

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 20-A to 21-A**

REF. NO.	STATUTORY CITATION	DESCRIPTION	RESPONDING DEPARTMENT/AGENCY	PROPOSED ACTION
44	20-A MRSA §4008, sub-§2	Title 20-A, section 4008, subsection 2, relating to school counselor or social worker activities	Dept. of Education; Maine School Management Association	No change (MSMA)
45	20-A MRSA §5001-A, sub-§3	Title 20-A, section 5001-A, subsection 3, relating to homeschooling records	Dept. of Education; Maine School Management Association	No change (MSMA)
46	20-A MRSA §6001, sub-§3	Title 20-A, section 6001, subsection 3, relating to education records of students	Dept. of Education; Maine School Management Association	No change (MSMA)
47	20-A MRSA §6101, sub-§2	Title 20-A, section 6101, subsection 2, relating to school records concerning employees and applicants	Dept. of Education; Maine School Management Association	No change (MSMA)
48	20-A MRSA §6103, sub-§3	Title 20-A, section 6103, subsection 3, relating to school records concerning criminal history record checks of employees and applicants	Dept. of Education; Maine School Management Association	Concerns related to inability of DOE to share criminal history record checks as it relates to newly-enacted PL 2021, c. 404 that prohibits inclusion of criminal history record information on employment applications (MSMA)
49	20-A MRSA §6205	Title 20-A, section 6205, relating to standards and assessments of student performance	Dept. of Education	
50	20-A MRSA §6357, sub-§1	Title 20-A, section 6357, subsection 1, relating to student immunization records	Dept. of Education	
51	20-A MRSA §7451, sub-§2	Title 20-A, section 7451, subsection 2, relating to records of the Baxter Compensation Authority	Attorney General	No change
52	20-A MRSA §10206, sub-§2	Title 20-A, section 10206, subsection 2, relating to records of the Energy Testing Laboratory of Maine	SMCC?	
53	20-A MRSA §11418, sub-§1, sub-§2	Title 20-A, section 11418, subsections 1 and 2, relating to Maine Educational Loan Authority applicants and recipients	Finance Authority of Maine	No change
54	20-A MRSA §11444, sub-§1 <i>Repealed</i>	Title 20-A, section 11444, subsection 1, relating to the Student Financial Aid	Finance Authority of Maine	Repealed—no action needed

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REF. NO.	STATUTORY CITATION	DESCRIPTION	RESPONDING DEPARTMENT/AGENCY	PROPOSED ACTION
		Supplemental Loan Program applicants and recipients		
55	20-A MRSA §11494, sub-§1	Title 20-A, section 11494, subsection 1, relating to the Higher Education Loan Purchase Program borrowers	Finance Authority of Maine	No change
56	20-A MRSA §13004, sub-§2	Title 20-A, section 13004, subsection 2, relating to certification and registration of teachers	Dept. of Education	
57	20-A MRSA §13004, sub-§2-A	Title 20-A, section 13004, subsection 2-A, relating to complaints, charges and accusations concerning certification and registration of educational personnel	Dept. of Education	
58	20-A MRSA §13015, sub-§5 <i>Repealed</i>	Title 20-A, section 13015, subsection 5, relating to teacher action plans	Dept. of Education	Repealed—no action needed
59	20-A MRSA §13034 <i>Repealed</i>	Title 20-A, section 13034, relating to teacher qualifying exam scores	Dept. of Education	Repealed—no action needed
60	21-A MRSA §1, sub-§21	Title 21-A, section 1, subsection 21, relating to portion of incoming voting list relating to Address Confidentiality Program participants	Secretary of State	No change
61	21-A MRSA §22, sub-§2	Title 21-A, section 22, subsection 2, relating to ballots	Secretary of State	No change
62	21-A MRSA §22, sub-§3, ¶A	Title 21-A, section 22, subsection 3, paragraph A, relating to records pertaining to a voter certified as a participant in the Address Confidentiality Program	Secretary of State	No change
63	21-A MRSA §22, sub-§3, ¶B	Title 21-A, section 22, subsection 3, paragraph B, relating to residence and mailing address of voter when voter submits statement to registrar stating good reason to believe physical safety jeopardized	Secretary of State	No change
64	21-A MRSA §22, sub-§5, sub-§6	Title 21-A, section 22, subsections 5 and 6, relating to registered voter applications	Secretary of State	No change
65	21-A MRSA §122-A	Title 21-A, section 122-A, relating to voter registration records of voters who are participants in the Address Confidentiality Program	Secretary of State	No change
66	21-A MRSA §172	Title 21-A, section 172, relating to a voter registration file kept by	Secretary of State	No change

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REF. NO.	STATUTORY CITATION	DESCRIPTION	RESPONDING DEPARTMENT/AGENCY	PROPOSED ACTION
		the registrar when the voter is a participant in the Address Confidentiality Program		
67	21-A MRSA §196-A	Title 21-A, section 196-A, relating to information contained electronically in the central voter registration system	Secretary of State	No change; <i>recently amended by PL 2021, c. 310 effective 10/18/21 to permit access to CRV data for organizations monitoring compliance with voter list maintenance obligations under federal law</i>
68	21-A MRSA §624, sub-§1	Title 21-A, section 624, subsection 1, relating to that portion of voter list relating to Address Confidentiality Program participants	Secretary of State	No change
69	21-A MRSA §737-A, sub-§7	Title 21-A, section 737-A, subsection 7, relating to disputed ballots	Secretary of State	No change
70	21-A MRSA §753-B, sub-§6, ¶A	Title 21-A, section 753-B, subsection 6, paragraph A, relating to the portion of the absentee voter list relating to voters who are Address Confidentiality Program participants	Secretary of State	No change
71	21-A MRSA §764	Title 21-A, section 764, relating to applications and envelopes for absentee ballots	Secretary of State	No change
72	21-A MRSA §1003, sub-§3-A	Title 21-A, section 1003, subsection 3-A, relating to investigative working papers of the Commission on Governmental Ethics and Election Practices	Commission on Governmental Ethics and Election Practices	No change
73	21-A MRSA §1125, sub-§2-B <i>Repealed</i>	Title 21-A, section 1125, subsection 2-B, relating to records of individuals who made Clean Elections gubernatorial seed money contributions over the Internet	Commission on Governmental Ethics and Election Practices	Repealed—no action necessary;
74	21-A MRSA §1125, sub-§3	Title 21-A, section 1125, subsection 3, relating to records of individuals who made Clean Elections qualifying contributions over the Internet	Commission on Governmental Ethics and Election Practices	No change

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REF. NO. 44 20-A MRSA §4008. Privileged communications

1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Client" means a person who has actively sought or is in the process of seeking professional help from a school counselor or school social worker.

B. "School counselor" means a person who is employed as a school counselor in a school setting and who:

- (1) Is certified as a school counselor by the department; or
- (2) Possesses a minimum of a master's degree in an approved program in guidance and counseling.

C. "School social worker" means a person who is employed as a school social worker in a school setting and who:

- (1) Is licensed as a social worker by the State Board of Social Worker Licensure; or
- (2) Possesses a bachelor's degree and has been granted a conditional license from the State Board of Social Worker Licensure.

2. Privileged communication. A school counselor or school social worker may not be required, except as provided by this section, to divulge or release information gathered during a counseling relation with a client or with the parent, guardian or a person or agency having legal custody of a minor client. A counseling relation and the information resulting from it shall be kept confidential consistent with the professional obligations of the counselor or social worker.

3. Exceptions. This section shall not apply to the extent that disclosure of information is necessary:

- A. To comply with Title 22, chapter 1071; and
- B. To report to an appropriate authority or to take appropriate emergency measure when:
 - (1) The client's condition requires others to assume responsibility for the client; or
 - (2) There is clear and imminent danger to the client or others.

REF. NO. 45 20-A MRSA §5001-A. Compulsory attendance

Attendance at school shall be required of persons in the State as follows.

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1. Requirement. Persons 6 years of age or older and under 17 years of age shall attend a public day school during the time it is in regular session.

1-A. Attendance of persons 5 years of age or older and under 6 years of age. A person 5 years of age or older and under 6 years of age who is enrolled in and who has not withdrawn from a public day school is required to attend that school during the time it is in session.

2. Exceptions. Attendance at school shall not be required of the following:

A. A person who graduates from high school before that person's 17th birthday;

B. A person who has:

(1) Reached the age of 15 years or completed the 9th grade;

(2) Permission to leave school from that person's parent;

(3) Been approved by the principal for a suitable program of work and study or training;

(4) Permission to leave school from the school board or its designee; and

(5) Agreed in writing with that person's parent and the school board or its designee to meet annually until that person's 17th birthday to review that person's educational needs. When the request to be excused from school has been denied pursuant to this paragraph, the student's parent may appeal to the commissioner;

C.

D. A person who has matriculated and is attending an accredited, post-secondary, degree-granting institution as a full-time student. An exception to attendance in public school under this paragraph must be approved by the commissioner; or

E. A person enrolled in an online learning program or course, unless the person is enrolled in a virtual public charter school as defined in section 2401, subsection 11.

3. Alternatives to attendance at public day school. Alternatives to attendance at public day school are as follows. A person 5 years of age or older and under 6 years of age is not required to meet the requirements of this subsection.

A. Equivalent instruction alternatives are as follows.

(1) A person is excused from attending a public day school if the person obtains equivalent instruction in:

(a) A private school approved for attendance purposes pursuant to section 2901;

(b) A private school recognized by the department as providing equivalent instruction;

(c-1) A home instruction program that complies with the requirements of subparagraph (4); or

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- (d) Any other manner arranged for by the school board and approved by the commissioner.
- (2) A student is credited with attendance at a private school only if a certificate showing the name, residence and attendance of the person at the school, signed by the person or persons in charge of the school, has been filed with the school officials of the administrative unit in which the student resides.
- (4) The following provisions govern a home instruction program.
 - (a) The student's parent or guardian shall provide a written notice of intent to provide home instruction simultaneously to the school officials of the administrative unit in which the student resides and to the commissioner within 10 calendar days of the beginning of home instruction. The notice must contain the following information:
 - (i) The name, signature and address of the student's parent or guardian;
 - (ii) The name and age of the student;
 - (iii) The date the home instruction program will begin;
 - (iv) A statement of assurance that indicates the home instruction program will provide at least 175 days annually of instruction and will provide instruction in the following subject areas: English and language arts, math, science, social studies, physical education, health education, library skills, fine arts and, in at least one grade from grade 6 to 12, Maine studies. At one grade level from grade 7 to 12, the student will demonstrate proficiency in the use of computers; and
 - (v) A statement of assurance that indicates that the home instruction program will include an annual assessment of the student's academic progress that includes at least one of the forms of assessment described in division (b).
 - (b) On or before September 1st of each subsequent year of home instruction, the student's parent or guardian shall file a letter with the school officials of the administrative unit in which the student resides and the commissioner stating the intention to continue providing home instruction and enclose a copy of one of the following forms of annual assessment of the student's academic progress:
 - (i) A standardized achievement test administered through the administrative unit in which the student resides or through other arrangements approved by the commissioner. If the test is administered through the administrative unit in which the student resides, that administration must be agreed to by the school officials of the administrative unit prior to submission of the written notice of intent to provide home instruction;
 - (ii) A test developed by the school officials of the administrative unit in which the student resides appropriate to the student's home instruction program, which must

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be agreed to by the school officials of the administrative unit prior to submission of the written notice of intent to provide home instruction;

(iii) A review and acceptance of the student's progress by an identified individual who holds a current Maine teacher's certificate;

(iv) A review and acceptance of the student's progress based on, but not limited to, a presentation of an educational portfolio of the student to a local area homeschooling support group whose membership for this purpose includes a currently certified Maine teacher or administrator; or

(v) A review and acceptance of the student's progress by a local advisory board selected by the superintendent of the administrative unit in which the student resides that includes one administrative unit employee and 2 home instruction tutors. For the purpose of this subdivision, a "home instruction tutor" means the parent, guardian or other person who acts or will act as a primary teacher of the student in the home instruction program. This provision must be agreed to by the school officials of the administrative unit in which the student resides prior to submission of the written notice of intent to provide home instruction.

