

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1935

S. P. 581

In Senate, June 13, 1975

Reported by the Majority from Committee on Election Laws and printed under Joint Rules No. 18.

HARRY N. STARBRANCH, Secretary

STATE OF MAINE

**IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE**

**AN ACT to Create the Commission on Governmental Ethics
and Election Practices.**

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

Sec. 1. 1 MRSA c. 25 is enacted to read:

CHAPTER 25

GOVERNMENTAL ETHICS

SUBCHAPTER I

STATEMENT OF PURPOSE

§ 1001. Statement of purpose

It is essential under the American system of representative government that the people have faith and confidence in the integrity of the election process and the Members of the Legislature. In order to strengthen this faith and confidence that the election process reflects the will of the people and that each Legislator considers and casts his vote on the enactment of laws according to the best interests of the public and his constituents, there is created an independent commission on governmental ethics and election practices to guard against corruption or undue influencing of the election process and against acts or the appearance of misconduct by Legislators.

§ 1002. Commission on Governmental Ethics and Election Practices

1. Membership. The Commission on Governmental Ethics and Election Practices, hereinafter called the "commission," shall consist of 7 members to be appointed as follows:

A. The President of the Senate and the floor leader of the 2 major parties in the Senate shall each appoint one member, with the concurrence of $\frac{2}{3}$ vote of the Senate. Each such member shall be appointed in January of each even-numbered year, and shall serve a term of 2 years from the date of appointment or until his successor is appointed and qualified.

B. The Speaker of the House and the floor leaders of the 2 major parties in the House of Representatives shall each appoint one member, with the concurrence of $\frac{2}{3}$ vote of the House of Representatives. Each such member shall be appointed in January of each even-numbered year, and shall serve a term of 2 years from the date of appointment or until his successor is appointed and qualified.

C. The 6 members so appointed shall, by an affirmative vote of at least 5 members, elect a 7th member, who shall act as chairman, and who shall serve a term of 2 years, or until his successor is appointed and qualified.

The appropriate appointing authority shall appoint members to vacancies on the commission as they shall occur or upon expiration of terms. Any vacancy shall be filled for the unexpired portion of the term in which such vacancy occurs.

2. Qualifications. The members of the commission shall be persons of recognized judgment, probity and objectivity. The chairman, in addition, shall be a person with some legal training and experience and knowledge of the judicial rules of evidence and judicial proceedings. No person shall be appointed to this commission who is a Member of the Legislature or who was a Member of the previous Legislature, or who was a declared candidate for an elective county, state or federal office within 2 years prior to the appointment, or who now holds an elective county, state or federal office.

3. Oath. Each member shall, within 10 days of his appointment, take an oath of office to faithfully discharge the duties of a commissioner in the form prescribed by the Constitution. Such oath shall be subscribed to by the commissioner taking it, certified by the officer before whom it is taken and immediately filed in the Office of the Secretary of State.

4. Expenses. The members of the commission shall be reimbursed for all necessary expenses that they may incur through service as commissioners, including expenses for travel, which shall be paid in the same manner as travel expenses are paid to Members of the Legislature.

5. Employees. The commission may employ such assistance as may be necessary to carry out its duties.

§ 1003. Procedures, rules and regulations

1. Procedures, rules and regulations. The commission shall adopt such procedures, rules and regulations as may appear necessary for the orderly, prompt, fair and efficient carrying out of its duties, consistent with this Act.

2. Records. Except as provided in section 1013, subsection 2, paragraph J, all records of the commission, including business records, reports made to or by the commission, findings of fact and opinions, shall be made available to any interested member of the public who may wish to review them. Any

member of the public may request copies of any record held by the commission which is available for public inspection. The commission shall furnish these copies upon payment of a fee covering the cost of reproducing them.

§ 1004. Meetings

The President of the Senate and the Speaker of the House shall jointly call an organizational meeting of the commission within 10 days after the members have taken their oaths of office. Thereafter, the commission shall on the call of the Secretary of State or of the Speaker of the House or the President of the Senate to perform the duties required of it or as specifically provided in this Act. The commission shall also meet at other times at the call of the chairman or at the call of a majority of the members, provided all members are notified of the time, place and purpose of the meeting at least 24 hours in advance.

§ 1005. Open meetings

Notwithstanding any other provision of law, all meetings, hearings or sessions of the commission shall be open to the general public unless, by an affirmative vote of at least 6 members, the commission requires the exclusion of the public.

