

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

FIRST SPECIAL SESSION

---

---

ONE HUNDRED AND SIXTH LEGISLATURE

---

---

Legislative Document

No. 2200

S. P. 769

In Senate, January 2, 1974

Referred to the Committee on State Government. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Richardson of Cumberland.

---

---

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FOUR

---

AN ACT Relating to Legislative Ethics and the Disclosure  
of Certain Information by Legislators.

---

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

Sec. 1. R. S., T. 3, § 381, sub-§§ 4 and 5, repealed. Subsection 3 of section 381 of Title 3 of the Revised Statutes as repealed and replaced by section 1 of chapter 602 of the public laws of 1971 and subsection 5, as enacted by section 1 of chapter 602 of the public laws of 1971, are repealed.

Sec. 2. R. S., T. 3, § 381-A, additional. Title 3 of the Revised Statutes is amended by adding a new section 381-A to read as follows:

§ 381-A. Legislative ethics

1. Authority. The committee shall have the authority:

A. To issue, on request of any Legislator, or on its own motion, advisory opinions and guidelines, on problems or questions involving possible conflicts of interest in matters under consideration by, or pertaining to the Legislature.

B. To investigate conflict of interest, hold hearings and issue opinions thereon.

2. Procedure. The following procedure shall apply to all matters within the jurisdiction of the committee:

A. Requests for advisory opinions by members of the Legislature shall be filed with the committee in writing, signed by the Legislator requesting the opinion and contain such supporting data as the committee may require.

B. The committee shall conduct such investigations and hold such public hearings as it deems necessary upon a majority vote of the members of the committee. When the conduct of a particular person is under inquiry, and a hearing is to be held, the person shall be given written notification of the conflicts alleged and of the time and place the hearing is to be held. Such notification shall be given not less than 10 days prior to the date set for the hearing.

C. The committee shall have the authority, through its chairman or any member designated by him, to administer oaths, subpoena witnesses and compel the production of books, records, papers, documents, correspondence and other material and records which the committee deems relevant. The State, its agencies and instrumentalities shall furnish to the committee any information, records or documents which the committee designates as being necessary for the exercise of its functions and duties. In the case of refusal of any person to obey an order or subpoena of the committee, the Superior Court, upon application of the committee, shall have jurisdiction and authority to require compliance with the order or subpoena. Any failure of any person to obey an order of the Superior Court may be punished by that court as a contempt thereof.

D. Any person whose conduct is under inquiry shall be provided with the fullest measure of due process, including the right to appeal to the Superior Court pursuant to Rule 80(b) of the Maine Rules of Civil Procedure and if requested, the right to a hearing. All witnesses shall be subject to cross examination. If the person who files the complaint fails to appear at the hearing, the complaint shall be dismissed with prejudice and the defendant legislator may bring an action in Superior Court against the complainant for damages to his reputation and for his reasonable attorney's fees.

Any person whose name is mentioned in an investigation or hearing and who believes that testimony has been given which adversely affects him shall have the right to testify, or, at the discretion of the committee to file a statement of facts under oath relating solely to the material relevant to the testimony of which he complains. Any witness at an investigation or hearing, subject to rules and regulations promulgated by the committee, shall be entitled to a copy of his testimony when the same becomes relevant to a criminal proceeding or subsequent investigation or hearing, provided that the furnishing of such copy will not prejudice the public interest.

All witnesses shall be sworn. The committee shall not be bound by the strict rules of evidence, but its findings and opinions must be based upon competent and substantial evidence.

Time periods and notices may be waived by agreement of the committee and the person whose conduct is under inquiry.

E. A copy of the committee's advisory opinions and guidelines with such deletions and changes as the committee deems necessary to protect the identity of the person seeking the opinions, or others, shall be filed with the Clerk of the House and the clerk shall keep them in a special binder and shall finally publish them in the Legislative Record. The committee may exempt an opinion or a part thereof from release, publication or in-

spection, if it deems it is appropriate for the protection of 3rd parties and makes available to the public an explanatory statement to that effect.

F. The records of the committee and all information received by the committee in the course of its investigation and conduct of its affairs, other than that disclosed at public hearings and its opinions and guidelines shall be confidential.

G. In addition to the foregoing, the committee shall have the authority to adopt, amend and repeal any rules and regulations it deems necessary to carry out this chapter, and it shall exercise all other powers and duties necessary to effect the purpose of this chapter.

Sec. 3. R. S., T. 3, § 382, repealed and replaced. Section 382 of Title 3 of the Revised Statutes, as enacted by section 2 of chapter 602 of the public laws of 1971, is repealed and the following enacted in place thereof:

§ 382. Conflict of interests

1. A conflict of interest shall include the following:

A. Having or acquiring a direct personal financial interest, distinct from that of the general public, in an enterprise which would be financially benefitted by proposed legislation, or deriving a direct personal financial benefit from close economic association with a person who the Legislator knows has a direct financial interest in an enterprise affected by proposed legislation.

B. Acceptance of gifts, other than campaign contributions duly recorded by law, from persons affected by legislation or who have an interest in a business affected by proposed legislation, where it is known or reasonably should be known that the purpose of the donor in making the gift is to influence the Legislator in the performance of his official duties or vote or is intended as a reward for action on his part.

