

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

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Legislative Document

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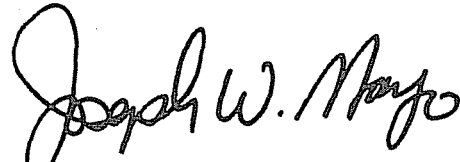
H.P. 1065

House of Representatives, May 4, 1993

**An Act to Provide for Public Finance in State Elections.**

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Reference to the Committee on Legal Affairs suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Speaker MARTIN of Eagle Lake.  
Cosponsored by Senator: DUTREMBLE of York.



2           (4) A person, including a corporation or association,  
4           who solicits funds from members or nonmembers and  
6           spends more than \$1,500 in a calendar year to initiate,  
          advance, promote, defeat or influence in any way a  
          candidate, campaign, political party, referendum or  
          initiated petition in this State; and

8           B. Does not include:

10           (1) A candidate or a candidate's treasurer under  
12           section 1013-A, subsection 1;

14           (2) A candidate's authorized political committee; or

16           (3) A party committee under section 1013-A, subsection  
          3.

18           §1072. Prohibition of political action committees

20           Political action committees are prohibited. A candidate may  
22           not accept contributions from a political action committee.

24           Sec. 5. 21-A MRSA c. 14 is enacted to read:

26                           CHAPTER 14

28                                   PUBLIC FINANCING OF STATE ELECTIONS

30           §1151. Definitions

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

34           1. Fund. "Fund" means the Election Campaign Fund.

36           2. Grant. "Grant" means a contribution from the fund.

38           3. Independent expenditure. "Independent expenditure"  
40           means an expenditure made by a person to advocate the election or  
42           defeat of a clearly identified candidate or to expressly urge a  
44           particular result in an election of a candidate, but not made to,  
          controlled by, coordinated with, requested by or made upon  
          consultation with a candidate, committee or agent of a candidate  
          or committee.

46           4. Qualifying contribution. The term "qualifying  
48           contribution" includes a contribution of \$250 or less that is:

50           A. Made directly to a candidate;

2 B. By a person eligible to vote in the district the  
candidate seeks to represent; and

4 C. Received on or after January 1st of an election year in  
which the recipient is a candidate for office or, if a  
6 special election, after the date the special election is  
called.

8  
10 "Qualifying contribution" does not include a loan, pledge or  
nonmonetary contribution.

12 **§1152. Election Campaign Fund**

14 There is established the Election Campaign Fund. Each  
individual filing an income tax return for any taxable year who  
16 has a tax liability or is entitled to a tax refund or other  
tax-related payment from the State may designate an amount to be  
18 deposited into the fund, as prescribed in Title 36, section 5286.

20 The Secretary of State shall provide to the Legislature no  
later than January 1st in an election year a written estimate of  
22 the amount necessary to fully fund all eligible candidates.

24 During a fiscal year in which an estimate is submitted by  
the Secretary of State, the Legislature shall appropriate from  
26 the General Fund an amount sufficient to fully fund all  
candidates eligible to receive a grant from the fund.

28 If insufficient funds are appropriated in the final budget  
30 to pay such sums, the Legislature, upon the request of the  
Secretary of State, shall appropriate sufficient money from the  
32 General Fund to make all payments authorized by this chapter.

34 **§1153. Application and withdrawal procedures**

36 The procedures for accepting, rejecting and withdrawing  
acceptance of state funding are as follows.

38  
40 1. Statement of intent. Each candidate for statewide or  
legislative office shall file a statement of intent to accept or  
42 to reject a grant from the fund. The statement must be filed no  
later than the deadline for filing nomination papers.

44 2. Affirmation of intent. A candidate who intends to  
accept a grant shall swear or affirm that the candidate and the  
46 candidate's authorized agents have complied with and will  
continue to comply with all applicable contribution and  
48 expenditure limits at all times to which the limits apply to the  
candidate's candidacy for the office in contest.

50

2 3. Primary and general elections. A candidate shall  
3 designate in the statement of acceptance whether the candidate  
4 will accept or reject a grant in either the primary or the  
5 general election. A candidate may designate both elections.

