Legislative Ethics

One Hundred and Twenty-Fourth Maine Legislature

Compiled and Presented by the
Maine Office of the Attorney General
in compliance with
Title 1 M.R.S.A. section 1008(3)

December 2, 2008

TABLE OF CONTENTS

		Page
I.	Ethics Questions and Answers for Legislators	1
II.	Summary of Advisory Opinions	6
III.	Statutes	
	Establishing the Commission on Governmental Ethics and Election Practices	12
	Governing Legislative Conflicts of Interest and Undue Influence, Requests for Advisory Opinions and Complaint Investigations and Prohibiting Certain Campaign Contributions	18
	Requiring Financial Disclosure by Legislators	27
	Relating to False Reports, Serving on Boards and Commissions, and Adoption of Disciplinary Guidelines	30
	Governing Activities of Legislative Employees	32
	Bribery and Corrupt Practices	33
	Prohibiting Misuse of State Government Computer System	38
IV.	Legislative Code of Ethics and Joint Rule 104 on Conflict of Interest	39
V.	Ethics Commission Guidance:	
	Campaign Contributions During Legislative Session	40
	Disclosure of Bids on Government Contracts	42
	Acceptance of Gifts	43

Ethics Q&A's

ETHICS QUESTIONS AND ANSWERS FOR LEGISLATORS

When should I refrain from voting on or attempting to influence a bill due to a conflict of interest?

Maine statute defines three different types of conflicts of interest that preclude you from voting on legislation (either in committee or on the floor) or attempting to influence the outcome of legislation, unless required to do so by the presiding officer, or advised by the presiding officer that your participation would not constitute a conflict.

1 MRSA §§ 1014(1) & 1013(2)(K)

You may not vote on or attempt to influence a bill if you, your spouse or one of your dependent children

- has or acquires a personal financial interest in an enterprise that would benefit financially from proposed legislation; *OR*
- derives a personal financial benefit from *close economic association*[1] with a person known by you to have a direct financial interest in an enterprise affected by the proposed legislation; *AND*
- the financial interest is direct and substantial *AND*
- distinct from that of the general public.

1 MRSA § 1014(1)(A)

You may not vote on or attempt to influence a bill if you, your spouse or one of your dependent children accepts or engages in employment

- that could impair your judgment as a legislator; *OR*
- where you know that there is a substantial possibility that the employment opportunity is being given to you, or to your spouse or dependent child, with an intent to influence you in your work as a legislator; *OR*
- where you, your spouse or your dependent child stands to derive a personal and private gain or loss from employment, because of legislative action, *AND* that gain or loss

---

[1]Under the conflict of interest law, 1 MRSA § 1012 (1), you, your spouse or your dependent child has a "*close economic association*" with a person if that person is:

- an employer, employee, partner, or client; *OR*
- a corporation in which you, your spouse or one of your dependent children is an officer, director or agent *OR* owns 10% or more of the outstanding capital stock; *OR*
- a business which has (or in which you have, or your spouse or dependent child has) a significant unsecured creditor relationship.

- is distinct from the gain or losses of other employees, *OR*
- is distinct from the gain or losses of the general community.

1 MRSA § 1014(1)(E)

You may not vote on or attempt to influence a bill if you, your spouse or one of your dependent children has an interest in legislation

- relating to a profession, trade, business or employment in which you or your spouse or dependent child is engaged; *AND*

- where the benefit to be derived from the legislation by you or your spouse or dependent child is
  - unique and distinct from that of the general public *OR*
  - unique and distinct from that of persons engaged in similar professions, trades, businesses or employment.

1 MRSA § 1014(1)(F)

What other activities within the legislative body are prohibited by the conflict of interest statute?

You may not receive any compensation, or reimbursement of expenses, for services, advice or assistance that you provide as a legislator, other than the salary and reimbursements that are specifically authorized by law to be paid to you by the State.

1 MRSA § 1014(1)C)

You may not appear for, represent or advocate on behalf of another person or entity before the Legislature, unless you do so without compensation and for the benefit of a citizen.

1 MRSA § 1014(1)(D)

What restrictions apply to my dealings with state executive branch agencies?

You may not appear for, represent, or assist another person or entity in a matter before a state agency or authority unless you do so without compensation and for the benefit of a constituent, *OR*

unless you are acting in your private capacity as an attorney or other professional engaged in the conduct of your profession, in which case you may not:

- refer to your legislative capacity; *OR*
- communicate regarding the matter on legislative stationary; *OR*
- make any threats or implications regarding legislative action.

1 MRSA § 1014(2)(A)(undue influence)

You also may not represent or assist another person or entity in selling goods or services to the State, or to any state agency or authority, unless the sale occurs after public notice and competitive bidding.

1 MRSA § 1014(2)(B)(undue influence)

What restrictions apply to my ability, or that of my employer or my business, to contract with a state agency?

You or any *associated organization*[2] may not enter into a contract with a state agency to be paid, in whole or in part, with government funds, and a person or entity with which you, your spouse or dependent child has a direct financial interest or has an interest through *close economic association*[3] may not contract with the state unless:

- the contract has been awarded through a process of public notice and competitive bidding; *OR*
- the contract is exempt from competitive bidding under state purchasing laws; *OR*
- payment under the contract is based on uniform rates established by
  - the state, a state agency or authority, or
  - other governmental entity.

1 MRSA § 1014(3)(A)&(4)(abuse of office)

What other statutory prohibitions apply to my activities as a legislator?

You may not grant or obtain any special privilege, exemption or preferential treatment

- to or for yourself or another
- when that privilege, exemption or treatment
- is not readily available to members of the general community or to members of a class to which the beneficiary belongs.

1 MRSA § 1014(3)(B)(abuse of office)

You also may not use or disclose confidential information

---

[2] Under the legislative ethics statute, 1 MRSA § 1012(1-A), an "*associated organization*" is one in which you or your spouse:

- is a director, officer or trustee, *OR*
- own(s) or control(s), directly or indirectly, and separately or combined, at least 10% of the outstanding shares.

[3] *See* footnote 1 for definition.

- obtained because of your office or position as a legislator

- for your own benefit or for the benefit of another.

1 MRSA § 1014(3)(C)(abuse of office)

What gifts am I prohibited from accepting as a legislator?

You, or your spouse or dependent child, may not accept a *gift*[4] (excluding campaign contributions) or a *pecuniary benefit*[5] from any person:

- affected by legislation or with an interest in a business affected by proposed legislation; *AND*

- if you know, or reasonably should know, that the purpose of the donor in making the gift or offering the pecuniary benefit is
  - to influence your vote;
  - to influence you in the performance of your duties as a legislator; or
  - to reward you for some action you have taken; *OR*

- if the pecuniary benefit is in return for a vote that you have made as a legislator, or in return for advice or other assistance in preparing or promoting a bill; *OR*

- if the pecuniary benefit is given as compensation for your endorsement, nomination, approval or disapproval of any person for a public office.

1 MRSA § 1014(1)(B)
17-A MRSA § 604(1)(A)
17-A MRSA § 605(1)(A)
17-A MRSA § 606(1)(A)
17-A MRSA § 607(1)(A)

---

[4] Under the legislative ethics statute, 1 MRSA § 1012(4), a "gift" means anything of value, including forgiveness of an obligation or debt, that is given without the recipient providing anything of equal or greater value.

It does not include:
- things of value from received from a single source during a calendar year that do not exceed an aggregate value of $300;
- a bequest or other form of inheritance;
- a gift from a relative; or
- a subscription to a newspaper, news magazine, or other news publication.

[5] "Pecuniary benefit" is defined in the Bribery and Corrupt Practices Act, 17-A MRSA § 602(2)(C), to include any advantage in the form of money, property, commercial interest, or anything else the primary significance of which is economic gain, other than economic gain available to the public generally, such as through a tax reduction or increased prosperity generally.

"Pecuniary benefit" does not include:
- a meal provided by an industry or special interest organization as part of an informational program presented to a group of legislators or other public officials;
- a prayer breakfast or meal served during a meeting to establish a prayer breakfast; or
- a subscription to a newspaper, news magazine or other news publication.

Am I allowed to solicit funds for charities or nonprofit organizations while serving as a legislator?

Generally, yes, since the donations are not being made to you directly. It is advisable, however, to avoid soliciting donations from someone whose purpose in making the donation you know, or reasonably should know, is to influence your vote on any matter or the performance of your duties as a legislator, or to reward you for any past action. It is also advisable to avoid soliciting donations from anyone who you know is, or is likely to become, subject to or interested in legislation that is pending before the committee or legislative body in which you serve as a legislator.

When am I, as a legislator, precluded from soliciting or accepting campaign contributions from lobbyists, lobbyist associates or their employers?

If you are a candidate for election or re-election to a state office while serving in the Legislature, you may not accept campaign contributions (including seed money contributions to help you become certified as a Maine Clean Election candidate but excluding qualifying contributions to the Maine Clean Election Fund) from lobbyists, lobbyist associates or their employers during any of the following time periods:

- for a first regular session, from the time the Legislature convenes on the first Wednesday in December, until final adjournment;
- for a second regular session, from the time the Legislature convenes on the first Wednesday after the first Tuesday in January, until final adjournment;
- for a special session, from whenever the Legislature convenes until final adjournment.