(c) Dissemination of any information filed under this subparagraph is governed by the provisions of section 6001; the federal Family Educational Rights and Privacy Act of 1974, 20 United States Code, Section 1232g (2002); and the federal Education for All Handicapped Children Act of 1975, 20 United States Code, Sections 1401 to 1487 (2002), except that "directory information," as defined by the federal Family Educational Rights and Privacy Act of 1974, is confidential and is not subject to public disclosure unless the parent or guardian specifically permits disclosure in writing or a judge orders otherwise. Copies of the information filed under this subparagraph must be maintained by the student's parent or guardian until the home instruction program concludes. The records must be made available to the commissioner upon request.

(d) If the home instruction program is discontinued, students of compulsory school age must be enrolled in a public school or an equivalent instruction alternative as provided for in this paragraph. The receiving school shall determine the placement of the student. At the secondary level, the principal of the receiving school shall determine the value of the prior educational experience toward meeting the standards of the system of learning results as established in section 6209.

B. A person may be excused from attendance at a public day school pursuant to section 5104-A or section 8605.

C.

4. Excusable absence. A person's absence is excused when the absence is for the following reasons:

A. Personal health, including the person's physical, mental and behavioral health;

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- B. An appointment with a health professional that must be made during the regular school day;
- C. Observance of a recognized religious holiday when the observance is required during the regular school day;
- D. A family emergency;
- E. A planned absence for a personal or educational purpose that has been approved; or
- F. Education disruption resulting from homelessness, unplanned psychiatric hospitalization, unplanned hospitalization for a medical emergency, foster care placement, youth development center placement or some other out-of-district placement that is not otherwise authorized by either an individualized education plan or other education plan or a superintendent's agreement developed in accordance with section 5205, subsection 2. This paragraph does not apply to a student who is out of school for 10 or more consecutive school days as a result of a planned absence for a reason such as a family event or a medical absence for planned hospitalization or recovery.

5. Adult responsibility. An adult having a person of compulsory school age under that adult's control shall cause the person to attend school as provided in this section.

6. Noncompliance.

7. Purpose. Compulsory education is essential to the preservation of the rights and liberties of the people and the continued prosperity of our society and our nation. Maintaining regular student attendance is necessary to achieve the goal of an educated citizenry. Public schools should ensure the rights of access for all school-age persons to an appropriate educational opportunity and, when necessary, should develop alternatives to regular school curricula for those children and youth at risk of becoming dropouts and those who may have left school.

REF. NO. 46 20-A MRSA §6001. Dissemination of information

1. Federal and state law. The provisions of this section, the United States Family Educational Rights and Privacy Act of 1974, Public Law 93-380, as amended by Public Law 93-568, and the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., as amended, govern the dissemination of education records and personally identifiable information about students in public schools, private schools approved by the department pursuant to chapter 117 and private schools recognized by the department as providing equivalent instruction pursuant to section 5001-A, subsection 3, paragraph A, subparagraph (1), division (b), as well as written notices of intent to provide equivalent instruction through home instruction and all education records of students receiving equivalent instruction through home instruction.

2. Internet restrictions. A public school may not publish on the Internet or provide for publication on the Internet any personal information about its students without first obtaining the written approval of those students' parents. For the purpose of this section, "personal information" means information that identifies a student, including, but not limited to, the student's full name,

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photograph, personal biography, e-mail address, home address, date of birth, social security number and parents' names.

3. Dissemination of education records to criminal justice agencies. A school may disseminate education records as defined in 20 United States Code, Section 1232 g(a)(4) regarding a juvenile if:

A. The juvenile has not been adjudicated as having committed a juvenile crime;

B. The education records are disseminated to:

(1) Criminal justice agencies; or

(2) Agencies that by court order or agreement of the juvenile are responsible for the health or welfare of the juvenile and that have provided the school with a statement describing the purpose of the dissemination; and

C. The education records are relevant to and disseminated for the purpose of creating or maintaining an individualized plan for the juvenile's rehabilitation.

Education records received under this subsection are confidential and may not be further disseminated, except to the court or as otherwise provided by law. The persons to whom the education records are disseminated shall certify in writing to the school that the records will not be disclosed to any other party, except the court or as otherwise provided by law, without the written consent of the juvenile or the juvenile's parent or guardian.

REF. NO. 47 20-A MRSA §6101. Record of directory information

The following provisions apply to employee records.

1. Contents. A school administrative unit shall maintain a record of directory information on each employee as follows:

A. Name;

B. Dates of employment;

C. Regular and extracurricular duties, including all courses taught in that school administrative unit;

D. Post-secondary educational institutions attended;

E. Major and minor fields of study recognized by the post-secondary institutions attended; and

F. Degrees received and dates awarded.

G.

2. Access. The following provisions apply to access of employee records.

A. The record of directory information shall be available for inspection and copying by any person.

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B. Except as provided in paragraph A, information in any form relating to an employee or applicant for employment, or to the employee's immediate family, must be kept confidential if it relates to the following:

- (1) All information, working papers and examinations used in the examination or evaluation of all applicants for employment;
- (2) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;
- (3) Performance evaluations, personal references and other reports and evaluations reflecting on the quality or adequacy of the employee's work or general character compiled and maintained for employment purposes;
- (4) Credit information;
- (5) Except as provided by subsection 1, the personal history, general character or conduct of the employee or any member of the employee's immediate family;
- (6) Complaints, charges of misconduct, replies to complaints and charges of misconduct and memoranda and other materials pertaining to disciplinary action;
- (7) Social security number;
- (8) The teacher action plan and support system documents and reports maintained for certification purposes; and
- (9) Criminal history record information obtained pursuant to section 6103.

C. Any written record of a decision involving disciplinary action taken with respect to an employee by the governing body of the school administrative unit shall not be included within any category of confidential information set forth in paragraph B.

3. Commissioner's review. The commissioner shall have access to any of the records or documents designated as confidential in this section for carrying out the commissioner's duties pursuant to section 13020. Copies of any such records or documents shall simultaneously be provided to the employee.

The commissioner shall also have access to support system documents for carrying out the commissioner's certification and support system approval duties pursuant to chapter 502 and to other confidential employee records for carrying out the commissioner's school approval duties pursuant to chapter 206.

REF. NO. 48 20-A MRSA §6103. Criminal history record information conviction data

Beginning July 1, 2000, a credential and renewal under chapters 501 and 502 are subject to the provisions of this section. A person who has complied with the requirements of this section is not required to submit to a subsequent national criminal history record check unless that person has not been continuously employed in a position requiring a credential under chapters 501 and 502. A

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person who has not been continuously employed in such a position is subject to a subsequent national criminal history record check upon renewal. School vacations are not a break in employment.

1. Criminal history record information obtained; reliance. The commissioner shall obtain criminal history record information containing a record of public criminal history record information as defined in Title 16, section 703, subsection 8 from the Maine Criminal Justice Information System for any person applying for a credential or renewal. The commissioner may rely on information provided by the Maine Criminal Justice Information System within 24 months prior to the issuance of a credential or renewal.

2. Issuance restriction. Issuance of a credential or renewal to any person whose criminal history record information includes a criminal conviction is subject to the provisions of Title 5, chapter 341 and section 13020.

3. Confidentiality. Any information obtained pursuant to this section is confidential. The results of criminal history record checks received by the commissioner are for official use only and may not be disseminated outside the department, except that the commissioner may outsource administrative functions of software document management according to federal outsourcing standards as described in 28 Code of Federal Regulations, Section 906.2 (2011) and allow access to these results for that purpose.

3-A. Fees. The Commissioner of Public Safety shall assess a fee set annually by the Commissioner of Education for each initial criminal history record check and a fee set annually by the Commissioner of Education for each renewal criminal history record check required by this section.

3-B. Reimbursement of fee.

4. Expenses.

4-A. Phase-in plan. The fingerprinting and approval process established by this section for certain classes of individuals must be phased in as follows:

A. The fingerprinting and approval process must be phased in for all persons regularly employed in a school during the 1999-2000 school year who require department approval to continue in their positions and who have not been fingerprinted pursuant to this section prior to enactment of this subsection. The department shall issue each person a temporary approval card valid through a specified year from 2001 to 2004. Prior to July 1st of the year specified on the temporary approval card, the person must meet the requirements of this section. Once a person has met the requirements of this section, an approval card must be issued;

B. A person placed under contract by a school and subject to the requirements of this section, who has not been fingerprinted prior to the effective date of this subsection, must meet these requirements by July 1, 2002;

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C. A person employed as a substitute who has not been fingerprinted prior to the effective date of this subsection must meet the requirements by July 1, 2002. Beginning with the 2003-2004 school year, a person employed as a substitute who needs fingerprinting and a criminal history record check pursuant to section 13011, subsection 8 must meet the requirements of this section within 8 weeks of employment by a school administrative unit. A person employed as a substitute who needs fingerprinting and a criminal history record check must be issued a temporary approval card by the department. The temporary approval card is valid for the first 8 weeks of employment, except that, for a person who has been fingerprinted pursuant to this section prior to the 20th day of employment and who has not received the results of the criminal history record check prior to the 9th week of employment, the temporary approval card remains valid until the commissioner determines whether approval is granted or denied based on the criminal history record information obtained from the State Bureau of Identification; and

D. A regular employee subject to the requirements of this section who begins work in a school after the effective date of this subsection must meet these requirements prior to the 20th day of employment. Beginning with the 2003-2004 school year, a regular employee who needs fingerprinting and a criminal history record check pursuant to section 13011, subsection 8 must meet the requirements of this section within 8 weeks of employment by a school administrative unit. A regular employee who needs fingerprinting and a criminal history record check must be issued a temporary approval card by the department. The temporary approval card is valid for the first 8 weeks of employment, except that, for a person who has been fingerprinted pursuant to this section prior to the 20th day of employment and who has not received the results of the criminal history record check prior to the 9th week of employment, the temporary approval card remains valid until the commissioner determines whether approval is granted or denied based on the criminal history record information obtained from the State Bureau of Identification.

5. Criminal record information obtained from the Federal Bureau of Investigation. The commissioner shall obtain other state and national criminal history record information from the Federal Bureau of Investigation for any person applying for a credential or renewal. The commissioner may rely on information provided by the Federal Bureau of Investigation within 24 months prior to the issuance of a credential or renewal.

6. Fingerprinting. The applicant shall submit to having fingerprints taken. The Maine State Police, upon payment by the applicant or any other entity required by law of the expenses specified in subsection 3-A, shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that the bureau can conduct state and national criminal history record checks. Except for the portion of the payment, if any, that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the Maine State Police for purposes of this section must be paid over to the Treasurer of State for deposit in the State Police program, Other Special Revenue Funds account in the Department of Public Safety for the purpose of funding the costs of the Department of Public Safety to administer the criminal history record checks under this section.

7. Use of criminal history record. State and federal criminal history record information may be used for the purpose of screening educational personnel applicants by the commissioner in order to

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determine whether issuance of a credential or a renewal to educational personnel is granted or maintained.

8. Applicant's access to criminal history record check. The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of a criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal record check may inspect and review criminal record information pursuant to Title 16, section 709.

9. Right of applicant and commissioner to remove fingerprints from fingerprint file. Teachers or educational personnel whose credential has expired and who have not applied for renewal of a credential may request in writing that the State Bureau of Identification remove their fingerprints from the bureau's fingerprint file. In response to a written request, the bureau shall remove the requester's fingerprints from the fingerprint file and provide written confirmation of that removal to the requester.

The commissioner may, without notice to an applicant, remove fingerprints from the fingerprint file maintained by the State Bureau of Identification when an applicant has had no active credential for 7 years. An applicant may renew a credential after that applicant's fingerprints have been removed from the fingerprint file upon submitting again to fingerprinting.

10. Criminal History Record Check Fund. The Criminal History Record Check Fund is created as a dedicated fund within the Department of Education for the transfer of funds from the Department of Public Safety to cover a portion of the cost of a position that issues credentials. The fund may not lapse, but must be carried forward to carry out the purposes of this chapter.

11. Exemptions. An active duty law enforcement officer from a local law enforcement agency with jurisdiction over a school's premises who assists with school security, safety, emergency preparedness or emergency response or has been assigned other responsibilities concerning the school by the school or the local law enforcement agency is exempt from the provisions of this section.

