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## An Act To Improve the Maine Clean Election Act

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

**Sec. 1. 1 MRSA §1015, sub-§3, ¶A**, as amended by PL 2007, c. 279, §1, is further amended to read:

A. As used in this subsection, the terms "employer," "lobbyist" and "lobbyist associate" have the same meanings as in Title 3, section 312-A. As used in this subsection, "contribution" has the same meaning as in Title 21-A, section 1012 and includes ~~seed money~~allowable contributions as defined in Title 21-A, section 1122, subsection 91-A.

**Sec. 2. 21-A MRSA §1122, sub-§1-A** is enacted to read:

**1-A. Allowable contribution.** "Allowable contribution" means a contribution of no more than \$100 from an individual, including the candidate or the candidate's spouse or domestic partner or dependent child.

**Sec. 3. 21-A MRSA §1122, sub-§1-B** is enacted to read:

**1-B. Campaign funds.** "Campaign funds" means payments from the fund to a candidate, allowable contributions received by the candidate, interest earned on funds in the candidate's campaign account, rebates and refunds received by the candidate for campaign goods or services and proceeds from the sale of campaign property or equipment purchased after certification under section 1125.

**Sec. 4. 21-A MRSA §1122, sub-§4-B** is enacted to read:

**4-B. Matchable contribution.** "Matchable contribution" means a contribution of money of no more than \$100 made by a registered voter in the State to a participating candidate or certified candidate in a contested election that has been reported to the commission and documented in compliance with the commission's rules and procedures and has been contributed on or before the date of the applicable primary or general election that may be matched by public funds under the provisions of this chapter. Any contribution determined to be invalid for matching funds by the commission is not a matchable contribution for any purpose. The following contributions are not matchable:

- A. An in-kind contribution of property, goods or services;
- B. A loan to the candidate or candidate's authorized political committee under section 1013-A, subsection 1;
- C. A contribution in the form of the purchase price paid for an item with significant intrinsic and enduring value;
- D. A contribution in the form of the purchase price paid for or otherwise induced by a chance to participate in a raffle, lottery or similar drawing for valuable prizes;

E. A contribution from an individual under 18 years of age;

F. A contribution from a vendor to whom the candidate or candidate's authorized political committee under section 1013-A, subsection 1 makes an expenditure in furtherance of the nomination for election or election covered by the candidate's certification, unless such expenditure is reimbursing an advance;

G. A contribution from an individual who has been registered with the commission as a lobbyist or lobbyist associate or an employer of a lobbyist or lobbyist associate under Title 3, section 313 during the 2 years prior to the contribution; or

H. A contribution from the candidate or the candidate's spouse or domestic partner or dependent child.

**Sec. 5. 21-A MRSA §1122, sub-§6-A** is enacted to read:

**6-A. Public funds.** "Public funds" means an initial distribution from the fund or matching fund payment from the fund to a candidate.

**Sec. 6. 21-A MRSA §1122, sub-§9**, as amended by PL 2007, c. 571, §10, is repealed.

**Sec. 7. 21-A MRSA §1124, sub-§2, ¶D**, as enacted by IB 1995, c. 1, §17, is repealed.

**Sec. 8. 21-A MRSA §1124, sub-§2, ¶E**, as enacted by IB 1995, c. 1, §17, is amended to read:

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

**Sec. 9. 21-A MRSA §1124, sub-§2, ¶F**, as enacted by IB 1995, c. 1, §17, is amended to read:

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

**Sec. 10. 21-A MRSA §1125, sub-§2**, as amended by PL 2009, c. 363, §2, is repealed.

**Sec. 11. 21-A MRSA §1125, sub-§2-A**, as amended by PL 2009, c. 302, §11 and affected by §24, is repealed.

**Sec. 12. 21-A MRSA §1125, sub-§2-B**, as amended by PL 2009, c. 524, §14, is repealed.

**Sec. 13. 21-A MRSA §1125, sub-§2-C** is enacted to read:

**2-C. Contribution limits for participating and certified candidates.** Subsequent to becoming a candidate, a participating candidate or certified candidate may not accept contributions, except allowable contributions. A participating candidate or certified candidate must limit the candidate's total allowable contributions to the following amounts:

A. For primary elections:

(1) For a gubernatorial candidate in a contested election, \$250,000, and, for a gubernatorial candidate in an uncontested election, \$225,000;

(2) For a candidate for the State Senate, \$1,500 plus 1/2 of the initial distribution from the fund for the primary election for a candidate for the State Senate; and

(3) For a candidate for the State House of Representatives, \$500 plus 1/2 of the initial distribution from the fund for the primary election for a candidate for the State House of Representatives; and

**B. For general elections:**

(1) For a gubernatorial candidate, \$150,000; and

(2) For a candidate for the State Senate or State House of Representatives, 1/2 of the initial distribution from the fund for the general election for such a candidate.