During these time periods, you also may not solicit contributions to political action committees from lobbyists, lobbyist associates or their employers unless the funds are segregated so that they cannot be used to influence the election of any incumbent legislator, constitutional officer, or the Governor.

1 MRSA § 1015(3)

[*See* Guidance from Ethics Commission, entitled "Campaign Contributions During Legislative Session"]

Opinions

Receipt and Solicitation of Gifts:

The Maine Whitewater Outfitters Association invited legislators on a Penobscot River **rafting trip** at a rate of $15 for up to two people, a substantial discount from the going public rate. The invitation noted that there had been significant legislation affecting rivers in the past, and that there would likely be more in the future. The House Speaker asked whether the conflict of interest law allowed legislators to accept the trip at that rate. The Attorney General said that legislators could not accept the trip at that rate, as it appeared to be a gift intended to influence the legislators in the performance of their official duties. *(AG Opinion, Aug. 18, 1983)*

* * *

A legislator asked whether she could voluntarily solicit contributions, especially foundation grants, for the Kennebec River Future Commission, which was in the process of being created by legislation. The Attorney General said that she could, without compensation, **solicit grants and donations from private sources on behalf of a public entity.** The Attorney General also suggested that she get the approval of both the governor and the Legislative Council to accept the funds solicited before the legislation creating the new commission became effective; that she refrain from soliciting from those who were interested in matters pending before the Legislature; and that she guard against creating the impression that she was soliciting funds on behalf of the Governor or Legislative Council. *(AG Opinion, Feb. 17, 1981)*

Conflicts of Interest: ***Financial Benefit from Legislation***

A legislator asked whether it would be a conflict of interest for her to vote on a bill to limit future increases in the cost of hospital care, when the **legislator's spouse had provided legal advice** and counsel to a medical practice affiliated with a Maine hospital concerning the bill. Although the Ethics Commission found this to be a conflict, the Attorney General concluded it was not because there was no indication that the client would derive a direct financial benefit from passage or defeat of the legislation, or that the legislator's spouse would derive any financial benefit from passage or defeat of the legislation since, as a

lawyer, he would be paid for rendering legal advice on the bill whether or not it was enacted. *(AG Opinion, Jun. 10, 1983)*

* * *

A bill pending before the Legislature would have authorized teacher recognition grants of $1,000 per teacher, for which all full-time teachers in qualifying schools would be eligible. In response to a legislator's inquiry, the Attorney General concluded that it would not be a conflict of interest for a **legislator who was a full-time teacher,** or whose spouse was a full-time teacher, to vote on the legislation, even though he or she would be eligible to receive a grant if the bill passed. The benefit to be derived by the legislator-teacher (or his or her spouse), although direct, financial, and personal, was not "unique and distinct ...from that of persons engaged in similar professions." The bill applied equally to all members of the teaching profession in public schools in Maine. *(AG Opinion, Sep. 6, 1984)*

* * *

The House speaker asked his counsel whether **legislators who owned or sold mutual insurance policies** had a conflict of interest in voting on a bill that would establish procedures and standards for demutualization of insurance companies. The speaker's counsel determined that there was no conflict of interest for policy owners because the bill did not financially benefit the mutual insurance companies, and even if policy holders received a benefit, it would not be a direct or substantial benefit. With respect to sellers of such policies, the bill would either confer no benefit or confer no benefit that was unique and distinct from others in the business. *(Speaker's Counsel advice, Jun. 10, 1985)*

* * *

A legislator who owned rental property asked the Attorney General whether the conflict of interest law would prevent him from voting on two bills that would require landlords to pay interest on tenant security deposits. The Attorney General advised that the law did not bar the legislator's voting on the bills because the bills would apply equally to all landlords in the State, so the **legislator-landlord's** interest was not unique and distinct from that of other landlords. *(AG advice, Mar. 29, 1991)*

* * *

While the Legislature was considering the recommendations of the Blue Ribbon Commission on Workers' Compensation, legislators asked the Attorney General about

the ethical duties of lawyer-legislators who handle, or whose firms handle, workers' compensation cases. The Attorney General's Office advised that all legislators were obliged to disclose their specific sources of income, and lawyer legislators were required to disclose the major areas of law practice for themselves and their firms. However, **lawyer-legislators who practiced workers' compensation law** were not barred from voting on workers' compensation issues because any benefits that flowed from passage of those recommendations would not be unique and distinct from benefits received by others in that line of work. *(AG advice, Oct. 2, 1992)*

* * *

A **legislator who worked for a private non-profit corporation** as the administrator of a program **that would receive State funds** under pending legislation was not prohibited from voting on that legislation because the legislator had no personal financial interest in the legislation. The criteria cited by the Ethics Commission in reaching this conclusion included that the non-profit corporation's contract with the state was awarded after a competitive bidding process, that the legislator did not own the non-profit corporation, that the legislator was not a director or an officer of the non-profit corporation, that the legislator's compensation would not be increased if the legislation passed, and that none of the State funds involved could be used for administrative purposes. However, the Ethics Commission said that the legislator may wish to recuse himself merely to avoid the appearance of a conflict of interest. *(Ethics Comm. adv. ops., Apr. 9, 2003 & Aug. 15, 2003)*

* * *

A legislator employed as the environmental manager of a paper mill asked if it would be a conflict of interest for him to vote on legislation that would create an exception to the assessment of fines and penalties for failure to report small quantity oil spills. The mill was one of a large number of entities in the state affected by the legislation. The Commission found that this legislator would not derive any benefit unique and distinct from that of others engaged in the same trade or business. Thus, voting on the bill would not present a conflict of interest. *(Ethics Comm. adv. op. Mar. 12, 2007)*

* * *

A legislator asked whether it would be a conflict for him to vote on legislation authorizing Maine's involvement in a regional initiative

to reduce greenhouse gases, including establishment of a cap and trade program for carbon dioxide emissions. The program could have significant financial implications for the legislator's employer, as the owner of two out of only six small power plants in the State that would likely be required to purchase carbon dioxide allowances. There was no evidence that the legislator's job responsibilities or compensation would be affected. The Commission concluded that it would not be a conflict of interest for the legislator to participate in the legislative process regarding the greenhouse gas initiative, but cautioned him to examine each specific bill related to the initiative to determine its affect on his employer and to consider whether voting on it would constitute an actual or potential conflict. *(Ethics Comm. adv. op. Mar. 7, 2007)*

Conflicts of Interest: *Committee Assignment*

A legislator asked the Ethics Commission whether his employment as the environmental manager for a major paper mill regulated by the Maine Department of Environmental Protection should preclude his appointment to the legislative committee that oversees that department. The Ethics Commission noted that the statutes acknowledge that most legislators must rely on private sources of income. The Commission also noted that the committees are well served by members who bring relevant specialized knowledge and experience. While the Commission found that the legislator's service on the committee did not create a *per se* conflict of interest, it cautioned him to carefully consider recusing himself from voting on particular matters that affect his employer in order to avoid the appearance of misconduct. *(Ethics Comm. adv. op., Mar. 9, 2006)*

Conflicts of Interest: *Working as a Lobbyist*

The Deputy Secretary of State asked the Attorney General's Office whether a member of the Legislature could also serve as executive director of the Maine County Commissioners Association when a significant portion of the director's duties would include acting as a lobbyist. The Attorney General's Office advised that such employment would likely violate both the "entire spirit" of the conflict of interest statutes and the common law principles on conflicts of interest. A number of Maine cases have articulated the rule that a public officer is required to be totally faithful to his or her public duties, rather than his or her personal interests. *(AG advice, Jan. 30, 1986)*

Conflicts of Interest/Abuse of Office: *Contracts with State Agencies*

A legislator who worked as president of a company that received a **"sole source," no-bid contract** to provide claims processing services for the State asked the Ethics Commission whether the company's acceptance of the contract constituted abuse of office under the conflict of interest statute. The Commission understood that the contract was granted on an emergency basis because the previous contractor served notice of withdrawal from its contract without allowing sufficient time for a competitive bid process. For that reason, the State Division of Purchases approved the sole source contract, as it is allowed to do by the State purchasing laws under such circumstances. The Commission also noted that the legislator's company took the contract on the same terms as the previous contractor, with no increase in rates. Further, the Commission noted that the legislator owned no stock in the company. Based on those facts, the Commission determined that no abuse of office conflict of interest had developed through the company's acceptance of the contract. However, the Commission strongly recommended that the legislator abstain from any matter that may raise the appearance of a conflict of interest due to the contractual relationship between the company and the State. *(Ethics Comm. adv. op., Apr. 30, 1998)*

* * *

A legislator asked the Ethics Commission whether he could accept a contract with the State to serve as the "Dean" of the Maine Leadership Institute under the statute that creates a presumption of a conflict of interest for a legislator or a member of his or her immediate family to have a direct financial interest in a State **contract** that is **not subject to a competitive bid process or established uniform rates.** Before the inquiring legislator was elected, he had received the contract through a sole source contract, and not through competitive bidding. But after he was elected, the contract was put through a competitive bidding process, and the legislator was the winning bidder. The Ethics Commission advised that the legislator had no conflict of interest and could accept the contract because it was offered only after a competitive bidding process. *(Ethics Comm. adv. op., Apr. 9, 2003)*

