

Agenda

Item #3



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

To: Commission Members
From: Jonathan Wayne, Executive Director
Date: October 9, 2008
Re: Advertising Sponsored by VoteVets.Org with Alexander Cornell du Houx

Alexander Cornell du Houx is the Democratic candidate for the House of Representatives, District 66. He is participating in the Maine Clean Election Act (MCEA). A first-time candidate, Mr. Cornell du Houx is opposed by:

- Jonathan Crimmins, a Republican who is traditionally financed (accepting private contributions), and
- David Frans, a Green-Independent candidate participating in the MCEA.

Mr. Cornell du Houx is a veteran of the war in Iraq. He has appeared in a television advertisement paid for by a national organization, VoteVets.org, that discusses U.S. Senator Susan Collins' record concerning the war in Iraq. The advertisement currently can be viewed at the homepage of www.VoteVets.org, by clicking on the number 2 in the upper part of the screen.

The Maine Republican Party requests that the Ethics Commission consider whether the candidate's appearance in the advertisement provides him with an unfair advantage and an impermissible in-kind contribution in the District 66 race. The Republican Party also requests that the Ethics Commission pay matching funds to David Frans, the Green-Independent candidate.

Applicable Law

Maine Clean Election Act Financing

One goal of the MCEA is to keep participating candidates on an even-playing field with their opponents in the general election. Once a candidate qualifies to receive public funding under the MCEA, they are prohibited from accepting cash or in-kind contributions. (21-A M.R.S.A. § 1125(6))

Every House candidate receives the same initial payment for the general election, \$4,144. Some House candidates also qualify for additional matching funds, which are paid to keep candidates on equal financial footing. If a MCEA candidate's traditionally financed

opponent raises or spends more than the amount of the initial MCEA payment, the MCEA candidate receives matching funds to keep them on an even playing field with the opponent. Independent expenditures made by outside groups on communications to voters in support of a candidate are counted toward that candidate's total. (21-A M.R.S.A. § 1125(9))

Definition of Contribution

In the Election Law, a contribution to a candidate is defined as:

A gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing the nomination or election of any person to state, county or municipal office (21-A M.R.S.A. § 1012(2)(A)(1)) (emphasis added)

The Commission's rules describe in-kind contributions as:

Unless specifically exempted under Title 21-A M.R.S.A. §§ 1012 and 1052 or this section, the provision of any goods or services without charge or at a charge that is less than the usual and customary charge for such goods or services is an in-kind contribution. Examples of such goods and services include, but are not limited to: equipment, facilities, supplies, personnel, advertising, and campaign literature. If goods or services are provided at less than the usual and customary charge, the amount of the in-kind contribution is the difference between the usual and customary charge and the amount charged the candidate or political committee. (Commission Rules, Chapter 1, Section 6(4))

Expenditures by Outside Groups Coordinated with a Candidate

If a candidate coordinates with an outside group on an expenditure to promote the candidate's election, the candidate has received an in-kind contribution:

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. (21-A M.R.S.A. § 1015(5))

Independent Expenditures

Maine Election Law requires the reporting of independent expenditures for communications to voters that "expressly advocate[] the election or defeat of a clearly identified candidate" (21-A M.R.S.A. § 1019-B(1)(A)) The express advocacy standard in the statute does not apply to expenditures that are made "by contribution to a candidate or a candidate's authorized political committee"

Within the last 35 days before a general election (beginning on October 1, 2008), a much wider definition of independent expenditure applies. An independent expenditure is presumed in races involving a Maine Clean Election Act candidate if a communication merely names or depicts a clearly identified candidate. (21-A M.R.S.A. § 1019-B(1)(B)) A person presumed to have made an independent expenditure may rebut the presumption by filing a written statement that the expenditure was not made to influence the election. Then, the Commission must determine by a preponderance of the evidence whether the cost was incurred with the intent to influence the election.

Staff Analysis

Is the VoteVets.org advertisement a contribution to Mr. Cornell du Houx?

