

Date: (Filing No. S- )

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STATE OF MAINE
SENATE
125TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT " " to S.P. 612, L.D. 1774, Bill, "An Act Regarding the Matching Funds Provisions of the Maine Clean Election Act"

Amend the bill by striking out the title and substituting the following:

'An Act To Provide an Alternative to the Matching Funds Provisions of the Maine Clean Election Act'

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

Sec. 1. 21-A MRSA §1017, sub-§3-B, as corrected by RR 2009, c. 2, §46, is repealed.

Sec. 2. 21-A MRSA §1019-B, sub-§4, ¶A, as enacted by PL 2009, c. 524, §7, is amended to read:

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

Sec. 3. 21-A MRSA §1020-A, sub-§4-A, as amended by PL 2007, c. 443, Pt. A, §22, is further amended to read:

4-A. Basis for penalties. The penalty for late filing of a report required under this subchapter, except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B, is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

- A. For the first violation, 1%;
B. For the 2nd violation, 3%; and
C. For the 3rd and subsequent violations, 5%.

Any penalty of less than \$10 is waived.

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1 Violations accumulate on reports with filing deadlines in a 2-year period that begins on  
2 January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding  
3 of a violation.

4 A report required to be filed under this subchapter that is sent by certified or registered  
5 United States mail and postmarked at least 2 days before the deadline is not subject to  
6 penalty.

7 A registration or report may be provisionally filed by transmission of a facsimile copy of  
8 the duly executed report to the commission, as long as the facsimile copy is filed by the  
9 applicable deadline and an original of the same report is received by the commission  
10 within 5 calendar days thereafter.

11 ~~The penalty for late filing of an accelerated campaign finance report as required in section~~  
12 ~~1017, subsection 3-B may be up to but no more than 3 times the amount by which the~~  
13 ~~contributions received or expenditures obligated or made by the candidate exceed the~~  
14 ~~applicable Maine Clean Election Fund disbursement amount, per day of violation. The~~  
15 ~~commission shall make a finding of fact establishing when the report was due prior to~~  
16 ~~imposing a penalty under this subsection. A penalty for failure to file an accelerated~~  
17 ~~campaign finance report must be made payable to the Maine Clean Election Fund. In~~  
18 ~~assessing a penalty for failure to file an accelerated campaign finance report, the~~  
19 ~~commission shall consider the existence of mitigating circumstances. For the purposes of~~  
20 ~~this subsection, "mitigating circumstances" has the same meaning as in subsection 2.~~

21 **Sec. 4. 21-A MRSA §1020-A, sub-§5-A, ¶¶C and D**, as amended by PL 2003,  
22 c. 628, Pt. A, §4, are further amended to read:

23 C. One thousand dollars for reports required under section 1017, subsection 2,  
24 paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E; or

25 D. Five hundred dollars for municipal, district and county committees for reports  
26 required under section 1017-A, subsection 4-B; ~~or~~.

27 **Sec. 5. 21-A MRSA §1020-A, sub-§5-A, ¶E**, as enacted by PL 2001, c. 714, Pt.  
28 PP, §1 and affected by §2, is repealed.

29 **Sec. 6. 21-A MRSA §1122, sub-§7, ¶B**, as amended by PL 2009, c. 190, Pt. B,  
30 §1, is further amended to read:

31 B. Made by a registered voter within the electoral division for the office a candidate  
32 is seeking and whose voter registration has been verified according to procedures  
33 established by the commission; and

34 **Sec. 7. 21-A MRSA §1122, sub-§7, ¶C**, as amended by PL 2007, c. 443, Pt. B,  
35 §2, is repealed.

36 **Sec. 8. 21-A MRSA §1124, sub-§2, ¶D**, as enacted by IB 1995, c. 1, §17, is  
37 repealed.

38 **Sec. 9. 21-A MRSA §1125, sub-§1**, as amended by PL 2011, c. 389, §51, is  
39 further amended to read:

40 **1. Declaration of intent.** A participating candidate must file a declaration of intent  
41 to seek certification as a Maine Clean Election Act candidate and to comply with the

1 requirements of this chapter. The declaration of intent must be filed with the commission  
2 prior to or during the qualifying period, except as provided in subsection 11, according to  
3 forms and procedures developed by the commission. Qualifying contributions collected  
4 more than 5 business days before the declaration of intent has been filed will not be  
5 counted toward the eligibility requirement in ~~subsection~~ subsections 3 and 9-A.

