

MAINE STATE LEGISLATURE

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SAR
ROS

Date: 2/16/24

(Filing No. S-532)

MINORITY

VETERANS AND LEGAL AFFAIRS

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STATE OF MAINE

SENATE

131ST LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 621, L.D. 1590, "An Act to Require Disclosure of Campaign Funding Sources"

Amend the bill by striking out all of section 2 and inserting the following:

'Sec. 2. 21-A MRSA §1064 is enacted to read:

§1064. Sources of campaign funds

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Covered committee" means a committee required to file a report under section 1017-A or 1059 that makes, in one election cycle, more than \$50,000 in expenditures and receives a contribution from a covered contributor.

B. "Covered contribution" means the total amount contributed by a covered contributor to a covered committee in an election cycle in excess of \$10,000.

C. "Covered contributor" means a person that contributes more than \$10,000 to a covered committee in an election cycle.

D. "Election cycle" means the 2-year period beginning the day after a general election and ending the day of the next general election.

E. "Original funds" means funds over which a person has legal control and to which the person holds title that the person receives from:

- (1) Salary, wages or other earned income from employment;
- (2) Investment income, sale of assets or bequests;
- (3) Distributions from a partnership, limited liability company or trust in which the person holds a legal interest;
- (4) Commercial transactions; or

COMMITTEE AMENDMENT

ROS

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(5) Membership dues, union dues or other similar periodic payments to an organization, association or group as long as the payments do not exceed \$10,000 per year per person.

F. "Original source" means the person who directly received the original funds.

G. "Pass-through funds" means funds over which a person has legal control and to which the person holds title that are not that person's original funds.

2. Notice to disclose or opt out. Upon receipt of a contribution from a covered contributor, a covered committee shall notify the covered contributor in writing that the funds may be used to make expenditures to influence a campaign in this State and that information about the sources of pass-through funds may be required and reported under this section. The notice must provide that the covered contributor has 21 days in which the covered contributor may state that those funds are solely the covered contributor's original funds, that the funds include pass-through funds or that the covered contributor opts out of allowing the funds to be used by the covered committee to influence a campaign in this State. Any covered contributor that has not confirmed the original sources within 21 days is presumed to have opted out of allowing the contribution to be used to influence a campaign in this State. Notice provided pursuant to this subsection must be on a form prescribed by the commission. The covered committee shall submit a copy of the notice sent to the covered contributor to the commission.

3. Covered contributor disclosure. If a covered contributor in response to the notice under subsection 2 states that the funds include pass-through funds, the covered contributor shall provide the covered committee with the following information:

A. The sources of all funds, including original funds and pass-through funds, included in the contribution;

B. The amounts from each source, which must total at least as much as the contribution; and

C. The identity of all 3rd parties that transferred original funds from the original source until the funds were received by the covered contributor.

A covered contributor that received pass-through funds exceeding the amount of the covered contribution may choose which original sources to disclose as long as the covered contributor discloses a total amount of original funds at least equal to the amount of the covered contribution and identifies all persons that transferred those original funds from the original sources to the covered contributor.

4. Records of disclosures. A covered committee shall maintain records of the information required under subsection 3 for at least 5 years and provide the records to the commission upon request.

5. Restrictions. A contribution from a covered contributor may be used or transferred by the covered committee immediately upon the covered committee's receipt of information from the covered contributor that states that those funds are solely the covered contributor's original funds or, if the funds include pass-through funds, the information required under subsection 3. A covered committee may not use or transfer funds received from a covered contributor for the purpose of influencing a campaign in this State if the covered contributor has opted out or is presumed to have opted out pursuant to subsection 2. Funds of a covered contributor that has opted out or is presumed to have opted out

COMMITTEE AMENDMENT

ROS

1 pursuant to subsection 2 must be segregated from funds in the covered committee's
2 campaign account described in section 1054. This subsection may not be construed to
3 prohibit the use or transfer of such funds for other purposes.

4 **6. Sources of original funds; report to commission.** A covered committee shall
5 include the following information received from a covered contributor pursuant to
6 subsection 3 in an appropriate report required under section 1017-A or 1059:

7 A. The name and mailing address of each original source identified by the covered
8 contributor pursuant to subsection 3 and, if that original source is an individual and
9 provided directly or indirectly an amount greater than \$10,000, that individual's
10 occupation and place of business;

11 B. The date and amount of original funds received from each original source identified
12 in accordance with paragraph A; and

13 C. The identity of all 3rd parties that transferred original funds from the original source
14 until the funds were received by the covered committee.

15 A covered committee is not responsible for reporting the information required by this
16 subsection for the funds of a covered contributor that has opted out or is presumed to have
17 opted out pursuant to subsection 2. In reporting the required information under this
18 subsection, a covered committee may rely upon the information it received pursuant to
19 subsection 3, unless the covered committee knows or has reason to know that the
20 information is false or incomplete.