Contribution is defined as a “gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing the nomination or election of any person to state, county or municipal office” (emphasis added) The staff recommends the view that the advertisement is not a contribution to Alexander Cornell du Houx because the purpose of the advertisement is to influence Susan Collins’ re-election campaign, not the House District 66 race. We recommend this view, because:

- The subject of the advertisement is U.S. Senator Susan Collins and her record on the war in Iraq.
- The advertisement was broadcast to the entire state, not merely House District 66. If the purpose of the ad was to influence Mr. Cornell du Houx’s race in particular, why would VoteVets.org have paid for an expensive statewide purchase of air-time?
- There is no mention of Mr. Cornell du Houx’s candidacy for the Maine House of Representatives in the ad. There is no reference to his platform, to what he would do as an official, or a call to support him in any way.
- The value of the ad to Mr. Cornell du Houx in the District 66 race is diminished, because it relies on the viewer to make the connection between the veteran that is positively portrayed in the ad and the Democratic candidate in District 66.
- The sponsor of the advertisement is a national organization formed outside of Maine that is actively involved in congressional elections in other states.
- Mr. Cornell du Houx, through his attorney, states that he has appeared in advertising sponsored by VoteVets.org that has been broadcast in two other states. He is also listed on the VoteVets.org website as the “state captain” for the organization in the state of Maine. Thus, he may have been selected for the Susan Collins ad for his qualities as a spokesperson for the organization, and not primarily because he is a candidate for the Maine House of Representatives.

For these reasons, the staff believes the purpose of the ad is to influence the U.S. Senate race, not the campaign for Maine House of Representatives, District 66. Therefore, the advertisement is not a contribution to Mr. Cornell du Houx.

Is the advertisement an independent expenditure?

The Commission staff also believes that the ad is not an independent expenditure. The ad cannot, by definition, be an independent expenditure due to Mr. Cornell du Houx's participation in making the ad. Also, the ad does not contain any language or images that can be construed as express advocacy for the election of Mr. Cornell du Houx. So, with regard to the broadcasts of the ad that occurred before October 1, 2008, the ad is not an independent expenditure.

Should the advertisement be presumed to be an independent expenditure?

If the ad has been broadcast on or after October 1, 2008, the advertisement would be presumed to involve an independent expenditure, because Mr. Cornell du Houx is named in the advertisement. If broadcast in this time period, VoteVets.org would be required by 21-A M.R.S.A. § 1019-B(1)(B) to file a signed, written statement with the Commission stating that the cost was not incurred with the intent to influence Mr. Cornell du Houx's election.

At this time, the Commission staff does not know if the ad has been broadcast since October 1. If so, although no rebuttal statement has been supplied to the Commission, you may wish to consider whether the content and other factors listed above rebut the presumption that the advertisement is intended to influence the House District 66 race.

Request for Matching Funds to David Frans

The Commission staff recognizes that there is a perception among candidates and party activists that matching funds will keep candidates on an even playing field. Nevertheless, under the terms of the matching funds statute, if there has been no contribution to Alexander Cornell du Houx and no independent expenditure made, it does not appear that Mr. Frans is entitled to receive matching funds.

Form of Commission Determination

The staff also appreciates that one concern underlying the Maine Republican Party's request may be that if candidates can appear in advertising sponsored by others, this will open a loophole that candidates and their supporters could exploit in future elections.

This is a concern that is shared by the Commission staff. If you are convinced that the advertising is not a contribution to Mr. Cornell du Houx, we ask that you frame your motion on narrow factual grounds that apply specifically to this advertisement (*e.g.*, the national issues discussed in the ad, its statewide broadcast, the federal election race of Susan Collins, the sponsor of the ad as a national advocacy organization, the lack of any

reference to the House District 66 race). We would not want your finding in this matter to be interpreted by future candidates to open a loophole which they would attempt to use to evade campaign finance regulations (e.g., contribution limits, reporting requirements, matching funds) by participating in ads that would provide them with free publicity.

Thank you for your consideration of this memorandum.



State Chairman Mark J. Ellis
Vice Chairman Scott E. Kauffman
Treasurer Philip N. Roy, Jr.
Secretary Charles L. Mahaleris
National Committeeman Richard A. Bennett
National Committeewoman Jan M. Staples
Executive Director Julie Ann O'Brien

September 18, 2008

Mr. Jonathan Wayne
Maine Commission on Governmental Ethics & Election Practices
135 State House Station
Augusta, ME 04333

RECEIVED

SEP 22 2008

MAINE ETHICS COMMISSION

Dear Mr. Wayne:

I am writing to request that the Ethics Commission review and rule on the actions of candidate Alex Cornell du Houx in the Maine House District 66 race.

