTS BY POLITICAL ACTION COMMITTEES

21-A § 1051. Application

This subchapter applies to the activities of political action committees and ballot question committees organized in and outside this State that accept contributions, incur obligations or make expenditures ~~for to influence the nomination or~~ election of a candidate to state, county or municipal officers, ~~or for the support or defeat of any~~ to initiate or influence a campaign, as defined in this subchapter.

This subchapter sets out the registration and campaign finance reporting for both political action committees and ballot question committees. The Commission staff proposes amendments to Section 1051 and 1052 to clarify that certain provisions in this subchapter relate to both political action committees and ballot question committees.

21-A § 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 and ballot question committee, as defined in this subchapter, and includes any agent of a political action committee or ballot question committee.

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21-A § 1053-C. Caucus political action committees

Each appointed leader of a political party in the House of Representatives or Senate may designate one political action committee to promote the nominees of their political party to that body. For purposes of this chapter and Chapter 14, this committee shall be referred to as a “caucus political action committee.” The designation may be made by letter to the Commission and remains effective until it is amended by that party’s leader in writing.

For several election cycles, the four political action committees (PACs) formed by the Democratic and Republican caucuses of the Maine Senate and House of Representatives have been financially active in promoting their party’s nominees to the House and the Senate. These caucus-organized PACs disclose their donors and expenditures as required by law and (in the experience of the Commission staff) have generally been very cooperative in complying with campaign finance law. They operate under the same requirements as other PACs, although they may donate unlimited amounts to a candidate in a recount (§ 1018-B(2)) and Maine Clean Election Act candidates may have a leading role in a caucus-organized PAC (§ 1125(6-F)).

In order to avoid any ambiguity in identifying a caucus PAC, the Commission staff proposes a new section (§ 1053-C) which defines “caucus political action committee.” The four party leaders would designate their caucus PAC by letter to the Commission.

For your reference, these PACs are currently named the House Democratic Campaign Committee, the Senate Democratic Campaign Committee, the House Republican Majority Fund, and the Maine Senate Republican Majority PAC.

21-A § 1054-B. Payments to Legislators by political action committees

If a current member of the Maine Legislature is a principal officer or treasurer of a political action committee or is one of the individuals primarily responsible for raising contributions or making decisions for the political action committee, the committee may not compensate the Legislator or a member of the Legislator’s immediate family or household for services provided to the committee. The committee may reimburse the Legislator or family or household member for expenses incurred in the proper performance of the duties of Legislator, for purchases made on behalf of the committee and for travel expenses associated with volunteering for the committee.

Under current law, PACs must be formed in order to spend certain amounts to influence elections. Once a PAC is formed, however, there are no restrictions in law concerning how the PAC may spend its funds. In response to two PACs that received press attention in 2014-2016, the Commission staff proposes that if a Legislator has a principal role in a PAC that the PAC be prohibited from compensating the Legislator or a member of the Legislator’s immediate family or household for services provided to the PAC. Please note that the current proposal is not limited only to leadership PACs that are controlled by a single Legislator.

21-A § 1059. Report; filing requirements

~~A c~~Committees required to register under section 1052-A, 1053-B or 1056-B shall file an initial campaign finance report ~~at the time~~ within seven days of registration 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.

In §§ 1017-A(4-A) and 1059(2), the Commission staff proposes statutory changes to clarify the filing schedule for state party committees and political action committees (PACs). These changes would also affect ballot question committees, which by statute are under the same filing deadlines as PACs. We are not seeking to change the current filing schedules. Rather, we are attempting to clarify the statutory language to reflect current practice. The proposals also implement the instruction in the Revisor's Drafting Manual (page 80) that drafters should use the singular form of a noun, rather than the plural.

1. Contents; quarterly reports and election year reports. (REPEALED)

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

A. ~~All A~~ committees shall file quarterly reports:

- (1) On January 15th and must be complete as of December 31st;
- (2) On April 10th and must be complete as of March 31st;
- (3) On July 15th and must be complete as of June 30th; and
- (4) On October 5th and must be complete as of September 30th.

B. During any year in which primary and general elections are held, a committee shall file primary and general election reports ~~General and primary election reports must be filed:~~

- (1) On the 11th day before the date on which the election is held and must be complete as of the 14th day before that date; and
- (2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date.

The reports are required even if a committee did not engage in financial activity to influence the primary or general elections.

