

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1299

S.P. 447

In Senate, April 2, 2013

An Act To Amend Campaign Finance Laws

Reported by Senator TUTTLE of York for the Commission on Governmental Ethics and Election Practices pursuant to the Maine Revised Statutes, Title 1, section 1009.

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

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

2 **Sec. 1. 21-A MRSA §1004, sub-§4**, as amended by PL 2003, c. 447, §38, is
3 further amended to read:

4 **4. Registration; political action committees.** A political action committee or ballot
5 question committee required to be registered under section ~~1053~~ 1052-A or 1056-B may
6 not operate in this State unless it is so registered.

7 **Sec. 2. 21-A MRSA §1011**, as amended by PL 2011, c. 389, §5 and affected by
8 §62, is further amended to read:

9 **§1011. Application**

10 This subchapter applies to candidates for all state and county offices and to
11 campaigns for their nomination and election. Candidates for municipal office as
12 described in Title 30-A, section 2502, subsection 1 are also governed by this subchapter.
13 The commission does not have jurisdiction over financial activities to influence the
14 nomination or election of candidates for federal office.

15 ~~Candidates for municipal office as described in Title 30-A, section 2502, subsection 1~~
16 ~~are governed by this subchapter.~~

17 **3. Role of the municipal clerk; commission.** For candidates for municipal office,
18 the municipal clerk is responsible for any duty assigned to the commission in this
19 subchapter related to the registration of candidates, receipt of reports and distribution of
20 information or forms, unless otherwise provided. Notwithstanding any other deadline set
21 forth in this chapter, candidates ~~must~~ shall file their reports by the close of business on
22 the day of the filing deadline established for the office of the municipal clerk. The
23 commission retains the sole authority to prescribe the content of all reporting forms. The
24 commission does not have responsibility to oversee the filing of registrations or campaign
25 finance reports relating to municipal campaigns, except that the commission ~~shall enforce~~
26 ~~late filing penalties under section 1020-A, subsection 3 upon the request of a municipal~~
27 ~~clerk~~ has the discretion to conduct investigations and assess penalties under subsection
28 3-A.

29 **3-A. Enforcement by the commission.** If a clerk of a town or city that is governed
30 by this chapter pursuant to Title 30-A, section 2502 becomes aware of a potential
31 violation of this chapter that the clerk considers to be substantial, the clerk may refer the
32 matter to the commission for enforcement. Substantial violations include, but are not
33 limited to, accepting contributions in excess of the limitations of section 1015 and failing
34 to file a report that substantially complies with the disclosure requirements of section
35 1017. The commission has the discretion to conduct an investigation if the information
36 referred by the municipal clerk shows sufficient grounds for believing that a violation
37 may have occurred. After conducting the investigation, if the commission determines
38 that a violation of this chapter has occurred, the commission may assess penalties
39 provided in this chapter.

1 **4. Exemptions.** Exemptions for municipal candidates from the reporting
2 requirements of this subchapter are governed by this subsection.

3 A. At the time a municipal candidate registers under section 1013-A, the candidate
4 may notify the municipal clerk in writing that the candidate will not accept
5 contributions, make expenditures or incur financial obligations associated with that
6 person's candidacy. A candidate who provides this written notice is not required to
7 appoint a treasurer or to meet the filing requirements of this section as long as the
8 candidate complies with the commitment.

9 B. The notice provided to the municipal clerk in paragraph A may be revoked. A
10 written revocation must be presented to the municipal clerk before the candidate may
11 accept contributions, make expenditures or incur obligations associated with that
12 person's candidacy. A candidate who has filed a notice with the municipal clerk
13 under paragraph A and accepts contributions, makes expenditures or incurs
14 obligations associated with that person's candidacy prior to filing a revocation may be
15 assessed a penalty of \$10 for each business day that the revocation is late, up to a
16 maximum of \$500. This penalty may be imposed in addition to the penalties assessed
17 under other sections of this Title.

18 **Sec. 3. 21-A MRSA §1012, sub-§2, ¶B,** as amended by PL 2011, c. 389, §6, is
19 further amended to read:

20 B. Does not include:

21 (1) The value of services provided without compensation by individuals who
22 volunteer a portion or all of their time on behalf of a candidate or political
23 committee;

24 (2) The use of real or personal property and the cost of invitations, food and
25 beverages, voluntarily provided by an individual to a candidate in rendering
26 voluntary personal services for candidate-related activities, if the cumulative
27 value of these activities by the individual on behalf of any candidate does not
28 exceed ~~\$100~~ \$250 with respect to any election;

29 (3) The sale of any food or beverage by a vendor for use in a candidate's
30 campaign at a charge less than the normal comparable charge, if the charge to the
31 candidate is at least equal to the cost of the food or beverages to the vendor and if
32 the cumulative value of the food or beverages does not exceed \$100 with respect
33 to any election;

34 (4) Any unreimbursed travel expenses incurred by an individual in the course of
35 providing voluntary personal services to a candidate and paid for by ~~an~~ that
36 individual who volunteers personal services to a candidate, if the cumulative
37 amount of these expenses does not exceed ~~\$100~~ \$350 with respect to any
38 election;