As a candidate running under the Maine Clean Elections Act, Mr. Cornell du Houx's image and name are prominently displayed in a television ad produced and paid for by VoteVets.org that is currently running statewide in Maine.

While it is an issue ad designed to influence the outcome of another race, we believe that, without compensation to the other MCEA candidate, Mr. Cornell du Houx is given an unfair advantage in the District 66 race. His image and the onscreen appearance of his name give him name recognition in his district that a candidate would otherwise have to pay for. We further believe the ad should be considered a contribution to Mr. Cornell du Houx's campaign and we request equal compensation to the other MCEA candidate in the District 66 race.

As a reference, the advertisement I have highlighted can be viewed at this URL:
<http://votevets.org/pages/?id=0014>

Thank you for your consideration of this matter. Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

Mark J. Ellis
State Chairman
Maine Republican Party

Paid for and authorized by the Maine Republican Party, Philip Roy, Jr., Treasurer.
Not authorized by any candidate or candidate committee.
Maine Republican Party, 9 Higgins St., Augusta, ME 04330 - (207) 622-6247
www.mainegop.com

FEDERLE | MAHONEY

LAW & GOVERNMENT AFFAIRS

VIA HAND DELIVERY

October 1, 2008

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

RECEIVED

OCT 1 2008

MAINE ETHICS COMMISSION

RE: Alex Cornell du Houx / Maine Republican Party

Dear Mr. Wayne,

On behalf of my client, Alex Cornell du Houx, please accept the following response to your correspondence to Mr. du Houx dated September 22, 2008 and to the complaint filed by the Maine Republican Party with the Commission dated September 18, 2008.

Background. Mr. Cornell du Houx is an MCEA-financed Democratic candidate for the Legislature in House District 66 (downtown Brunswick). His Republican opponent in the general election, Jonathan M. Crimmins, is privately financed. His Green Independent Party opponent, David Frans, is MCEA-financed.

The Complaint. As you know, the complaint filed by the Republican Party alleges that Mr. Cornell du Houx's appearance in a television advertisement regarding Senator Susan Collins and the Iraq War, paid for by a national organization known as VoteVets.org: (1) constitutes a contribution by that organization to Mr. Cornell du Houx; and (2) gives Mr. Cornell du Houx an "unfair advantage" over his Green Party opponent in the general election, thus requiring the issuance of matching funds to that opponent.

For the reasons stated below, Mr. Cornell du Houx's appearance in the VoteVets' ad constitutes neither a contribution nor an independent expenditure that would trigger the issuance of matching funds to his MCEA-financed opponent.

The Vote Vets ad is not a "contribution" to Mr. Cornell du Houx's campaign. Under Maine law, the gift of money or anything of value is a "contribution" only if it is made "for the purpose of influencing the nomination or election of any person to state, county, or municipal office . . ." 21-A M.R.S.A. § 1012(2)(A)(1). Here, it cannot be said that the television ad was created, produced and financed for the purpose of influencing the election of Mr. Cornell du Houx to state office. Rather, as the Republican Party chairman himself acknowledges in his September 18th letter, the ad was "designed to influence the outcome of another race," namely, that of Senator Collins and Congressman Tom Allen for the U.S. Senate.

The ad's content, moreover, confirms that it could in no way have been intended to influence Mr. Cornell du Houx's election. From beginning to end, its message is centered exclusively on Senator Collins' positions with respect to a purely federal issue: the Iraq War. While it is Mr. Cornell du Houx who narrates the ad, at no point does he state his name, much less that he is a candidate for the Legislature. Indeed, the only thing identifying Mr. Cornell du Houx at all in the ad is visual – in relatively small, faint print in the corner of the screen, and lasting roughly two-seconds. Importantly, it identifies him not as a candidate for the Maine Legislature, but instead as an "Iraq War Veteran."