A participating candidate or certified candidate in a primary election may raise allowable contributions at any time after becoming a candidate to the day of the primary election. A participating candidate or certified candidate in a general election may raise allowable contributions from the day after the primary election to the day of the general election.

The commission may revise the amounts in paragraph A or B by rule to ensure the effective implementation of this chapter. The commission shall adopt rules to determine whether an allowable contribution is for a primary or general election campaign.

**Sec. 14. 21-A MRSA §1125, sub-§2-D** is enacted to read:

**2-D. Allowable contributions required for gubernatorial candidates; documentation.** For an allowable contribution that a candidate for Governor collects to satisfy the requirement in subsection 5, paragraph C-1, the candidate shall obtain the contributor's name, residence address, mailing address, telephone number if provided by the contributor and other information required for reporting under section 1017, subsection 5. For an allowable contribution under this section, the candidate shall submit to the commission during the qualifying period:

A. A contribution acknowledgment form, as determined by the commission, to be completed by each contributor that includes the name, residence address, mailing address, telephone number if provided by the contributor and signature of the contributor acknowledging that the contribution was made with the contributor's personal funds and will not be reimbursed by any source;

B. A list of all allowable contributions by the contributor in a format determined by the commission that includes the name and mailing address of the contributor;

C. For an allowable contribution received by check or money order, a photocopy of the check or money order; and

D. For an allowable contribution received by debit or credit card, a bank or merchant 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.

The commission may permit the submission of an online or electronic acknowledgment form as required by paragraph A for allowable contributions made via the Internet. Contributor information required by this subsection is confidential, except that the commission may disclose this information in a final audit or investigation report or determination if the information is materially relevant to a finding of fact or violation.

**Sec. 15. 21-A MRSA §1125, sub-§3**, as amended by PL 2009, c. 286, §§6 and 7, is further amended to read:

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

A. For a gubernatorial candidate, at least 3,250 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 175 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 60 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. A candidate may pay the fee for a money order that is a qualifying contribution in the amount of \$5 as long as the donor making the qualifying contribution pays the \$5 amount reflected on the money order. Any money order fees paid by a participating candidate must be paid for with ~~seed money~~campaign funds prior to certification and reported in accordance with commission rules. A money order must be signed by the contributor to be a valid qualifying contribution. The commission may establish by routine technical rule, adopted in accordance with Title 5, chapter 375, subchapter 2-A, a procedure for a qualifying contribution to be made by a credit or debit transaction and by electronic funds transfer over the Internet. Records containing information provided by individuals who have made qualifying contributions over the Internet are confidential, except for the name of the individual making the contribution, the date of the contribution, the individual's residential address and the name and office sought of the candidate in whose support the contribution was made.

It is a violation of this chapter for a participating candidate or an agent of the participating candidate to misrepresent the purpose of soliciting qualifying contributions and obtaining the contributor's signed acknowledgement.

**Sec. 16. 21-A MRSA §1125, sub-§4**, as amended by PL 2009, c. 363, §4, is further amended to read:

**4. Filing with commission.** A participating candidate must submit qualifying contributions, receipt and acknowledgement forms, proof of verification of voter registration and a seed money report of allowable contributions and precertification expenditures to the commission during the qualifying period according to procedures developed by the commission, except as provided under subsection 11.