39 (4-A) Any unreimbursed campaign-related travel expenses incurred and paid for
40 by the candidate or the candidate's spouse or domestic partner;

- 1 (5) The payment by a party's state, district, county or municipal committee of the
- 2 costs of preparation, display or mailing or other distribution of a party candidate
- 3 listing;
- 4 (6) Documents, in printed or electronic form, including party platforms, single
- 5 copies of issue papers, information pertaining to the requirements of this Title,
- 6 lists of registered voters and voter identification information, created, obtained or
- 7 maintained by a political party for the general purpose of party building and
- 8 provided to a candidate who is a member of that party;
- 9 (7) Compensation paid by a state party committee to its employees for the
- 10 following purposes:
 - 11 (a) Providing no more than a total of 40 hours of assistance from its
 - 12 employees to a candidate in any election;
 - 13 (b) Recruiting and overseeing volunteers for campaign activities involving 3
 - 14 or more candidates; or
 - 15 (c) Coordinating campaign events involving 3 or more candidates;
- 16 (8) Campaign training sessions provided to 3 or more candidates;
- 17 (8-A) Costs paid for by a party committee in connection with a campaign event
- 18 at which 3 or more candidates are present;
- 19 (8-B) Wood or other materials used for political signs that are found or
- 20 contributed if not originally obtained by the candidate or contributor for
- 21 campaign purposes;
- 22 (8-C) The use or distribution of any communication, as described in section
- 23 1014, obtained by the candidate for a previous election and fully paid for during
- 24 that election;
- 25 (9) The use of offices, telephones, computers and similar equipment when that
- 26 use does not result in additional cost to the provider;
- 27 (10) Activity or communication designed to encourage individuals to register to
- 28 vote or to vote if that activity or communication does not mention a clearly
- 29 identified candidate; or
- 30 (11) A purchase of apparel from a commercial vendor with a total cost of \$25 or
- 31 less by an individual when the vendor has received a graphic or design from the
- 32 candidate or the candidate's authorized committee.

33 **Sec. 4. 21-A MRSA §1012, sub-§3**, as amended by PL 2011, c. 389, §7, is
 34 further amended to read:

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

36 A. Includes:

- 37 (1) A purchase, payment, distribution, loan, advance, deposit or gift of money or
- 38 anything of value made for the purpose of influencing the nomination or election
- 39 of any person to ~~political~~ state, county or municipal office, except that a loan of

- 1 money to a candidate by a financial institution in this State made in accordance
2 with applicable banking laws and regulations and in the ordinary course of
3 business is not included;
- 4 (2) A contract, promise or agreement, expressed or implied, whether or not
5 legally enforceable, to make any expenditure;
- 6 (3) The transfer of funds by a candidate or a political committee to another
7 candidate or political committee; and
- 8 (4) A payment or promise of payment to a person contracted with for the
9 purpose of influencing any campaign as defined in section 1052, subsection 1;
10 and
- 11 B. Does not include:
- 12 (1) Any news story, commentary or editorial distributed through the facilities of
13 any broadcasting station, cable television system, newspaper, magazine or other
14 periodical publication, unless the facilities are owned or controlled by any
15 political party, political committee, candidate or ~~candidate's immediate family~~
16 spouse or domestic partner of a candidate;
- 17 (1-A) Any communication distributed through a public access television ~~station~~
18 channel on a cable television system if the communication complies with the
19 laws and rules governing the ~~station~~ channel and all candidates in the race have
20 an equal opportunity to promote their candidacies through the ~~station~~ channel;
- 21 (2) Activity or communication designed to encourage individuals to register to
22 vote or to vote if that activity or communication does not mention a clearly
23 identified candidate;
- 24 (3) Any communication by any membership organization or corporation to its
25 members or stockholders, if that membership organization or corporation is not
26 organized primarily for the purpose of influencing the nomination or election of
27 any person to state or county office;
- 28 (4) The use of real or personal property and the cost of invitations, food and
29 beverages, voluntarily provided by an individual to a candidate in rendering
30 voluntary personal services for candidate-related activities, if the cumulative
31 value of these activities does not exceed ~~\$100~~ \$250 with respect to any election;
- 32 (5) Any unreimbursed travel expenses incurred by an individual in the course of
33 providing voluntary personal services to a candidate and paid for by ~~an~~ that
34 individual who volunteers personal services to a candidate, if the cumulative
35 amount of these expenses does not exceed ~~\$100~~ \$350 with respect to any
36 election;
- 37 (5-A) Any unreimbursed campaign-related travel expenses incurred and paid for
38 by the candidate or the candidate's spouse or domestic partner;
- 39 (6) Any communication by any person that is not made for the purpose of
40 influencing the nomination for election, or election, of any person to state ~~or~~
41 county or municipal office;

