

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

SECOND REGULAR SESSION-2008

Legislative Document

No. 2219

H.P. 1585

House of Representatives, February 25, 2008

An Act To Promote Transparency and Accountability in Campaigns and Governmental Ethics

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND

Clerk

Presented by Speaker CUMMINGS of Portland.

Cosponsored by President EDMONDS of Cumberland and

Representatives: BRYANT of Windham, CANAVAN of Waterville, CAREY of Lewiston,
NASS of Acton, PATRICK of Rumford, PINGREE of North Haven, PRIEST of Brunswick,
Senator: PLOWMAN of Penobscot.

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

2 **Sec. 1. 1 MRSA §1002, sub-§2**, as amended by PL 2005, c. 271, §1, is further
3 amended to read:

4 **2. Qualifications.** The members of the commission must be persons of recognized
5 judgment, probity and objectivity. A person may not be appointed to this commission
6 who is a member of the Legislature or who was a member of the previous Legislature,
7 who was a declared candidate for an elective county, state or federal office within 2 years
8 prior to the appointment, who now holds an elective county, state or federal office, who is
9 an officer of a political committee, party committee or political action committee or who
10 holds a position in a political party or campaign. Each member shall file a disclosure with
11 the commission that states the member's financial interests and affiliations with outside
12 organizations by that February 15th of each year. If a member enters into any new
13 affiliations or activities, the member shall file an updated disclosure within 21 days.

14 **Sec. 2. 1 MRSA §1002, sub-§7** is enacted to read:

15 **7. Removal of members.** A member of the commission may be removed by the
16 Governor for inefficiency, willful neglect of duty, malfeasance in office or failure to
17 continually meet the qualifications set out by this section, but only with the review and
18 concurrence of the joint standing committee of the Legislature having jurisdiction over
19 election practices and legislative ethics upon hearing in executive session, or
20 impeachment by the Legislature. Before removing a board member, the Governor shall
21 notify the President of the Senate and the Speaker of the House of Representatives of the
22 removal and the reasons for the removal.

23 **Sec. 3. 1 MRSA §1003, sub-§2**, as enacted by PL 1975, c. 621, §1, is amended to
24 read:

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

32 **Sec. 4. 1 MRSA §1005**, as amended by PL 2001, c. 430, §3, is further amended to
33 read:

34 **§1005. Open meetings**

35 Notwithstanding chapter 13 and except as provided in section 1013, subsection 3-A,
36 all meetings, hearings or sessions of the commission are open to the general public
37 unless, by an affirmative vote of at least 3 members, the commission requires the
38 exclusion of the public.

1 **Sec. 5. 1 MRSA §1008, sub-§1**, as enacted by PL 1975, c. 621, §1, is amended to
2 read:

3 **1. Legislative ethics.** To investigate and make advisory recommendations to the
4 appropriate body of any apparent violations of ~~the ethical standards set by the Legislature~~
5 legislative ethics;

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

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

16 **Sec. 7. 1 MRSA §1012, sub-§4**, as amended by PL 1995, c. 33, §§1 and 2, is
17 further amended to read:

18 **4. Gift.** "Gift" means anything of value, including forgiveness of an obligation or
19 debt, ~~given to a person without~~ when the Legislator knows or reasonably should know
20 that person providing the purpose of the donor in making the gift is to influence the
21 Legislator in the performance of the Legislator's official duties or vote, or is intended as a
22 reward for past action, and when the Legislator has not provided equal or greater
23 consideration to the giver donor. "Gift" does not include:

24 A. Gifts received from a single source during the reporting period with an aggregate
25 value of ~~\$300~~ \$25 or less;

26 B. A bequest or other form of inheritance;

27 C. A gift received from a relative or a friend who is not a registered lobbyist under
28 Title 3, Section 313; and

29 D. A subscription to a newspaper, news magazine or other news publication;

30 E. A meal, if the meal is provided by industry or special interest organizations as part
31 of the informational program presented to a group of public servants and the cost is
32 under \$25; and

33 F. A meal, if the meal is a prayer breakfast or a meal served during a meeting to
34 establish a prayer breakfast and the cost is under \$25.

35 **Sec. 8. 1 MRSA §1012, sub-§10** is enacted to read:

36 **10. Violation of legislative ethics.** "Violation of legislative ethics" means a
37 violation of the prohibitions in section 1014 or 1015.

