

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 2183

H.P. 1530

House of Representatives, April 9, 1999

**An Act to Clarify Provisions of the Laws Administered by the
Commission on Governmental Ethics and Election Practices.**

Reported by Representative TUTTLE for the Commission on Governmental Ethics and Election Practices pursuant to Maine Revised Statutes, Title 1, section 1007.

Reference to the Joint Standing Committee on Legal and Veterans Affairs suggested and printing ordered under Joint Rule 218.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

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

2 **Sec. 1. 1 MRSA §1003, sub-§2**, as enacted by PL 1975, c. 621,
4 §1, is amended to read:

6 **2. Records.** Except as provided in section 1013 ~~1014-C~~,
8 subsection ~~2 9~~, ~~paragraph--J~~, all records of the commission,
10 including business records, reports made to or by the commission,
12 findings of fact and opinions, shall must be made available to
14 any interested member of the public who may wish to review them. Any member of the public may request copies of any record held by the commission which ~~that~~ is available for public inspection. The commission shall furnish these copies upon payment of a fee covering the cost of reproducing them.

16 **Sec. 2. 1 MRSA §1005**, as amended by PL 1997, c. 562, Pt. D,
18 §1 and affected by §11, is further amended to read:

20 **§1005. Open meetings**

22 Notwithstanding ~~any other provision of law chapter 13 and~~
24 ~~section 1014-C~~, all meetings, hearings or sessions of the
26 commission shall ~~be~~ are open to the general public unless, by an
affirmative vote of at least 3 members, the commission requires
the exclusion of the public.

28 **Sec. 3. 1 MRSA §1008, sub-§6**, as enacted by IB 1995, c. 1, §6,
is amended to read:

30 **6. Enhanced monitoring; source of revenue.** To provide for
32 enhanced monitoring and enforcement of election practices and to
34 institute electronic submission of reports and computerized
36 tracking of campaign, election and lobbying information under the
commission's jurisdiction. Funds to support enhanced monitoring
38 and computerized data collection must come from the Maine Clean
40 Election Fund, established pursuant to Title 21-A, section 1124,
the commission's share of lobbyist registration fees, penalties
42 and other revenues pursuant to Title 3, ~~section-320~~ chapter 15,
as well as other revenue sources that may benefit from the
commission's acquisition and use of an electronic data collection
and disclosure system.

44 **Sec. 4. 1 MRSA §1012, sub-§§1-A, 1-B and 3-A** are enacted to
read:

46 **1-A. Anything of value.** "Anything of value" means any
48 money, property, favor, service, payment, advance, forbearance,
loan or promise of future employment. "Anything of value" does
50 not include compensation and expenses paid by the State,
political contributions that are reported pursuant to Title 21-A,

2 chapter 13, payment for an appearance or speech that is unrelated
3 to a Legislator's duties, or hospitality extended for a purpose
4 unrelated to State business by a person acting as an individual.

5 1-B. Associated. "Associated," when used with reference to
6 an organization, includes any organization in which an individual
7 or a member of that individual's immediate family:

8 A. Is a director, officer or trustee; or

9 B. Individually or in aggregate owns or controls, directly
10 or indirectly, 10% or more of the outstanding equity.

11 3-A. Employee of another. "Employee of another" means a
12 person in any compensated service under an expressed, implied,
13 oral or written contract for hire. "Employee of another"
14 includes employment with a public, private, nonprofit, religious,
15 charitable or educational organization. "Employee of another"
16 does not include a self-employed person.

17 Sec. 5. 1 MRSA §1012, sub-§4, as amended by PL 1995, c. 33,
18 §§1 and 2, is further amended to read:

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

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

25 B. A bequest or other form of inheritance;

26 C. A gift received from a relative; and

27 D. A Informational material, a publication or a subscription
28 to a newspaper, news magazine or other news publication,
29 related to the recipient's performance of official duties;
30 and

31 E. A meal, if the meal is provided:

32 (1) By an industry or special interest organization as
33 part of an informational program presented to a group
34 of public servants; or

35 (2) As part of a prayer breakfast or during a meeting
36 to establish a prayer breakfast.

2 **Sec. 6. 1 MRSA §1012, sub-§7**, as enacted by PL 1989, c. 561,
§4, is amended to read:

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

18 A. Alimony and separate maintenance payments; or

20 B. Campaign contributions recorded and reported as required
by Title 21-A, chapter 13.

22 **Sec. 7. 1 MRSA §1012, sub-§§7-A, 7-B and 8-A** are enacted to
24 read:

26 7-A. Informational program. "Informational program" means
a program offered to educate Legislators and members of the
28 public on a matter relating to the duties of the Legislature.

30 7-B. Organization. "Organization" means any corporation,
partnership, proprietorship, firm, business, enterprise,
32 franchise, association, trust or other legal entity other than an
individual or governmental entity.

34 8-A. Reportable liability. "Reportable liability" means any
36 unsecured loan of \$5,000 or more received from a person who is
not a relative of the Legislator. "Reportable liability" does
38 not include:

40 A. A credit card liability;

42 B. An education loan made or guaranteed by a governmental
entity, educational institution or nonprofit organization; or

44 C. A loan made by a state or federally regulated financial
46 institution for business purposes.

48 **Sec. 8. 1 MRSA §1013, sub-§2**, as amended by PL 1977, c. 252,
§2, is repealed.

