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ELECTIONS

**STATE OF MAINE**  
**COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES**



**MAINE CLEAN ELECTION ACT**  
**AND**  
**IMPLEMENTING REGULATIONS**

**NOVEMBER 1, 1998**

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(TITLE 21-A) LAW & LEGISLATIVE  
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CHAPTER 14 AUGUSTA, ME 04333  
THE MAINE CLEAN ELECTION ACT

**21A § 1121. Short title**

This chapter may be known and cited as the "Maine Clean Election Act."

**21A § 1122. Definitions**

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

**1. Certified candidate.** "Certified candidate" means a candidate running for Governor, State Senator or State Representative who chooses to participate in the Maine Clean Election Act and who is certified as a Maine Clean Election Act candidate under section 1125, subsection 5.

**2. Commission.** "Commission" means the Commission on Governmental Ethics and Election Practices established by Title 5, section 12004-G, subsection 33.

**3. Contribution.** "Contribution" has the same meaning as in section 1012, subsection 2.

**4. Fund.** "Fund" means the Maine Clean Election Fund established in section 1124.

**5. Nonparticipating candidate.** "Nonparticipating candidate" means a candidate running for Governor, State Senator or State Representative who does not choose to participate in the Maine Clean Election Act and who is not seeking to be certified as a Maine Clean Election Act candidate under section 1125, subsection 5.

**6. Participating candidate.** "Participating candidate" means a candidate who is running for Governor, State Senator or State Representative who is seeking to be certified as a Maine Clean Election Act candidate under section 1125, subsection 5.

**7. Qualifying contribution.** "Qualifying contribution" means a donation:

A. Of \$5 in the form of a check or a money order payable to the fund in support of a candidate;

B. Made by a registered voter within the electoral division for the office a candidate is seeking;

C. Made during the designated qualifying period and obtained with the knowledge and approval of the candidate; and

D. That is acknowledged by a written receipt that identifies the name and address of the donor on forms provided by the commission.

**8. Qualifying period.** "Qualifying period" means the following.

A. For a gubernatorial participating candidate, the qualifying period begins November 1st immediately preceding the election year and ends at 5:00 p.m. on March 16th of the election year unless the candidate is unenrolled, in which case the period ends at 5:00 p.m. on June 2nd of the election year.

B. For State Senate or State House of Representatives participating candidates, the qualifying period begins January 1st of the election year and ends at 5:00 p.m. on March 16th of that election year unless the candidate is unenrolled, in which case the period ends at 5:00 p.m. on June 2nd of the election year.

**9. Seed money contribution.** "Seed money contribution" means a contribution of no more than \$100 per individual made to a candidate, including a contribution from the candidate or the candidate's family. To be eligible for certification, a candidate may collect and spend only seed money contributions subsequent to becoming a candidate as defined by section 1, subsection 5 and throughout the qualifying period. A candidate may not collect or spend seed money contributions after certification as a Maine Clean Election Act candidate. The primary purpose of a seed money contribution is to enable a participating candidate to collect qualifying contributions. A seed money contribution must be reported according to procedures developed by the commission.

#### **21A §1123. Alternative campaign financing option**

This chapter establishes an alternative campaign financing option available to candidates running for Governor, State Senator and State Representative. This alternative campaign financing option is available to candidates for elections to be held beginning in the year 2000. The commission shall administer this Act and the fund. Candidates participating in the Maine Clean Election Act must also comply with all other applicable election and campaign laws and regulations.

**21A § 1124. The Maine Clean Election Fund established; sources of funding**

**1. Established.** The Maine Clean Election Fund is established to finance the election campaigns of certified Maine Clean Election Act candidates running for Governor, State Senator and State Representative and to pay administrative and enforcement costs of the commission related to this Act. The fund is a special, dedicated, nonlapsing fund and any interest generated by the fund is credited to the fund. The commission shall administer the fund.

**2. Sources of funding.** The following must be deposited in the fund:

A. The qualifying contributions required under section 1125 when those contributions are submitted to the commission;

B. Two million dollars of the revenues from the taxes imposed under Title 36, Parts 3 and 8 and credited to the General Fund, transferred to the fund by the Treasurer of State on or before January 1st of each year, beginning January 1, 1999. These revenues must be offset in an equitable manner by an equivalent reduction within the administrative divisions of the legislative branch and executive branch agencies. This section may not affect the funds distributed to the Local Government Fund under Title 30-A, section 5681;

C. Revenue from a tax checkoff program allowing a resident of the State who files a tax return with the State Tax Assessor to designate that \$3 be paid into the fund. If a husband and wife file a joint return, each spouse may designate that \$3 be paid. The amounts designated for the fund must be appropriated from the General Fund and credited to the fund;

