

MAINE STATE LEGISLATURE

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L.D. 1773

(Filing No. H- 699)

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE OF CONFERENCE "^A" to H.P. 1282, L.D. 1773, Bill,
"An Act Regarding Governmental Ethics"

Amend the bill by striking out everything after the enacting
clause and before the statement of fact and inserting in its
place the following:

Sec. 1. 1 MRSA §1007, as enacted by PL 1975, c. 621, §1, is
amended to read:

§1007. Annual report

The commission shall submit to the Legislature and the
public an annual report discussing its activities under this
chapter and any changes it considers necessary or appropriate
regarding ethical standards.

Sec. 2. 1 MRSA §1008, sub-§2, as amended by PL 1977, c. 337,
§1, is further amended to read:

2. **Election practices.** To administer and investigate any
violations of the requirements for campaign reports and campaign
financing and to investigate and make findings of fact and
opinion on the final determination of the results, within the
limits of the Constitution of ~~the--State--of~~ Maine and the
Constitution of the United States, of any contested count, state
or federal election within this State; and

Sec. 3. 1 MRSA §1008, sub-§3 is enacted to read:

3. **Ethics seminar.** To conduct, in conjunction with the
Attorney General and the Chair of the Legislative Council or
their designees, an ethics seminar for Legislators after the
general election and before the convening of the Legislature, in
every even-numbered year. The Attorney General shall provide
each Legislator with a bound compilation of the laws of this
State pertaining to legislative ethics and conduct.

1
3 Sec. 4. 1 MRSA §1012, as enacted by PL 1975, c. 621, §1, is
repealed and the following enacted in its place:

5 §1012. Definitions

7 As used in this subchapter, unless the context otherwise
9 indicates, the following terms have the following meanings.

11 1. Close economic association. "Close economic association"
13 means the employers, employees, partners or clients of the
15 Legislator or a member of the Legislator's immediate family;
17 corporations in which the Legislator or a member of the
19 Legislator's immediate family is an officer, director or agent or
owns 10% or more of the outstanding capital stock; a business
which is a significant unsecured creditor of the Legislator or a
member of the Legislator's immediate family; or a business of
which the Legislator or a member of the Legislator's immediate
family is a significant unsecured creditor.

21 2. Commission. "Commission" means the Commission on
23 Governmental Ethics and Election Practices.

25 3. Employee. "Employee" means a person in any employment
27 position, including public or private employment, employment with
29 a nonprofit, religious, charitable or educational organization,
or any other compensated service under an expressed, implied,
oral or written contract for hire, but does not include a
self-employed person.

31 4. Gift. "Gift" means anything of value, including
33 forgiveness of an obligation or debt, given to a person without
that person providing equal or greater consideration to the
giver. "Gift" does not include:

35 A. Gifts received from a single source during the reporting
37 period with an aggregate value of \$300 or less;

39 B. A bequest or other form of inheritance; and

41 C. A gift received from a relative.

43 5. Honorarium. "Honorarium" means a payment of money or
45 anything with a monetary resale value to a Legislator for an
47 appearance or a speech by the Legislator. Honorarium does not
49 include reimbursement for actual and necessary travel expenses
for an appearance or speech. Honorarium does not include a
payment for an appearance or a speech that is unrelated to the
person's official capacity or duties as a member of the
Legislature.

51

1 6. Immediate family. "Immediate family" means a
2 Legislator's spouse or dependent children.

3
4 7. Income. "Income" means economic gain to a person from
5 any source, including, but not limited to, compensation for
6 services, including fees, commissions and payments in kind;
7 income derived from business; gains derived from dealings in
8 property, rents and royalties; income from investments including
9 interest, capital gains and dividends; annuities; income from
10 life insurance and endowment contracts; pensions; income from
11 discharge of indebtedness; distributive share of partnership
12 income; income from an interest in an estate or trust; prizes;
13 and grants, but does not include gifts. Income received in kind
14 includes, but is not limited to, the transfer of property and
15 options to buy or lease, and stock certificates. Income does not
16 include alimony and separate maintenance payments.

17
18 8. Relative. "Relative" means an individual who is related
19 to the Legislator or the Legislator's spouse as father, mother,
20 son, daughter, brother, sister, uncle, aunt, great aunt, great
21 uncle, first cousin, nephew, niece, husband, wife, grandfather,
22 grandmother, grandson, granddaughter, father-in-law,
23 mother-in-law, son-in-law, daughter-in-law, brother-in-law,
24 sister-in-law, stepfather, stepmother, stepson, stepdaughter,
25 stepbrother, stepsister, half brother or half sister, and shall
26 be deemed to include the fiance or fiancée of the Legislator.