REF. NO. 49 20-A MRSA §6205. Assessment data

The department shall provide each school with assessment data on individual students. Such assessment data shall become part of the student's educational record and shall be made available to the parents of each student or student of majority age in accordance with local school policies. It shall be held confidential from unauthorized persons in accordance with the confidentiality provisions of this Title and federal law.

REF. NO. 50 20-A MRSA §6357. Records; report

1. Record keeping. Each superintendent shall keep uniform records of the immunizations and immunization status of each child based on the certificate of immunization, other acceptable evidence and other available documents. The records shall be part of the child's permanent education records. These records shall be confidential, except that state and local health personnel

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shall have access to them in connection with an emergency, as provided by the United States Family Educational Rights and Privacy Act of 1974, Public Law 93-380, United States Code, Title 20, Section 1232g(b) (1) (I) and regulations adopted under that Act.

2. Annual report of immunization status. By December 15th of each year, each superintendent shall submit to the Director of the Bureau of Health, Department of Health and Human Services, and to the commissioner a summary report of immunization status of the children entering school, as prescribed by rule.

REF. NO. 51 20-A MRSA §7451. Baxter Compensation Authority records confidential

1. Application. This section governs all records of the former Baxter Compensation Authority, as established under former Title 5, section 22002, referred to in this section as "the authority." These records may be released only with the approval of the Attorney General as authorized in this section.

2. Designation of information. All records of the authority that are in any way related to a claimant or a claimant's family are confidential, except that the following information is a public record:

- A. The claimant's name;
- B. The claimant's eligibility for compensation;
- C. The amount of the compensation award, if any; and
- D. A summary of the compensation panel's rationale in deciding eligibility and the compensation award amount.

All information other than that described in paragraphs A to D supporting or corroborating a claim continues to be confidential until those records are destroyed. This confidential information may be released only to the Attorney General, the Governor and the chairs of the joint standing committee of the Legislature having jurisdiction over judiciary matters and remains confidential in their custody.

REF. NO. 52 20-A MRSA §10206. Exemptions

The following exemptions shall apply to ETLM:

1. Rulemaking. ETLM shall not be subject to the requirements of the Maine Administrative Procedure Act, Title 5, chapter 375, before it may adopt standards or policies to be utilized in carrying out its duties under this chapter, nor in establishing and setting fees to be charged for services provided by ETLM.

2. Freedom of access. Records maintained by ETLM relative to services provided to persons, corporations or any other body in accordance with this chapter are not public records as that term is defined in Title 1, section 402, subsection 3, except for the fiscal records maintained by ETLM.

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REF. NO. 53 20-A MRSA §11418. Records confidential

1. Confidential information. Records containing any information acquired by the authority or a member, officer, employee or agent of the authority from applicants for or recipients of financial assistance provided pursuant to the program are confidential for purposes of Title 1, section 402, subsection 3, paragraph A.

2. Wrongful disclosure prohibited. No member, officer, employee, agent, other representative of the authority or other person may knowingly divulge or disclose records declared confidential by this section, except that the authority may, in its discretion, make or authorize any disclosure of information of the following types or under the following circumstances:

- A. Impersonal, statistical or general information;
- B. If necessary in connection with processing any application for, obtaining or maintaining financial assistance for any person or in connection with acquiring, maintaining or disposing of property;
- C. To a financial institution or credit reporting service;
- D. Information necessary to comply with any federal or state law or rule or with any agreement pertaining to financial assistance;
- E. Information to the extent the authority deems the disclosure necessary to the sale or transfer of its bonds;
- F. If necessary to assure collection of any obligation in which it has or may have an interest;
- G. In any litigation or proceeding in which the authority has appeared, introduction for the record of any information obtained from records declared confidential by this section; and
- H. Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, provided that any such order appears to have first been served on the person to whom confidential information sought pertains or belongs and provided that any such order appears on its face or otherwise to have been issued or made upon lawful authority.

REF. NO. 55 20-A MRSA §11494. Records confidential

1. Confidential information. Records containing any information acquired by the authority or a member, employee or agent of the authority from borrowers whose loans are financed by the authority are confidential for purposes of Title 1, section 402, subsection 3, paragraph A.

2. Wrongful disclosure prohibited. A member, employee, agent, other representative of the authority or other person may not knowingly divulge or disclose records declared confidential by this section, except that the authority may, in its discretion, make or authorize any disclosure of information of the following types:

- A. Impersonal, statistical or general information;

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- B. Information to an eligible lender or credit reporting service;
 - C. Information necessary to comply with the federal Higher Education Act of 1965, Public Law 89-329, 79 Stat. 1219, Title IV, as amended, or the federal Health Professions Educational Assistance Act of 1976, Public Law 94-484, 90 Stat. 2243, as amended, in each case along with any successor provision, or any administrative requirement under either of those Acts or of any other federal or state law or rule or with any agreement pertaining to financial assistance;
 - D. Information, the disclosure of which the authority determines is necessary or convenient to the sale or transfer of its bonds or loans;
 - E. Information necessary to ensure collection of any obligation in which the authority has or may have an interest;
 - F. In any litigation or proceeding in which the authority has appeared, any information obtained from records declared confidential by this section; and
 - G. Information required pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, provided that any such order appears to have first been served on the person to whom confidential information sought pertains or belongs and provided that any such order appears on its face or otherwise to have been issued or made upon lawful authority.
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REF. NO. 56-57 20-A MRSA §13004. List of persons credentialed; records confidential

1. Lists. The commissioner shall keep a list of credentialed individuals. This list is a public record.

2. Records confidential. Transcripts, recommendations and other documents submitted in support of an application for a credential or collected by the department for verification of credential records are confidential. They may be made available only to the following:

- A. School boards and superintendents;
- B. Authorized personnel of the department in fulfilling assigned duties; and
- C. Individuals and their representatives who request to examine their own records.

2-A. Confidentiality. The provisions of this subsection govern confidentiality.

A. Complaints and responses pursuant to section 13020 and any other information or materials that may result in an action to deny, revoke or suspend a credential are confidential, except when submitted in court proceedings to revoke or suspend a credential.

B. Except for information designated confidential under section 6101 or section 6103, information designated confidential under paragraph A may be released or used by the department as necessary to:

- (1) Complete its own investigations;

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(2) Provide information to a national association of state directors of teacher education and certification to which the State belongs;

(3) Assist other public authorities to investigate an individual's credential in another jurisdiction;

(4) Report or prevent criminal misconduct or assist law enforcement agencies in their investigations; or

(5) Report child abuse or neglect under Title 22, section 4011-A.

C. The department may publish and release as public information statistical summaries of complaints and dispositions as long as the release of such information does not jeopardize the confidentiality of individually identifiable information.

D. Notwithstanding paragraph A, the following information concerning final written decisions relating to disciplinary action taken by the commissioner against a person holding a credential is a public record:

(1) The name of the person;

(2) The type of action taken, consisting of denial, revocation, suspension, surrender or reinstatement;

(3) The grounds for the action taken;

(4) The relevant dates of the action;

(5) The type of credential and endorsements held, including relevant dates;

(6) The schools where the person was or is employed; and

(7) The dates of employment.

2-B. Addresses of credential holders and applicants. Home addresses held by the department of individuals with credentials or applicants for credentials in the State may be made available in response to the following:

A. Formal request from a commissioner or chief executive officer of other state agencies, including the judicial branch when access to that information may be necessary in carrying out an official function; and

B. Formal request by majority vote of any joint standing committee of the Legislature when access to that information may be necessary in carrying out an official function.

The use of these addresses by any other agency or department of government to which they may be furnished is limited to the purposes for which they are furnished and by the law under which they may be furnished. It is unlawful for any person to solicit, disclose, receive, make use of or authorize, knowingly permit, participate in or acquiesce in the use of, any list of or names of, or any information concerning, persons applying for or receiving assistance, directly or indirectly, derived

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from the records, papers, files or communications of the State or subdivisions or agencies, or acquired in the course of the performance of official duties. Any person violating this subsection must be punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both.

3. Duplication costs. Individuals requesting copies of their records bear the costs of copying them.

4. Rules.

REF. NO. 60 21-A MRSA §1. Definitions

(CONFLICT)

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

1. Absentee voter. "Absentee voter" means a person who qualifies under section 751 to cast an absentee ballot.

1-A. Affidavit. "Affidavit" with respect to an absentee ballot envelope means the portion of the envelope that includes the voter's signature, the aide certificate and the witness certificate.

2. Any election. "Any election" means primary and general elections and referenda, whether regular or special.

2-A. Armed Forces members; members of the Armed Forces.

3. Ballot label. "Ballot label" means that portion of the cardboard, paper or other material to be placed within the ballot frames of a voting machine containing the items required of a paper ballot.

3-A. Ballot question committee. "Ballot question committee" means a person required to register as a ballot question committee under section 1056-B.

4. Business day. "Business day" means any day of the calendar year other than a Saturday, Sunday or legal holiday.

5. Candidate. "Candidate" means any person who has filed a petition under either sections 335 and 336 or sections 354 and 355 and has qualified as a candidate by either procedure, or any person who has received contributions or made expenditures or has given consent for any other person to receive contributions or make expenditures with the intent of qualifying as a candidate.

6. Caucus. "Caucus" means a meeting of a political party or committee.

6-A. Central voter registration system. "Central voter registration system" means a single electronic information system and database for voter registration information maintained by the Secretary of State and used by all municipal jurisdictions in the State.

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7. Challenged ballot. "Challenged ballot" means a ballot cast by one whose eligibility to vote has been questioned during election day.

8. Circulate. "Circulate" means the presenting of a petition to a voter with an accompanying request that the voter sign it.

9. Clerk; municipal clerk. "Clerk" or "municipal clerk" means the clerk, deputy clerk or assistant clerk, where directed by the clerk to carry out duties under this Title, of a municipality.

10. Closed period. "Closed period" means that time period when the registrar may accept only those voter registration applications presented in person.

11. County office. "County office" means the office of judge of probate, register of probate, county treasurer, register of deeds, sheriff, district attorney or county commissioner.

11-A. Declared write-in candidate. "Declared write-in candidate" means a write-in candidate who has filed a declaration to be a write-in candidate pursuant to section 722-A.

12. Disputed ballot. "Disputed ballot" means a ballot whose validity has been questioned during the recount process.

13. Distinguishing mark. "Distinguishing mark" means a mark on a ballot of a type or in a place not specifically permitted by this Title, which indicates the apparent intent of the voter to make the voter's ballot distinguishable in a manner that is fraudulent or inconsistent with an honest purpose. A stray mark on the ballot or mark made on or in the voting indicator or near the candidate's name or space for a write-in candidate that differs from the instructions at the top of the ballot is not a distinguishing mark unless it is of such a character or is made in such a manner that it manifests an intent to make the ballot distinguishable for a fraudulent or dishonest purpose. Marking the write-in space on a ballot with the name of a fictitious person, a deceased person or a person from outside the State who could not be a candidate for that office is not a distinguishing mark unless it is made in such a manner that manifests an intent to make the ballot distinguishable for a fraudulent or dishonest purpose.

13-A. Domestic partner. "Domestic partner" means the partner of a voter who:

- A. Has been legally domiciled with the voter for at least 12 months;
- B. Is not legally married to or legally separated from another individual;
- C. Is the sole partner of the voter and expects to remain so; and
- D. Is jointly responsible with the voter for each other's common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property.

14. Election official. "Election official" means a warden, ward clerk, deputy warden or election clerk.

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15. Election year. "Election year" means the calendar year within which a particular election is held.

16. Electoral division. "Electoral division" means an area set off for election purposes. It may include the entire State.

17. Enroll. "Enroll" means to enlist as a member of a political party.

18. Federal office. "Federal office" means the office of the United States Senator or Representative to Congress.

19. General election. "General election" means the regular election of state and county officials occurring biennially in November.

20. Immediate family. "Immediate family" means a person's spouse, parent, grandparent, child, grandchild, sister, half-sister, brother, half-brother, stepparent, stepgrandparent, stepchild, stepgrandchild, stepsister, stepbrother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, guardian, former guardian, domestic partner, the half-brother or half-sister of a person's spouse, or the spouse of a person's half-brother or half-sister.