C. Receiving compensation or reimbursement not authorized by law for services, advice or assistance as a Legislator.

D. Appearing for, representing or assisting another in respect to a claim before the Legislature, unless without compensation and for the benefit of a citizen.

E. Accepting or engaging in employment which could impair the Legislator's judgment, e.g., where the Legislator knows that there is a substantial possibility that the opportunity for employment is being afforded him with intent to influence his conduct in the performance of his official duties or where the Legislator stands to derive a personal private gain or loss from his employment, because of legislative action, distinct from the gain or losses of other employees or the general community.

F. Interest in legislation relating to a trade, business or employment in which the Legislator is engaged, where the benefit derived by the Legislator is unique and distinct from that of the general public or persons engaged in similar trades, businesses or employment.

G. Service as a member or chairman of a committee of a special interest organization where it can be reasonably expected that the purpose of such service is to give advice on legislative matters or to influence or monitor legislation pertaining to the interests of the organization.

The following phrases, when used in the above provisions, have the meaning ascribed to them as follows:

(1) "Close economic association" includes the Legislator's employer; employees; partner; corporations in which he is an officer, director or agent; corporations in which he owns 10% or more of the outstanding capital stock; clients; a business which is his significant unsecured creditor or a business of which he is a significant unsecured creditor.

2. Undue influence. It is presumed that a Legislator's personal interest conflicts with the public interest where there are circumstances which involve a substantial risk of undue influence as in the following cases:

A. Appearing for, representing or assisting another in a matter before a state agency or authority unless without compensation and for the benefit of a constituent, except for attorneys or other professional persons engaged in the conduct of their professions.

(1) Even in the excepted cases an attorney or other professional person must refrain from references to his legislative capacity, from communications on legislative stationery, and from threats or implications relating to legislative action.

(2) Representing or assisting another in the sale of goods or services to the State, a state agency or authority, unless the transaction occurs after public notice and competitive bidding.

3. Abuse of office or position. It is presumed that a conflict of interest based upon a Legislator's abuse of office or position exists in the following cases:

A. Having a financial interest, direct or indirect, in a contract for goods or services with the State, a state agency or authority in a transaction not covered by public notice and competitive bidding or by uniform rates established by the State, a state agency, authority, or other governmental entity or by a professional association or organization;

B. Granting or obtaining special privilege, exemption or preferential treatment to or for oneself or another which privilege, exemption or treatment is not readily available to members of the general community or class to which the beneficiary belongs;

C. Use or disclosure of confidential information obtained because of office or position for the benefit of self or another.

The above provisions apply to all conflicts of interest of Legislators, whether those conflicts arise in the context of floor votes, committee action or attempts to influence the outcome of legislation.

If a member of the Legislature has a conflict of interest, he shall be precluded from voting on any question in connection with the conflict in committee or in either branch of the Legislature.

Sec. 4. R. S., T. 3, c. 19, sub-c. III, additional. Chapter 19 of Title 3 of the Revised Statutes is amended by adding a new subchapter III to read as follows:

### SUBCHAPTER III

#### DISCLOSURE OF ECONOMIC INTERESTS BY LEGISLATORS

##### § 391. Statement of economic interests

Each member of the Senate and House of Representatives shall file a statement of economic interests, as defined in this chapter, with the Legislative Ethics Committee within 30 days following his election to office.

##### § 392. Form; contents

The statement of economic interests filed under this chapter will be on a form prescribed by the committee and shall be a matter of public record, and the person filing the statement shall supply the following information:

1. The identity, by name, of all offices, directorships and fiduciary relationships held by him directly or indirectly;
2. The description, including address, of all real estate in the State in which he has any interest, direct or indirect, including an option to buy;
3. The name of each creditor to whom he, his spouse, or any member of his immediate family, directly or indirectly, owes moneys in excess of \$1,000, the amount owed and the interest rate;
4. The name of each business, insurance policy, or trust which he, his spouse, or any member of his immediate family has a direct or indirect financial interest in and the nature and amount of such interest. Attorneys-at-law need not disclose the names of their clients;
5. Each source, by name, of any income to him, his spouse, or any member of his immediate family, exceeding \$100, including capital gains, whether or not taxable, received directly or indirectly during the preceding year.

##### § 393. Updating statement

Any person who is required to file a statement of economic interests under this subchapter shall file an updating statement with the committee and on a form prescribed by the committee within one month of any addition, deletion, or change to the information supplied under this subchapter; provided that if the person has filed with the committee the description by name, amount and schedule of payments of a continuing arrangement relating to an item required to be reported. An updating statement need not be filed for each payment under such continuing arrangement, unless the arrangement is terminated or altered.

##### § 394. False statement; failure to file

The failure to file a statement required by this subchapter or the filing of a false statement shall be punishable by a fine of not more than \$1,000 or imprisonment for not more than 11 months.

#### STATEMENT OF FACT

It is the intent of this legislation to give the Committee on Legislative Ethics broad authority which it needs to regulate the ethical conduct of Legislators and to require disclosure of economic interests by Legislators.