50

2 **Sec. 9. 1 MRSA §1013, sub-§3**, as enacted by PL 1989, c. 561,
§6, is repealed.

4 **Sec. 10. 1 MRSA §1014**, as enacted by PL 1975, c. 621, §1, is
repealed.

6 **Sec. 11. 1 MRSA §§1014-A, 1014-B and 1014-C** are enacted to
8 read:

10 **§1014-A. Standards of conduct**

12 Citizens who serve as Legislators retain their rights to
14 pursue personal or economic interests. This subchapter does not
prevent a Legislator from accepting other employment or following
16 any pursuit that does not interfere with the full and faithful
discharge of the Legislator's duties to this State. In addition
18 to their legislative duties, Legislators may engage in
employment, professional or business activities to support
20 themselves and their families in order to maintain continuity of
professional or business activity, as long as the activity does
22 not conflict with specific provisions of this subchapter.
24 Legislators also may maintain investments as long as those
investments do not conflict with specific provisions of this
subchapter.

26 1. Use of position. A Legislator may not use the
28 Legislator's public position or office to obtain financial gain
or anything of substantial value for the private benefit of the
30 Legislator, the Legislator's immediate family or an organization
with which the Legislator is associated.

32 2. Offer or receipt of anything of value prohibited. A
34 person may not offer or give to a Legislator, directly or
indirectly, and a Legislator may not solicit or accept from any
36 person, directly or indirectly, anything of value if it could
reasonably be:

38 A. Expected to influence the Legislator's vote, official
40 actions or judgment; or

42 B. Considered as a reward for any official action or
inaction on the part of the Legislator.

44 3. Misuse of information. A Legislator may not
46 intentionally use or disclose information gained through that
Legislator's official position or activities that could result in
48 the receipt of anything of value by the Legislator, the
Legislator's immediate family or any other person associated with
50 the Legislator, if the information has not been communicated to
the public or is not public information.

2 4. Abuse of office. A Legislator may not use or attempt to
3 use the Legislator's public position to influence or gain
4 unlawful benefits, advantages or privileges for the Legislator or
5 others.

6
7 5. Representation before state agency or state employee. A
8 Legislator may not represent a person for compensation before a
9 state agency or authority or employee of a state agency or
10 authority, except:

11 A. For attorneys or other professional persons engaged in
12 the conduct of their profession;

13 B. At an open hearing; or

14 C. In a matter before the Bureau of Revenue Services that
15 involves the representation of a client in connection with a
16 tax matter.

17
18
19 This subsection does not apply to representation by a Legislator
20 acting in that Legislator's official capacity.

21
22
23 6. Contract with governmental agency or department. A
24 Legislator or business with which a Legislator is associated may
25 not enter into any contract with the State or an agency of the
26 State that is to be paid out of governmental funds, unless that
27 contract has been awarded through a process of public notice and
28 competitive bidding.

29
30 7. Unlawful compensation. A Legislator may not directly or
31 indirectly ask for, give, receive or agree to receive any
32 compensation, gift, reward or gratuity from a source except the
33 State for performing, omitting or deferring the performance of
34 any official duty, unless otherwise authorized by law.

35
36 8. Prohibitions; former Legislators. Except as provided in
37 subsection 5, for 12 months following the date on which an
38 individual ceases to be a Legislator, that individual may not
39 make, on behalf of any person other than a governmental entity,
40 any formal or informal appearance before or negotiate with any
41 officer, member or employee of a state agency or quasi state
42 agency with which that Legislator conducted official business.

43
44 9. Personal business. This section does not prohibit
45 former Legislators from conducting personal business with the
46 State.

47
48 §1014-B. Conflict of interest

49
50

2 The following provisions govern a conflict of interest for
Legislators.

4 1. Conflict of interest prohibited. Except as provided in
subsection 2, a Legislator may not:

6 A. Take any official action substantially affecting a
8 matter in which the Legislator, a member of the Legislator's
10 immediate family or an organization with which the
12 Legislator is associated has a substantial financial
interest; or

14 B. Use the Legislator's office or position in a way that
16 produces a substantial benefit, directly or indirectly, for
18 the Legislator, a member of the Legislator's immediate
family or an organization with which the Legislator is
associated.

20 2. Exceptions. A Legislator may propose or act on
22 legislation, a rule or general policy, even though the
24 legislation, rule or general policy may affect the Legislator or
a member of the Legislator's immediate family or an organization
with which the Legislator is associated, if:

26 A. The legislation, rule or policy affects a whole class of
similar interests;

28 B. Neither the Legislator's interest nor the interest of a
30 member of the Legislator's immediate family nor the interest
32 of an organization with which the Legislator is associated
is significant when compared to all affected interests in
the class; and

34 C. The effect of the legislation, rule or policy on the
36 interests of the Legislator or of a member of the
38 Legislator's immediate family or of the related organization
is neither significantly greater nor less than upon other
members of the class.

40 3. Membership on board, authority or commission. It is not
42 a conflict of interest for a Legislator to serve on a public
44 board, authority or commission created by the Legislature
46 provided that no compensation is paid to the Legislator other
than that allowed under the law establishing that board,
authority or commission.