21. Incoming voting list. "Incoming voting list" means the printed list of all of the voters in a municipality that is used by election officials at a voting place to record which voters have been issued a ballot at an election. The list must include the following information for each voter and may not include any other information: name; year of birth; residence address; enrollment status; electoral district; voter status, active or inactive; voter record number; designations regarding challenged ballots, absentee ballots or whether a voter needs to show identification before voting; and any special designations indicating uniformed service voters, overseas voters or township voters. The portion of the incoming voting list relating to Address Confidentiality Program participants must be kept under seal and excluded from public inspection. The residence address for any voter whose address has been made confidential pursuant to section 22, subsection 3, paragraph B may not be printed on the incoming voting list, and the words "address is confidential" must be printed on the list instead.

22. Major party. "Major party" means a political party polling the greatest or the next greatest number of votes cast for Governor at the last gubernatorial election.

23. Members of the Armed Forces.

23-A. Member of the merchant marine. "Member of the merchant marine" means a person, other than a member of a uniformed service or a person employed, enrolled or maintained on the Great Lakes or the inland waterways, who is:

A. Employed as an officer or crew member of a vessel documented under the laws of the United States, a vessel owned by the United States or a vessel of foreign-flag registry under charter to or control of the United States; or

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B. Enrolled with the United States for employment or training for employment, or maintained by the United States for emergency relief service, as an officer or crew member of a vessel described in paragraph A.

24. Minor party. "Minor party" means a political party other than a major party.

25. Municipal committee. "Municipal committee" means a city, town or ward committee of a political party.

26. Municipal officers. "Municipal officers" means the mayor and aldermen or councillors of a city, the selectmen or councillors of a town and the assessors of a plantation.

27. Municipality. "Municipality" means a city, town or plantation.

27-A. Official tally tape. "Official tally tape" means the first tape produced by an electronic tabulating machine that tallies the final vote totals at the conclusion of voting and that is attached to the zero tape produced by the machine prior to the start of voting.

27-B. Overseas voter. "Overseas voter" means:

A. A person who resides outside the United States and who was qualified to vote in the last place in which the person was domiciled in the State before leaving the United States; or

B. A person who resides outside the United States and, except for such residence, would be qualified to vote in the last place in which the person was domiciled in the State before leaving the United States.

27-C. (CONFLICT: Text as amended by PL 2019, c. 320, §1) Elections determined by ranked-choice voting. "Elections determined by ranked-choice voting" means any election described in paragraph A or B in which 3 or more candidates have qualified to be listed on the ballot for a particular office or at least 2 such candidates plus one or more declared write-in candidates have qualified for that particular office:

A. Primary elections for the offices of United States Senator, United States Representative to Congress, Governor, State Senator and State Representative; and

B. General and special elections for the offices of United States Senator and United States Representative to Congress.

REVISOR'S NOTE: Paragraph C and the blocked paragraph of subsection 27-C, as created by Public Law 2017, chapter 316, section 1, were vetoed pursuant to a people's veto on June 12, 2018 in accordance with the Constitution of Maine, Article IV, Part Third, Section 17.

27-C. (CONFLICT: Text as amended by PL 2019, c. 539, §§1 and 2) Elections determined by ranked-choice voting. "Elections determined by ranked-choice voting" means any of the following elections in which 3 or more candidates have qualified to be listed on the ballot for a particular office or at least 2 such candidates plus one or more declared write-in candidates have qualified for that particular office:

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- A. Primary elections for the offices of United States Senator, United States Representative to Congress, Governor, State Senator and State Representative;
- B. General and special elections for the offices of United States Senator and United States Representative to Congress;
- D. General elections for presidential electors; and
- E. Primary elections for the office of President of the United States.

REVISOR'S NOTE: Paragraph C and the blocked paragraph of subsection 27-C, as created by Public Law 2017, chapter 316, section 1, were vetoed pursuant to a people's veto on June 12, 2018 in accordance with the Constitution of Maine, Article IV, Part Third, Section 17.

28. Party. "Party" means a political organization which has qualified to participate in a primary or general election under chapter 5.

29. Peace officer. "Peace officer" means state police officer, local police officer, sheriff, deputy sheriff or constable.

29-A. Political action committee. "Political action committee" means a person required to register as a political action committee under section 1052-A.

30. Political committee. "Political committee" means 2 or more persons associated for the purpose of promoting or defeating a candidate, party or principle.

30-A. Pollwatcher. "Pollwatcher" means a party worker who remains in the voting place outside the guardrail enclosure for the purpose of viewing the voting process, keeping track of the voters who have voted or challenging voters whose qualifications appear to be in question.

31. Population. "Population" means the population determined by the last Decennial Census of the United States.

32. Primary election. "Primary election" means the regular election for the election of nominees of a party for the general election.

33. Protective counter.

33-A. Public counter. "Public counter" means a separate counter built into a voting device that records the total number of ballots cast or tabulated on the voting device for an election.

34. Public official. "Public official" means a person elected or appointed to serve the people.

35. Question. "Question" means any proposition submitted to the voters.

35-A. Ranked-choice voting. "Ranked-choice voting" means the method of casting and tabulating votes in which voters rank candidates in order of preference, tabulation proceeds in sequential rounds in which last-place candidates are defeated and the candidate with the most votes in the final round is elected.

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36. Referendum. "Referendum" means an election for the determination of a question.

37. Register. "Register" means to enlist as a voter.

38. Registrar. "Registrar" means the registrar or deputy registrar of voters of a municipality.

39. Regular election. "Regular election" means an election or a referendum held at a regular time prescribed by statute.

40. Residence. "Residence" means that place where the person has established a fixed and principal home to which the person, whenever temporarily absent, intends to return.

40-A. Signature. "Signature" includes a signature stamp and a signature written by another registered voter on behalf of an individual in accordance with the procedure set forth in section 153-A and, for an individual who is unable to sign that individual's own name, a mark.

40-B. Residence address. "Residence address" means the street and number or other designation indicating the physical location of a person's residence.

41. Special election. "Special election" means an election other than a regular election.

42. State office. "State office" means the office of Governor, State Senator, Representative to the State Legislature or presidential elector.

43. Street address.

43-A. Third person or 3rd person. "Third person" or "3rd person," with respect to an absentee ballot, means a person, other than the clerk or an immediate family member of a voter, who delivers an absentee ballot to a voter.

44. Township. "Township" means unorganized territory.

45. Treasurer. "Treasurer" means a person appointed by a candidate or a political committee to accept or disburse money to promote or defeat a candidate, party or principle. A person who collects money to be transferred to the treasurer of a candidate or committee is not a treasurer.

45-A. Undeclared write-in candidate. "Undeclared write-in candidate" means a write-in candidate who has not filed a declaration pursuant to section 722-A.

46. Uncontested office. "Uncontested office" means an office where, as of the final date for filing primary nomination petitions, either:

A. Only members of one party have filed as candidates for nomination for that office; or

B. Only one unenrolled nominee has filed as a candidate for that office.

46-A. Uniformed service. "Uniformed service" means the United States Army, Navy, Air Force, Marine Corps and Coast Guard, the commissioned corps of the United States Public Health Service and the commissioned corps of the National Oceanic and Atmospheric Administration.

46-B. Uniformed service voter. "Uniformed service voter" means:

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A. A member of a uniformed service on active duty who, by reason of active duty or service, is absent from the place of residence in the State where the member is otherwise qualified to vote;

B. A member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote; or

C. A spouse or dependent of a member referred to in paragraph A or B who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote.

47. Voter. "Voter" means a person registered to vote.

47-A. Voter participation history. "Voter participation history" means the indication in the central voter registration system of whether a voter has cast a ballot in a certain election, as reflected on the incoming voting list for that election.

47-B. Voting booth or voting station. "Voting booth" or "voting station" means the location within a voting place where voters may mark their ballots or record their votes screened from the observation of others. "Voting booth" or "voting station" includes the area, location, booth, table or enclosure where voting takes place and includes any voting machine, voting device or accessible voting system placed in the voting booth or voting station.

48. Voting district. "Voting district" means an area set off from another in the same municipality for voting purposes. It includes wards and precincts. In a municipality that has only one voting district, it means the entire municipality. The first breakdown of a municipality is a ward. Further breakdowns of a municipality are precincts.

48-A. Voting indicator. "Voting indicator" means the space provided for marking a vote in accordance with a particular type of ballot.

49. Voting place. "Voting place" means the building in which ballots are cast at an election.

50. Warden. "Warden" means the presiding officer at a voting place.

51. Write-in candidate. "Write-in candidate" means a person whose name does not appear on the ballot under the office designation to which a voter may wish to elect the candidate.

52. Write-in indicator. "Write-in indicator" means the space provided, in accordance with a particular type of ballot, for marking a write-in vote.

REF. NO. 61-64 21-A MRSA §22. Records and documents are public; exception for ballots and voter address

1. Public records. All lists, books, documents and records required to be prepared by or filed with a public official are public records, except as otherwise provided in this Title. Public records are open to public inspection during regular business hours under proper protective regulations made by the official charged with their custody.

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2. Ballots. Official ballots, whether in paper form or in an electronic or image format, are not public records and may be inspected only in accordance with this Title. For purposes of this subsection, "official ballot" means a ballot used by a voter to cast a vote at an election. "Official ballot" includes an absentee ballot and a ballot cast on election day at a voting place.

3. Confidential information. Notwithstanding subsection 1 and Title 1, section 408-A, if a registered voter meets certain conditions, the voter's information must be kept confidential as provided in this subsection.

A. For a voter who is certified by the Secretary of State as a program participant in the Address Confidentiality Program pursuant to Title 5, section 90-B, all records maintained by the registrar pertaining to that voter must be kept confidential and must be excluded from public inspection.

B. For a voter who submits to the registrar a signed statement that the voter has a good reason to believe that the physical safety of the voter or a member of the voter's immediate family residing with the voter would be jeopardized if the voter's residence address were open to public inspection, that voter's residence address and mailing address, if the mailing address is the same as or discloses the voter's residence address, must be kept confidential and must be excluded from public inspection. The remainder of the information in that voter's record that is designated as public information in section 196-A remains a public record and may be made available to the public according to the use and distribution requirements provided in that section. The voter's signed statement is also a public record. A voter's address that is excluded from public inspection under this paragraph may be made available free of charge to a law enforcement officer or law enforcement agency that makes a written request to use the information for a bona fide law enforcement purpose or to a person identified by a court order if directed by that order.

4. Disclosure of address.

5. Signature and identification number of registered voter. Notwithstanding subsection 1 and Title 1, section 408-A, the voter's signature and identification number on the voter registration application and associated records in electronic format are designated as nonpublic records and the registrar shall exclude those items from public inspection. Voter signatures on voter registration applications and associated records in a printed hard-copy format are public records in accordance with subsection 1 and Title 1, section 408-A.

6. Disclosure of voter's signature and identification number electronically. A voter's signature and identification number in electronic format that are excluded from public inspection pursuant to subsection 5 and associated records may be made available for inspection only to the voter of record, to municipal and state election officials, to a law enforcement agency that makes a written request to use the information for a bona fide law enforcement purpose or to a person identified by a court order if directed by that order.

7. Incoming voting list. After the incoming voting list is unsealed following the election, the list must be made available for public inspection and copying in accordance with Title 1, section 408-A.

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REF. NO. 65 21-A MRSA §122-A. Alternative registration procedure for participants in Address Confidentiality Program

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 1/1/22)

Notwithstanding sections 122 and 152, a person who is certified by the Secretary of State as a program participant in the Address Confidentiality Program pursuant to Title 5, section 90-B may register to vote using the designated address and voter code assigned to that person pursuant to rules adopted to implement the program. To register to vote, a voter must present the registrar with that voter's authorization card assigned to the voter pursuant to rules adopted by the Secretary of State showing that voter's name, voter code, designated address and certification expiration date. The registrar may contact the Address Confidentiality Program administrator in the Secretary of State's office to determine the voter's eligibility to register in the municipality and to verify the electoral district in which the voter is voting for purposes of issuing an absentee ballot to the voter pursuant to section 753-C. All registration records for such voters must be designated as confidential and kept sealed in the registrar's office. The name of any voter certified as a program participant in the Address Confidentiality Program may not be placed on any voter list that is available for public inspection or copying.