Conflicts of Interest: *Undue Influence on State Agencies*

The Real Estate Commission complained to the Ethics Commission about the actions of

three legislators who attempted to influence the outcome of a case against a friend of one of the legislators pending before the Real Estate Commission. The influence came in the form of a letter to the Real Estate Commission from all three legislators as well as phone calls from one of the legislators to that commission's chairman, its chief investigator, and the commissioner of the executive department that administered the commission. The Ethics Commission found that the primary legislator's motive was purely to assist his friend in having the friend's case dismissed, and it found that motive to be inappropriate. The Ethics Commission found that the legislators' actions constituted undue influence. One of the legislators was the chair of the legislative committee having oversight over the Real Estate Commission, and while the Ethics Commission found that he had "a legitimate interest in the disciplinary authority and procedures of the Real Estate Commission, . . . that interest provides no proper basis for seeking to influence the outcome of any particular case." *(Ethics Comm. adv. op. Oct. 14, 1988)*

Statutes

TITLE 1
CHAPTER 25

GOVERNMENTAL ETHICS
SUBCHAPTER 1

1 § 1001. Statement of purpose

It is essential under the American system of representative government that the people have faith and confidence in the integrity of the election process and the members of the Legislature. In order to strengthen this faith and confidence that the election process reflects the will of the people and that each Legislator considers and casts his vote on the enactment of laws according to the best interests of the public and his constituents, there is created an independent commission on governmental ethics and election practices to guard against corruption or undue influencing of the election process and against acts or the appearance of misconduct by Legislators.

Section History: P.L. 1975, ch. 621, § 1

1 § 1002. Commission on Governmental Ethics and Election Practices

1. Membership. (repealed)

1-A. Membership. The Commission on Governmental Ethics and Election Practices, established by Title 5, section 12004-G, subsection 33 and referred to in this chapter as the "commission," consists of 5 members appointed as follows.

A. By December 1, 2001 and as needed after that date, the appointed leader from each political party in the Senate and the appointed leader from each political party in the House of Representatives jointly shall establish and advertise a 30-day period to allow members of the public and groups and organizations to propose qualified individuals to be nominated for appointment to the commission.

B. By January 1, 2002 and as needed after that date, the appointed leader from each political party in the Senate and the appointed leader from each political party in the House of Representatives each shall present a list of 3 qualified individuals to the Governor for appointment of 4 members to the commission. The appointed leadership from each party in both bodies of the Legislature jointly shall present a list of 3 qualified individuals to the Governor for appointment of a 5th member to the commission.

C. By March 15, 2002, the Governor shall appoint the members of the commission selecting one member from each of the lists of nominees presented in accordance with paragraph A. These nominees are subject to review by the joint standing committee of the Legislature having jurisdiction over legal affairs and confirmation by the Legislature. No more than 2 commission members may be enrolled in the same party.

D. Two initial appointees are appointed for one-year terms, 2 are appointed for 2-year terms and one is appointed for a 3-year term, according to a random lot

drawing under the supervision of the Secretary of State. Subsequent appointees are appointed to serve 3-year terms. A person may not serve more than 2 terms.

E. The commission members shall elect one member to serve as chair for at least a 2-year term.

F. Upon a vacancy during an unexpired term, the term must be filled as provided in this paragraph for the unexpired portion of the term only. The nominee must be appointed by the Governor from a list of 3 qualified candidates provided by the leader of the party from the body of the Legislature that suggested the appointee who created the vacancy. If the vacancy during an unexpired term was created by the commission member who was appointed from the list of candidates presented to the Governor by the leaders of each party of each body of the Legislature jointly, the nominee must be appointed from a list of 3 qualified candidates provided jointly by the leaders of each party of each body of the Legislature. If the list of 3 qualified candidates required by this paragraph to be presented to the Governor by the leaders of each party from each body of the Legislature is not produced within 60 days after the vacancy is created, then the leaders of each party from both bodies of the Legislature shall present within the subsequent 15 days a separate list of 3 qualified candidates to the Governor, who shall appoint a candidate from these lists within 30 days of receiving the lists. Nominees appointed pursuant to this paragraph are subject to review by the joint standing committee of the Legislature having jurisdiction over election practices and legislative ethics and to confirmation by the Legislature.

G. Upon a vacancy created by an expired term, the vacancy must be filled as provided in this paragraph. The nominee must be appointed by the Governor from a list of 3 qualified candidates provided by the leader of the party from the body of the Legislature that suggested the appointee whose term expired. When a vacancy is created by an expired term of the commission member who was appointed from the list of candidates presented to the Governor by the leaders of each party of each body of the Legislature jointly, the nominee must be appointed from a list of 3 qualified candidates provided jointly by the leaders of each party of each body of the Legislature. If the list of 3 qualified candidates required by this paragraph to be presented to the Governor by the leaders of each party from each body of the Legislature is not produced within 60 days after the vacancy is created, then the leaders of each party from both bodies of the Legislature shall present within the subsequent 15 days a separate list of 3 qualified candidates to the Governor, who shall appoint a candidate from these lists within 30 days of receiving the lists. Nominees appointed pursuant to this paragraph are subject to review by the joint standing committee of the Legislature having jurisdiction over election practices and legislative ethics and to confirmation by the Legislature.

H. For the purposes of this subsection, "political party" has the same meaning as "party" as defined by Title 21-A, section 1, subsection 28.

2. Qualifications. The members of the commission must be persons of recognized judgment, probity and objectivity. A person may not be appointed to this commission who is a member of the Legislature or who was a member of the previous Legislature, who was a declared candidate for an elective county, state or federal office within 2 years

prior to the appointment or who now holds an elective county, state or federal office. A person may not serve on the commission who is an officer, director, employee or primary decision maker of a party committee, political action committee or candidate committee authorized under Title 21-A, section 1013-A, subsection 1, paragraph B.

2-A. Conflict of interest. This subsection governs conflicts of interest of members of the commission.

A. A member of the commission has a conflict of interest in a matter before the commission if the member has a business or close political relationship with a party to the matter. A close political relationship exists when a member has significant past or ongoing involvement with a political committee or a candidate, as defined in Title 21-A, section 1, subsection 30 and subsection 5, respectively, or other organization involved in the matter, that would lead a reasonable person to believe that the member is unable to objectively consider the matter. A close political relationship is not created by making a contribution to a political committee, organization or candidate; party enrollment status; or mere membership in an organization involved in the matter.

B. If members of the commission have a conflict of interest in a matter before the commission, the members shall recuse themselves from the matter and may not vote on or attempt to influence the outcome of the matter. Whether or not recusal is required under this paragraph, members of the commission shall consider recusing themselves from any matter that would give rise to an appearance of a conflict of interest.

2-B. Annual disclosure statement. Each member shall file a disclosure statement with the executive director of the commission by February 15th of each year, which must include:

A. The names of and the positions held in all candidate committees, political action committees, ballot question committees and party committees of which the member or the member's spouse or domestic partner was an officer, director or primary decision maker or fund raiser during the previous calendar year;

B. The names of and positions held in all nonprofit or commercial organizations of which the member or the member's spouse or domestic partner was an owner, officer, director or primary decision maker or fund raiser that, during the previous calendar year, made expenditures of more than $1,500 to influence an election or employed a lobbyist who was required to register with the commission; and

C. Any additional information that the commission determines appropriate.

A member shall notify the executive director if the member becomes an officer, director, employee or primary decision maker or fund raiser of a party committee, political action committee, ballot question committee or candidate committee within 21 days of the event.

3. Oath. Each member shall, within 10 days of his appointment, take an oath of office to faithfully discharge the duties of a commissioner in the form prescribed by the Constitution. Such oath shall be subscribed to by the commissioner taking it, certified by the officer before whom it is taken and immediately filed in the Office of the Secretary of

State.

4. Legislative per diem. The members of the commission are entitled to receive legislative per diem according to Title 5, chapter 379.

5. Employees. The commission shall employ an executive director and such other assistance as may be necessary to carry out its duties. The commission also shall retain a general counsel or a computer analyst as an employee of the commission, based on the staffing needs of the executive director. If the commission employs a general counsel, the general counsel may not hold any other state office or otherwise be employed by the State. The commission shall select the executive director by an affirmative vote of at least 4 commission members.

6. Prohibited activities. A member of the commission may not engage in political fund-raising to promote the election or defeat of a candidate, passage or defeat of a ballot measure or endorse a political candidate. This prohibition does not apply to fund-raising for campaigns or endorsement of candidates at the county or municipal level or out-of-state nonfederal elections.

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

Section History: P.L. 1975, ch. 621, § 1; P.L. 1983, ch. 812, § 1; P.L. 1989, ch. 503, § B1; P.L. 1991, ch. 86, § 1; P.L. 1991, ch. 880, § 1; I.B. 1995, ch. 1, §§ 1, 2; P.L. 2001, ch. 430, § 1; P.L. 2001, ch. 470, §§ 1-3; P.L. 2003, ch. 381, § 1; P.L. 2005, ch. 271, §§ 1, 2; P.L. 2005, ch. 295, § 1; P.L. 2007, ch. 252, §§ 1, 2; P.L. 2007, ch. 571, §§ 1-4

1 § 1003. Procedures, rules and regulations

1. Procedures, rules and regulations. The commission shall adopt such procedures, rules and regulations as may appear necessary for the orderly, prompt, fair and efficient carrying out of its duties, consistent with this chapter.