6 **Sec. 10. 21-A MRSA §1125, sub-§2, ¶¶B and C**, as enacted by IB 1995, c. 1,  
7 §17, are amended to read:

8 B. ~~One thousand five hundred~~ Three thousand dollars for a candidate for the State  
9 Senate; or

10 C. ~~Five hundred~~ One thousand dollars for a candidate for the State House of  
11 Representatives.

12 **Sec. 11. 21-A MRSA §1125, sub-§2-A, ¶C**, as amended by PL 2009, c. 302,  
13 §11 and affected by §24, is further amended to read:

14 C. Upon requesting certification, a participating candidate shall file a report of all  
15 seed money contributions and expenditures. ~~If the candidate is certified, any unspent~~  
16 ~~seed money will be deducted from the amount distributed to the candidate as~~  
17 ~~provided in subsection 8-A.~~ Seed money unspent or obligated once a participating  
18 candidate is certified is subject to the expenditure restrictions as distributions  
19 received from the fund.

20 **Sec. 12. 21-A MRSA §1125, sub-§5**, as amended by PL 2011, c. 389, §52, is  
21 further amended to read:

22 **5. Certification of Maine Clean Election Act candidates.** Upon receipt of a ~~final~~  
23 ~~complete~~ submittal of qualifying contributions the documents required for certification  
24 under subsection 4 by a participating candidate, the executive director of the commission  
25 shall determine whether the candidate has:

26 A. Signed and filed a declaration of intent to participate in this Act;

27 B. Submitted the appropriate number of valid qualifying contributions;

28 C. Qualified as a candidate by petition or other means no later than 5 business days  
29 after the end of the qualifying period;

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

32 D. Not accepted contributions, except for seed money contributions, and otherwise  
33 complied with seed money restrictions;

34 D-1. Not run for the same office as a nonparticipating candidate in a primary election  
35 in the same election year;

36 D-2. Not been found to have made a material false statement in a report or other  
37 document submitted to the commission;

38 D-3. Not otherwise substantially violated the provisions of this chapter or chapter 13;

1 D-4. Not failed to pay any civil penalty assessed by the commission under this Title,  
2 except that a candidate has 3 business days from the date of the request for  
3 certification to pay the outstanding penalty and remain eligible for certification;

4 D-5. Not submitted any fraudulent qualifying contributions or any falsified  
5 acknowledgement forms for qualifying contributions or seed money contributions;  
6 and

7 E. Otherwise met the requirements for participation in this Act.

8 The executive director shall certify a candidate complying with the requirements of this  
9 section as a Maine Clean Election Act candidate as soon as possible after ~~final~~ receiving  
10 the complete submittal of qualifying contributions and other supporting documents  
11 required under subsection 4 but no later than 3 business days for legislative candidates  
12 and 5 business days for gubernatorial candidates. The executive director may take  
13 additional time if further investigation is necessary to verify compliance with this Act as  
14 long as the commission notifies the candidate regarding the anticipated schedule for  
15 conclusion of the investigation. A candidate or other interested person may appeal the  
16 decision of the executive director to the members of the commission in accordance with  
17 subsection 14.

18 A certified candidate must comply with all requirements of this Act after certification and  
19 throughout the primary and general election periods. Failure to do so is a violation of this  
20 chapter.

21 **Sec. 13. 21-A MRSA §1125, sub-§6**, as amended by PL 2011, c. 389, §54, is  
22 further amended to read:

23 **6. Restrictions on contributions and expenditures for certified candidates.** After  
24 certification, a candidate must limit the candidate's campaign expenditures and  
25 obligations, including outstanding obligations, to the revenues distributed to the candidate  
26 from the fund and may not accept any contributions other than qualifying contributions  
27 under subsection 9-A unless specifically authorized by the commission. Candidates may  
28 also accept and spend interest earned on fund revenues in campaign bank accounts. All  
29 revenues distributed to a certified candidate from the fund must be used for campaign-  
30 related purposes. The candidate, the treasurer, the candidate's committee authorized  
31 pursuant to section 1013-A, subsection 1 or any agent of the candidate and committee  
32 may not use these revenues for any but campaign-related purposes. The commission  
33 shall publish guidelines outlining permissible campaign-related expenditures.

34 **Sec. 14. 21-A MRSA §1125, sub-§7, ¶C**, as amended by PL 2007, c. 443, Pt. B,  
35 §6, is further amended to read:

36 C. No later than 3 days after the primary election results are certified, for general  
37 election certified candidates, revenues from the fund must be distributed according to  
38 whether the candidate is in a contested or uncontested general election. Supplemental  
39 payments to a legislative candidate in a contested general election must be made in  
40 the manner set forth in subsection 9-A.