1 **Sec. 9. 1 MRSA §1013**, as amended by PL 1989, c. 561, §§5 and 6, is further
2 amended to read:

3 **§1013. Authority; procedures**

4 **1. Authority.** The commission ~~shall have the~~ has authority:

5 A. To issue, on request of any Legislator on an issue involving ~~himself that~~
6 Legislator, or on its own motion, written advisory opinions and guidelines guidance
7 on problems or questions involving possible ~~conflicts of interest in matters under~~
8 consideration by, or pertaining to, the Legislature violations of legislative ethics;

9 B. To investigate complaints ~~filed by Legislators, or on its own motion,~~ alleging
10 ~~conflict of interest~~ a violation of legislative ethics against any Legislator, to hold
11 hearings ~~thereon~~ on those complaints if the commission ~~deems~~ determines it is
12 appropriate and to issue ~~publicly~~ findings of fact together with its opinion; and

13 C. To administer the disclosure of sources of income by Legislators as required by
14 this subchapter.

15 **2. Procedure.** The following procedures ~~shall~~ apply:

16 A. Requests for advisory opinions by members of the Legislature ~~shall~~ must be
17 filed with the commission in writing; and signed by the Legislator requesting the
18 opinion and ~~shall~~ must contain such supporting data as the commission ~~shall require~~
19 requires. When preparing an advisory opinion on its own motion, the commission
20 shall notify the Legislator concerned and allow ~~him~~ the Legislator to provide
21 additional information to the commission. In preparing an advisory opinion, either
22 upon request or on its own motion, the commission may make such an investigation
23 as it ~~deems~~ determines necessary. A copy of the commission's advisory opinion ~~shall~~
24 must be sent to the Legislator concerned and to the presiding officer of the House
25 legislative body of which the Legislator is a member;

26 B. ~~A Legislator making a complaint shall file the complaint under oath with the~~
27 ~~chairman. The complaint shall specify the facts of the alleged conflict of interest. The~~
28 ~~Legislator against whom a complaint is filed shall immediately be given a copy of the~~
29 ~~complaint and the name of the complainant. Only those complaints dealing with~~
30 ~~alleged conflicts of interest related to the current Legislature shall be considered by~~
31 ~~the commission. Upon a majority vote of the commission, the commission shall~~
32 ~~conduct such investigation and hold such hearings as it deems necessary. The~~
33 ~~commission shall issue its findings of fact together with its opinion regarding the~~
34 ~~alleged conflict of interest to the House of which the Legislator concerned is a~~
35 ~~member. That House may take whatever action it deems appropriate, in accordance~~
36 ~~with the Constitution of the State of Maine. Any person may file a complaint against~~
37 ~~a Legislator alleging a violation of legislative ethics. The complaint must be filed in~~
38 ~~writing and signed under oath and must specify the facts of the alleged violation and~~
39 ~~such other information as the commission requires.~~

40 (1) The Legislator against whom a complaint is filed must immediately be given
41 a copy of the complaint and the name of the complainant.

1 (2) The commission shall consider only complaints against Legislators in office
2 at the time of the filing of the complaint and only complaints relating to activity
3 that occurred or was ongoing within 2 years of the complaint. Upon a majority
4 vote of the commission, the commission shall conduct an investigation and hold
5 hearings as it determines necessary. If one or more seats on the commission are
6 vacant, the vote of 2 commissioners is sufficient to order an investigation and
7 hearings.

8 (3) The commission shall issue its findings of fact together with its opinion
9 regarding the alleged violation of legislative ethics to the legislative body of
10 which the Legislator concerned is a member. That legislative body may take
11 whatever action it determines appropriate, in accordance with the Constitution of
12 Maine.

13 (4) If the commission determines that a Legislator has potentially violated
14 professional standards set by a licensing board, its opinion and such other
15 information as may be appropriate must be referred to the licensing board that
16 oversees the Legislator's professional conduct.

17 C. When the conduct of a particular Legislator is under inquiry and a hearing is to
18 be held, the Legislator ~~shall~~ must be given written notification of the time and place
19 at which the hearing is to be held. Such notification ~~shall~~ must be given not less than
20 10 days prior to the date set for the hearing.