C. In any other election year, if a committee has received contributions or made expenditures for the purpose of influencing a ballot question election, special election or municipal candidate or referendum election, subject to Title 30-A, section 2502, the committee shall file pre-election and post-election reports ~~Pre election and post election reports for special elections or ballot measure campaigns must be filed:~~

- (1) On the 11th day before the date on which the election is held and must be complete as of the 14th day before that date; and
- (2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date.

Paragraphs B and C set out when PACs must file reports 11 days before and 42 days after an election. Under this proposal, during a candidate election year (even-numbered year), the reports would be due before and after the primary and general elections. During odd-numbered years, the reports would be due only if the PAC were spending money to influence a ballot question election, special election, or municipal election in a town or city with a population of 15,000 or more.

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

E. If a committee is required to file a report 11 days before an election pursuant to paragraphs B or C, the A committee shall report any single contribution of \$5,000 or more received or single expenditure of \$1,000 or more made after the 14th day before the election and more than 24 hours before 5:00 p.m. on the day of the election within 24 hours of that contribution or expenditure. The treasurer is not required to include in this report expenditures for overhead expenses or compensation paid to an employee or other member of the campaign staff who has received payments at regular intervals that have been disclosed in previously filed campaign finance reports. As used in this paragraph, "overhead expenses" includes, but is not limited to, rent, utility payments, taxes, insurance premiums or similar administrative expenses.

Paragraph D requires PACs to file a 24-Hour Report of large contributions and expenditures that occur during the last 13 days before an election. The purpose of this requirement is to give voters access to last-minute financial activity to influence them at the ballot box. The proposal clarifies that PACs would need to file 24-Hour Reports before each primary and general election. Please note that the reports would be required before a primary or general election even if the contribution or expenditure was not for the purpose of influencing the election. During odd-numbered years, the 24-Hour Reports would be required in the 13 days before a ballot question, special election, or municipal election only if the PAC were spending money to influence that election.

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

4. Special election reports. (REPEALED)

5. Electronic filing. A ~~c~~Committee shall file each report required by this section through an electronic filing system developed by the commission. The commission may make an exception to this electronic filing requirement if a committee submits a written request that states that the committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted within 30 days of the registration of the committee. The commission shall grant all reasonable requests for exceptions.

MAINE REVISED STATUTES
TITLE 21-A, CHAPTER 14: THE MAINE CLEAN ELECTION ACT

21-A § 1121. Short title

This chapter may be known and cited as the "Maine Clean Election Act."

21-A § 1122. Definitions

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

1. Certified candidate. "Certified candidate" means a candidate running for Governor, State Senator or State Representative who chooses to participate in the Maine Clean Election Act and who is certified as a Maine Clean Election Act candidate under section 1125, subsection 5.

1-A. Caucus political action committee. "Caucus political action committee" means a political action committee designated by a party leader under section 1053-C.

Above, the Commission staff proposed a new § 1053-C in Chapter 13 of the Election Law that would define what is a "caucus political action committee." We propose cross-referencing that definition in § 1122, so that a definition would also appear in Chapter 14 (the Maine Clean Election Act).

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21-A § 1125. Terms of participation

1. Declaration of intent. A participating candidate must file a declaration of intent to seek certification as a Maine Clean Election Act candidate and to comply with the requirements of this chapter. The declaration of intent must be filed with the commission prior to or during the qualifying period, except as provided in subsection 11, according to forms and procedures developed by the commission. Qualifying contributions collected more than 5 business days before the declaration of intent has been filed will not be counted toward the eligibility requirement in subsection 3.

2. Contribution limits for participating candidates. Subsequent to becoming a candidate as defined by section 1, subsection 5 and prior to certification, a participating candidate may not accept contributions, except for seed money contributions. A participating candidate must limit the candidate's total seed money contributions to the following amounts:

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

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

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

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

In the last sentence of paragraph 2-A(A), the term “certified candidate” (someone who has qualified for MCEA funding) would be more appropriate than “participating candidate” (someone who is attempting to qualify). This sentence covers a situation in which a certified candidate pays MCEA funds to a vendor for goods or services received before they qualified.

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

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

2-B. Seed money required for gubernatorial candidates; documentation.
(REPEALED)

3. Qualifying contributions. ~~Participating candidates must obtain qualifying contributions during the qualifying period as follows:~~ The collection of qualifying contributions is governed by this subsection.