41 **Sec. 15. 21-A MRSA §1125, sub-§8-A**, as enacted by PL 2009, c. 302, §17 and  
42 affected by §24, is amended to read:

1           **8-A. Amount of fund distribution.** By September 1, 2011, and at least every 2  
2 years after that date, the commission shall determine the amount of funds to be  
3 distributed to participating candidates in legislative elections based on the type of election  
4 and office. The commission shall distribute a smaller payment to a candidate who does  
5 not have an opponent in the election. In making this determination, the commission may  
6 take into consideration any relevant information, including but not limited to:

7           A. The range of campaign spending by candidates for that office in the 2 preceding  
8 elections; and

9           B. The Consumer Price Index published monthly by the United States Department of  
10 Labor, Bureau of Labor Statistics and any other significant changes in the costs of  
11 campaigning such as postage or fuel; and.

12           ~~C. The impact of independent expenditures on the payment of matching funds.~~

13 For a legislative candidate in a contested general election, the commission shall  
14 determine the amounts of the initial payment and 2 supplemental payments for which a  
15 candidate may qualify under subsection 9-A. The initial payment may not be less than  
16 the total of the 2 supplemental payments for which a candidate may qualify.

17 Before making any determination, the commission shall provide notice of the  
18 determination and an opportunity to comment to the President of the Senate, the Speaker  
19 of the House of Representatives, all floor leaders, the members of the joint standing  
20 committee of the Legislature having jurisdiction over legal affairs and persons who have  
21 expressed interest in receiving notices of opportunities to comment on the commission's  
22 rules and policies. The commission shall present at a public meeting the basis for the  
23 commission's final determination.

24 For contested gubernatorial primary elections, the amount of revenues distributed is  
25 \$400,000 per candidate in a primary election. For uncontested gubernatorial primary  
26 elections the amount of revenues distributed is \$200,000. For contested and uncontested  
27 gubernatorial general elections, the amount of revenues distributed is \$600,000 per  
28 candidate in the general election.

29           **Sec. 16. 21-A MRSA §1125, sub-§9,** as repealed and replaced by PL 2009, c.  
30 652, Pt. A, §25 and affected by §26, is repealed.

31           **Sec. 17. 21-A MRSA §1125, sub-§9-A** is enacted to read:

32           **9-A. Supplemental payments for legislative candidates in a contested general**  
33 **election.** This subsection governs the qualification for and receipt of supplemental  
34 payments. A participating candidate who is a legislative candidate in a contested general  
35 election may qualify to receive up to 2 supplemental payments from the fund by  
36 collecting additional qualifying contributions beyond the number of qualifying  
37 contributions required by subsection 3, paragraph B or C and submitted in the manner  
38 described in subsection 4. A legislative candidate who is unopposed in the general  
39 election is not eligible to receive supplemental payments.

40           A. A candidate may collect qualifying contributions to qualify for supplemental  
41 payments from January 1st to June 30th of the election year.

1 B. A candidate shall submit the required number of qualifying contributions,  
2 acknowledgments by the contributors and proofs of verification of the contributors'  
3 voter registrations pursuant to section 1122, subsection 7 to the commission no later  
4 than 5:00 p.m. on June 30th of the election year.

5 C. A candidate for the State House of Representatives must submit at least 30 valid  
6 qualifying contributions to qualify for one supplemental payment and at least 60 valid  
7 qualifying contributions to qualify for 2 supplemental payments. A candidate for the  
8 State Senate must submit at least 100 valid qualifying contributions to qualify for one  
9 supplemental payment and at least 200 valid qualifying contributions to qualify for 2  
10 supplemental payments.

11 D. The commission shall count a qualifying contribution as valid toward the  
12 supplemental payment requirements if the contribution:

13 (1) Meets the requirements for a qualifying contribution in section 1122,  
14 subsection 7;

15 (2) Was not counted toward eligibility for certification in subsection 3; and

16 (3) Is documented with the required acknowledgments by the contributor and  
17 proof of voter registration of the contributor pursuant to section 1122, subsection  
18 7.

19 E. The commission shall determine the number of supplemental payments for which  
20 a candidate is eligible and notify the candidate within 10 business days of the  
21 determination, but no later than July 15th of the election year. A candidate or another  
22 interested person may appeal the determination. The commission shall establish an  
23 appeals process for appeals made pursuant to this paragraph that is similar to the  
24 process under subsection 14.