27
28 9. Self-employed. "Self-employed" means that the person
29 qualifies as an independent contractor under Title 39, section 2,
30 subsection 13.

31 **Sec. 5. 1 MRSA §1013, sub-§1, ¶B, as enacted by PL 1975, c.**
32 **621, §1, is amended to read:**

33
34 B. To investigate complaints filed by Legislators, or on
35 its own motion, alleging conflict of interest against any
36 Legislator, to hold hearings thereon if the commission deems
37 appropriate and to issue publicly findings of fact together
38 with its opinion; and

39
40 **Sec. 6. 1 MRSA §1013, sub-§3 is enacted to read:**

41
42 3. Confidentiality. The subject of any investigation by
43 the commission shall be informed promptly of the existence of the
44 investigation and the nature of the charges or allegations.
45 Otherwise, notwithstanding chapter 13, all complaints shall be
46 confidential until the investigation is completed and a hearing
47 ordered or until the nature of the investigation becomes public
48 knowledge. Any person, except the subject of the investigation,
49 who knowingly breaches the confidentiality of the investigation
50 is guilty of a Class D crime.

1 Sec. 7. 1 MRSA §1015, sub-§1, as enacted by PL 1975, c. 621,
§1, is amended to read:

3
5 1. Actions precluded. When a member of the Legislature has
a conflict of interest, he--shall--not ~~that~~ that member has an
7 affirmative duty not to vote on any question in connection with
the conflict in committee or in either branch of the Legislature,
and shall not attempt to influence the outcome of that question.

9
11 Sec. 8. 1 MRSA §1016, as enacted by PL 1975, c. 621, §1, is
repealed.

13 Sec. 9. 1 MRSA §1016-A is enacted to read:

15 §1016-A. Disclosure of specific sources of income

17 Each Legislator shall file a statement of specific sources
19 of income received in the preceding calendar year with the
commission prior to February 15th of each year. The statement of
21 specific sources of income filed under this subchapter shall be
on a form prescribed by the commission and prepared by the
23 Secretary of State and is a public record.

25 1. Disclosure of Legislator's income. The Legislator
filing the statement shall name each specific source of income
27 received as follows.

29 A. A Legislator who is an employee of another shall name
the employer and each other source of income of \$1,000 or
31 more.

33 B. A Legislator who is solely self-employed shall state
that fact and name each source of income that represents
35 more than 10% of the Legislator's gross income or \$1,000,
whichever is greater, provided that if such disclosure is
37 prohibited by law, rule or an established code of
professional ethics, the Legislator shall only specify the
39 principal type of economic activity from which the income is
derived. The Legislator shall also indicate major areas of
41 economic activity and, if associated with a partnership,
firm, professional association or similar business entity,
43 the major areas of economic activity of that entity.

45 C. In identifying the source of income, it shall be
sufficient to identify the name and principal type of
47 economic activity of the corporation, professional
association, partnership, financial institution, nonprofit
49 organization or other entity or person directly providing
the income to the Legislator.

51 D. With respect to income from a law practice, it shall be
sufficient for attorneys-at-law to indicate their major

1 areas of practice and, if associated with a law firm, the
2 major areas of practice of the firm, in such manner as the
3 commission may require.

5 2. Campaign contributions. Campaign contributions duly
6 recorded as required by law shall not be considered income.

7
8 3. Disclosure of gifts. The Legislator shall name the
9 specific source of each gift that the Legislator receives.

11 4. Disclosure of income of immediate family. The
12 Legislator shall disclose the type of economic activity
13 representing each source of income that any member of the
14 immediate family of the Legislator received.

15
16 5. Disclosure of honoraria. The Legislator shall disclose
17 the name of each source of honoraria that the Legislator accepted.

18
19 6. Representation before state agencies. The Legislator
20 shall identify each executive branch agency before which the
21 Legislator has represented or assisted others for compensation.

22
23 7. Business with state agencies. The Legislator shall
24 identify each executive branch agency to which the Legislator or
25 the Legislator's immediate family has sold goods or services with
26 a value in excess of \$1,000.

27
28 **Sec. 10. 1 MRSA §1016-B is enacted to read:**

29 **§1016-B. Disclosure of reportable liabilities**

30
31 Each Legislator shall include on the statement of income
32 under section 1016-A all reportable liabilities incurred during
33 the Legislator's term of office.

