

MAINE STATE LEGISLATURE

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3 **LEGAL AND VETERANS AFFAIRS**

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5 **STATE OF MAINE**
6 **SENATE**
7 **124TH LEGISLATURE**
8 **SECOND REGULAR SESSION**9 COMMITTEE AMENDMENT "A" to S.P. 592, L.D. 1546, Bill, "An Act To
10 Improve Disclosure of Campaign Finance Information and the Operation of the Maine
11 Clean Election Act"

12 Amend the bill by striking out all of sections 1 to 4 and inserting the following:

13 **Sec. 1. 5 MRSA §19, sub-§1, ¶E**, as repealed and replaced by PL 1989, c. 561,
14 §13, is amended to read:15 E. "Gift" means anything of value, including forgiveness of an obligation or debt,
16 given to a person without that person providing equal or greater consideration to the
17 giver. "Gift" does not include:18 (1) Gifts received from a single source during the reporting period with an
19 aggregate value of \$300 or less;

20 (2) A bequest or other form of inheritance; and

21 (3) A gift received from a relative or from an individual on the basis of a
22 personal friendship as long as that individual is not a registered lobbyist or
23 lobbyist associate under Title 3, section 313, unless the employee has reason to
24 believe that the gift was provided because of the employee's official position and
25 not because of a personal friendship.26 **Sec. 2. 5 MRSA §19, sub-§2**, as amended by PL 2007, c. 704, §5, is further
27 amended to read:28 **2. Statement of sources of income.** Each executive employee shall annually file
29 with the Commission on Governmental Ethics and Election Practices a sworn-and
30 notarized statement of finances for the preceding calendar year. The statement must
31 indicate:32 A. If the executive employee is an employee of another person, firm, corporation,
33 association or organization, the name and address of the employer and each other
34 source of income of \$1,000 or more;

- 1 B. If the executive employee is self-employed, the name and address of the executive
2 employee's business and the name of each source of income derived from self-
3 employment that represents more than 10% of the employee's gross income or
4 \$1,000, whichever is greater, except that, if this form of disclosure is prohibited by
5 statute, rule or an established code of professional ethics, the employee shall specify
6 the principal type of economic activity from which the income is derived. With
7 respect to all other sources of income, a self-employed executive employee shall
8 name each source of income of \$1,000 or more. The employee shall also indicate
9 major areas of economic activity and, if associated with a partnership, firm,
10 professional association or similar business entity, the major areas of economic
11 activity of that entity;
- 12 C. The specific source of each gift received;
- 13 D. The type of economic activity representing each source of income of \$1,000 or
14 more that any member of the immediate family of the executive employee received
15 and the name of the spouse or domestic partner of the executive employee. The
16 disclosure must include the job title of the executive employee and immediate family
17 members if the source of income is derived from employment or compensation;
- 18 E. The name of each source of honoraria that the executive employee accepted;
- 19 F. Each executive branch agency before which the executive employee or any
20 immediate family member has represented or assisted others for compensation; and
- 21 G. Each executive branch agency to which the executive employee or the employee's
22 immediate family has sold goods or services with a value in excess of \$1,000.

23 In identifying the source of income, it is sufficient to identify the name and address and
24 principal type of economic activity of the corporation, professional association,
25 partnership, financial institution, nonprofit organization or other entity or person directly
26 providing the income to the individual.

27 With respect to income from a law practice, it is sufficient for attorneys-at-law to indicate
28 their major areas of practice and, if associated with a law firm, the major areas of practice
29 of the firm.