48 4. Advisory opinions. A Legislator may request the
commission to provide an advisory opinion regarding the propriety
of any matter to which the Legislator is or may become a party.

2 The commission must review a request for an advisory opinion and
may advise the person making the request.

4 A. Requests for advisory opinions and advisory opinions
must be in writing.

6 B. At the request of a Legislator, the commission's
8 deliberations and actions may be held in executive session
and may not be open to the public.

10 C. It is prima facie evidence of intent to comply with this
12 subchapter when a person refers a matter to the commission
and abides by the commission's advisory opinion.

14 D. The commission may authorize the executive director of
16 the commission, in consultation with the Attorney General,
18 to act in its stead in instances where delay is of
20 substantial inconvenience or detriment to the requesting
party. At the earliest opportunity thereafter, the
commission shall consider the advice given by the executive
director and ratify that advice, as appropriate.

22 E. A member or an employee of the commission may not make
24 public the identity of the individual requesting an advisory
26 opinion or of individuals or organizations mentioned in the
opinion.

28 F. A copy of the advisory opinion must be sent to the
30 Legislator concerned. A copy also must be sent to the
presiding officer of the body of which the Legislator is a
member.

32 **§1014-C. Complaints**

34 Complaints under this subchapter are subject to the
36 following provisions.

38 1. Request for investigation by individuals. Any person,
40 organization or governmental body may submit a written complaint
under oath to the commission that states the name of any person
42 alleged to have committed a violation of this subchapter and the
manner in which that violation has occurred.

44 A. If the commission determines that the complaint alleges
46 facts sufficient to constitute a violation of this
subchapter, it may investigate the alleged violation.

48 B. If the commission determines that the complaint does not
allege facts sufficient to constitute a violation of this

2 subchapter, it must dismiss the complaint and notify the
3 complainant and the subject of the complaint.

4 C. If the commission determines that the complaint was
5 brought for harassment purposes, the commission may so state.

6 2. Request for investigation by Legislator. A Legislator
7 may request the commission to make an investigation of that
8 Legislator's own conduct or of allegations made by other persons
9 as to the Legislator's conduct. The request must be written and
10 include detailed reasons for the request.

11 3. Investigation initiated by commission. When the
12 commission receives information that alleges facts sufficient to
13 constitute a violation of this subchapter:

14 A. If no complaint has been filed, the commission may make
15 upon its own motion a written complaint stating the name of
16 the person who is alleged to have committed a violation of
17 this subchapter and setting forth the particulars of the
18 violation in accordance with the information received by the
19 commission; or

20 B. If a complaint has been filed and the commission finds
21 probable cause to believe that a violation of this
22 subchapter has occurred, other than one contained in the
23 complaint, the commission may amend the complaint upon its
24 own motion to include that violation.

25 4. Notice to subject of complaint. Within 10 days of
26 receipt of a complaint or the initiation of a complaint by the
27 commission on its own motion, the commission must forward a copy
28 of the complaint to the subject of that complaint, a copy of the
29 applicable statutes and a statement enumerating the sources of
30 information upon which the complaint is based. An investigation
31 under subsection 5 may not be initiated until the subject of the
32 complaint has been notified.

33 5. Investigations. The commission has the authority
34 through its chair, or any member designated by the chair, to
35 administer oaths, subpoena witnesses and compel the production of
36 books, records, papers, documents, correspondence and other
37 material and records that the commission considers relevant.

38 A. The commission shall subpoena witnesses requested by the
39 complainant or the subject of the complaint.

40 B. The commission may order testimony to be taken by
41 deposition before any individual who is designated by the

2 commission, and may administer oaths, compel testimony and
3 order the production of evidence.

4 C. The State, its agencies and instrumentalities shall
5 furnish to the commission any information, records or
6 documents that the commission designates as being necessary
7 for the exercise of its functions and duties.

8
9 D. If any person refuses to obey an order or subpoena from
10 the commission, the Superior Court, upon application by the
11 commission, has jurisdiction and authority to require
12 compliance with the order or subpoena.

13 6. Probable cause of violation. The commission shall
14 determine whether probable cause of a violation of this
15 subchapter exists at the conclusion of its investigation.
16

17 A. If the commission determines that probable cause of a
18 violation of this subchapter does not exist, it must
19 immediately send written notice of that determination,
20 supported by findings of fact and conclusions, to the
21 complainant and the subject of the complaint.
22

23 B. If the commission determines that probable cause of a
24 violation of this subchapter exists, it must prepare
25 preliminary findings of fact and conclusions that must
26 contain, but are not limited to:
27

28 (1) An order setting a date for a hearing before the
29 commission to determine whether a violation of this
30 subchapter has occurred.
31

32 (a) That order must be served upon the subject of
33 the complaint by certified mail.
34

35 (b) A hearing ordered under this subparagraph
36 must take place within 30 days of the date it is
37 ordered unless the subject of the complaint
38 petitions for and the commission consents to a
39 later date.
40

41 (c) Prior to any hearing ordered under this
42 subparagraph, the subject of the complaint is
43 entitled to full disclosure of all information
44 that will be presented to the commission for its
45 consideration. The disclosure must include the
46 opportunity to interview any witness who will
47 tesify at the hearing, at the discretion of the
48 witness. Any interviews must be conducted at a

2 time approved by the commission before the date of
the hearing.