34
35 1. Definition. For the purposes of this section,
36 "reportable liability" means any unsecured loan of \$3000 or more
37 received from a person not a relative.

38
39 2. Reporting. A Legislator shall make a supplementary
40 statement to the commission of any reportable liability within 30
41 days after it is incurred. The report shall identify the
42 creditor in the manner of section 1016-A, subsection 1, paragraph
43 C.

44
45 3. Campaign contributions. Campaign contributions duly
46 recorded as required by law are not required to be reported
47 under this section.

48
49 **Sec. 11. 1 MRSA §1017, as amended by PL 1981, c. 698, §2, is**
50 **repealed.**

1 Sec. 12. 1 MRSA §§1022 and 1023 are enacted to read:

3 §1022. Disciplinary guidelines

5 The Legislature shall adopt, publish, maintain and
7 implement, as authorized in the Constitution of Maine, Article
9 IV, Part Third, Section 4, disciplinary guidelines and procedures
11 for Legislators, including the violations of ethical standards,
13 penalties of reprimand, censure or expulsion and the procedures
15 under which these or other penalties may be imposed.

17 §1023. Code of ethics

19 The Legislature by Joint Rule shall adopt and publish a code
21 of ethics for Legislators and legislative employees.

23 Sec. 13. 5 MRSA §19, sub-§1, ¶E, as enacted by PL 1979, c. 734,
25 §2, is repealed and the following enacted in its place:

27 E. "Gift" means anything of value, including forgiveness of
29 an obligation or debt, given to a person without that person
31 providing equal or greater consideration to the giver.
33 "Gift" does not include:

35 (1) Gifts received from a single source during the
37 reporting period with an aggregate value of \$300 or
39 less;

41 (2) A bequest or other form of inheritance; and

43 (3) A gift received from a relative.

45 Sec. 14. 5 MRSA §19, sub-§1, ¶¶F to J are enacted to read:

47 F. "Honorarium" means a payment of money or anything with
49 a monetary resale value to a person for an appearance or a
51 speech by the person. "Honorarium" does not include
53 reimbursement for actual and necessary travel expenses for
55 an appearance or speech. "Honorarium" does not include a
57 payment for an appearance or a speech that is unrelated to
59 the person's official capacity or duties.

61 G. "Immediate family" means a person's spouse or dependent
63 children.

65 H. "Income" means economic gain to a person from any source,
67 including, but not limited to, compensation for services,
69 including fees, commissions and payments in-kind; income
71 derived from business; gains derived from dealings in
73 property, rents and royalties; income from investments
75 including interest, capital gains and dividends; annuities;
77 income from life insurance and endowment contracts;

1 pensions; income from discharge of indebtedness;
2 distributive share of partnership income; income from an
3 interest in an estate or trust; prizes; and grants, but does
4 not include gifts. Income received in-kind includes, but is
5 not limited to, the transfer of property and options to buy
6 or lease and stock certificates. Income does not include
7 alimony and separate maintenance payments.

9 I. "Relative" means an individual who is related to the
10 executive employee or the executive employee's spouse as
11 father, mother, son, daughter, brother, sister, uncle, aunt,
12 great aunt, great uncle, first cousin, nephew, niece,
13 husband, wife, grandfather, grandmother, grandson,
14 granddaughter, father-in-law, mother-in-law, son-in-law,
15 daughter-in-law, brother-in-law, sister-in-law, stepfather,
16 stepmother, stepson, stepdaughter, stepbrother, stepsister,
17 half brother or half sister, and shall be deemed to include
18 the fiance or fiancée of the executive employee.

19 J. "Self-employed" means that the person qualifies as an
20 independent contractor under Title 39, section 2, subsection
21 13.

22
23 **Sec. 15. 5 MRSA §19, sub-§2, as enacted by PL 1979, c. 734,**
24 **§2, is repealed and the following enacted in its place:**

25
26 **2. Statement of sources of income. Each executive employee**
27 **shall annually file with the Secretary of State a sworn and**
28 **notarized statement of finances for the preceding calendar year.**
29 **The statement shall indicate:**

30
31 **A. If the executive employee is an employee of another, the**
32 **name of the employer and each other source of income of**
33 **\$1000 or more;**