§122-A. Alternative registration procedure for participants in Address Confidentiality Program

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE 1/1/22)

Notwithstanding sections 122 and 152 and subchapter 9, a person who is certified by the Secretary of State as a program participant in the Address Confidentiality Program pursuant to Title 5, section 90-B may register to vote using the designated address and voter code assigned to that person pursuant to rules adopted to implement the program. To register to vote, a voter must present the registrar with that voter's authorization card assigned to the voter pursuant to rules adopted by the Secretary of State showing that voter's name, voter code, designated address and certification expiration date. The registrar may contact the Address Confidentiality Program administrator in the Secretary of State's office to determine the voter's eligibility to register in the municipality and to verify the electoral district in which the voter is voting for purposes of issuing an absentee ballot to the voter pursuant to section 753-C. All registration records for such voters must be designated as confidential and kept sealed in the registrar's office. The name of any voter certified as a program participant in the Address Confidentiality Program may not be placed on any voter list that is available for public inspection or copying.

REF. NO. 66 21-A MRSA §172. Voter registration file

The registrar shall prepare and keep a voter registration file containing the voter registration documents for each voter in the central voter registration system, arranged alphabetically by the last name of each voter, except that any voter certified by the Secretary of State as a program participant in the Address Confidentiality Program pursuant to Title 5, section 90-B must be listed on

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voter registration documents only by the voter code assigned to that voter under the program and these documents must be placed at the end of the alphabetized voter file. The file must contain an original, signed voter registration application for each voter, with associated applications containing changes of name, address or enrollment and any documentation concerning these applications or the qualifications for these voters. **Information in the file pertaining to any voter certified by the Secretary of State as a program participant in the Address Confidentiality Program must be kept under seal and excluded from public inspection.** When a voter's registration is cancelled from the central voter registration system, the registrar shall indicate on the voter's registration documents the date that the voter's registration was cancelled and retain the documents for the time period specified in section 23, either in the same file, or in a separate file. The registrar must retain the voter registration documents for each rejected voter in a separate file for the time period specified in section 23.

REF. NO. 67 21-A MRSA §196-A. Use and distribution of central voter registration system information

1. Access to data from the central voter registration system. For the purposes of Title 1, section 402, information contained electronically in the central voter registration system and any information or reports generated by the system are confidential and may be accessed only by municipal and state election officials for the purposes of election and voter registration administration, and by others only as provided in this section.

A. An individual voter may obtain any information contained in that voter's record within the central voter registration system either from the registrar in the voter's municipality of residence or from the Secretary of State. The individual voter information must be made available to that voter upon request and free of charge. The Secretary of State may design a report to facilitate providing information to an individual voter.

B. A political party, or an individual or organization engaged in so-called "get out the vote" efforts directly related to a campaign or other activities directly related to a campaign, or an individual who has been elected or appointed to and is currently serving in a municipal, county, state or federal office, may purchase a list or report of certain voter information from the central voter registration system by making a request to the Secretary of State or to a registrar if the information requested concerns voters in that municipality. The Secretary of State or the registrar shall make available the following voter record information, subject to the fees set forth in subsection 2: the voter's name, residence address, mailing address, year of birth, enrollment status, electoral districts, voter status, date of registration, date of change of the voter record if applicable, voter participation history, voter record number and any special designations indicating uniformed service voters, overseas voters or township voters. Any person obtaining, either directly or indirectly, information from the central voter registration system under this paragraph may not sell, distribute or use the data for any purpose that is not directly related to activities of a political party, "get out the vote" efforts directly related to a campaign or other activities directly related to a campaign. This paragraph does not prohibit political parties, party committees, candidate committees, political action committees or any

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other organizations that have purchased information from the central voter registration system from providing access to such information to their members for purposes directly related to party activities, "get out the vote" efforts or a campaign. For purposes of this paragraph, "campaign" has the same meaning as in section 1052, subsection 1.

C. The registrar shall make available, in electronic form and free of charge, upon the request of any person authorized under section 312 to obtain a municipal caucus list, the following voter record information for each voter in the municipality: the voter's name, residence address, mailing address, enrollment status, electoral districts, voter status, voter record number and any special designation indicating whether the voter is a uniformed service voter, overseas voter or township voter. The Secretary of State also shall make available the statewide caucus list, in electronic form and free of charge, to the state committee of each political party.

D. A municipal clerk or registrar shall make available to any person upon request and free of charge an electronic list of voters who requested or were furnished absentee ballots for their municipality for a specified election. The Secretary of State may make available free of charge the statewide absentee voter list in electronic form. The electronic list must include the information provided in section 753-B, subsection 6, paragraph A, except that the voter's record number must be provided instead of the voter's name and residence address. In addition, a municipal clerk or registrar shall make available upon request, subject to the fees set forth in subsection 2, paragraph A, the printed list, created and maintained pursuant to section 753-B, of voters who requested or were furnished absentee ballots.

E. The Secretary of State or a registrar may make available, upon the request of any other governmental or quasi-governmental entity, certain voter information for that entity's authorized use only. The following information may be provided in electronic form and free of charge: the voter's name, year of birth, residence address, mailing address, electoral districts, voter status, date of registration or date of change of the voter record if applicable, voter record number and any special designations indicating uniformed service voters, overseas voters or township voters. Data made available under this paragraph may not be used for solicitation or for purposes other than the governmental or quasi-governmental entity's authorized activities and may not be redistributed.

Authorized uses of the data by the Legislature include providing voter information to a Legislator for purposes of communicating with the Legislator's constituents and conducting legislative business.

F. The Secretary of State shall make available to any person upon request and free of charge the following voter record information in electronic form: either the voter's first name or last name, but not both names in the same report; year of birth; enrollment status; electoral districts to include congressional district and county only; voter status; date of registration or date of change of the voter record if applicable; date of the last statewide election in which the voter voted; and any special designations indicating uniformed service voters, overseas voters or township voters. The Secretary of State or the registrar also may make available to any person

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upon request and free of charge any report or statistical information that does not contain the names, dates of birth, voter record numbers or addresses of individual voters.

G. The Secretary of State or a registrar shall make available free of charge any information pertaining to individual voters, other than participants in the Address Confidentiality Program established in Title 5, section 90-B, that is contained in the central voter registration system to a law enforcement officer or law enforcement agency that makes a written request to use the information for a bona fide law enforcement purpose or to a person identified by a court order if directed by that order. Information pertaining to individual voters who are Address Confidentiality Program participants that is contained in the central voter registration system may be made available for inspection to a law enforcement agency that is authorized by the Secretary of State pursuant to Title 5, section 90-B to obtain Address Confidentiality Program information. Data made available under this paragraph may not be used for purposes other than law enforcement or as directed in the court order.

H. When responding to a request about a specific voter registered in a specific municipality, the registrar of that municipality or the Secretary of State may use information contained in the central voter registration system to provide the registration status, enrollment status and electoral districts for that voter.

I. The Secretary of State shall make available free of charge to the federal or state court system the voter registration information for voters, other than participants in the Address Confidentiality Program established in Title 5, section 90-B, statewide or by district as requested for the purpose of jury selection or other bona fide court purposes.

2. Fees. For the purpose of calculating fees pursuant to this section, a record includes the information on one individual voter. Fees paid to the Secretary of State must be deposited into a dedicated fund for the purpose of offsetting the cost of providing the information and maintaining the central voter registration system and other authorized costs relating to compliance with the federal Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666. A municipality may keep the fees paid to the municipality. The fees for information provided pursuant to this section are as follows:

A. The fee for information provided in printed form is \$1 for the first page and 25¢ per page for all additional pages, except that the fee for additional pages of mailing labels is 75¢ per page; and

B. The fee for information provided in electronic form is based on the number of records requested. The fee entitles the requestor to receive the initial electronic report or file and, upon request, up to 11 updates free of charge during the subsequent 12-month period, except that no more than one free update may be requested during any 30-day period. The fee schedule is as follows:

(1) For 900,001 or more voter records, \$2,200;

(2) For 600,001 to 900,000 voter records, \$1,650;

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- (3) For 400,001 to 600,000 voter records, \$1,100;
- (4) For 250,001 to 400,000 voter records, \$825;
- (5) For 150,001 to 250,000 voter records, \$550;
- (6) For 100,001 to 150,000 voter records, \$275;
- (7) For 75,001 to 100,000 voter records, \$220;
- (8) For 50,001 to 75,000 voter records, \$182;
- (9) For 35,001 to 50,000 voter records, \$138;
- (10) For 25,001 to 35,000 voter records, \$83;
- (11) For 15,001 to 25,000 voter records, \$55;
- (12) For 7,501 to 15,000 voter records, \$33;
- (13) For 1,001 to 7,500 voter records, \$22; or
- (14) For 1 to 1,000 voter records, \$11.

3. Response to requests. Municipal clerks, registrars and the Secretary of State's office shall respond to all requests for information from the central voter registration system pursuant to this section within 5 business days of receipt of a written request and upon payment of any applicable fee. A municipal clerk or registrar may provide only information concerning voters registered within that municipal jurisdiction. The Secretary of State may design a form to be used for all requests for information or lists from the central voter registration system.

REF. NO. 68 21-A MRSA §624. Incoming voting lists; voter lists

1. Posting of. The registrar shall post a certified copy of a current voter list for each voting district at the usual voting place in that district before the polls are opened on election day. The voter list produced for purposes of this subsection must include the following information for each voter and may not include any other information: name; residence address; enrollment status; electoral district; voter status, active or inactive; voter record number; and any special designations indicating uniformed service voters, overseas voters or township voters. **The portion of the voter list produced for purposes of this subsection relating to Address Confidentiality Program participants must be kept under seal and excluded from public inspection. The residence address for any voter whose address has been made confidential pursuant to section 22, subsection 3, paragraph B may not be printed on the voter list, and the words "address is confidential" must be printed on the list instead.** The Secretary of State shall designate the form of the voter list produced for purposes of this subsection.

2. Delivery of. The registrar shall deliver the necessary number of certified copies of the posted voter list described in subsection 1 and the incoming voting list to the clerk by 5 p.m. on the last business day before election day. The clerk shall give the registrar a receipt for the copies.

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REF. NO. 69 21-A MRSA §737-A. Recount

Once a recount is requested for an election for the office of State Senator or State Representative or for a county office that does not encompass more than one county, the Secretary of State shall notify the contracted courier service, which shall take physical control of all ballots and related materials involved in the recount as soon as possible and deliver them to the recount facility. When a recount is requested for a statewide office, congressional office or statewide referendum or for a county office that encompasses more than one county, the Secretary of State may direct the courier to retrieve ballots from certain voting jurisdictions and deliver them to the recount facility so that the recount may be conducted in stages until the requesting candidate or the lead applicant for a referendum recount concedes or until all the ballots are recounted. If a qualified courier service is not available to provide these services, the State Police shall collect and deliver the ballots as described in this section at the request of the Secretary of State.

The Secretary of State shall store and maintain exclusive control over the ballots and other materials pending and during the recount and until the courier, or the State Police if requested, retrieves the materials for return to the municipalities.

A candidate who is the apparent loser and who desires a recount must file with the Secretary of State a written request for a recount within 5 business days after the election, except that in an election determined by ranked-choice voting, only a candidate who received one of the top 3 rankings at the end of the penultimate round of ranked-choice counting may request a recount. The recount is held under the supervision of the Secretary of State, who shall allow the candidate's representatives or counsel to recount the ballots. The candidate may not act as a counter of ballots.

If, after the official tabulation is submitted to the Governor, the apparent winner is determined the losing candidate, that candidate may request a recount within 3 business days after the date the Governor receives the tabulation.

1. Deposit for legislative or single county office recount. This subsection applies to a recount for an election for the office of State Senator or State Representative or for a county office that does not encompass more than one county. All deposits required by this section must be made with the Secretary of State when a recount is requested by a losing candidate or an undeclared write-in candidate. Once the courier, or the State Police if requested, has taken custody of the ballots and other election materials from the municipalities, the deposit made by the candidate requesting the recount is forfeited to the State if the resulting count fails to change the outcome of the election. If the recount reverses the election, the deposit must be returned to the candidate requesting the recount. The amount of the deposit is calculated as follows.