The Republican Party would have the Commission believe that there could be no other legitimate reason Mr. Cornell du Houx would appear in the ad. However, he has been actively involved with the VoteVets organization on a variety of federal issues since September, 2007 – roughly six months before he even declared his candidacy for the Legislature. Most notably, he appeared in VoteVets' ads that aired in at least two other states (Texas and New Hampshire), and worked with the organization to lobby members of Congress on the 21st Century GI Bill. In short, Mr. Cornell du Houx has been an active advocate for veterans-related issues both before and after declaring his legislative candidacy, and his appearance in the ad that ran statewide in Maine was nothing more than his latest undertaking in that regard.

No matching funds should be issued to Mr. Cornell du Houx's Green Independent Party opponent. Notwithstanding the Republican Party's pleas to the contrary, an "unfair advantage" between candidates is not enough to trigger taxpayer-financed matching funds under the MCEA. Generally speaking, Maine law limits the issuance of matching funds to an MCEA-financed candidate to instances where a third-party has made an "independent expenditure" either supporting that candidate's opponent, or opposing the MCEA-financed candidate him/herself.

In the present case, the VoteVets ad was not an independent expenditure for two reasons. First, it was not an "expenditure." In order to qualify as an "independent expenditure," however, something must actually be an "expenditure" as defined by Maine law. An expenditure, in turn, is defined in relevant part as "a purchase . . . of something of value made for the purpose of influencing the . . . election of any person to political office." 21-A M.R.S.A. § 1012(3)(A)(1). As discussed above, the financing of the ad at issue in this matter could not be construed as being "for the purpose of influencing the . . . election of" Mr. Cornell du Houx to the Maine Legislature. Rather, as the Republican Party concedes, it was an attempt by VoteVets to influence a race for the U.S. Senate. Accordingly, it was not an "expenditure" under Maine law and thus, could not qualify as an independent expenditure.

Second, it was not "independent." In order to be an "independent expenditure," an expenditure cannot not have been made "in cooperation, consultation or concert with, or at the request or suggestion of, a candidate." 21-A M.R.S.A. § 1015(5). Obviously, because Mr. Cornell du Houx personally appeared in the VoteVets ad, the ad had to have been made "in cooperation . . . or concert with" Mr. Cornell du Houx himself. For this additional reason, the ad does not qualify as an independent expenditure capable of triggering matching funds.

Jonathan Wayne
October 1, 2008
Page 3

Conclusion. Given that the VoteVets ad was neither a contribution nor an independent expenditure, Mr. Cornell du Houx respectfully requests that the Commission dismiss the Republican Party's complaint against him.

On behalf of Mr. Cornell du Houx, I appreciate the opportunity to brief the Commission on this matter, and look forward to discussing this matter with Commission members later this month.

Sincerely,


Michael K. Mahoney, Esq.

21-A §1012. Definitions

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21-A §1012. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1985, c. 161, §6 (NEW).]

1. Clearly identified. "Clearly identified," with respect to a candidate, means that:

- A. The name of the candidate appears; [1985, c. 161, §6 (NEW).]
- B. A photograph or drawing of the candidate appears; or [1985, c. 161, §6 (NEW).]
- C. The identity of the candidate is apparent by unambiguous reference. [1985, c. 161, §6 (NEW).]

[1985, c. 161, §6 (NEW) .]

2. Contribution. The term "contribution:"

A. Includes:

- (1) A gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing the nomination or election of any person to state, county or municipal office or for the purpose of liquidating any campaign deficit of a candidate, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;
- (2) A contract, promise or agreement, express or implied, whether or not legally enforceable, to make a contribution for such purposes;
- (3) Funds received by a candidate or a political committee that are transferred to the candidate or committee from another political committee or other source; and
- (4) The payment, by any person other than a candidate or a political committee, of compensation for the personal services of other persons that are provided to the candidate or political committee without charge for any such purpose; and [1995, c. 483, §3 (AMD).]

B. Does not include:

- (1) The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;
- (2) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities by the individual on behalf of any candidate does not exceed \$100 with respect to any election;



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

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

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

A. Is any expenditure made by a person, party committee, political committee or political action committee, other than by contribution to a candidate or a candidate's authorized political committee, for any communication that expressly advocates the election or defeat of a clearly identified candidate; and [2003, c. 448, §3 (NEW) .]