D. Seed money contributions remaining unspent after a candidate has been certified as a Maine Clean Election Act candidate;

E. Fund revenues that were distributed to a Maine Clean Election Act candidate and that remain unspent after the candidate has lost a primary election or after all general elections;

F. Other unspent fund revenues distributed to any Maine Clean Election Act candidate who does not remain a candidate throughout a primary or general election cycle;

G. Voluntary donations made directly to the fund; and

H. Fines collected under section 1020-A, subsection 4 and section 1127.

**3. Determination of fund amount.** By September 1st preceding each election year, the commission shall publish an estimate of revenue in the fund available for distribution to certified candidates during the upcoming year's elections.

**21A § 1125. Terms of participation**

**1. Declaration of intent.** A participating candidate must file a declaration of intent to seek certification as a Maine Clean Election Act candidate and to comply with the requirements of this chapter. The declaration of intent must be filed with the commission prior to or during the qualifying period, except as provided in subsection 11, according to forms and procedures developed by the commission. A participating candidate must submit a declaration of intent prior to collecting qualifying contributions under this chapter.

**2. Restrictions on contributions for participating candidates.** Subsequent to becoming a candidate as defined by section 1, subsection 5 and prior to certification, a participating candidate may not accept contributions, except for seed money contributions. A participating candidate must limit the candidate's seed money contributions to the following amounts:

- A. Fifty thousand dollars for a gubernatorial candidate;
- B. One thousand five hundred dollars for a candidate for the State Senate; or
- C. Five hundred dollars for a candidate for the State House of Representatives.

The commission may, by rule, revise these amounts to ensure the effective implementation of this chapter.

**3. Qualifying contributions.** Participating candidates must obtain qualifying contributions during the qualifying period as follows:

- A. For a gubernatorial candidate, at least 2,500 verified registered voters of this State must support the candidacy by providing a qualifying contribution to that candidate;
- B. For a candidate for the State Senate, at least 150 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate; or
- C. For a candidate for the State House of Representatives, at least 50 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate.

A payment, gift or anything of value may not be given in exchange for a qualifying contribution.

**4. Filing with commission.** A participating candidate must submit qualifying contributions to the commission during the qualifying period according to procedures developed by the commission, except as provided under subsection 11.

**5. Certification of Maine Clean Election Act candidates.** Upon receipt of a final submittal of qualifying contributions by a participating candidate, the commission shall determine whether or not the candidate has:

- A. Signed and filed a declaration of intent to participate in this Act;
- B. Submitted the appropriate number of valid qualifying contributions;
- C. Qualified as a candidate by petition or other means;
- D. Not accepted contributions, except for seed money contributions, and otherwise complied with seed money restrictions; and
- E. Otherwise met the requirements for participation in this Act.

The commission shall certify a candidate complying with the requirements of this section as a Maine Clean Election Act candidate as soon as possible and no later than 3 days after final submittal of qualifying contributions.

Upon certification, a candidate must transfer to the fund any unspent seed money contributions. A certified candidate must comply with all requirements of this Act after certification and throughout the primary and general election periods. Failure to do so is a violation of this chapter.

**6. Restrictions on contributions and expenditures for certified candidates.** After certification, a candidate must limit the candidate's campaign expenditures and obligations, including outstanding obligations, to the revenues distributed to the candidate from the fund and may not accept any contributions unless specifically authorized by the commission. All revenues distributed to certified candidates from the fund must be used for campaign-related purposes. The commission shall publish guidelines outlining permissible campaign-related expenditures.

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

A. Within 3 days after certification, for candidates certified prior to March 16th of the election year, revenues from the fund must be distributed as if the candidates are in an uncontested primary election.

B. Within 3 days after March 16th of the election year, for primary election certified candidates, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested primary election, reduced by any amounts previously distributed under paragraph A.

C. Within 3 days after the primary election, for general election certified candidates, revenues from the fund must be distributed according to whether the candidate is in a contested general election. Funds may not be distributed for uncontested general elections.

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

**8. Amount of fund distribution.** By July 1, 1999 of the effective date of this Act, and at least every 4 years after that date, the commission shall determine the amount of funds to be distributed to participating candidates based on the type of election and office as follows.

A. For contested primary elections, the amount of revenues to be distributed is the average amount of campaign expenditures made by each candidate during all contested primary election races for the immediately preceding 2 primary elections as reported in the initial filing period subsequent to the primary election for the respective offices of Governor, State Senate and State House of Representatives.

B. For uncontested primary elections, the amount of revenues distributed is the average amount of campaign expenditures made by each candidate during all uncontested primary election races, or for contested races if that amount is lower, for the immediately preceding 2 primary elections as reported in the initial filing period subsequent to the primary election for the respective offices of Governor, State Senate and State House of Representatives.