- A. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is 1.5% or less of the total votes cast for that office, a deposit is not required.
- B. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is more than 1.5% and less than or equal to 4% of the total votes cast for that office, the deposit is \$500.

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C. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is more than 4% and less than or equal to 6% of the total votes cast for that office, the deposit is \$1,000.

D. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is more than 6% and less than or equal to 8% of the total votes cast for that office, the deposit is \$2,500.

E. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is more than 8% and less than or equal to 10% of the total votes cast for that office, the deposit is \$5,000.

F. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is more than 10% of the total votes cast for that office, the deposit is \$10,000.

1-A. Deposit for statewide or multicounty office recount. This subsection applies to a recount for an office not described by subsection 1. A losing candidate who requests a recount must pay the deposit required by this subsection when the recount is requested. The amount of the deposit is calculated as follows.

A. If the difference shown by the official tabulation between the leading candidate and the requesting candidate is 1% or less of the total votes cast for that office or not more than 1,000 votes, whichever is less, a deposit is not required. A candidate who is not required to pay a deposit pursuant to this subsection may not be charged for the recount regardless of whether the procedure changes the result of the election.

B. If the difference shown by the official tabulation between the leading candidate and the requesting candidate is more than 1% of the total votes cast for that office or more than 1,000 votes, whichever is less, the deposit is \$5,000 or 10% of the reasonable estimate of the cost to the State of performing the first stage of the recount, whichever is greater. After completion of the recount, if the recount has not changed the result of the election, the Secretary of State shall calculate the actual cost of the procedure, which must be paid by the requesting candidate. If the deposit is greater than the actual cost, the overpayment must be refunded to the candidate. If the actual cost is greater than the deposit, the candidate shall pay the remainder of the actual cost to the State. Once the courier, or the State Police if requested, has taken custody of the ballots and other election materials for the first stage of the recount, the deposit made by the candidate requesting the recount is forfeited to the State even if the candidate withdraws from the recount before the recount begins. If a recount reverses the election, the deposit must be returned to the candidate requesting the recount.

2. Recount request. If a ballot contains the names of state and local candidates or questions, the Secretary of State shall determine which requests for recount must be honored first when more than one request is presented. If a recount is requested for more than one office or referendum question that is included on the same ballot for one or more jurisdictions, the Secretary of State may determine a process for counting the ballots for both offices or questions simultaneously.

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2-A. Recount for write-in candidates. For the purposes of this section, a declared write-in candidate who has complied with the requirements of section 722-A is treated the same as any candidate whose name is printed on the ballot.

3. Notice of recount. The Secretary of State shall send written notice of a recount to the candidates for the office in question, stating the time and place of the recount.

4. Time of recount and designated recount candidates. The recount must be held as soon as reasonably possible at a time and place that affords the designated recount candidates a reasonable opportunity to be present. For purposes of this section, "the designated recount candidates" means the leading candidate and each candidate who has requested a recount and paid the applicable fee in accordance with this section. The recount involves a new count of the results for the designated recount candidates only. Once a candidate has requested a recount, the other candidates for that elective office must be notified of the request as soon as possible. Candidates for that elective office whose vote totals fall between the totals of the leading candidate and the requesting candidate must be provided with an opportunity to be included in the recount as a designated recount candidate by making a written request to join the recount and paying the applicable fee, either within 5 business days after the election or, if the recount request is made on the last day of that period, by the close of business on the next business day. Candidates for that elective office other than the designated recount candidates may be present to observe the recount but are not included in the recount, and their vote totals remain as indicated in the official results reported by the municipalities.

5. Persons prohibited from working at recount. Confidential state employees, employees of the Legislature, candidates and elected state officials may not participate in ballot recounts in any capacity. This subsection does not prohibit employees within the Department of the Secretary of State, election officials and staff of the Department of the Attorney General and the Judicial Department from performing their duties with respect to a recount.

6. List of recount personnel. The Secretary of State shall maintain a list of recount personnel for 2 years after the recount.

7. Disputed ballots segregated. At the recount, the Secretary of State shall segregate disputed ballots. Disputed ballots that are not resolved must be photocopied by a representative of the Secretary of State. The photocopy of the ballot is not a public record and must be kept separate from the original ballots.

When a recount is requested by a write-in candidate who did not receive the minimum number of votes required, if the write-in candidate is the only candidate at the recount and it appears from the recount that a sufficient number of votes for that candidate has been received at the election, then all ballots from that election are considered "disputed."

8. Final recount tabulation. If the final recount tabulation as defined by rule is different than the results shown on the tabulation submitted to the Governor pursuant to section 722, the Secretary of State shall submit a certified copy of a corrected tabulation to the Governor.

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9. Package resealed and marked. After a recount, if the election remains in dispute, the Secretary of State shall copy the incoming voting list, before proceeding to reseat the packages of ballots and incoming voting lists, noting the fact and date of the recount on the packages. The Secretary of State shall immediately send or deliver the copy of the incoming voting list to the clerk for the purpose of updating voter participation history in the central voter registration system. The clerk shall immediately send a receipt to the Secretary of State noting the date and time of delivery of the copy. All challenged and disputed ballots must be packaged separately. The challenged and disputed ballots must be kept until released to the court or to the Senate or the House of Representatives, if applicable, in case of an appeal.

10. Appeals. For all elections, except for the offices of United States Senator, United States Representative, State Senator and State Representative, if there are enough challenged or disputed ballots to affect the result of an election, the Secretary of State shall forward the ballots and all related records for that election to the clerk of the Supreme Judicial Court. The Supreme Judicial Court shall determine the result of the election pursuant to procedures adopted by court rule. The decision of the Supreme Judicial Court is final and must be certified to the Governor by the Chief Justice.

If there are enough challenged or disputed ballots to affect the result of an election to the office of United States Senator, United States Representative, State Senator or State Representative, the Secretary of State shall notify the appropriate officials according to the rules and procedures adopted by each of those legislative bodies.

11. Withdrawal from recount. A candidate who requests and receives a recount may withdraw from the recount at any time while the recount shows that candidate to be the loser. If, during the recount, the candidate requesting the recount overtakes and passes the candidate who initially appeared to win the election, the candidate requesting the recount may not withdraw the request and the recount must be completed.

12. Authority to adopt rules. The Secretary of State is authorized to adopt rules governing the conduct and procedures for a recount. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

REF. NO. 70 21-A MRSA §753-B. Procedure for issuing absentee ballot

1. Application or written request received. Upon receipt of an application or written request for an absentee ballot that is accepted pursuant to section 753-A, the clerk shall immediately issue an absentee ballot and return envelope by mail or in person to the applicant or to the immediate family member or to a 3rd person designated in a written application or request made by the voter, except as provided in subsection 2. The clerk shall type or write in ink the name and the residence address of the voter in the designated section of the return envelope.

2. Restrictions on issuing ballot. The clerk may not issue an absentee ballot:

A. To any 3rd person who is a candidate or a member of a candidate's immediate family;

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B. To an immediate family member or to a 3rd person if the absentee ballot was requested by telephone or by electronic means;

C. To a 3rd person who already has been issued 5 absentee ballots for voters in the municipality, until the 3rd person has returned one of those ballots; or

D. To any voter, immediate family member or 3rd person whose request was received in the municipal office after the 3rd business day before election day, unless the voter signs an application, designed by the Secretary of State, stating one of the following reasons for requesting an absentee ballot after the deadline:

(1) Unexpected absence from the municipality during the entire time the polls are open on election day;

(2) Physical disability;

(3) Inability to travel to the polls if the voter is a resident of a coastal island ward or precinct; or

(4) An incapacity or illness that has resulted in the voter's being unable to leave home or a treatment facility.

3. Return of ballot by 3rd person. A 3rd person shall, unless good cause is shown, return an absentee ballot to the clerk's office within 2 business days of the date that ballot was provided to the 3rd person or by the close of the polls on election day, whichever is earlier. The clerk shall inform the 3rd person of the deadline for the return of the ballot.

4. Duplicate ballot. The clerk may issue a duplicate state absentee ballot to an applicant if the initially issued ballot has not already been marked and returned to the clerk, the applicant requests one by an acceptable method outlined in this subchapter and:

A. The applicant states good cause, including, but not limited to, loss of, spoiling of or damage to the first absentee ballot. Good cause does not include an applicant's decision to change the applicant's vote after the applicant has returned the ballot to the clerk; or

B. An absentee ballot for the applicant that was furnished to a designated 3rd person was not returned to the clerk's office within the time limit provided in subsection 3. If a ballot for an applicant is not returned to the clerk within that time limit, the clerk shall mail or hand deliver a ballot to that applicant and may not issue another ballot to the applicant except for good cause as provided in this subsection. This paragraph does not affect the deadline for delivery of absentee ballots under section 755.

The clerk may issue a 2nd state absentee ballot to a voter from whom the clerk has received a return envelope apparently containing a state absentee ballot when the State has provided the clerk with replacement ballots to reflect the removal of a candidate's name or the addition of a new candidate's name or the correction of an error or when the absentee ballot envelope has a defect in the affidavit that would cause the ballot to be rejected. When a 2nd state absentee ballot is issued

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to a voter under this section, the clerk must write the words "second ballot issued" on the return envelope.

5. Alternate method of balloting by residents of certain licensed facilities. The municipal clerk shall designate one time during the 30-day period prior to an election during which the municipal clerk shall be present in each licensed nursing home subject to the provisions of Title 22, chapter 405; licensed level IV residential care facility subject to the provisions of Title 22, chapter 1664; and licensed assisted living program with more than 6 beds subject to the provisions of Title 22, chapter 1664, in the municipality for the purpose of conducting absentee voting by residents of these facilities. The clerk shall designate which areas in these facilities constitute the voting place, the voting booth and the guardrail enclosure. The clerk shall post a notice in the municipal office that absentee voting will be conducted as prescribed in this subsection. The clerk shall provide a notice to each licensed facility of the date and time when absentee voting will be conducted. The notice must state that the licensed facility is required to notify the contact person or persons, if any, for each resident that absentee voting will be conducted. Each licensed facility must provide notice, which may be in the form of an e-mail or an electronic newsletter, to the contact person or persons, if any, for each resident of the date and time when absentee voting will be conducted at the facility. Sections 681 and 682 apply to voting in these facilities within the areas designated by the clerk. As used in this subsection, "level IV residential care facility" means a residential care facility as defined by Title 22, section 7852, subsection 14 that has a licensed capacity of more than 6 residents.

6. Clerk to keep list of absentee voters. The clerk shall create and maintain, in the central voter registration system, an alphabetical list, by district, of the persons who requested or were furnished absentee ballots, including the persons who voted in the presence of the clerk under subsection 8 and the persons whose ballots were issued to a 3rd person under subsection 1. The clerk shall maintain a copy of the lists required under this subsection for a period of 2 years as a public record.

A. The list of absentee voters must include each voter's name, residence address, voting district and party affiliation; the date and manner by which the ballot was requested, issued and received; and a notation of whether the application and the ballot were accepted or rejected. The clerk must also indicate on the list when the absentee voter is a uniformed service voter, overseas voter or township voter. By the time that all absentee ballots have been processed on election day, the clerk must update the central voter registration system or annotate the printed list of absentee voters to reflect all ballots that were received by the close of the polls on election day, including a notation of whether the ballots were accepted or rejected and the reasons for such rejections. This list, reflecting all absentee ballots received by the close of the polls, must be made available for public inspection. Any absentee voter certified as a participant in the Address Confidentiality Program pursuant to Title 5, section 90-B must be listed by the voter code assigned to that individual under the program instead of by the voter's name and reflect the Address Confidentiality Program address assigned to the voter. The list of absentee voters must be sorted so that the program participants appear at the end of the list and must be printed on a separate page of the list. The portion of the list of absentee voters relating to

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Address Confidentiality Program participants must be kept under seal and excluded from public inspection.

B. The clerk creates the list of absentee voters as required in paragraph A by marking the records of registered voters in the central voter registration system. The clerk must sign and date each official printed copy of the list of absentee voters that is created for public inspection, certifying that the list is a true and accurate list of absentee voters for the applicable election. No additional certification is required by the registrar of voters.

C. The clerk shall also keep a list of the 3rd persons designated in applications or written requests to whom absentee ballots are sent or delivered under subsection 1 and of the number of absentee ballots sent or delivered to them. This list of 3rd person ballot carriers must include telephone numbers for contacting the 3rd persons.