§ 1006. Assistance

The commission may call for the aid or assistance in the performance of its duties on the Attorney General, Secretary of State, Department of Audit or any law enforcement agency in this State. When called upon, these agencies shall comply to the utmost of their ability.

§ 1007. Annual report

The commission shall submit to the Legislature and the public an annual report discussing its activities under this chapter.

§ 1008. General duties

The general duties of the commission shall be:

1. Legislative ethics. To investigate and make advisory recommendations to the appropriate body of any apparent violations of the ethical standards set by the Legislature;

2. Election practices. To administer and investigate any violations of the requirements for campaign reports and campaign financing and to investigate and determine the results, within the limits of the Constitution, of any contested county, state or federal election within this State.

SUBCHAPTER II LEGISLATIVE ETHICS

§ 1011. Statement of purpose

The Maine Legislature enjoys a high reputation for progressive accomplishment. The vast majority of its members are public officers of integrity and dedication, seeking at all times to maintain high standards of ethical conduct.

The public interest is best served by attracting and retaining in the Legislature men and women of high caliber and attainment. The public interest will suffer if unduly stringent requirements deprive government "of the services of all but princes and paupers."

Membership in the Legislature is not a full-time occupation and is not compensated on that basis; moreover, it is measured in 2-year terms, requiring each member to recognize and contemplate that his election will not provide him with any career tenure.

Most Legislators must look to income from private sources, not their public salaries, for their sustenance and support for their families; moreover, they must plan for the day when they must return to private employment, business or their professions.

The increasing complexity of government at all levels, with broader intervention into private affairs, makes conflicts of interest almost inevitable for all part-time public officials, and particularly for Legislators who must cast their votes on measures affecting the lives of almost every citizen or resident of the State. The adoption of broader standards of ethics for Legislators does not impugn either their integrity or their dedication; rather it recognizes the increasing complexity of government and private life and will provide them with helpful advice and guidance when confronted with unprecedented or difficult problems in that gray area involving action which is neither clearly right nor clearly wrong.

If public confidence in government is to be maintained and enhanced, it is not enough that public officers avoid acts of misconduct. They must also scrupulously avoid acts which may create an appearance of misconduct.

The Legislature cannot legislate morals and the resolution of ethical problems must indeed rest largely in the individual conscience. The Legislature may and should, however, define ethical standards, as most professions have done, to chart the areas of real or apparent impropriety.

§ 1012. Definitions

As used in this subchapter, the following words shall have the following meanings unless the context otherwise indicates.

1. Close economic association. "Close economic association" includes the employers, employees, partners or clients of the Legislator or a member of his immediate family; corporations in which the Legislator or a member of his immediate family is an officer, director or agent or owns 10% or more of the outstanding capital stock; a business which is a significant unsecured creditor of the Legislator or a member of his immediate family or a business of which the Legislator or a member of his immediate family is a significant unsecured creditor.

2. Immediate family. "Immediate family" shall mean a Legislator's spouse and dependent children.

3. Income. "Income" shall mean economic gain to a person from whatever source derived, including, but not limited to, the following items: Com-

pensation for services including fees, commissions and payments in kind; income derived from business; gains derived from dealings in property, rents and royalties; income from investments including interest, capital gains and dividends; alimony and separate maintenance payments; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; income from an interest in an estate or trust and prizes, awards, grants and gifts.

§ 1013. Authority; procedures

1. Authority. The commission shall have the authority:

A. To issue, on request of any Legislator on an issue involving himself, or on its own motion, advisory opinions and guidelines on problems or questions involving possible conflicts of interest in matters under consideration by, or pertaining to, the Legislature;

B. To investigate complaints filed by Legislators alleging conflict of interest against any Legislator, to hold hearings thereon and to issue publicly findings of fact together with its opinion; and

C. To administer the disclosure of sources of income by Legislators as required by this subchapter.

2. Procedure. The following procedures shall apply:

A. Requests for advisory opinions by Members of the Legislature shall be filed with the commission in writing, signed by the Legislator requesting the opinion and shall contain such supporting data as the commission shall require. When preparing an advisory opinion on its own motion, the commission shall notify the Legislator concerned and allow him to provide additional information to the commission. In preparing an advisory opinion, either upon request or on its own motion, the commission may make such an investigation as it deems necessary. A copy of the commission's advisory opinion shall be sent to the Legislator concerned and to the presiding officer of the House of which the Legislator is a member;