30 **Sec. 3. 5 MRSA §19, sub-§2-A,** as enacted by PL 2007, c. 704, §6, is amended to
31 read:

32 **2-A. Statement of interests.** Beginning in 2010, each executive employee shall
33 annually file with the Commission on Governmental Ethics and Election Practices a
34 sworn and notarized statement of those positions set forth in this subsection for the
35 preceding calendar year. The statement must include:

- 36 A. Any offices, trusteeships, directorships or positions of any nature, whether
37 compensated or uncompensated, held by the executive employee with any for-profit
38 or nonprofit firm, corporation, association, partnership or business; and
- 39 B. Any offices, trusteeships, directorships or positions of any nature, whether
40 compensated or uncompensated, held by a member of the immediate family of the
41 executive employee with any for-profit or nonprofit firm, corporation, association,

1 partnership or business and the name of that member of the executive employee's
2 immediate family.

3 **Sec. 4. 21-A MRSA §1003, sub-§1**, as amended by PL 2005, c. 301, §5, is
4 further amended to read:

5 **1. Investigations.** The commission may undertake audits and investigations to
6 determine the facts concerning the registration of a candidate, treasurer, political
7 committee or political action committee and contributions by or to and expenditures by a
8 person, candidate, treasurer, political committee or political action committee. For this
9 purpose, the commission may subpoena witnesses and records whether located within or
10 without the State and take evidence under oath. A person or political action committee
11 that fails to obey the lawful subpoena of the commission or to testify before it under oath
12 must be punished by the Superior Court for contempt upon application by the Attorney
13 General on behalf of the commission.

14 **Sec. 5. 21-A MRSA §1017, sub-§3-B**, as amended by PL 2009, c. 190, Pt. A, §6,
15 is further amended to read:

16 **3-B. Accelerated reporting schedule.** Additional reports are required from
17 nonparticipating candidates, as defined in section 1122, subsection 5, pursuant to this
18 subsection.

19 A. In addition to other reports required by law, any candidate for Governor, State
20 Senate or State House of Representatives who is not certified as a Maine Clean
21 Election Act candidate under chapter 14 and who receives, spends or obligates more
22 than the primary or general election distribution amounts for a Maine Clean Election
23 Act candidate in the same race shall file by any means acceptable to the commission,
24 within 48 hours of that event, a report with the commission detailing the candidate's
25 total campaign contributions, including any campaign balance from a previous
26 election, obligations and expenditures to date.

27 B. A nonparticipating candidate who is required to file a report under paragraph A
28 shall file no later than 5:00 p.m.:

29 (1) For legislative candidates in a primary election only, a report on the 42nd day
30 before the date on which a primary election is held that is complete as of the 44th
31 day before that date;

32 (2) For gubernatorial candidates only, a report on the 25th day before the date on
33 which an election is held that is complete as of the 27th day before that date;

34 (3) A report on the 18th day before the date on which an election is held that is
35 complete as of the 20th day before that date; and

36 (4) A report on the 6th day before the date on which an election is held that is
37 complete as of the 8th day before that date.

38 The reports must contain the candidate's total campaign contributions, including any
39 campaign balance from a previous election, obligations and expenditures as of the
40 end date of the reporting period.

1 The nonparticipating candidate shall file only those reports that are due after the date
2 on which the candidate filed the report required under paragraph A.

3 C. A candidate who is required to file a report under paragraph A must file with the
4 commission an updated report that reports single expenditures in the following
5 amounts that are made after the 14th day before an election and more than 24 hours
6 before 11:59 p.m. on the date of that election:

- 7 (1) For a candidate for Governor, a single expenditure of \$1,000;
8 (2) For a candidate for the state Senate, a single expenditure of \$750; and
9 (3) For a candidate for the state House of Representatives, a single expenditure
10 of \$500.

11 A report filed pursuant to this paragraph must be filed within 24 hours of the
12 expenditure.

13 The commission shall provide forms to facilitate compliance with this subsection. The
14 commission shall notify a candidate within 48 hours if an amount reported on any report
15 under paragraph B exceeds the primary or general election distribution amounts for a
16 Maine Clean Election Act candidate in the same race and no report has been received
17 under paragraph A. If all Maine Clean Election Act candidates in the same race have
18 received authorization to spend the maximum matching funds under section 1125, section
19 9, the commission may waive the reports required by this section.