C. For contested general elections, the amount of revenues distributed is the average amount of campaign expenditures made by each candidate during all contested general election races for the immediately preceding 2 general elections as reported in the initial filing period subsequent to the general election for the respective offices of Governor, State Senate and State House of Representatives.



D. Revenues may not be distributed for uncontested general elections.

If the immediately preceding two election cycles do not contain sufficient electoral data, the commission shall use information from the most recent applicable elections. For only the initial computations under subsections A to C that are conducted by July 1, 1999, the commission shall reduce the amounts to be distributed by 25%.

**9. Matching funds.** When any campaign, finance or election report shows that the sum of a candidate's expenditures or obligations, or funds raised or borrowed, whichever is greater, alone or in conjunction with independent expenditures reported under section 1019, exceeds the distribution amount under subsection 8, the commission shall issue immediately to any opposing Maine Clean Election Act candidate an additional amount equivalent to the reported excess. Matching funds are limited to 2 times the amount originally distributed under subsection 8, paragraph A or C, whichever is applicable.

**10. Candidate not enrolled in a party.** An unenrolled candidate certified by March 16th preceding the primary election is eligible for revenues from the fund in the same amounts and at the same time as an uncontested primary election candidate and a general election candidate as specified in subsections 7 and 8. For an unenrolled candidate not certified by March 16th at 5:00 p.m. the deadline for filing qualifying contributions is 5:00 p.m. on June 2nd preceding the general election. An unenrolled candidate certified after March 16th at 5:00 p.m. is eligible for revenues from the fund in the same amounts as a general election candidate, as specified in subsections 7 and 8.

**11. Other procedures.** The commission shall establish by rule procedures for qualification, certification, disbursement of fund revenues and return of unspent fund revenues for races involving special elections, recounts, vacancies, withdrawals or replacement candidates.

**12. Reporting; unspent revenue.** Notwithstanding any other provision of law, participating and certified candidates shall report any money collected, all campaign expenditures, obligations and related activities to the commission according to procedures developed by the commission. Upon the filing of a final report for any primary election in which the candidate was defeated and for all general elections that candidate shall return all unspent fund revenues to the commission. In developing these procedures, the commission shall utilize existing campaign reporting procedures whenever practicable. The commission shall ensure timely public access to campaign finance data and may utilize electronic means of reporting and storing information.

**13. Distributions not to exceed amount in fund.** The commission may not distribute revenues to certified candidates in excess of the total amount of money deposited in the fund as set forth in section 1124. Notwithstanding any other provisions of this chapter, if the commission determines that the revenues in the fund are insufficient to meet distributions under subsections 8 or 9, the commission may

permit certified candidates to accept and spend contributions, reduced by any seed money contributions, aggregating no more than \$500 per donor per election for gubernatorial candidates and \$250 per donor per election for State Senate and State House candidates, up to the applicable amounts set forth in subsections 8 and 9 according to rules adopted by the commission.

**14. Appeals.** A candidate who has been denied certification as a Maine Clean Election Act candidate or the opponent of a candidate who has been granted certification as a Maine Clean Election Act candidate may challenge a certification decision by the commission as follows.

A. A challenger may appeal to the full commission within 3 days of the certification decision. The appeal must be in writing and must set forth the reasons for the appeal.

B. Within 5 days after an appeal is properly made and after notice is given to the challenger and any opponent, the commission shall hold a hearing. The appellant has the burden of providing evidence to demonstrate that the commission decision was improper. The commission must rule on the appeal within 3 days after the completion of the hearing.

C. A challenger may appeal the decision of the commission in paragraph B by commencing an action in Superior Court according to the procedure set forth in section 356, subsection 2, paragraphs D and E.

D. A candidate whose certification by the commission as a Maine Clean Election Act candidate is revoked on appeal must return to the commission any unspent revenues distributed from the fund. If the commission or court find that an appeal was made frivolously or to cause delay or hardship, the commission or court may require the moving party to pay costs of the commission, court and opposing parties, if any.

#### **21A § 1126. Commission to adopt rules**

The commission shall adopt rules to ensure effective administration of this chapter. These rules must include but must not be limited to procedures for obtaining qualifying contributions, certification as a Maine Clean Election Act candidate, circumstances involving special elections, vacancies, recounts, withdrawals or replacements, collection of revenues for the fund, distribution of fund revenue to certified candidates, return of unspent fund disbursements and compliance with the Maine Clean Election Act.