B. A Legislator making a complaint shall file the complaint under oath with the chairman. The complaint shall specify the facts of the alleged conflict of interest. The Legislator against whom a complaint is filed shall immediately be given a copy of the complaint and the name of the complainant. Only those complaints dealing with alleged conflicts of interest related to the current Legislature shall be considered by the commission. Upon a majority vote of the commission, the commission shall conduct such investigation and hold such hearings as it deems necessary. The commission shall issue its findings of fact together with its opinion regarding the alleged conflict of interest to the House of which the Legislator concerned is a member. That House may take whatever action it deems appropriate, in accordance with the Constitution of the State of Maine.

C. When the conduct of a particular Legislator is under inquiry and a hearing is to be held, the Legislator shall be given written notification of the time and place at which the hearing is to be held. Such notification shall be given not less than 10 days prior to the date set for the hearing.

D. The commission shall have the authority, through its chairman or any member designated by him, to administer oaths, subpoena witnesses and compel the production of books, records, papers, documents, correspondence and other material and records which the committee deems relevant. The commission shall subpoena such witnesses as the complainant Legislator or the Legislator against whom the complaint has been filed may request to be subpoenaed. The State, its agencies and instrumentalities shall furnish to the commission any information, records or documents which the commission designates as being necessary for the exercise of its functions and duties. In the case of refusal of any person to obey an order or subpoena of the commission, the Superior Court, upon application of the commission, shall have jurisdiction and authority to require compliance with the order or subpoena. Any failure of any person to obey an order of the Superior Court may be punished by that court as a contempt thereof.

E. Any person whose conduct is under inquiry shall be accorded due process and, if requested, the right to a hearing. All witnesses shall be subject to cross-examination.

Any person whose name is mentioned in an investigation or hearing and who believes that testimony has been given which adversely affects him shall have the right to testify, or at the discretion of the commission and under such circumstances as the commission shall determine to protect the rights of the Legislator under inquiry, to file a statement of facts under oath relating solely to the material relevant to the testimony of which he complains. Any witness at an investigation or hearing, subject to rules and regulations promulgated by the commission, shall be entitled to a copy of such testimony when the same becomes relevant to a criminal proceeding or subsequent investigation or hearings.

All witnesses shall be sworn. The commission may sequester witnesses as it deems necessary. The commission shall not be bound by the strict rules of evidence, but its findings and opinions must be based upon competent and substantial evidence.

Time periods and notices may be waived by agreement of the commission and the person whose conduct is under inquiry.

F. If the commission concludes that it appears that a Legislator has violated a criminal law, a copy of its findings of fact, its opinion and such other information as may be appropriate shall be referred to the Attorney General. Any determination by the commission or by a House of the Legislature that a conflict of interest has occurred does not preclude any criminal action relating to the conflict which may be brought against the Legislator.

G. If the commission determines that a complaint filed under oath is groundless and without foundation, or if the Legislator filing the complaint fails to appear at the hearing without being excused by the commission, the commission may order the complainant to pay to the Legislator against whom the complaint has been filed his costs of investigation and defense, including any reasonable attorney's fees. The complainant may appeal such an order to the House of which he is a member.

Such an order shall not preclude any other remedy available to the Legislator against whom the complaint has been filed, including, but not limited to, an action brought in Superior Court against the complainant for damages to his reputation.

H. A copy of the commission's advisory opinions and guidelines, with such deletions and changes as the commission deems necessary to protect the identity of the person seeking the opinions, or others, shall be filed with the Clerk of the House. The clerk shall keep them in a special binder and shall finally publish them in the Legislative Record. The commission may exempt an opinion or a part thereof from release, publication or inspection, if it deems such action appropriate for the protection of 3rd parties and makes available to the public an explanatory statement to that effect.

I. A copy of the commission's findings of fact and opinions regarding complaints against Legislators shall also be filed with the Clerk of the House. The clerk shall keep them in a special binder and shall finally publish them in the Legislative Record.

J. The records of the commission and all information received by the commission acting under this subchapter in the course of its investigation and conduct of its affairs shall be confidential, except that evidence or information disclosed at public hearings, the commission's findings of fact and its opinions and guidelines are public records.