2. Records. Except as provided in section 1013, all records of the commission, including business records, reports made to or by the commission, findings of fact and opinions, must be made available to 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 that is available for public inspection. The commission shall furnish these copies upon payment of a fee covering the cost of reproducing them.

Section History: P.L. 1975, ch. 621, § 1; P.L. 1979, ch.541, § A4; P.L. 2007, ch. 642, § 1

1 § 1004. Meetings

The commission shall meet on the call of the Speaker of the House or the President of the Senate to perform the duties required of it or as specifically provided in this chapter. The commission shall also meet at other times at the call of the chair or at the call of a majority of the members, provided all members are notified of the time, place and purpose of the meeting at least 24 hours in advance.

Section History: P.L. 1975, ch. 621, § 1; P.L. 1977, ch. 252, § 1; P.L. 2001, ch. 430, § 2

1 § 1005. Open meetings

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

Section History: P.L. 1975, ch. 621, § 1; P.L. 1997, ch. 562, § D1; P.L. 1997, ch. 562, § D11; P.L. 2001, ch. 430, § 3; P.L. 2007, ch. 642, § 2

1 § 1006. Assistance

The commission may call for the aid or assistance in the performance of its duties on the Attorney General, Secretary of State, Department of Audit or any law enforcement agency in this State. When called upon, these agencies shall comply to the utmost of their ability.

Section History: P.L. 1975, ch. 621, § 1

1 § 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.

Section History: P.L. 1975, ch. 621, § 1; P.L. 1989, ch. 561, § 1

1 § 1008. General duties

The general duties of the commission shall be:

1. Legislative ethics. To investigate and make advisory recommendations to the appropriate body of any apparent violations of legislative ethics;

2. Election practices. To administer and investigate any violations of the requirements for campaign reports and campaign financing, including the provisions of the Maine Clean Election Act and the Maine Clean Election Fund;

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;

4. Lobbyist activities. To administer the lobbyist disclosure laws, Title 3, chapter 15;

5. Maine Clean Election Act and Maine Clean Election Fund. To administer and ensure the effective implementation of the Maine Clean Election Act and the Maine Clean Election Fund according to Title 21-A, chapter 14; and

6. Enhanced monitoring. To provide for enhanced monitoring and enforcement of election practices and the electronic submission of reports and computerized tracking of campaign, election and lobbying information under the commission's jurisdiction.

Section History: P.L. 1975, ch. 621, § 1; P.L. 1977, ch. 337, § 1; P.L. 1989, ch. 561, §§ 2,3; P.L. 1993, ch. 691, § 1-3; I.B. 1995, ch. 5, §§ 3-6; P.L. 2001, ch. 430, § 4; P.L. 2003, ch. 20, § J-1; P.L. 2005, ch. 301, § 1; P.L. 2007, ch. 642, § 3

1 § 1009. Recommendations to Legislature

Following a general election, the commission may solicit suggestions for improving campaign financing and reporting and the administration of the other areas within the commission's jurisdiction. The commission shall review the suggestions and may submit legislation within 90 days of the general election.

Section History: P.L. 2005, ch. 301, § 2

SUBCHAPTER 2
LEGISLATIVE ETHICS

1 § 1011. Statement of purpose

The Maine Legislature enjoys a high reputation for progressive accomplishment. The vast majority of its members are public officers of integrity and dedication, seeking at all times to maintain high standards of ethical conduct. The public interest is best served by attracting and retaining in the Legislature men and women of high caliber and attainment. The public interest will suffer if unduly stringent requirements deprive government "of the services of all but princes and paupers." Membership in the Legislature is not a full-time occupation and is not compensated on that basis; moreover, it is measured in 2-year terms, requiring each member to recognize and contemplate that his election will not provide him with any career tenure. Most Legislators must look to income from private sources, not their public salaries, for their sustenance and support for their families; moreover, they must plan for the day when they must return to private employment, business or their professions. The increasing complexity of government at all levels, with broader intervention into private affairs, makes conflicts of interest almost inevitable for all part-time public officials, and particularly for Legislators who must cast their votes on measures affecting the lives of almost every citizen or resident of the State. The adoption of broader standards of ethics for Legislators does not impugn either their integrity or their dedication; rather it recognizes the increasing complexity of government and private life and will provide them with helpful advice and guidance when confronted with unprecedented or difficult problems in that gray area involving action which is neither clearly right nor clearly wrong. If public confidence in government is to be maintained and enhanced, it is not enough that public officers avoid acts of misconduct. They must also scrupulously avoid acts which may create an appearance of misconduct. The Legislature cannot legislate morals and the resolution of ethical problems must indeed rest largely in the individual conscience. The Legislature may and should, however, define ethical standards, as most professions have done, to chart the areas of real or apparent impropriety.

Section History: P.L. 1975, ch. 621, § 1

1 § 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.

1-A. Associated organization. "Associated organization" means any organization in which a Legislator or a Legislator's spouse is a director, officer or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity.

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;

C. A gift received from a relative;

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

E. Legal services provided in a matter of legislative ethics.

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:

A. Alimony and separate maintenance payments; or

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

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 fiancee of the Legislator.

9. Self-employed. "Self-employed" means that the person qualifies as an independent contractor under Title 39-A, section 102, subsection 13.

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

Section History: P.L. 1975, ch. 621, § 1; P.L. 1989, ch. 561, § 4; P.L. 1991, ch. 885, § E1; P.L. 1991, ch. 885, § E47; P.L. 1995, ch. 33, §§ 1,2; P.L. 2001, ch. 430, § 5; R.R. 2001, ch. 1, § 6; P.L. 2003, ch. 268, § 1; P.L. 2007, ch. 642, § 4

1 § 1013. Authority; procedures

1. Authority. The commission has authority:

A. To issue, on request of any Legislator on an issue involving that Legislator, or on its own motion, written advisory opinions and guidance on problems or questions involving possible violations of legislative ethics;

B. To investigate complaints alleging a violation of legislative ethics against any Legislator, to hold hearings on those complaints if the commission determines it is appropriate and to issue findings of fact together with its opinion; and

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

2. Procedure. The following procedures apply.

A. Requests for advisory opinions by members of the Legislature must be filed with the commission in writing and signed by the Legislator requesting the opinion and must contain such supporting data as the commission requires. Commission staff shall inform a Legislator upon that Legislator's request for an advisory opinion that written opinions issued by the commission are public and are submitted to the Clerk of the House and the Secretary of the Senate and entered into the legislative record. When preparing an advisory opinion on its own motion, the commission shall notify the Legislator concerned and allow the Legislator to provide additional information to the commission. In preparing an advisory opinion, either upon request or on its own motion, the commission may make such an investigation as it determines necessary. A copy of the commission's advisory opinion must be sent to the Legislator concerned and to

the presiding officer of the legislative body of which the Legislator is a member.

B. (repealed)

B-1. Any person may file a complaint against a Legislator alleging a violation of legislative ethics only as described in section 1014 and 1015. The complaint must be filed in writing and signed under oath and must specify the facts of the alleged violation citing the specific provisions of sections 1014 and 1015 that are alleged to have been violated, the approximate date of the alleged violation and such other information as the commission requires. A complainant shall agree in writing not to disclose any information about the complaint during the time the commission is determining whether or not to pursue the complaint or during the investigation of a complaint. A complaint that does not meet the criteria of this paragraph is considered incomplete and will not be forwarded to the commission.

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

(2) The commission shall consider only complaints against Legislators in office at the time of the filing of the complaint and only complaints relating to activity that occurred or was ongoing within 2 years of the complaint. Upon a majority vote of the commission, the commission shall conduct an investigation and hold hearings as it determines necessary.

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

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

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

D. The commission has authority, through its chair or any member designated by the chair, to administer oaths, subpoena witnesses and compel the production of books, records, papers, documents, correspondence and other material and records the commission determines relevant. The State, its agencies and instrumentalities shall furnish to the commission any information, records or documents the commission designates as being necessary for the exercise of its functions and duties. In the case of refusal of any person to obey an order or subpoena of the commission, the Superior Court, upon application of the commission, has jurisdiction and authority to require compliance with the order or subpoena. Any failure of any person to obey an order of the Superior Court may be punished by that court as contempt thereof.

E. The commission shall adopt rules consistent with due process for the conduct

of investigations and hearings under this subchapter. Rules adopted pursuant to this paragraph are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

The commission is not bound by the strict rules of evidence, but its findings and opinions must be based upon competent and substantial evidence.

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

F. If the commission concludes that it appears that a Legislator has violated a criminal law, a copy of its findings of fact, its opinion and such other information as may be appropriate must be referred to the Attorney General. Any determination by the commission or by a legislative body that a violation of legislative ethics has occurred does not preclude any criminal action relating to the violation that may be brought against the Legislator.