20 **Sec. 6. 21-A MRSA §1019-B, sub-§3**, as enacted by PL 2003, c. 448, §3 and
21 amended by PL 2009, c. 366, §5 and affected by §12, is repealed and the following
22 enacted in its place:

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

28 A. A report required by this subsection must be filed with the commission according
29 to a reporting schedule that the commission shall establish by rule that takes into
30 consideration existing campaign finance reporting requirements and matching fund
31 provisions under chapter 14. Rules adopted pursuant to this paragraph are routine
32 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

33 B. A report required by this subsection must contain an itemized account of each
34 expenditure aggregating in excess of \$100 in any one candidate's election, the date
35 and purpose of each expenditure and the name of each payee or creditor. The report
36 must state whether the expenditure is in support of or in opposition to the candidate
37 and must include, under penalty of perjury, as provided in Title 17-A, section 451, a
38 statement under oath or affirmation whether the expenditure is made in cooperation,
39 consultation or concert with, or at the request or suggestion of, the candidate or an
40 authorized committee or agent of the candidate.

1 C. A report required by this subsection must be on a form prescribed and prepared by
2 the commission. A person filing this report may use additional pages if necessary,
3 but the pages must be the same size as the pages of the form.

4 This subsection is repealed August 1, 2011.

5 **Sec. 7. 21-A MRSA §1019-B, sub-§4** is enacted to read:

6 **4. Report required; content; rules.** A person, party committee, political committee
7 or political action committee that makes independent expenditures aggregating in excess
8 of \$100 during any one candidate's election shall file a report with the commission. In
9 the case of a municipal election in a town or city that has chosen to be governed by this
10 subchapter, a copy of the same information must be filed with the municipal clerk.

11 A. A report required by this subsection must be filed with the commission according
12 to a reporting schedule that the commission shall establish by rule that takes into
13 consideration existing campaign finance reporting requirements and matching fund
14 provisions under chapter 14. Rules adopted pursuant to this paragraph are routine
15 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

16 B. A report required by this subsection must contain an itemized account of each
17 expenditure aggregating in excess of \$100 in any one candidate's election, the date
18 and purpose of each expenditure and the name of each payee or creditor. The report
19 must state whether the expenditure is in support of or in opposition to the candidate
20 and must include, under penalty of perjury, as provided in Title 17-A, section 451, a
21 statement under oath or affirmation whether the expenditure is made in cooperation,
22 consultation or concert with, or at the request or suggestion of, the candidate or an
23 authorized committee or agent of the candidate.

24 C. A report required by this subsection must be on a form prescribed and prepared by
25 the commission. A person filing this report may use additional pages if necessary,
26 but the pages must be the same size as the pages of the form.

27 This subsection takes effect August 1, 2011.

28 **Sec. 8. 21-A MRSA §1056-B, first ¶,** as amended by PL 2009, c. 190, Pt. A, §20
29 and c. 366, §7 and affected by §12, is repealed and the following enacted in its place:

30 A person not defined as a political action committee who receives contributions or
31 makes expenditures, other than by contribution to a political action committee,
32 aggregating in excess of \$5,000 for the purpose of initiating, promoting, defeating or
33 influencing in any way a campaign as defined by section 1052, subsection 1, must file
34 reports with the commission in accordance with this section. For the purposes of this
35 section, "campaign" does not include activities to promote or defeat or in any way
36 influence the nomination or election of a candidate. Within 7 days of receiving
37 contributions or making expenditures that exceed \$5,000, the person shall register with
38 the commission as a ballot question committee. For the purposes of this section,
39 expenditures include paid staff time spent for the purpose of influencing in any way a
40 campaign. The commission must prescribe forms for the registration, and the forms must
41 include specification of a treasurer for the committee, any other principal officers and all
42 individuals who are the primary fund-raisers and decision makers for the committee.
43 Until July 31, 2011, in the case of a municipal election, the registration and reports must

1 be filed with the clerk of that municipality. Beginning August 1, 2011, in the case of a
2 municipal election, the registration and reports must be filed with the commission.