- 1 (7) The payment by a party's state, district, county or municipal committee of the
 2 costs of preparation, display or mailing or other distribution of a party candidate
 3 listing;
- 4 (8) The use or distribution of any communication, as described in section 1014,
 5 obtained by the candidate for a previous election and fully paid for during that
 6 election campaign;
- 7 (9) Documents, in printed or electronic form, including party platforms, single
 8 copies of issue papers, information pertaining to the requirements of this Title,
 9 lists of registered voters and voter identification information, created or
 10 maintained by a political party for the general purpose of party building and
 11 provided to a candidate who is a member of that party;
- 12 (10) Compensation paid by a state party committee to its employees for the
 13 following purposes:
- 14 (a) Providing no more than a total of 40 hours of assistance from its
 15 employees to a candidate in any election;
- 16 (b) Recruiting and overseeing volunteers for campaign activities involving 3
 17 or more candidates; or
- 18 (c) Coordinating campaign events involving 3 or more candidates;
- 19 (10-A) Costs paid for by a party committee in connection with a campaign event
 20 at which 3 or more candidates are present;
- 21 (11) Campaign training sessions provided to 3 or more candidates;
- 22 (11-A) Wood or other materials used for political signs that are found or
 23 contributed if not originally obtained by the candidate or contributor for
 24 campaign purposes;
- 25 (12) The use of offices, telephones, computers and similar equipment when that
 26 use does not result in additional cost to the provider; or
- 27 (13) A purchase of apparel from a commercial vendor with a total cost of \$25 or
 28 less by an individual when the vendor has received a graphic or design from the
 29 candidate or the candidate's authorized committee.

30 **Sec. 5. 21-A MRSA §1015-A, sub-§1, ¶C**, as enacted by PL 1991, c. 839, §12,
 31 is amended to read:

32 C. Are owned or controlled by the same majority shareholder or shareholders; ~~or~~

33 **Sec. 6. 21-A MRSA §1015-A, sub-§1, ¶C-1** is enacted to read:

34 C-1. Are limited liability companies that are owned or controlled by the same
 35 majority member or members; or

36 **Sec. 7. 21-A MRSA §1015-B** is enacted to read:

1 **§1015-B. Donations to an individual considering whether to become a candidate**

2 If an individual receives funds, goods or services for the purpose of deciding whether
3 to become a candidate, the funds, goods or services may not exceed the limitations in
4 section 1015, subsections 1 and 2. The individual shall keep an account of such funds,
5 goods or services received and all payments and obligations incurred in deciding whether
6 to become a candidate. If the individual becomes a candidate, the funds, goods and
7 services received are contributions and the payments and obligations are expenditures.
8 The candidate shall disclose the contributions and expenditures in the first report filed by
9 the candidate or the candidate's authorized campaign committee, in accordance with the
10 commission's procedures.

11 **Sec. 8. 21-A MRSA §1016**, as amended by PL 1991, c. 839, §13 and affected by
12 §34, is further amended to read:

13 **§1016. Records**

14 ~~Each~~ The candidate or treasurer shall keep detailed records of all contributions
15 received and of each expenditure that the treasurer or candidate makes or authorizes, as
16 provided in this section. ~~When reporting contributions and expenditures to the~~
17 commission as required by section 1017, the The treasurer shall certify the completeness
18 and accuracy of the information reported by that treasurer in any report of contributions
19 and expenditures filed with the commission as required by section 1017.

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

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

33 **3. Record keeping.** ~~A~~ The candidate or treasurer shall keep a detailed and exact
34 account of:

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

37 B. The name and address of every person making a contribution in excess of \$10, the
38 date and amount of that contribution and, if a person's contributions in any report
39 filing period aggregate more than \$50, the account must include the contributor's
40 occupation and principal place of business, if any. If the contributor is the candidate
41 or a member of the candidate's immediate family, the account must also state the

1 relationship. For purposes of this paragraph, "filing period" is as provided in section
2 1017, subsections 2 and 3-A;

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

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

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

14 **Sec. 9. 21-A MRSA §1016-A** is enacted to read:

15 **§1016-A. Duties and liability of the candidate and treasurer**

16 **1. Keeping required records.** The candidate or treasurer shall keep records of
17 contributions and expenditures as required by section 1016, chapter 14 and the
18 commission's rules. If the candidate keeps the records, the candidate shall provide the
19 treasurer or deputy treasurer with access to the records for the purpose of filing complete
20 and accurate campaign finance reports. The candidate and treasurer are jointly
21 responsible for ensuring that the campaign keeps all records required by law.

22 **2. Filing campaign finance reports.** The treasurer shall file complete and accurate
23 campaign finance reports as required by section 1017. The treasurer may delegate the
24 filing of the reports to the deputy treasurer.

25 **3. Liability for violations.** The commission may hold the candidate and treasurer
26 jointly and severally liable for any penalties assessed for violations of the financial
27 reporting or record-keeping requirements of this chapter, chapter 14 and the commission's
28 rules. If the deputy treasurer files reports for the campaign, the commission may hold the
29 deputy treasurer jointly and severally liable for any penalties related to reports filed by
30 the deputy treasurer.