G. If the commission determines that a complaint filed under oath is frivolous or was filed in bad faith or if the complainant fails to appear at the hearing without being excused by the commission, the commission may order the complainant to pay to the Legislator against whom the complaint has been filed that Legislator's costs of investigation and defense, including any reasonable attorney's fees. This order is considered a final agency action, and the complainant may appeal the order pursuant to the Maine Administrative Procedure Act. If the commission determines that the complaint was filed in bad faith, the commission shall refer the case to the Attorney General for investigation.

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

H. The commission shall file with the Clerk of the House and the Secretary of the Senate a copy of written advisory opinions and guidance issued by the commission that were formally requested by a Legislator and that were considered by the commission at a public meeting, with such deletions and changes as the commission considers necessary to protect the identity of the person seeking the opinions or others. The Clerk of the House shall keep a copy of such opinions and guidance in a special binder and shall finally publish them in the Legislative Record. The commission may exempt an opinion or a part of an opinion from release, publication or inspection if it considers such action appropriate for the protection of 3rd parties and makes available to the public an explanatory statement to that effect.

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

J. (repealed)

K. When a Legislator has a question or problem of an emergency nature about a

possible violation of legislative ethics or an issue involving that Legislator that arises during the course of legislative action, the Legislator may request an advisory opinion from the presiding officer of the legislative body of which the Legislator is a member. The presiding officer may issue an advisory opinion. An advisory opinion issued by the presiding officer must be in accordance with the principles of this subchapter, be in writing and be reported to the commission. The commission may then issue a further opinion on the matter. The presiding officer may refer such a question or problem directly to the commission, which shall meet as soon as possible to consider the question or problem.

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

3. Confidentiality. (repealed)

3-A. Confidentiality of records and proceedings relating to screening complaints alleging a violation of legislative ethics. Notwithstanding chapter 13, a complaint alleging a violation of legislative ethics is confidential and is not a public record until after the commission has voted pursuant to subsection 2, paragraph B-1 to pursue the complaint, and a commission proceeding to determine whether to pursue a complaint must be conducted in executive session. If the commission does not vote to pursue the complaint, the complaint and records relating to the investigation of that complaint remain confidential and are not public records unless the Legislator against whom the complaint is made submits a written request that the complaint and all accompanying materials be made public. This subsection does not prohibit a complainant from disclosing information that the complainant provided to the commission as part of the complaint or investigation once the commission has determined not to pursue the complaint or the investigation of a complaint is complete. This subsection does not prevent the commission from including general information about complaints in any report to the Legislature. Any person who knowingly breaches the confidentiality of a complaint investigation commits a Class D crime. This subsection does not prevent commission staff from disclosing information to a person from whom the commission is seeking information or evidence relevant to the complaint that is necessary to investigate the complaint or prevent the complainant or the Legislator against whom the complaint is made from discussing the complaint with an attorney or other person assisting them with the complaint. The commission or commission staff shall inform any person with whom they communicate of the requirement to keep any information regarding the complaint investigation confidential.

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

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

B. Legislators' statements of sources of income are public records.

C. Findings of fact and recommendations of the commission on complaints alleging violation of legislative ethics are public records.

D. Advisory opinions of the commission and requests for advisory opinions from the commission are public records, except as provided in subsection 2, paragraph H.

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

Section History: P.L. 1975, ch. 621, § 1; P.L. 1977, ch. 252, § 2; P.L. 1989, ch. 561, §§ 5, 6; P.L. 2007, ch. 642, § 6

1 § 1014. Violations of Legislative Ethics

1. Situations involving conflict of interest. A Legislator engages in a violation of legislative ethics if that Legislator votes on a question in connection with a conflict of interest in committee or in either body of the Legislature or attempts to influence the outcome of that question unless a presiding officer in accordance with the Joint Rules of the Legislature requires a Legislator to vote or advises the Legislator that there is no conflict in accordance with section 1013, subsection 2, paragraph K. A conflict of interest includes:

A. When a Legislator or a member of the Legislator's immediate family has or acquires a direct substantial personal financial interest, distinct from that of the general public, in an enterprise that would be financially benefited by proposed legislation, or derives a direct substantial personal financial benefit from close economic association with a person known by the Legislator to have a direct financial interest in an enterprise affected by proposed legislation;

B. When a Legislator or a member of the Legislator's immediate family accepts gifts, other than campaign contributions duly recorded as required by law, from persons affected by legislation or who have an interest in an entity affected by proposed legislation and the Legislator knows or reasonably should know that the purpose of the donor in making the gift is to influence the Legislator in the performance of the Legislator's official duties or vote or is intended as a reward for action on the Legislator's part;

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

D. Appearing for, representing or advocating on behalf of another before the Legislature, unless without compensation and for the benefit of a citizen;

E. When a Legislator or a member of the Legislator's immediate family accepts or engages in employment that could impair the Legislator's judgment, or when the Legislator knows that there is a substantial possibility that an opportunity for employment is being afforded the Legislator or a member of the Legislator's immediate family with intent to influence the performance of the Legislator's official duties, or when the Legislator or a member of his immediate family stands to derive a personal private gain or loss from employment, because of legislative

action, distinct from the gain or losses of other employees or the general community; and

F. When a Legislator or a member of the Legislator's immediate family has an interest in legislation relating to a profession, trade, business or employment in which the Legislator or a member of the Legislator's immediate family is engaged and the benefit derived by the Legislator or a member of the Legislator's immediate family is unique and distinct from that of the general public or persons engaged in similar professions, trades, businesses or employment.

2. Undue influence. It is presumed that a conflict of interest exists when there are circumstances that involve a substantial risk of undue influence by a Legislator, including but not limited to the following cases.

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

(1) Even in the excepted cases, an attorney or other professional person must refrain from references to that attorney or professional person's legislative capacity, from communications on legislative stationery and from threats or implications relating to legislative action.

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

3. Abuse of office or position. It is a violation of legislative ethics for a Legislator to engage in conduct that constitutes an abuse of office or position, including but not limited to:

A. When a Legislator or a member of the Legislator's immediate family has a direct financial interest or an interest through a close economic associate in a contract for goods or services with the State, a state agency or state authority , unless the contract is awarded through competitive bidding or is exempt from competitive bidding pursuant to state purchasing laws or the payment provisions are based on uniform rates established by the State, a state agency, a state authority or other governmental entity ;

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

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

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

is exempt from competitive bidding pursuant to state purchasing laws.

Section History: P.L. 1975, ch. 621, § 1; P.L. 2007, ch. 642, § 7

1 § 1015. Prohibited campaign contributions and solicitations

1. Actions precluded. (repealed)

2. Reports. (repealed)

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

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

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

C. This subsection does not apply to:

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

(2) Solicitations or contributions relating to a special election to fill a vacancy from the time of announcement of the election until the election; and[1]

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

C-1. This subsection does not prohibit the attendance of the Governor, a member of the Legislature or any constitutional officer or the staff or agent of the Governor, a member of the Legislature or any constitutional officer at fund-raising events held by a municipal, county, state or national political party organized pursuant to Title 21-A, chapter 5, nor the advertisement of the expected

[1] There is no subsection (3)(C)(3).

presence of any such official at any such event, as long as any such official has no involvement in soliciting attendance at the event and all proceeds are paid directly to the political party organization hosting the event or a nonprofit charitable organization.

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

4. Contract with state governmental agency. (repealed)

Section History: P.L. 1975, ch. 621, § 1; P.L. 1989, ch. 561, § 7; P.L. 1997, ch. 529, § 1; P.L. 1999, ch. 273, § 1; P.L. 1999, ch. 648, § 1; P.L. 2003, ch. 268, § 2; P.L. 2005, ch. 301, § 3; P.L. 2007, ch. 279, §§ 1, 2; P.L. 2007, ch. 642, § 8

1 § 1016. Statement of sources of income (repealed)

1 § 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 by 5:00 p.m. on February 15th of each year on forms provided by the commission. Prior to the end of the first week in January of each year, the commission shall deliver a form to each Senator and member of the House of Representatives. The statement of specific sources of income filed under this subchapter must be on a form prescribed by the commission and is a public record.

1. Disclosure of Legislator's income. The Legislator filing the statement shall name and give the address of 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 self-employed shall state that fact and the name and address of the Legislator's business. The Legislator shall name each source of income derived from self-employment that represents more than 10% of the Legislator's gross income or $1,000, whichever is greater, provided that if this form of 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. With respect to all other sources of income, a self-employed Legislator shall name each source of income of $1,000 or more. 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 address and the 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 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 of $1,000 or more that any member of the immediate family of the Legislator received and the name of the spouse or domestic partner of the Legislator. The disclosure must include the job title of the Legislator and the members of the Legislator's immediate family if the source of income is derived from employment or compensation.

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.