3 **Sec. 9. 21-A MRSA §1056-B, sub-§2**, as amended by PL 2009, c. 190, Pt. A,
4 §20, is further amended to read:

5 **2. Content.** A report must contain an itemized account of each expenditure made to
6 and contribution received from a single source aggregating in excess of \$100 in any
7 election; the date of each contribution; the date and purpose of each expenditure; the
8 name and address of each contributor, payee or creditor; and the occupation and principal
9 place of business, if any, for any person who has made contributions exceeding \$100 in
10 the aggregate. The filer is required to report only those contributions made to the filer for
11 the purpose of initiating, promoting, defeating or influencing in any way a ballot question
12 campaign and only those expenditures made for those purposes. The definitions of
13 "contribution" and "expenditure" in section 1052, subsections 3 and 4, respectively, apply
14 to persons required to file ballot question reports.

15 **Sec. 10. 21-A MRSA §1056-B, sub-§2-A, ¶A**, as enacted by PL 2007, c. 477,
16 §4, is amended to read:

17 A. Funds that the contributor specified were given in connection with a ballot
18 question campaign;

19 **Sec. 11. 21-A MRSA §1056-B, sub-§2-A, ¶B**, as enacted by PL 2007, c. 477,
20 §4, is amended to read:

21 B. Funds provided in response to a solicitation that would lead the contributor to
22 believe that the funds would be used specifically for the purpose of initiating,
23 promoting, defeating or influencing in any way a ballot question campaign;

24 **Sec. 12. 21-A MRSA §1056-B, sub-§2-A, ¶C**, as enacted by PL 2007, c. 477,
25 §4, is amended to read:

26 C. Funds that can reasonably be determined to have been provided by the contributor
27 for the purpose of initiating, promoting, defeating or influencing in any way a ballot
28 question campaign when viewed in the context of the contribution and the recipient's
29 activities regarding a ballot question campaign; and

30 **Sec. 13. 21-A MRSA §1056-B, sub-§4, ¶A**, as enacted by PL 2007, c. 477, §4,
31 is amended to read:

32 A. The filer shall keep a detailed account of all contributions made to the filer for the
33 purpose of initiating, promoting, defeating or influencing in any way a ballot question
34 campaign and all expenditures made for those purposes.

35 **Sec. 14. 21-A MRSA §1125, sub-§2-B**, as enacted by PL 2009, c. 363, §3, is
36 amended to read:

37 **2-B. Seed money required for gubernatorial candidates; documentation.** For
38 seed money contributions that a candidate for Governor collects to satisfy the requirement
39 in subsection 5, paragraph C-1, the candidate shall obtain the contributor's name,
40 residence address, mailing address, telephone number if provided by the contributor and

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3 other information required for reporting under section 1017, subsection 5. For these
4 contributions, the candidate shall submit to the commission during the qualifying period:

- 5 A. A contribution acknowledgment form as determined by the commission, to be
6 completed by each person that contributes seed money, that includes the name,
7 residence address, mailing address, optional telephone number and signature of the
8 person making the seed money contribution acknowledging that the contribution was
9 made with the person's personal funds and will not be reimbursed by any source;
- 10 B. A list of the seed money contributions in a format determined by the commission
11 that includes the name and mailing address of the contributor;
- 12 C. For seed money contributions received by check or money order, photocopies of
13 the check or money order; and
- 14 D. For seed money contributions received by debit or credit card, a bank or merchant
15 account statement that contains the cardholder's name and that otherwise meets the
requirements specified by the commission in order to verify compliance with
subsection 5, paragraph C-1.