6 4. Rescission. A candidate may rescind the statement of  
7 acceptance:

8  
9  
10 A. For a primary election grant no later than 10 calendar  
11 days after the last date for filing nomination papers; or

12 B. For a general election grant no later than 10 calendar  
13 days after the primary election.

14 **§1154. Qualification procedures**

15  
16 The agency shall approve the payment of a primary or a  
17 general election grant or both a primary election grant and a  
18 general election grant if a candidate meets the following  
19 requirements.

20  
21  
22 1. Timeliness. The candidate must file a timely statement  
23 of acceptance.

24  
25  
26 2. Certification. The candidate must be certified by the  
27 Secretary of State to appear on the ballot for the election for  
28 which the grant is sought.

29  
30 3. Opposition. The candidate must be opposed by a  
31 candidate for the same office who has qualified to receive a  
32 grant or whose campaign finance reports indicate that the  
33 opposing candidate has received, expended or has cash on hand of  
34 at least 25% of the applicable expenditure limit.

35  
36 4. Financial reports. The financial reports filed by or on  
37 behalf of the candidate must indicate that the candidate has  
38 received qualifying contributions equal to 5% of the expenditure  
39 limits for candidates for the office of Governor, the state  
40 Senate and the state House of Representatives or for candidates  
41 at a special election.

42 **§1155. Contribution limits**

43  
44 1. Contributions by self or family. An eligible candidate  
45 filing a statement of acceptance may not receive contributions  
46 from the candidate's own funds or from those of the candidate's  
47 immediate family the aggregate value of which exceeds \$1,000.

48  
49  
50 2. Contributions by committees. An eligible candidate  
51 filing a statement of acceptance may receive contributions from a

2 candidate's authorized political committee and a party committee  
3 as defined in section 1013-A, subsection 3.

4 3. Primary and general election grants. An eligible  
5 candidate filing a statement of acceptance may receive a primary  
6 election grant, a general election grant or both a primary  
7 election grant and a general election grant equal to 75% of the  
8 applicable spending limits.

10 4. Voluntary reduction. An eligible candidate filing a  
11 statement of acceptance may voluntarily limit the amount of the  
12 grant received by designating a reduced grant amount in writing.  
13 For a primary election grant, the candidate must limit the amount  
14 no later than 10 calendar days after the deadline for filing  
15 nomination papers. For a general election grant, the candidate  
16 must limit the amount no later than 10 calendar days after the  
17 primary election.

18 5. Total public funding limit. The total public funding  
19 limit for financing campaigns in any one election cycle may not  
20 exceed \$5,000 for a candidate for the state House of  
21 Representatives, \$25,000 for a candidate for the state Senate or  
22 \$1,000,000 for a candidate for Governor.

24 §1156. Expenditure limits

26 1. Limits for candidates accepting grants. A candidate for  
27 office who files a statement of acceptance of a grant from the  
28 fund may not make a campaign expenditure or campaign  
29 expenditures, as defined in chapter 13, subchapter II, in excess  
30 of the following amounts:

31 A. For a candidate for Governor, \$500,000 in the primary  
32 election and \$1,000,000 in the general election;

33 B. For a candidate for the state Senate, \$10,000 in the  
34 primary election and \$30,000 in the general election; and

35 C. For a candidate for the state House of Representatives,  
36 \$2,000 in the primary election and \$5,500 in the general  
37 election.

38 2. Time of expenditures. Expenditures are classified as  
39 follows.

40 A. For purposes of the expenditure limits, a qualified  
41 campaign expenditure made before the last day of June of the  
42 general election year is a primary election expenditure.  
43

2           B. A qualified expenditure made from July 1st of the  
3           general election year through December 31st of the general  
4           election year is a general election expenditure.

5           C. If payments are made but the goods or services are not  
6           used during the period purchased, the payments are  
7           considered qualified campaign expenditures for the time  
8           period when they are used or during which benefit is derived  
9           from them. Payment for goods and services used in both time  
10           periods must be prorated.

11           3. Time of rejections. A candidate filing a rejection of a  
12           grant from the fund may file an affidavit agreeing to voluntarily  
13           comply with the applicable contribution and expenditure limits no  
14           later than 5 p.m. on April 1st of the election year in which it  
15           is to be used. An affidavit filed under this section is binding  
16           unless rescinded no later than 10 calendar days after the  
17           nomination paper filing deadline in the case of primary  
18           expenditure limits or no later than 10 calendar days after the  
19           primary election in the case of general election expenditure  
20           limits.