B. Is presumed in races involving a candidate who is certified as a Maine Clean Election Act candidate under section 1125, subsection 5 to be any expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and is disseminated during the 21 days, including election day, before a primary election; the 35 days, including election day, before a general election; or during a special election until and on election day. [2007, c. 443, Pt. A, §20 (AMD) .]

[2007, c. 443, Pt. A, §20 (AMD) .]

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

[2003, c. 448, §3 (NEW) .]

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

A. A report required by this subsection must be filed with the commission according to a reporting schedule that the commission shall establish by rule that takes into consideration existing campaign finance reporting requirements and matching fund provisions under chapter 14. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2003, c. 448, §3 (NEW) .]

B. A report required by this subsection must contain an itemized account of each contribution or

21-A §1015. Limitations on contributions and expenditures

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21-A §1015. Limitations on contributions and expenditures

1. Individuals. An individual may not make contributions to a candidate in support of the candidacy of one person aggregating more than \$500 in any election for a gubernatorial candidate or more than \$250 in any election for any other candidate. This limitation does not apply to contributions in support of a candidate by that candidate or that candidate's spouse or domestic partner.

[2007, c. 443, Pt. A, §10 (AMD) .]

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

[2007, c. 443, Pt. A, §11 (AMD) .]

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

[2007, c. 443, Pt. A, §12 (AMD) .]

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

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

[2007, c. 443, Pt. A, §13 (AMD) .]

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

The financing by any person of the dissemination, distribution or republication, in whole or in part, of any broadcast or any written or other campaign materials prepared by the candidate, the candidate's political



committee or committees or their authorized agents is considered to be a contribution to that candidate.

[1989, c. 504, §§7, 31 (AMD) .]

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

[1991, c. 839, §11 (AMD); 1991, c. 839, §34 (AFF) .]

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

[1995, c. 384, §2 (NEW) .]

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

- A. For State Senator, \$25,000; and [2007, c. 443, Pt. A, §14 (AMD).]
- B. For State Representative, \$5,000. [2007, c. 443, Pt. A, §14 (AMD).]
- C. [2007, c. 443, Pt. A, §14 (RP).]

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

[2007, c. 443, Pt. A, §14 (AMD) .]

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

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

[1995, c. 384, §2 (NEW) .]

SECTION HISTORY

1985, c. 161, §6 (NEW). 1989, c. 504, §§7,31 (AMD). 1991, c. 839, §11 (AMD). 1991, c. 839, §34 (AFF). IB 1995, c. 1, §11 (AMD). 1995, c. 384, §2 (AMD). 1999, c. 729, §§2,3 (AMD). 2007, c. 443, Pt. A, §§10-14 (AMD).

unspent funds to the commission within 3 days of the commission's decision and may be required to return all funds distributed to the candidate. In addition to the requirement to return funds, the candidate may be subject to a civil penalty under section 1127. The candidate may appeal the commission's decision to revoke certification in the same manner provided in subsection 14, paragraph C.

[2007, c. 443, Pt. B, §6 (NEW) .]

 **6. Restrictions on contributions and expenditures for certified candidates.** After certification, a candidate must limit the candidate's campaign expenditures and obligations, including outstanding obligations, to the revenues distributed to the candidate from the fund and may not accept any contributions unless specifically authorized by the commission. Candidates may also accept and spend interest earned on fund revenues in campaign bank accounts. All revenues distributed to a certified candidate from the fund must be used for campaign-related purposes. The candidate, the treasurer, the candidate's committee authorized pursuant to section 1013-A, subsection 1 or any agent of the candidate and committee may not use these revenues for any but campaign-related purposes. The commission shall publish guidelines outlining permissible campaign-related expenditures.

[2007, c. 443, Pt. B, §6 (AMD) .]

6-A. Assisting a person to become an opponent. A candidate or a person who later becomes a candidate and who is seeking certification under subsection 5, or an agent of that candidate, may not assist another person in qualifying as a candidate for the same office if such a candidacy would result in the distribution of revenues under subsections 7 and 8 for certified candidates in a contested election.

[2007, c. 443, Pt. B, §6 (NEW) .]

7. Timing of fund distribution. The commission shall distribute to certified candidates revenues from the fund in amounts determined under subsection 8 in the following manner.