Section History: P.L. 1989, ch. 561, § 9; P.L. 1989, ch. 608, §§ 1, 2; P.L. 1989, ch. 734; P.L. 2001, ch. 75, § 1; P.L. 2007, ch. 704, § 1

1 § 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. "Reportable liability" does not include:

A. A credit card liability;

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

C. A loan made from a state or federally regulated financial institution for business purposes.

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

Section History: P.L. 1989, ch. 561, § 10; P.L. 1991, ch. 331, § 1

1 § 1016-C. Reports by legislative candidates

A candidate, as defined in Title 21-A, section 1, subsection 5, for the Legislature who is not required to file a report under section 1016-A or 1016-B shall file a report containing the same information required of Legislators under sections 1016-A and 1016-B no later than 5 p.m. on the first Monday in August preceding the general election unless the candidate withdraws from the election in accordance with Title 21-A, section 374-A by that date.

Section History: P.L. 1991, ch. 880, § 2

1 § 1016-D. Disclosure of bids on government contracts

When a Legislator or associated organization bids on a contract with a state governmental agency, the Legislator or associated organization shall file a statement with the commission no later than 5:00 p.m. on the day the bid is submitted that discloses the subject of the bid and the names of the Legislator, associated organization and state governmental agency as appropriate. The bid disclosure statement filed under this section must be on a form prescribed by the commission and is a public record as defined in section 402.

Section History: P.L. 2003, ch. 268, § 3

1 § 1016-E. Disclosure of interests

Beginning in 2010, each Legislator shall file with the commission by 5:00 p.m. on February 15th of each year on the form provided by the commission a statement of those positions set forth in this section that were held in the preceding calendar year. Prior to the end of the first week in January of each year, the commission shall deliver a form to each Senator and member of the House of Representatives. The statement of positions is a public record.

1. Disclosure of officer or director position. A Legislator filing a statement under this section shall report:

A. Any offices, trusteeships, directorships or positions of any nature, whether compensated or uncompensated, held by the Legislator in the preceding calendar year with any for-profit or nonprofit firm, corporation, association, partnership or business; and

B. Any offices, trusteeships, directorships or positions of any nature, whether compensated or uncompensated, held by a member of the immediate family of the Legislator with any for-profit or nonprofit firm, corporation, association, partnership or business and the name of that member of the Legislator's immediate family.

Section History: P.L. 2007, ch. 704, § 2

1 § 1016-F. Internet disclosure

The commission shall publish on its publicly accessible website the completed forms submitted by Legislators pursuant to sections 1016-A, 1016-B, 1016-D, 1016-E and 1018 and by candidates for the Legislature pursuant to section 1016-C.

Section History: P.L. 2007, ch. 704, § 3

1 § 1017. Form; contents (repealed)

1 § 1017-A. Civil penalties; late and incomplete statements; failure to file

A Legislator who fails to file a statement in accordance with this subchapter after being notified by the commission may be assessed a fine not to exceed $100. A statement is not considered filed unless it substantially conforms to the requirements of this subchapter and is properly signed. The commission shall determine whether a statement substantially conforms to the requirements of this subchapter.

Section History: P.L. 2003, ch. 268, § 4; P.L. 2007, ch. 704, § 4

1 § 1018. Updating statement

A Legislator shall file an updating statement with the commission on a form prescribed and prepared by the commission. The statement must be filed within 30 days of addition, deletion or change to the information relating to the preceding year supplied under this subchapter.

Section History: P.L. 1975, ch. 621, § 1; P.L. 1977, ch. 252, § 4; P.L. 2001, ch. 75, § 2

1 § 1019. False statement; failure to file

The intentional filing of a false statement shall be a Class E crime. If the commission concludes that it appears that a Legislator has willfully filed a false statement, it shall refer its findings of fact to the Attorney General. If the commission determines that a Legislator has willfully failed to file a statement required by this subchapter or has willfully filed a false statement, the Legislator shall be presumed to have a conflict of interest on every question and shall be precluded or punished as provided in section 1015.

Section History: P.L. 1975, ch. 621, § 1; P.L. 1977, ch. 252, § 5; P.L. 1977, ch. 696, § 12

1 § 1020. Penalty for false accusations

Any person who files a false charge of a conflict of interest with the commission or any member of the commission, which he does not believe to be true, or whoever induces another to file a false charge of a conflict of interest, which he does not believe to be true, shall be guilty of a Class E crime.

Section History: P.L. 1975, ch. 621, § 1; P.L. 1977, ch. 696, § 13

1 § 1021. Membership on boards, authorities or commissions

It shall not be a conflict of interest for a Legislator to serve on a public board, authority or commission created by the Legislature so long as there is no consideration paid to the Legislator other than his actual expenses.

Section History: P.L. 1975, ch. 621, § 1

1 § 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.

Section History: P.L. 1989, ch. 561, § 12

1 § 1023. Code of ethics

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

Section History: P.L. 1989, ch. 561, § 12

TITLE 3
CHAPTER 7

LEGISLATIVE COUNCIL

SUBCHAPTER 1
GENERAL PROVISIONS

3 § 170. Partisan employees; restricted activities

Partisan legislative employees who assume active roles in campaigns shall either limit their activities to evenings and weekends or take leave to pursue these activities if they occur during the Legislature's regular business day, which is 8 a.m. to 5 p.m. This includes fund raising for campaign efforts as well as other activities that are directly related to election or reelection efforts.

Section History: P.L. 1995, ch. 100, § 1

3 § 170-A. Use of legislative equipment and resources

Legislative employees are prohibited from at any time using the computer system, telephones, copying machines and other legislative equipment for work related to campaigns.

Section History: P.L. 1995, ch. 100, § 1

TITLE 17-A
MAINE CRIMINAL CODE

CHAPTER 1
PRELIMINARY

17-A § 2. Definitions

As used in this code, unless a different meaning is plainly required, the following words and variants thereof have the following meanings.

****

21. "Public servant" means any official officer or employee of any branch of government and any person participating as juror, advisor, consultant or otherwise, in performing a governmental function. A person is considered a public servant upon his election, appointment or other designation as such, although the person may not yet officially occupy that position.

Section History: P.L. 1975, ch. 499, § 1; P.L. 2007, ch. 173, § 2; P.L. 2007, ch. 173 § 2

TITLE 17-A
MAINE CRIMINAL CODE

CHAPTER 25
BRIBERY AND CORRUPT PRACTICES

17-A § 601. Scope of chapter

Nothing in this chapter shall be construed to prohibit the giving or receiving of campaign contributions made for the purpose of defraying the costs of a political campaign. No person shall be convicted of an offense solely on the evidence that a campaign contribution was made, and that an appointment or nomination was subsequently made by the person to whose campaign or political party the contribution was made.

Section History: P.L. 1975, ch. 499, § 1

17-A § 602. Bribery in official and political matters

1. A person is guilty of bribery in official and political matters if:

A. He promises, offers, or gives any pecuniary benefit to another with the intention of influencing the other's action, decision, opinion, recommendation, vote, nomination or other exercise of discretion as a public servant, party official or voter;

B. Being a public servant, party official, candidate for electoral office or voter, he solicits, accepts or agrees to accept any pecuniary benefit from another knowing or believing the other's purpose to be as described in paragraph A, or fails to report to a law enforcement officer that he has been offered or promised a pecuniary benefit in violation of paragraph A; or

C. That person promises, offers or gives any pecuniary benefit to another with the intention of obtaining the other's signature on an absentee ballot under Title 21-A, chapter 9, subchapter IV, or referendum petition under Title 21-A, chapter 11, or that person solicits, accepts or agrees to accept any pecuniary benefit from another knowing or believing the other's purpose is to obtain that person's signature on an absentee ballot or referendum petition, or fails to report to a law enforcement officer that the person has been offered or promised a pecuniary benefit in violation of this paragraph.

2. As used in this section and other sections of this chapter, the following definitions apply.

A. A person is a "candidate for electoral office" upon his public announcement of his candidacy.

B. "Party official" means any person holding any post in a political party whether by election, appointment or otherwise.

C. "Pecuniary benefit" means any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain; it does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally. "Pecuniary benefit" does not include the following:

(1) A meal, if the meal is provided by industry or special interest organizations as part of an informational program presented to a group of public servants;

(2) A meal, if the meal is a prayer breakfast or a meal served during a meeting to establish a prayer breakfast; or

(3) A subscription to a newspaper, news magazine or other news publication.

3. Bribery in official and political matters is a Class C crime.

Section History:
P.L. 1975, ch. 499, § 1; P.L. 1981, ch. 349, §§ 1,2; P.L. 1983, ch. 583, § 8; P.L. 1989, ch. 502, § A47; P.L. 1993, ch. 396, § 1; P.L. 1997, ch. 223, § 1; P.L. 1995, ch. 33, § 3; P.L. 1997, ch. 223, § 1; R R ch. 1, § 12; P.L. 2001, ch. 471, § A-22

17-A § 603. Improper influence

1. A person is guilty of improper influence if he:

A. Threatens any harm to a public servant, party official or voter with the purpose of influencing his action, decision, opinion, recommendation, nomination, vote or other exercise of discretion;

B. Privately addresses to any public servant who has or will have an official discretion in a judicial or administrative proceeding any representation, argument or other communication with the intention of influencing that discretion on the basis of considerations other than those authorized by law; or

C. Being a public servant or party official, fails to report to a law enforcement officer conduct designed to influence him in violation of paragraphs A or B.

2. "Harm" means any disadvantage or injury, pecuniary or otherwise, including disadvantage or injury to any other person or entity in whose welfare the public servant, party official or voter is interested.