21           4. Accepting candidate opposed by nonaccepting candidate.  
22           If a candidate filing a statement of acceptance is opposed by a  
23           candidate who has declined to accept a grant and the opposing  
24           candidate does not voluntarily agree to limit the receipt of  
25           contributions and expenditures under subsection 3, or if an  
26           independent expenditure is made in an amount greater than \$1,000  
27           in support of or in opposition to a candidate for that office,  
28           the expenditure limits no longer apply to all candidates running  
29           for that office.

30           5. Independent expenditures. If an independent expenditure  
31           is made in an amount greater than \$1,000 in support of or in  
32           opposition to a candidate for an office, each candidate who has  
33           filed a statement of acceptance of a grant or an affidavit  
34           voluntarily agreeing to abide by spending and contribution limits  
35           is permitted to receive an additional amount equal to the  
36           independent expenditure not to exceed 1/2 of the expenditure  
37           limits for either the primary election or general election, as  
38           appropriate, notwithstanding the contribution limits otherwise  
39           applicable to the election.

40           6. Computation of expenditures. In computing applicable  
41           expenditure limits, a candidate or campaign treasurer may exclude  
42           the following items:

43           A. A contribution or contributions returned to the  
44           contributor;



2           B. A loan repayment;

4           C. An expense incurred as a direct result of a recount; or

6           D. A refund of a deposit paid.

8           §1157. Disbursement of funds

10           1. Review by Secretary of State. The Secretary of State  
12           shall review the statements of acceptance, nomination papers and  
14           financial reports of a candidate filing a statement of intent to  
16           accept a grant to determine the candidate's eligibility.

18           2. Certification. The Secretary of State shall certify  
20           whether a candidate is eligible to receive a primary election  
22           grant no later than 7 calendar days before the deadline for  
24           certifying the candidate for the primary election ballot. The  
26           Secretary of State shall certify whether a candidate is eligible  
28           to receive a general election grant no later than 7 calendar days  
30           after the certification of the primary election results.

32           A separate determination must be made for a primary and a general  
34           election grant.

36           The certification by the Secretary of State must indicate whether  
38           a candidate is eligible to receive a grant and the amount of  
40           grant the candidate is eligible to receive.

42           If a candidate who has filed a statement of intent to accept a  
44           grant is not eligible to receive a grant, the certification must  
46           state the reasons why the candidate is not eligible to receive a  
48           grant and what action, if any, the candidate may take to qualify  
50           for a grant.

The Secretary of State may certify a candidate who becomes  
          eligible after the deadline if the candidate qualifies after the  
          deadline but before the primary election or general election for  
          which the funds are sought.

The grant check must be included with the certification.

3. Review of Secretary of State's decision. A candidate  
          may review, after filing a written request no later than 7  
          calendar days after the date of certification, that candidate's  
          or another candidate's certification status as determined by the  
          Secretary of State.

4. Total grant amount. The amount of each grant may not  
          exceed the expenditure limits.

2 **§1158. Use of grant funds**

4 Candidates may use grant funds only as follows.

6 1. Deposits. All grants must be deposited in the candidate committee's campaign depository account.

8 2. Uses. Grant funds may be expended for the following purposes:

10 A. Purchase of services from a communications medium, including production costs;

12 B. Printing, photography, graphic arts or advertising;

14 C. Office supplies;

16 D. Postage and other commercial delivery services; and

18 E. Repayment of loans secured by a statement of intent to accept a grant pursuant to section 1162.

20 3. Restrictions. Grant funds may not be expended, directly or indirectly, for the following items or services:

22 A. Purchase of capital equipment;

24 B. Purchase of computer software; or

26 C. Items or services otherwise prohibited under this chapter or the laws of this State.

28 **§1159. Return of grant funds**

30 Grant funds disbursed under this section remain the property of the State until disbursed or encumbered for lawful campaign purposes.

32 1. Unspent and unencumbered funds. Grant funds that are unspent and unencumbered by a candidate on the day after the election in which the candidate participates revert to the State. A deposit or refund derived from grant funds that are received by a candidate after the day of the election in which the candidate participates reverts to the State. The candidate shall return all reversions to the Secretary of State, who shall deposit the money in the fund.