## **21A § 1127. Violations**

**1. Civil penalty.** In addition to any other penalties that may be applicable, a person who violates any provision of this chapter is subject to a civil penalty not to exceed \$10,000 per violation payable to the fund. This penalty is recoverable in a civil action. In addition to any fine, for good cause shown, a candidate found in violation of this chapter may be required to return to the fund all amounts distributed to the candidate from the fund. If the commission makes a determination that a violation of this chapter has occurred, the commission shall assess a fine or transmit the finding to the Attorney General for prosecution. Fines paid under this section must be deposited in the fund. In determining whether or not a candidate is in violation of the expenditure limits of this chapter, the commission may consider as a mitigating factor any circumstances out of the candidate's control.

**2. Class E crime.** A person who willfully or knowingly violates this chapter or rules of the commission or who willfully or knowingly makes a false statement in any report required by this chapter commits a Class E crime and, if certified as a Maine Clean Election Act candidate, must return to the fund all amounts distributed to the candidate.

## **21A § 1128. Study report**

By January 30, 2002 and every four years after that date, the commission shall prepare for the joint standing committee of the Legislature having jurisdiction over legal affairs a report documenting, evaluating and making recommendations relating to the administration, implementation and enforcement of the Maine Clean Election Act and Maine Clean Election Fund.

**Transition clause.** The revised Commission on Governmental Ethics and Election Practices is the successor in interest to the existing Commission on Governmental Ethics and Election Practices. The members of the existing commission shall serve until appointment and confirmation of members to the revised commission. Members of the revised commission must be appointed and confirmed by June 15, 1997.



## 94-270 COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

## Chapter 3: MAINE CLEAN ELECTION ACT AND RELATED PROVISIONS

## SECTION 1. DEFINITIONS

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

1. Act. "Act" means the Maine Clean Election Act, Title 21-A, chapter 14.
2. Campaign Deficit. "Campaign deficit" means debts, liabilities, and unmet financial obligations from all previous campaigns as reported to the Commission on campaign termination report forms required by Title 21-A, chapter 13, subchapter II [§ 1017(9)].
3. Campaign Surplus. "Campaign surplus" means money, equipment, property and other items of value remaining after retiring previous campaign deficit as reported to the Commission on campaign termination report forms required by Title 21-A, chapter 13, subchapter II [§ 1017(9)].
4. Candidate. "Candidate" has the same meaning as in Title 21-A, chapter 1, subchapter I [§ 1(5)].

INFORMATIONAL NOTE: All contributions made after the day of the general election to a candidate who has liquidated all debts and liabilities associated with that election are deemed to be made in support of the candidate's candidacy for a subsequent election. Commission Rules, chapter 1, subdivision 3.2.A(5)(e). A candidate who collects funds subsequent to an election for purposes other than retiring campaign debt is required to register with the Commission. Title 21- A, chapter 13, subchapter II [§ 1013-A].

5. Certified Candidate. "Certified candidate" has the same meaning as in the Act [§ 1122(1)].
6. Commission. "Commission" means the Commission on Governmental Ethics and Election Practices established by Title 5, section 12004-G, subsection 33, and 1 M.R.S.A. section 1001 et seq.
7. Contribution. "Contribution" has the same meaning as in Title 21-A, chapter 13, subchapter II [§ 1012.2].
8. Election. "Election" means any primary, general or special election for Governor, State Senator or State Representative.

9. Expenditure. "Expenditure" has the same meaning as in Title 21-A, chapter 13, subchapter II [§ 1012(3)].
10. Fund. "Fund" means the Maine Clean Election Fund established by the Act [§ 1124].
11. Nonparticipating Candidate. "Nonparticipating candidate" has the same meaning as in the Act [§ 1122(5)].
12. Participating Candidate. "Participating candidate" has the same meaning as in the Act [§ 1122(6)].
13. Qualifying Contribution. "Qualifying Contribution" has the same meaning as in the Act [§ 1122(7)].
14. Qualifying Period. "Qualifying period" has the same meaning as in the Act, except that for special elections, vacancies, withdrawals, deaths, disqualifications or replacements of candidates, the qualifying period shall be the period designated in section 8 of this chapter [§ 1122(8)].
15. Seed Money Contribution. "Seed money contribution" has the same meaning as in the Act [§ 1122(9)].

## SECTION 2. APPLICABILITY

This chapter applies to candidates running for Governor, State Senator and State Representative who choose the alternative campaign financing option established by the Maine Clean Election Act for elections to be held beginning in the year 2000. Candidates participating in the Maine Clean Election Act must comply with these rules and all other applicable election and campaign laws and regulations.