K. When a Legislator has a question or problem of an emergency nature about a possible conflict of interest or an issue involving himself which arises during the course of legislative action, he may request an advisory opinion from the presiding officer of the legislative body of which he is a member. The presiding officer may, at his discretion, issue an advisory opinion, which shall be in accordance with the principles of this subchapter, which shall be in writing, and which shall be reported to the commission. The commission may then issue a further opinion on the matter. The presiding officer may refer such question or problem directly to the commission, which shall meet as soon as possible to consider the question or problem.

§ 1014. Conflict of interest

1. A conflict of interest shall include the following:

A. Where a Legislator or a member of his immediate family has or acquires a direct substantial personal financial interest, distinct from that of the general public, in an enterprise which would be financially benefited by proposed legislation, or derives a direct substantial personal fi-

nancial benefit from close economic association with a person known by the Legislator to have a direct financial interest in an enterprise affected by proposed legislation.

B. Where a Legislator or a member of his immediate family accepts gifts, other than campaign contributions duly recorded as required by law, from persons affected by legislation or who have an interest in a business affected by proposed legislation, where it is known or reasonably should be known that the purpose of the donor in making the gift is to influence the Legislator in the performance of his official duties or vote, or is intended as a reward for action on his part.

C. Receiving compensation or reimbursement not authorized by law for services, advice or assistance as a Legislator.

D. Appearing for, representing or assisting another in respect to a claim before the Legislature, unless without compensation and for the benefit of a citizen.

E. Where a Legislator or a member of his immediate family accepts or engages in employment which could impair the Legislator's judgment, or where the Legislator knows that there is a substantial possibility that an opportunity for employment is being afforded him or a member of his immediate family with intent to influence his conduct in the performance of his official duties, or where the Legislator or a member of his immediate family stands to derive a personal private gain or loss from employment, because of legislative action, distinct from the gain or losses of other employees or the general community.

F. Where a Legislator or a member of his immediate family has an interest in legislation relating to a profession, trade, business or employment in which the Legislator or a member of his immediate family is engaged, where the benefit derived by the Legislator or a member of his immediate family is unique and distinct from that of the general public or persons engaged in similar professions, trades, businesses or employment.

2. Undue influence. It is presumed that a conflict of interest exists where there are circumstances which involve a substantial risk of undue influence by a Legislator, including but not limited to the following cases.

A. Appearing for, representing or assisting another in a matter before a state agency or authority, unless without compensation and for the benefit of a constituent, except for attorneys or other professional persons engaged in the conduct of their professions.

(1) Even in the excepted cases, an attorney or other professional person must refrain from references to his legislative capacity, from communications on legislative stationery and from threats or implications relating to legislative action.

B. Representing or assisting another in the sale of goods or services to the State, a state agency or authority, unless the transaction occurs after public notice and competitive bidding.

3. Abuse of office or position. It is presumed that a conflict of interest exists where a Legislator abuses his office or position, including but not limited to the following cases.

A. Where a Legislator or a member of his immediate family has a direct financial interest or an interest through a close economic association in a contract for goods or services with the State, a state agency or authority in a transaction not covered by public notice and competitive bidding or by uniform rates established by the State, a state agency, authority or other governmental entity or by a professional association or organization.

B. Granting or obtaining special privilege, exemption or preferential treatment to or for oneself or another, which privilege, exemption or treatment is not readily available to members of the general community or class to which the beneficiary belongs.

C. Use or disclosure of confidential information obtained because of office or position for the benefit of self or another.

§ 1015. Actions precluded; reports

1. Actions precluded. When a Member of the Legislature has a conflict of interest, he shall not vote on any question in connection with the conflict in committee or in either branch of the Legislature, and shall not attempt to influence the outcome of that question.

2. Reports. When the commission finds that a Legislator has voted or acted in conflict of interest, the commission shall report its findings in writing to the House of which the Legislator is a member.

§ 1016. Statement of sources of income

Each Member of the Senate and House of Representatives shall file a statement of sources of income for the preceding calendar year with the commission prior to the close of the 2nd week in February of each year. Sources of income need not be indicated by name, but shall be indicated by category or type of business entity or economic activity in such manner as shall be determined by the commission.