31 **Sec. 10. 21-A MRSA §1017, sub-§2, ¶D,** as amended by PL 2007, c. 443, Pt. A,
32 §16, is further amended to read:

33 D. ~~Contributions aggregating~~ Any single contribution of \$1,000 or more from any
34 one contributor received or any single expenditures expenditure of \$1,000 or more
35 made after the 14th day before the election and more than 24 hours before 11:59 p.m.
36 on the day of the election must be reported within 24 hours of those contributions or
37 expenditures that contribution or expenditure. The candidate or treasurer is not
38 required to include in this report expenditures for overhead expenses or compensation
39 paid to an employee or other member of the campaign staff who has received
40 payments at regular intervals that have been disclosed in previously filed campaign

1 finance reports. As used in this paragraph, "overhead expenses" includes, but is not
2 limited to, rent, utility payments, taxes, insurance premiums or similar administrative
3 expenses.

4 **Sec. 11. 21-A MRSA §1017, sub-§3-A, ¶C**, as amended by PL 2007, c. 443, Pt.
5 A, §16, is further amended to read:

6 C. ~~Contributions aggregating~~ Any single contribution of \$1,000 or more ~~from any~~
7 ~~one contributor~~ received or any single expenditures expenditure of \$1,000 or more
8 made after the 14th day before any election and more than 24 hours before 11:59 p.m.
9 on the day of any election must be reported within 24 hours ~~of those contributions or~~
10 ~~expenditures~~ that contribution or expenditure. The candidate or treasurer is not
11 required to include in this report expenditures for overhead expenses or compensation
12 paid to an employee or other member of the campaign staff who has received
13 payments at regular intervals that have been disclosed in previously filed campaign
14 finance reports. As used in this paragraph, "overhead expenses" includes, but is not
15 limited to, rent, utility payments, taxes, insurance premiums or similar administrative
16 expenses.

17 **Sec. 12. 21-A MRSA §1017-A, sub-§4-A, ¶E**, as amended by PL 2007, c. 443,
18 Pt. A, §17, is further amended to read:

19 E. A state party committee shall report ~~any expenditure of \$500~~ any single
20 contribution of \$5,000 or more received or any single expenditure of \$1,000 or more
21 made after the 14th day before the election and more than 24 hours before 5:00 p.m.
22 on the day of the election within 24 hours of that contribution or expenditure. The
23 committee is not required to include in this report expenditures for overhead expenses
24 or compensation paid to an employee or other member of the campaign staff who has
25 received payments at regular intervals that have been disclosed in previously filed
26 campaign finance reports. As used in this paragraph, "overhead expenses" includes,
27 but is not limited to, rent, utility payments, taxes, insurance premiums or similar
28 administrative expenses.

29 **Sec. 13. 21-A MRSA §1017-A, sub-§4-B, ¶C**, as amended by PL 2007, c. 443,
30 Pt. A, §17, is further amended to read:

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

41 **Sec. 14. 21-A MRSA §1018-B, sub-§2**, as enacted by PL 2005, c. 301, §21, is
42 amended to read:

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

7 **Sec. 15. 21-A MRSA §1019-B, sub-§1, ¶B,** as amended by PL 2007, c. 443, Pt.
8 A, §20, is further amended to read:

9 B. Is presumed ~~in races involving a candidate who is certified as a Maine Clean~~
10 ~~Election Act candidate under section 1125, subsection 5~~ to be any expenditure made
11 to design, produce or disseminate a communication that names or depicts a clearly
12 identified candidate and is disseminated during the 21 days, including election day,
13 before a primary election; or the 35 days, including election day, before a general or
14 special election; or during a special election until and on election day.

15 **Sec. 16. 21-A MRSA §1019-B, sub-§4, ¶C,** as enacted by PL 2009, c. 524, §7,
16 is amended to read:

17 C. A report required by this subsection must be on a form prescribed and prepared by
18 the commission. A person filing this report may use additional pages if necessary,
19 but the pages must be the same size as the pages of the form. The commission may
20 adopt procedures requiring the electronic filing of an independent expenditure report,
21 as long as the commission receives the statement made under oath or affirmation set
22 out in paragraph B by the filing deadline and the commission adopts an exception for
23 persons who lack access to the required technology or the technological ability to file
24 reports electronically. The commission may adopt procedures allowing for the
25 signed statement to be provisionally filed by facsimile or electronic mail, as long as
26 the report is not considered complete without the filing of the original signed
27 statement.

28 **Sec. 17. 21-A MRSA §1020-A, sub-§6,** as repealed and replaced by PL 2009, c.
29 302, §5, is amended to read:

30 **6. Request for a commission determination.** If the commission staff finds that a
31 candidate or political committee has failed to file a report required under this subchapter,
32 the commission staff shall mail a notice ~~by certified mail~~ to the candidate or political
33 committee within 3 business days following the filing deadline informing the candidate or
34 political committee that a report was not received. If a candidate or a political committee
35 files a report required under this subchapter late, a notice of preliminary penalty must be
36 sent to the candidate or political committee whose registration or campaign finance report
37 was not received by 11:59 p.m. on the deadline date, informing the candidate or political
38 committee of the staff finding of violation and preliminary penalty calculated under
39 subsection 4-A and providing the candidate or political committee with an opportunity to
40 request a determination by the commission. ~~The notice must be sent by certified mail.~~
41 Any request for a determination must be made within 14 calendar days of receipt of the
42 commission's notice. ~~The 14 day period during which a determination may be requested~~
43 ~~begins on the day a recipient signs for the certified mail notice of the proposed penalty. If~~

1 ~~the certified letter is refused or left unclaimed at the post office, the 14-day period begins~~
2 ~~on the day the post office indicates it has given first notice of a certified letter.~~ A
3 candidate or political committee requesting a determination may either appear in person
4 or designate a representative to appear on the candidate's or political committee's behalf
5 or submit a sworn statement explaining the mitigating circumstances for consideration by
6 the commission. A final determination by the commission may be appealed to the
7 Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules
8 of Civil Procedure, Rule 80C.