3. Improper influence is a Class D crime.

Section History: P.L. 1975, ch. 499, § 1

17-A § 604. Improper compensation for past action

1. A person is guilty of improper compensation for past action if:

A. Being a public servant, he solicits, accepts or agrees to accept any pecuniary benefit in return for having given a decision, opinion, recommendation, nomination, vote, otherwise exercised his discretion, or for having violated his duty; or

B. He promises, offers or gives any pecuniary benefit, acceptance of which would be a violation of paragraph A.

2. Improper compensation for past action is a Class D crime.

Section History: P.L. 1975, ch. 499, § 1

17-A § 605. Improper gifts to public servants

1. A person is guilty of improper gifts to public servants if:

A. Being a public servant that person solicits, accepts or agrees to accept any pecuniary benefit from a person if the public servant knows or reasonably should know that the purpose of the donor in making the gift is to influence the public servant in the performance of the public servant's official duties or vote, or is intended as a reward for action on the part of the public servant; or

B. He knowingly gives, offers, or promises any pecuniary benefit prohibited by paragraph A.

2. Improper gifts to public servants is a Class E crime.

Section History: P.L. 1975, ch. 499, § 1; 1999, ch. 149, § 1

17-A § 606. Improper compensation for services

1. A person is guilty of improper compensation for services if:

A. Being a public servant, he solicits, accepts or agrees to accept any pecuniary benefit in return for advice or other assistance in preparing or promoting a bill, contract, claim or other transaction or proposal as to which he knows that he has or is likely to have an official discretion to exercise; or

B. He gives, offers or promises any pecuniary benefit, knowing that it is prohibited by paragraph A.

2. Improper compensation for services is a Class E crime.

Section History: P.L. 1975, ch. 499, § 1

17-A § 607. Purchase of public office

1. A person is guilty of purchase of public office if:

A. He solicits, accepts or agrees to accept, for himself, another person, or a political party, money or any other pecuniary benefit as compensation for his endorsement, nomination, appointment, approval or disapproval of any person for a position as a public servant or for the advancement of any public servant; or

B. He knowingly gives, offers or promises any pecuniary benefit prohibited by paragraph A.

2. Purchase of public office is a Class D crime.

Section History: P.L. 1975, ch. 499, § 1

17-A § 608. Official oppression

1. A person is guilty of official oppression if, being a public servant and acting with the intention to benefit himself or another or to harm another, he knowingly commits an unauthorized act which purports to be an act of his office, or knowingly refrains from performing a duty imposed on him by law or clearly inherent in the nature of his office.

2. Official oppression is a Class E crime.

Section History: P.L. 1975, ch. 499, § 1

17-A § 609. Misuse of information

1. A person is guilty of misuse of information if, being a public servant and knowing that official action is contemplated, or acting in reliance on information which he has acquired by virtue of his office or from another public servant, he:

A. Acquires or divests himself of a pecuniary interest in any property, transaction or enterprise which may be affected by such official action or information; or

B. Speculates or wagers on the basis of such official action or information; or

C. Knowingly aids another to do any of the things described in paragraphs A and B.

2. Misuse of information is a Class E crime.

Section History: P.L. 1975, ch. 499, § 1

TITLE 21-A
CHAPTER 1

ELECTIONS - GENERAL PROVISIONS

SUBCHAPTER III
GENERAL PENALTIES

21-A § 32. Violations and penalties

****

3. CLASS C CRIME. A person commits a Class C crime if that person misuses a state government computer system. For purposes of this subsection, a person is guilty of misuse of a state government computer system if that person knowingly uses a computer system operated by a state department or agency, the Judicial Department or the Legislature:

A. To prepare materials with the intent to expressly advocate, to those eligible to vote, for the election or defeat of any candidate for a federal office, a constitutional office or elective municipal, county or state office, including leadership positions in the State Senate and the State House of Representatives; or

B. With the intent to solicit contributions reportable under chapter 13.

For purposes of this subsection, "computer system" has the same meaning as in Title 17-A, section 431 and "leadership positions" means the presiding officers of each House of the Legislature, party leaders, the Clerk of the House, the Assistant Clerk of the House, the Secretary of the Senate and the Assistant Secretary of the Senate.

Section History: P.L.1993, ch. 473, §§ 2, 46; P.L. 2003, ch. 176, § 3

Rules

LEGISLATIVE CODE OF ETHICS

Any public office holder is charged with responsible conduct commensurate with the trust placed in him/her by the electorate. In a free government the official is entrusted with the security, safety, health, prosperity, and general well-being of those whom he/she serves. With such a trust high moral and ethical standards producing the public's confidence, with the reduction to a minimum of any conflict between private interests and official duties, should be observed. No state legislator will accept any employment which can possibly impair his/her independence and integrity of judgement or will he/she exercise his/her position of trust to secure unwarranted privileges for themselves or for others. The Maine legislator will be ever mindful of the ordinary citizen who might otherwise be unrepresented, and will endeavor conscientiously to pursue the highest standards of legislative conduct.

Adopted by the 100th Legislature

JOINT RULES OF THE LEGISLATURE

Rule 104. Conflict of Interest.

A member may not vote on any question in committee when that question immediately involves that member's private right, as distinct from the public interest.

Guidance

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333
Office: 242 State Street, Augusta, Maine

Website: www.maine.gov/ethics
Phone: 207-287-4179
Fax: 207-287-6775

Campaign Contributions During the Legislative Session

What people and organizations are prohibited from making campaign contributions during a legislative session?

Lobbyists, lobbyist associates, their clients, and political action committees that are affiliated with a client. (A lobbyist associate is a colleague or employee of a lobbyist who also lobbies on behalf of an client.)

What candidates are covered by the ban?

Legislators, the Governor, the constitutional officers, and members of their staff who choose to run for office ("covered candidates").

What about legislative caucus PACs and leadership PACs?

The ban applies to contributions to any PAC closely associated with a legislator or other covered candidate, such as a legislative caucus PAC or a leadership PAC. Those PACs may only accept contributions from the prohibited sources during the session if the contributions are segregated in a fund that is not used to influence the election of any incumbent Legislators, the Governor or incumbent constitutional officers. The ban also applies to a contribution to a candidate made indirectly through a party committee.

Does the prohibition apply to other candidates?

No.

Can other donors make contributions during a legislative session?

Yes. Candidates may accept contributions from other sources that do not employ lobbyists in Maine, such as family members, neighbors, national associations, national parties, and local businesses. Legislative caucus PACs and leadership PACs may also accept contributions during the legislative session from these sources.

When does the ban apply?

Lobbyists, lobbyist associates, and employers cannot make contributions to covered candidates and closely associated PACs while the Legislature is in session – from the time the Legislature is convened until final adjournment. This includes special sessions.

What if a Legislator solicits a contribution before the session, but the contribution is not received until after the session begins? Is this allowed?

No. Acceptance means the receipt or deposit of a contribution. If a covered candidate receives a contribution from a prohibited source after the Legislature convenes, the Commission suggests returning the contribution and waiting to solicit another contribution from this source until after the Legislature has finally adjourned.

Does the prohibition apply to seed money contributions or $5 qualifying contributions given to candidates intending to participate in the Maine Clean Election Act?

During the session, lobbyists and lobbyist associates are not permitted to make seed money contributions ($100 contributions to candidates intending to participate in the Maine Clean Election Act), but they may make qualifying contributions ($5 donations made payable to the Maine Clean Election Fund in support of a candidate seeking to qualify for Maine Clean Election Act funds).

Is a candidate allowed to go to fundraising events for a political party during the session if his or her campaign does not receive a contribution?

Yes. The prohibition does not apply to a covered candidate's attendance at a fundraising event held by a party committee, so long as the candidate was not involved in soliciting contributions for the event from prohibited sources and the proceeds are paid directly to the party or a charitable organization.

Who is responsible for checking if the contributor is prohibited?

It is the candidate's responsibility to screen contributions to make sure they are not from prohibited sources. Candidates can check the current lists of lobbyists, lobbyist associates and employers on the Commission's e-filing Web site (http://www.mainecampaignfinance.com/public/home.asp). It is also the responsibility of lobbyists, lobbyist associates, and their employers to avoid making campaign contributions during the session to candidates subject to the prohibition.

Are there any exceptions to the prohibition?

Yes. The following contributions are *not* covered by the prohibition:

- contributions accepted by a covered candidate for a campaign for federal office;
- contributions relating to a special election to fill a vacancy that are made from the time of the announcement of the election until the election occurs; and
- contributions for bona fide social events hosted for nonpartisan, charitable purposes.

For more information, please contact the Commission staff at 287-4179

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333
Office: 242 State Street, Augusta, Maine

Website: www.maine.gov/ethics
Phone: 207-287-4179
Fax: 207-287-6775

Disclosure of Bids on Government Contracts

Am I required to notify the Ethics Commission if I bid on a contract?
Yes. In 2003, the Legislature instituted a disclosure requirement for Legislators and organizations associated with Legislators that wish to enter into contracts with State agencies. The law states that when a Legislator or an "associated organization" bids on a contract with a State agency, the Legislator or organization must file a statement with the Ethics Commission that discloses the subject of the bid, and the names of the Legislator, the organization (if appropriate), and the State agency. (1 M.R.S.A. § 1016-D)

What is an associated organization?
"Associated organization" means any organization in which a Legislator or a Legislator's spouse is a director, officer or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity.

