

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1773

H.P. 1282

House of Representatives, June 20, 1989

Reported by the Majority from the Committee on State and Local Government pursuant to H.P. 1241 and printed under Joint Rule 2.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act Regarding Governmental Ethics.



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

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

7 **§1007. Annual report**

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

13 **Sec. 2. 1 MRSA §1008, sub-§2**, as amended by PL 1977, c. 337,
15 §1, is further amended to read:

17 2. **Election practices.** To administer and investigate any
violations of the requirements for campaign reports and campaign
19 financing and to investigate and make findings of fact and
opinion on the final determination of the results, within the
21 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

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

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

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35 repealed and the following enacted in its place:

37 **§1012. Definitions**

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

41 1. **Close economic association.** "Close economic association"
43 means the employers, employees, partners or clients of the
Legislator or a member of the Legislator's immediate family;
45 corporations in which the Legislator or a member of the
Legislator's immediate family is an officer, director or agent or
47 owns 10% or more of the outstanding capital stock; a business
which is a significant unsecured creditor of the Legislator or a
49 member of the Legislator's immediate family; or a business of
which the Legislator or a member of the Legislator's immediate
51 family is a significant unsecured creditor.

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

3 3. Employee. "Employee" means any employment position,
4 including public or private employment, employment with a
5 nonprofit, religious, charitable or educational organization, or
6 any other compensated service under an expressed, implied, oral
7 or written contract for hire. Any employed person not
8 self-employed shall be an employee.

9 4. Gift. "Gift" means anything of value given to a person,
10 including the forgiveness of an obligation, unless consideration
11 of equal or greater value is received by the donor. "Gift" does
12 not include:

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

15 B. A bequest or other form of inheritance;

16 C. A gift received from a relative; and

17 D. A gift of personal hospitality of an individual.

18 5. Honorarium. "Honorarium" means a payment of money or
19 anything of value of more than \$50 to a Legislator for an
20 appearance or a speech by the Legislator. "Honorarium" does not
21 include reimbursement for actual and necessary travel expenses
22 for an appearance or speech.

23 6. Immediate family. "Immediate family" means a
24 Legislator's spouse or dependent children.

25 7. Income. "Income" means economic gain to a person from
26 any source, including, but not limited to, compensation for
27 services, including fees, commissions and payments in-kind;
28 income derived from business; gains derived from dealings in
29 property, rents and royalties; income from investments including
30 interest, capital gains and dividends; annuities; income from
31 life insurance and endowment contracts; pensions; income from
32 discharge of indebtedness; distributive share of partnership
33 income; income from an interest in an estate or trust; and
34 prizes, awards, grants and gifts.

35 A. Income does not include alimony and separate maintenance
36 payments or gifts as defined in this section.

37 8. Relative. "Relative" means an individual who is related
38 to the Legislator or the Legislator's spouse as father, mother,
39 son, daughter, brother, sister, uncle, aunt, great aunt, great
40 uncle, first cousin, nephew, niece, husband, wife, grandfather,
41 grandmother, grandson, granddaughter, father-in-law,

1 mother-in-law, son-in-law, daughter-in-law, brother-in-law,
2 sister-in-law, stepfather, stepmother, stepson, stepdaughter,
3 stepbrother, stepsister, half brother or half sister, and shall
4 be deemed to include the fiance or fiancee of the Legislator.

5
6 9. Self-employment. "Self-employment" means a person
7 qualifying as an independent contractor under Title 39, section
8 2, subsection 13.

9
10 Sec. 5. 1 MRSA §1013, sub-§1, ¶B, as enacted by PL 1975, c.
11 621, §1, is amended to read:

12 B. To investigate complaints filed by Legislators, or on
13 its own motion, alleging conflict of interest against any
14 Legislator, to hold hearings thereon if the commission deems
15 appropriate and to issue publicly findings of fact together
16 with its opinion. All complaints shall be confidential
17 until an investigation is fully completed and a hearing
18 ordered, except that the subject of the investigation shall
19 be informed of existence of the investigation and the nature
20 of the charges or allegations; and

21
22 Sec. 6. 1 MRSA §1016, as enacted by PL 1975, c. 621, §1, is
23 repealed.

24
25 Sec. 7. 1 MRSA §1016-A is enacted to read:

26
27 §1016-A. Disclosure of specific sources of income

28
29 Each Legislator shall file a statement of specific sources
30 of income for the preceding calendar year with the commission
31 prior to February 15th of each year. The statement of specific
32 sources of income filed under this subchapter shall be on a form
33 prescribed by the commission and prepared by the Secretary of
34 State. It shall be a public record.