§ 1017. Form; contents

The statement of sources of income filed under this subchapter shall be on a form prescribed by the commission and shall be a matter of public record. The Legislator filing the statement shall reveal each source of income to him or any member of his immediate family exceeding a value of \$300 in the aggregate during the preceding year. Campaign contributions, duly recorded as required by law, shall not be considered income for the purposes of this statement. Income received in kind, including but not limited to the transfer of property, options to buy or lease and stock certificates, shall be reported by identifying both the source and the particular nature of the income.

The Legislator filing shall indicate those state agencies before which he has represented or assisted others for compensation during the preceding year. The Legislator filing shall also indicate those state agencies to which

he or any member of his immediate family has sold goods or services during the preceding year.

In addition to the foregoing requirements, attorneys-at-law shall indicate their major areas of practice and, if associated with a law firm, the major areas of practice of the firm, in such manner as the commission shall require.

§ 1018. Updating statement

A Legislator shall file an updating statement with the commission on a form prescribed by the commission within one month of any addition, deletion or change to the information relating to the preceding year supplied under this subchapter.

§ 1019. False statement; failure to file

The willful filing of a false statement shall be punishable by a fine of not more than \$1,000 or imprisonment for not more than 11 months. If the commission concludes that it appears that a Legislator has willfully filed a false statement, it shall refer its findings of fact to the Attorney General.

If the commission determines that a Legislator has willfully failed to file a statement required by this subchapter, the Legislator shall be presumed to have a conflict of interest on every question and shall be precluded or punished as provided in section 1015.

§ 1020. Penalty for false accusations

Any person who files a false and groundless charge of a conflict of interest with the commission or any member of the commission or whoever induces another to do so shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months, or by both.

§ 1021. Membership on boards, authorities or commissions

It shall not be a conflict of interest for a Legislator to serve on a public board, authority or commission created by the Legislature so long as there is no consideration paid to the Legislator other than his actual expenses.

Sec. 2. 3 MRSA c. 15, as amended, is repealed.

Sec. 3. 3 MRSA c. 19, as amended, is repealed.

Sec. 4. 21 MRSA § 925, sub-§ 1, last sentence, is amended to read:

If the challenged ballot affects the result of an election, its validity must be determined by the Governor and Council subject to the right of appeal provided in section 1212, except where final determination of the election of a candidate is governed by the State or Federal Constitution or under Title 1, chapter 25.

Sec. 5. 21 MRSA § 1094 is repealed.

Sec. 6. 21 MRSA § 1095, 1st ¶ is amended to read:

Within a reasonable time after an election, the Governor shall issue an election certificate in accordance with Title 5, section 84 or a notice of apparent election to each person elected to office according to the tabulation required by section 1092, or on appeal according to the determination of the Governor and Council or on the determination of the Commission on Governmental Ethics and Election Practices, as provided under chapter 36.

Sec. 7. 21 MRSA § 1153 is repealed and the following enacted in place thereof:

§ 1153. Appeals

On written application of a candidate, the Commission on Governmental Ethics and Election Practices shall hear an appeal, as provided under chapter 36.

Sec. 8. 21 MRSA § 1154, first sentence, as last amended by PL 1965, c. 425, § 14, is further amended to read:

Any resident of the municipality affected may inspect referendum ballots, have them recounted and appeal those disputed to the Governor and Council as provided in ~~section 1151 to 1153~~ section 1152, except statewide referendum shall be appealed to the Commission on Governmental Ethics and Election Practices as provided under chapter 36.

Sec. 9. 21 MRSA c. 35, as last amended by PL 1973, c. 756, is repealed and the following enacted in place thereof:

CHAPTER 35

CAMPAIGN REPORTS AND FINANCES

§ 1391. Purpose; legislative finding of fact; applicability

1. The Legislature finds and declares that it is in the best interests of the people of the State of Maine to place certain limits on expenditures by or on behalf of candidates for political office. The Legislature, while recognizing the right of the citizens of the State of Maine to support the political candidates of their choice and while recognizing the right of those candidates to present their views to the citizens, also is cognizant that abuses in the election process can occur through the expenditure of disproportionate sums of money to influence the minds of the voters and further recognizes that an attempt should be made to correct these abuses and to equalize presentations in order that citizens may have a more balanced view of the positions and platforms of political candidates. The Legislature further finds that the expenditure of large sums of money by any one individual or organization results in undue influence over the electoral process. The Legislature desires to minimize the effects of these problems and therefore the Legislature further finds that the imposition of certain expenditure limits, which it feels, after careful study, are properly limited to the end sought to be achieved, will not result in the abridgement of any constitutional freedoms of the citizens or candidates, such as freedom of speech, and will not interfere with the right of those persons to participate fully in the election process.