D.

E. Within 5 business days after each election, the clerk shall update the central voter registration system to include the changes required by paragraph A. The clerk also must update the central voter registration system to reflect any absentee ballots received after the polls have closed on election day by changing the rejection reason. When all updates have been made in the central voter registration system, the clerk shall certify this to the Secretary of State and make a final list of absentee ballots available for public inspection.

7. Registration verified. If the applicant is registered and enrolled when necessary, the ballot must be sent to the applicant. If the applicant has registered and enrolled when necessary under section 155 and will attain 18 years of age on or before the date of the election, the registrar or clerk shall so certify on the application. If not, the registrar or clerk shall write "not registered" or "not enrolled" on the face of the application and sign the registrar's or clerk's name. Whenever an application for an absentee ballot is denied, the municipal clerk shall immediately notify the applicant in writing of the reason for the denial.

8. Absentee voting in presence of clerk. A person who wishes to vote by absentee ballot may, without completing an application, vote by absentee ballot in the presence of the clerk, except as provided in subsection 2. The method of voting is otherwise as prescribed in this article. After the person has voted, the clerk shall sign the affidavit on the return envelope as a witness, indicate on the envelope that the voter voted in the presence of a clerk and ensure that the affidavit on the return envelope is properly completed by the voter. For the 45 days preceding an election, during the hours when the clerk's office is open and may be conducting absentee voting, the display or distribution of any advertising material intended to influence a voter's decision regarding a candidate or question on the ballot for that election is prohibited within the clerk's office and on public property within 250 feet of the entrance to the building in which the clerk's office is located.

This subsection does not apply to the display or distribution of any campaign advertising material on private property that is within 250 feet of the entrance to the building in which the clerk's office is located. For purposes of this section, "private property" includes privately owned property subject to a public right-of-way that is an easement right-of-way.

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This subsection does not apply to campaign advertising material on automobiles traveling to and from the municipal office or parked on municipal property while the occupants are visiting the municipal office to conduct municipal business. It does not prohibit a person who is at the municipal office for the purpose of conducting municipal business or for absentee voting from wearing a campaign button when the longest dimension of the button does not exceed 3 inches.

9. Restrictions on absentee voting in presence of clerk. Except as allowed by subsection 5, a municipal clerk may not remove absentee ballots from the municipal office for the purpose of conducting absentee voting in the presence of the clerk except upon receipt of an application or written request from the voter. The clerk may not be assisted in delivering or providing an absentee ballot by any person who is a candidate or a member of a candidate's immediate family. Assistance includes, but is not limited to, providing transportation to a clerk who is delivering absentee ballots to a voter who is not marking the absentee ballot in the municipal clerk's office.

REF. NO. 71 21-A MRSA §764. Applications and envelopes as public records

Absentee ballot applications and absentee ballot return envelopes are public records until the close of voting on election day, or until the ballots have been processed on election day, if the municipality processes absentee ballots before 8:00 p.m. After that time, except as provided in section 759, subsection 8, the applications and envelopes are not public records and may be inspected only in accordance with this Title.

REF. NO. 72 21-A MRSA §1003. Investigations by commission

1. Investigations. The commission may undertake audits and investigations to determine whether a person has violated this chapter, chapter 14 or the rules of the commission. For this purpose, the commission may subpoena witnesses and records whether located within or without the State and take evidence under oath. A person or entity that fails to obey the lawful subpoena of the commission or to testify before it under oath must be punished by the Superior Court for contempt upon application by the Attorney General on behalf of the commission. The Attorney General may apply on behalf of the commission to the Superior Court or to a court of another state to enforce compliance with a subpoena issued to a nonresident person. Service of any subpoena issued by the commission may be accomplished by:

- A. Delivering a duly executed copy of the notice to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of that person;
- B. Delivering a duly executed copy of the notice to the principal place of business in this State of the person to be served; or
- C. Mailing by registered or certified mail a duly executed copy of the notice, addressed to the person to be served, to the person's principal place of business.

2. Investigations requested. A person may apply in writing to the commission requesting an investigation as described in subsection 1. The commission shall review the application and shall

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make the investigation if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.

2-A. Confidentiality.

3. State Auditor. The State Auditor shall assist the commission in making investigations and in other phases of the commission's duties under this chapter, as requested by the commission, and has all necessary powers to carry out these responsibilities.

3-A. Confidential records. Investigative working papers of the commission are confidential, except that the commission may disclose them to the subject of the audit or investigation, other entities as necessary for the conduct of an audit or investigation and law enforcement and other agencies for purposes of reporting, investigating or prosecuting a criminal or civil violation. For purposes of this subsection, "investigative working papers" means documents, records and other printed or electronic information in the following limited categories that are acquired, prepared or maintained by the commission during the conduct of an audit, investigation or other enforcement matter:

A. Financial information not normally available to the public;

B. Information that, if disclosed, would reveal sensitive political or campaign information belonging to a party committee, political action committee, ballot question committee, candidate or candidate's political committee, or other person who is the subject of an audit, investigation or other enforcement matter, even if the information is in the possession of a vendor or 3rd party;

C. Information or records subject to a privilege against discovery or use as evidence; and

D. Intra-agency or interagency communications related to an audit or investigation, including any record of an interview, meeting or examination.

The commission may disclose investigative working papers or discuss them at a public meeting, except for the information or records subject to a privilege against discovery or use as evidence, if the information or record is materially relevant to a memorandum or interim or final report by the commission staff or a decision by the commission concerning an audit, investigation or other enforcement matter. A memorandum or report on the audit or investigation prepared by staff for the commission may be disclosed at the time it is submitted to the commission, as long as the subject of the audit or investigation has an opportunity to review it first to identify material that the subject of the audit or investigation considers privileged or confidential under some other provision of law.

4. Attorney General. Upon the request of the commission, the Attorney General shall aid in any investigation, provide advice, examine any witnesses before the commission or otherwise assist the commission in the performance of its duties. The commission shall refer any apparent violations of this chapter to the Attorney General for prosecution.

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REF. NO. 74 21-A MRSA §1125. Terms of participation

1. Declaration of intent. A participating candidate shall 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. Qualifying contributions collected more than 5 business days before the declaration of intent has been filed will not be counted toward the eligibility requirements in subsection 3 or 3-A.

2. Contribution limits 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 total seed money contributions to the following amounts:

- A. Two hundred thousand dollars for a gubernatorial candidate;
- B. Three thousand dollars for a candidate for the State Senate; or
- C. One thousand 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.

2-A. Seed money restrictions. To be eligible for certification, a participating candidate may collect and spend only seed money contributions subsequent to becoming a candidate and prior to certification. A participating candidate may not solicit, accept or collect seed money contributions after certification as a Maine Clean Election Act candidate.

- A. All goods and services received prior to certification must be paid for with seed money contributions, except for goods and services that are excluded from the definition of contribution in section 1012, subsection 2, paragraph B. It is a violation of this chapter for a certified candidate to use fund revenues received after certification to pay for goods and services received prior to certification.
- B. Prior to certification, a participating candidate may obligate an amount greater than the seed money collected, but may only receive that portion of goods and services that has been paid for or will be paid for with seed money. A participating candidate who has accepted contributions or made expenditures that do not comply with the seed money restrictions under this chapter may petition the commission to remain eligible for certification as a Maine Clean Election Act candidate in accordance with rules of the commission, if the failure to comply was unintentional and does not constitute a significant infraction of these restrictions.
- C. Upon requesting certification, a participating candidate shall file a report of all seed money contributions and expenditures. If the candidate is certified, any unspent seed money will be deducted from the amount distributed to the candidate as provided in subsection 8-F.

2-B. Seed money required for gubernatorial candidates; documentation.

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3. Qualifying contributions. The collection of qualifying contributions is governed by this subsection.

A.

B.

C.

D. To be eligible to receive funding from the fund, participating candidates must obtain qualifying contributions during the qualifying period as follows:

(1) For a gubernatorial candidate, at least 3,200 verified registered voters of this State must support the candidacy by providing a qualifying contribution to that candidate;

(2) 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

(3) 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.

E. A contributor making a qualifying contribution by check or money order shall sign the check or money order. If the contributor has made a check or money order payable to a participating candidate in error, the candidate may remedy the error by endorsing the check or money order to the fund.

F. A contributor may make a qualifying contribution to a participating candidate in the form of cash, as long as the contributor signs a form prepared by the commission affirming that the contributor made the contribution with personal funds. A candidate receiving qualifying contributions in cash shall submit the contributions to the commission in the aggregate in the form of a cashier's check or money order payable to the fund. The candidate may not deposit qualifying contributions received in cash into the candidate's campaign account.

G. As an alternative to making a qualifying contribution under paragraph F, a contributor may make a qualifying contribution to a participating candidate in the form of cash, as long as the candidate submits a money order in the same amount to the commission. The money order must be signed by the contributor to be a valid qualifying contribution. The cash received from the contributor must be used to reimburse the person who provided the money order.

H. Any fees for a cashier's check or a money order paid with seed money must be reported as an expenditure in campaign finance reports submitted to the commission. If a participating candidate uses personal funds to pay fees for the purchase of a cashier's check or money order, those fees are not a contribution to the candidate and are not required to be disclosed in campaign finance reports. The candidate shall report any cashier's check or money order fees paid by anyone other than the candidate as an in-kind contribution subject to seed money limitations.

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I. 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.

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

3-A. Additional qualifying contributions. Participating or certified candidates may collect and submit to the commission additional qualifying contributions at the times specified in subsection 8-E. The commission shall credit a candidate with either one qualifying contribution or one additional qualifying contribution, but not both, from any one contributor during the same election cycle. If any candidate collects and submits to the commission qualifying contributions or additional qualifying contributions that cannot be credited pursuant to this subsection, those qualifying contributions or additional qualifying contributions may be refunded to the contributor or deposited into the Maine Clean Election Fund at the discretion of the candidate. The procedures and restrictions set out in subsection 3, paragraphs E to J apply to additional qualifying contributions.

3-B. Receipt and acknowledgment forms. The commission shall prepare forms for persons making qualifying contributions to acknowledge the contribution as provided in section 1122, subsection 7, paragraph D. A qualifying contribution is not valid if anyone other than the contributor signed the contributor's name to the form, except that a qualifying contribution is valid if it is signed by the contributor's immediate family member or live-in caregiver when the contributor is unable to sign due to a physical impairment or disability.

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 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 executive director of the commission shall determine whether 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 no later than 5 business days after the end of the qualifying period;

C-1.

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

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

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

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

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

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

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

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

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.

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;

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;

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- 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 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 funds to the commission within 3 days of the commission's decision and may be required to return all 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.

5-B. Restrictions on serving as treasurer. A participating or certified candidate may not serve as a treasurer or deputy treasurer for that candidate's campaign, except that the candidate may serve as treasurer or deputy treasurer for up to 14 days after declaring an intention to qualify for campaign financing under this chapter until the candidate identifies another person to serve as treasurer.

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. 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 for any but 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 for post-election parties. This section does not prohibit a candidate from using personal funds for post-election parties as governed by rules of the commission. The commission shall publish guidelines outlining permissible campaign-related expenditures.

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 under subsections 7 and 8-F for certified candidates in a contested election.

6-B. Expenditures as payment to household members.

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6-C. Expenditures to the candidate or family or household members. Expenditures to the candidate or immediate family member or household member of the candidate are governed by this subsection.

A. The candidate may not use fund revenues to pay or compensate the candidate or the candidate's spouse or domestic partner, a sole proprietorship of the candidate or the candidate's spouse or domestic partner, a business entity in which the candidate or the candidate's spouse or domestic partner holds a significant proprietary or financial interest or a nonprofit entity in which the candidate or the candidate's spouse or domestic partner is a director, officer, executive director or chief financial officer for campaign-related goods or services.

B. A candidate may make expenditures using fund revenues to pay a member of the candidate's immediate family or household other than the candidate's spouse or domestic partner; a business entity in which a member of the candidate's immediate family or household other than the candidate's spouse or domestic partner holds a significant proprietary or financial interest; or a nonprofit entity in which a member of the candidate's immediate family or household other than the candidate's spouse or domestic partner is a director, officer, executive director or chief financial officer, as long as 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 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.