35
36 1. Disclosure of Legislator's income. The Legislator
37 filing the statement shall name each specific source of income
38 received as follows:

39
40 A. A Legislator who is an employee of another shall name
41 the Legislator's employer and each other source of income of
42 \$300 or more; and

43
44 B. In identifying the source of earned income received by a
45 self-employed person not doing business as a separate legal
46 entity, it shall be sufficient to specify the principal type
47 of economic activity from which the income is derived. In
48 identifying the source of all other earned income, it shall
49 be sufficient to identify the name and principal type of
50 economic activity of the corporation, professional
51 association, partnership, financial institution, nonprofit

1 organization or other entity directly providing the income
2 to the individual.

3 2. Principal economic activity. The statement shall
4 include the principal type of economic activity of the
5 corporation, professional association, partnership, person or
6 other entity represented by each source of income.

7 3. Campaign contributions. Campaign contributions duly
8 recorded as required by law shall not be considered income.

9 4. Disclosure of gifts. The Legislator shall name the
10 specific source of each gift as defined in section 1012,
11 subsection 4, with a fair-market value in excess of \$300 that the
12 Legislator receives.

13 5. Disclosure of income of immediate family. The
14 Legislator shall disclose the category or type of business entity
15 or economic activity representing the principal source of income
16 that any member of the immediate family of the Legislator
17 received.

18 6. Disclosure of honoraria. The Legislator shall disclose
19 the name of each source of honoraria that the Legislator received.

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

23 8. 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 \$300.

27 For the purposes of this subchapter, income includes income
28 received in-kind, including, but not limited to, the transfer of
29 property, options to buy or lease and stock certificates.

30 Sec. 8. 1 MRSA §1017, as amended by PL 1981, c. 698, §2, is
31 repealed.

32 Sec. 9. 1 MRSA §§1022, 1023 and 1024 are enacted to read:

33 §1022. Former Legislators; lobbying

34 1. Lobbying restricted. No former Legislator may represent
35 anyone other than the State or appear personally before any joint
36 standing committee of the Legislature on any issue within the
37 jurisdiction of any legislative committee to which the former
38 Legislator was assigned in the former Legislator's final term,
39 until 12 months following the end of the final term to which the
40 former Legislator was elected.

1
2 A. This section applies to Legislators elected to the 115th
3 and subsequent Legislatures.

4 2. Penalty. Any person violating this section shall be
5 guilty of a Class E crime.

6
7 §1023. Disciplinary guidelines

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

14
15 §1024. Code of ethics

16 1. Code established. The Legislature by Joint Rule shall
17 enact and publish a code of ethics for Legislators and
18 legislative employees that shall address:

19 A. The conduct of Legislators and legislative employees;

20 B. Voting abstention;

21 C. Compensation;

22 D. Confidentiality;

23 E. Improper influence;

24 F. The use of staff;

25 G. Gifts including honoraria;

26 H. Improper inducement;

27 I. Improper communication; and

28 J. The appearance of impropriety.

29 Sec. 10. 5 MRSA §19, sub-§1, ¶¶D and E, as enacted by PL 1979,
30 c. 734, §2, are repealed and the following enacted in their place:

31 D. "Employee" means any employment position, including
32 public or private employment, employment with a nonprofit,
33 religious, charitable or educational organization, or any
34 other compensated service under an expressed or implied,
35 oral or written contract for hire. Any person not
36 self-employed shall be an employee.

1
3 E. "Executive employee" means an appointed executive
employee or an elected executive employee.

5 **Sec. 11. 5 MRSA §19, sub-§1, ¶¶F, G, H and I** are enacted to read:

7 F. "Gift" means anything of value given to a person without
equal consideration received, including forgiveness of an
9 obligation or debt or excess consideration beyond
11 fair-market value for services or goods.

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

17 (2) A bequest or other form of inheritance;

19 (3) A gift received from a relative; and

21 (4) A gift of personal hospitality of an individual.

23 G. "Income" means economic gain from any source, including,
but not limited to, compensation for services, including
25 fees, commissions and payments in-kind; income derived from
business; gains derived from property transactions, rents or
27 royalties; income from investments, including interest,
capital gains and dividends; alimony or separate maintenance
29 payments; annuities; income from life insurance or endowment
contracts; pensions; discharges of indebtedness;
31 distributive share of partnership income; income from an
interest in an estate or trust; and prizes, awards, grants
33 or gifts.