9 **Sec. 18. 21-A MRSA §1052, sub-§4, ¶B,** as amended by PL 2011, c. 389, §29,
10 is further amended to read:

11 B. Does not include:

12 (1) Any news story, commentary or editorial distributed through the facilities of
13 any broadcasting station, cable television system, newspaper, magazine or other
14 periodical publication, unless these facilities are owned or controlled by any
15 political party, political committee, candidate or ~~candidate's immediate family~~ the
16 spouse or domestic partner of a candidate;

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

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

23 (4) The use of real or personal property and the cost of invitations, food and
24 beverages, voluntarily provided by a political action committee in rendering
25 voluntary personal services for candidate-related activities, if the cumulative
26 value of these activities by the political action committee on behalf of any
27 candidate does not exceed ~~\$400~~ \$250 with respect to any election;

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

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

34 **Sec. 19. 21-A MRSA §1052-A** is enacted to read:

35 **§1052-A. Registration**

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

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

1 A. A political action committee as defined under section 1052, subsection 5,
2 paragraph A, subparagraph (1) or (4) that makes expenditure in the aggregate in
3 excess of \$1,500 and a political action committee as defined under section 1052,
4 subsection 5, paragraph A, subparagraph (5) that makes expenditures in the aggregate
5 in excess of \$5,000 shall register with the commission within 7 days of exceeding the
6 applicable amount.

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

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

15 **2. Disclosure of treasurer and officers.** A committee must have a treasurer and a
16 principal officer. The same individual may not serve in both positions. The committee's
17 registration must contain the names and addresses of the following individuals:

18 A. The treasurer of the committee;

19 B. A principal officer of the committee;

20 C. Any other individuals who are primarily responsible for making decisions for the
21 committee;

22 D. The individuals who are primarily responsible for raising contributions for the
23 committee; and

24 E. The names of any other candidates or Legislators who have a significant role in
25 fund-raising or decision-making for the committee.

26 **3. Other disclosure requirements.** A committee's registration must also include the
27 following information:

28 A. A statement indicating the specific candidates, categories of candidates or
29 campaigns that the committee expects to support or oppose;

30 B. If the committee is formed to influence the election of a single candidate, the
31 name of that candidate;

32 C. The form or structure of the organization, such as a voluntary association,
33 membership organization, corporation or any other structure by which the committee
34 functions, and the date of origin or incorporation of the organization;

35 D. If the committee has been formed by one or more for-profit or nonprofit
36 corporations or other organizations for the purpose of initiating or influencing a
37 campaign, the names and addresses of the corporations or organizations;

38 E. The name of the account that the committee will use to deposit contributions and
39 make expenditures pursuant to section 1054, and the name and address of the
40 financial institution at which the account is established; and

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

3 **4. Acknowledgment of responsibilities.** The treasurer, principal officer and any
4 other individuals who are primarily responsible for making decisions for the committee
5 shall submit a signed statement acknowledging their responsibilities on a form prescribed
6 by the commission within 10 days of registering the committee. The signed
7 acknowledgment statement serves as notification of the responsibilities of the committee
8 to comply with the financial reporting, record-keeping and other requirements of this
9 chapter and the potential personal liability of the treasurer and principal officer for civil
10 penalties assessed against the committee. The commission shall notify the committee of
11 any individual who has failed to submit the acknowledgment statement. Failure to return
12 the acknowledgment statement is a violation of this subchapter for which a fine of \$100
13 may be assessed against the committee. This section also applies to individuals named in
14 an updated or amended registration required by this subsection who have not previously
15 submitted an acknowledgment statement for the committee with the commission.

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

24 **Sec. 20. 21-A MRSA §1053**, as amended by PL 2011, c. 389, §§33 and 34, is
25 repealed.

26 **Sec. 21. 21-A MRSA §1053-B**, as amended by PL 2011, c. 389, §36, is further
27 amended to read:

28 **§1053-B. Out-of-state political action committees**

29 ~~A political action committee organized~~ An organization that is registered as a
30 political action committee or political committee with the Federal Election Commission
31 or a jurisdiction outside of this State shall register and file reports with the commission in
32 accordance with sections 1053 and 1058 this subchapter upon receiving contributions or
33 making expenditures to initiate or influence a campaign in the State in excess of the
34 amounts that would require registration under section 1052-A. The committee is not
35 required to register and file reports if the committee's only financial activity within the
36 State is to make contributions to candidates, party committees, political action
37 committees or ballot question committees registered with the commission or a
38 municipality and the committee has not raised and accepted any contributions during the
39 calendar year to influence a campaign in this State.