2. This chapter applies to candidates for all state and county and federal offices and to campaigns for their nomination and election.

3. As used in this chapter, the term "commission" means the Commission on Governmental Ethics and Campaign Practices established pursuant to Title I, section 1002.

§ 1392. Contributions and expenditures for direct initiative or referendum legislation

Notwithstanding any other provision of law, any person, corporation, public or private utility, association, governmental agency or political committee accepting or expending money, to initiate, promote or defeat the public referendum of direct initiative legislation within the meaning of the Constitution of Maine or the state-wide public referendum of any statute shall be required, starting on the effective date of this Act, to file a report detailing the source, amount and date of receipt of all contributions and expenditures made in connection with any such referendum thereafter at the end of each month during such activity to file a report similarly detailing all such contributions and expenditures for that month. The commission shall establish such forms as may be necessary for efficient reporting under this section, and in any event said reports must be signed and sworn to before a notary public by the person responsible for filing the report.

§ 1393. Treasurer required for each political committee

Each political committee must appoint a treasurer before accepting or spending any money.

§ 1394. Registration of treasurer

A candidate or political committee shall advise the commission of the name and address of its treasurer within 7 days after his appointment, the candidate or committee by which he was appointed, and his term of office.

§ 1395. Registration of officers

In addition to the registration of its treasurer, a political committee shall submit to the commission the names and addresses of all of its officers, whether or not said committee expends any money for the purposes set forth in section 1397.

§ 1396. Collection of money

Only a treasurer or a candidate may accept money to promote or defeat a candidate.

1. Limitation. This does not prohibit the receipt of contributions by a solicitor to be transferred to a treasurer, or the acceptance of money by a person who furnishes goods or services.

§ 1397. Disbursement of money

Only a treasurer or a candidate may spend money to promote or defeat a candidate.

1. **Limitation.** This does not prohibit contributions to a candidate, political committee or party by a person other than a treasurer or candidate, or the spending of his own money by any person, except as otherwise provided herein.

2. **Certain spending prohibited.** The spending of money for alcoholic beverages on election day is prohibited.

3. **Limitations on expenditures.** The following provisions shall govern expenditures by candidates for the offices of Governor, United States Senator, United States Representatives and candidates for other political offices.

A. Primary election. No candidate for the office of Governor, United States Senator, United States Representative or candidate for other political office in a primary election shall make or authorize expenditures on behalf of such candidacy in excess of 25¢ multiplied by the number of votes cast for all legally qualified candidates for such office in the last preceding general election for such office.

B. General election. No candidate for the office of Governor, United States Senator, United States Representative or candidate for other political office in a general election shall make or authorize expenditures on behalf of such candidacy in excess of 50¢ multiplied by the number of votes cast for all legally qualified candidates for such office in the last preceding general election for such office.

“Other political office” means all political offices other than Governor, United States Senator and United States Representative.

4. **Limitation on expenditures from personal funds.** No candidate may make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination or election to political office, whether in a primary election or general election in excess of:

A. \$35,000 in the case of a candidate for the office of Governor or United States Senator;

B. \$25,000 in the case of a candidate for United States Representative; or

C. \$5,000 in the case of candidates for political offices other than those mentioned in paragraphs A and B.

The totals mentioned in this subsection are cumulative with respect to the primary and general elections and are to be included in the totals allowable under subsection 3.

For the purposes of this subsection, “immediate family” means a candidate’s spouse, any child, parent, grandparent, brother or sister of the candidate and the spouse of such persons.

5. **Expenditures defined.** For the purposes of this subsection, “expenditures” means a purchase, payment, distribution, loan, advance, deposit, gift of money or the gift of or use of corporate facilities or personnel or property,

the gift of or use of anything of value, the transfer of funds, except for an arm's-length loan of money made by a national or state bank or credit union in accordance with applicable laws and except for the provision of services to a candidate rendered without compensation by individuals volunteering their time on behalf of a candidate or political committee. Expenditures shall further include, but not be limited to, all moneys or other valuable things expended for political advertising and mailings and funds dispensed by or on behalf of a candidate.

6. Expenditure in behalf of. Amounts spent on behalf of any candidate for political office, as specified in subsections 3 and 4, shall be deemed to have been spent by such candidate.