21 D. The commission ~~shall have the~~ has authority, through its ~~chairman~~ chair or any
22 member designated by ~~him~~ the chair, to administer oaths, subpoena witnesses and
23 compel the production of books, records, papers, documents, correspondence and
24 other material and records ~~which the committee deems~~ commission determines
25 relevant. ~~The commission shall subpoena such witnesses as the complainant~~
26 ~~Legislator or the Legislator against whom the complaint has been filed may request to~~
27 ~~be subpoenaed.~~ The State, its agencies and instrumentalities shall furnish to the
28 commission any information, records or documents ~~which~~ the commission designates
29 as being necessary for the exercise of its functions and duties. In the case of refusal of
30 any person to obey an order or subpoena of the commission, the Superior Court, upon
31 application of the commission, ~~shall have~~ has jurisdiction and authority to require
32 compliance with the order or subpoena. Any failure of any person to obey an order of
33 the Superior Court may be punished by that court as a contempt thereof.

34 E. ~~Any person whose conduct is under inquiry shall be accorded due process and, if~~
35 ~~requested, the right to a hearing. All witnesses shall be subject to cross-examination.~~
36 The commission shall adopt rules consistent with due process for the conduct of
37 investigations and hearings under this subchapter. Rules adopted pursuant to this
38 paragraph are major substantive rules pursuant to Title 5, chapter 375, subchapter
39 2-A.

40 ~~Any person whose name is mentioned in an investigation or hearing and who believes~~
41 ~~that testimony has been given which adversely affects him shall have the right to~~
42 ~~testify, or at the discretion of the commission and under such circumstances as the~~
43 ~~commission shall determine to protect the rights of the Legislator under inquiry, to~~
44 ~~file a statement of facts under oath relating solely to the material relevant to the~~
45 ~~testimony of which he complains. Any witness at an investigation or hearing, subject~~

1 ~~to rules and regulations promulgated by the commission, shall be entitled to a copy of~~
2 ~~such testimony when the same becomes relevant to a criminal proceeding or~~
3 ~~subsequent investigation or hearings.~~

4 All witnesses shall be sworn. The commission may sequester witnesses as it deems
5 necessary. The commission shall is not be bound by the strict rules of evidence, but
6 its findings and opinions must be based upon competent and substantial evidence.

7 ~~Time periods and notices may be waived by agreement of the commission and the~~
8 ~~person whose conduct is under inquiry.~~

9 E-1. The commission may permit the complainant to make a presentation to the
10 commission as part of its consideration whether to conduct an investigation or public
11 hearing.

12 F. If the commission concludes that it appears that a Legislator has violated a
13 criminal law, a copy of its findings of fact, its opinion and such other information as
14 may be appropriate shall must be referred to the Attorney General. Any determination
15 by the commission or by a ~~House of the Legislature~~ legislative body that a ~~conflict of~~
16 ~~interest~~ violation of legislative ethics has occurred does not preclude any criminal
17 action relating to the ~~conflict which~~ violation that may be brought against the
18 Legislator.

19 G. If the commission determines that a complaint filed under oath is ~~groundless and~~
20 ~~without foundation,~~ frivolous or was filed in bad faith or if the Legislator ~~filing the~~
21 ~~complaint~~ complainant fails to appear at the hearing without being excused by the
22 commission, the commission may order the complainant to pay to the Legislator
23 against whom the complaint has been filed ~~his~~ that Legislator's costs of investigation
24 and defense, including any reasonable attorney's fees. ~~The~~ This order is considered a
25 final agency action, and the complainant may appeal ~~such an~~ the order ~~to the House~~
26 ~~of which he is a member~~ pursuant to the Maine Administrative Procedure Act.

27 Such an order shall does not preclude any other remedy available to the Legislator
28 against whom the complaint has been filed, including, but not limited to, an action
29 brought in Superior Court against the complainant for damages to ~~his~~ the Legislator's
30 reputation.

31 H. ~~A copy of the commission's~~ The commission shall file with the Clerk of the
32 House and the Secretary of the Senate a copy of written advisory opinions and
33 guidelines guidance issued by the commission, with such deletions and changes as
34 the commission ~~deems~~ considers necessary to protect the identity of the person
35 seeking the opinions; or others, ~~shall be filed with the Clerk of the House.~~ The ~~clerk~~
36 Clerk of the House shall keep ~~them~~ a copy of such opinions and guidance in a special
37 binder and shall finally publish them in the Legislative Record. The commission may
38 exempt an opinion or a part ~~thereof~~ of an opinion from release, publication or
39 inspection; if it ~~deems~~ considers such action appropriate for the protection of 3rd
40 parties and makes available to the public an explanatory statement to that effect.