**Sec. 17. 21-A MRSA §1125, sub-§5, ¶C-1**, as enacted by PL 2009, c. 363, §5, is amended to read:

C-1. As a gubernatorial candidate, collected at least \$40,000 in seed money allowable contributions from registered voters in the State;

**Sec. 18. 21-A MRSA §1125, sub-§5, ¶D**, as amended by PL 2003, c. 270, §1, is further amended to read:

D. Not accepted contributions, except for seed money allowable contributions, and otherwise complied with seed money restrictions precertification requirements;

**Sec. 19. 21-A MRSA §1125, sub-§5-A**, as amended by PL 2009, c. 363, §6, is further amended to read:

**5-A. Revocation of certification.** The certification of a participating candidate may be revoked at any time if the commission determines that the candidate or an agent of the candidate:

A. Did not submit the required number of valid qualifying contributions;

B. Failed to qualify as a candidate by petition or other means;

C. Submitted any fraudulent qualifying contributions or qualifying contributions that were not made by the named contributor;

D. Misrepresented to a contributor the purpose of the qualifying contribution or obtaining the contributor's signature on the receipt and acknowledgement form;

E. Failed to fully comply with the seed money restrictions precertification requirements;

F. Knowingly accepted any contributions, including any in-kind contributions, or used funds other than fund revenues distributed under this chapter to make campaign-related expenditures without the permission of the commission;

G. Knowingly made a false statement or material misrepresentation in any report or other document required to be filed under this chapter or chapter 13;

H. Otherwise substantially violated the provisions of this chapter or chapter 13; or

I. As a gubernatorial candidate, failed to properly report ~~seed money~~allowable contributions as required by this section.

The determination to revoke the certification of a candidate must be made by a vote of the members of the commission after an opportunity for a hearing. A candidate whose certification is revoked shall return all unspent public funds to the commission within 3 days of the commission's decision and may be required to return all public funds distributed to the candidate. In addition to the requirement to return funds, the candidate may be subject to a civil penalty under section 1127. The candidate may appeal the commission's decision to revoke certification in the same manner provided in subsection 14, paragraph C.

**Sec. 20. 21-A MRSA §1125, sub-§6**, as amended by PL 2009, c. 105, §1, is further amended to read:

**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~~candidate's campaign funds and may not accept any contributions unless specifically authorized by the commission. ~~Candidates may also accept and spend interest earned on fund revenues in campaign bank accounts. All revenues distributed to a certified candidate from the fund must be used for campaign-related purposes.~~ The candidate, the treasurer, the candidate's committee authorized pursuant to section 1013-A, subsection 1 or any agent of the candidate and committee may not use ~~these revenues~~campaign funds for any but campaign-related purposes. A television advertisement purchased with ~~these revenues~~campaign funds must be closed-captioned when closed-captioning is available from the broadcasting station who will broadcast the advertisement. The commission shall publish guidelines outlining permissible campaign-related expenditures.

**Sec. 21. 21-A MRSA §1125, sub-§6-A**, as amended by PL 2009, c. 302, §12 and affected by §24, is further amended to read:

**6-A. Assisting a person to become an opponent.** A candidate or a person who later becomes a candidate and who is seeking certification under subsection 5, or an agent of that candidate, may not assist another person in qualifying as a candidate for the same office if such a candidacy would result in the ~~distribution of revenues~~initial distributions from the fund under subsections 7 and 8-A for certified candidates in a contested election.

**Sec. 22. 21-A MRSA §1125, sub-§6-C, ¶A**, as enacted by PL 2009, c. 302, §14, is amended to read:

A. The candidate may not use ~~fund revenues~~campaign funds to compensate the candidate or a sole proprietorship of the candidate for campaign-related services.

**Sec. 23. 21-A MRSA §1125, sub-§6-C, ¶B**, as enacted by PL 2009, c. 302, §14, is amended to read:

B. A candidate may not make expenditures using ~~fund revenues~~campaign funds to pay a member of the candidate's immediate family or household, a business entity in which the candidate or a member of the candidate's immediate family or household holds a significant proprietary or financial interest or a nonprofit entity in which the candidate or a member of the candidate's immediate family or household is a director, officer, executive director or chief financial officer, unless the expenditure is made:

- (1) For a legitimate campaign-related purpose;
- (2) To an individual or business that provides the goods or services being purchased in the normal course of the individual's occupation or the business; and
- (3) In an amount that is reasonable taking into consideration current market value and other factors the commission may choose to consider.

For the purpose of this paragraph, "business entity" means a corporation, limited liability company, limited partnership, limited liability partnership and general partnership.

If a candidate uses ~~fund revenues~~campaign funds for an expenditure covered by this paragraph, the candidate shall submit evidence demonstrating that the expenditure complies with the requirements of this paragraph if requested by the commission.