34 2. Return of funds. Return of grant funds after the withdrawal date under section 1153, subsection 4 does not remove applicable contribution and expenditure limits.

2     **§1160. Lawful use of grant funds**

4             A person may not expend, authorize the expenditure of or  
6             incur an obligation to expend a grant for a purpose other than to  
              advance the candidacy by lawful means of the specific candidate  
              or candidates who qualify for the grant.

8  
10            1. Grant returnable. A person may not expend, authorize  
              the expenditure of or incur an obligation to expend a grant after  
12            the date of an election when the grant is returnable to the State  
              under section 1159.

14            2. Violation of pledge. A candidate may not expend,  
              authorize the expenditure of or incur an obligation to expend a  
16            grant if the candidate violates the pledge required under section  
              1153, subsection 2.

18  
20            3. Falsify records. A person may not prepare or transmit  
              to a candidate or to the Secretary of State evidence that  
22            purports to demonstrate the amount or purpose for which a grant  
              has been used if the evidence specifies an amount or purpose for  
24            which a payment is received other than the true amount or purpose.

4. Penalty. A person who violates subsections 1 to 3  
26            commits a Class E crime.

28     **§1161. Proof of payment**

30            1. Proof of payment. The candidate or the candidate's  
              campaign treasurer shall deliver or transmit to the Secretary of  
32            State sufficient proof of payment or encumbering of all  
              disbursements made from grant funds no later than the due date  
34            for the next campaign finance report occurring at least 30 days  
              after the election in which the candidate received the grant.

36  
              2. Procedures and administrative rules. The Secretary of  
38            State shall determine what constitutes sufficient proof of  
              payment and shall adopt rules and prescribe forms necessary to  
40            implement this responsibility.

42            3. Audits. The Secretary of State shall conduct random  
              audits of the accounts and records of candidates filing  
44            statements of intent to accept a grant.

46     **§1162. Loans and grant funds**

48            1. Intent to accept grant as security. A candidate or a  
              candidate's treasurer may use the candidate's statement of intent  
50            to accept a grant as security for a loan made for campaign

2 purposes from an institution that ordinarily makes loans in the  
3 course of its business.

4 2. Repayment of loan. To the extent that proceeds of a  
5 loan obtained under subsection 1 are used for a purpose listed in  
6 section 1158, subsection 2, repayment of the loan may be made  
7 from grant funds.

8  
9 **Sec. 6. 30-A MRSA §2502, sub-§2, as amended by PL 1989, c.**  
10 **104, Pt. C, §§8 and 10, is repealed.**

11 **Sec. 7. 36 MRSA §§5125-A and 5286 are enacted to read:**

12 **§5125-A. Election Campaign Fund deduction**

13 A person entitled to a deduction under section 5124-A or  
14 5125 may also deduct any amount paid to the Campaign Financing  
15 Trust Fund pursuant to section 5286.

16 **§5286. Election Campaign Fund; checkoff**

17 1. Election Campaign Fund. Taxpayers who, when filing  
18 their returns, are entitled to refund under this Part may  
19 designate a portion of that refund, to be paid to the Election  
20 Campaign Fund established in Title 21-A, chapter 14. Each  
21 individual income tax form must contain a designation in  
22 substantially the same form: "Contributions to the Campaign  
23 Financing Trust Fund: ( ) \$1, ( ) \$5, ( ) \$10 or ( ) other \$.

24 2. Contributions credited to the Campaign Financing Trust  
25 Fund. The State Tax Assessor shall determine annually the total  
26 amount contributed pursuant to subsection 1. Before the  
27 beginning of the next year, the State Tax Assessor shall deduct  
28 the cost of administering the Campaign Financing Trust Fund  
29 checkoff, but not more than \$2,000 annually, and report the  
30 remainder to the Treasurer of State, who shall credit that amount  
31 to the Campaign Financing Trust Fund established in Title 21-A,  
32 chapter 14. Interest earned by contributions in the fund must be  
33 credited to the fund.

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44 **STATEMENT OF FACT**

45 This bill establishes the Election Campaign Fund as a system  
46 of public financing of election campaigns for candidates running  
47 for the office of Governor or for the state Senate or the state  
48 House of Representatives.

49 The bill also prohibits political action committees.