

# MAINE STATE LEGISLATURE

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**LAWS**

OF THE

**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND FOURTEENTH LEGISLATURE

**FIRST REGULAR SESSION**

December 7, 1988 to July 1, 1989

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
SEPTEMBER 30, 1989

PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Company  
Augusta, Maine  
1989

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION  
of the  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
1989

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**6. Compensation.** The members of the committee who are Legislators shall receive the legislative per diem as defined in the Maine Revised Statutes, Title 3, section 2, for each day's attendance at committee meetings. All members of the committee shall receive reimbursement for travel and other necessary expenses, upon application to the Executive Director of the Legislative Council.

**Sec. 13. Legislation.** Following release of the advisory committee report, the Joint Standing Committee on Education shall meet as a committee to discuss the report and shall introduce legislation to any special session or, if no special session is held, to the Second Regular Session of the 114th Legislature to enact a plan for the transfer and operation of a comprehensive, coordinated student financial aid services program. Not later than January 10, 1990, the 114th Legislature shall enact legislation to complete implementation of a comprehensive, coordinated student financial aid services program.

**Sec. 14. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1989-90	1990-91
<b>FINANCE AUTHORITY OF MAINE</b>		
<b>Student Financial Assistance Programs</b>		
All Other	\$42,345	\$59,980
Provides funds for clerical support, operating costs and computer support for the Finance Authority of Maine to implement student financial assistance programs in addition to the positions and resources which may be transferred from the Division of Higher Education Services and the Maine Education Loan Authority by future legislation.		
<b>FINANCE AUTHORITY OF MAINE</b>		
<b>TOTAL</b>	<u>\$42,345</u>	<u>\$59,980</u>
<b>LEGISLATURE</b>		
<b>Student Financial Aid Transition Advisory Committee</b>		
Personal Services	\$2,805	
All Other	22,195	
Provides funds for meetings for the Student Financial Aid Transition Advisory Committee and the Joint Standing Committee on Education. Funding is also provided to hire a consultant or research assistant to staff the advisory committee. Any funds not used for these purposes shall be transferred by future legislation to the Finance Authority of Maine to administer student financial assistance programs.		

<b>LEGISLATURE</b>		
<b>TOTAL</b>	<u>\$25,000</u>	
<b>TOTAL APPROPRIATIONS</b>	<u>\$67,345</u>	<u>\$59,980</u>

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved, except that the repeal of the Maine Revised Statutes, Title 20-A, chapter 419 and the enactment of chapter 419-A provided in sections 9 and 10 of this Act shall take effect on July 1, 1990.

Effective July 10, 1989, unless otherwise indicated.

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## CHAPTER 560

### H.P. 942 - L.D. 1310

#### An Act Regarding the Removal of Hazardous Chemicals from Schools

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** there are hazardous chemicals presently in schools; and

**Whereas,** the program to help schools remove these chemicals should start before the beginning of the next school year; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**20-A MRSA §15613, sub-§14** is enacted to read:

14. Hazardous chemicals. The Commissioner of Educational and Cultural Services shall establish rules governing the purchase and storage of hazardous chemicals in schools. These rules shall be established prior to January 1, 1990.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect on July 1, 1989.

Effective July 1, 1989.

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## CHAPTER 561

### H.P. 1282 - L.D. 1773

#### An Act Regarding Governmental Ethics

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

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

**§1007. Annual report**

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

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

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

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

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

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

**§1012. Definitions**

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

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

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

**3. Employee.** "Employee" means a person in any employment position, including public or private employment, employment with a nonprofit, religious, charitable or educational organization, or any other compensated service

under an expressed, implied, oral or written contract for hire, but does not include a self-employed person.

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

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

B. A bequest or other form of inheritance; and

C. A gift received from a relative.

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

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

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

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

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

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

B. To investigate complaints filed by Legislators, or on its own motion, alleging conflict of interest against

any Legislator, to hold hearings thereon if the commission deems appropriate and to issue publicly findings of fact together with its opinion; and

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

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

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

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

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

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

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

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

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

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

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

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

**D.** With respect to income from a law practice, it shall be sufficient for attorneys-at-law to indicate their major areas of practice and, if associated with a law firm, the major areas of practice of the firm, in such manner as the commission may require.

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

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

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

**5. Disclosure of honoraria.** The Legislator shall disclose the name of each source of honoraria that the Legislator accepted.

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

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

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

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

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

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

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

**3. Campaign contributions.** Campaign contributions duly recorded as required by law are not required to be reported under this section.

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

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

**§1022. Disciplinary guidelines**

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

**§1023. Code of ethics**

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

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

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

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

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

(3) A gift received from a relative.

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

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

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

H. "Income" means economic gain to a person from any source, including, but not limited to, compensation for services, including fees, commissions and payments in-kind; income derived from business; gains derived from dealings in property, rents and royalties; income from investments including interest, capital gains and dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; dis-

tributive share of partnership income; income from an interest in an estate or trust; prizes; and grants, but does not include gifts. Income received in-kind includes, but is not limited to, the transfer of property and options to buy or lease and stock certificates. Income does not include alimony and separate maintenance payments.

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

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

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

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

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

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

C. The specific source of each gift received;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

	1989-90	1990-91
ATTORNEY GENERAL, DEPARTMENT OF THE		
Administration - Attorney General		
All Other	\$2,000	\$2,000

Provides funds for bound compilations of laws pertaining to legislative ethics and conduct to be distributed to each Legislator.

DEPARTMENT OF THE ATTORNEY GENERAL		
TOTAL	<u>\$2,000</u>	<u>\$2,000</u>

**GOVERNMENTAL ETHICS AND ELECTION PRACTICES, COMMISSION ON**

**Commission on Governmental Ethics and Election Practices**

Positions	(1)	(1)
Personal Services	\$19,442	\$26,824
All Other	1,125	1,500
Capital Expenditures	1,000	

Provides funds for one Administrative Secretary and related expenses.

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES		
TOTAL	<u>\$21,567</u>	<u>\$28,324</u>

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

LEGISLATURE		
TOTAL	<u>\$3,500</u>	<u>\$3,500</u>

TOTAL APPROPRIATIONS	<u>\$27,067</u>	<u>\$33,824</u>
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**Sec. 21. Transition.** Beginning in 1990, persons subject to the income disclosure requirements of this Act shall complete the forms and provide the information as required by this Act.

See title page for effective date.

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## CHAPTER 562

### H.P. 631 - L.D. 854

#### An Act To Amend the Growth Management Laws

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the Comprehensive Planning and Land Use Regulation Act created by the 113th Legislature is now being implemented; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,