25 F. The commission may make the first supplemental payment after September 1st  
26 upon request of the candidate. The commission may make the 2nd supplemental  
27 payment after October 1st upon request of the candidate. A request for supplemental  
28 payment must be received by the commission no later than the 8th day before the  
29 general election.

30 G. The commission may establish alternate schedules to qualify for and request  
31 supplemental payments for a candidate in a special election or in a primary or general  
32 election in which the candidate has replaced a candidate who has withdrawn from the  
33 race.

34 **Sec. 18. 21-A MRSA §1125, sub-§10**, as amended by PL 2011, c. 389, §56 and  
35 affected by §62, is further amended to read:

36 **10. Candidate not enrolled in a party.** An unenrolled candidate for the Legislature  
37 who submits the required number of qualifying contributions and other required  
38 documents under subsection 4 by 5:00 p.m. on April 20th preceding the primary election  
39 and who is certified is eligible for revenues from the fund in the same amounts and at the  
40 same time as an uncontested primary election candidate and a general election candidate  
41 as specified in subsections 7 and 8-A and 9-A. ~~Revenues for the general election must~~  
42 ~~be distributed to the candidate no later than 3 days after certification.~~ An unenrolled

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

8 **Sec. 19. 21-A MRSA §1125, sub-§13-A**, as amended by PL 2011, c. 389, §58  
9 and affected by §62, is further amended to read:

10 **13-A. Distributions not to exceed amount in fund.** The commission may not  
11 distribute revenues to certified candidates in excess of the total amount of money  
12 deposited in the fund as set forth in section 1124. Notwithstanding any other provisions  
13 of this chapter, if the commission determines that the revenues in the fund are insufficient  
14 to meet distributions under subsection 8-A or ~~9~~ 9-A, the commission may permit certified  
15 candidates to accept and spend contributions, reduced by any seed money contributions,  
16 aggregating no more than the applicable contribution limits established by the  
17 commission pursuant to section 1015, up to the applicable amounts set forth in  
18 subsections 8-A and ~~9~~ 9-A according to rules adopted by the commission.

19 This subsection takes effect September 1, 2011.

20 **Sec. 20. 21-A MRSA §1126**, as amended by PL 2001, c. 465, §7, is further  
21 amended to read:

22 **§1126. Commission to adopt rules**

23 The commission shall adopt rules to ensure effective administration of this chapter.  
24 These rules must include but must not be limited to procedures for obtaining qualifying  
25 contributions, certification as a Maine Clean Election Act candidate, qualification for  
26 supplemental payments, circumstances involving special elections, vacancies, recounts,  
27 withdrawals or replacements, collection of revenues for the fund, distribution of fund  
28 revenue to certified candidates, return of unspent fund disbursements, disposition of  
29 equipment purchased with clean election funds and compliance with the Maine Clean  
30 Election Act. Rules of the commission required by this section are major substantive  
31 rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

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

34 **1. Civil fine.** In addition to any other penalties that may be applicable, a person who  
35 violates any provision of this chapter or rules of the commission adopted pursuant to  
36 section 1126 is subject to a fine not to exceed \$10,000 per violation payable to the fund.  
37 ~~The commission may assess a fine of up to \$10,000 for a violation of the reporting~~  
38 ~~requirements of sections 1017 and 1019-B if it determines that the failure to file a timely~~  
39 ~~and accurate report resulted in the late payment of matching funds.~~ In addition to any  
40 fine, for good cause shown, a candidate, treasurer, consultant or other agent of the  
41 candidate or the political committee authorized by the candidate pursuant to section  
42 1013-A, subsection 1 found in violation of this chapter or rules of the commission may be  
43 required to return to the fund all amounts distributed to the candidate from the fund or

1 any funds not used for campaign-related purposes. If the commission makes a  
2 determination that a violation of this chapter or rules of the commission has occurred, the  
3 commission shall assess a fine or transmit the finding to the Attorney General for  
4 prosecution. A final determination by the commission may be appealed to Superior Court  
5 in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil  
6 Procedure, Rule 80C. Fines assessed or orders for return of funds issued by the  
7 commission pursuant to this subsection that are not paid in full within 30 days after  
8 issuance of a notice of the final determination may be enforced in accordance with  
9 section 1004-B. Fines paid under this section must be deposited in the fund. In  
10 determining whether or not a candidate is in violation of the expenditure limits of this  
11 chapter, the commission may consider as a mitigating factor any circumstances out of the  
12 candidate's control.