40 **Sec. 22. 21-A MRSA §1054**, as amended by PL 2007, c. 443, Pt. A, §30, is
41 further amended to read:

1 **§1054. Appointment of treasurer; depository**

2 Any political action committee required to register under section 1053 1052-A must
3 appoint a treasurer before registering with the commission. ~~The treasurer shall retain, for~~
4 ~~a minimum of 4 years, all receipts, including cancelled checks, of expenditures made in~~
5 ~~support of or in opposition to a campaign, political committee, political action committee,~~
6 ~~referendum or initiated petition in this State. A registered political action committee shall~~
7 deposit all funds contributed to or received by the committee for the purpose of
8 influencing a campaign in a single account in a financial institution and shall finance all
9 of the committee's expenditures to influence the election through the account. If the
10 political action committee was formed by another organization, that other organization
11 may pay its employees for their campaign-related activities on behalf of the committee
12 through its own treasury, rather than through the single account established by the
13 political action committee and used for campaign expenditures.

14 **Sec. 23. 21-A MRSA §1054-A** is enacted to read:

15 **§1054-A. Duties and liabilities of the treasurer, principal officer and primary**
16 **decision maker**

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

23 **2. Joint responsibilities of the treasurer and principal officer.** The treasurer and
24 the principal officer are jointly responsible for the committee's compliance with the
25 requirements of this chapter and the commission's rules. The treasurer and principal
26 officer are responsible for accepting and responding to notices and correspondence from
27 the commission on behalf of the committee.

28 **3. Participation in spending decisions.** An individual who is the treasurer,
29 principal officer or primary decision maker of the committee and who has signed the
30 acknowledgment statement required by section 1052-A, subsection 4 is deemed to have
31 participated in the spending decisions of the committee until the commission receives the
32 individual's resignation statement or a notice of the individual's involuntary removal from
33 the committee.

34 **4. Financial liability.** The commission may hold the treasurer and principal officer
35 jointly and severally liable with the committee for any fines assessed against the
36 committee for violations of this chapter and chapter 14. In addition, the commission may
37 assess all or part of a fine against any other agent of the committee who is directly
38 responsible for a violation, including individuals who have resigned or have been
39 removed involuntarily from the committee. In deciding whether to assess a penalty
40 against a treasurer, principal officer or any other individual, the commission may
41 consider, among other things, whether the individual had actual knowledge of the action
42 that constituted the violation or had authorized that action and whether the violation was

1 intentional or caused by an error by a vendor or someone outside the control of the
2 committee.

3 **Sec. 24. 21-A MRSA §1055-A** is enacted to read:

4 **§1055-A. Political communications to influence a ballot question**

5 **1. Communications to influence ballot question elections.** Whenever a person
6 makes an expenditure exceeding \$500 expressly advocating through broadcasting
7 stations, cable television systems, newspapers, magazines, campaign signs or other
8 outdoor advertising facilities, publicly accessible sites on the Internet, direct mails or
9 other similar types of general public political advertising or through flyers, handbills,
10 bumper stickers and other nonperiodical publications, for or against an initiative or
11 referendum that is on the ballot, the communication must clearly and conspicuously state
12 the name and address of the person who made or financed the expenditure for the
13 communication.

14 **2. Exceptions.** The following forms of political communication do not require the
15 name and address of the person who made or financed the expenditure for the
16 communication because the name or address would be so small as to be illegible or
17 infeasible: clothing, envelopes and stationery, small promotional items, tickets to
18 fundraisers and electronic media advertisements where compliance with this section
19 would be impracticable due to size or character limitations and similar items determined
20 by the commission to be too small and unnecessary for the disclosures required by this
21 section. "Small promotional items" includes but is not limited to ashtrays, badges and
22 badge holders, balloons, campaign buttons, coasters, combs, emery boards, erasers,
23 glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic
24 cups, pencils, pens, plastic tableware, 12-inch or shorter rulers and swizzle sticks.

25 **Sec. 25. 21-A MRSA §1057**, as amended by PL 2009, c. 190, Pt. A, §21, is
26 further amended to read:

27 **§1057. Records**

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

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

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

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

4 **3. Record of contributions.** The treasurer of a political action committee ~~must~~ shall
5 keep a record of all contributions to the committee, by name and mailing address, of each
6 donor and the amount and date of the contribution. This provision does not apply to
7 aggregate contributions from a single donor of \$50 or less for an election or referendum
8 campaign. When any donor's contributions to a political action committee exceed \$50,
9 the record must include the aggregate amount of all contributions from that donor.

10 **4. Account statements.** The treasurer of a political action committee shall keep
11 account statements relating to the deposit of funds of the committee required by section
12 1054.

13 **Sec. 26. 21-A MRSA §1058,** as repealed and replaced by PL 2009, c. 652, Pt. A,
14 §21, is amended to read:

15 **§1058. Reports; qualifications for filing**

16 A political action committee that is required to register under section ~~1053~~ 1052-A or
17 1053-B shall file reports with the commission on forms prescribed by the commission
18 according to the schedule in section 1059.