What is the deadline for filing the disclosure statement?
The statement must be filed no later than 5:00 p.m. on the day that the bid is submitted.

What does the Ethics Commission do with the disclosure statement?
The statement is posted on the Commission's website for the public to access.

How do I obtain a blank copy of the disclosure statement?
Please telephone the Commission staff at 287-4179, or go to the Commission's website at www.maine.gov/ethics/legislators.

Did the 2003 law impose any other requirements?
Yes. It is a violation of legislative ethics for a Legislator or an associated organization to enter into any contract with a state agency that is to be paid in whole or in part out of government funds unless the contract has been awarded through a process of public notice and competitive bidding or is exempt from competitive bidding pursuant to state purchasing laws. (1 M.R.S.A. § 1014(4))

Who do I call if I have more questions?
Please telephone the Commission's Executive Director, Jonathan Wayne, at 287-4179.

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
GUIDELINES ON ACCEPTANCE OF GIFTS

October 21, 1999

The State Legislature in 1975 created an independent commission on governmental ethics and election practices to guard against corruption or undue influencing of the election process and against acts or the appearance of misconduct by Legislators. That Commission is charged with the responsibility to investigate and make advisory recommendations to the appropriate body of any apparent violations of the ethical standards set by the Legislature and to conduct an ethics seminar for Legislators. Along with those duties, the Commission is authorized to issue advisory opinions and guidelines on problems or questions involving possible conflicts of interest in matters under consideration by, or pertaining to, the Legislature.

A frequently troublesome area is that of "gifts." The question periodically is asked whether a "gift" to a Legislator violates the legislative ethics law or any other provision of Maine law. Two statutes raise possible barriers to the acceptance by Legislators of gift offers. The first limitation is found in the legislative ethics law [1 M.R.S.A. § 1014(1)(B)] which provides that a **conflict of interest** occurs when a Legislator or a member of the Legislator's immediate family accepts a **gift**, other than a campaign contribution, from any person affected by legislation or who has an interest in a business affected by proposed legislation, **where it is known or reasonably should be known that the purpose of the gift is to influence the performance of the Legislator's official duties or vote, or is intended as a reward for action on the Legislator's part.**

As used in that provision, **"gift"** means **anything of value**, including the forgiveness of an obligation or debt, given to a person **without** that person providing **equal or greater consideration** to the giver. However, "gift" **does not include** things of value received from a **single source** during the reporting period with an **aggregate value of $300 or less**; a bequest or other form of inheritance; a gift received from a relative; or a subscription to a newspaper, news magazine or other news publication.

The key questions that must be answered are: (1) Is the offer of anything of value to a Legislator intended to influence the performance of the Legislator's duty or vote or as a reward for any action on the Legislator's part; and (2) Does the offer constitute a "gift" under the legislative ethics law's definition of that term? Thus, the applicability of the legislative ethics law with respect to the acceptance of a gift would depend on the **purpose** of the offer and the **nature and value** of the thing offered. If the purpose is to influence or reward a Legislator in the performance of official duties, and/or if the value of the thing offered exceeds $300, the item would be a prohibited "gift" for purposes of the applicability of the legislative ethics law.

However, a second limiting statutory provision, the stricter (narrower standard) Maine Criminal Code (17-A M.R.S.A. § 605), provides that it is improper for a public servant to solicit, accept or agree to accept any pecuniary benefit from a person "if the public servant knows or reasonably should know that the purpose of the donor in making the gift is to influence the public servant in the performance of the public servant's official duties or vote, or is intended as a reward for action on the part of the public servant."

As used in the Criminal Code provision, the term "pecuniary benefit" means any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain. It does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally. "Pecuniary benefit" does not include a meal, if the meal is provided by industry or special interest organizations as part of an informational program presented to a group of public servants; a meal, if the meal is a prayer breakfast or meal served during a meeting to establish a prayer breakfast; or a subscription to a newspaper, news magazine or other news publication.

What must be answered, then, is: (1) Does the giver of the gift have an interest in a matter before the Legislature or a matter that is expected to come before the Legislature; and (2) Would the gift result in any economic advantage to the recipient that is not applicable to the general public or otherwise permitted by the law? Under the criminal law standard, the value of the gift is not a factor. Any economic gain or advantage is enough to invoke the proscription of the statute.

The comment that accompanied the Legislature's 1975 enactment of the criminal law provision stated:

It seems to be a warranted assumption that gifts from persons who have an interest in an official matter before the public servant would be so often **made with the hope and intent of influencing** [that public servant] that it is **appropriate to prohibit all such gifts generally**. This prohibition also serves to contribute significantly to the appearance, as well as the substance, of public integrity.

The Legislature has assigned to the Ethics Commission the responsibility to investigate and make advisory recommendations to the Legislature of any apparent violations of the ethical standards set by the Legislature. However, the Attorney General enforces the provisions of the Maine Criminal Code. Therefore, the Ethics Commission is the arbiter regarding the applicability of the legislative ethics law, while the Attorney General's Office is the final authority concerning the applicability of the criminal law provisions.

Individual Legislators are encouraged to consult with the Commission's staff, which includes the availability of legal counsel from the Attorney General's Office, about the particular facts of a potential gift situation before embarking on a course of action with respect to the acceptance of that particular gift. That is especially true with respect to the acceptance of offers of expense-paid trips, including reimbursement for travel, meals, and accommodations. The Commission and its staff will make every reasonable attempt to review the facts and offer advice in a timely manner within the limits of the Commission's authority. In that regard, some examples of gift situations that the Commission has addressed in the recent past are illustrative:

1. In 1996 a Legislator requested the Commission's guidance concerning the propriety of a member of the Legislature accepting an expense-paid trip to a conference sponsored by a national trade association. After reviewing the specific facts presented, the Commission concluded that acceptance of the trip would not constitute a violation of Maine's legislative ethics law because the conference would be an educational opportunity that would serve to benefit the Legislator in the discharge of the Legislator's duties. However, the Commission questioned the propriety of attending a conference at which such diversions as golf and deep-sea fishing are offered as part of the program and referred the requesting Legislator to the State law regarding the purpose of the donor in making the gift and the relation of that purpose to possibly influencing that Legislator in the performance of official duties or as a reward for past actions. Additionally, the Attorney General was asked to render a formal opinion regarding the questions raised.

2. Also in 1996, the Commission concluded that a Legislator's acceptance of an expense-paid trip of unknown value to another state to participate in a conference sponsored by a Maine political action committee, including hotel accommodations and travel expenses associated with the trip, was not a conflict of interest. However, the Commission encouraged the Legislator in the future to seek advice before accepting anything of value from anyone with a potential interest in proposed legislation. The Commission also reminded the Legislator of the responsibility to ascertain the value of those goods or services that may bear upon the question of the propriety of accepting such "gifts." Finally, the Commission reminded the Legislator of Maine's financial disclosure law that requires Legislators to report annually the source of any gifts received with an aggregate value of more than $300.

3. In 1997 the permissibility was questioned of a paper company inviting certain members of the Legislature to tour Maine's northern woodlands, including payment for overnight accommodations, one restaurant meal, and bus transportation to view the woodlands. The invitation was valued at less than $100 per Legislator, not including transportation to and from the point of departure. The program included various presentations, but no lobbying was planned. Legislation involving woodland issues was pending before the Legislature. The Commission concluded that Legislators who participated in the tour would not be in violation of the Legislative ethics law because the value to each Legislator was considerably less than the $300 threshold by which a "gift" is defined. However, the Commission recommended that the Attorney General be

consulted regarding the applicability of the criminal law provisions involving improper gifts to public servants.

4. Finally, in 1997 the Commission considered whether the offer of the services of a free community-service web page on the Internet and 20 hours of free Internet access per month, including installation of the appropriate software on the Legislator's at-home personal computer, offered to certain Legislators by a communications company would constitute a violation of State law. Issues were expected to arise on the legislative agenda that would affect the future health of the Internet and telecommunications industries in Maine. The company acknowledged its belief that "hands-on experience will help [the benefited Legislators] make informed decisions about legislation as these issues come before you." The Commission concluded that the applicability of the Legislative Ethics Act with respect to the question of whether the offer constituted a "gift" would depend upon whether the value of the services to be rendered was less than $300 per year in the aggregate so as not to trigger the "gift" prohibition. However, the Commission decided that acceptance of the offer was prohibited because of the appearance that the offer may have been intended to influence Legislators in the performance of their official duties or vote at some time in the future. Moreover, the Commission concluded that the acceptance of the offer would violate the State's criminal law prohibition against public servants accepting any "pecuniary benefit" in the form of a "commercial interest" or advantage that is not generally available to other members of the general public.

Consequently, Legislators and prospective sponsors of so-called "fact-finding," "educational," or "informational" programs that may include sponsor-paid offers of meals, travel, and transportation routinely question the propriety of accepting proposed offers of such "gifts."