4 (d) The commission must inform the subject of the
complaint or the subject's counsel of any
6 exculpatory evidence in the possession of the
commission.

8
10 7. Hearings. The subject of a complaint has the right to a
hearing, if requested.

12 A. All witnesses are subject to cross-examination. A
witness at an investigation or hearing, subject to rules
14 adopted by the commission under section 1016-G, is entitled
to a copy of that witness's testimony when that testimony
16 becomes relevant to a subsequent investigation, hearing or
criminal proceeding.

18 B. All witnesses must be sworn. The commission may
20 sequester witnesses as necessary. The commission is not
bound by the strict rules of evidence, but its findings and
22 conclusions must be based upon clear and convincing evidence.

24 C. Any person whose name is mentioned in an investigation
or hearing and who believes that testimony has been given
26 that adversely affects that person has the right to testify
in that proceeding; or, at the discretion of the commission
28 and under such circumstances as the commission determines
are appropriate to protect the rights of the subject of the
30 complaint under inquiry, to file a statement of fact under
oath relating solely to the adverse testimony that has been
32 given or about such facts as are relevant to that testimony.

34 D. Time periods and notices may be waived by agreement of
the commission and the subject of the complaint.

36 E. After the conclusion of the hearing and as soon as
38 practicable, the commission shall begin deliberations on the
evidence presented at that hearing and determine whether
40 sufficient credible evidence was presented to warrant the
conclusion that the subject of the complaint violated this
42 subchapter.

44 8. Findings of fact and conclusions. If the commission
determines that:

46 A. A violation of this subchapter has not occurred, it must
48 immediately send written notice to the subject of the
complaint and to the complainant; or

50

2 B. A violation of this subchapter has occurred, it must
3 immediately send written notice of that determination,
4 including its findings of fact and conclusions:

5 (1) To the subject of the complaint by certified mail;
6 and

7 (2) To the presiding officer of the body of the
8 Legislature of which the subject of the complaint is a
9 member.

10
11 9. Confidentiality. Notwithstanding chapter 13, all
12 complaints filed under this subchapter, including the fact that a
13 complaint has been filed, are confidential until the
14 investigation is complete and a hearing ordered. The records of
15 the commission and all information received by the commission
16 acting under this section in the course of its investigation and
17 the conduct of its affairs are confidential, except:

18
19 A. That evidence or information disclosed at public
20 hearings;

21
22 B. The commission's findings of fact; and

23
24 C. The commission's opinions and guidelines.

25
26 10. Penalties. Any person, except the subject of the
27 complaint, who knowingly breaches the confidentiality
28 requirements of this subchapter is guilty of a Class D crime.

29
30 A. This section does not limit the application of any
31 provisions of Title 17-A, chapter 25.

32
33 B. If other statutory conflict of interest provisions
34 pertaining to the conduct of any Legislator are more
35 stringent than the provisions of this subchapter, the more
36 stringent provisions apply.

37
38 C. A violation of this subchapter for which no other
39 penalty has been prescribed is a civil violation for which a
40 forfeiture of not more than \$1,000 may be adjudged.

41
42 11. Limitation. A complaint may not be filed more than 4
43 years after the conduct that is the subject of that complaint is
44 alleged to have occurred.

45
46 Sec. 12. 1 MRSA §1016-A, as amended by PL 1989, c. 734, is
47 repealed.

2 **Sec. 13. 1 MRSA §1016-B**, as amended by PL 1991, c. 331, §1,
is repealed.

4 **Sec. 14. 1 MRSA §1016-C**, as enacted by PL 1991, c. 880, §2,
is amended to read:

6 **§1016-C. Reports by legislative candidates**

8
10 A candidate, as defined in Title 21-A, section 1, subsection
11 5, for the Legislature who is not required to file a report under
12 section ~~1016-A-or-1016-B~~ 1016-D shall file a ~~report~~ statement
13 containing the same information required of Legislators under
14 ~~sections-1016-A-and-1016-B~~ section 1016-D. The statement must be
15 filed no later than 5 p.m. on the first Monday in August
16 preceding the general election unless the candidate withdraws
from the election in accordance with Title 21-A, section 374-A by
that date.

18 **Sec. 15. 1 MRSA §§1016-D to 1016-G** are enacted to read:

20 **§1016-D. Financial disclosure by Legislators**

22 Annually, each Legislator must file with the commission a
23 statement of specific sources of income received in the preceding
24 calendar year. No later than one month before the statement is
25 due, the commission shall mail or deliver forms prescribed and
26 prepared by the commission to each Legislator. Completed
27 statements must be notarized. The statement is a public record.

30 1. Time for filing. Each member of the Legislature must
31 file the statement with the commission no later than 5:00 p.m. on
32 February 15th of each year.

34 2. Updating statement. Each Legislator, whose sources of
35 income change after submitting the statement required under this
36 section, must file a report of that change with the commission.
37 That report must be filed within 30 days of any addition,
38 deletion or change to the information relating to the preceding
year supplied under this section.

40 3. Disclosure of Legislator's income. The Legislator
41 filing the statement must provide the name and address of each
42 specific source of income received as follows.

44 A. A Legislator who is an employee of another must name
45 each employer from whom that Legislator received \$1,000 or
46 more and state the principal type of economic activity of
47 that employer.