13 **Sec. 22. Resolve 2011, c. 89** is repealed.

14 **Sec. 23. Distributions for the 2012 primary and general election cycles.**  
15 Notwithstanding the Maine Revised Statutes, Title 21-A, section 1125, subsection 8-A,  
16 the Commission on Governmental Ethics and Election Practices shall distribute the  
17 following amounts to candidates for the Legislature for the 2012 election cycles certified  
18 as Maine Clean Election Act candidates under Title 21-A, chapter 14:

- 19 1. For a candidate for the State House of Representatives:
  - 20 A. In an uncontested election during the primary election cycle, \$500;
  - 21 B. In a contested election during the primary election cycle, \$1,500;
  - 22 C. In an uncontested election during the general election cycle, \$1,368; and
  - 23 D. In a contested election during the general election cycle, for the initial payment,  
24 \$5,000, and for each supplemental payment, \$2,500, as provided in Title 21-A,  
25 section 1125, subsections 8-A and 9-A; and
- 26 2. For a candidate for the State Senate:
  - 27 A. In an uncontested election during the primary election cycle, \$2,000;
  - 28 B. In a contested election during the primary election cycle, \$6,000;
  - 29 C. In an uncontested election during the general election cycle, \$6,296; and
  - 30 D. In a contested election during the general election cycle, for the initial payment,  
31 \$25,000, and for each supplemental payment, \$12,500, as provided in Title 21-A,  
32 section 1125, subsections 8-A and 9-A.

33 **Sec. 24. Rules.** The Commission on Governmental Ethics and Election Practices  
34 shall adopt rules to implement this Act no later than 45 days after enactment of this Act.  
35 Rules adopted in accordance with this section are routine technical rules as defined by the  
36 Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A. The commission shall post  
37 the adopted rules on its publicly accessible website and shall summarize the adopted rules  
38 in a guidebook distributed to certified candidates.

39 **Sec. 25. Appropriations and allocations.** The following appropriations and  
40 allocations are made.

41 **ETHICS AND ELECTION PRACTICES, COMMISSION ON GOVERNMENTAL**



1 **Governmental Ethics and Election Practices - Commission on 0414**

2 Initiative: Allocates payments to candidates based upon repealing Resolve 2011, chapter  
 3 89, which reduced the amount distributed during the 2012 election cycle to 5% less than  
 4 the amount distributed during the 2010 election cycle.

5	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
6	All Other	\$245,835	\$0
7			
8	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$245,835</u>	<u>\$0</u>

9 **Governmental Ethics and Election Practices - Commission on 0414**

10 Initiative: Adjusts allocations of payments to legislative candidates in contested general  
 11 election races based upon providing additional opportunities to qualify for supplemental  
 12 funds and eliminating matching funds.

13	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
14	All Other	\$1,000,074	(\$927,880)
15			
16	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$1,000,074</u>	<u>(\$927,880)</u>

17	<b>ETHICS AND ELECTION PRACTICES,</b>		
18	<b>COMMISSION ON GOVERNMENTAL</b>		
19	<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
20			
21	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$1,245,909</b>	<b>(\$927,880)</b>
22			
23	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<u><b>\$1,245,909</b></u>	<u><b>(\$927,880)</b></u>
24			

25 **SUMMARY**

26 This amendment, like the bill, strikes provisions governing and references to  
 27 matching funds in the Maine Clean Election Act and repeals campaign finance reporting  
 28 requirements directly related to the qualification for and distribution of matching funds.  
 29 Unlike the bill, this amendment establishes an alternative that provides legislative  
 30 candidates in contested races the opportunity to qualify for supplemental funds to support  
 31 their campaigns. Under this amendment, a contested candidate certified to participate in  
 32 the Maine Clean Election Act is able to qualify for up to 2 additional distributions: the  
 33 first distribution would be made after September 1st of the election year upon request of  
 34 the candidate and the 2nd after October 1st upon request of the candidate. In order to  
 35 qualify for both supplemental payments, a candidate for the House of Representatives  
 36 needs to collect an additional 60 qualifying contributions by June 30th of the election  
 37 year. Similarly, a candidate for the Senate is required to collect 200 additional qualifying  
 38 contributions to receive both supplemental distributions. The amendment doubles the

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1 amount of seed money contributions legislative candidates may receive. The amendment  
2 also adds an appropriations and allocations section.

3 **FISCAL NOTE REQUIRED**

4 **(See attached)**

5 SPONSORED BY: \_\_\_\_\_

6 (Senator PATRICK)

7 COUNTY: Oxford