A. To be eligible to receive Maine Clean Election Act funding, participating candidates must obtain qualifying contributions during the qualifying period as follows:

~~A. (1) For a gubernatorial candidate, at least 3,200 verified registered voters of this State must support the candidacy by providing a qualifying contribution to that candidate;~~

~~B. (2) For a candidate for the State Senate, at least 175 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate; or~~

~~C. (3) For a candidate for the State House of Representatives, at least 60 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate.~~

B. If a contributor has made a check or money order payable to the candidate in error, the candidate may remedy the error by endorsing the check or money order to the Maine Clean

Election Fund within one week after the deadline for submitting the contribution to the Commission.

C. A payment, gift or anything of value may not be given in exchange for a qualifying contribution.

D. A contributor may make a qualifying contribution to a participating candidate in the form of cash, provided that the candidate submits a money order in the same amount to the commission. The money order must be signed by the contributor to be a valid qualifying contribution. The cash received from the contributor must be used to reimburse the person who provided the money order. A candidate may pay the fee for a money order that is a qualifying contribution in the amount of \$5 as long as the donor making the qualifying contribution pays the \$5 amount reflected on the money order.

E. Any money order fees paid by a participating candidate must be paid for with seed money and paid with seed money or Maine Clean Election Act funds must be reported in accordance with commission rules as an expenditure in campaign finance reports submitted to the commission. If the candidate uses personal funds to pay fees for the purchase of money orders, those fees are not a contribution to the candidate and are not required to be disclosed in campaign finance reports. Prior to certification, the candidate must report any money order fees paid by anyone other than the candidate as an in-kind contribution subject to seed money limitations for the purpose of promoting the candidate's nomination or election. A money order must be signed by the contributor to be a valid qualifying contribution.

F. The commission may establish by routine technical rule, adopted in accordance with Title 5, chapter 375, subchapter 2-A, a procedure for a qualifying contribution to be made by a credit or debit transaction and by electronic funds transfer over the Internet. Records containing information provided by individuals who have made qualifying contributions over the Internet are confidential, except for the name of the individual making the contribution, the date of the contribution, the individual's residential address and the name and office sought of the candidate in whose support the contribution was made.

G. 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.

This subsection relates to qualifying contributions collected by a candidate before they qualify for MCEA funding (certification). We propose breaking it down into paragraphs to make the subsection easier to digest. We also propose a few insertions that are intended to reflect the current practices of the Commission. The introductory language in the subsection would be reworded. Paragraph B permits candidates to endorse contribution checks to the Maine Clean Election Fund, if the checks are erroneously made payable to the candidate. Paragraph D explicitly authorizes the current practice that a registered voter may provide \$5 in cash to the candidate, provided that the candidate uses that cash toward the purchase of a money order that is submitted to the Commission as the qualifying contribution. The Commission staff has compliance concerns about this ongoing practice, but many candidates (including Legislators) have grown to rely on this collection method and use it conscientiously. Paragraph E specifies how the candidate should report the fees paid to the post office, bank, or other vendor when money orders are purchased for this purpose. (Usually the money orders are purchased by the candidate, but not always.) The Commission staff proposes one accommodation to simplify the process for candidates: if a candidate purchased money orders with personal funds, the candidate would not need to account for the fees as an in-kind contribution in the candidate's seed money report. In many cases, these fees are small (adding up to a total between \$5 and \$25) and accurate reporting of them can prolong the qualification process.

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

This subsection relates to the additional qualifying contributions that candidates may collect to qualify for supplemental payments. (Candidates may collect these before or after they have qualified for their initial payments of Maine Clean Election Act funding.) The last sentence is inserted to clarify that the same procedures and restrictions set out in subsection 3 for qualifying contributions also apply to additional qualifying contributions.

3-B. Receipt and acknowledgment forms. The commission shall prepare forms for persons making qualifying contributions to acknowledge the contribution as required in section 1122, subsection 7, paragraph D. It is a violation for anyone other than the contributor to sign the contributor's name to the form, except that the commission may permit a signature by an immediate family member, domestic partner or live-in caregiver when the contributor is unable to sign due to a physical impairment or disability.

The receipt and acknowledgement form has been in use since 2000 for individuals making qualifying contributions to acknowledge that the contribution was made from their personal funds and was not given in exchange for receiving anything of value, as required in the statutory definition of qualifying contributions (§ 1122(7)(D)). The form plays an important function in the reliability of the qualification process. The Commission staff proposes a subsection in statute that requires the development of a form for this purpose and makes it a violation for anyone other than the contributor to sign the form. In 2016, the Commission denied MCEA funding to a State Senate candidate who admitted signing 10-12 names of contributors on receipt and acknowledgement forms. The contributors made the contributions, but (apparently for expediency) the candidate signed their names.

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