**Sec. 24. 21-A MRSA §1125, sub-§7**, as amended by PL 2009, c. 302, §15 and affected by §24 and amended by c. 363, §7, is repealed and the following enacted in its place:

**7. Timing of fund distribution.** The commission shall distribute to certified candidates initial distributions for the primary and general elections from the fund in amounts determined under subsection 8-A in the following manner.

A. Within 3 days after certification, for candidates certified prior to March 15th of the election year, initial distributions for the primary election from the fund must be distributed as if the candidates are in an uncontested primary election.

B. Within 3 days after certification, for all candidates certified between March 15th and the end of the qualifying period of the election year, initial distributions for the primary election from the fund must be distributed according to whether the candidate is in a contested or uncontested primary election.

B-1. For candidates in contested primary elections receiving a distribution under paragraph A, additional initial distributions for the primary election from the fund must be distributed within 3 days of March 15th of the election year.

C. No later than 3 days after the primary election results are certified, for general election certified candidates, initial distributions for the general election from the fund must be distributed according to whether the candidate is in a contested or uncontested general election.

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.

**Sec. 25. 21-A MRSA §1125, sub-§7-A**, as amended by PL 2007, c. 443, Pt. B, §6, is further amended to read:

**7-A. Deposit into account.** The candidate or committee authorized pursuant to section 1013-A, subsection 1 shall deposit all revenues from the fund and all seed money allowable contributions and public funds in a campaign account with a bank or other financial institution. The campaign funds must be segregated from, and may not be commingled with, any other funds.

**Sec. 26. 21-A MRSA §1125, sub-§9**, as repealed and replaced by PL 2009, c. 652, Pt. A, §25 and affected by §26, is amended to read:

**9. Matching funds.** ~~When any report required under this chapter or chapter 13 shows that the sum of a candidate's expenditures or obligations, contributions and loans, or fund revenues received, whichever is greater, in conjunction with independent expenditures reported under section 1019-B, exceeds the sum of an opposing certified candidate's fund revenues, in conjunction with independent expenditures, the commission shall issue immediately to the opposing certified candidate an additional amount equivalent to the difference.~~ A candidate is eligible to receive additional public funds within the 60 days before the election. The commission shall pay \$3 of matching funds for every \$1 of matchable contributions documented by the candidate and reported to the commission in accordance with the rules and procedures of the commission. The commission shall establish procedures for candidates to apply for matching funds, including deadlines for reporting matchable contributions and a schedule for matching funds payments. Matching funds for certified candidates for the Legislature are limited to 2 1/2 times the amount originally distributed under subsection 8-A. Matching funds for certified gubernatorial candidates in a primary election are limited to half the amount originally distributed under subsection 8-A \$150,000 for contested candidates and \$75,000 for uncontested candidates. Matching funds for certified gubernatorial candidates in a general election are limited to the amount originally distributed under subsection 8-A \$450,000.

**Sec. 27. 21-A MRSA §1125, sub-§10**, as repealed and replaced by PL 2009, c. 652, Pt. A, §27 and affected by §28, is amended to read:

**10. Candidate not enrolled in a party.** An unenrolled candidate for the Legislature who submits the required number of qualifying contributions and other required documents under subsection 4 by 5:00 p.m. on April 15<sup>th</sup> 20<sup>th</sup> preceding the primary election and who is certified is eligible for revenues initial payments 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-A. Otherwise, an unenrolled candidate for the Legislature must submit the required number of qualifying contributions and the other required documents under subsection 4 by 5:00 p.m. on June 2<sup>nd</sup> preceding the general election. If certified, the candidate is eligible for revenues an initial payment from the fund

in the same amounts as a general election candidate, as specified in subsection 8-A. ~~Revenues~~The initial payment for the general election must be distributed to the candidate no later than 3 days after certification. An unenrolled candidate for Governor who submits the required number of qualifying contributions and other required documents under ~~subsections 2-B and~~subsection 4 by 5:00 p.m. on April 1st preceding the primary election and who is certified is eligible for ~~revenues~~initial payments from the fund in the same amounts and at the same time as an uncontested primary election gubernatorial candidate and a general election gubernatorial candidate as specified in subsections 7 and 8-A. ~~Revenues~~The initial payment for the general election must be distributed to the candidate for Governor no later than 3 days after the primary election results are certified.