## SECTION 3. PROCEDURES FOR PARTICIPATION

1. Declaration of Intent. A participating candidate must file a Declaration of Intent before collecting qualifying contributions. The Commission will prepare and provide a form for this purpose.
2. Content. The Declaration of Intent must be sworn and notarized and must include the following information:
  - A. an affirmation that the candidate is seeking certification as a Maine Clean Election Act candidate;

- B. an affirmation that the candidate has not collected any qualifying contributions before signing the Declaration of Intent;
  - C. an affirmation that the candidate has not accepted any contributions, except for seed money contributions, after becoming a candidate;
  - D. an affirmation that the candidate has disposed of any campaign surplus before becoming a candidate for the new election, as required by paragraph 3.C [Campaign Surplus] of this section;
  - E. an affirmation that if the candidate has any campaign deficit, that the candidate will not accept contributions to repay that deficit as a participating candidate or certified candidate, except that the candidate may forgive any campaign loans to himself or herself made during any previous campaigns;
  - F. an affirmation that the candidate will continue to comply with applicable seed money restrictions and other requirements of the Act including, but not limited to, procedures for collecting qualifying contributions;
  - G. information identifying the candidate's treasurer, political committee, campaign finance account, social security number, and/or federal tax identification number; and
  - H. authorization by the candidate for the Commission, its agents or representatives to conduct financial audits of the candidate's campaign financial records and account(s).
3. Seed Money Restrictions.
- A. General. After becoming a candidate and before certification, a participating candidate may collect and spend only seed money contributions.
  - B. Total Amount.
    - (1) A participating candidate must limit the candidate's total seed money contributions to the following amounts:
      - (a) fifty thousand dollars for a gubernatorial candidate;
      - (b) one thousand five hundred dollars for a candidate for the State Senate; or

- (c) five hundred dollars for a candidate for the State House of Representatives.
  - (2) Notwithstanding any other provision of this chapter, a candidate may carry forward to a new candidacy of that candidate campaign equipment or property, subject to the reporting requirements of Title 21-A, chapter 13 [Campaign Reports and Finances].
  - (3) The Commission periodically will review these limitations and, through rulemaking, revise these amounts to ensure effective implementation of the Act.
- C. Campaign surplus. A candidate who has carried forward campaign surplus according to Title 21-A, chapter 13, subchapter II [§ 1017(8) and §1017(9)], and who intends to become a participating candidate, must dispose of campaign surplus in accordance with the requirements of Title 21-A, chapter 13, subchapter II [§ 1017(8)]; provided, however, that a candidate may carry forward only those portions of campaign surplus that comply with the provisions of this Act regarding seed money contributions [§ 1122(9) and 1125(2)]. Any campaign surplus (excluding campaign equipment or property) carried forward under this provision will be counted toward that candidate's total seed money limit.
 

INFORMATIONAL NOTE: The Commission will provide educational materials to all former candidates who have a campaign surplus describing the requirement that individuals must dispose of campaign surplus to remain eligible for participation as a Maine Clean Election Act candidate.
- D. Return of Contributions Not in Compliance with Seed Money Restrictions. A participating candidate who receives a contribution exceeding the seed money per donor restriction or the total amount restriction must immediately return the contribution and may not cash, deposit, or otherwise use the contribution.
- E. Case-by-Case Exception. A participating candidate who has accepted contributions that do not comply with seed money restrictions may petition the Commission to remain eligible for certification as a Maine Clean Election Act candidate. The Commission may approve the petition and restore a candidate's eligibility for certification if the candidate successfully establishes all of the following criteria:



- (1) the failure to comply was the result of an unintentional administrative or accounting error;
- (2) the candidate immediately returned all contributions that did not comply with seed money restrictions;
- (3) the candidate petitioned the Commission promptly upon becoming aware of the unintentional administrative or accounting error; and
- (4) the failure to comply did not involve expenditures by the participating candidate in excess of seed money total amount restrictions or otherwise constitute systematic or significant infractions of seed money restrictions.

F. Other. A seed money contributor may also make a qualifying contribution to the same participating candidate provided that the contributor otherwise meets the requirements for making a qualifying contribution.

#### 4. Qualifying Contributions.

- A. General. A participating candidate may collect qualifying contributions only during the relevant qualifying period and only after filing a Declaration of Intent with the Commission. Qualifying contributions must be acknowledged using forms prepared and provided by the Commission. The forms will include an affirmation by the contributor that the contributor received nothing of value in exchange for the signature and contribution.
- B. Required Number of Qualifying Contributions. A participating candidate must obtain the number of qualifying contributions during the qualifying period as required by the Act [§ 1122(7); § 1122(8); § 1125(3)].
- C. Exchanges For Qualifying Contributions Prohibited.
  - (1) A participating candidate or an agent of that candidate may not give or offer to give a payment, gift, or anything of value in exchange for a qualifying contribution.
  - (2) This provision does not prohibit a participating candidate or that candidate's agent from collecting qualifying contributions at events where food or beverages are served, or where campaign promotional materials are distributed, provided that the food, beverage, and campaign materials

are offered to all persons attending the event regardless of whether or not particular persons make a qualifying contribution to the participating candidate.