19 **Sec. 27. 21-A MRSA §1059, first ¶,** as amended by PL 2011, c. 389, §43 and
20 affected by §62, is further amended to read:

21 Committees required to register under section ~~1053~~ 1052-A, 1053-B or 1056-B shall
22 file an initial campaign finance report at the time of registration and thereafter shall file
23 reports in compliance with this section. All reports must be filed by 11:59 p.m. on the
24 day of the filing deadline, except that reports submitted to a municipal clerk must be filed
25 by the close of business on the day of the filing deadline.

26 **Sec. 28. 21-A MRSA §1059, sub-§2, ¶E,** as amended by PL 2007, c. 443, Pt. A,
27 §35, is further amended to read:

28 E. A committee shall report ~~any expenditure of \$500~~ any single contribution of
29 \$5,000 or more received or single expenditure of \$1,000 or more made after the 14th
30 day before the election and more than 24 hours before 5:00 p.m. on the day of the
31 election within 24 hours of that contribution or expenditure. The treasurer is not
32 required to include in this report expenditures for overhead expenses or compensation
33 paid to an employee or other member of the campaign staff who has received
34 payments at regular intervals that have been disclosed in previously filed campaign
35 finance reports. As used in this paragraph, "overhead expenses" includes, but is not
36 limited to, rent, utility payments, taxes, insurance premiums or similar administrative
37 expenses.

38 **Sec. 29. 21-A MRSA §1061,** as amended by PL 2009, c. 190, Pt. A, §27, is
39 further amended to read:

1 **§1061. Dissolution of committees**

2 Whenever any political action committee determines that it will no longer accept any
3 contributions or make any expenditures, the committee shall file a termination report that
4 includes all financial activity from the end date of the previous reporting period through
5 the date of termination with the commission. The committee ~~must~~ shall dispose of any
6 surplus prior to termination. In the termination report, the committee shall report any
7 outstanding loan, debt or obligation in the manner prescribed by the commission.

8 **Sec. 30. 21-A MRSA §1062-A, sub-§1**, as amended by PL 2009, c. 190, Pt. A,
9 §28, is further amended to read:

10 **1. Registration.** A political action committee required to register under section ~~4053~~
11 1052-A or 1053-B or a ballot question committee required to register under section
12 1056-B that fails to do so or that fails to provide the information required by the
13 commission for registration may be assessed a fine of ~~\$250~~ no more than \$2,500. In
14 assessing a fine, the commission shall consider, among other things, whether the violation
15 was intentional, the amount of campaign and financial activity that occurred before the
16 committee registered, whether the committee intended to conceal its campaign or
17 financial activity and the level of experience of the committee's volunteers and staff.

18 **Sec. 31. 21-A MRSA §1062-A, sub-§5**, as repealed and replaced by PL 2009, c.
19 302, §8, is amended to read:

20 **5. Request for a commission determination.** If the commission staff finds that a
21 political action committee has failed to file a report required under this subchapter, the
22 commission staff shall mail a notice ~~by certified mail~~ to the treasurer of the political
23 action committee within 3 business days following the filing deadline informing the
24 treasurer that a report was not received. If a political action committee files a report
25 required under this subchapter late, a notice of preliminary penalty must be forwarded to
26 the treasurer of the political action committee whose report is not received by 11:59 p.m.
27 on the deadline date, informing the treasurer of the commission staff finding of violation
28 and preliminary penalty calculated under subsection 3 and providing the treasurer with an
29 opportunity to request a determination by the commission. ~~The notice must be sent by~~
30 ~~certified mail.~~ A request for determination must be made within 14 calendar days of
31 receipt of the commission's notice. ~~The 14 day period during which a determination may~~
32 ~~be requested begins on the day a recipient signs for the certified mail notice of the~~
33 ~~proposed penalty. If the certified letter is refused or left unclaimed at the post office, the~~
34 ~~14 day period begins on the day the post office indicates it has given first notice of a~~
35 ~~certified letter.~~ A principal officer or treasurer requesting a determination may either
36 appear in person or designate a representative to appear on the principal officer's or
37 treasurer's behalf or submit a sworn statement explaining the mitigating circumstances for
38 consideration by the commission. A final determination by the commission may be
39 appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and
40 the Maine Rules of Civil Procedure, Rule 80C.

41 **Sec. 32. 21-A MRSA §1062-B** is enacted to read:

1 **§1062-B. Failure to keep records**

2 A committee that fails to keep records required by this chapter may be assessed a fine
3 of up to \$2,500. In assessing a fine, the commission shall consider, among other things,
4 whether the violation was intentional, whether the violation occurred as the result of an
5 error by someone outside the control of the committee, whether the committee intended
6 to conceal its financial activity, the amount of financial activity that was not documented
7 and the level of experience of the committee's volunteers and staff.