A. Within 3 days after certification, for candidates certified prior to March 15th of the election year, revenues from the fund must be distributed as if the candidates are in an uncontested primary election. [2001, c. 465, §4 (AMD).]

B. Within 3 days after certification, for all candidates certified between March 15th and April 15th of the election year, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested primary election. [2001, c. 465, §4 (AMD).]

B-1. For candidates in contested primary elections receiving a distribution under paragraph A, additional revenues from the fund must be distributed within 3 days of March 15th of the election year. [2001, c. 465, §4 (NEW).]

C. No later than 3 days after the primary election results are certified, for general election certified candidates, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested general election. [2007, c. 443, Pt. B, §6 (AMD).]

Funds may be distributed to certified candidates under this section by any mechanism that is expeditious, ensures accountability and safeguards the integrity of the fund.

[2007, c. 443, Pt. B, §6 (AMD) .]

7-A. Deposit into account. The candidate or committee authorized pursuant to section 1013-A, subsection 1 shall deposit all revenues from the fund and all seed money contributions in a campaign account with a bank or other financial institution. The campaign funds must be segregated from, and may not be commingled with, any other funds.

[2007, c. 443, Pt. B, §6 (AMD) .]

8. Amount of fund distribution. By July 1, 1999 of the effective date of this Act, and at least every 4 years after that date, the commission shall determine the amount of funds to be distributed to participating

candidates based on the type of election and office as follows.

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

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

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

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

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

F. For gubernatorial general elections, the amount of revenues distributed is \$600,000 per candidate in the general election. [2007, c. 443, Pt. B, §6 (AMD).]

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

[2007, c. 443, Pt. B, §6 (AMD) .]

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

[2007, c. 443, Pt. B, §6 (AMD) .]

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

[2007, c. 443, Pt. B, §6 (AMD) .]

2. A loan is a contribution at the time it is made unless the loan was made by a financial institution in the State of Maine in the ordinary course of business. Loans continue to be contributions until they are repaid. Loans are subject to the candidate contribution limitations, except for loans made by the candidate, the candidate's spouse, or a financial institution in the State of Maine in the ordinary course of business.
3. Candidates and political action committees must report the name, address, occupation and employer of each individual contributor who gives, in the aggregate, more than \$50 for the reporting period. The reporting is required for private contributions raised by privately financed candidates and for seed money contributions to candidates participating in the Maine Clean Election Act. Candidates and political action committees must make a reasonable effort to obtain the employment information of the contributor. If a candidate or political action committee is unable to obtain the information from the contributor in response to a request, the candidate or committee shall indicate "information requested" in the occupation and employer sections of the campaign finance report.
4.  Unless specifically exempted under Title 21-A M.R.S.A. §§ 1012 and 1052 or this section, the provision of any goods or services without charge or at a charge that is less than the usual and customary charge for such goods or services is an in-kind contribution. Examples of such goods and services include, but are not limited to: equipment, facilities, supplies, personnel, advertising, and campaign literature. If goods or services are provided at less than the usual and customary charge, the amount of the in-kind contribution is the difference between the usual and customary charge and the amount charged the candidate or political committee.
5. An employer that has authorized an employee to provide services without charge to a candidate or political committee during the employee's paid work-time has made an in-kind contribution to the candidate or political committee. No contribution has been made if the employee is providing services as a volunteer outside of the employee's paid work-time.
6. A commercial vendor that has extended credit to a candidate or political committee has not made a contribution if the credit is extended in the ordinary course of the vendor's business and the terms are substantially similar to extensions of credit made to nonpolitical customers that are of similar risk and size of obligation.
7. For the purposes of the limitations imposed by 21-A M.R.S.A. §1015(1), 21-A M.R.S.A. §1015(2), 21-A M.R.S.A. §1015(3), and 21-A M.R.S.A. §1056, the following guidelines shall apply:
 - A. All contributions made to a candidate through the day of the primary election for which the candidate seeks office are deemed to be made in the primary election.
 - B. Notwithstanding division (c) below, if a candidate loses in the primary, all contributions made to that candidate for the purpose of liquidating debts and liabilities associated with the candidate's candidacy are deemed to be made in the primary election.