21 **7. Top 3 funders; original sources.** For a communication made by a covered
22 committee that is an independent expenditure, as defined in section 1019-B, subsection 1,
23 or a communication subject to section 1055-A, the communication must include the
24 statement described in section 1014, subsection 2-B. The top 3 funders included in the
25 statement must be the funders that are the original sources, since the day following the most
26 recent general election, of the highest dollar amounts of original funds directly or indirectly
27 contributed to the covered committee making the communication. Section 1014,
28 subsection 2-B, paragraph E does not apply to the statement required by this subsection.

29 **8. Prior funds.** For the purposes of disclosing original sources under this section, a
30 covered contributor that received funds that are not its own original funds prior to January
31 1, 2025 or that has held an amount of funds at least equal to \$10,000 without interruption
32 for a period of 5 years, may consider those funds its own original funds.

33 **9. Penalties.** Notwithstanding section 1004-A, subsections 4 and 5 and section 1014,
34 subsection 4, the commission may assess a penalty for a violation of this section of not
35 more than \$20,000, in addition to any penalty assessed under sections 1020-A and 1062-A.
36 When determining the amount of any penalty, the commission shall consider the amount
37 of the original funds not disclosed, the harm suffered by the public from the lack of
38 disclosure and the covered committee's compliance record. If the commission determines
39 that adjusting the statutory maximum penalty amount would serve the purposes of this
40 section, it may recommend adjustments in a report to the joint standing committee of the
41 Legislature having jurisdiction over campaign finance reporting matters.

42 **10. Rules.** The commission shall adopt rules to implement this section, including the
43 content and timing of the notice described in subsection 2 and report described in

COMMITTEE AMENDMENT

ROS

1 subsection 6. Rules adopted under this subsection are routine technical rules as defined in
2 Title 5, chapter 375, subchapter 2-A.'

3 Amend the bill by striking out all of section 3 and inserting the following:

4 **'Sec. 3. Effective date.** That portion of that section of this Act that enacts the Maine
5 Revised Statutes, Title 21-A, section 1064, subsection 9 takes effect January 1, 2026.'

6 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
7 number to read consecutively.

8 **SUMMARY**

9 This amendment, which is the minority report of the committee, makes the following
10 changes.

11 1. It adds a definition for "covered contribution" to mean the total amount contributed
12 by a covered contributor to a covered committee in an election cycle in excess of \$10,000.

13 2. It adds a definition for "original source" to mean the person who directly receives
14 original funds.

15 3. It clarifies that original funds are funds over which a person, rather than a covered
16 contributor as in the bill, has legal control and to which the person holds title and that the
17 person received in the form of salary, wages or other earned income from employment;
18 investment income, sale of assets or bequests; distributions from a partnership, limited
19 liability company or trust in which the person holds a legal interest; commercial
20 transactions; or membership dues, union dues or other similar periodic payments to an
21 organization, association or group as long as the payments do not exceed \$10,000 per year
22 per person.

23 4. It clarifies the definition of "pass-through funds" to mean funds over which a person,
24 rather than a covered contributor as in the bill, has legal control and to which the person
25 holds title that are not that person's original funds.

26 5. It clarifies that, if a covered contributor states that the funds contributed by that
27 covered contributor to a covered committee include pass-through funds, the covered
28 contributor must provide the covered committee with the sources of all funds, including
29 original funds and pass-through funds, included in the contribution, the amounts from each
30 source totaling at least as much as the contribution and the identity of all 3rd parties that
31 transferred original funds from the original source until the funds were received by the
32 covered contributor.

33 6. It clarifies that a covered committee must include in an appropriate report, either a
34 report of contributions and expenditures by party committees or a report by political action
35 committees and ballot question committees, the name and mailing address of each original
36 source identified by the covered contributor in response to the notice to disclose or opt out
37 and, if that original source is an individual and provided directly or indirectly an amount
38 greater than \$10,000, that individual's occupation and place of business; the date and
39 amount of original funds received from each original source; and the identity of all 3rd
40 parties that transferred original funds from the original source until the funds were received
41 by the covered committee.

COMMITTEE AMENDMENT

ROS

COMMITTEE AMENDMENT "A" to S.P. 621, L.D. 1590 (S-532)

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7. It changes the effective date of the penalty provisions enacted in the Maine Revised Statutes, Title 21-A, section 1064, subsection 9 in this legislation from January 1, 2025 to January 1, 2026.

FISCAL NOTE REQUIRED

(See attached)

COMMITTEE AMENDMENT



Approved: 01/30/24 *MAC*

131st MAINE LEGISLATURE

LD 1590

LR 2230(03)

An Act to Require Disclosure of Campaign Funding Sources

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-532)
Committee: Veterans and Legal Affairs
Fiscal Note Required: Yes

Fiscal Note

Current biennium cost increase - General Fund

Fiscal Detail and Notes

The Commission on Governmental Ethics and Election Practices has indicated that the reporting requirements in this bill would require changes to the software system used to monitor campaign finance reporting. An exact estimate of the programming costs is not available at this time, but the Commission estimates these costs would range between \$100,000 to \$150,000.