- D. Verification of Registered Voters.
- (1) Before submitting qualifying contributions to the Commission, a participating candidate must establish that contributors who made qualifying contributions to that candidate are registered voters.
  - (2) A participating candidate must obtain written verification from the Registrar of the number of persons providing qualifying contributions who are registered voters within the electoral division for the office the candidate is seeking.
  - (3) Upon request of a participating candidate, and within 10 business days after the date of the request, the Registrar must verify the names of contributors of qualifying contributions who are registered voters within the electoral division for the office the candidate is seeking.
- E. Timing of Verification. For purposes of this chapter, the Commission will deem verification of registered voters by the Registrar at any time during the qualifying period to be an accurate verification of voter registration even if the registration status of a particular voter may have changed at the time the Commission determines certification of the participating candidate.
- F. Submission of Verified Qualifying Contributions. A participating candidate may submit a completed request for certification to the Commission at any time during the qualifying period. The request will be deemed complete only if it is accompanied by a list of contributors of qualifying contributions that has been verified by the Registrar of the electoral division for the office the candidate is seeking or by a statement of the candidate that such a list of contributors has been submitted to the Registrar for verification and the verified list will be received by the Commission within 10 business days thereafter.

#### SECTION 4. CERTIFICATION OF PARTICIPATING CANDIDATES

1. Request for Certification.
  - A. After final submission of qualifying contributions, but not later than 5:00 p.m. on the last day of the relevant qualifying period, a

participating candidate may request certification as a Maine Clean Election Act candidate on forms prepared and provided by the Commission.

- B. The request for certification must contain the candidate's affirmation that the candidate will comply with all requirements of the Act and the Commission's rules, and the candidate's acknowledgment that, as long as that person remains a candidate, he or she may not discontinue participation under the Maine Clean Election Act alternative campaign financing option without violating the Act [§ 1127] and becoming obligated to return all amounts distributed to the candidate from the Fund.
  - C. All participating candidates must submit qualifying contributions in alphabetical order to the Commission along with qualifying contribution forms and an alphabetical list of contributors of qualifying contributions when applying for certification as a Maine Clean Election Act candidate.
  - D. The Commission will review candidate applications for certification in the order in which they are received.
2. Reporting. Together with the request for certification, a participating candidate must report all seed money contributions received, any other contributions received, and expenditures and obligations made after becoming a candidate.
  3. Unspent Seed Money. Together with the request for certification, a participating candidate must report any unspent seed money. In order to distribute funds expeditiously, the Commission will deduct from the initial distribution from the Fund to a certified candidate an amount equal to the amount of unspent seed money reported by that candidate.
  4. Certification. The Commission will certify a candidate as a Maine Clean Election Act candidate upon the participating candidate's satisfaction of the requirements of the Act [§ 1125] and this chapter.
  5. Appeals. Any appeals challenging a certification decision by the Commission must be in accordance with the Act [§ 1125(14)].
  6. Limitations on Campaign Expenses. A certified candidate must:
    - A. limit the candidate's campaign expenditures and obligations to the applicable Clean Election Act Fund distribution amounts plus any authorized Matching Fund allocations;

- B. not accept any contributions unless specifically authorized in writing to do so by the Commission in accordance with the Act [§ 1125(2) and § 1125(13)];
- C. use revenues distributed from the Fund only for campaign-related purposes according to guidelines outlining permissible campaign-related expenditures published by the Commission; and
- D. not use revenues distributed from the Fund for personal use.

## SECTION 5. FUND ADMINISTRATION

1. **Coordination with State Agencies.** The Commission will coordinate with the Bureau of Accounts and Control and other relevant State agencies to ensure the use of timely and accurate information regarding the status of the Fund.
2. **Publication of Fund Revenue Estimates.** By September 1st preceding each election year, the Commission will publish an estimate of revenue in the Fund available for distribution to certified candidates during the upcoming year's election. The Commission will update the estimate of available revenue in the Fund after March 16th of an election year and again within 30 days after the primary election in an election year.
3. **Computation of Disbursement Amounts.** By July 1, 1999, and at least every 4 years after that date, the Commission will determine the amount of revenue to be distributed to certified candidates based on the type of election and office in accordance with the Act [§ 1125(8)].
4. **Distributions Not to Exceed Amount in Fund.** If the Commission determines that the revenues in the Fund are insufficient to meet distributions under this chapter, the Commission will permit certified candidates to accept and spend contributions in accordance with the Act [§ 1125(13)]. The Commission will notify participating and certified candidates in writing of any projected shortfall in the Fund and will specify timelines and procedures for compliance with this chapter in the event of any such shortfall.