41 I. A copy of the commission's findings of fact and opinions regarding complaints
42 against Legislators shall must also be filed with the Clerk of the House and the
43 Secretary of the Senate. The ~~clerk~~ Clerk of the House shall keep them in a special
44 binder and shall finally publish them in the Legislative Record.

1 ~~J. The records of the commission and all information received by the commission~~
2 ~~acting under this subchapter in the course of its investigation and conduct of its~~
3 ~~affairs shall be confidential, except that Legislators' statements of sources of income,~~
4 ~~evidence or information disclosed at public hearings, the commission's findings of~~
5 ~~fact and its opinions and guidelines are public records.~~

6 K. When a Legislator has a question or problem of an emergency nature about a
7 possible ~~conflict of interest~~ violation of legislative ethics or an issue involving
8 ~~himself which that Legislator that~~ arises during the course of legislative action, ~~he the~~
9 Legislator may request an advisory opinion from the presiding officer of the
10 legislative body of which ~~he the Legislator~~ is a member. The presiding officer may, ~~at~~
11 ~~his discretion,~~ issue an advisory opinion, ~~which shall.~~ An advisory opinion issued by
12 the presiding officer must be in accordance with the principles of this subchapter,
13 which shall be in writing, and which shall be reported to the commission. The
14 commission may then issue a further opinion on the matter. The presiding officer
15 may refer such a question or problem directly to the commission, which shall meet as
16 soon as possible to consider the question or problem.

17 L. The commission shall make reasonable efforts to resolve a complaint within 90
18 days of its filing.

19 ~~3. Confidentiality. The subject of any investigation by the commission shall be~~
20 ~~informed promptly of the existence of the investigation and the nature of the charges or~~
21 ~~allegations. Otherwise, notwithstanding chapter 13, all complaints shall be confidential~~
22 ~~until the investigation is completed and a hearing ordered or until the nature of the~~
23 ~~investigation becomes public knowledge. Any person, except the subject of the~~
24 ~~investigation, who knowingly breaches the confidentiality of the investigation is guilty of~~
25 ~~a Class D crime.~~

26 3-A. Confidentiality of records and proceedings relating to screening complaints
27 alleging a violation of legislative ethics. Notwithstanding chapter 13, a complaint
28 alleging a violation of legislative ethics is confidential and is not a public record until
29 after the commission has voted pursuant to subsection 2, paragraph B to pursue the
30 complaint, and a commission proceeding to determine whether to pursue a complaint
31 must be conducted in executive session. If the commission does not vote to pursue the
32 complaint, the complaint and records relating to the investigation of that complaint
33 remain confidential and are not public records. This subsection does not prevent the
34 commission from including general information about complaints in any report to the
35 Legislature. Any person who knowingly breaches the confidentiality of a complaint
36 investigation commits a Class D crime. This subsection does not prevent commission
37 staff from disclosing information that is necessary to investigate a complaint or prevent
38 the complainant or the Legislator against whom the complaint is made from discussing
39 the complaint with an attorney or other person assisting them with the complaint.

40 4. Confidentiality of records other than complaints. Commission records other
41 than complaints are governed by this subsection.

42 A. Investigative records relating to complaints that the commission has voted to
43 pursue are confidential unless they are provided to commission members or otherwise
44 distributed at a public hearing of the commission.

- 1 B. Legislators' statements of sources of income are public records.
- 2 C. Findings of fact and recommendations of the commission on complaints alleging
3 violation of legislative ethics are public records.
- 4 D. Advisory opinions of the commission and requests for advisory opinions from the
5 commission are public records, except as provided in subsection 2, paragraph H.

6 **5. Prohibited communications.** Communications concerning a complaint filed
7 under this section between commission members and a complainant or between
8 commission members and the subject of a complaint are prohibited until after the
9 commission has voted not to pursue a complaint or the commission has taken final action
10 on the complaint.