8 **Sec. 33. 21-A MRSA §1125, sub-§12**, as amended by PL 2011, c. 522, §3, is
9 further amended to read:

10 **12. Reporting; unspent revenue.** Notwithstanding any other provision of law, the
11 treasurer or deputy treasurer of participating and certified candidates shall report any
12 money collected, all campaign expenditures, obligations, refunds received by a candidate
13 or agent of that candidate and related activities to the commission according to
14 procedures developed by the commission. If a certified candidate pays fund revenues to a
15 member of the candidate's immediate family or household or a business or nonprofit
16 entity affiliated with a member of the candidate's immediate family or household, the
17 ~~candidate~~ candidate treasurer or deputy treasurer must disclose the candidate's relationship to the
18 payee in a manner prescribed by the commission. In developing these procedures, the
19 commission shall utilize existing campaign reporting procedures whenever practicable.
20 The commission shall ensure timely public access to campaign finance data and may
21 utilize electronic means of reporting and storing information. Upon the filing of a final
22 report for any primary election in which the candidate was defeated and for all general
23 elections, that candidate shall return all unspent fund revenues to the commission. If the
24 candidate or agent of the candidate receives a refund of an expenditure made for the
25 campaign after filing the final report, the candidate shall return those funds to the fund
26 within 14 days of receiving the refund.

27 **Sec. 34. 21-A MRSA §1125, sub-§12-A**, as amended by PL 2011, c. 389, §57, is
28 further amended to read:

29 **12-A. Required records.** The candidate or treasurer shall obtain and keep:

30 A. Bank or other account statements for the campaign account covering the duration
31 of the campaign;

32 B. A vendor invoice stating the particular goods or services purchased for every
33 expenditure in excess of \$50 ~~or more~~;

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

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

1 The candidate or treasurer shall preserve the records for 3 years following the candidate's
2 final campaign finance report for the election cycle. The candidate and treasurer shall
3 submit photocopies of the records to the commission upon its request.

4 **SUMMARY**

5 This bill amends the laws governing campaign finance and the Commission on
6 Governmental Ethics and Election Practices by:

7 1. Prohibiting ballot question committees from operating in the State unless they are
8 registered with the commission;

9 2. Clarifying that the commission does not have jurisdiction over financial activities
10 to influence federal elections;

11 3. Permitting clerks of municipalities that are governed by state campaign finance
12 law to refer substantial violations to the commission for enforcement;

13 4. Increasing the exception from \$100 to \$250 for volunteers who purchase
14 invitations, food or beverages over the course of volunteering for a candidate;

15 5. Increasing the exception from \$100 to \$350 for individuals who pay for their own
16 travel costs when volunteering for candidates;

17 6. Broadening the exception for news media to cover cable television systems and
18 for news media owned by relatives of a candidate except the candidate's spouse or
19 domestic partner;

20 7. Treating a limited liability company the same way as a corporation for purposes of
21 contribution limits;

22 8. Requiring reporting of financial activities by a person who is considering whether
23 to become a candidate;

24 9. Clarifying candidates or treasurers may keep the records of the campaign as long
25 as the treasurer or deputy treasurer has access to the records for the purpose of filing the
26 campaign finance report;

27 10. Providing that the commission may hold the candidate and treasurer jointly
28 responsible for penalties assessed to a candidate's campaign;

29 11. Exempting candidates who make payments of \$1,000 or more during the last 13
30 days before an election from reporting those expenditures within 24 hours if they related
31 to overhead expenses or compensation paid to an employee who has received regular
32 payments in previous campaign finance reports;

33 12. Requiring party committees to file a 24-hour report of contributions of more than
34 \$5,000 they have received within 13 days before an election;

- 1 13. Imposing limits on the amounts of money or contributions of services received
2 by candidates in a recount of an election except that no limitation would apply to party
3 committees or caucus campaign committees and to attorneys, consultants or firms who
4 are donating their services without reimbursement;
- 5 14. Extending the rebuttable presumption for communications made in the last 21
6 days before a primary election or the last 35 days before a general election, if the
7 communication names or depicts a clearly identified candidate;
- 8 15. Permitting the commission to adopt procedures for electronic filing of
9 independent expenditures;
- 10 16. Clarifying the time period for rebuttable presumption in special elections;
- 11 17. Permitting the commission to send late-filing penalty correspondence by regular
12 mail, rather than certified mail;
- 13 18. Requiring political action committees to designate a principal officer who would
14 be jointly responsible with the treasurer for overall compliance of the committee;
- 15 19. Requiring the treasurer, principal officer and primary decision maker of a
16 political action committee to file a written acknowledgment stating they are jointly
17 responsible for compliance;
- 18 20. Requiring individuals who resign as treasurer, principal officer or primary
19 decision maker of a political action committee to submit a written statement to the
20 commission;
- 21 21. Requiring political action committees to use a single account in a financial
22 institution to deposit all contributions and make all expenditures;
- 23 22. Setting out the duties and liabilities of the treasurer and principal officer of a
24 political action committee;
- 25 23. Requiring a statement of the name and address of the person who made or
26 financed the communication on any paid communication costing more than \$500 that
27 expressly advocates for or against a ballot question;
- 28 24. Requiring political action committees that spend more than \$25,000 to influence
29 an election to keep account statements for 4 years;
- 30 25. Increasing potential fines for not providing a complete and accurate political
31 action committee registration statement from \$250 to \$2,500;
- 32 26. Authorizing the commission to assess a fine of \$2,500 for failing to keep
33 required records as long as the commission considers mitigating circumstances; and
- 34 27. Clarifying that a treasurer or deputy treasurer of a Maine Clean Election Act
35 candidate must file the financial report for the candidate.