## SECTION 6. DISTRIBUTION OF FUNDS TO CERTIFIED CANDIDATES

1. **Fund Distribution.**
  - A. **Establishment of Account.** Upon the certification of a participating candidate, the Commission will establish an account with the

Bureau of Accounts and Control, or such other State agency as appropriate, for that certified candidate. The account will contain sufficient information to enable the distribution of revenues from the Fund to certified candidates by the most expeditious means practicable that ensures accountability and safeguards the integrity of the Fund.

- B. Manner of Distribution of Fund. The Commission will authorize distribution of revenues from the Fund to certified candidates by the most expeditious means practicable that ensures accountability and safeguards the integrity of the Fund. Such means may include, but are not limited to:
- (1) checks payable to the certified candidate or the certified candidate's political committee; or
  - (2) electronic fund transfers to the certified candidate's or the certified candidate's political committee's campaign finance account.

## 2. Timing of Fund Distributions.

- A. Distribution of Applicable Amounts. The Commission will authorize the initial distribution of applicable amounts from the Fund to certified candidates in accordance with the time schedule specified in the Act [§ 1125(7)] and this chapter [sec. 3.4].

INFORMATIONAL NOTE: An initial distribution from the Fund will not be made to a candidate until the Commission has certified that candidate in accordance with the provisions of the Act and this Chapter. The initial distribution may be delayed if a candidate submits a list of qualifying contributors to the Registrar for verification during the last 10 business days of the qualifying period.

- B. Matching Fund Allocations. At any time after certification, revenues from the Fund may be distributed to certified candidates in accordance with subsection 3, below.
- C. Advances.
- (1) To facilitate administration of the Matching Fund Provision of this chapter, and to encourage participation in the Act, the Commission may authorize the advance distribution of revenues from the Fund to certified candidates. In determining whether to authorize such advances and the

amounts of any such advances, the Commission will consider the amount of revenue in the Fund, the number of certified candidates, the number of nonparticipating candidates, and information contained in campaign finance and independent expenditure reports.

- (2) A certified candidate may only draw upon, spend or otherwise use, such advance Fund distributions after receiving written notification from the Commission authorizing a Matching Fund allocation in a specified amount. Written notification by the Commission may be by letter, facsimile or electronic means.

### 3. Matching Fund Provision.

A. General. The Commission will authorize immediately an allocation of matching funds to certified candidates in accordance with the Act when the Commission determines that the eligibility for receipt of matching funds has been triggered [§ 1125(9)].

B. Computation and Distribution. The Commission will determine a certified candidate's allocation of matching funds, if any, in the following manner:

- (1) The Commission first will add --
  - (a) the sum of an opposing candidate's expenditures or obligations, or funds raised or borrowed, whichever is greater; and
  - (b) the sum of the independent expenditures made expressly advocating the defeat of the certified candidate or the election of the same opposing candidate.
- (2) The Commission then will subtract --
  - (a) the sum of the independent expenditures made expressly advocating the defeat of the same opposing candidate; and
  - (b) the sum of the independent expenditures made expressly advocating the election of the certified candidate; and

- (c) the sum of any matching funds already provided to the certified candidate.
  - (3) If the final computed amount is greater than the applicable distribution amount for the certified candidate, then the Commission will immediately authorize the distribution of a Matching Fund allocation to the certified candidate equal to that excess.
  - (4) The Commission will make computations promptly upon the filing of campaign finance reports and independent expenditure reports.
  - (5) To prevent the abuse of the Matching Fund Provision, the Commission will not base any calculation on independent expenditures which, although containing words of express advocacy, also contain other words or phrases which have no other reasonable meaning than to contradict the express advocacy. For example, expenses related to a communication saying, "Vote for John Doe -- he's incompetent and inexperienced," will not be considered in the calculation of matching funds.
- C. Matching Fund Cap. Matching funds are limited to 2 times the amount originally distributed to a certified candidate from the Fund for that election. Certified candidates are not entitled to cumulative matching funds for multiple opponents.
  - D. Other. Any distribution based on reports and accurate calculations at the time of distribution is final, notwithstanding information contained in subsequent reports.
  - E. Coordination with Other State Agencies. The Commission will coordinate with the Bureau of Accounts and Control and other relevant State agencies to implement a mechanism for the distribution of Fund revenues to certified candidates that is expeditious, ensures public accountability, and safeguards the integrity of the Fund.