34
35 **B. If the executive employee is self-employed, the name of**
36 **each source of income that represents more than 10% of the**
37 **employee's gross income or \$1,000, whichever is greater,**
38 **provided that, if such disclosure is prohibited by statute,**
39 **rule, or an established code of professional ethics, the**
40 **employee shall specify the principal type of economic**
41 **activity from which the income is derived. The employee**
42 **shall also indicate major areas of economic activity and, if**
43 **associated with a partnership, firm, professional**
44 **association, or similar business entity, the major areas**
45 **of economic activity of that entity;**

46
47 **C. The specific source of each gift received;**

48
49 **D. The type of economic activity representing each source**
50 **of income that any member of the immediate family of the**
51 **executive employee received;**

1 E. The name of each source of honoraria that the executive
3 employee accepted;

5 F. Each executive branch agency before which the executive
7 employee or any immediate family member has represented or
 assisted others for compensation; and

9 G. Each executive branch agency to which the executive
11 employee or the employee's immediate family has sold goods
 or services with a value in excess of \$1000.

13 In identifying the source of income, it shall be sufficient to
15 identify the name and principal type of economic activity of the
 corporation, professional association, partnership, financial
17 institution, nonprofit organization or other entity or person
 directly providing the income to the individual.

19 With respect to income from a law practice, it shall be
21 sufficient for attorneys-at-law to indicate their major areas of
 practice and, if associated with a law firm, the major areas of
 practice of the firm.

23 **Sec. 16. 5 MRSA §19, sub-§7 is enacted to read:**

25 7. Disclosure of reportable liabilities. Each executive
27 employee shall include on the statement of income under
 subsection 2 all reportable liabilities incurred while employed
29 as an executive employee. For the purposes of this subsection,
 "reportable liability" means any unsecured loan, except a loan
31 made as a campaign contribution recorded as required by law, of
 \$3000 or more received from a person not a relative. The
33 executive employee shall file a supplementary statement with the
 Secretary of State of any reportable liability within 30 days
35 after it is incurred. The report shall identify the creditor in
 the manner of subsection 2.

37 **Sec. 17. 30-A MRSA §101, sub-§6, as enacted by PL 1987, c.**
39 **737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c. 6;**
 c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to
41 **read:**

43 **6. Keep books and accounts. Keep their books and accounts**
 on forms and in a manner approved by the Department of Audit; and

45 **Sec. 18. 30-A MRSA §101, sub-§6-A is enacted to read:**

47 6-A. Adopt ethics policy. In their discretion, the county
49 commissioners may adopt an ethics policy governing the conduct
 of elected and appointed county officials.

51 **Sec. 19. 30-A MRSA §2605, sub-§7 is enacted to read:**

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7. Municipal officers adopt ethics policy. In their discretion, the municipal officers may adopt an ethics policy governing the conduct of elected and appointed municipal officials.

Sec. 20. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1989-90	1990-91
ATTORNEY GENERAL, DEPARTMENT OF THE		
Administration - Attorney General		
All Other	\$2,000	\$2,000
Provides funds for bound compilations of laws pertaining to legislative ethics and conduct to be distributed to each Legislator.		
DEPARTMENT OF THE ATTORNEY GENERAL		
TOTAL	<u>\$2,000</u>	<u>\$2,000</u>
GOVERNMENTAL ETHICS AND ELECTION PRACTICES, COMMISSION ON		
Commission on Governmental Ethics and Election Practices		
Positions	(1)	(1)
Personal Services	\$19,442	\$26,824
All Other	1,125	1,500
Capital Expenditures	1,000	
Provides funds for one Administrative Secretary and related expenses.		
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES		
TOTAL	<u>\$21,567</u>	<u>\$28,324</u>

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All Other \$3,500 \$3,500

Provides funds for the costs associated with printing disciplinary guidelines and procedures for Legislators.

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TOTAL \$3,500 \$3,500

TOTAL APPROPRIATIONS \$27,067 \$33,824

Sec. 21. Transition. Beginning in 1990, persons subject to the income disclosure requirements of this Act shall complete the forms and provide the information as required by this Act.

FISCAL NOTE

The Governor's proposed Part II budget provides funds to the Commission on Governmental Ethics and Election Practices for an administrative secretary position and related expenses in the amount of \$25,000 in fiscal year 1989-90 and \$26,250 in fiscal year 1990-91.

The Judicial Department can absorb any additional costs resulting from anticipated increased filings within existing resources.'

STATEMENT OF FACT

This amendment replaces the bill and establishes a more detailed ethics code for Legislators and certain executive branch employees.

Reported by the Committee of Conference on L.D. 1773
Reproduced and distributed under the direction of the Clerk of the House
6/30/89 (Filing No. H-699)