7. —by others. No person, association, corporation or combination thereof shall dispense funds on behalf of a candidate for public office without written approval of said candidate.

8. Against a candidate. No person, association, corporation or combination thereof shall dispense funds against a candidate for public office and thereby be indirectly supporting the candidacy of another without the written approval of the beneficiary thereof.

9. Filing. The written approval required by subsections 7 and 8 shall be filed with the commission within 48 hours of the time it is executed. It shall be the responsibility of the commission to turn over all data pertaining to alleged violations to the Attorney General for action.

10. Accept contributions; authorize expenditures. No candidate or political committee shall knowingly accept any contribution or authorize any expenditure in violation of this section.

11. Make or authorize expenditures. For the purposes of this section, "make or authorize expenditures on behalf of such candidacy" shall refer to expenditures made within 6 months immediately preceding the date of the election with reference to which the candidacy applies, whether primary or general.

12. Written political material. All written political material published and distributed as a flyer, handbill or other nonperiodical publication shall state thereon the name of the person or committee responsible for the publication or distribution of the material or the name of the print shop, printer or person printing, mimeographing or otherwise publishing the material.

13. Federal law controlling. In the event that any of the provisions of this section are in conflict with applicable federal statutes relating to expenditures by political candidates, the federal statute shall be controlling.

14. Penalty. Anyone violating this section shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months, or by both.

§ 1398. Records

Each treasurer and each candidate shall keep detailed records of all money received or spent and liability incurred by him in the campaign including

the name and address of each donor, the amount given, the name and address of each payee or creditor, the amount spent or liability incurred and the purpose.

§ 1399. Reports

Campaign reports must be filed with the commission by each candidate and by the treasurer of each candidate or political committee.

1. Exception. The treasurer of a municipal committee shall not file campaign reports with the commission but the amounts of money received and spent, and the liabilities incurred by his committee shall be filed with the treasurer of the county committee, who shall forward such reports with the county committee report to the commission.

2. Exception. The state committees of the major political parties and candidates for federal office and the treasurers of the political committees of such candidates shall file one copy of the completed report required of them by federal law with the commission on the same day as required by federal law. Candidates for Governor and the treasurers of their political committees shall file a report of the same form and content on the same dates as required of federal candidates by the federal law, except for the first campaign report, which shall be filed on or before April 10th of the election year and except for the final campaign report, which shall be filed not later than 45 days after the election.

3. When filed. A report must be filed with the commission within 45 days after any election showing the totals of the entire campaign. In addition, a report must be filed with the commission no later than 45 days prior to any election showing the totals of the campaign to that date. After filing the foregoing report, the disposition of any surplus or deficit shown on this report shall be reported to the commission every 3 months until such time as such surplus shall have been disposed of or such deficit shall have been liquidated.

4. State Auditor. The State Auditor shall serve as a staff agency to the commission in making investigations of any phase of the commission's work under this subchapter and shall have all necessary powers to carry out his responsibilities.

5. Content. The report must contain the itemized amounts of money received to date and the name and address of each donor. It must contain the itemized amounts of money spent and liability incurred to date, the purpose of each and the name of each payee and creditor.

A. Exceptions. The name and address of a donor of less than \$50 need not be included. Total contributions or total expenditures of less than \$100 need not be itemized.

§ 1400. Failure to file report on time

A person who fails to file a campaign report within the time required by this subchapter shall be assessed not more than \$5 for each day he is in default by the commission unless he is excused by the commission.

1. Disqualified. If the assessment is not paid at the order of the commission the person becomes disqualified and his name shall not be printed on an official ballot used at any election held during the same calendar year.

2. Appeal. A person aggrieved by an order of the commission may appeal to the Superior Court within 5 days after being notified of the decision, by presenting a written complaint. The court shall fix a time and place for immediate hearing. It shall order notice of the hearing to be given to the commission. Within 7 days after the hearing, the court shall affirm, modify or reverse the decision of the commission and its decision is final.

§ 1401. —meetings

The commission shall meet and review the campaign reports as follows:

1. Regular election. It shall meet in Augusta to review the final campaign reports for the regular primary or general election within 7 days after the filing date provided by section 1399.