## SECTION 7. RECORDKEEPING AND REPORTING

1. Recordkeeping by Participating and Certified Candidates. Participating and certified candidates must comply with applicable recordkeeping requirements set forth in Title 21-A, chapter 13, subchapter II [§ 1016].

2. Reporting by Participating and Certified Candidates.
  - A. General. Participating and certified candidates must comply with applicable reporting requirements set forth in Title 21-A, chapter 13, subchapter II [§ 1017].
  - B. Return of Unspent Fund Revenue. Upon the filing of a final report for any primary election in which a certified candidate was defeated and for all general elections, a certified candidate must return all unspent Fund revenues and any Matching Fund advance revenues to the Commission by check or money order payable to the Fund within 2 weeks of the date of such final report or general election.

## SECTION 8. RECOUNTS, VACANCIES, SPECIAL ELECTIONS

1. Recounts. After a primary election, if there is a recount governed by Title 21- A, chapter 9, subchapter III, article III [§ 737-A], and either the leading candidate or the 2nd-place candidate is a certified candidate, the following provisions will apply:
  - A. If the margin between the leading candidate and the 2nd-place candidate is less than 1% of the total number of votes cast in that race and a recount is presumed necessary, the certified candidate immediately must halt the expenditure of revenues disbursed to the candidate from the Fund upon receiving notice of the recount until the recount is complete.
  - B. If the recount results in a changed winner, the certified candidate who originally received the disbursement must return any unspent distributions from the Fund to the Commission, payable to the Fund. If the new winner is a certified candidate, the Commission will distribute the applicable disbursement amount to the candidate.
  - C. If the margin between the leading candidate and 2nd-place candidate is 1% or greater of the total number of votes cast in that race and the 2nd-place candidate requests a recount, the leading candidate, if a certified candidate, is not required to freeze expenditures of the disbursement.
  - D. If the recount results in a changed winner, the certified candidate must return any unspent distributions from the Fund to the Commission, payable to the Fund. If the new winner is a certified candidate, the Commission will distribute the applicable disbursement amount to the candidate.



2. Death, Withdrawal, or Disqualification of a Candidate During Campaign.
  - A. Death, Withdrawal, or Disqualification Before Primary Election. If a candidate dies, withdraws, or is disqualified before the primary election, the Commission will establish a qualifying period during which any replacement candidate may become a participating candidate, collect qualifying contributions, and apply to become a certified candidate.
  - B. Death, Withdrawal, or Disqualification After the Primary Election and before 5:00 p.m. on the 2nd Monday in July Preceding the General Election. If a candidate dies, withdraws, or is disqualified before 5:00 p.m. on the 2nd Monday in July preceding the general election, any replacement candidate will have a qualifying period of 30 days from the 4th Monday in July as a participating candidate to collect qualifying contributions and request certification.
  - C. Death, Withdrawal, or Disqualification after 5:00 p.m. on the 2nd Monday in July Preceding the General Election. If a candidate dies, withdraws, or is disqualified after 5:00 p.m. on the 2nd Monday in July preceding the general election, the Commission will establish a qualifying period during which any replacement candidate may become a participating candidate, collect qualifying contributions, and apply to become a certified candidate.
  - D. Replacement Candidates Who Are Participating Candidates. Any replacement candidate choosing to become a participating candidate must otherwise comply with the requirements of this chapter and the Act including, but not limited to, seed money limits and qualifying contribution requirements. The Commission will notify any replacement candidates of the opportunity to participate in the Act and the procedures for compliance with this chapter during a special election.
3. Special Election When One or More Candidates Desire to Become Certified Candidates. If a vacancy occurs in the office of Governor, Senator, or Representative because an incumbent dies, resigns, becomes disqualified, or changes residence to another electoral division, and a special election will be held to fill the vacant office, the following provisions apply:
  - A. The Commission, in consultation with the Secretary of State, will establish a qualifying period during which any candidate in a special election may decide to become a participating candidate, collect qualifying contributions, and apply to become a certified candidate; and

- B. Any candidate in a special election must otherwise comply with the requirements of this chapter and the Act including, but not limited to, seed money limits and qualifying contribution requirements. The Commission will notify any candidates of the opportunity to participate in the Act and the procedures for compliance with this chapter during a special election.
  
- 4. Return of Unspent Fund Revenues. Any time a certified candidate withdraws, is disqualified, or dies before an election, the candidate or the candidate's agent must return to the Commission all unspent amounts distributed to the candidate by check or money order payable to the fund, within 2 weeks of the termination of the candidacy.

STATUTORY AUTHORITY: 21-A M.R.S.A. chapter 14.

EFFECTIVE DATE: November 1, 1998