2 B. A Legislator employed by an organization in which the
3 Legislator or a member of the Legislator's immediate family,
4 individually or in the aggregate, has an interest of 10% or
5 more shall state the principal type of economic activity
6 from which the Legislator's income is derived as a result of
7 employment by the organization and the principal type of
8 economic activity of the organization. The Legislator also
9 must identify each source from which the organization
10 received \$2,000 or more of its income for the preceding
11 taxable year, except that if this form of disclosure is
12 prohibited by law, rule or an established code of
13 professional ethics, the Legislator shall specify the
14 principal type of economic activity from which the income is
15 derived.

16 C. A Legislator who is an attorney-at-law must state the
17 major areas of practice of the Legislator's firm and the
18 major areas of practice of the Legislator. The Legislator
19 must state if that Legislator is self-employed.

20 D. A Legislator must list each other source from which
21 \$1,000 or more of income has been derived during the
22 reporting period and state the type of income derived from
23 each source.

24 E. Campaign contributions duly recorded and reported as
25 otherwise required by law are not to be considered income
26 for the purposes of this section.

27 **4. Disclosure of organizational affiliations.** Each
28 Legislator shall disclose the identity of each organization with
29 which the Legislator is associated and the nature of that
30 association with the exception of the following:

31 A. Any organization that is organized and operated
32 primarily to influence voting at an election, including
33 support for or opposition to an individual's present or
34 future candidacy or to a present or future referendum
35 campaign;

36 B. Any nonprofit organization that is formed exclusively
37 for social purposes, any nonprofit community service
38 organization and any religious organization; or

39 C. Any organization listed under subsection 3, paragraph B.

40 **5. Disclosure of interest in real property.** Each
41 Legislator shall disclose the real property located in this State
42 in which the Legislator or the Legislator's immediate family
43 holds an interest and the nature of the interest held. The
44

2 principal residence of the Legislator or the Legislator's
3 immediate family is exempt from this requirement. A Legislator's
4 or a Legislator's immediate family's interest in real property
5 does not include a proportional share of interest in real
6 property if the individual's proportional share is less than 10%
7 of the outstanding shares or has a value of less than \$5,000.

8 6. Disclosure of gifts. Each Legislator shall name the
9 specific source of each gift that the Legislator receives, except
10 if the source is the Legislator's parent, grandparent, spouse,
11 child, grandchild, brother, sister, parent-in-law,
12 grandparent-in-law, brother-in-law, sister-in-law, uncle, aunt,
13 great aunt, great uncle, first cousin, nephew, niece,
14 daughter-in-law, son-in-law, stepfather, stepmother, stepson,
15 stepdaughter, stepbrother, stepsister, half-brother, half-sister,
16 fiancé or fiancée.

17 7. Disclosure of income of immediate family. Each
18 Legislator shall disclose the type of economic activity
19 representing each source of income of \$1,000 or more that any
20 member of the immediate family of the Legislator receives.
21

22 8. Disclosure of representation before state agencies.
23 Each Legislator shall identify each executive branch agency
24 before which the Legislator has represented others or assisted
25 others for compensation.
26

27 9. Disclosure of business with state agencies. Each
28 Legislator shall identify each executive branch agency to which
29 the Legislator or the Legislator's immediate family has sold
30 goods or services with a value in excess of \$1,000.
31

32 §1016-E. Reportable liabilities

33 Each Legislator shall list the source of any reportable
34 liability of \$5,000 or more owed by the Legislator or the
35 Legislator's immediate family, individually or in the aggregate,
36 and list the major areas of economic activity of that source. A
37 supplementary report to the commission must be filed by a
38 Legislator within 30 days of incurring a reportable liability.
39 The report must identify the creditor.
40

41 §1016-F. Preservation of sources of income statements

42 The commission shall file statements of the sources of
43 income required under section 1016-D for 10 years from the date
44 of receipt in a manner to facilitate document retention and
45 retrieval.
46

47 §1016-G. Rules

2 The commission shall adopt or periodically amend rules to
3 specify the categories, procedures and forms for reporting
4 sources of income and liabilities, and to administer this
5 subchapter. Rules adopted pursuant to this section are routine
6 technical rules as defined in Title 5, chapter 375, subchapter
7 II-A.

8
9 Sec. 16. 1 MRSA §1019, as amended by PL 1977, c. 696, §12, is
10 repealed.

11 Sec. 17. 1 MRSA §1019-A is enacted to read:

12 §1019-A. Penalties

13 Violations of this subchapter are subject to the following
14 penalties.

15 1. False statement; willful failure to file. A Legislator
16 who willfully files a false statement or willfully fails to file
17 a statement commits a Class E crime. If the commission
18 determines that a Legislator has willfully filed a false
19 statement or has willfully failed to file a statement required by
20 this subchapter, the commission shall refer its findings to the
21 Attorney General.

22 2. Civil penalties; late and incomplete statements. A
23 Legislator may be assessed a forfeiture of \$10 for each business
24 day a statement required under this subchapter is filed late. A
25 statement is not considered to be filed unless it substantially
26 conforms to the requirements of this subchapter and is properly
27 signed. The commission shall determine whether a statement
28 substantially conforms to the requirements of this subchapter.