35 H. "Relative" means an individual who is related to the
executive employee or the executive employee's spouse as
37 father, mother, son, daughter, brother, sister, uncle, aunt,
great aunt, great uncle, first cousin, nephew, niece,
39 husband, wife, grandfather, grandmother, grandson,
granddaughter, father-in-law, mother-in-law, son-in-law,
41 daughter-in-law, brother-in-law, sister-in-law, stepfather,
stepmother, stepson, stepdaughter, stepbrother, stepsister,
43 half brother or half sister, and shall be deemed to include
the fiance or fiancee of the executive employee.

45 I. "Self-employment" means a person qualifying as an
independent contractor under Title 39, section 2, subsection
47 13.

49 **Sec. 12. 5 MRSA §19, sub-§2, ¶¶A and B**, as enacted by PL 1979,
c. 734, §2, are repealed the following enacted in their place:

1
3 A. The name of each specific source of income that the executive employee received of \$300 or more;

5 B. The principal type of economic activity of the corporation, professional association, partnership, person or other entity representing each source of income;

9 **Sec. 13. 5 MRSA §19, sub-§2, ¶¶C, D, E, F and G are enacted to read:**

11
13 C. The specific source of each received gift with a fair-market value in excess of \$50 except for gifts from immediate family members;

15
17 D. The principal source of income that any member of the immediate family of the executive employee received;

19 E. Each executive branch agency before which the executive employee or any immediate family member has represented or assisted others for compensation;

21
23 F. Each executive branch agency to which the executive employee or the employee's immediate family has sold goods or services with a value in excess of \$300; and

25
27 G. Income received in-kind, including, but not limited to, the transfer of property, options to buy or lease and stock certificates.

29
31 **Sec. 14. 5 MRSA §18, sub-§8 is enacted to read:**

33 8. Lobbying restricted. No former executive employee may represent or personally appear before a joint standing committee of the Legislature to which legislation has been referred that involves matters that were within the responsibilities of that former executive employee until 12 months following the departure of the former executive employee from the executive branch position.

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41 **Sec. 15. 30-A MRSA §101, sub-§6, as enacted by PL 1987, c. 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 read:**

43
45
47 **6. Keep books and accounts. Keep their books and accounts on forms and in a manner approved by the Department of Audit; and**

49 **Sec. 16. 30-A MRSA §101, sub-§6-A is enacted to read:**

1 6-A. Adopt ethics policy. By December 1, 1990, adopt an
2 ethics policy governing the conduct of elected county officers
3 and appointed county officials. The ethics policy shall address:

- 4 A. Conflict of interest;
- 5 B. Abuse of office or position;
- 6 C. Undue influence; and
- 7 D. Disclosure of income information; and

8 **Sec. 17. 30-A MRSA §2605, sub-§7 is enacted to read:**

9 7. Municipal officers adopt ethics policy. The municipal
10 officers, by December 1, 1990, shall adopt an ethics policy
11 governing the conduct of elected municipal officers and appointed
12 municipal officials. The ethics policy shall address:

- 13 A. Conflict of interest;
- 14 B. Abuse of office or position;
- 15 C. Undue influence; and
- 16 D. Disclosure of income information.

17 **Sec. 18. Appropriation.** The following funds are appropriated
18 from the General Fund to carry out the purposes of this Act.

	1989-90	1990-91
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**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**

\$21,567	\$28,324
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LEGISLATURE

Legislature

All Other	\$3,500	\$3,500
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Provides funds for the costs
associated with printing
disciplinary guidelines and
procedures for Legislators.

**LEGISLATURE
TOTAL**

\$3,500	\$3,500
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TOTAL APPROPRIATIONS

\$27,067	\$33,824
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Sec. 19. 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

1 This bill requires Legislators and executive employees to
2 report income exceeding \$300 and gifts valued at more than \$50,
3 except gifts from immediate family members. This bill does not
4 require specific amounts of income to be reported.

5
6 Other provisions of this bill include:

7
8 1. An ethics seminar to be presented by the Commission on
9 Governmental Ethics and Election Practices and the Department of
10 the Attorney General to Legislators following the general
11 election in the even-numbered years;

12
13 2. A code of ethics and disciplinary guidelines for the
14 Legislature to be adopted by Joint Rule;

15
16 3. The requirement that municipal and county officers
17 develop their own ethics policy for elected and appointed
18 officials; and

19
20 4. A prohibition against former Legislators lobbying until
21 12 months following the end of the term to which the Legislator
22 was last elected.
23