11 **Sec. 10. 1 MRSA §1014**, as enacted by PL 1975, c. 621, §1, is amended to read:

12 **§1014. Violations of legislative ethics**

13 **1. Situations involving conflict of interest.** A Legislator engages in a violation of
14 legislative ethics if that Legislator votes on a question in connection with a conflict of
15 interest in committee or in either body of the Legislature or attempts to influence the
16 outcome of that question. A conflict of interest shall include the following includes:

17 A. ~~Where~~ When a Legislator ~~or,~~ a member of ~~his~~ the Legislator's immediate family
18 ~~has or acquires a direct substantial personal financial interest, distinct from that of the~~
19 ~~general public, in an enterprise which would be financially benefited by proposed~~
20 ~~legislation, or derives a direct substantial personal financial benefit from close~~
21 ~~economic association with a person known by the Legislator to have a direct financial~~
22 ~~interest in an enterprise affected by proposed legislation, or a close economic~~
23 ~~associate of the Legislator will derive a financial benefit from, or be harmed by,~~
24 ~~proposed legislation to a significantly greater extent than others in the same~~
25 ~~enterprise, profession, trade, business or type of employment;~~

26 A-1. When a Legislator, a member of the Legislator's immediate family or a close
27 economic associate of the Legislator is a member of a small group of persons or
28 entities that will derive a significant financial benefit or harm from proposed
29 legislation;

30 B. ~~Where~~ When a Legislator or a member of ~~his~~ the Legislator's immediate family
31 accepts gifts, other than campaign contributions duly recorded as required by law,
32 from persons affected by legislation or who have an interest in ~~a business an entity~~
33 affected by proposed legislation, ~~where it is known~~ when the Legislator knows or
34 reasonably should ~~be known~~ know that the purpose of the donor in making the gift is
35 to influence the Legislator in the performance of ~~his~~ the Legislator's official duties or
36 vote; or is intended as a reward for action on ~~his~~ the Legislator's part;:

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

39 D. Appearing for, representing or ~~assisting~~ advocating on behalf of another ~~in~~
40 ~~respect to a claim~~ before the Legislature, unless without compensation and for the
41 benefit of a citizen; and

1 E. ~~Where~~ When a Legislator or a member of his ~~the Legislator's~~ immediate family
2 accepts or engages in employment ~~which that~~ could impair the Legislator's judgment,
3 or ~~where~~ when the Legislator knows that there is a substantial possibility that an
4 opportunity for employment is being afforded ~~him~~ the Legislator or a member of his
5 ~~the Legislator's~~ immediate family with intent to influence his ~~conduct in~~ the
6 performance of his ~~the Legislator's~~ official duties, ~~or where the Legislator or a~~
7 ~~member of his immediate family stands to derive a personal private gain or loss from~~
8 ~~employment, because of legislative action, distinct from the gain or losses of other~~
9 ~~employees or the general community.~~

10 F. ~~Where a Legislator or a member of his immediate family has an interest in~~
11 ~~legislation relating to a profession, trade, business or employment in which the~~
12 ~~Legislator or a member of his immediate family is engaged, where the benefit derived~~
13 ~~by the Legislator or a member of his immediate family is unique and distinct from~~
14 ~~that of the general public or persons engaged in similar professions, trades,~~
15 ~~businesses or employment.~~

16 **2. Undue influence.** It is presumed that a conflict of interest exists where there are
17 circumstances ~~which involve a substantial risk of undue influence by a Legislator,~~
18 including but not limited to the following cases:

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

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

27 B. ~~Representing or assisting another in the sale of goods or services to the State, a~~
28 ~~state agency or authority, unless the transaction occurs after public notice and~~
29 ~~competitive bidding.~~

30 **2-A. Undue influence.** It is a violation of legislative ethics for a Legislator to
31 engage in conduct that constitutes the exertion of undue influence, including, but not
32 limited to:

33 A. Appearing for, representing or advocating for another person in a matter before a
34 state agency or authority, for compensation other than compensation as a Legislator,
35 if the Legislator makes reference to that Legislator's legislative capacity,
36 communicates with the agency or authority on legislative stationery or makes threats
37 or implications relating to legislative action;

38 B. Appearing for, representing or advocating for another person in a matter before a
39 state agency or authority if the Legislator oversees the policies of the agency or
40 authority as a result of the Legislator's committee responsibilities, unless:

41 (1) The appearance, representation or advocacy is provided without
42 compensation and for the benefit of a constituent;

1 (2) The Legislator is engaged in the conduct of the Legislator's profession and is
2 in good standing with a licensing board that oversees the Legislator's profession;

3 (3) The appearance, representation or advocacy is provided before a court or
4 office of the judicial branch; or

5 (4) The representation consists of filing records or reports or performing other
6 routine tasks that do not involve the exercise of discretion on the part of the
7 agency or authority; and

8 C. Representing or assisting another person in the sale of goods or services to the
9 State, a state agency or a state authority, unless the transaction occurs after public
10 notice and competitive bidding.