This subsection does not prohibit reimbursement to the candidate or a member of a candidate's household or immediate family when made in accordance with this chapter and rules adopted by the commission.

6-D (omitted).

REVISOR'S NOTE: Subsection 6-D omitted when subsection 6-E was enacted by PL 2011, c. 389, §55

6-E. Expenditures for television advertising. A candidate must include closed-captioning within any television advertisement that the candidate provides to a broadcasting or cable television station for broadcast to the public, except for an advertisement aired in the final 4 days before an election if inclusion of closed-captioning during that period is impractical or would materially affect the timing of the candidate's advertisement.

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6-F. Participation in political action committees. A participating candidate or a certified candidate may not establish a political action committee for which the candidate is a treasurer or principal officer or for which the candidate is primarily responsible for fund-raising or decision making. This prohibition applies between April 1st immediately preceding a general election through:

- A. The date on which the candidate withdraws from a race;
- B. The date of the primary election or general election for a candidate who loses either election; or
- C. January 1st immediately preceding the next general election for a candidate who wins the general election.

This prohibition also applies to a participating candidate or certified candidate in a special election, except that the prohibition begins on the date of the candidate's nomination. This subsection does not prohibit a participating candidate or certified candidate, including a certified candidate who wins a general or special election, from engaging in fund-raising or decision making for a caucus political action committee, a ballot question committee or a political action committee formed for the purpose of promoting or opposing a ballot question. This prohibition applies to a participating candidate or certified candidate regardless of the date on which the political action committee was established.

7. Timing of initial fund distribution. The commission shall distribute to certified candidates revenues from the fund in amounts determined under subsections 8-B to 8-D in the following manner.

- A. Within 3 days after certification, for candidates certified prior to March 15th 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 certification, for all candidates certified between March 15th and the end of the qualifying period of the election year, revenues 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 revenues 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, revenues 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.

7-A. Deposit into account; release of bank records. A candidate or a committee authorized pursuant to section 1013-A, subsection 1 shall deposit all revenues from the fund and all seed

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money contributions in an account, referred to in this subsection as 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.

A. A participating candidate shall provide to the commission a signed written authorization allowing the bank or other financial institution administering a campaign account to release to the commission all records held by that bank or institution pertaining to the campaign account, including, but not limited to, campaign account statements, records of payments or transfers from the campaign account and deposits of funds to the campaign account.

B. The executive director of the commission or its auditor, during an audit or during an investigation authorized by the commission or the chair of the commission of potential noncompliance with the requirements of this chapter, chapter 13 or a rule of the commission, may request that a candidate provide the records of a campaign account. If the candidate fails to comply with the request within 30 days of receiving it, the executive director or auditor may use the authorization obtained pursuant to paragraph A to obtain the records directly from the bank or other financial institution.

7-B. Timing of supplemental fund distribution. The following provisions govern the timing of supplemental fund distributions.

A. For gubernatorial candidates, any supplemental primary or general election distributions made pursuant to subsection 8-B must be made within 3 business days of certification by the commission of the required number of additional qualifying contributions.

B. For legislative candidates, any supplemental general election distributions made pursuant to subsections 8-C and 8-D must be made within 3 business days of certification by the commission of the required number of additional qualifying contributions.

8. Amount of fund distribution.

8-A. Amount of fund distribution.

8-B. Distributions to participating gubernatorial candidates. Distributions from the fund to participating gubernatorial candidates must be made as follows.

A. For an uncontested primary election, the total distribution of revenues is \$200,000 per candidate.

B. For a contested primary election, the amount of revenues distributed is as follows:

- (1) The initial distribution of revenues is \$400,000 per candidate;
- (2) For each increment of 800 additional qualifying contributions a candidate collects and submits pursuant to subsection 8-E, not to exceed a total of 3,200 additional qualifying contributions, the supplemental distribution of revenues to that candidate is \$150,000; and
- (3) The total amount of revenues distributed for a contested primary election may not exceed \$1,000,000 per candidate.

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C. For an uncontested general election, the total distribution of revenues is \$600,000 per candidate.

D. For a contested general election, the amount of revenues distributed is as follows:

- (1) The initial distribution of revenues is \$600,000 per candidate;
- (2) For each increment of 1,200 additional qualifying contributions a candidate collects and submits pursuant to subsection 8-E, not to exceed a total of 9,600 additional qualifying contributions, the supplemental distribution of revenues to that candidate is \$175,000; and
- (3) The total amount of revenues distributed for a contested general election may not exceed \$2,000,000 per candidate.

8-C. Distributions to participating candidates for State Senate. Distributions from the fund to participating candidates for the State Senate must be made as follows.

- A. For an uncontested primary election, the total distribution of revenues is \$2,000 per candidate.
- B. For a contested primary election, the total distribution of revenues is \$10,000 per candidate.
- C. For an uncontested general election, the total distribution of revenues is \$6,000 per candidate.
- D. For a contested general election, the amount of revenues distributed is as follows:
 - (1) The initial distribution of revenues is \$20,000 per candidate;
 - (2) For each increment of 45 additional qualifying contributions a candidate collects and submits pursuant to subsection 8-E, not to exceed a total of 360 additional qualifying contributions, the supplemental distribution of revenues to that candidate is \$5,000; and
 - (3) The total amount of revenues distributed for a contested general election may not exceed \$60,000 per candidate.

8-D. Distributions to participating candidates for State House of Representatives.

Distributions from the fund to participating candidates for the State House of Representatives must be made as follows.

- A. For an uncontested primary election, the total distribution of revenues is \$500 per candidate.
- B. For a contested primary election, the total distribution of revenues is \$2,500 per candidate.
- C. For an uncontested general election, the total distribution of revenues is \$1,500 per candidate.
- D. For a contested general election, the amount of revenues distributed is as follows:
 - (1) The initial distribution of revenues is \$5,000 per candidate;

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(2) For each increment of 15 additional qualifying contributions a candidate collects and submits pursuant to subsection 8-E, not to exceed a total of 120 additional qualifying contributions, the supplemental distribution of revenues to that candidate is \$1,250; and

(3) The total amount of revenues distributed for a contested general election may not exceed \$15,000 per candidate.

8-E. Collection and submission of additional qualifying contributions. Participating or certified candidates may collect and submit additional qualifying contributions in accordance with subsection 3-A to the commission as follows:

A. For gubernatorial candidates, no earlier than October 15th of the year before the year of the election and no later than 3 weeks before election day; and

B. For legislative candidates, no earlier than January 1st of the election year and no later than 3 weeks before election day.

Additional qualifying contributions may be submitted to the commission at any time in any amounts in accordance with the schedules in this subsection. The commission shall make supplemental distributions to candidates in the amounts and in accordance with the increments specified in subsections 8-B to 8-D. If a candidate submits additional qualifying contributions prior to a primary election in excess of the number of qualifying contributions for which a candidate may receive a distribution, the excess qualifying contributions must be counted as general election additional qualifying contributions if the candidate has a contested general election, but supplemental distributions based on these excess qualifying contributions may not be distributed until after the primary election.

8-F. Amount of distributions. On December 1st of each even-numbered year the commission shall review and adjust the distribution amounts in subsections 8-B to 8-D based on the Consumer Price Index as reported by the United States Department of Labor, Bureau of Labor Statistics. If an adjustment is warranted by the Consumer Price Index, the distribution amounts must be adjusted, rounded to the nearest amount divisible by \$25. When making adjustments under this subsection, the commission may not change the number of qualifying contributions or additional qualifying contributions required to trigger an initial distribution or an increment of supplemental distribution. The commission shall post information about the distribution amounts including the date of any adjustment on its publicly accessible website and include this information with any publication to be used as a guide for candidates.

9. Matching funds.

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 20th preceding the primary election and who is certified 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, 8-C and 8-D. Revenues for the general election must be distributed to the candidate as specified in subsection 7. An

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unenrolled candidate for Governor who submits the required number of qualifying contributions and other required documents under subsection 4 by 5:00 p.m. on April 1st preceding the primary election and who is certified is eligible for revenues 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-B. Revenues for the general election must be distributed to the candidate for Governor as specified in subsection 7.

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, the treasurer or deputy treasurer of participating and certified candidates shall report any money collected, all campaign expenditures, obligations, refunds received by a candidate or agent of that candidate and related activities to the commission according to procedures developed by the commission. If a certified candidate pays fund revenues 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 treasurer or deputy treasurer must disclose the candidate's relationship to the payee in a manner prescribed by 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. 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. If the candidate or agent of the candidate receives a refund of an expenditure made for the campaign after filing the final report, the candidate shall return those funds to the fund within 14 days of receiving the refund.

12-A. Required records. The candidate or treasurer shall obtain and keep:

- A. Bank or other account statements for the campaign account covering the duration of the campaign;
- B. A vendor invoice stating the particular goods or services purchased for every expenditure in excess of \$50;
- C. A record proving that a vendor received payment for every expenditure in excess of \$50 in the form of a cancelled check, cash receipt from the vendor or bank or credit card statement identifying the vendor as the payee; and
- D.
- E. A contemporaneous document such as an invoice, contract or timesheet that specifies in detail the services provided by a vendor who was paid in excess of \$500 for the election cycle for providing campaign staff or consulting services to a candidate.

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The candidate or treasurer shall preserve the records for 3 years following the candidate's final campaign finance report for the election cycle. The candidate and treasurer shall submit photocopies of the records to the commission upon its request.

12-B. Audit requirements for candidates for Governor. The commission shall audit the campaigns of candidates for Governor who receive 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.

12-C. Payments to political committees. If a certified candidate makes a payment of fund revenues 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.

12-D. Duties of the campaign treasurer and deputy treasurer. The treasurer shall file all campaign finance reports required by section 1017, this chapter and commission rules, unless the treasurer delegates the filing of reports to the deputy treasurer designated on the candidate's registration. A candidate may enter financial transactions in an electronic reporting system or on paper forms of the commission, but the report must be filed by the treasurer or deputy treasurer. The treasurer is jointly responsible with the candidate for ensuring that the campaign keeps all records required by section 1016, this chapter and commission rules. If the candidate keeps the records, the candidate shall provide the treasurer or deputy treasurer with access to the records for the purpose of filing complete and accurate campaign finance reports. The commission may hold the candidate and treasurer jointly and severally liable for any penalties assessed for violations of the financial reporting or record-keeping requirements of this chapter, chapter 13 and commission rules. If the deputy treasurer files reports for the campaign, the commission may hold the deputy treasurer jointly and severally liable for any penalties related to reports filed by the deputy treasurer.

13. Distributions not to exceed amount in fund.

13-A. 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 subsection 8-F, the commission may permit certified candidates to accept and spend contributions, reduced by any seed money contributions, aggregating no more than the applicable contribution limits established by the commission pursuant to section 1015, up to the applicable amounts set forth in subsection 8-F according to rules adopted by the commission.

14. Appeals. A candidate who has been denied certification as a Maine Clean Election Act candidate by the commission's executive director, the opponent of a candidate who has been

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granted certification as a Maine Clean Election Act candidate or other interested persons may challenge a certification decision by the executive director as follows.

A. A challenger may appeal to the commission within 7 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, except that the commission may extend this period upon agreement of the challenger and the candidate whose certification is the subject of the appeal, or in response to the request of either party upon a showing of good cause. The appellant has the burden of proving that the certification decision was in error as a matter of law or was based on factual error. The commission must rule on the appeal within 5 business 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 within 5 days of the date of the commission's decision. The action must be conducted in accordance with Rule 80C of the Maine Rules of Civil Procedure, except that the court shall issue its written decision within 20 days of the date of the commission's decision. Any aggrieved party may appeal the decision of the Superior Court by filing a notice of appeal within 3 days of that decision. The record on appeal must be transmitted to the Law Court within 3 days after the notice of appeal is filed. After filing the notice of appeal, the parties have 4 days to file briefs and appendices with the clerk of the court. The court shall consider the case as soon as possible after the record and briefs have been filed and shall issue its decision within 14 days of the decision of the Superior Court.

D. A candidate whose certification as a Maine Clean Election Act candidate is reversed on appeal must return to the commission any unspent revenues distributed from the fund. If the commission or court finds 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.