29 3. Conflict of interest. If the commission determines that
30 a Legislator has willfully failed to file a statement required by
31 this subchapter or has willfully filed a false statement, the
32 Legislator is presumed to have a conflict of interest on every
33 question and is punishable as provided in section 1015.

34 Sec. 18. 3 MRSA §312-A, sub-§11-B is enacted to read:

35 11-B. Pecuniary benefit. "Pecuniary benefit" means any
36 economic gain in any form except:

37 A. Economic advantage generally applicable to the public;

38 B. A meal, if the meal is provided by an industry or
39 special interest organization as part of an informational

2 program and the information relates to a matter that is
3 within the official duties of the recipients; or

4 C. Informational material, publications or subscriptions
5 related to the official duties of the recipient.

6 Sec. 19. 3 MRSA §318-A is enacted to read:

8 **§318-A. Prohibitions**

10 A lobbyist, lobbyist associate or employer of a lobbyist or
11 lobbyist associate may not furnish to any Legislator any
12 pecuniary benefit except as authorized by law. A violation of
13 this section is a civil violation for which a forfeiture of up to
14 \$200 may be adjudged for each violation.

16 Sec. 20. 21-A MRSA §1012, sub-§5 is enacted to read:

18 5. Personal expenses. "Personal expenses" means expenses
19 that exist irrespective of the political campaign or the duties
20 of a public servant. "Personal expenses" includes, but is not
21 limited to:

24 A. Day-to-day household food items, supplies or the
25 ordinary expenses of maintaining a personal household;

26 B. Mortgage, rent or utility payments for the candidate's
27 residence or any other personal residence, even if part of
28 the residence is being used by the campaign;

30 C. Clothing items, including specialized attire for
31 political functions, but excluding items of a minimal value
32 imprinted with a candidate's logo or campaign slogan, such
33 as T-shirts or caps;

34 D. Tuition payments, other than training of campaign staff
35 to perform campaign tasks; and

36 E. Salary payments to members of the candidate's immediate
37 family, unless those payments are made as compensation for
38 the fair market value of bona fide services rendered to the
39 campaign.

40 Sec. 21. 21-A MRSA §1015, sub-§3-A is enacted to read:

42 3-A. Attribution and aggregation of family contributions.
43 Contributions made by:

2 A. A husband and wife are considered separate contributions
3 and are not aggregated. The joint contribution of a husband
4 and wife is attributed equally to each; and

5 B. Unemancipated children under 18 years of age are
6 considered contributions by their parents and are attributed
7 proportionately to each parent. Fifty percent of the
8 contributions are attributed to each parent or, in the case
9 of a single custodial parent, the total amount is attributed
10 to the parent.

11 **Sec. 22. 21-A MRSA §§1015-B and 1015-C are enacted to read:**

12 **§1015-B. Anonymous contributions**

13 A candidate or a committee may not accept an anonymous
14 contribution exceeding \$10. The recipient of an anonymous
15 contribution of more than \$10 may not keep the contribution but
16 must remit within 2 business days the contribution to the General
17 Fund and report the action to the commission.

18 **§1015-C. Use of campaign contributions for personal expenses**

19 1. Prohibition. A candidate, political committee,
20 political party or political action committee may not use
21 campaign funds to defray personal expenses that are unrelated to
22 the campaign or to the office if the candidate is an
23 officeholder, nor may these funds be converted to personal use.

24 2. Application. This section does not apply to the
25 incidental personal use of campaign materials or equipment, nor
26 to an expenditure used to defray any ordinary expenses incurred
27 in connection with an individual's duties as a holder of public
28 office.

29 3. Guidelines. The commission must establish guidelines
30 reflecting the applicability of this section to other expenses on
31 a case-by-case basis, including legal, meal, travel and vehicle
32 expenses.

33 **Sec. 23. 21-A MRSA §1017, sub-§5, as amended by PL 1991, c.**
34 **839, §17, is further amended to read:**

35 5. Content. A report required under this section must
36 contain the itemized accounts of contributions received during
37 that report filing period, including the date a contribution was
38 received, and the name, address, occupation, principal place of
39 business, employer, business address, if any, and the amount of
40 the contribution of each person who has made a contribution or
41 contributions aggregating in excess of \$50. The report must

2 contain the itemized expenditures made or authorized during the
report filing period, the date and purpose of each expenditure
and the name of each payee and creditor. Expenditures made on
4 behalf of a candidate, the candidate's committee or a party
committee by any person, agency, firm, organization or other
6 entity employed or retained for the purposes of organizing,
8 directing, managing or assisting the candidate, the candidate's
committee or a political party are considered expenditures by the
10 candidate or committee as if made or incurred by the candidate or
committee directly. Total contributions with-respect-te for an
election of less than \$500 and total expenditures of less than
12 \$500 need not be itemized. The report must contain a statement
of any loan to a candidate by a financial institution in
14 connection with that candidate's candidacy that is made during
the period covered by the report, whether or not the loan is
16 defined as a contribution under section 1012, subsection 2,
paragraph A. ~~Until--December--31,--1992,--the--candidate--is~~
18 ~~responsible--for--the--timely--and--accurate--filing--of--each--required~~
~~report.--Beginning--January--1,--1993,--the~~ The candidate and the
20 treasurer are jointly responsible for the timely and accurate
filing of each required report.