11 **3. Abuse of office or position.** ~~It is presumed that a conflict of interest exists where~~
12 ~~a Legislator abuses his~~ a violation of legislative ethics for a Legislator to engage in
13 conduct that constitutes an abuse of office or position, including but not limited to the
14 following cases:

15 A. ~~Where~~ When a Legislator or a member of ~~his~~ the Legislator's immediate family
16 has a direct financial interest or an interest through a close economic ~~association~~
17 associate in a contract for goods or services with the State, a state agency or state
18 authority in a transaction not covered by public notice and competitive bidding or by
19 unless the contract is awarded through competitive bidding or is exempt from
20 competitive bidding pursuant to state purchasing laws or the payment provisions are
21 based on uniform rates established by the State, a state agency, a state authority or
22 other governmental entity or by a professional association or organization;

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

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

29 **4. Contract with state governmental agency.** It is a violation of legislative ethics
30 for a Legislator or an associated organization to enter with a state agency into any
31 contract that is to be paid in whole or in part out of governmental funds unless the
32 contract has been awarded through a process of public notice and competitive bidding or
33 is exempt from competitive bidding pursuant to state purchasing laws.

34 **Sec. 11. 1 MRSA §1015**, as amended by PL 2007, c. 279, §§1 and 2, is further
35 amended to read:

36 **§1015. Prohibited campaign contributions and solicitations**

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

1 ~~2. Reports. When the commission finds that a Legislator has voted or acted in~~
2 ~~conflict of interest, the commission shall report its findings in writing to the house of~~
3 ~~which the Legislator is a member.~~

4 **3. Campaign contributions and solicitations prohibited.** The following
5 provisions prohibit certain campaign contributions and solicitation of campaign
6 contributions during a legislative session.

7 A. As used in this subsection, the terms "employer," "lobbyist" and "lobbyist
8 associate" have the same meanings as in Title 3, section 312-A. As used in this
9 subsection, "contribution" has the same meaning as in Title 21-A, section 1012 and
10 includes seed money contributions as defined in Title 21-A, section 1122, subsection
11 9.

12 B. The Governor, a member of the Legislature or any constitutional officer or the
13 staff or agent of the Governor, a member of the Legislature or any constitutional
14 officer may not intentionally solicit or accept a contribution from a lobbyist, lobbyist
15 associate or employer during any period of time in which the Legislature is convened
16 before final adjournment, except for a qualifying contribution as defined under Title
17 21-A, section 1122, subsection 7. A lobbyist, lobbyist associate or employer may not
18 intentionally give, offer or promise a contribution, other than a qualifying
19 contribution, to the Governor, a member of the Legislature or any constitutional
20 officer or the staff or agent of the Governor, a member of the Legislature or any
21 constitutional officer during any time in which the Legislature is convened before
22 final adjournment. These prohibitions apply to direct and indirect solicitation,
23 acceptance, giving, offering and promising, whether through a political action
24 committee, political committee, political party or otherwise.

25 C. This subsection does not apply to:

26 (1) Solicitations or contributions for bona fide social events hosted for
27 nonpartisan, charitable purposes;

28 (2) Solicitations or contributions relating to a special election to fill a vacancy
29 from the time of announcement of the election until the election; and

30 (4) Solicitations or contributions accepted by a member of the Legislature
31 supporting that member's campaign for federal office.

32 C-1. This subsection does not prohibit the attendance of the Governor, a member of
33 the Legislature or any constitutional officer or the staff or agent of the Governor, a
34 member of the Legislature or any constitutional officer at fund-raising events held by
35 a municipal, county, state or national political party organized pursuant to Title 21-A,
36 chapter 5, nor the advertisement of the expected presence of any such official at any
37 such event, as long as any such official has no involvement in soliciting attendance at
38 the event and all proceeds are paid directly to the political party organization hosting
39 the event or a nonprofit charitable organization.

40 D. A person who intentionally violates this subsection is subject to a civil penalty
41 not to exceed \$1,000, payable to the State and recoverable in a civil action.