2. Special election. It shall meet before or after a special election as necessary.

§ 1402. Investigations

The commission may investigate for the purpose of determining the facts concerning money received or spent, or liability incurred, by any treasurer, candidate or political committee. For this purpose, the commission may subpoena witnesses and records and take evidence under oath. A person who fails to obey the lawful subpoena of the commission or to testify before it under oath shall be punished by the Superior Court for contempt on application by the commission.

1. Investigation requested. Any person may make written application to the commission requesting an investigation, and stating his reasons for it. The commission shall review the application and shall make the investigation if the reasons stated, taken as true, show sufficient grounds for it.

2. Attorney General counsel. The Attorney General is counsel for the commission. He shall examine the witnesses before the commission.

3. Violations punished. The Attorney General shall prosecute any person who fails to account for any money received or spent, or liability incurred, as required by this chapter.

Sec. 10. 21 MRSA c. 36 is enacted to read:

CHAPTER 36

ELECTION PRACTICES — RECOUNT OF ELECTIONS

§ 1421. Jurisdiction

The commission shall have full and final jurisdiction consistent with the Federal and State Constitutions for the final determination of election results in elections for county, state or federal offices that are contested.

§ 1422. Appeal to commission

If, after the recount proceeding provided under this Title, there are challenged ballots which affect the result of an election to state or federal office, the validity of such ballots shall be determined by the commission. Either candidate for such office may appeal to the commission, in writing, not more than 5 days after completion of the recount proceedings. Such written appeal shall set forth in detail the grounds for the appeal.

§ 1423. Procedure

The following procedures shall apply:

1. Notice of hearing. On receipt of a written appeal, the commission shall notify the opposing candidate, and shall set a time, date and place for a hearing on the matter. Such hearing shall be held within 10 days after completion of the recount.

2. Review; findings. The commission shall conduct such review and hold such hearings as it shall deem necessary, including a review of the contested ballots. On completion of such review and hearings, the commission shall make findings of fact and an opinion on the final determination of the election.

3. Report. Where the Constitution of this State or of the United States Constitution provides for final determination of the election of a candidate, the commission shall transmit to the body vested with final determination powers a copy of the findings of fact and opinion. In all other cases, the commission shall issue a final ruling on the determination of the election of a candidate, certify such ruling to the Secretary of State for preparation and delivery to the Governor and Council, and to each candidate, and shall make available to the public its findings of fact and opinion.

4. Record. The commission shall keep a record of its proceedings under this subchapter which shall be available to the general public.

§ 1424. Questions of law

An appeal from a final determination of the commission may be taken to the Supreme Judicial Court on questions of law, if taken within 3 days of certification of the final result by the commission, as follows:

1. Appeal procedure. The appellant shall file the required number of copies of the record of the commission's review with the clerk of courts within 5 days after filing notice of appeal. Within 10 days after the appeal is taken, the parties shall file briefs with the clerk of courts. As soon as the record and briefs have been filed, the court shall consider the case forthwith. The court shall not recount the ballots, but shall determine the questions of law. The court shall hand down its decision as soon as reasonably possible and shall issue its decision and an order to the commission, requiring their review in compliance with the decision, if necessary. The court shall allow costs to the prevailing party as justice may require.

2. Commission's duties. The commission shall review its determination in conformity to the court's decision and orders, and if that determination is changed, shall certify the new determination in the manner provided under section 1423.

§ 1425. Referendum ballots

Any resident of the State affected by the results of a statewide referendum may make a written request for a recount in the same manner as a losing candidate. "Referendum" shall mean an election for the determination of any question or proposition submitted to the voters.

Sec. 11. 21 MRSA § 1578, sub-§ 9, is amended to read:

9. Registration of treasurer. The ~~Secretary of State~~ Commission on Governmental Ethics and Election Practices shall keep the registration of a treasurer under section 1393 in ~~his~~ its office for 2 years.

Sec. 12. 21 MRSA § 1578, sub-§ 11, as amended by PL 1971, c. 26 is further amended to read:

11. Campaign reports. The ~~Secretary of State~~ Commission on Governmental Ethics and Election Practices shall keep the campaign reports in ~~his~~ its office for 2 years or until the expiration of the term of office to which the candidate aspired or was elected, whichever is longer.

Sec. 13. Appropriation. There is appropriated from the General Fund to the Commission on Governmental Ethics and Election Practices for the biennium the sum of \$10,000. The breakdown shall be as follows:

	1975-76	1976-77
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES		
All Other	\$3,750	\$6,250