22 **Sec. 24. 21-A MRSA §1020-A, sub-§2, ¶¶A to C, as enacted by PL**
24 **1995, c. 483, §15, are amended to read:**

26 A. A valid personal emergency, such as a personal illness
or, death in the immediate family or other personal
28 emergency determined by the commission to warrant waiver of
the penalty in whole or in part;

30 B. An error by the commission staff; or

32 C. Failure to receive notice of the filing deadline; or

34 **Sec. 25. 21-A MRSA §1020-A, sub-§2, ¶D is enacted to read:**

36 D. Other circumstances determined by the commission that
38 warrant mitigation of the penalty based upon relevant
evidence presented that a bona fide effort was made to file
40 the report in accordance with the statutory requirements,
including, but not limited to, unexplained delays in postal
42 service.

44 **Sec. 26. 21-A MRSA §1020-A, sub-§3-A is enacted to read:**

46 3-A. County, district and municipal party committee
48 reports. A state party committee that fails to comply with the
requirements of section 1017-A, subsection 6 for notifying all
50 county, district and municipal party committees of the same
political party of the party committee reporting requirements

2 must be assessed 1/2 of the total penalty assessed against a
3 county, district or municipal party committee that fails to file
4 a required report on time because of that failure by the state
5 party committee to provide the required notice. The balance of
6 the total penalty must be paid by the county, district or
7 municipal party committee.

8 **Sec. 27. 21-A MRSA §1021** is enacted to read:

10 **§1021. Civil Offenses**

12 If no other penalty for a violation of this subchapter is
13 prescribed, the commission may assess a penalty equal to 3 times
14 the amount of an unlawful contribution or expenditure.

16 **Sec. 28. 21-A MRSA §1053, sub-§§6 and 7,** as enacted by PL 1985,
17 c. 161, §6, are amended to read:

18 **6. Statement of support or opposition.** A statement
19 indicating the positions of the committee, support or opposition,
20 with respect to a candidate, political committee, referendum,
21 initiated petition or campaign, if known at the time of
22 registration. If a committee has no position on a candidate,
23 campaign or issue at the time of registration, the committee must
24 inform the commission as soon as the committee knows this
25 information; and

26 **7. Contributions to committee.** The names and mailing
27 addresses of contributors who donate in excess of \$50 each year
28 to the committee with amount or value of each contribution at the
29 time of registration. Any person who makes contributions on an
30 installment basis, the total of which exceeds \$50 in the calendar
31 year, is considered a contributor to be identified under this
32 subsection; and

33 **Sec. 29. 21-A MRSA §1053, sub-§8** is enacted to read:

34 **8. Changes in registration information.** Changes in the
35 information required under this section must be reported to the
36 commission in the form of an amended registration within 10
37 business days of the change.

38 **Sec. 30. 21-A MRSA §1054,** as enacted by PL 1985, c. 161, §6,
39 is repealed.

40 **Sec. 31. 21-A MRSA §1056-A,** as enacted by PL 1993, c. 715,
41 §3, is repealed.

42 **Sec. 32. 21-A MRSA §1057,** as amended by PL 1989, c. 504, §§27
43 and 31, is repealed.

2 Sec. 33. 21-A MRSA §1057-A is enacted to read:

4 §1057-A. Appointment of treasurer; record-keeping requirements

6 1. Appointment of treasurer. A political action committee
8 required to register under section 1053 must appoint a treasurer
10 before accepting any contributions or making any expenditures.
12 The treasurer shall file all reports required under this
 subchapter and under section 1019 and shall retain all records of
 the political action committee required under this subchapter for
 a minimum of 4 years.

14 2. Appointment of deputy treasurer. A political action
16 committee may appoint a deputy treasurer. In the absence of the
18 treasurer, the deputy treasurer has the same powers and
20 responsibilities as the treasurer. The political action
 committee must report the name and address of the deputy
 treasurer to the commission no later than 10 business days after
 the appointment of the deputy treasurer.

22 3. Committee expenditures. Only the treasurer or deputy
24 treasurer may make expenditures on behalf of the political action
 committee.

26 4. Segregated funds. All funds of a political action
28 committee must be segregated from and may not be commingled with
30 any personal funds of the treasurer, other officer or member of
32 the committee. Personal funds of the treasurer, other officer or
 member of the committee used to support the committee must be
 recorded and reported to the treasurer as contributions to the
 political action committee.

34 5. Report of contributions and expenditures. A person who
36 receives a contribution for the political action committee must
38 report that contribution to the treasurer within 5 business days
 of the receipt.

40 A. A person who receives a contribution in excess of \$10
42 for the political action committee must report to the
44 treasurer the amount of the contribution, the name and
 mailing address of the person making the contribution and
 the date on which the contribution was received.

46 B. If the contribution is more than \$50, the record of the
48 contribution must include the occupation, employer and
 business address, if any, of the donor.