1 ~~4. Contract with state governmental agency. A Legislator or an associated~~
2 ~~organization may not enter with a state governmental agency into any contract that is to~~
3 ~~be paid in whole or in part out of governmental funds, when such a contract is normally~~
4 ~~awarded through a process of public notice and competitive bidding, unless the contract~~
5 ~~has been awarded through a process of public notice and competitive bidding.~~

6 **Sec. 12. 3 MRSA §315-A**, as enacted by PL 2005, c. 613, §1, is amended to read:

7 **§315-A. Registration docket; disclosure website**

8 **1. Registration.** The commission shall prepare and maintain a docket for the
9 registration of lobbyists and employers of lobbyists required to register pursuant to this
10 chapter. The registration docket and all supplementary files of information and materials
11 filed pursuant to this chapter must be open to public inspection during the office hours of
12 the commission. The docket must contain the name of the lobbyist and the person
13 employing the lobbyist, the business address of each, a photograph of the lobbyist, the
14 joint standing committees of the Legislature the lobbyist intends to lobby, the nature of the
15 business of the person employing the lobbyist and a statement as to the compensation that
16 the lobbyist will receive for lobbying services or, if an exact amount is not ascertainable,
17 the basis upon which the lobbyist will charge for services. This docket must be updated
18 on a monthly basis and arranged and indexed as follows:

19 A. An alphabetical listing of those persons who have employed a lobbyist, which
20 listing must indicate the names of all lobbyists employed by the employer; and

21 B. An alphabetical listing of those persons employed as lobbyists, which listing
22 must indicate the names of all persons by whom each lobbyist is employed.

23 The docket must be reestablished annually by the commission and the docket for any year
24 must be maintained and be available for public inspection in the office of the commission
25 for 4 years from the expiration of the docket.

26 **2. Disclosure website.** The commission shall develop and maintain a publicly
27 accessible website that displays:

28 A. A list of all persons who have employed a lobbyist during the current year;

29 B. A list of all lobbyists and lobbyist associates registered for the year;

30 C. A profile of each registered lobbyist and lobbyist associate, including contact
31 information, the name of the lobbyist's employer or employers ~~and, if provided by the~~
32 ~~lobbyist or lobbyist associate,~~ a photograph of the lobbyist or lobbyist associate, the
33 name of the joint standing committees of the Legislature before which the lobbyist
34 intends to appear, the nature of the business of the person employing the lobbyist and
35 a statement as to the compensation that the lobbyist will receive for lobbying services
36 or, if an exact amount is not ascertainable, the basis upon which the lobbyist will
37 charge for services;

38 D. A profile of each person employing a lobbyist, including contact information for
39 the employer, and a list of lobbyists and lobbyist associates engaged by the employer;
40 ~~and~~

1 E. For each employer, a list of all legislative actions that have been the subject of
2 lobbying for the year, including hyperlinks to the summary page of the Legislature's
3 publicly accessible website for each legislative document listed; and

4 F. A list for each joint standing committee of the Legislature including the names
5 and photographs of the lobbyists who intend to lobby or appear before that
6 committee.

7 **Sec. 13. 3 MRSA §316**, as amended PL 1993 c. 691, §16, is further amended to
8 read:

9 **§316. Registration forms**

10 The commission shall prepare and make available registration forms for the
11 registration of lobbyists and employers required to register pursuant to section 313. These
12 forms must include the following information:

13 **1. Names.** The name of the lobbyist, a list of the lobbyist associates, the name of the
14 person authorized by the lobbyist to sign the registration and reports for the lobbyist and
15 the name of the person employing the lobbyist;

16 **2. Business addresses.** The business address of both the lobbyist and the person
17 employing the lobbyist;

18 **3. Date.** The date upon which lobbying commenced or was expected to commence;

19 **4. Nature of business.** A description of the nature of the business of the person
20 employing that lobbyist; ~~and~~

21 **5. Compensation.** The amount of compensation that the lobbyist will receive for that
22 lobbyist's services or, if an exact amount is unascertainable, the basis upon which the
23 lobbyist will charge for those services;:

24 **6. Photograph.** A photograph in digital format of the lobbyist. The lobbyist shall
25 provide the photograph to the commission. The commission may waive this requirement
26 if the lobbyist has security concerns; and

27 **7. Committees.** The names of the joint standing committees of the Legislature the
28 lobbyist intends to lobby.

29 These forms must be signed by both the lobbyist and the employer and the signatures
30 serve as a certificate that the information on that form is true, correct and complete.