**Sec. 28. 21-A MRSA §1125, sub-§11**, as enacted by IB 1995, c. 1, §17, is amended to read:

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

**Sec. 29. 21-A MRSA §1125, sub-§12**, as amended by PL 2009, c. 302, §20, is further amended to read:

**12. Reporting; unspent campaign funds.** 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. If a certified candidate pays ~~fund revenues~~campaign funds to a member of the candidate's immediate family or household or a business or nonprofit entity affiliated with a member of the candidate's immediate family or household, the candidate must disclose the candidate's relationship to the payee in a manner prescribed 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~~campaign funds 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.

**Sec. 30. 21-A MRSA §1125, sub-§12-B**, as enacted by PL 2007, c. 443, Pt. B, §6, is amended to read:

**12-B. Audit requirements for candidates for Governor.** The commission shall audit the campaigns of candidates for Governor who receive public funds under this chapter to verify compliance with election and campaign laws and rules. Within one month of declaring an intention to qualify for public financing, a candidate for Governor, the campaign's treasurer and any other relevant campaign staff shall meet with the staff of the commission to discuss audit standards, expenditure guidelines and record-keeping requirements.

**Sec. 31. 21-A MRSA §1125, sub-§12-C**, as enacted by PL 2009, c. 286, §9, is amended to read:

**12-C. Payments to political committees.** If a certified candidate makes a payment of ~~fund revenues~~campaign funds to a political action committee or party committee, the candidate shall include in reports required under this section a detailed explanation of the goods or services purchased according to forms and procedures developed by the commission that is sufficient to demonstrate that the payment was made solely to promote the candidate's election.

**Sec. 32. 21-A MRSA §1125, sub-§13-A**, as enacted by PL 2009, c. 524, §18, is amended to read:

**13-A. Distributions not to exceed amount in fund.** The commission may not distribute ~~revenues~~public funds 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 subsection 8-A or 9, the commission may permit certified candidates to accept and spend contributions, reduced by any ~~seed money~~allowable contributions, aggregating no more than \$750 per donor per election for gubernatorial candidates and \$350 per donor per election for State Senate and State House candidates ~~the applicable contribution limits established in section 1015~~, up to the applicable amounts set forth in subsections 8-A and 9 according to rules adopted by the commission. Notwithstanding any other provisions of this chapter, if the commission determines that the revenues in the fund are insufficient to pay the full amount of matching funds under subsection 9, the commission may adjust the proportion of matching funds paid to certified candidates according to rules adopted by the commission.

This subsection takes effect September 1, 2011.

**Sec. 33. 21-A MRSA §1126**, as amended by PL 2001, c. 465, §7, is further amended to read:

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

The commission shall adopt rules to ensure effective administration of this chapter. These rules must include but ~~must~~may 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~~campaign funds, disposition of equipment purchased with ~~clean election~~campaign funds after certification and compliance with the Maine Clean Election Act. Rules of the commission required by this section are major substantive rules as defined in Title 5, chapter 375, subchapter ~~H-A2-A~~.

**Sec. 34. 21-A MRSA §1127, sub-§1**, as amended by PL 2009, c. 302, §23, is further amended to read:

**1. Civil fine.** In addition to any other penalties that may be applicable, a person who violates any provision of this chapter or rules of the commission adopted pursuant to section 1126 is subject to a fine not to exceed \$10,000 per violation payable to the fund. ~~The commission may assess a fine of up to \$10,000 for a violation of the reporting requirements of sections 1017 and 1019-B if it determines that the failure to file a timely and accurate report resulted in the late payment of matching funds.~~ In addition to any fine, for good cause shown, a candidate, treasurer, consultant or other agent of the candidate or the political

committee authorized by the candidate pursuant to section 1013-A, subsection 1 found in violation of this chapter or rules of the commission may be required to return to the fund all ~~amounts~~public funds distributed to the candidate ~~from the fund~~ or any campaign funds not used for campaign-related purposes. If the commission makes a determination that a violation of this chapter or rules of the commission has occurred, the commission shall assess a fine or transmit the finding to the Attorney General for prosecution. A final determination by the commission may be appealed to Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C. Fines assessed or orders for return of funds issued by the commission pursuant to this subsection that are not paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B. 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.

### **SUMMARY**

This bill amends the Maine Clean Election Act by replacing the seed money provisions with provisions for allowable contributions, which are contributions of no more than \$100 from an individual. The bill allows participating and certified candidates to raise allowable contributions, sets limits and other requirements on allowable contributions and provides for matching funds for allowable contributions in the amount of \$3 for every \$1 of allowable contributions.