50 6. Record keeping. The treasurer of a political action
 committee must keep detailed records of all contributions

2 received and of all expenditures that the treasurer makes, as
3 provided in this section. The treasurer must keep a detailed and
4 exact account of:

5
6 A. All cash or in-kind contributions made to the political
7 action committee, including any contributions by the
8 treasurer, officers, agents and members of the committee;
9 the date and amount of each contribution; and the name and
10 address of each contributor of more than \$10. The account
11 must include the aggregate amount of all contributions from
12 each contributor for the calendar year;

13
14 B. The name and mailing address and occupation and business
15 address, if any, of each person contributing more than \$50
16 to the committee;

17
18 C. All expenditures made to or on behalf of a candidate,
19 campaign or committee;

20
21 D. The identity and address of each candidate, campaign or
22 committee to whom or on whose behalf a contribution was made
23 and the date and amount of that contribution;

24
25 E. For candidates to whom or on whose behalf the political
26 action committee has made an expenditure, the office sought
27 by each candidate and the district the candidate seeks to
28 represent; and

29
30 F. All expenditures made or authorized by the political
31 action committee, the date and purpose of each expenditure
32 and the name of each payee and creditor.

33
34 7. Other records to be kept. The treasurer of a political
35 action committee shall obtain and keep:

36
37 A. A receipt or bill for every expenditure made by or on
38 behalf of the political action committee that states the
39 purpose of the expenditure;

40
41 B. All canceled checks and checks rendered in payment of
42 obligations incurred by the committee; and

43
44 C. Bank statements containing a record of the committee's
45 deposits and expenditures.

46 **Sec. 34. 21-A MRSA §1060, first ¶, as enacted by PL 1985, c.**
47 **161, §6, is amended to read:**

48
49 The reports must contain the following information and any
50 additional information required by the commission to monitor the

2 activities of political action committees. Contributions and
3 expenditures reported to the commission must be certified by the
4 treasurer for completeness and accuracy:

5 **Sec. 35. 21-A MRSA §1060, sub-§4,** as enacted by PL 1985, c.
6 161, §6, is amended to read:

7 **4. Itemized expenditures.** ~~An itemization of expenditures~~
8 The treasurer shall itemize all in-cash or in-kind expenditures
9 made by the committee and the date of each expenditure made to
10 support or oppose any candidate, campaign, political committee,
11 political action committee, political party, referendum or
12 initiated petition. The commission may specify the categories of
13 expenditures which ~~that~~ are to be reported and any additional
14 information required to enable the commission to closely monitor
15 the activities of political action committees;

16 **Sec. 36. 21-A MRSA §1060, sub-§6,** as amended by PL 1991, c.
17 839, §30, is further amended to read:

18 **6. Identification of contributions.** Names and mailing
19 addresses of contributors who have given more than \$50 to the
20 political action committee after the committee has registered
21 under section 1053, the occupation, employer and business
22 address, if any, of each donor, the amount contributed by each
23 donor and the date of the contribution. The information already
24 reported as required by section 1053, subsection 7 should not be
25 duplicated; and

26 **Sec. 37. 21-A MRSA §1061,** as amended by PL 1993, c. 695, §36,
27 is repealed.

28 **Sec. 38. 21-A MRSA §1061-A** is enacted to read:

29 **§1061-A. Dissolution of committees**

30 **1. Termination report.** A political action committee must
31 file a termination report with the commission whenever that
32 committee determines that:

33 **A. Contributions will no longer be accepted; obligations**
34 **will no longer be incurred; and no further expenditures will**
35 **be made to any candidate, political committee or political**
36 **party;**

37 **B. The committee will not initiate, support, oppose or**
38 **influence in any way the outcome of a referendum, initiated**
39 **petition, election or primary;**

40 **C. The committee has no outstanding obligations; and**

2 D. Its assets do not exceed \$50.

4 The termination report must show any contributions or
6 expenditures made by the committee from the completion date of
8 the previous report to the date of termination. If a termination
 report is not filed, the committee must continue to file periodic
 reports as required in this chapter.

10 2. Post-campaign reports. A political action committee
12 with a surplus or deficit in excess of \$50 must continue to file
14 reports as required in this subchapter until the surplus or
 deficit is eliminated.

16 3. Disposition of surplus. A political action committee
 may dispose of a surplus exceeding \$50 only by:

18 A. Pro rata distribution to the political action
20 committee's contributors;

22 B. A gift to a qualified political party within the State,
 including any county or municipal subdivision of that party;

24 C. An unrestricted gift to the State;

26 D. Contributing to one or more candidates registered under
28 section 1013-A or qualified under sections 334, 336, 354 and
30 355 or to political committees established to promote the
 election of those candidates, provided that the amount
 contributed does not exceed the contribution limits
 established by section 1015;

32 E. Repaying any loans or retiring any debts incurred to
34 defray campaign expenses; or

36 F. Making a gift to a charitable or educational
38 organization that is not prohibited for tax reasons from
 receiving that gift.

40 **Sec. 39. 21-A MRSA §1062-A, sub-§2, ¶¶A and B, as enacted by**
 PL 1995, c. 483, §21, are amended to read:

42 A. A valid personal emergency of the committee treasurer,
44 such as a personal illness or death in the immediate family
46 or other personal emergency determined by the commission to
 warrant waiver of the penalty in whole or in part; or

48 B. An error by the commission staff; or

50 **Sec. 40. 21-A MRSA §1062-A, sub-§2, ¶C is enacted to read:**

2 The bill grants the commission greater flexibility in
determining penalties for violations concerning campaign finance
4 reports if bona fide efforts were made to file the report.