31 **Sec. 14. 21-A MRSA §1013-A, sub-§1, ¶A**, as corrected by RR 1995, c. 2, §35,
32 is amended to read:

33 A. No later than 10 days after becoming a candidate and before accepting
34 contributions, making expenditures or incurring obligations, a candidate for state or
35 county office or a candidate for municipal office who has not filed a written notice in
36 accordance with section 1011, subsection 2, paragraph A shall appoint a treasurer.
37 The candidate or the candidate's spouse may not serve as treasurer. The candidate

1 may have only one treasurer, who is responsible for the filing of campaign finance
2 reports under this chapter. A candidate shall register the candidate's name and
3 address and the name and address of the treasurer appointed under this section no
4 later than 10 days after the appointment of the treasurer. A candidate may accept
5 contributions personally or make or authorize expenditures personally, as long as the
6 candidate reports all contributions and expenditures to the treasurer. The treasurer
7 shall make a consolidated report of all income and expenditures and provide this
8 report to the commission.

9 (1) A candidate may appoint a deputy treasurer to act in the absence of the
10 treasurer. The deputy treasurer, when acting in the absence of the treasurer, has
11 the same powers and responsibilities as the treasurer. The candidate or the
12 candidate's spouse may not serve as deputy treasurer. When a treasurer dies or
13 resigns, the deputy treasurer may not assume the position of treasurer unless the
14 candidate appoints the deputy treasurer to the position of treasurer. The
15 candidate shall report the name and address of the deputy treasurer to the
16 commission no later than 10 days after the deputy treasurer has been appointed.

17 **Sec. 15. 21-A MRSA §1017, sub-§3-A, ¶D-1** is enacted to read:

18 D-1. Reports must be filed no later than 5 p.m. on the 42nd day before the date on
19 which a general election is held and must be complete as of the 49th day before that
20 date.

21 **Sec. 16. 21-A MRSA §1056-C** is enacted to read:

22 **§1056-C. Contribution limitations**

23 A committee required to register under this chapter may not accept an aggregate
24 amount of contributions exceeding \$10,000 from any one source in an election cycle.

25 **Sec. 17. Application.** Notwithstanding the Maine Revised Statutes, Title 1, section
26 1013, subsection 2, paragraph B as amended by this Act, a complaint filed under Title 1,
27 chapter 25, subchapter 2 prior to the effective date of this Act and subjected to a vote of
28 the Commission on Governmental Ethics and Election Practices may not be refiled, and
29 the conduct at issue in that complaint may not be challenged in any other complaint.

30 **Sec. 18. Effective date.** That section of this Act that amends the Maine Revised
31 Statutes, Title 21-A, section 1013-A, subsection 1, paragraph A takes effect November 5,
32 2008.

33 **SUMMARY**

34 This bill will increase transparency and accountability in campaigns and legislative
35 ethics. The bill creates a removal procedure for members of the Commission on
36 Governmental Ethics and Election Practices by impeachment or by allowing the
37 Governor to remove members with the concurrence of the Joint Standing Committee of
38 the Legislature having jurisdiction over election practices and legislative ethics. The bill
39 clarifies the jurisdiction of the Commission on Governmental Ethics and Election

1 Practices to include citizen complaints about abuses of legislative ethics. It clarifies the
2 procedures through which complaints are made and strengthens both procedures for
3 confidentiality and public access to nonconfidential records. The bill amends the
4 definition of "gift." The bill redefines "conflict of interest" and "undue influence." It
5 makes the legislative standard for conflict of interest more clear and requires that
6 Legislators be financially affected to a significantly greater extent than members in the
7 same enterprise, profession, trade, business or type of employment. It prohibits
8 Legislators, excluding those governed by a licensing board, from representing or
9 advocating for another person before a state agency over which their committees have
10 jurisdiction. It requires lobbyists to submit a digital picture and a list of the committees
11 they will be lobbying and the publishing of a lobbyist facebook so that Legislators will
12 have a better sense of who the lobbyist they interact with represents. It prohibits
13 candidates and their spouses from serving as campaign treasurers and deputy treasurers.
14 It requires another reporting period for campaign reports to give the public another
15 chance to see how campaigns are being conducted. It establishes a contribution limit to
16 political action committees of \$10,000 per election cycle. It requires members of the
17 commission to file financial interests and affiliation disclosures.