16 The commission may permit the submission of an online or electronic acknowledgment
17 form as required by paragraph A for seed money contributions made via the Internet. The
18 telephone numbers, e-mail addresses and bank account and credit card information of
19 contributors that candidates have submitted to the commission pursuant to this subsection
20 are confidential, except that the commission may disclose this information in a final audit
21 or investigation report or determination if the information or record is materially relevant
22 to a finding of fact or violation.'

23 Amend the bill by inserting after section 6 the following:

24 'Sec. 7. 21-A MRSA §1125, sub-§13, as enacted by IB 1995, c. 1, §17 and
25 amended by PL 2009, c. 302, §22 and affected by §24, is repealed and the following
26 enacted in its place:

27 **13. Distributions not to exceed amount in fund.** The commission may not
28 distribute revenues to certified candidates in excess of the total amount of money
29 deposited in the fund as set forth in section 1124. Notwithstanding any other provisions
30 of this chapter, if the commission determines that the revenues in the fund are insufficient
31 to meet distributions under subsection 8 or 9, the commission may permit certified
32 candidates to accept and spend contributions, reduced by any seed money contributions,
33 aggregating no more than \$750 per donor per election for gubernatorial candidates and
34 \$350 per donor per election for State Senate and State House candidates, up to the
35 applicable amounts set forth in subsections 8 and 9 according to rules adopted by the
36 commission.

37 This subsection is repealed September 1, 2011.

38 Sec. 8. 21-A MRSA §1125, sub-§13-A is enacted to read:

39 **13-A. Distributions not to exceed amount in fund.** The commission may not
40 distribute revenues to certified candidates in excess of the total amount of money
41 deposited in the fund as set forth in section 1124. Notwithstanding any other provisions
42 of this chapter, if the commission determines that the revenues in the fund are insufficient

1 to meet distributions under subsection 8-A or 9, the commission may permit certified
2 candidates to accept and spend contributions, reduced by any seed money contributions,
3 aggregating no more than \$750 per donor per election for gubernatorial candidates and
4 \$350 per donor per election for State Senate and State House candidates, up to the
5 applicable amounts set forth in subsections 8-A and 9 according to rules adopted by the
6 commission.

7 This subsection takes effect September 1, 2011.'

8 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
9 section number to read consecutively.

10 **SUMMARY**

11 This amendment strikes the provisions in the bill that change the reporting thresholds
12 for political action committees, party committees and ballot question committees. The
13 amendment exempts certain personal gifts from disclosure in the statement of sources of
14 income that executive branch employees file with the Commission on Governmental
15 Ethics and Election Practices. The exemption is for gifts made to the employee on the
16 basis of personal friendship from sources other than lobbyists, as long as the employee
17 has no reason to believe that the gift was made because of the employee's official
18 position. The amendment also removes the requirement that the employee swear to the
19 statement before filing it with the commission.

20 The amendment permits the commission to subpoena records and testimony of
21 witnesses from sources outside the State. It also permits the commission to waive the
22 filing of trigger and accelerated campaign finance reports by traditionally financed
23 candidates whose Maine Clean Election Act opponents have received the maximum
24 amount of matching funds. For individuals or groups who are required to file
25 independent expenditure reports of expenditures made to influence candidate elections,
26 the amendment deletes the requirement to report contributions received.

27 Under the amendment, if the commission receives a document from a gubernatorial
28 candidate seeking Maine Clean Election Act funding that contains telephone numbers, e-
29 mail addresses or bank account or credit card information of the candidate's contributors,
30 the commission shall keep that information confidential, with limited exceptions. Also,
31 the amendment clarifies that, starting in the 2010 elections, if there is insufficient money
32 in the Maine Clean Election Fund, the commission may permit publicly funded
33 candidates to raise contributions in the same amounts as traditionally financed candidates.

34 The amendment clarifies what triggers reporting under the laws governing ballot
35 question committees by replacing language with a cross-reference to an existing
36 definition of "campaign."

37 The amendment also corrects conflicts in current law.